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# THE FALKLAND ISLANDS GAZETTE (Extraordinary) PUBLISHED BY AUTHORITY

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*Vol. XCVIII*

*20th JANUARY 1989*

*No. 1*

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#### **Appointments**

Mrs. Jennifer Jones, Teacher, Education Department, 5.6.86.

Mrs. Tracy Porter, Data Manager, Fisheries Department, 22.12.88.

Mrs. Katrina Stephenson, Clerk, Public Service, 29.12.88.

Miss Lynette Ann Hepworth, Travelling Teacher, Education Department, 5.1.89.

John Henry Buckland-James, Financial Secretary, Treasury Department, 7.1.89.

#### **Completion of Contract**

Miss Carol Ann Skilling, Travelling Teacher, Education Department, 27.12.88.

#### **Resignations**

Melvyn John Lloyd, Engineman, Power Station, Public Works Department, 8.1.89.

David Anthony Coker, Design Engineer, Public Works Department, 12.1.89.

#### **NOTICES**

No. 1

9th January 1989.

The findings of the Cost of Living Committee for the quarter ended 30th September 1988 are published for general information —

<u>Quarter Ended</u>	<u>Percentage Increase over 1971 Prices</u>
30th September 1988	504.08%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 1.5p per hour with effect from 1st October 1988.

Ref: INT/2/2.

#### **Application for Restaurant and Residential Licences**

In accordance with Section 7 (1) of the Licensing Ordinance, Mr. Simon Graham Armstrong, Director of Starfish Ltd., has applied for a Restaurant licence and a Residential Licence for the M.V. 'Southern Star' to be berthed at the east end of F.I.P.A.S.S.

Any objection to the granting of the licences must be made to the Treasury within 21 days from the appearance of this notice in the Falkland Islands Gazette and the Penguin News.

The Treasury,  
Stanley.  
19th December 1988.

H. T. ROWLANDS,  
*Financial Secretary.*

#### **Application for a Packet licence**

In accordance with Section 7 (1) of the Licensing Ordinance, the Master of the M.V. 'Southern Star' has applied for a Packet Licence.

Any objection to the granting of the licence must be made to the Treasury within 21 days from the appearance of this notice in the Falkland Islands Gazette and the Penguin News.

The Treasury,  
Stanley.  
12th January 1989.

H. T. ROWLANDS,  
*Financial Secretary.*



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*31st January 1989*

*No. 2*

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**NOTICE**

No. 2

30th January 1989.

**The Administration of Justice Ordinance (Cap. 3)**

His Excellency The Governor, under Section 3 of the Administration of Justice Ordinance (Cap. 3) has appointed the following persons to be Justices of the peace —

Mrs. R. A. S. Hirtle,  
 Mrs. P. M. Rendell,  
 Mrs. H. J. Spruce,  
 Mrs. J. O. Summers,  
 Mr S. B. Wallace.

Ref: LEG/19/5.

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The following are published in this Gazette —

**The Banking Ordinance 1987 (Commencement) Order 1989 (S.R. & O. No. 1 of 1989);**

**Trade Marks Registered in the Falkland Islands, 1981, 1982, 1983 and 1984;**

**Trade Marks Renewed in the Falkland Islands, 1981, 1982, 1983 and 1984.**

# The Banking Ordinance 1987

(No. 13 of 1987)

## The Banking Ordinance 1987 (Commencement) Order 1989

(S.R. & O. No. 1 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation.
2. Commencement of Ordinance.

# The Banking Ordinance 1987

(No. 13 of 1987)

## The Banking Ordinance 1987 (Commencement) Order 1989

(S.R. & O. No. 1 of 1989)

IN EXERCISE of my powers under section 1 of the Banking Ordinance 1987, I make the following Order —

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. This Order may be cited as the Banking Ordinance 1987 (Commencement) Order 1989.</li> <li>2. The Banking Ordinance 1987 shall be deemed to come into force on the day on which this Order is first published in the Gazette.</li> </ol> | <p>Citation.</p> <p>Commencement of Ordinance.<br/>(No. 13 of 1987).</p> |
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Made this 27th day of January 1989.

W. H. FULLERTON,  
Governor.

Ref: LEG/10/28.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1981 to 31st December 1981 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7018	16.1.81	Adidas Fabriques de Chausurers de Sport ... ..	Gymnastic and Sporting articles (other than clothing). "ADIDAS"
7019	22.1.81	Carling O'Keefe Breweries of Canada Limited ... ..	Beer and Lager. "CARLING"
7020	22.1.81	The Wellcome Foundation Limited ... ..	Pharmaceutical, medicinal, veterinary and sanitary preparation and substances. "Z O V I R A X"
7036	2.3.81	Squirt & Company ... ..	Non-alcoholic drinks, included in Class 32 and preparations for making such drinks.
7047	2.4.81	Nippon Gakki Seizo Kabushiki Kaisha (Nippon Gakki Co. Ltd.) ... ..	Hand tools and hand instruments, electronic apparatus and instruments and with gymnastic and sporting articles; cutlery, forks and spoons, all included in Class 8, and parts and fittings included in Class 8 for all the aforesaid goods. (No block supplied)
7052	16.4.81	Blue Bell Inc. ... ..	Articles of protective clothing (other than clothing for protection against accident or injury); articles of sportsclothing; trousers, jeans (being articles of clothing), slacks, jackets, coats and shirts; and articles of underclothing. "WRANGLER"
7066	17.6.81	Mars Limited ... ..	Non-medicated confectionary and biscuits (other than biscuits for animals). "PACERS"
7067	17.6.81	Mars Limited ... ..	Non-medicated confectionary. "MINSTRELS"
7089	10.7.81	Compagnie Des Montres Longines Francillon Societe Anonyme ... ..	Horological instruments and parts thereof.
7101	5.8.81	Glaxo Group Limited ... ..	Pharmaceutical and veterinary preparations and substance. "FORTAM"
7102	5.8.81	Chesebrough-pond's Inc. ... ..	Perfumes, non-medicated toilet preparations, dentifrices, shampoos, soaps and essential oils; anti-perspirants and preparations for the hair. "CHIMERE"
7123	2.9.81	Unilever Plc ... ..	Soaps, detergents (not for use in industrial or manufacturing processes, and not for medical use); cleaning, polishing, scouring and abrasive preparations; bleaching preparations included in class 3, washing preparations and preparations and substances for laundry use.
7129	17.9.81	Unilever Plc ... ..	Detergents (not for use in industrial or manufacturing processes or for medical use); soaps; perfumes; essential oils; cosmetics; non-medicated toilet preparations; anti-perspirants for personal use. Preparations for the hair, dentifrices. "R E X O N A"
7132	23.9.81	Societe Des Produits Nestle S. A. ... ..	Dietetic foods, infants' and invalids' foods, medicated tonic foods and medicated tonic beverages. "M I L O"
7133	23.9.81	Societe Des Produits Nestle S. A. ... ..	Cocoa, coffee, chocolates and cereal preparations for human consumption. "M I L O"
7142	19.10.81	Consortium Mediterranean de parfumerie ... ..	Perfumes, non-medicated toilet preparations, cosmetic preparations, preparations for the hair, toilet articles included in class 3, soaps and essential oils. "C L Y O"
7143	19.10.88	Chesebrough-pond's Inc. ... ..	Perfumes, toilet preparations (not medicated), cosmetic preparations, dentifrices, depilatory preparations toilet articles (not included in other classes, sachets for use in waving the hair, soaps and essential oils. "MATCHABELLI"
7160	9.12.81	Bass Limited ... ..	Beer and preparations included in Class 32 for making beer. (No block supplied)



*Squirt*

Reg. No. 7036



**YAMAHA**

Reg. No. 7047

**LONGINES**



Reg. No. 7089



Reg. No. 7123



Reg. No. 7160

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1982 to 31st December 1982 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7167	6.1.82	John Walker & Sons Limited ... ..	Scotch whisky for export. "CARDHU"
7168	6.1.82	Nippon Denki Kabushiki Kaisha ... ..	Electrical and electronic satellite communications apparatus and instruments; radio paging apparatus; radio and studio television apparatus; semi-conductors, transistors, diodes, integrated circuits, rectifiers, and capacitors, all being electric cathode ray tubes, electronic display devices, lasers and electric switches, carrier transmission apparatus, electric relays and electric tubes.
7173	4.2.82	Arthur Guinness Son & Company ... ..	Stout for sale in Northern Ireland and for export from the United Kingdom except to the Channel Islands.
7244	27.7.82	J. R. Freeman & Son Limited ... ..	Tobacco, whether manufactured or unmanufactured. "H A M L E T"
7281	29.9.82	Henri Wintermans' Sigarentabrieken B.V., ... ..	Cigars and cigarillos.
7290	14.10.82	Glaxo Group Limited ... ..	Antibiotic and antibacterial preparations and substances, all included in Class 5. "FORTUM"
7293	18.10.82	Jordache Enterprises, Inc. ... ..	Soaps, perfumes, essential oils, cosmetics, preparations for the hair, dentifrices, non-medicated toilet preparations and non-medicated preparations for the care of the skin and the scalp. "JORDACHE"
7294	18.10.82	Jordache Enterprises, Inc. ... ..	Optical apparatus and instruments, lenses; spectacles and sunglasses and frames for all the aforesaid goods; opera glasses; eye glasses and binoculars. "JORDACHE"
7295	18.10.82	Jordache Enterprises, Inc. ... ..	Jewellery and imitation jewellery; belt buckles, clasps, fasteners and badges, all made of precious metals or coated therewith. "JORDACHE"
7296	18.10.82	Jordache Enterprises, Inc. ... ..	Umbrellas, parasols, handbags, travelling bags, travelling cases, pocket wallets, purses (not of precious metals or coated therewith) vanity cases (not fitted), holdalls, articles of luggage, suitcases, shopping bags, briefcases, document cases, attache cases, satchels, beach bags and valises. "JORDACHE"
7297	18.10.82	Jordache Enterprises, Inc. ... ..	Articles of clothing, but not including boots, shoes or slippers. "JORDACHE"
7302	25.11.82	Alfred Dunhill Limited ... ..	Writing cases, writing instruments and parts thereof included in Class 16. "DUNHILL"
7303	25.11.82	Alfred Dunhill Limited ... ..	Glassware, jugs, service trays, salt cellars, tea strainers and brushes, all included in Class 21; cradles and stands all included in Class 21, all for wine bottles and for decanters; cooling pails for wine; drinking vessels, vacuum flasks, china ornaments, impregnated dusting cloths and sponges (not for surgical use), shoe horns, combs and cases therefor, perfume sprays and perfume sprayers, and toilet sets (sold complete). "DUNHILL"
7304	25.11.82	Alfred Dunhill Limited ... ..	Games (other than ordinary playing cards). "DUNHILL"
7305	25.11.82	Alfred Dunhill Limited ... ..	All goods included in Class 34. "DUNHILL"
7306	25.11.82	Alfred Dunhill Limited ... ..	Articles included in Class 14 made of precious metals or coated therewith; jewellery; clocks and watches. "DUNHILL"
7307	25.11.82	Alfred Dunhill Limited ... ..	Articles included in Class 18 made wholly or principally of leather and of imitation leather. "DUNHILL"
7313	16.12.82	Societe des Produits Nestle S. A. ... ..	All goods included in Class 29. "N E S P R A Y"

# NEC

Reg. No. 7169



Reg. No. 7173



Reg. No. 7281

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1983 to 31st December 1983 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7325	19.1.83	Libby, McNeill & Libby Inc. ... ..	Medicated foods and medicated beverages; infants' and invalids' foods.
7326	19.1.83	Libby, McNeill & Libby Inc. ... ..	Meat; fish not live; meat products, fish products, dairy products and milk products, all for food; preserved fruits, fruit preserves; preserved dried or cooked vegetables; milk; foodstuffs consisting of or containing poultry and prepared meals, all included in Class 29.
7327	19.1.83	Libby, McNeill & Libby Inc. ... ..	Farinaceous products, cereals and preparations made from cereals or from rice, all for food for human consumption; sauces, ketchup, vinegar, condiments, spices (other than poultry spice); pasta products for food; puddings and preparations, all included in Class 30 and all for use as desserts; and prepared meals consisting principally of foodstuffs included in Class 30.
7328	19.1.83	Libby, McNeill & Libby Inc. ... ..	Fruit juices for use as beverages.
7329	19.1.83	Richter Gedeon Vegeszeti Gyar R. T. ... ..	Pharmaceutical preparations for use in human therapy.
7330	19.1.83	Societe des Produits Nestle S. A. ... ..	Sauces, non-medicated confectionery, food preparations included in Class 30 for making puddings, all containing coffee or being coffee flavoured; coffee, coffee extracts, coffee essences.
7335	28.1.83	Joaquin Saez Merino... ..	Trousers, jackets, shirts, suits, waistcoats, and hats.
7364	28.3.83	Berec Group Limited ... ..	Electrical and electronic apparatus and instruments; luminous signalling apparatus and instruments; electric lighters (no-pyrophoric) for smokers; electric batteries; sound and video records and tapes; and parts and fittings included in Class 9 for all the aforesaid goods.
7365	28.3.83	Berec Group Limited ... ..	Lighting apparatus and instruments, electrically operated ignitors for gas; and parts and fittings for all the aforesaid goods included in Class 11.
7382	5.5.83	Alfred Dunhill Limited ... ..	Articles of outer-clothing for men.
7383	5.5.83	Alfred Dunhill Limited ... ..	Preparations for the hair, dentifrices, soap, shaving creams, shaving foams, toilet waters, eau de cologne, anti-perspirants, pre-shaving lotions and after shaving lotions; moisturising lotions and talcum powder, all being non-medicated and for toilet use. "DUNHILL"
7387	6.5.83	Christian Dior S A ... ..	All goods included in Class 25. "CHRISTIAN DIOR"
7388	6.5.83	Mars Limited ... ..	Food for dogs and cats.
7389	9.5.83	Philip Morris Incorporated ... ..	Cigarettes. "MARLBORO LIGHTS"
7418	7.6.83	Standard Chartered Bank Public Limited Company ... ..	Paper, paper articles, cardboard and cardboard articles, all included in Class 16; printed matter, periodical publications, books, stationery, holders being articles of stationery, and covers, all for cheque books, paying in books and for bank cards.

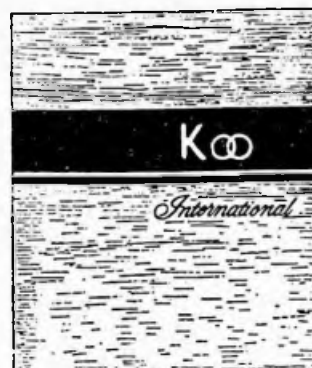
Registration No.	Date of Registration	Proprietor	Description of Goods
7428	16.6.83	Brown & Williamson Tobacco Corporation ... ..	Tobacco, whether manufactured or unmanufactured.
7458	19.9.83	Alfred Dunhill Limited ... ..	All goods included in Class 34.
7464	19.9.83	Bass Limited ... ..	Beer, ale, stout, and porter; shandy; beverages containing beer and included in Class 32 and preparations included in Class 32 for making all the aforesaid goods. "B A S S"
7465	19.9.83	Brown & Williamson Tobacco Corporation ... ..	Cigarettes.
7466	21.9.83	Joaquin Saez Merino ... ..	Jeans being articles of clothing, jackets, skirts, dresses, shirts, sweaters, knitted articles of clothing and articles of clothing made from knitted materials.
7471	21.9.83	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Articles of sports clothing, shirts, hats and uniforms; caps, aprons and ties all for wear.
7472	21.9.83	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Printed matter, periodicals, books and sheet music.



Reg. No. 73301



Reg. No. 7418



Reg. No. 7428



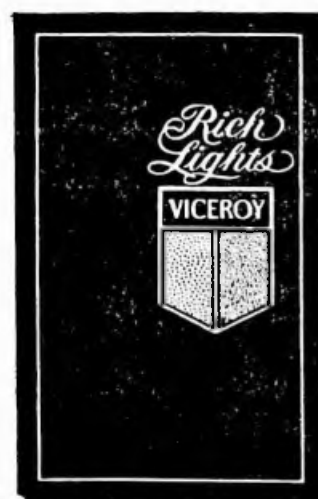
Reg. N. 7335



Ref. No. 7364/65



Reg. No. 7382 &amp; 7458



Ref. No. 7465



Ref. No. 7388



Ref. No. 7466



Ref. No. 7471 &amp; 7472

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1984 to 31st December 1984 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7517	18.1.84	James Burrough PLC ... ..	All goods included in Class 33.
7518	18.1.84	James Burrough PLC ... ..	Wines, spirits (beverages), liqueurs and cocktails.
7519	18.1.84	Blue Bell Inc. ... ..	Jeans being trousers, shirts, trousers, jackets and suits.
7543	24.2.84	Honda Giken Kogyo Kabushiki Kaisha ... ..	Internal combustion engines for machines; cultivating machines, water pumps included in Class 7 and crop spraying machines, all incorporating internal combustion engines, welding machines, outboard internal combustion engines for water craft; and parts and fittings included in Class 7 for all the aforesaid goods.
7544	24.2.84	Honda Giken Kogyo Kabushiki Kaisha ... ..	Motorcycles and motor cars, and parts and fittings therefor, all included in Class 12.
7545	24.2.84	St. Paul's Tobacco Company ... ..	Cigarettes.
7546	24.2.84	The Wellcome Foundation Limited ... ..	Pharmaceutical preparations and substances. "TRACRIUM"
7588	25.5.84	Hollister Incorporated ... ..	Ostomy appliances and parts and fittings therefore included in Class 10, umbilical cord clamps and umbilical cord clamp clippers; circumcision devices; containers adapted for use in collecting liquid specimens from the body; endocervical aspirators; anmiotic membrane perforators; post surgical drainage bags.
7590	28.5.84	Anheuser-Busch, Incorporated ... ..	Beer.
7592	28.5.84	Takeda Yakuhin Kogyo Kabushiki Kaisha ... ..	Sauces, vinegar, beverages included in Class 30, sugar and honey.
7599	5.6.84	Religious Technology Center ... ..	Books and printed publications, all relating to philosophy.
7600	5.6.84	Religious Technology Center ... ..	Paper, paper articles and cardboard articles, all included in Class 16; and cardboard, printed matter bookbinding materials, protective covers for books, stationery and transfers (decalcomanias).
7601	5.6.84	Religious Technology Center ... ..	Printed matter, newspapers and periodical publications, stationery, instructional and teaching materials (other than apparatus).
7602	5.6.84	Religious Technology Center ... ..	Printed periodical publications.
7603	7.6.84	Mastercard International Incorporated ... ..	Paper board and paper board articles, all included in Class 16; identity cards.
7605	7.6.84	British-American Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured, for export except to the Republic of Ireland, the United States of America, Cuba, Puerto Rico and Philippine Islands. "GARRICK"
7614	7.6.84	Alfred Dunhill Limited ... ..	Spectacles (anti-dazzle), spectacle frames, spectacle cases and magnifying glasses. "DUNHILL"
7615	7.6.84	Alfred Dunhill Limited ... ..	All goods included in Class 14 but not including raw precious metals. "DUNHILL"
7619	8.6.84	Gallaher Limited ... ..	Manufactured tobaccos. "SOVEREIGN"
7620	8.6.84	Gallaher Limited ... ..	Cigarettes for export from the United Kingdom and sale abroad except for export to and sale in the Republic of Ireland. "SILK"
7621	8.6.84	Gallaher Limited ... ..	Tobacco whether manufactured or unmanufactured. "GOLD BOND"
7674	28.9.84	Alfred Dunhill Limited ... ..	Whisky. "DUNHILL"
7684	8.10.84	Carling O'keefe Breweries ... ..	Beer and Lager. "BLACK LABEL"
7732	28.11.84	Glaxo Group Limited ... ..	All goods included in Class 5. "GLAXO"

Registration No.	Date of Registration	Proprietor	Description of Goods
7733	28.11.84	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Articles of luggage; travelling bags; handbags, satchels, valises, gripsacks, dressing cases, cases included in Class 18; and parts and fittings included in Class 18 for all the aforesaid goods.
7734	28.11.84	Adidas Sportschuhfabriken Adi Dassler KG ... ..	Trunks, suitcases and travelling bags.
7735	28.11.84	Adidas Sportschuhfabriken Adi Dassler KG ... ..	Articles of outer clothing.
7736	28.11.84	Adidas Sportschuhfabriken Adi Dassler KG ... ..	Sporting articles (other than clothing) and parts and fittings therefore included in Class 28.



# BEEFEATER

Ref. No. 7517

# BORZOI

Ref. No. 7518



Ref. No. 7519

# HONDA

Ref. Nos. 7343 & 7544



Ref. No. 7545



# HOLLISTER

Reg. No. 7588



Ref. No. 7590



Ref. No. 7592

# DIANETICS

Ref. No. 7599



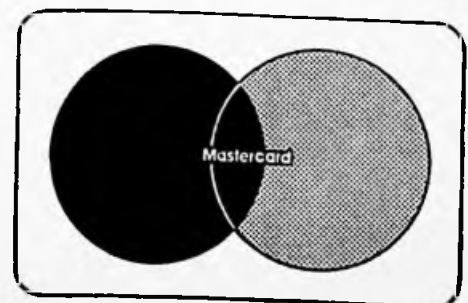
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Ref. No. 7601

# SCIENTOLOGY

Ref. No. 7602



Ref. No. 7603



# YAMAHA

Ref. No. 7030

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1981 to 31st December 1981 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
5555	7021	5.10.78	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Tobacco, whether manufactured or unmanufactured.
3465	7031	16.10.80	Procter & Gamble Limited ... ..	Saponaceous detergents in solid or powdered form for household and laundry purposes.
4123	7035	3.11.80	Pepsico Inc. ... ..	Non-alcoholic drinks and preparations for making such drinks, all included in Class 32 (Schedule IV).
1619	7049	2.5.80	Schweppes International Limited ... ..	Mineral and aerated waters, natural and artificial, including ginger beer.
6140	7051	27.2.81	Ardath Tobacco Company Limited ... ..	Cigarettes.
2940	7064	26.5.80	Societe Des Produits Nestle S.A. ... ..	Coffee essence, coffee extract and preparations of coffee and of coffee and chicory, all for use as food.
3750	7065	4.3.81	British American Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured.
6878	7072	9.3.81	Mars Limited ... ..	Non-medicated confectionery.
6561	7078	5.7.81	Glaxo Group Limited ... ..	Pharmaceutical and veterinary preparations and substances.
3755	7093	29.7.81	Ruberoid Limited ... ..	Roofing felts and bituminous papers for roofing and the like purposes.
6747	7094	11.8.81	Alberto-Gulver Company ... ..	Preparations for the treatment of the hair and non-medicated toilet preparations for application to the skin.
4758	7096	13.7.81	Grundig Werke Gesellschaft Mit Beschränkte Haftung ... ..	Radio-receiving apparatus, microphones, tapes prepared for use as sound-recording media, radio-gramophones and apparatus for recording and/or reproducing sound; and parts and fittings included in Class 9 for all the aforesaid goods.
3154	7097	28.4.81	John Dewar & Sons Limited ... ..	Spirits included in Class 43.
4113	7113	21.6.81	Sony Kabushiki Kaisha ... ..	Radio and television sets (complete), gramophones and electro-phones, parts of all these goods included in Class 9 etc.
6130	7114	24.6.81	Allen & Hanbury's Limited ... ..	Pharmaceutical preparations and substances for human use and veterinary use.
4108	7115	7.3.81	Exxon Corporation ... ..	Chemical substances used for agricultural, horticultural, veterinary and sanitary purposes.
6455	7125	9.9.81	Texwood Limited ... ..	Articles of clothing.
4690	7126	26.8.81	William Grant & Sons Limited ... ..	Scotch Whisky.
1571	7130	26.7.81	Unilever Limited ... ..	Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).
3936A	7137	30.9.81	The Rank Organisation Limited ... ..	Scientific, electrical and electronic apparatus and instruments etc.
6478	7138	27.9.79	Castrol Limited ... ..	Preparations and substances for laundry use; cleaning, polishing, scouring and abrasive preparations.
1666	7144	7.11.81	Bosch Y Compania Sociedad Anonima ... ..	Aniseed cordial or spirit included in Class 43.
6586	7150	23.5.81	Mars Limited ... ..	Food for animals.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6582	7151	15.9.81	Mars Limited ... ..	Dog Goods.
6730	7154	13.12.81	Tia Maria Limited ... ..	Liqueurs (alcoholic).
3896	7162	18.10.81	Bulova Watch Company, Inc., ... ..	Electrical, electronic, scientific, laboratory and mathematical apparatus and instruments etc.
5379	7164	23.12.81	Germaine Czerefkow ... ..	Perfumes, non-medicated toilet preparations, cosmetics, caude-cologne, perfumed soaps, and preparations for the hair.
6936	7165	11.12.81	Burberrys Limited ... ..	Articles of luggage, handbags, travelling bags, trunks, travelling cases made of leather and suit cases; articles included in Class 18 made from leather or from imitation leather; umbrellas, parasols and walking sticks.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1982 to 31st December 1982 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
3855	7172	6.8.81	Carreras Limited ... ..	Cigarettes.
6522	7174	28.1.82	Lucas Industries Limited ... ..	Pipes and tubes, none being boiler tubes or parts of machines, and hoses, pipe fittings included in Class 6; number plates for vehicles; metal fabrications, tanks and containers, all included in Class 6; wire (other than insulated or fuse wire); valves and parts thereof, all included in Class 6; all made of common metal.
6523	7175	28.1.82	Lucas Industries Limited ... ..	Dynamos, electric alternators, electric generators, starters for stationary internal combustion engines, and parts included in Class 7 of all the aforesaid goods etc.
6524	7176	28.1.82	Lucas Industries Limited ... ..	Searchlights, integrated electric circuits, solenoids, solenoid valves, all parts included in Class 9 etc.
6525	7177	28.1.82	Lucas Industries Limited ... ..	Heat exchangers (not being parts of machines); electric lamps for land vehicles and parts included in Class 11 of all the aforesaid goods etc.
6527	7178	28.1.82	Lucas Industries Limited ... ..	Books, printed publications and printed matter.
6526	7179	28.1.82	Lucas Industries Limited ... ..	Motor horns and audible warning devices for vehicle malfunctions and parts included in Class 12 etc.
6528	7180	28.1.82	Lucas Industries Limited ... ..	Synthetic materials and flexible hoses, all included in Class 17.
6529	7181	28.1.82	Lucas Industries Limited ... ..	Containers included in Class 21 for dispensing liquids into batteries.
2659	7182	18.9.81	John Walker & Sons Limited ... ..	Scotch whisky for export.
2660	7183	18.9.81	John Walker & Sons Limited ... ..	Scotch whisky for export.
4194	7186	25.1.82	Shell International Petroleum Company Limited ... ..	All goods included in Class 4, none being for export to or sale in Puerto Rico.
3879	7195	22.11.81	The Rank Organisation Limited ... ..	Instruments and apparatus for use in wireless telephony, television and telecommunication; instruments and apparatus for use in sound-recording and sound-reproduction, and parts included in Class 9 of all the aforesaid goods.
6642	7196	6.11.81	Cheseborough-Ponds Inc. ... ..	Perfumes; non-medicated toilet preparations, cosmetic preparations, dentifrices, depilatory preparations, toilet articles included in Class 3, sachets for use in waving the hair, shampoos, soaps and essential oils, anti-perspirants.
6330	7207	19.2.82	Citicorp ... ..	Advertising media included in Class 16; printed matter, newspapers, periodical publications, books, instructional material (other than apparatus), cheques, stationery, brochures, and office requisites (other than furniture); but not including office machines.
6628	7211	6.11.81	Mars Limited ... ..	Non-medicated confectionery and biscuits (other than biscuits for animals.)
6481	7217	19.11.81	Castrol Limited ... ..	Pharmaceutical substances; surgical and medical plasters; materials prepared for bandaging; disinfectants; all for first aid use or for inclusion in first aid kits.
6482	7218	19.11.81	Castrol Limited ... ..	Cash boxes, key fobs, and key rings, all made of common metal.
6485	7219	19.11.81	Castrol Limited ... ..	Pen knives and letter-opening knives included in Class 8.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6487	7220	19.11.81	Castrol Limited ... ..	Apparatus for testing lubricants, hydrolic oils, hydrolic fluids, heat transfer fluids and antifreeze preparations; fire extinguishing apparatus for use in motor land vehicles; radios.
6489	7221	19.11.81	Castrol Limited ... ..	Torches (electric).
6491	7222	19.11.81	Castrol Limited ... ..	Mud flaps, gear lever knobs, windscreen wipers, windscreen washers, antidazzle strips for application to windscreens, all the aforesaid goods being parts of motor land vehicles.
6492	7223	19.11.81	Castrol Limited ... ..	Watches and clocks; trophies made of precious metal or coated therewith; cuff links and tie pins, all made of precious metal or coated therewith and brooches, all being articles of jewellery.
6493	7224	19.11.81	Castrol Limited ... ..	Printed publications relating to motoring and lubrication all included in Class 16 etc.
6497	7225	19.11.81	Castrol Limited ... ..	Umbrellas and parasols; travelling bags, key fobs and holdalls all made of leather or of imitation leather.
6499	7226	19.11.81	Castrol Limited ... ..	Camping stools and mirrors included in Class 20.
6501	7227	19.11.81	Castrol Limited ... ..	Vacuum flasks and drinking glasses.
6504	7228	19.11.81	Castrol Limited ... ..	Towels, handkerchiefs, flags and bunting, all made from textile materials.
6505	7229	19.11.81	Castrol Limited ... ..	Jackets, jerkins, shirts; ties, caps and gloves, all for wear; and articles of clothing for motor cyclists.
6508	7230	19.11.81	Castrol Limited ... ..	Embroided badges.
6509	7231	19.11.81	Castrol Limited ... ..	Carpets and rugs, (floor coverings), table mats (not being table linen).
6510	7232	19.11.81	Castrol Limited ... ..	Golf balls and toy motor vehicles.
6512	7233	19.11.81	Castrol Limited ... ..	Non-medicated sugar confectionery.
6513	7234	19.11.81	Castrol Limited ... ..	Beer and ale.
6514	7235	19.11.81	Castrol Limited ... ..	Pyrophoric lighters for smokers, smokers ashtrays (not of precious metal or coated therewith), and matches.
1665	7236	27.2.81	Beecham Group Limited ... ..	A medicinal saline preparation for human use.
6289	7237	17.1.82	British-American Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured.
6145	7238	12.6.81	Heuga Export A.G. ... ..	Carpets, mats included in Class 27, rugs (floor coverings), carpet tiles, matting and floor covering materials for existing floors.
6416	7239	14.4.82	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Musical instruments, and parts and fittings therefore included in Class 15.
2980	7240	16.10.81	The Coca-Cola Company ... ..	Aerated beverages.
5184	7241	1.12.81	The Coca-Cola Company ... ..	Non-alcoholic drinks and preparations for making such drinks, all included in Class 32; and fruit juices.
1502	7242	4.8.81	R.J. Reynolds Tobacco Company ... ..	Manufactured tobacco.
2887	7243	30.4.82	Rowntree Mackintosh Limited ... ..	Chewing gum.
6086	7245	25.7.80	Usiflamme S.A. ... ..	Office requisites (other than furniture) and writing implements.
6386	7246	25.7.80	Usiflamme S.A. ... ..	Articles included in Class 14 made of precious metal or alloys thereof or coated therewith, but not including bracelets or bangles or the like goods.
4657	7252	23.12.81	Riggio Tobacco Corporation Limited ... ..	Cigarettes.
6480	7255	26.8.82	Castrol Limited ... ..	Lubricating greases.
6600	7256	10.9.82	Visa International Service Association ... ..	Printed cards related to banking and to credit services.
6284	7261	4.8.82	James Buchanan & Company Limited ... ..	Scotch Whisky.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6161	7262	5.6.82	James Buchanan & Company Limited ... ..	Wines, spirits (beverages) and liqueurs.
3883	7263	18.6.82	Arthur Guinness Son & Company Limited ... ..	Single and double stout beer.
6296	7264	19.5.82	White Horse Distillers Limited ... ..	Scotch Whisky.
3915	7265	20.4.82	Ardath Tobacco Company Limited ... ..	Cigarettes.
1538	7266	20.3.82	John Walker & Sons Limited ... ..	Whisky.
2552	7267	14.5.82	Electrolux Limited ... ..	Refrigerating and cold storage chambers and refrigerating chests and safes.
1600	7268	23.11.82	John Haig & Company Limited ... ..	Fermented liquors and spirits.
6291	7270	25.3.82	Certina Kurth Freres S.A. ... ..	Horological and chronometric apparatus and instruments, and parts and fittings for all such goods; jewellery, imitation jewellery and articles included in Class 14 made of precious metal or coated therewith.
3983	7271	6.10.82	British-American Tobacco Company Limited ... ..	Tobacco whether manufactured or unmanufactured.
2830	7272	11.10.82	BL Cars Limited ... ..	Land Motor-vehicles and parts thereof included in Class 12 (Schedule IV).
3042	7275	4.6.82	R.J Reynolds Tobacco Company ... ..	Cigarettes.
2595	7276	15.8.82	Societe Des Produits Nestle S.A. ... ..	Pharmaceutical preparations, dietic foods and infants and invalids foods.
2596	7277	2.8.82	Societe Des Produits Nestle S.A. ... ..	Meat, fish, poultry, and game, meat extracts; preserved, dried and cooked fruits and vegetables; jellies; jams; eggs, milk and other dairy products; edible oils and fats; preserves pickles.
4392	7278	25.5.82	Sinalco Aktiengesellschaft ... ..	Non-alcoholic drinks and preparations for making such drinks, all included in Class 32.
4024	7279	29.6.82	Carreras Limited ... ..	Cigarettes.
4107	7280	30.5.82	Carreras Limited ... ..	Tobacco, whether manufactured or unmanufactured.
1021	7284	8.1.82	Tate & Lyle Public Limited Company ... ..	Golden syrup included in Class 42.
2983	7286	15.11.82	EMI Records Limited ... ..	Instruments included in this class for reproducing sound.
3898	7287	2.2.82	Unilever Plc. ... ..	Substances for laundry use, common soap, detergents, (not being polishing or abrading preparations), perfumed soap, perfumery, cosmetics, preparations for the hair and dentifrices.
3899	7288	19.7.82	Unilever Plc. ... ..	Preparations and substances for laundry purposes; detergents (not for use in industrial or manufacturing processes) and soaps; and cleaning, polishing, scouring and abrasive preparations.
3940	7292	28.4.82	Reemtsma Cigarettenfabriken, Gesellschaft mit beschränkter Haftung ... ..	All goods included in Class 34.
4152	7298	27.9.82	The Coca-Cola Company ... ..	All goods included in Class 32.
2603	7301	16.7.82	The Rank Organisation Limited ... ..	Cinematograph films prepared for exhibition.
3949	7308	16.11.82	Ardath Tobacco Company Limited ... ..	Cigarettes.
3939	7310	16.11.82	British-American Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured.
6629	7311	23.12.82	Mars Limited ... ..	Rice and prepared rice dishes etc.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1983 to 31st December 1983 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6667	7319	4.12.81	EMI Limited ... ..	Records and tapes, all bearing recorded sound.
3950	7320	10.3.82	CBS Inc., ... ..	Gramophone records; record players, pick-ups, radio receiving apparatus, apparatus for amplifying sound, television receiving apparatus, aerials, loudspeakers; and parts of all said goods included in Class 9.
2553	7321	22.1.83	Electrolux Limited ... ..	Machinery of all kinds and parts of machinery, except agricultural and horticultural machines and their parts included in Class 7.
2607	7322	26.2.83	Rowntree Mackintosh Limited ... ..	Chocolate and non-medicated confectionery.
3965	7323	1.5.82	Etablissements Niolly Prat & Cie. ... ..	French vermouth.
6542	7333	23.1.83	The Coca-Cola Company ... ..	Non-alcoholic beverages and preparations for making such beverages, all included in Class 32.
6671	7334	6.2.83	Anheuser-Busch ... ..	Beer.
6679	7342	15.1.83	Gallaher Limited ... ..	Cigarettes for export from the United Kingdom and sale abroad except for export to, and sale in, the Republic of Ireland.
4878	7343	19.12.82	The Wellcome Foundation Limited ... ..	All goods included in Class 5.
6598	7355	2.1.83	Mars Limited ... ..	Non-medicated confectionery containing chocolate.
6486	7356	18.2.83	Castrol Limited ... ..	Protective helmets for motor cyclists.
6503	7357	18.2.83	Castrol Limited ... ..	Vehicle covers.
6507	7358	21.2.83	Castrol Limited ... ..	Badges (for wear), not of precious metal or coated therewith.
1479	7359	30.8.82	Coleman & Co. Limited ... ..	An alcoholic beverage being a combination of Liebig's Extract of Meat and a preparation of malt and wine.
4325	7361	25.9.82	Carreras Limited ... ..	Manufactured tobacco and matches.
3545	7362	22.1.83	Procter & Gamble Limited ... ..	Toilet soap.
6160	7363	7.4.82	Brown & Williamson Tobacco Corporation (Export) Limited ...	Tobacco, whether manufactured or unmanufactured.
6208	7372	7.7.82	Brown & Williamson Tobacco Corporation (Export) Limited ...	Tobacco, whether manufactured or unmanufactured.
7173	7377	16.2.83	Arthur Guinness Son & Company (Dublin) Limited ... ..	Stout for sale in Northern Ireland and for export from the United Kingdom except to the Channel Islands.
4014	7378	4.9.82	Philip Morris Incorporated ... ..	Cigarettes; tobacco, raw or manufactured; smokers' articles included in Class 34; matches.
4945	7379	23.2.83	Reemtsa Cigarettenfabriken Gesellschaft mit beschränkter Haftung. ... ..	Filter Cigarettes.
4954	7380	21.6.83	Reemtsa Cigarettenfabriken Gesellschaft mit beschränkter Haftung. ... ..	Filter-tipped cigarettes.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
4320	7381	15.3.83	American Brands, Inc. ... ..	Cigarettes.
3972	7384	18.1.83	De forenede Bryggerier A/S ... ..	Beer, ale, stout and porter; non-alcoholic drinks and preparations for making such drinks, all included in Class 32.
4383	7390	24.2.83	Benson & Hedges (Overseas) Limited ... ..	Cigarettes, cigars and smoking tobacco.
4543	7391	20.2.83	The Universal Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured all being goods for export except to the Irish Republic.
5597	7392	7.7.82	B.A.T. Cigaretten-Fabriken G.m.b.H. ... ..	Cigarettes for sale in Aden, Bahrain, Kuwait, Basutoland, Bechuanaland, British Solomon Islands, British Honduras, Falkland Islands, Friendly Islands, Gibraltar, Gilbert and Ellice Islands, Grenada, Guernsey, Jersey, St. Helena, St. Vincent, Somaliland Protectorate and Swaziland.
7132	7393	9.1.83	Societe Des Produits Nestle S.A. ... ..	Dietic foods, infants' and invalids' foods, medicated tonic foods and medicated tonic beverages.
5733	7395	24.8.78	Imasco Limited ... ..	Tobacco, whether manufactured or unmanufactured.
1195	7397	27.4.83	Optrex Limited ... ..	Substances used as food or as ingredients in food.
5330	7410	22.5.83	Bio-Strath AG ... ..	Pharmaceutical preparations.
2871	7411	11.4.83	Cheseborough-Pond's Inc. ... ..	Petroleum jelly for toilet purposes, camphor ice, camphorated cream, preparations for the hair, pomade, quinine pomade and perfumed soap, all being products of petroleum for toilet use included in Class 48.
3513	7413	24.2.83	B.A.T. (UK and Export) Limited ... ..	Cigarettes, cigars and smoking tobacco, all being goods for export.
6905	7414	18.3.83	Gallaher Limited ... ..	Cigarettes for export from the United Kingdom and sale abroad for export to, and sale in, the Republic of Ireland.
6461	7415	7.4.83	Cadbury Limited ... ..	Cocoa, chocolate, chocolates and non-medicated confectionery; biscuits (other than biscuits for animals); and tea.
6516	7419	4.5.83	Reckitt & Coleman (Overseas) Limited ... ..	Pharmaceutical preparations and substances, all for export, except to the Irish Republic.
2456	7420	17.6.83	Wailles Dove Bitumastic Limited ... ..	All goods included in Class 1.
2112	7421	5.11.82	Fabrique de Tabac Reunies S A ... ..	Cigarettes made at Richmond, Virginia, United States of America.
6490	7423	12.5.83	Castrol Limited ... ..	Shaped covers for motor vehicle lamps.
6511	7424	16.6.83	Castrol Limited ... ..	Games (other than ordinary playing cards) and toys.
6506	7425	16.6.83	Castrol Limited ... ..	Jackets, jerkins, overalls, jumpsuits, waterproof trousers, shirts, ties, belts, caps and gloves, all for wear; articles of sports clothing.
6502	7426	16.6.83	Castrol Limited ... ..	Small domestic utensils and portable containers, all for household use and for kitchen use, none made of precious metal or coated therewith; fitted picnic cases; and drinking mugs of earthenware or of glass.
3173	7427	28.6.83	Angostura International Limited ... ..	Alcoholic bitters.
2902	7433	18.6.83	RCA Corporation ... ..	Sound reproducing and sound recording apparatus and parts thereof included in Class 9 and thermionic valves for radio apparatus.
6921	7434	8.4.83	Kimberly-Clark Corporation ... ..	Sanitary Knickers for use by women, sanitary towels and sanitary tampons.
4012	7435	28.3.83	John Walker & Sons Limited ... ..	Scotch Whisky for export.
4545	7459	23.2.83	Rothmans of Pall Mall Limited ... ..	All goods included in Class 34.
1573	7460	6.8.83	Tanqueray, Gordon and Company Limited ... ..	Gin cocktails, bitters (alcoholic), sloe gin and whisky.
6831	7461	24.2.83	Societe Des Produits Nestle S. A. ... ..	Tea; and preparations of tea, extracts of tea, admixtures of tea with powdered milk and sugar, and admixtures of tea with powdered milk, all for making beverages.



Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
3324	7462	12.9.83	British-American Tobacco Company Limited ... ..	Manufactured Tobacco. The goods of the present specification except for export from the United Kingdom except to the Republic of Ireland, the United States of America, Cuba, Puerto Rico and the Philippine Islands.
4635	7463	13.4.83	American-Cigarette Company (Overseas) Limited ... ..	All goods included in Class 34.
5767	7467	27.8.83	Shirasuna Denki Kabushiki Kaisha ... ..	Radio and television receiving sets and parts included in Class 9 etc.
7168	7468	22.7.83	Nippon Denki Kabushiki Kaisha ... ..	Electrical and electronic satellite communication apparatus etc.
6418	7469	2.5.83	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Electrical musical instruments.
6420	7470	2.5.83	Nippon Gakki Seizo Kabushiki Kaisha ... ..	All goods included in Class 15.
4812	7473	30.8.83	Alfred Dunhill Limited ... ..	All goods included in Class 34 for export from the United Kingdom to and sale in all countries except the Channel Islands, the Irish Republic, Fiji and Malta.
5369(A)	7493	11.10.83	Batchelors Goods Limited ... ..	Soups.
6345	7494	10.12.83	John Dewar & Sons Limited ... ..	Scotch Whisky
4101	7495	30.10.83	British-American Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured.
4556	7496	4.12.83	William Grant & Sons Limited ... ..	Scotch Whisky for export.
6641	7497	2.5.80	Cheseborough-pond's Inc. ... ..	Perfumes, toilet preparations (not medicated), cosmetic preparations, dentifrices, depilatory preparations, toilet articles included in Class 3; sachets for use in waving the hair, soaps and essential oils; all being goods for export from the United Kingdom other than for export to the Republic of Ireland and the Channel Islands.
6638	7498	2.5.80	Cheseborough Pond's Inc. ... ..	Non-medicated toilet preparations; cosmetic preparations; perfumes; soaps; shampoos and preparations for the hair; anti-perspirants; all being goods for export from the United Kingdom other than for export to the Republic of Ireland and the Channel Islands.
6639	7499	2.5.80	Cheseborough Pond's Inc. ... ..	Non-medicated toilet preparations; cosmetic preparations; perfumes; soaps; shampoos and preparations for the hair; anti-perspirants; all being goods for export from the United Kingdom other than for export to the Republic of Ireland and the Channel Islands.
6479	7500	15.6.80	Castrol Limited ... ..	Oils included in Class 4 and lubricants.
4288	7501	10.9.83	Carreras Limited ... ..	Manufactured tobacco.
4223	7502	25.9.83	Fabrique de Tabac Reunies S. A. ... ..	Cigarettes.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

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S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
1511	7524	16.11.83	Carter-Wallace, Inc ... ..	Pills for man.
7335	7525	12.8.83	Joaquin Saez Merino ... ..	Trousers, jackets, shirts, suits, waistcoats and hats.
6002	7526	17.12.83	Cussons (International) Limited ... ..	Perfumes, non-medicated toilet preparations, cosmetic preparations, dentifrices, depilatory preparations, toilet articles (not included in other Classes), sachets for use in waving the hair, shampoos, soaps and essential oils.
2889	7527	10.2.84	Rowntree Mackintosh PLC ... ..	Chocolate-coated toffees.
4946	7528	19.2.84	Reemtsma Cigarettenfabriken G.m.b.H. ... ..	Filter tipped cigarettes.
4425	7529	30.1.84	Showerings Limited ... ..	Cider and perry.
5047	7530	8.3.84	Tanqueray Gordon & Co. Limited ... ..	Gin for export.
2570	7531	12.1.84	Imperial Chemical Industries PLC ... ..	Polishing preparations and materials included in Class 50 and putty.
2569	7532	12.1.84	Imperial Chemical Industries PLC ... ..	Detergents included in Class 47.
1673	7533	10.3.84	John Haig & Co. Limited ... ..	Whisky.
3319	7534	4.2.84	Caltex Petroleum Corporation ... ..	Petrol, naphtha, kerosene, lubricating oils, lubricating greases, cutting oils, gas oils, fuel oils, oil for use in manufacturing processes, petroleum jelly for industrial purposes, and petroleum wax included in Class 4.
2097	7535	12.1.84	Beecham Group PLC ... ..	Toilet creams (not medicated).
7047	7548	9.11.83	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Hand tools and hand instruments included in Class 8, all for use with musical instruments, electrical and electronic apparatus and instruments, and with gymnastic and sporting articles; cutlery, forks and spoons, all included in Class 8; and parts and fittings included in Class 8 for all the aforesaid goods.
5318	7585	23.1.84	Carreras Limited ... ..	Manufactured tobacco.
6693	7586	18.1.84	Texwood Limited ... ..	Jeans being articles of clothing, jackets, undershirts, shirts, blouses, coats, shorts, vests, T-shirts, pyjamas, pullovers, sweaters, trousers, suits, blazers, overalls, slacks, brassieres, skirts, briefs being articles of underclothing, boots, shoes, hats (for wear) and slippers.
6725	7587	28.4.84	Texwood Limited ... ..	Leather and imitation leather, and articles included in Class 18 made from these materials; hides and skins; trunks and travelling bags, and bags included in Class 18.
2393	7589	21.12.83	Hill Thomson & Company Limited ... ..	Fermented liquors and spirits.
6476	7608	1.5.84	Castrol Limited ... ..	Chemical products for use in industry included in Class 1 etc.
6477	7609	1.5.84	Castrol Limited ... ..	Compositions (in the nature of paint) for use in making traffic lines on roads and the like surfaces etc.
6494	7610	1.5.84	Castrol Limited ... ..	Waxed paper, packing paper and wrapping paper.
6498	7611	1.5.84	Castrol Limited ... ..	All goods included in Class 19.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6500	7612	1.5.84	Castrol Limited ... ..	Inserts made of plastics for the reception of screws, nails and the like.
3104	7613	10.3.84	RCA Corporation ... ..	Talking machines, talking machine records, and other talking machine accessories included in Class 8.
6798	7616	14.4.84	Adidas Sportschuhfabriken Adi Dassler KG ... ..	Articles of clothing, for sportswear and for leisure wear.
2599	7617	23.5.84	Booth's Distilleries, Limited ... ..	Gin, whisky, ginger brandys, alcoholic peppermint and cocktails.
4173	7618	2.4.84	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Cigarettes and smoking tobacco, all being goods for export except to the Irish Republic.
7519	7622	11.3.84	Blue Bell Inc. ... ..	Jeans being trousers, shirts, trousers, jackets and suits.
6626	7634	19.4.84	Joseph E Seagram & Sons Inc. ... ..	Wines, spirits (beverages) and liqueurs.
4172	7635	30.5.84	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Tobacco whether manufactured or unmanufactured, all being goods for export except to the Irish Republic.
4282A	7647	23.6.80	Alfred Dunhill Limited ... ..	Manufactured tobacco.
3337	7648	8.6.84	Bulova Watch Company, Inc. ... ..	All goods included in Class 14.
7018	7649	25.6.82	Adidas Fabrique de Chaussures de sport ... ..	Gymnastic and sporting articles (other than clothing).
7020	7658	19.7.84	The Wellcome Foundation Limited ... ..	Pharmaceutical, medicinal, veterinary and sanitary preparations and substances.
4197	7663	30.5.84	British-American Tobacco Company Limited ... ..	All goods included in Class 34 (Schedule IV), but not including pyrophoric lighters.
7428	7664	13.6.84	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Tobacco, whether manufactured or unmanufactured.
4614	7665	27.6.84	Fabrique de Tabac Reunies S.A. ... ..	Filter tipped cigarettes.
4669	7670	1.3.84	Sullana Aktiengesellschaft ... ..	All goods included in Class 34.
4248	7671	30.3.84	St. Regis Tobacco Corporation Limited ... ..	All goods included in Class 34.
3991	7672	3.11.82	P. J. Carroll & Company Limited ... ..	All goods included in Class 34.
3992	7673	3.11.82	P. J. Carroll & Company Limited ... ..	All goods included in Class 34.
6834	7718	9.11.84	Societe Des Produits Marnier-Lapostolle ... ..	Liqueurs.
7325	7719	12.5.84	Libby, McNeil & Libby Inc. ... ..	Medicated foods and medicated beverages; infants' and invalids' foods.
7326	7720	12.5.84	Libby, McNeil & Libby Inc. ... ..	Meat; fish not live; meat products, fish products, dairy products and milk products, all for food; preserved fruits, fruit preserves, preserved dried or cooked vegetables; milk, foodstuffs consisting of or containing poultry and prepared meals, all included in Class 29.
7327	7721	12.5.84	Libby, McNeil & Libby Inc. ... ..	Farinaceous products, cereals and preparations made from cereals or from rice, all food for human consumption; all included in Class 30 etc.
7328	7722	12.5.84	Libby, McNeil & Libby Inc. ... ..	Fruit juices for use as beverages.
4270	7723	6.6.84	Cadbury Typhoo Limited ... ..	Substances for export from the United Kingdom and sale abroad except to the Isle of Man, the Irish Republic, New Zealand, Stewart Island, Chatham Islands, Kermadec Islands, Campbell Island, Cook Island and Tokelau Islands.

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**The Companies Act 1948**

## **Notice of Appointment of Liquidator (Members') Voluntary Winding up**

**Pursuant to section 305 of the Companies Act 1948**

**Name of Company** - Australis Fisheries Limited.

**Nature of Business** - Fishing Company.

**Address of Registered Office** - Old Transmitting Station, Airport Road, Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 17th February 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 17th February 1989.

**Attested by** - Richard Anthony Drury.

**Description** - Administrator, Stanley Fisheries Limited.

No. 8

17th February 1989.

## **Notice to Creditors to send in claims**

**Name of Company** - Australis Fisheries Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Thirteenth day of March 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator(s) of the said Company: and, if so required by notice in writing by the said Liquidator(s), are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated** - 17th February 1989.

No. 9

17th February 1989.

**The Companies Act 1948**  
**Special Resolution to Appoint Liquidator**  
pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**Australis Fisheries Limited (Company Number 8137).**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at The Old Transmitting Station, Airport Road, Stanley on **17th February 1989**, the following **Special Resolution** was duly passed —

“That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be hereby appointed Liquidator(s) for the purposes of such winding-up.”

**Signature** - Robert Peregrine Shane Wolsey.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*Vol. XCVIII*

*28th FEBRUARY 1989*

*No. 4*

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## Appointments

Mrs. Mary Ann Helen Jennings, Clerk, Public Service, 1.1.89.

Bernard Leslie Eccles, Police Constable, Falkland Islands Police Force, 27.1.89.

Kenneth Martin Schofield, Teacher, Education Department, 31.1.89.

Ronald McArthur, General Foreman, Public Works Department, 31.1.89.

Philip Gareth Woosman Edwards, Assistant Design Engineer, Public Works Department, 31.1.89.

Mrs. Patricia Carol Ann Pratlett, Houseparent, Education Department, 6.2.89.

Phillip John Middleton, Further Education Officer, Education Department, 6.2.89.

## Re-appointment

Dr. Robert James McIlroy, M.B. Ch.B. Medical Officer, Medical Department, 24.1.89.

## Promotions

Ewan Alastair Lindsey Keith Cameron, from Deputy Secretary, Secretariat, to Director of Fisheries, Fisheries Department, 1.1.89.

Mrs. Veronica Summers, from Clerk, Public Service, to Senior Clerk, Post Office, Posts & Telecommunications Department, 1.2.89.

## Resignations

Mrs. Marilyn Joyce Hall, Houseparent, Education Department, 22.1.89.

Miss Julie Anne Fisher, Woman Police Constable, Falkland Islands Police Force, 28.1.89.

## NOTICES

No. 3

8th February 1989.

I, David George Pendleton Taylor, Acting Governor, revoke the appointment of John Aian Bowran as Acting Judge made on 10th December 1987 and Published in Gazette Number 18 of 1987 as Notice Number 46.

Ref: LEG 19/5.

D. G. P. Taylor,  
*Acting Governor.*

No. 4

8th February 1989.

**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 Rose Mary McIlroy possesses such legal qualifications and experience as are appropriate for her to be so appointed;

Now I David George Pendleton Taylor, Acting Governor of the Falkland Islands, In Exercise of my powers under section 80(1) of Schedule 1 to the Falkland Islands Constitution Order 1985 Do Appoint the said Rose Mary McIlroy 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 Rose Mary McIlroy 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 Rose Mary McIlroy that he wishes himself to exercise his powers and are also of one or other or more 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 *ex parte* 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 *ex parte* 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 8th day of February 1989.

Ref: LEG/19/5.

D. G. P. Taylor,  
*Acting Governor.*

No. 5

14th February 1989

Due to an error made in the calculation of the cost of living award for the quarter ended 30th September 1988, hourly paid employees in Stanley coming within the scope of the Wages Agreement now qualify for an additional increase of 0.5p per hour with effect from 1st October 1988.

2. Paragraph 2 of Gazette Notice No. 1/89 should be amended to read —

"Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 2p per hour with effect from 1st October 1988".

Ref: INT/2/2.

No. 6

14th February 1989.

The findings of the Cost of Living Committee for the quarter ended 31st December 1988 are published for general information:

<u>Quarter Ended</u>	<u>Percentage Increase over 1971 Prices</u>
31st December 1988	509.40%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 1.5p per hour with effect from 1st January 1989.

Ref: INT/2/2.

No. 10

24th February 1989.

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. 13/88 The Supplementary Appropriation (1986-1987) Ordinance 1988.

No. 14/88 The Supplementary Appropriation (1987-1988) Ordinance 1988.

No. 15/88 The Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988.

No. 16/88 The Income Tax (Amendment) Ordinance 1988.

No. 17/88 The Executive Council Allowances (Amendment) Ordinance 1988.

No. 18/88 The Licensing (Amendment) Ordinance 1988.

No. 19/88 The Old Age Pensions (Amendment) (No. 2) Ordinance 1988.

No. 20/88 The Medical Services Levy (Amendment) Ordinance 1988.

No. 22/88 The Law of Contract Ordinance 1988.

No. 23/88 The Interpretation and General Clauses (Amendment) Ordinance 1988.

Ref: LEG/10/42.

### In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap 1)

IN THE MATTER OF DAVID SMITH, deceased of Stanley, Falkland Islands, who died at Stanley on the 7th November 1988, intestate.

WHEREAS Nora Kathleen 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,  
Falkland Islands,  
8th February 1989.

Ref: PRO/5/89.

S. HALFORD,  
*Registrar.*

### In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap 1)

IN THE MATTER OF CLAUD JAMES HARVEY, deceased of Stanley, Falkland Islands, who died at Stanley on the 10th January 1989, intestate.

WHEREAS Agnes Ruth Blyth 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,  
22nd February 1989.

Ref: PRO/7/89.

S. HALFORD,  
*Registrar.*

The following are published in this Gazette —

**Maintenance Order (Reciprocal Enforcement) Regulations Order 1989 (S.R. & O. No. 2 of 1989);**

**The Road Traffic Designation of Roads (Various) Order 1989 (S.R. & O. No. 3 of 1989).**



## Maintenance Orders (Reciprocal Enforcement) Ordinance 1979.

### Maintenance Orders (Reciprocal Enforcement) Regulations Order 1989.

(S.R. & O. No. 2 of 1989)

#### ARRANGEMENT OF PROVISIONS

##### Paragraph

1. Citation and Commencement.
2. Interpretation.
3. Prescribed officer.
4. Application for transmission of maintenance order made in the Falkland Islands.
5. Authentication of documents.
6. Sending documents.
7. Notice of proposed revocation and further evidence.
8. Registration of orders.
9. Payment of sums due and recovery of arrears.
10. Obtaining evidence from persons residing in the Falkland Islands.
11. Request for provision of evidence by a court in a reciprocating country.
12. Notification of variation, revocation or confirmation of provisional maintenance order.
13. Notification of registration, cancellation or transfer.

##### Schedule

1. Reciprocating countries to which documents are transmitted via the Governor.
2. Countries and Territories in which sums are payable through Crown Agents for Overseas Governments and Administrations.

# Maintenance Orders (Reciprocal Enforcement) Ordinance 1979.

## Maintenance Orders (Reciprocal Enforcement) Regulations Order 1989.

(S.R. & O. No. 2 of 1989)

IN EXERCISE of his powers under section 21 of the Maintenance Orders (Reciprocal Enforcement) Ordinance 1979 the Governor in Council makes the following Order —

1. (1) This Order may be cited as the Maintenance Orders (Reciprocal Enforcement) Regulations Order 1989 and shall come into force on the day it is first published in the Gazette.

Citation and commencement.

(2) This Order is hereinafter called "these Regulations" and any paragraph of this Order may be cited as (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 —

Interpretation.

"the Ordinance" means the Maintenance Orders (Reciprocal Enforcement) Ordinance 1979; and

"the register" means the register kept in pursuance of rule 66 of the Magistrates' Courts Rules 1981 in their application to the Falkland Islands;

3. The prescribed officer of any court in the Falkland Islands, by or in relation to whom anything is to be done in pursuance of any provision of the Ordinance shall be the Registrar General.

Prescribed Officer.

4. (1) An application under section 4 of the Ordinance (transmission of maintenance order made in the Falkland Islands for enforcement in reciprocating country) may be made in writing by or on behalf of the payee under the order.

Application for transmission of maintenance orders made in the Falklands Islands.

(2) Any application made in pursuance of paragraph (1) above shall

- (a) specify the date on which the order was made;
- (b) contain such particulars as are known to the applicant of the whereabouts of the payer;
- (c) specify any matters likely to assist in the identification of the payer; and
- (d) where possible, be accompanied by a recent photograph of the payer.

(3) In this regulation, "the payer" means the payer under the order to which the application relates.

5. A document setting out or summarising any evidence, required by section 5(5)(b), 6(4) or 10(5) of the Ordinance (provisional orders) to be authenticated shall be authenticated by a certificate, signed by the Senior Magistrate or one of the justices before whom that evidence was given, that the document is the original document containing or recording or, as the case may be, summarising that evidence or a true copy of that document.

Authentication of documents.

6. (1) Any documents required by section 6(4) or 10(5) of the Ordinance to be sent to a court in a reciprocating country shall be sent to that court by post.

Sending documents.

(2) Where the court to which the documents are to be sent in a country specified in schedule 1 to these regulations, such documents shall be sent to the Governor for transmission to that court via the Secretary of State.

7. (1) For the purposes of compliance with section 6(9) of the Ordinance (revocation by court in the Falkland Islands of provisional order) there shall be served on the person on whose application the maintenance order was made a notice which shall —

Notice of proposed revocation and further evidence.

- (a) set out the evidence received or taken, as the case may be, in pursuance of that subsection;

- (b) inform that person that it appears to the court that the maintenance order ought not to have been made; and
- (c) inform that person that if he wishes to make representation with respect of the evidence set out in the notice he may do so orally or in writing and that if he wishes to adduce further evidence he should notify the Registrar General.

(2) Where the Registrar General receives notification that the person on whose application the maintenance order was made wishes to adduce further evidence, he shall fix a date for the hearing of such evidence and shall send that person written notice of the date fixed.

8. (1) Where a certified copy of an order, not being a provisional order, is received by the Registrar General who is required under any provision of the Ordinance to register the order, he shall cause the order to be registered in the Magistrates' Court and the Summary Court by means of a minute or memorandum entered and signed by him in the register.

Registration of orders.

(2) Where the Magistrates' Court or Summary Court makes or confirms an order which is required under section 8(5) or 10(10) of the Ordinance to be registered, the Registrar General shall enter and sign a minute or memorandum thereof in the register.

(3) Every minute or memorandum entered in pursuance of paragraph (1) or (2) above shall specify the section of the Ordinance under which the order in question is registered.

9. (1) Payment of sums due under a registered order shall, while the order is registered in the Magistrates' Court or Summary Court, be made to the Registrar General during such hours and at such place as he may direct; and the Registrar General shall send those payments by post to such person or authority as the Magistrates' Court or Summary Court, as the case may be, or the Governor may from time to time direct. Provided that if the court which made the order is in one of the countries or territories specified in schedule 2 to these regulations, the Registrar General shall send any such sums to the Crown Agents for Overseas Governments and Administrations for transmission to the person to whom they are due.

Payment of sums due and recovery of arrears.

(2) Where it appears to the Registrar General that any sums payable to him by virtue of paragraph (1) above are in arrear he may and, if such sums are in arrear to an amount equal to four times the sum payable weekly under the order, he shall, whether the person for whose benefit the payment should have been made requests him to do so or not, proceed in his own name for the recovery of those sums, unless it appears to him that it is unreasonable in the circumstances to do so.

10. (1) Subject to paragraph (2) below, where a request is made by or on behalf of a court in a reciprocating country for the taking in the Falkland Islands of the evidence of a person residing herein, the Magistrates' Court and the Summary Court shall have power under section 15(1) of the Ordinance (obtaining of evidence needed for the purpose of certain proceedings) to take that evidence.

Obtaining evidence from person residing in the Falklands Islands.

(2) Subject to paragraph (3) below, where the evidence of any person is to be taken by the Magistrates' Court or the Summary Court under the foregoing provision of these Regulations —

- (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on a complaint;
- (b) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and
- (c) the Senior Magistrate or justices by whom the evidence of any person is so taken shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by them.

(3) Where such a request as is mentioned in paragraph (1) above includes a request that the evidence be taken in a particular manner, the Magistrates' Court or the Summary Court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

(4) Any document such as is mentioned in paragraph (2)(c) above shall be sent by the Registrar General to the court in the reciprocating country by or on behalf of which the request was made.

(5) Any document such as is mentioned in paragraph (3)(c) above shall be sent —

- (a) where the request for the taking of evidence was made by a court in a country specified in schedule 1 to these regulations, to the Governor for transmission via the Secretary of State to that court;
- (b) in any other case to the court in the reciprocating country by or on behalf of which the request was made.

11. Any request under section 4(4) of the Ordinance for the taking or providing of evidence by a court in a reciprocating country shall, where made by any court in the Falkland Islands, be communicated in writing to the court in question.

Request for provision of evidence by a court in a reciprocating country.

12. (1) Where a court in the Falkland Islands makes an order, not being a provisional order, varying a maintenance order to which section 6 of the Ordinance (variation and revocation of maintenance order made in the Falkland Islands) applies, the Registrar General shall send written notice of the making of the order to the Governor; and where the order is made by virtue of paragraph (a) or (b) of subsection (3) of that section, he shall send such written notice to the court in a reciprocating country which would, if the order had been a provisional order, have had power to confirm the order.

Notification of variation, revocation or confirmation of provisional maintenance order.

(2) Where a court in the Falkland Islands revokes a maintenance order to which section 6 of the Ordinance applies, the Registrar General shall send written notice of the revocation to the Governor and to the court in a reciprocating country which has power to confirm that maintenance order, or by which the order has been confirmed, or in which the order is registered for enforcement, as the case may be.

(3) Where under section 10 of the Ordinance (variation and revocation of maintenance order registered in the Falkland Islands) a court in the Falkland Islands makes an order, not being a provisional order, varying or revoking a registered order, the Registrar General shall send written notice of the making of the order to the court in a reciprocating country which made the registered order.

(4) Where under section 8(2) of the Ordinance (confirmation by Falkland Islands court of provisional maintenance order made in reciprocating country) a court in the Falkland Islands confirms an order to which section 8 of the Ordinance applies, the Registrar General shall send written notice of the confirmation to the court in a reciprocating country which made the order.

13. (1) Where the Registrar General —

- (a) registers under section 7(3) of the Ordinance (registration in Falkland Islands court of maintenance order made in reciprocating country) an order to which section 7 of the Ordinance applies; or
- (b) registers under section 8(5) of the Ordinance an order which has been confirmed in pursuance of section 8(2) of the Ordinance,

Notification of registration, cancellation or transfer.

he shall send written notice to the Governor that the order has been duly registered.

(2) Where the Registrar General cancels the registration of a maintenance order under section 11(1) of the Ordinance (cancellation of registration and transfer of order), he shall send written notice of the cancellation to the payer under the order.

(3) Where the Registrar General registers a maintenance order under sections 7(3), 8(5), 10(10) or 19(3) of the Ordinance, he shall send to the payer under the Order written notice stating —

- (a) that the order has been duly registered;
- (b) that the sums due under the Order should be paid to the Registrar General; and
- (c) the hours during which and the place at which such payments should be made.

## SCHEDULE 1

Regulations 6(2) and 10(5)

Reciprocating countries to which documents are transmitted via the Governor

British Columbia  
Ghana  
India  
Kenya  
New Brunswick  
New Zealand  
Northwest Territories of Canada  
Nova Scotia  
Ontario  
Papua New Guinea  
The Republic of South Africa  
Zimbabwe.

## SCHEDULE 2

Countries and Territories in which sums are payable through Crown Agents for Overseas  
Governments and Administrations

Barbados  
Bermuda  
Ghana  
Gibraltar  
Kenya.

Made this 17th day of February 1989.

D. G. P. TAYLOR,  
*Acting Governor.*

## The Road Traffic Ordinance.

(Cap 60)

### The Road Traffic Designation of Roads (Various) Order 1989.

(S.R. & O. No. 3 of 1989)

#### ARRANGEMENT of PROVISIONS

Paragraph

1. Citation and commencement.
2. Interpretation.
3. Designation.

Schedule.

### The Road Traffic Designation of Roads (Various) Order 1989.

(S.R. & O. No. 3 of 1989)

IN EXERCISE of my powers under sections 2 and 9N of the Road Traffic Ordinance I make the following Order —

- |  |                                   |
|--|-----------------------------------|
| <p>1. This Order may be cited as the Road Traffic Designation of Roads (Various) Order 1989 and shall come into operation on the date of its first publication in the Gazette.</p>   | <p>Citation and commencement.</p> |
| <p>2. In this Order —</p> <p style="padding-left: 40px;">“reference point” means the point at which the road between Surf Bay and the Stanley to Stanley Airport road which is nearest to the southern shore of the Canache joins the road between Stanley and Stanley Airport.</p>  | <p>Interpretation.</p>            |
| <p>3. (1) The roads referred to in Part I of the Schedule hereto are designated as restricted roads and the roads and places referred to in Part 2 of the Schedule are designated as urban roads.</p> <p style="padding-left: 20px;">(2) The place referred to in Part 3 of the Schedule is designated as a restricted road and the speed limit thereon is prescribed as ten miles per hour.</p> | <p>Designation.</p>               |

## SCHEDULE

### Part 1

#### Restricted Roads - 40 M.P.H.

- (a) The road between Stanley and Stanley Airport commencing at Hillside Camp and ending at the reference point and which has not already been designated a restricted road pursuant to the provisions of the Road Traffic Declaration and Designation (Stanley - Darwin) Road Order 1986.
- (b) That part of the road forming an extension to Reservoir Road and joining the Stanley to Darwin road, which lies between the boundary of Stanley and the Stanley to Darwin road and which has not already been designated a restricted road pursuant to the provisions of the Road Traffic Declaration and Designation (Stanley - Darwin) Road Order 1986.
- (c) That part of the road running between Stanley and Moody Brook, which lies between the boundary of Stanley and Moody Brook.

### Part 2

#### Urban Roads - 25 M.P.H.

- (a) All roads located upon the Peninsula known as Cape Pembroke and upon which Stanley Airport is situated, to the north of the reference point and the point at which the road across the structure known as Boxer Bridge passes the most southerly part of the structure.
- (b) The roads to the north of the stretch of road described in paragraph (a) of Part 1 of this Schedule and to the west or south of the Canache excluding any of the roads described in Parts 1 and 3 of this Schedule.

### Part 3

#### Restricted Roads - 10 M.P.H.

The structure known as FIPASS (Falklands Intermediate Port and Storage System) including the causeway fitted between the roll-on roll-off barge and the shore.

Made this 17th day of February 1989.

D. G. P. Taylor,  
*Acting Governor.*



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCVIII

3rd MARCH 1989

No. 5

No. 12

1st March 1989.

The Companies Act 1948

## Special Resolution to Appoint Liquidator

pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**S. N. Z. Fisheries Limited (Company Number 8140).**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at The Old Transmitting Station, Airport Road, Stanley on **1st March 1989**, the following **Special Resolution** was duly passed —

“That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be hereby appointed Liquidator(s) for the purposes of such winding-up.”

**Signature** - Simon Graham Armstrong.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.

No. 13

2nd March 1989.

## Notice to Creditors to send in claims

**Name of Company** - S. N. Z. Fisheries Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Seventeenth day of March 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator(s) of the said Company: and, if so required by notice in writing by the said Liquidator(s), are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated** - 2nd March 1989.



No. 14

2nd March 1989.

**The Companies Act 1948****Notice of Appointment of Liquidator (Members') Voluntary Winding up****Pursuant to section 305 of the Companies Act 1948****Name of Company** - S. N. Z. Fisheries Limited.**Nature of Business** - Fishing Company.**Address of Registered Office** - Old Transmitting Station, Airport Road, Stanley, Falkland Islands.**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, 44 John Street, Stanley, Falkland Islands.**Date of Appointment** - 1st March 1989.**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.**Signature(s)** Andrew Dey (Liquidator(s))**Dated** - 2nd March 1989.**Attested by** - Richard Anthony Drury.**Description** - Administrator, Stanley Fisheries Limited.



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

*Vol. XCVIII*

*31st MARCH 1989*

*No. 6*

## Appointments

Roy McGill, Assistant Air Traffic Controller, Civil Aviation Department, 19.9.88.

Paul Fredrick Jones, Police Constable, Falkland Islands Police Force, 3.2.89.

Miss Lesley Anne Courtney, Teacher, Education Department, 11.2.89.

Miss Sandra Leigh Picone, Teacher, Education Department, 7.3.89.

Mr. Patrick Murray Lurcock, Computer Technician, Fisheries Department, 17.3.89.

## Re-appointment

Hylton Oswald Guthrie, Teacher, Education Department, 22.2.89.

## Transfers

Zane Hirtle, from Agricultural Assistant, Agricultural Research Centre, to Clerk, Public Service, 8.2.89.

James Steven Fairfield, from Police Constable, Falkland Islands Police Force, to Swimming Pool Superintendent, Education Department, 1.3.89.

## Completion of Contracts

Mrs. Rose Hudson, Teacher, Education Department, 14.3.89.

Robert Brent Collie, Teacher, Education Department, 14.3.89.

Miss Penelope Jane Ballinger, Teacher, Education Department, 17.3.89.

Neil Pedley, Teacher, Education Department, 28.3.89.

## Resignations

Tyssen John Richard Smith, Junior Technical Assistant, Public Works Department, 15.1.89.

Miss Paula Pole-Evans, Clerk, Public Service, 4.3.89.

Dr. Norena Winifred McAdam, MB, BCH, BAO, DCH, DRCOG, MRCGP, FPC., Medical Officer, Medical Department, 11.3.89.

Rodney John Halford, Engineer, Aviation Department, 14.3.89.

Miss Christine Anne Bennett, Nursing Sister, Medical Department, 28.3.89.

## NOTICES

No. 11

28th February 1989.

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. 24/88 The Telecommunications Ordinance 1988.

No. 25/88 The Education (Amendment) Ordinance 1988.

No. 26/88 The Customs (Amendment) Ordinance 1988.

No. 27/88 The Road Traffic (Amendment) (No. 2) Ordinance 1988.

No. 29/88 The Application of Enactments (Amendment) Ordinance 1988.

Ref: LEG/10/42.

No. 15

30th March 1989.

**The Naval Ports Ordinance**

(section 4)

**Appointment of Queen's Harbour Master**

IN EXERCISE of my powers under section 4 of the Naval Ports Ordinance 1987 and acting in accordance with the advice of the Commander of British Forces

**I APPOINT**

GARTH ALFRED MANNING, 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 1987.

Dated 27th of March 1989.

W. H. FULLERTON,  
Governor.

Ref: CUS/44/1.

The names of the following persons were changed by deed poll on the dates shown —

TERRANCE JOSEPH HANSEN,	formerly	TERRANCE JOSEPH SMITH	23.1.85
TREVOR ALAN MORRIS,	"	TREVOR ALAN CUSWORTH	12.3.85
JASON PAUL MORRIS,	"	JASON PAUL CUSWORTH	12.3.85
GEORGINA ROSE SUMMERS,	"	GEORGINA ROSE STEWART	12.3.85
GLYNIS KAREN NEWMAN,	"	GLYNIS KAREN MORRISON	6.5.85
INGRID HELEN NEWMAN,	"	INGRID HELEN MORRISON	6.5.85
ROBERT WILLIAM BIGGS,	"	ROBERT WILLIAM STEWART	27.3.86
PAUL EDWARD PED,	"	PAUL EDWARD DAVIS	10.7.86
VANDA JOAN SHORT,	"	VANDA JOAN MacDONALD	8.9.86
STACEY LOUISE STEEN SHORT,	"	STACEY LOUISE STEEN MacDONALD	8.9.86
SUSAN CLAYTON,	"	SUSAN MCGILL	21.10.86
CHRISTOPHER STURDEE LLOYD,	"	CHRISTOPHER STURDEE BONNER	19.11.86
ROSELENE ANNE COLLIER,	"	ROSELENE ANNE McLAREN	10.3.87
PAM ELLEN CONNER,	"	PAM ELLEN SUMMERS	16.6.87
VANDA JOAN MacDONALD,	"	VANDA JOAN SHORT	6.7.87
STACEY LOUISE STEEN MacDONALD,	"	STACEY LOUISE STEEN SHORT	6.7.87
LEANN CAROLINE FORD,	"	LEANN CAROLINE WHITNEY	15.12.87
CHRISTINA BOWRAN,	"	CHRISTINA ANDERTON	26.1.88
KEVIN DEREK CHARLES MCKAY,	"	KEVIN DEREK CHARLES McLAREN	12.8.88
SHONA MARGUERITE MCLEOD,	"	SHONA MARGUERITE STRANGE	2.11.88
RODOLFO TELLEZ,	"	RODOLFO MANSILLA	6.1.89
ARTURO TELLEZ,	"	ARTURO MANSILLA	6.1.89
JULIA THAIN,	"	JULIA JAKOBSEN	2.2.89
STEPHANIE ANN ROBSON,	"	STEPHANIE ANN McNALLY	13.2.89
JEANETTE VALARIE TELLEZ,	"	JEANETTE VALARIE BIGGS	16.3.89

Justice Department,  
Town Hall,  
Stanley.

S. HALFORD,  
Registrar General.

The following are published in this Gazette —

**Proclamation (No. 1 of 1989);**

**The Misuse of Drugs (Commencement) Order 1989 (S.R. & O. No. 4 of 1989);**

**The Misuse of Drugs (Designation) Order 1989 (S.R. & O. No. 5 of 1989);**

**The Misuse of Drugs Regulations Order 1989 (S.R. & O. No. 6 of 1989);**

**The Camp Medicine Chests Order 1989 (S.R. & O. No. 7 of 1989);**

**The Fishing Licences (Applications and Fees) Regulations Order 1989 (S.R. & O. No. 8 of 1989).**

# PROCLAMATION

No. 1 of 1989

Made under section 35 of the Customs Ordinance (Chapter 16)

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

BY HIS EXCELLENCY **WILLIAM HUGH FULLERTON**, ESQUIRE, Governor of the Falkland Islands.

WHEREAS it is provided by section 35 of the Customs Ordinance (Cap. 16) that it shall be lawful for the Governor from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever, and any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such period as may be specified therein, and may absolutely prohibit importation, carriage coastwise or exportation, or may prohibit importation, carriage coastwise or exportation except in compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation:

NOW, THEREFORE, I, **WILLIAM HUGH FULLERTON**, do hereby **PROCLAIM** as follows —

1. Subject as is hereinafter provided, no person may export any wreck or part thereof or any object or thing whatsoever lying in, on or within a wreck, or having been removed from a wreck, lying in any place within the Falkland Islands or their territorial seas or on the bed thereof and whether formerly part of the wreck or formerly attached thereto or formerly part of its cargo.

2. Nothing in paragraph 1 above shall prohibit the exportation of any wreck or part thereof under the authority of a licence granted by the Governor provided that all conditions attaching to the said licence or subject to which it is granted are complied with by the licensee.

3. For the purposes of this Proclamation,

“ship” includes every description of vessel used in navigation;

“wreck” means any ship cast up upon any rock or shore or flotsam, jetsam or lagan and abandoned by its former owners or any ship lying as a hulk within the territorial seas of the Falkland Islands and whether or not the same be derelict.

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley this 17th day of March in the Year of Our Lord One thousand Nine hundred and Eighty-nine.

W. H. FULLERTON,  
Governor.

# The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 1)

## The Misuse of Drugs (Commencement) Order 1989.

(S.R. & O. No. 4 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation.
2. Commencement of Ordinance.

# The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 1)

## The Misuse of Drugs (Commencement) Order 1989.

(S.R. & O. No. 4 of 1989)

IN EXERCISE of my powers under section 1 of The Misuse of Drugs Ordinance 1987,  
I make the following Order —

1. This Order may be cited as The Misuse of Drugs (Commencement) Order 1989. Citation.
2. The Misuse of Drugs Ordinance 1987 shall come into operation on the date upon which this Order is first published in the Gazette. Commencement.

Made this 17th day of March 1989.

W. H. FULLERTON,  
*Governor.*

Ref: MED/10/4.

The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 7(4))

The Misuse of Drugs (Designation) Order 1989.

(S.R. & O. No. 5 of 1989)

ARRANGEMENT of PROVISIONS

Paragraph

1. Citation and commencement.
2. Designation of certain controlled drugs.

The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 7(4))

The Misuse of Drugs (Designation) Order 1989.

(S.R. & O. No. 5 of 1989)

IN EXERCISE of my powers under section 7(4) of The Misuse of Drugs Ordinance 1987,  
I make the following Order —

1. This Order may be cited as The Misuse of Drugs (Designation) Order 1989 and shall come into operation on the date of its first publication in the Gazette.

Citation and  
commencement.

2. (1) The controlled drugs specified in Part I of the Schedule hereto are hereby designated as drugs to which section 7(4) of The Misuse of Drugs Ordinance 1987 applies.

Designation of  
certain controll-  
ed drugs.

- (2) Part II of the Schedule hereto shall have effect for the purpose of specifying those controlled drugs which are excepted from Part I thereof.

## SCHEDULE

## Part I

Controlled Drugs to which section 7(4) of the Misuse of Drugs Ordinance 1987 applies.

1. The following substances and products, namely —

- |     |  |  |
|-----|--|--|
| (a) | <p>           Bufotenine<br/>           Cannabinol<br/>           Cannabinol derivatives<br/>           Cannabis<br/>           Cannabis resin<br/>           Cathinone<br/>           Coca Leaf<br/>           Concentrate of poppy-straw<br/>           Eticyclidine<br/>           Lysergamide         </p> | <p>           Lysergide and other <i>N</i>-alkyl derivatives of lysergamide<br/>           Mescaline<br/>           Psilocin<br/>           Raw opium<br/>           Rolicyclidine<br/>           Tenocyclidine<br/>           4-Bromo-2, 5-dimethoxy- <i>α</i>-methyl-phenethylamine<br/> <i>N</i>, <i>N</i>-Diethyltryptamine<br/> <i>N</i>, <i>N</i>-Dimethyltryptamine<br/>           2, 5-Dimethoxy-<i>α</i>- , 4-dimethyl- phenethylamine         </p> |
|-----|--|--|
- (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ringhydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
- (c) any compound (not being methoxphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an *N*-alkylphenethylamine, *α*-methylphenethylamine, an *N*-alkyl-*α*-methylphenethylamine, *α*-ethylphenethylamine, or an *N*-alkyl-*α*-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy 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 Part II of this Schedule) structurally derived from fentanyl by modification in any of the following ways, that is to say,
- by replacement of the phenyl portion of the phenethyl group by any heteromomocycle whether or not further substituted in the heterocycle;
  - by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
  - by substitution in the piperidine ring with alkyl or alkenyl groups;
  - by substitution in the aniline ring with alkyl, alkoxy, alkylendioxy, halogeno or haloalkyl groups;
  - by substitution at the 4-position of the piperidine ring with any alkoxycarbonyl or alkoxyalkyl or acyloxy group;
  - by replacement of the *N*-propionyl group by another acyl group;
- (e) any compound (not being a compound for the time being specified in Part II of this Schedule) that is structurally derived from pethidine by modification in any of the following ways, that is to say,
- by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
  - by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
  - by substitution of the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
  - by replacement of the 4-ethoxycarbonyl by any other alkoxycarbonyl or any alkoxyalkyl or acyloxy group;
  - by formation of an *N*-oxide or of a quaternary base.



2. Any stereoisomeric form of a substance specified in paragraph 1 above.
3. Any ester or ether of a substance specified in paragraph 1 or 2 above.
4. Any salt of a substance specified in any of paragraphs 1 to 3 above.
5. Any preparation or other product containing a substance or product specified in any of paragraphs 1 to 4 above.

## PART II

### Controlled drugs excepted from Part I

1. The compounds referred to in paragraph 1(d) of Part I of this Schedule are —  
 Alfentanil  
 Carfentanil  
 Lofentanil  
 Sufentanil.
2. The compounds referred to in paragraph 1(e) of Part I of this Schedule are —  
 Allylprodine  
 Alphameprodine  
 Alphaprodine  
 Anileridine  
 Betameprodine  
 Betaprodine  
 Hydroxypethidine  
 Properidine  
 Trimeperidine.

Made this 20th day of March 1989.

W. H. FULLERTON,  
*Governor.*

### Explanatory Note

(This Note is not part of the Order)

Section 7(3) of The Misuse of Drugs Ordinance 1987 requires regulations to be made to allow the use for medical purposes of the drugs which are subject to control under the Ordinance. Section 7(3) does not however apply to any drug designated by Order under section 7(4) as a drug to which section 7(4) is to apply. This Order designates for this purpose the drugs specified in Part I of the Schedule to the Order.

Part II of the Schedule specifies certain compounds which are excepted from paragraph 1(d) and (e) of Part I and are therefore not designated by this Order.

Ref: MED/10/4.

# The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 11)

## The Misuse of Drugs Regulations Order 1989.

(S.R. & O. No. 6 of 1989)

### ARRANGEMENT of PROVISIONS

#### Paragraph

1. Citation and commencement.
2. Adoption of regulations made under The Misuse of Drugs Act 1971.

# The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 11)

## The Misuse of Drugs Regulations Order 1989.

(S.R. & O. No. 6 of 1989)

IN EXERCISE of my powers under section 11 of The Misuse of Drugs Ordinance 1987,  
I make the following Order —

1. This Order may be cited as The Misuse of Drugs Regulations Order 1989 and shall come into operation on the date of its first publication in the Gazette.

Citation and  
commencement.

2. Except insofar as the same may be inconsistent with The Misuse of Drugs Ordinance 1987 or with any regulations made thereunder, all regulations made or in force under The Misuse of Drugs Act 1971 are hereby adopted as law in the Falkland Islands, with such alterations as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make any such regulations applicable to the circumstances of the Falkland Islands, and as if the same had been so made under section 11 of The Misuse of Drugs Ordinance 1987.

Adoption of  
Regulations  
made under The  
Misuse of Drugs  
Act 1971.

Made this 17th day of March 1989.

W. H. FULLERTON,  
*Governor.*

Ref: MED/10/4.

## The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 11)

## The Camp Medicine Chests Order 1989.

(S.R. & O. No. 7 of 1989)

### ARRANGEMENT of PROVISIONS

#### Paragraph

1. Citation and commencement.
2. Interpretation
3. Application of this Order.
4. Approval of Keepers.
5. Inspection of Register of Keepers.
6. Register of Keepers as evidence.
7. Directions as to keeping of drugs.
8. Medicine chests and records to be produced for inspection.
9. Authority to supply a controlled drug.
10. Controlled drugs to be supplied in labelled containers.
11. Controlled drugs to be yielded up.
12. Custody of medicine chests.
13. Stocking of medicine chests.
14. Conveyance to Keepers.
15. Keepers lawfully in possession etc.

# The Misuse of Drugs Ordinance 1987.

(No. 16 of 1987)

(Section 11)

## The Camp Medicine Chests Order 1989.

(S.R. & O. No. 7 of 1989)

IN EXERCISE of my powers under Section 11 of the Misuse of Drugs Ordinance 1987, I make the following Order —

1. This Order may be cited as the Camp Medicine Chests Order 1989 and shall come into operation three months after the date of its first publication in the Gazette.

Citation and commencement.

2. In this Order —

Interpretation.

“keeper” means the person authorised by the Chief Medical Officer under paragraph 4(1) of this Order to have custody of a medicine chest; and

“medicine chest” includes any box, trunk, cupboard or store approved by the Chief Medical Officer for the storage of controlled drugs for the purposes of this Order.

3. This Order applies to —

Application of this Order.

- (a) medicine chests kept or maintained on any farm, at any settlement or at any house in Camp (that is to say outside the boundaries of Stanley) and containing any controlled drugs, and notwithstanding that there may also be contained therein any medicines or supplies of any kind which are not controlled drugs;
- (b) the supply by a keeper of controlled drugs contained in a medicine chest to any person, including self-supply;
- (c) the supply by the Chief Medical Officer or any person acting with his authority of controlled drugs to a keeper for the purpose of re-supply by that keeper to any person (including re-supply by the keeper of those drugs to himself);
- (d) the records to be kept by the Chief Medical Officer and every keeper of controlled drugs —
  - (i) by the Chief Medical Officer, in relation to controlled drugs supplied by the Chief Medical Officer or any person acting with his authority to any keeper for the purpose of re-supply (including re-supply of those drugs to himself);
  - (ii) by every keeper of controlled drugs in relation to —
    - (aa) controlled drugs supplied to him by the Chief Medical Officer or any person acting with his authority;
    - (bb) controlled drugs supplied by him from the medicine chest to any person (including self supply to himself);
    - (cc) the destruction or other disposal in accordance with this Order of controlled drugs supplied to him; and
- (e) the conveyance of controlled drugs by a carrier to a keeper for the purposes of storage in a medicine chest.

4. (1) The Chief Medical Officer may approve and appoint, subject to this paragraph, any person residing in Camp to be a keeper of controlled drugs, that is to say to have custody of a medicine chest.

Approval of Keepers.

(2) The Chief Medical Officer shall not approve and appoint any person under (1) above who —

- (a) is under eighteen years of age; or

- (b) the Chief Medical Officer has reason to believe has been convicted anywhere of an offence of unlawful supply or possession of any controlled drug under the Ordinance or any corresponding law.
- (3) The Chief Medical Officer shall maintain a book or register ("the Register of Keepers") in which he shall enter in respect of each keeper —
- his full name;
  - his address;
  - the place in which he is authorised to keep the medicine chest; and
  - the date of his approval and appointment.
- (4) The Chief Medical Officer may, at any time, and without assigning any reason, revoke any approval and appointment under this paragraph and, on every occasion on which he does so shall —
- make an appropriate entry in the Register of Keepers; and
  - notify the former keeper that his appointment as a keeper has been revoked.
5. The Chief Officer of Police and any other police officer by him authorised may at all reasonable times inspect and copy extracts from the Register of Keepers. Inspection of Register of Keepers.
6. The Register of Keepers or an extract therefrom certified by the Chief Medical Officer as a true copy of the Register or the relevant part thereof shall be admissible as evidence in any proceedings and, unless in respect of any matter it is shown to be in error in respect thereof, shall be accepted as conclusive proof of all matters appearing therefrom. Register of Keepers as evidence.
7. Every keeper shall comply with all directions given to him by the Chief Medical Officer as to — Directions as to keeping of drugs.
- the form, location and security of the medicine chest in which he keeps controlled drugs; and
  - the form and content of the records to be kept by him and specified in paragraph 3(d) above.
8. Every keeper shall, whenever required by a medical officer or a police officer so to do, produce for inspection — Medicine chests and records to be produced for inspection.
- the medicine chest of which he is a keeper;
  - all drugs or medicines contained therein, whether or not all such drugs or medicines are controlled drugs; and
  - all records kept by him in accordance with foregoing paragraphs of this Order
9. (1) Save in the case of an emergency, a keeper shall not supply to any other person or to himself any controlled drug, or a controlled drug of any kind or quality, except in accordance with an authority given to him by a medical officer. Authority to supply a controlled drug.
- (2) An authority to which (1) above relates may be given —
- orally; or
  - in writing;
- and if given orally, may be given in personal meeting, by radio, by telephone or telegraphically.
- (3) An authority to which (1) above relates shall —
- specify the person to whom the controlled drug may be supplied;
  - specify the type or kind of controlled drug which may be supplied;
  - specify the quantity of the controlled drug which may be supplied; and

- (d) contain any directions which may be necessary as to —
  - (i) the times;
  - (ii) the quantity to be taken at any such time; and
  - (iii) the circumstances,

at or in which the person to whom the drugs are authorised to be supplied shall administer the same to himself or, alternatively have the same administered to him by another.

(4) In addition to any records which are required under any foregoing paragraph, the keeper and the medical officer shall each forthwith make a sufficient record (which shall record the particulars required by (3) above) of any authority to which this paragraph of this Order relates and received or given by him. Such record shall be made in a form and maintained in a manner approved by the Chief Medical Officer.

(5) In the event of an emergency a keeper may supply a controlled drug without the prior authority of a medical officer, but if he does so, he shall

- (a) forthwith record the following particulars —
  - (i) the nature of the emergency;
  - (ii) the person to whom the controlled drug was supplied;
  - (iii) the day and time at which the controlled drug was supplied; and
  - (iv) the type or kind of controlled drug and the quantity thereof supplied.
- (b) as soon as is possible report the particulars mentioned in (a) above to a medical officer.

(6) For the purposes of this paragraph, "emergency" means circumstances in which all of the following elements are satisfied —

- (a) the keeper has made all reasonable efforts in the circumstances to contact by radio, telephone or other means a medical officer for the purpose of obtaining authority to supply a controlled drug, but in spite of such efforts he has been unable to contact any medical officer; and
- (b) the person to whom the controlled drug, is supplied or administered is, by reason of some sudden accident (and not as an incident of disease) in severe pain and, in the opinion of the keeper, would suffer unnecessarily if the controlled drug is not supplied or administered; and
- (c) the controlled drug is supplied or administered in accordance with all relevant directions which the Chief Medical Officer may have given for supply of a controlled drug in such circumstances.

10. (1) Whenever a keeper supplies a controlled drug from a medicine chest other than for the purpose of administering it himself to the person to whom it is supplied he shall supply the same in a sealed container which bears a label bearing the particulars specified in (2) below.

Controlled drugs to be supplied in labelled containers.

(2) The particulars to be borne by the label mentioned in (1) above are —

- (a) the name of the person to whom the controlled drug is supplied;
- (b) the name or description of the controlled drug supplied, and the quantity thereof; and
- (c) any directions as to the times, quantities or circumstances in which the controlled drug is to be taken or administered.

11. (1) A keeper of controlled drugs, shall upon being so required to do by a medical officer yield up to him or such person as he may direct any controlled drug or controlled drugs in his possession.

Controlled drugs to be yielded up.

(2) A requirement under (1) above may be made for the purpose of destruction of a controlled drug or any other good and sufficient reason.

12. A keeper shall not, otherwise than he is authorised or required so to do by a medical officer, yield custody of a medicine chest to any person and shall —

Custody of  
medicine chests.

- (a) keep the keys or combination thereof in his personal possession;
- (b) not permit any unauthorised person to have access thereto; and
- (c) immediately report to the Chief Medical Officer any deficiency in the quantity of controlled drugs therein which he suspects to be occasioned by theft, vandalism or other incident of a like kind.

13. (1) It shall be the duty of the Chief Medical Officer to ensure that every medicine chest is stocked, and from time to time re-stocked as may be necessary, with a sufficient quantity and sufficient kinds of controlled drugs in accordance with the medical need of the persons he anticipates may be supplied therewith from the medicine chest in question but in the performance of such duty, the Chief Medical Officer shall have regard to —

Stocking of  
medicine chests.

- (a) the need to prevent drug abuse and drug addiction;
- (b) the need, so far as is possible to prevent unlawful supply of controlled drugs; and
- (c) the danger to the life or health of a person which may result from the medically unsupervised administration of controlled drugs of certain kinds.

(2) The Chief Medical Officer shall also supply to keepers a sufficient quantity of containers of such kinds and seals and labels therefor as he considers necessary.

(3) The Chief Medical Officer shall maintain a book or register ("the Camp Medicine Chest Drug Supply Register") in which he shall record the supply of all things supplied under (1) or (2) above to any keeper, individually and in relation to each keeper.

(4) Paragraphs 5 and 6 of this Order shall also apply, with all necessary modifications, to the Camp Medicine Chest Drug Supply Register as they do to the Register of Keepers.

14. (1) Controlled drugs may be entrusted by a medical officer to a person ("a carrier") for the purpose of carriage and delivery thereof to a keeper.

Conveyance to  
Keepers.

(2) Any controlled drugs entrusted to a carrier under (1) above shall be contained in an envelope, package or box to which a label is affixed bearing prominently thereon a notice or label in the following terms —

"Misuse of Drugs Ordinance 1987 NOTICE TO CARRIER:

- (a) This consignment must be delivered UNOPENED to the person to whom it is addressed or returned undelivered and UNOPENED to the Chief Medical Officer Stanley;
- (b) Breach of this requirement may render the person concerned liable to prosecution.

You may hand this package to another person (to whom this warning will then apply) for delivery to the consignee IF YOU HAVE BEEN AUTHORISED TO DO SO BY A MEDICAL OFFICER. You must IMMEDIATELY report to the Chief Medical Officer loss or theft of this consignment"

(3) A carrier may if authorised by a medical officer transfer possession of an envelope, package or box entrusted to him under (1) above to another person, who shall himself then be a carrier for the purpose of this sub-paragraph and for the purposes of (4) and (5) below.

(4) A carrier shall forthwith report to the Chief Medical Officer the loss or theft of any envelope, package or box entrusted to him under (1) or (3) above.

(5) A carrier who is in possession of an envelope, package or box entrusted to him under (1) or (3) above —

- (a) for a period which, in the circumstances, is reasonable; and
- (b) who has not opened or suffered any other person to open the same,

shall, notwithstanding that he might otherwise be regarded as being unlawfully in possession of the controlled drugs contained therein, be in lawful possession thereof:

Provided always that this subparagraph shall not apply so as to render his possession lawful if he appropriates for his own use or for the use of another the contents of the envelope, package or box.

15. (1) For as long as a keeper is in possession of or supplies controlled drugs in accordance with the provisions of this Order, he shall be deemed lawfully to possess or supply the same, as the case may be.

Keepers lawfully  
in possession  
etc.

(2) A keeper who contravenes any provision of this Order may be convicted of any offence under the Ordinance of which he could have been convicted if this Order had not been made.

Made this 20th day of March 1989.

W. H. FULLERTON,  
*Governor.*

Ref: MED/10/4.



# The Fisheries (Conservation and Management) Ordinance 1986.

(No. 11 of 1986)

## The Fishing Licences (Applications and Fees) Regulations Order 1989.

(S.R. & O. No. 8 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation and Commencement.
2. Scope.
3. Interpretation.
4. Principal regulations.
5. Types of licence.
6. Fees.
7. Applications for licences.
8. Description of Schedule.
9. Transshipment Licence Fees.

#### Schedule

Table 1 - Type 'X' Licences, all species

Table 2 - Type 'Y' Licences, finfish only

Table 3 - Type 'Z' Licences, Southern Blue Whiting and Hoki only

# The Fisheries (Conservation and Management) Ordinance 1986.

(No. 11 of 1986)

## The Fishing Licences (Applications and Fees) Regulations Order 1989.

(S.R. & O. No. 8 of 1989)

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 1989, and shall come into force on the day it is first published in the Gazette and shall cease to have effect on 31st December 1989.

Citation and  
Commencement.

(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 as 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.

Scope.

3. In these Regulations —

Interpretation.

"the principal Regulations" means the Fishing Licences (Applications and Fees) Regulations Order 1987 (as amended);

"exploratory or scientific purposes" means purposes relating 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;

"the fishing season" means —

- (a) in relation to an "X" Licence the period commencing 1st August 1989 and ending 30th September 1989 or such date as may be notified by the Director of Fisheries;
- (b) in relation to a "Y" Licence the period commencing 1st July 1989 and ending 31st December 1989 or such earlier date as may be notified by the Director of Fisheries;
- (c) in relation to a "Z" licence the period commencing 1st July 1989 and ending 31st December 1989 or such earlier date as may be notified by the Director of Fisheries;

4. For as 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.

Principal regulations.

5. (1) For the purpose of these Regulations there shall be the following categories of licence —

Types of licences.

- (a) an "X" Licence;
- (b) a "Y" Licence; and
- (c) a "Z" Licence.

(2) An "X" Licence issued under these Regulations 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 from on or after the 1st August 1989 until and including the 30th September 1989 or such date as may be notified by the Director of Fisheries.

(3) A "Y" Licence issued under these Regulations shall permit the catching or taking of any finfish, that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including squid of any kind.

(4) A "Z" Licence issued under these Regulations shall permit the catching or taking of finfish or the species Southern Blue Whiting (*Micromesistius australis*) and Hoki (*Macruronus magellanicus*) and shall not permit the taking of other species of finfish or 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.

6. There shall be payable in respect of licences to which regulation 5 relates fees calculated in accordance with the Schedule.

Fees.

7. (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.

Application for licences.

(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 17th April 1989.

(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.

8. (1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable for type "X" licences.

Description of Schedule.

(2) Table 2 of the Schedule to these Regulations applies in respect of the fees payable for type "Y" licences.

(3) Table 3 of the Schedule to these Regulations applies in respect of the fees payable for type "Z" licences.

(4) All fees payable under these Regulations shall be paid in pounds Sterling and in accordance with the principal Regulations.

(5) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and do not have legislative effect.

9. The fees for transhipment or transhipment and export licences for the period 1st July 1989 to 31st December 1989 shall be £150 per transhipment operation. Transhipment  
licence fees.

## SCHEDULE

Provision as to fishing licence fees in respect of the fishing season.

TABLE 1

All Species, All Areas - Type "X" 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 to take all species of fish.
3. The season for this type of licence commences on August 1st 1989 and is expected to end on 30th September 1989.
4. Fees calculated by the formula set out in this table are for the full season only and are not payable per month.)

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 £19786
- (b) is  $\pounds(4.66 \times \text{GT}) + 10000$

TABLE 2

Finfish Only, All Areas - Type "Y" 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 to take all finfish species but not squid.
3. The season for this type of licence commences on July 1st 1989 and ends on 31st December 1989, and will be subject to a closed area.)

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 the lesser of (a) and (b).

- (a) is £6270
- (b) is  $\pounds(1.1 \times \text{GT}) + 3300$

TABLE 3

Finfish Only, Species Specific - Type "Z" 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 to take only the species Southern Blue Whiting (*Micromesistius australis*) and Hoki (*Macruronus magellanicus*).
3. The season for this type of licence commences on July 1st 1989 and is expected to end on 31st December 1989, and will be subject to a closed area.)

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 £3489

(b) is  $\pounds(1.5334 \times \text{GT}) + 421.97$

Made this 30th day of March 1989.

W. H. FULLERTON,  
Governor.

Ref: FIS/29/16B.



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)**

**PUBLISHED BY AUTHORITY**

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**NOTICE**

**Application for a Publicans Retail Licence**

In accordance with Section 7 (1) of the Licensing Ordinance, Mrs. Lily Ann Johnson has applied for a Publicans retail licence in respect of the premises known as the Globe Hotel.

2. Any objection to the granting of a licence must be made to the Treasury within 21 days from the appearance of this notice in the Gazette..

*J. Buckland-James,  
Financial Secretary.*

The Treasury,  
Stanley.  
4th April 1989.

REF: 33/B/1.

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**NOTICE**

The following are published in this Gazette —

**The Education Bill 1989;**

**The Crimes Bill 1989.**

## NOTICE

### EDUCATION BILL – CORPORAL PUNISHMENT

There is published with this Gazette the Education Bill 1989.

Executive Council has particularly asked that the attention of the public should be drawn to the provisions of clause 66 in relation to Corporal Punishment. Elected members of the Executive Council wish the public's views as to corporal punishment in schools to be known to Legislative Councillors when the Bill is debated in Legislative Council.

Executive Council considered two options. The first of these was to make corporal punishment in schools unlawful. If that course was to be followed by the Legislative Council, the clause 66 appearing in the Bill would be replaced by a new clause 66 which would read something like this:

(Alternative clause 66)

"It is unlawful for a pupil at any school to be corporally punished by a member of the staff of that school."

As it is, the Executive Council preferred for submission to the Legislative Council the form of clause 66 which appears in the Bill which would restrict corporal punishment in schools. It should be noted that under clause 66 appearing in the Bill only boys of or over the age of 11 years might be corporally punished and only then if neither of his parents had notified the head teacher of an objection to corporal punishment of the boy. Further, no teacher could be required against his will to inflict corporal punishment and only the head teacher or deputy head teacher would be allowed to inflict corporal punishment on a pupil.

D. G. Lang Q.C.  
*Attorney General.*

REF: EDU/10/1.

# The Education Bill 1989

## (No. of 1989)

### ARRANGEMENT OF PROVISIONS

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7. Secretary of Board.
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##### *Supplementary provisions relating to Board*

11. Quorum voting and procedure at meetings of the Board.
12. Establishment of Committees.
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15. Director normally to act in accordance with Board's advice.
16. Appointment of teachers etc.

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##### *Preliminary*

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18. Voluntary school attendance.
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FURTHER EDUCATION AND LIBRARY

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**A Bill for  
An Ordinance**

**to make new provision as to education in the Falkland Islands  
and in relation to the education of persons ordinarily resident in  
the Falkland Islands.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

PART I

INTRODUCTORY

1. This Ordinance may be cited as the Education Ordinance 1989 and shall come into operation on such date as may be fixed by the Governor by notice published in the Gazette, but the Governor may fix different dates in respect of different provisions of this Ordinance.

Short title and  
commencement.

2. In this Ordinance unless the context otherwise requires —

Interpretation.

“academic year” means the period of one year commencing on 1st February in each year;

“the Board” means the Board of Education established by section 5(1) below;

“Bursary” has the meaning given by section 76(1) below;

“Camp Education Service” has the meaning given by section 33(2) below;

“child” means a person of compulsory education age;

“children with special educational needs” means children to whom section 31(1) below relates;

“compulsory education age” has the meaning given by section 17(1) below;

“the Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985;

“the Director” means the public officer for the time being holding or acting in the office of Director of Education created by section 3(1) below;

"efficient education" in relation to a child means education suitable to his age, ability and aptitude;

"Government School" means a school provided by and belonging to Her Majesty in right and title of the Falkland Islands acting through Her Government in the Falkland Islands;

"the Governor" where the Governor is required by the Constitution to consult the Executive Council means the Governor acting after consultation with the Executive Council but otherwise means the Governor acting in his discretion;

"head teacher" in relation to a school means the teacher for the time being in charge of that school, however his post is described;

"independent school" has the meaning given by section 34(1) below;

"itinerant teacher" has the meaning given by section 60(1) below;

"lower limit of compulsory education" and "lower limit" means such age as is the lower limit of compulsory education under section 17 below;

"parent" includes any person for the time being having lawful custody of a child;

"recognised school" means a school in respect of which a certificate issued under section 39 below is current;

"regularly", in relation to attendance at school, means punctual attendance at and throughout such number of school sessions falling within a school term as equals or exceeds the minimum number of sessions at which attendance is required by regulations;

"the Secretary" means the Secretary of the Board;

"scholarship" has the meaning given by section 76(1) below;

"school" means an institution in which education is provided to children or young persons;

"Training Award" has the meaning given by section 76(1) below;

"upper age limit of compulsory education" and "upper limit" means such age as is the upper limit of compulsory education under section 17 below;

"young person" means a person above compulsory school age but under the age of eighteen years;

## PART II ADMINISTRATION *Director and Assistant Directors*

3. (1) There shall be a Director of Education who shall be appointed by the Governor acting in his discretion.

Director of  
Education.

(2) The person appointed under subsection (1) shall be a person who appears to the Governor to be suitable to hold such appointment by virtue of his qualifications and experience in the fields of education or educational administration or both.

(3) Subsection (2) above shall not apply so as to prevent a person not holding the qualifications and experience thereby required being appointed under section 58(1) of the Interpretation and General Clauses Ordinance 1977 temporarily to hold or act in the office of Director of Education.

(4) The Director shall have such duties as may be imposed on him by or under this Ordinance and such additional duties as the Governor, acting in his discretion, may assign to him.

(5) The person who, immediately prior to the commencement of this section, held the office variously described as Chief Education Officer and Superintendent of Education shall be deemed to have been appointed as Director under subsection (1) above on such commencement.

4. (1) The Governor, acting in his discretion, may appoint one or more persons each to be an Assistant Director of Education.

Assistant Directors of Education.

(2) The duties of an Assistant Director of Education shall be to assist the Director in the performance of his duties.

(3) The Director may by writing authorise an Assistant Director to exercise in his name and on his behalf all or any of the powers, under this Ordinance specified in such authorisation of the Director but no such authorisation shall preclude the Director from exercising personally any such power.

#### *Board of Education*

5. (1) There shall be a Board of Education consisting of five persons.

Constitution of Board of Education.

(2) The Director shall *ex officio* be a member of the Board of Education.

(3) One of the members of the Board shall be appointed by the Governor from among persons who are elected members of the Legislative Council in respect of the Camp Constituency and another of the members of the Board shall be appointed by the Governor from among persons who are elected members of the Legislative Council in respect of the Stanley Constituency and one of the members appointed under this subsection shall be appointed to be the Chairman of the Board.

(4) One of the members of the Board shall be appointed by the Governor from among persons who —

- (a) are parents of a child under the age of twelve years who is a pupil at a school in the Falkland Islands; and
- (b) are not employed as a teacher or otherwise as a public officer in the department of which the Director is head;
- (c) are not an elected member of the Legislative Council.

(5) One of the members of the Board shall be appointed by the Governor from among persons who —

- (a) are parents of a child over the age of eleven years who is a pupil at a school in the Falkland Islands;
- (b) are not employed as a teacher; and
- (c) are not an elected member of the Legislative Council.

6. (1) A person who is appointed a member of the Board under subsection (3) of section 5 above shall cease to be a member —

Cesser of membership of Board.

- (a) upon the expiration of two years from the date of his appointment; or
- (b) upon the date on which the Legislative Council first sits following its dissolution next occurring after his appointment; or
- (c) upon resigning his appointment as such member by writing delivered to the Governor; or
- (d) upon his ceasing to be an elected member of the Legislative Council,

whichever first occurs.

(2) A person who is appointed a member of the Board under subsection (4) or (5) of section 5 above shall cease to be a member —

- (a) at such time as he by reason of no longer being a parent of a child —
  - (i) of the requisite age; or

(ii) who attends as a pupil at a school in the Falkland Islands, would no longer be qualified to be appointed as a member under one or other or both of those subsections; or

- (b) if he is sentenced by a court in the Falkland Islands to imprisonment for a term of twelve months or longer;
- (c) upon his election as a member of the Legislative Council; or
- (d) upon the expiration of three years from the date of his appointment; or
- (e) upon becoming employed as a teacher or otherwise as a public officer in the department of which the Director is head; or
- (f) upon resigning his appointment as such member by writing delivered to the Governor,

whichever first occurs.

(3) A person who has ceased to be by effluxion of time to be a member of the Board may, if he is eligible to be appointed as a member under subsection (3), (4) or (5) of section 5 above, be re-appointed as such a member.

7. (1) The Governor shall appoint a public officer to be the Secretary of the Board.

Secretary of Board.

(2) The Secretary shall attend meetings of the Board, take minutes thereof and maintain the Board's records.

(3) The Secretary may speak at meetings of the Board, if invited so to do by the Chairman but may not vote on any matter coming before the Board.

8. (1) Unless otherwise decided by the Board, the Board shall meet in private.

Attendance of other persons at meetings of Board.

(2) Any person may attend a meeting of the Board or some part thereof by invitation of the Board, and may take part in the discussion of any matter in which he is invited to take part but only a member of the Board may vote in relation to any matter before the Board.

#### *Functions of the Director and of the Board*

9. (1) The Director is responsible to the Governor —

Functions of Director.

- (a) for the promotion of the education of the people of the Falkland Islands and the progressive development of institutions devoted to that purpose;
- (b) for the inspection and supervision of all schools and educational institutions in the Falkland Islands and for ensuring so far as possible —
  - (i) that such schools and educational institutions are efficiently conducted and managed;
  - (ii) that adequate educational standards are achieved in the tuition of pupils attending at such schools and in the tuition of persons attending at such educational institutions;
- (c) for the management and administration of the Camp Education system and for ensuring that children receiving tuition through such system receive tuition comparable so nearly as is reasonably possible with that which such children would receive at a Government School in Stanley;
- (d) for the supervision of itinerant teachers;
- (e) for devising such curricula and syllabuses as may be necessary or convenient for the purposes of any of the foregoing paragraphs;
- (f) for the supervision of the national library service in the Falkland Islands (including the Stanley Town Library); and
- (g) for the administration of overseas scholarships and training awards provided by the Government to persons ordinarily resident in the Falkland Islands.

(2) The Director shall not later than the 14th March in each year prepare and lay before the Board a report as to the exercise of his functions during the preceding calendar year, the state of education in the Falkland Islands and such proposals or policies as the Director wishes to make or adopt relevant to such functions or as to the improvement of the state of education in the Falkland Islands (hereinafter called "the annual report").

(3) The annual report shall, whenever reasonably practicable, be considered by the Board at the same meeting as it considers the draft estimates of the Education Department for the financial year commencing on the 30th June following the calendar year to which the annual report relates.

(4) The Director shall, as soon as is reasonably practicable after the annual report has been considered by the Board, forward a copy of the annual report together with the Board's comments and observations thereon to the Governor who shall cause the same to be considered by the Executive Council.

(5) It shall be the duty of the Director to conform and comply with all lawful instructions given to him by the Governor or by the Chief Executive.

10. (1) The Board shall assist the Director in the performance and fulfilment of his functions under section 9 above by —

Functions of the Board.

- (a) advising the Director in matters of educational policy;
- (b) advising the Director as to the ways and means it considers the Director's functions under section 9(1) might best be performed;
- (c) advising the Director on any matter referred to it by the Director for its advice.

(2) The Director shall refer to the Board for its advice any matter which the Governor has required him to refer to the Board for advice, and may refer to the Board for its advice any matter relating to the discharge of his functions under section 9 above upon which he wishes to obtain the Board's advice.

(3) Any member of the Board may request the Board to consider and advise the Director upon any matter which that member considers relevant to the discharge of the Director's functions under section 9 above.

#### *Supplementary provisions relating to the Board*

11. (1) The quorum at meetings of the Board shall be the Director and two other members of the Board, and no business may be transacted at any meeting of the Board save to adjourn that meeting unless a quorum is present thereat.

Quorum voting and procedure at meetings of the Board.

(2) Matters coming before the Board for decision shall, subject to subsection (3) below, be decided by the votes of the members present other than the Director.

(3) In the event that there is an equality of votes on any matter the Chairman shall have and shall exercise a casting vote and that matter shall then be taken to have been decided in accordance with the manner in which the Chairman has cast his vote.

(4) The provisions of the Schedule shall apply in relation to the meetings of the Board and subject thereto and to the provisions of this Ordinance the Board may determine its own procedure.

12. (1) The Board may with the consent of the Governor establish such committees subordinate to the Board as it shall consider necessary and shall establish a Library Committee and a Scholarships and Awards Committee.

Establishment of committees.

(2) Every committee established by the Board shall consist of the Director, who shall be chairman thereof, not more than two other members of the Board and at least two other persons who shall be appointed by the Board after consultation with the Governor.

(3) The provisions of this Ordinance, save section 11 (1) and (2) above, subsection (1) and (2) of this section, and section 15 below, which apply to the Board shall apply with all necessary modifications and adaptations to any Committee established under this section.

13. Members of the Board and of any committee of the Board shall be entitled to be paid and receive all travelling and other expenses reasonable incidental to their attendance at meetings of the Board or any committee of which they are a member, and shall not by virtue thereof be deemed to hold an office of profit under the Crown.

Expenses.

### *General provisions*

14. (1) It shall be the duty of the Director, the Board and every committee of the Board so far as his or its powers under this Ordinance or otherwise extend and so far as moneys are lawfully available to him or it and other resources permit, to contribute to the spiritual, moral, mental and physical development of the people of the Falkland Islands by ensuring that efficient education is available to every person in the Falkland Islands in accordance with his needs, irrespective of gender and, subject to the subsequent provisions of this section without regard to his race, nationality or place of origin.

General duty to people of Falkland Islands.

(2) Nothing in subsection (1) shall —

- (a) require any education to be available to any person not ordinarily resident in the Falkland Islands who is above the upper age limit of compulsory education;
- (b) require education to be provided in any language of instruction other than English;
- (c) require education to be provided in accordance with the beliefs, tenets or practices of any cult, religion or national group; or
- (d) require scholarships and awards to be available without discriminating between persons who belong to the Falkland Islands or who are ordinarily resident in the Falkland Islands and persons who do not belong to the Falkland Islands or who are not ordinarily resident in the Falkland Islands.

15. (1) The Director shall not be bound to act in accordance with any advice the Board may have given to him in relation to any matter but, subject to subsections (2) and (3) below, if he proposes to act contrary to any advice given to him by the Board he shall report to the Governor in writing that he proposes to do so and his reasons for so doing.

Director normally to act in accordance with boards advice.

(2) Subsection (1) shall not apply where, in the opinion of the Director, it is necessary for him to act urgently but, in such a case, if he acts contrary to the advice of the Board, he shall report to the Governor that he has done so and his reasons for so doing.

(3) Nothing in the preceding provisions of this Part shall be construed as derogating in any way from the Director's functions under the Finance and Audit Ordinance 1988 as an accounting officer or excuse the Director for acting contrary to that Ordinance or financial instructions or stores instructions issued thereunder.

(4) Where the Director, under subsection (1) or (2) above acts contrary to the advice of the Board, he shall also record that fact in the annual report under section 9(2) above.

16. (1) All teachers at Government schools shall be appointed by or on behalf of the Governor in accordance with the Constitution and no teacher shall be dismissed except by or on behalf of the Governor in accordance with the Constitution.

Appointment of teachers etc.

(2) Subject to the Constitution, any teacher to whom subsection (1) above relates may at the discretion of the Director be transferred to a post of teacher at another Government school provided that he shall not without his consent be reduced in rank, salary or grading by virtue of a transfer under the provisions of this subsection.

(3) Subsection (2) above has effect in addition and not in substitution for anything else enabling a teacher to be transferred from one post to another.

## **PART III CHILDREN OF COMPULSORY EDUCATION AGE**

### *Preliminary*

17. (1) For the purposes of this Part a child is of compulsory education age at a particular time if —

Compulsory education age.

- (a) his age at that time equals or exceeds the lower limit or at any time in any term then current his age will equal or exceed the lower limit; and
- (b) his age did not equal or exceed the upper limit at the commencement of the academic year then current.

(2) For the purposes of this section, and subject to the provisions of subsection (3) below, "the lower limit" is five years and "the upper limit" is fifteen years and the "academic year" is the period beginning on 1st February in every year and ending on 31st January in the following year.

(3) The Governor may by Order vary the lower limit or the upper limit or both such limits and if he does so, subsection (2) above shall be read with such modifications as are required by the provisions of that Order: provided that an Order under this subsection shall not have effect until it has been affirmed by a resolution of the Legislative Council.

18. (1) Nothing in section 17 above shall operate so as to prevent arrangements being made for the education at Government schools or at other schools which are recognised schools of children who are not of compulsory education age.

Voluntary school attendance.

(2) The Director shall, so far as is reasonably practicable, make arrangements —

- (a) enabling every child who has attained, or will during the then current term attain, the age of five years;
- (b) subject to subsection (3), enabling every child who has attained the upper limit of compulsory education age but whose age did not on 1st February in that academic year exceed sixteen years,

to attend a Government school for the purpose of obtaining education, if his parents wish him to do so.

(3) Paragraph (b) of subsection (2) above does not apply —

- (a) so as to require the arrangements referred to therein to be made in respect of any child who was —
  - (i) not ordinarily resident in the Falkland Islands during any substantial part of the preceding school year, excluding school vacations; and
  - (ii) who did not during such time as he was so resident, regularly attend at a Government school;
- (b) so as to require the arrangements referred to therein to be made in respect of any child who, in the reasonable opinion of the Director —
  - (i) is not capable of obtaining adequate educational benefit therefrom, or
  - (ii) whose attendance at the Government school in question is likely to be disruptive or to the prejudice of the education of other children attending at that school.

19. (1) It shall be the duty of the parent of a child of compulsory education age to ensure that that child receives an efficient education.

Duty to secure sufficient education of child.

(2) A parent shall be deemed to fulfil his duty under subsection (1) above if he secures that the child in question regularly attends as a pupil at a Government school in accordance with the subsequent provisions of this Ordinance.

(3) Unless a parent fulfils the duty imposed by subsection (1) above in the manner mentioned in subsection (2) above, the onus is on him to show that the duty is being fulfilled.

(4) A parent may, subject to subsection (3), fulfil the duty imposed by subsection (1) above —

- (a) in the manner mentioned in subsection (2) above;
- (b) if the child ordinarily resides in Camp by securing that the child regularly attends as a pupil at a recognised school;
- (c) if the child ordinarily resides in Camp by securing that the child regularly and sufficiently applies himself to a course of education provided by the Camp Education Service;



- (d) by securing that the child regularly attends as a pupil at a school outside the Falkland Islands;
- (e) by any other means specifically approved in relation to the child by the Director.

*Detailed provisions as to education obligations*

20. (1) A child of compulsory education age who ordinarily resides in Stanley shall, unless he attends as a pupil at a school outside the Falkland Islands, or, by authorisation of the Director under section 19(4)(e) above he is being educated in some other manner be registered as a pupil at a Government school or at a recognised school.

Provisions as to Stanley.

(2) The duty under subsection (1) above to register a child arises —

- (a) where the child is ordinarily resident in Stanley, when he attains the lower limit of compulsory education age, on the first day of the relevant term;
  - (b) where the child becomes ordinarily resident in Stanley after he attains the lower limit of compulsory education age, on his becoming so resident or, if he becomes so resident during a school vacation, on the first day of the next following school term.
- (3) A parent who contravenes the preceding provisions of this section commits an offence under this Ordinance.

21. (1) Where the parent of a child ordinarily resident in Camp intends to discharge the duty imposed on him by section 19(1) above by securing the attendance of his child at a Government school or a recognised school, he shall register that child as a pupil at that school.

Camp children.

(2) Where the parent of a child ordinarily resident in Camp intends to discharge the duty imposed on him by section 19(1) above by the use of the Camp Education Service he shall register the child as a pupil of the Camp Education Service.

(3) The parent of a child who is registered as a pupil of the Camp Education Service shall inform the Director of Education in writing of any change in that child's usual place of abode.

(4) A parent who contravenes the preceding provisions of this section commits an offence under this Ordinance.

22. (1) It is the duty of the parent of every child of compulsory education age who is a registered pupil at a school to ensure that that child regularly attends at that school unless by any provision of this Ordinance he is excused from so doing.

Duty of parent to secure attendance of child who is registered pupil.

(2) A parent is excused from the duty imposed by subsection (1) above if —

- (a) the child is being efficiently educated in some other manner permitted by section 19 above in relation to him; or
- (b) the child does not form part of the same household as the parent does.

(3) Where to the knowledge of a parent to whom the duty under subsection (1) applies a relevant child of his is likely to be absent from attendance at a school at which he is registered as a pupil on more than two consecutive school days, that parent shall, unless another parent of that child does so, notify the head teacher of the school of that fact, and the reason for and likely duration of that likely absence.

(4) When a child of compulsory education age returns to attendance at a school at which he is a registered pupil, having been absent therefrom other than with the permission in advance of the head teacher of the school, the parent of that child shall, unless another parent of that child does so, notify the head teacher of the reason for that absence.

(5) Where a registered pupil of a school of compulsory education age is or has been absent from that school, in circumstances where that absence is not explained by a notification under subsection (3) or (4) above, the head teacher of that school or the Director may require any parent of that child who forms part of the same household as that child to notify him in writing of the reason for that absence.

(6) A person commits an offence under this Ordinance who —

- (a) fails to perform a duty under subsection (1) above;
- (b) being obliged to notify a head teacher as required by subsection (3) or (4) above, fails to do so; or
- (c) having received a requirement under subsection (5) above, fails to comply with it within three days of its receipt.

23. (1) In any proceedings for an offence to which section 22(6)(a) above relates, subject to subsection (2) below, the child shall not be deemed to have failed to have attended regularly at the school by reason of his absence therefrom with leave of the head teacher or Director or —

Supplementary  
to section 22.

- (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause;
- (b) on any day exclusively set apart for religious observance by the religious body to which he belongs; or
- (c) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home and that no arrangements have been made by the Director either for his transport to and from the school or for enabling him to become a registered pupil at a school nearer to his home and that the parent could not reasonably himself have transported or arranged the transport of the child to the school.

(2) Subsection (1) above shall not apply in relation to a child who is a boarder at the school or who resides at a hostel maintained by the Government in relation to the school and such a child shall be deemed to have failed to attend regularly at the school if he is absent therefrom, other than as permitted by this Ordinance, without leave of the head teacher or Director during any part of a school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.

(3) In this section, the expression "walking distance" means, in relation to a child who has not attained the age of eight years, two miles, and in the case of any other child, three miles, measured by the nearest available route.

24. (1) If the parent of any pupil in attendance at any Government school requests that he be wholly or partly excused from attendance at religious worship in the school or from attendance at religious instruction in the school, or from attendance at both religious worship and religious instruction in the school then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

Saving as to  
religious  
instruction.

(2) Where a pupil has been wholly or partly excused from attendance at religious worship or instruction in any Government school in accordance with the provisions of this section, and the Director is satisfied —

- (a) that the parent of the pupil desires him to receive religious instruction of a kind which is not provided in the school during the periods during which he is excused from such attendance;
- (b) that the pupil cannot with reasonable convenience be sent to another Government school where religious instruction of the kind desired by the parent is provided; and
- (c) that arrangements have been made for him to receive religious instruction during school hours elsewhere,

the pupil may be withdrawn from school during such periods as are reasonably necessary for the purpose of enabling him to receive religious instruction in accordance with the arrangements, but the pupil shall not be so withdrawn unless the Director is satisfied that the arrangements are such as will not interfere with the attendance of the pupil at the school on any day except at the beginning or end of the school session on that day.

(3) Where the parent of any pupil who is a boarder at a Government school or who resides at a hostel maintained by the Government in relation to the school requests that the pupil is permitted to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by

the religious body to which the pupil belongs, or to receive religious instruction in accordance with such tenets outside school hours, the Director shall make arrangements for affording to the pupil reasonable opportunities for so doing and such arrangements may provide for affording facilities for such worship or instruction on the school premises, so however that such arrangements shall not entail expenditure by the Government.

25. (1) If it appears to the Director that the parent of any child of compulsory education age is failing to perform the duty imposed on him by section 19(1) above, it shall be the duty of the Director to serve upon the parent a notice requiring him, within such time as shall be specified in the notice not being less than fourteen days from the service of the notice, to satisfy the Director that the child is receiving efficient education either by regular attendance at school or otherwise.

School attendance Orders.

(2) If, after such a notice has been served upon a parent by the Director the parent fails to satisfy the Director that the child to whom the notice relates is receiving efficient education then, if in the opinion of the Director it is expedient that he should attend school the Director shall (subject to subsection (3) and (4) below), serve upon the parent an order requiring him to cause the child to become a registered pupil at the school named in the order.

(3) No order shall be served under subsection (2) above in relation to a child ordinarily resident in Camp unless —

- (a) the Director believes that there is no other available and reasonably suitable method of securing the efficient education of the child;
- (b) the child is of the age of eleven years or more; and
- (c) if the school is in Stanley the Director is satisfied that there is available in respect of the child a place at a hostel maintained by the Government in relation to the school.

(4) Where the Director, except for the provisions of subsection (3) above would otherwise be required to serve upon a parent an order under subsection (2) above and the Director is satisfied that arrangements can suitably be made for the child to be educated through the Camp Education Service, the Director shall instead of serving upon the parent an order under subsection (2) above serve upon the parent an order requiring the parent to be enrolled as a pupil of the Camp Education Service.

(5) If at any time while an order under subsection (2) or subsection (3) above is in force with respect to any child the parent of the child makes application to the Director requesting that the order be revoked on the ground that satisfactory arrangements have been made for the child to receive efficient education otherwise than in accordance with the order, the Director shall revoke the order in compliance with the request unless he is of opinion that no satisfactory arrangements have been made for the education of the child otherwise than in accordance with the order, and if a parent is aggrieved by a refusal of the Director to comply with such request, he may refer the question to the Governor, who shall give such direction thereon as he thinks fit.

(6) If any person upon whom an order under subsection (2) or (4) above is served fails to comply with the requirements of the order he commits an offence under this Ordinance.

26. (1) The requirement of regular attendance at a school imposed by section 22(1) above is regular attendance on school days between such times as shall be prescribed by regulations made under this Ordinance during such school terms as shall be prescribed by such regulations.

Required attendance.

(2) For the purposes of subsection (1) above —

- (a) a child who is sent to school unclean in person or in such a physical state or dressed in such a way that the parent ought reasonably to know that the head teacher will, as a matter of discipline, refuse him admission, does not attend school;
- (b) a child who arrives at school after the register of attendance has been closed for that morning or afternoon does not attend school on that morning or afternoon;

- (c) "school days" means such days other than Saturdays, Sundays, public holidays and occasional holidays as fall during a school term.

(3) A parent of a child of compulsory education age who is registered as a pupil at any school who fails, other than as he may be excused by this Ordinance, to secure the regular attendance of that child at that school commits an offence under this Ordinance.

27. (1) It shall be the duty of the head teacher of every Government school and of the head teacher of every recognised school to ensure that a register of attendance of pupils at that school is maintained and faithfully records, in such manner as the Director may require, the attendance of pupils registered at that school.

Register of attendance to be maintained.

(2) A person who wilfully makes any false entry in any register maintained pursuant to subsection (1) commits an offence under this Ordinance.

(3) A register maintained pursuant to subsection (1) above and any extract of any entries contained in such register certified by the head teacher of the relevant school as being a true extract of such entries shall be admissible in evidence in any proceedings for an offence under this Ordinance and shall constitute *prima facie* evidence of the facts therein recorded or appearing.

28. (1) It shall be the duty of a parent of a child of compulsory education age who is enrolled with the Camp Education Service to ensure so far as is reasonably possible and except insofar as he may be excused by reason of the child's illness or by other reasonable cause that the child diligently pursues such course of education as is provided in respect of that child by the Camp Education Service.

Duty of parent of child enrolled with Camp Education Service.

(2) The duty imposed by subsection (1) above includes a duty to ensure that the child attends any sessions of instruction provided in respect of that child by an itinerant teacher.

(3) In the event that a parent is in breach of his duty under subsection (1) the Director may apply to the Magistrate's Court or to the Court of Summary Jurisdiction for an order that the parent fulfil that duty and the court may grant such order and impose such penalty (not exceeding £1,000) as it sees fit to be payable in the event of breach of or non-compliance by the parent with that order.

#### *Provision of schools etc.*

29. (1) There shall be provided and maintained in Stanley out of moneys appropriated for the purpose by the Legislative Council by Ordinance, such types and numbers of schools and of such size and capacity and incorporating such facilities as the Governor shall think necessary to provide an efficient education to such number of pupils as he shall consider are likely to be of compulsory education age and whose parents will wish to register them as pupils thereat.

Government schools.

(2) In addition to any accommodation and facilities provided under subsection (1) above, the Governor shall as soon as possible provide at a school maintained in accordance with that subsection such additional accommodation and facilities as may be appropriate so as to enable the upper limit of compulsory education age specified in section 17(2) as originally enacted above to be increased by one year.

(3) Without prejudice to the provisions of subsections (1) and (2) above, the Governor shall provide at schools maintained in accordance with subsection (1) above such accommodation and facilities as are in the opinion of the Governor necessary to provide an efficient education to pupils voluntarily attending school in accordance with section 18 above.

30. (1) It shall be lawful for the Governor to provide and maintain in Camp such schools as the Governor shall think fit to provide and maintain.

Provision of schools in Camp.

(2) In addition to and without prejudice to his powers under subsection (1), the Governor may —

- (a) contribute to the costs and expenses of any other person of providing and maintaining a school in Camp;
- (b) contribute to the costs and expenses of any other person of providing a teacher for any children in Camp.

31. (1) Nothing in section 29 shall be construed as imposing any additional obligation upon the Governor in relation to children who, by reason of any mental or physical handicap, disease or bodily infirmity or by reason of circumstances special to themselves or to their parents, have special educational needs and the Governor's obligations under that section are sufficiently performed if those needs are disregarded but the Governor shall, in relation to such children, have the powers conferred by the subsequent provisions of this section.

Children with special educational needs.

(2) The Governor may, in relation to children to whom subsection (1) above relates ("children with special educational needs") out of moneys appropriated for the purpose by the Legislative Council —

- (a) provide at any school provided and maintained under section 29(1) or 30(1) above such accommodation and facilities as he may think fit in relation to such children;
- (b) contribute towards or pay the costs incurred by any other person in the provision or maintenance of accommodation and facilities in relation to such children and whether in the Falkland Islands or overseas;
- (c) contribute towards or pay the fees and other expenses (including travel, accommodation and clothing and maintenance expenses) incurred by the parents of such children or any other person in connection with the education of such children either in the Falkland Islands or overseas.

(3) In addition to his powers under subsection (2) the Governor may employ teachers for children with special educational needs and may contribute towards the remuneration and expenses (including travel expenses) of such teachers employed by others and the cost of accommodation of such teachers.

32. (1) The Director shall compile and maintain a register of children with special educational needs and shall advise the Governor as to the exercise of the Governor's powers under section 31 above for the benefit of such children.

Register of children with special educational needs.

(2) The register referred to in subsection (1) above shall not be open to public inspection but a digest or summary of the register shall be incorporated in the Director's annual report required by section 9(2) above.

(3) For the sake of avoidance of doubt, it is hereby declared that a child does not have special educational needs for the purposes of this Part merely because he ordinarily resides at a considerable distance from a school suitable for him to attend.

#### *Camp Education Service*

33. (1) The Governor shall out of moneys appropriated for educational purposes by the Legislative Council provide and maintain the Camp Education Service.

Duty of Governor to maintain Camp Education Service.

(2) For the purposes of this section "the Camp Education Service" means a service of education by means of television or radio broadcasts, written material, video tapes or films, text books and visits by itinerant teachers designed to provide an efficient education to those children ordinarily resident in Camp as are not receiving an efficient education by some other means permitted under this Ordinance.

(3) For the purposes of the performance of the duty under subsection (1) above, the Governor may provide and maintain or contribute towards the cost of such radio transmitting and receiving equipment as he sees fit.

### PART IV PRIVATE EDUCATION

#### *Conduct of independent schools*

34. (1) It shall be unlawful for any person, after the expiry of three months from the commencement of this section, to conduct a school not provided and maintained by the Governor under this Ordinance ("an independent school") unless he shall have obtained the permission of the Director so to do.

Approval of independent schools.

(2) Subsection (1) shall not apply to a school which was being conducted immediately prior to the commencement of this section until twelve months after such commencement.

(3) The Director shall take the following matters into consideration upon an application for his permission to conduct an independent school —

- (a) the suitability of the premises proposed to be used as a school premises in respect of children of the ages, gender or genders and number specified in the application as being likely to attend the school and in assessing such suitability the Director shall, without prejudice to the generality of the foregoing take into account —
  - (i) the age and state and condition of repair of the premises,
  - (ii) the facilities for heating the premises,
  - (iii) the toilet and washing facilities available to the children attending the school, and
  - (iv) the appliances provided for fighting fire and the means of escape in case of fire;
- (b) the number and type of teachers intended to be engaged in the conduct of the school;
- (c) the age and number of children proposed to be educated at the school;
- (d) any information provided by the applicant as to the proposed curriculum of the school;
- (e) whether, if the Director's approval to the conduct of the school is given, the applicant wishes any contribution to be made from public funds towards the cost of establishment or operation of the school; and
- (f) any other matter the Director considers relevant.

(3) The Director may grant or refuse permission for the conduct of a school and, if he grants permission may do so subject to conditions to be observed and performed by the applicant.

(4) A permission granted by the Director shall be valid —

- (a) while the school continues to be conducted by the applicant;
- (b) while the school continues to occupy the same premises;
- (c) for the period of time specified therein; and
- (d) until the expiration of one month from the service of a notice of revocation of the permission,

whichever is the shortest.

(5) Without prejudice to the power of the Director to impose conditions, the following conditions shall be deemed to be contained in every permission granted under this section —

- (a) no child shall be refused admission as a pupil to the school on the ground of his race, nationality or place of origin nor, unless the application specified that the school was to be provided for children of a particular religious denomination or sect, on the ground of the religion, religious denomination or sect or absence of religious belief of the child or any of his parents;
- (b) no person shall be employed or engaged as a teacher at the school unless he has the permission of the Director to be employed or engaged as a teacher, granted under the subsequent provisions of this Part; and
- (c) the permission shall cease to be valid in the event of any material adverse variation, likely to be of more than a temporary nature, from any of the particulars stated in the application.

(6) An operator of a school who conducts a school without the permission required by subsection (1) above, or wilfully contravenes any condition contained or deemed to be contained in a permission granted under this section,

commits an offence and is liable to a fine not exceeding fifty pounds multiplied by the number of days preceding his conviction the contravention is proved to have continued.

(7) For the purposes of subsection (1) an undertaking is a school if it is intended to provide instruction at it to pupils of four years of age or over in any subject or subjects normally or usually taught at a Government school.

35. (1) The Director may, subject to subsection (4) below, from time to time at the request of the person conducting a school to which a permission granted under section 34 above relates, vary a condition subject to which that permission was granted.

Variation of conditions applicable to a school.

(2) The Director may, subject to subsection (3) below, if he considers it necessary to impose any new condition or vary any condition subject to which any permission granted under section 34 above relates, serve notice upon the person conducting the school of a proposed new condition or of the manner in which he proposes to vary a condition and —

- (a) if that person consents to such new condition or variation of an existing condition, he may impose such new condition or vary that existing condition accordingly;
- (b) must consider any representations made by that person in response to such notice and having done so may if he thinks fit, impose that new condition or vary that existing condition (with such modifications therein if any in his proposals as he may have been persuaded to make by such representations);
- (c) if he receives no representations within such time, not being less than twenty-one days, as is specified in such notice, may proceed to impose such new condition or vary such existing condition accordingly.

(3) Whenever the Director, in accordance with subsection (1) or (2) above imposes a new condition or varies an existing condition he shall serve notice thereof, and the operative date thereof, on the operator and as and from the operative date the permission granted under section 34 above shall have effect accordingly.

(4) The Director may not in exercise of his powers under this section vary any condition deemed by section 34 (5) above to be contained in a licence.

36. (1) Any applicant for a permission under section 34 above or holder of a permission granted under that section who is aggrieved by —

Appeals to the Governor.

- (a) the refusal of a permission under section 34 above;
- (b) the imposition of any condition subject to which such a permission is granted or subsequently imposed thereon (not being a condition deemed by section 34(5) above to be contained in such permission);
- (c) the variation of any condition pursuant to section 35 above;
- (d) any refusal of the Director at the request of the holder to remove or vary any condition imposed in a permission by the Director; or
- (e) the date specified as the operative date in respect of a condition or varied condition pursuant to section 35(3) above,

may appeal to the Governor in writing against the relevant decision of the Director.

(2) The Governor on determination of any appeal to which subsection (1) above relates may allow the appeal by varying the relevant decision of the Director in such manner as the Governor thinks fit or may dismiss the appeal.

(3) Where the Governor on determination of an appeal under this section varies the decision of the Director the decision as so varied shall, from the date of notification of the Governor's determination of the appeal, have effect as if the Director had determined the matter in the first instance in the same manner.

#### *Independent teachers*

37. (1) Subject to this section, it shall be unlawful for any person after the expiry of three months from the commencement of this section to be employed or engaged as a teacher or to accept employment or engagement as a teacher without the permission of the Director so to do.

Teachers not to teach without authorisation.



(2) Subsection (1) above does not apply until the expiry of twelve months from the commencement of this section to a person who at any time during the six months immediately preceding such commencement was employed or engaged as a teacher.

(3) Nothing in subsection (1) applies so as to require any person who teaches only his own children or who is employed as a teacher by the Government whether in a Government school or as an itinerant teacher or as a teacher seconded to teach in a recognised school.

(4) A person who wishes to obtain permission to be employed or engaged as teacher shall make application to the Director in writing giving sufficient particulars of the teaching tasks he wishes to be permitted to undertake.

(5) The Director shall exercise his powers under subsection (6) below only for the purpose of ensuring that a person employed or engaged as a teacher has sufficient qualifications properly to undertake the teaching tasks he undertakes and that he is otherwise a fit and proper person to be employed or engaged as a teacher and, without prejudice to the generality of the foregoing —

- (a) he shall not refuse permission on grounds of the applicant's gender, race, nationality, place of origin or religious belief or absence of such belief;
- (b) he shall not refuse the application on the ground of inadequate qualifications if he is satisfied that the applicant is qualified in the United Kingdom, Australia, New Zealand or the Republic of Ireland or some other country which the Director considers appropriate, to undertake like teaching tasks to those specified in the application at a school maintained in that country by the appropriate local or central government authority.

(6) The Director may, subject to the foregoing provisions of this section, grant or refuse an application to which this section relates, and if he grants such permission may do so subject to such conditions as in his opinion are reasonably required in the interests of the efficient education of the pupils of the person to whom the permission relates.

(7) The provisions of section 35 above apply with all necessary modifications and adaptations to imposition of new conditions and variation of existing conditions in a permission to which this section relates as they do in relation to a permission granted under section 34.

38. (1) Any person who works as a teacher contrary to any provision of this Part commits an offence under this Ordinance.

Teaching without permission.

(2) Any person who employs or engages another person as a teacher who is not permitted by this Part to work as a teacher commits an offence under this Ordinance.

#### *General*

39. (1) Any person applying for permission to conduct an independent school or conducting an independent school may apply for a certificate that that school shall be a recognised school.

Certificate that school recognised school.

(2) The Director may grant a certificate that a school is a recognised school if —

- (a) he is satisfied that the school offers or will offer an efficient education to children of compulsory education age attending as pupils at that school; and
- (b) the applicant undertakes to comply with the provisions of this Ordinance relating to recognised schools.

40. (1) The Director may, if he considers it desirable that any permission or certificate issued under this Part should be revoked serve notice upon the holder thereof that he is considering the revocation of such permission or certificate and the grounds on which he is considering doing so.

Revocation of permit or certificate.

(2) Any person who is served with a notice under subsection (1) above may within such time as is specified therein, which shall not be less than twenty-one days, make representations in writing to the Director against revocation of the permit or certificate in question.

(3) Upon the expiry of the time limited in the notice served under subsection (1) above for making representations to him, and after considering any representations he may have received, the Director may if he thinks fit revoke the permission or certificate, but shall not do so on any ground which was not specified in the notice served under subsection (1) above.



(4) If the Director revokes a permission or certificate, he shall serve notice in writing on the prior holder thereof of such revocation and that notice shall contain a statement of the ground or grounds on which the revocation is founded.

*Provisions as to recognised schools*

41. (1) Subject to the provisions of this Ordinance, the Governor may on the recommendation of the Director make a grant of money towards the cost of establishing or operating a recognised school.

Grants-in-Aid of  
recognised  
schools.

(2) The Governor may not make any grant of money under subsection (1) towards the cost of conducting religious worship or providing religious instruction according to the tenets or beliefs of any sect, denomination or religion.

(3) The Governor may, on the recommendation of the Director, provide or lend any property to on such terms as he shall think fit, for the purpose of it being used or expended in connection with the operation of a recognised school.

(4) The powers of the Governor under subsection (1) above extend so as to enable him subject to subsection (2) above to defray any particular item or items of expenditure.

(5) Assistance under any provision of this section may be made subject to the performance of such conditions as the Governor may think fit.

42. (1) Where a recognised school charges fees or requires other payments in relation to the education of pupils thereat, the Governor may on the recommendation of the Director —

Assistance to  
pupils of  
recognised  
schools.

- (a) defray the whole or part of the other fees or charges made in respect of any particular pupil or pupils or pupils of a particular category;
- (b) make grants of money to the parents of any particular pupil or pupils or pupils of a particular category (and may do so on a basis of the financial circumstances of particular parents).

(2) The Governor shall not exercise his powers under this section so as to discriminate on the basis of the gender, race, religious belief, nationality or place of origin of any child.

43. (1) Where, in the opinion of the Governor, it is desirable in the public interest to enter into an agreement in relation to a recognised school providing for payments to be made out of the Consolidated Fund in years other than the then current financial year, the Governor may subject to subsections (2) and (3) below enter into such an agreement and payments not falling to be made within the then current financial year shall be charged upon the Consolidated Fund.

Support  
Agreements with  
recognised  
schools.

(2) No agreement to which subsection (1) relates shall —

- (a) provide for any payment to be made after the fourth anniversary of the date thereof;
- (b) provide for any payment to be made which, if it fell within the current financial year, might not, subject to sufficient funds having been appropriated by the Legislative Council, be paid under the provisions of section 41 or section 42 above; or
- (c) provide for any payment to be made until after such time as the agreement has been laid on the table of the Legislative Council.

(3) Every agreement to which subsection (1) above relates shall be laid on the table of the Legislative Council after it is made and if at that meeting a resolution is passed nullifying the agreement it shall be of no further effect, but otherwise (subject to the antecedent provisions of this section) it shall have effect in accordance with its terms.

44. (1) The Governor may, on the recommendation of the Director, second teachers who are public officers to teach in recognised schools and may, on the recommendation of the Director employ persons to teach in recognised schools and such persons shall be public officers and nothing in the preceding provisions of this Part relating to permission to teach shall apply to them.

Seconded  
teachers in  
recognised  
schools.

(2) A person seconded or employed under subsection (1) above may not be suspended from duty without the consent of the Director and may not be dismissed except by the authority of the Governor.

#### *Obligations of recognised schools*

45. (1) The provisions of section 27 above in relation to registers of attendance apply in relation to a recognised school.

Records to be kept.

(2) The head teachers of every recognised school shall maintain or cause to be maintained such records as to the tuition given, the standard of achievement reached and the performance of teachers and the efficacy generally of the recognised school as an educational institution as the Director may require to be maintained or as may be prescribed by regulations made under this Ordinance.

(3) The proprietor of every recognised school which is in receipt of any financial assistance under the foregoing provisions of this Part shall maintain or cause to be maintained such accounts and records relating to the finances of the school and of financial matters affecting the school as the Governor or the Financial Secretary may require or as may be prescribed by regulations made under this Ordinance.

(4) The proprietor and head teacher shall produce at any reasonable time any records required under subsection (2) above to the Director and any person authorised by him and shall permit the Director and any such person to take copies thereof.

46. (1) The Director may require any recognised school to follow a curriculum stipulated by the Director and stipulate standards of proficiency in educational subjects which should be regarded as minimum standards of attainment to be achieved by children of a given age or ability group attending at that school.

Curriculum.

(2) The proprietor and head teacher of any recognised school in respect of which a curriculum has been stipulated under subsection (1) above shall so far as is reasonably possible implement that curriculum and shall bring to the attention of the Director any circumstance preventing or hindering them in so doing.

### PART V GOVERNMENT SCHOOLS

#### *Staff*

47. (1) In respect of every Government school there shall be a head teacher who shall be appointed by the Governor after consultation with the Director.

Head teachers.

(2) The head teacher of a Government school shall be responsible to the Director for the proper administration of that school with the assistance of the staff subordinate to him.

(3) In subsection (2) above, the expression "administration", without prejudice to the generality of that expression, includes —

- (a) the supervision of all teachers subordinate to the head teacher employed at that school, and the encouragement of those teachers by precept and example;
- (b) the supervision of the syllabus, in consultation with subject teachers, in relation to all subjects taught at the school, with particular reference to the curriculum, if any, stipulated by the Director;
- (c) the organisation in consultation so far as may be necessary of other teaching staff, of the timetable of teaching periods at the school;
- (d) encouragement of every pupil of the school to achieve the best performance he is capable of achieving in every activity of the school;
- (e) consultation with the School Managers whenever necessary;
- (f) liaison with the parents of children and any representative organisation of parents on all matters of common interest;
- (g) the inculcation in pupils attending the school, according to their respective abilities, of educational and other standards which will fit them for adult life in a democratic society.

(4) The head teacher of a Government school is responsible to the Director for the management of the school buildings.

48. There shall be such number of teachers and other staff at a Government school as may be determined by the Governor and they shall be appointed by the Governor after consultation with the Director.

Teacher and other staff.

49. (1) No person shall, subject to subsection (2) below, be discriminated against in respect of appointment or promotion of any post to which section 47 or 48 relates on the ground of gender, race, religious belief or place of origin.

Provision as to discrimination.

(2) It shall be lawful to discriminate in favour of the appointment or promotion to a post of persons who belong to the Falkland Islands and to limit appointment or promotion to any such post to persons who are Commonwealth citizens or citizens of the Republic of Ireland.

### *School Managers*

50. (1) In respect of each Government school there shall be a Committee of Managers consisting of —

School Managers.

- (a) the head teacher;
- (b) one person appointed by the Board (and who may be a member of the Board, other than the Director) who shall be the chairman of the Committee;
- (c) four persons appointed by the Governor, of whom at least two shall, at the time of appointment be a parent of one or more children attending that school.

(2) A member of the Committee of Managers, other than the head teacher, shall hold office as such until —

- (a) he resigns his office in writing delivered to the Governor (in the case of a person appointed by the Governor) or the Secretary to the Board (in the case of a person appointed by the Board);
- (b) he is convicted in the Falkland Islands of any offence in respect of which he is sentenced to an immediate term of imprisonment;
- (c) in the case of a person appointed by the Board he ceases to be a member of the Board;
- (d) in the case of a person appointed by the Governor, the expiry of two years from the date of his appointment.

(3) There shall be a secretary to the Committee who shall be appointed by the head teacher and who shall attend at meetings of the Committee but who shall not speak thereat, unless invited to do so by the person presiding thereat.

(4) The Director and in his absence from any meeting any one person authorised by the Director to do so on his behalf, may attend at any meeting of the Committee and may speak in relation to any matter coming before the Committee at any of its meetings, but shall not vote in relation thereto.

51. The functions of the Committee of Managers of Government school are —

Functions of Managers.

- (a) to consider and advise upon such matters in relation to the operation of the school, the provision of education thereat, as to the facilities and equipment of the school or the health and safety of the pupils attending thereat as —
  - (i) the Board,
  - (ii) the Director, or
  - (iii) the head teacher or any other member of the Committee,
 may have requested the Committee to consider;
- (b) to make to the Director such recommendations and representations in relation to any matter considered by the Committee as it considers appropriate;

- (c) to consult as often as may be necessary with the parents of pupils attending the school and, in the case of a Government school primarily intended for pupils over the age of eleven years, with the pupils, on any matter on which the Committee considers it appropriate to consult them;
- (d) to advise the head teacher on any matter on which the head teacher seeks advice or upon which the managers choose to advise the head teacher;
- (e) to exercise any powers conferred upon it by this or any other Ordinance.

52. (1) Meetings of the Committee shall, subject to subsection (2) be convened by the head teacher, provided that a meeting shall be held at least once in every school term.

Convening of  
meetings of  
Committee.

(2) The Director may, subject to subsection (3), convene a meeting of the Committee at any time and the head teacher shall convene a meeting of the Committee if requested to do so by at least two members of the Committee.

(3) Seven days' notice at least shall be given of every meeting of the Committee and the Director, if he has not himself convened the meeting, shall be given at least that amount of notice of the meeting.

(4) Except with the consent of the Director, no meeting of the Committee shall take place —

- (a) other than at the school; or
- (b) during any school vacation.

53. Minutes of all meetings of the Committee shall be kept by its secretary and copies of such minutes shall, without delay, be sent to the Director.

Minutes of  
Committee  
Meetings.  
Procedure of  
Committee.

54. (1) If the Chairman of the Committee is absent therefrom, the other members present at the meeting, other than the head teacher, shall elect a person from among their number to preside at that meeting.

(2) Matters falling to be decided at any meeting of the Committee shall be decided by the votes of the members, other than the head teacher, and in the event of an equality of votes the Chairman or other member presiding at the meeting shall have and shall exercise a second or casting vote and that matter shall then be decided in accordance therewith.

(3) No business shall be transacted at any meeting of the Committee unless the head teacher and two other members at least are present during the transaction of that business.

(4) Save as provided in the foregoing provisions of this Part, a Committee of Managers is free to determine its own procedure.

55. The head teacher of a Government school is not bound to act in accordance with the advice of the Committee of Managers of that school but in any case where he does not do so he shall as soon as is reasonably possible report that fact to the Director together with his reasons for not following that advice and shall inform the Committee thereof at its next meeting.

Head teacher  
may depart from  
advice.

#### *Dual use of Government schools*

56. (1) Insofar as is reasonably possible all buildings and other facilities at Government schools shall be available, in accordance with arrangements agreed by the Governor after consultation with the Director, outside school hours and at weekends and during vacations to the public or bodies or associations of persons.

Use of school.

(2) Without prejudice to the generality of subsection (1) above, arrangements shall be made for the use by the public wherever reasonably possible of gymnasia, halls and sports facilities provided in connection with Government schools.

### PART VI

#### PROVISIONS APPLICABLE TO ALL SCHOOLS AND TO TUITION BY TEACHERS

##### *School Year*

57. (1) The academic year shall begin on 1st February in each calendar year.

Divisions of  
academic year.

(2) The first term of the academic year shall commence on or after the 1st February and be fifteen weeks in length, so arranged as to allow during such term a holiday of one week coinciding with Camp Sports week.

(3) There shall be a school vacation of two weeks in length between the first term of the academic year and the commencement of the second term of that year.

(4) The second term of the academic year shall be twelve weeks in length and there shall be a school vacation of three weeks in length between the second term and the third term.

(5) The third term of the academic year shall commence on the day following the end of the school vacation referred to in subsection (4) above and shall end on the Wednesday of the week preceding the week in which Christmas Day occurs, provided that if Christmas Day occurs on a Sunday, the third term shall end on 14th December in that year.

(6) The dates of commencement and conclusion of each term of an academic year shall be published in the Gazette during the December of the preceding year.

(7) The provisions of this section apply in respect of recognised schools, save as may be stipulated in respect of any academic year in any notice published under subsection (7) above.

58. (1) The Governor acting in his discretion after consultation with or on the recommendation of the Director may declare any day or part of a day which would otherwise be a school day or part thereof to be an occasional holiday either in respect of all schools or in respect of a particular school or schools.

Occasional  
holidays.

(2) No pupil shall be obliged to attend school during such part of any day as has been declared to be an occasional holiday.

(3) Not more than three school days (or their equivalent in length of time) falling within any one term may be declared to be occasional holidays.

59. (1) Teachers and other staff employed in schools may be required to take annual leave due to them exclusively during school vacations.

Teachers obliga-  
tions during  
school vacations.

(2) School vacations are periods of time when pupils are not required to attend school and do not constitute an augmentation of the leave entitlement of teachers and other staff employed in schools who may accordingly be required to perform educational or other tasks directly related to education (including preparation for teaching) or attend courses during school vacations: provided that teachers shall be allowed an adequate respite in which to refresh themselves between the conclusion of one term and the commencement of the next.

(3) Unless taken as part of a teacher's leave entitlement, or taken outside the Falkland Islands no part of any school vacation allowed as respite under subsection (2) above shall be counted against the leave entitlement of that teacher.

(4) This section applies to teachers in all schools but does not apply to itinerant teachers.

#### *Itinerant teachers*

60. (1) The Governor may appoint suitably qualified persons to undertake tuition on an itinerant basis of persons under the age of sixteen years in Camp. Persons so appointed are for the purposes of this Ordinance known as "itinerant teachers".

Employment of  
itinerant  
teachers.

(2) The duties of itinerant teachers are, as they may be directed by the Director so to do, to go from place to place in Camp and to teach such persons as they may be required to teach in the places to which they go.

(3) The preceding provisions of this Part relating to the leave and respite of teachers and the division of the year into terms do not apply to itinerant teachers or to tuition by itinerant teachers and itinerant teachers shall take their annual leave at such time or times as may be agreed by the Director and shall in addition receive such periods of respite as the Director may agree.

61. (1) The occupier of any property in Camp may be requested by the Director to make available for use and occupation by itinerant teachers and their pupils such buildings or

Accommodation  
and facilities for  
itinerant  
teachers.

room or rooms as shall be reasonably suitable and available for the purpose, and in respect of such use shall be entitled to receive such payment or payments as shall constitute adequate compensation for such use and occupation, including any fuel power or other facilities provided in connection with such use and occupation.

(2) Any request under subsection (1) may include a requirement to provide temporary sleeping and living accommodation for the itinerant teacher.

(3) The Governor may pay or contribute to the cost of repair or maintenance of any room or building likely to be required for use by an itinerant teacher.

(4) Nothing in subsection (1) above shall require any payment to be made to the parent of a pupil of the itinerant teacher.

### *Medical*

62. (1) Every pupil at every school (whether or not it is a Government school) shall as directed by the Chief Medical Officer present himself for medical examination from time to time at the school or some other suitable place but shall not be so examined contrary to the expressed wishes of his parents, nor shall, subject to section 63 below, any treatment be given to such child contrary to such wishes.

Medical and dental examination of pupils.

(2) The proprietor and head teacher of any independent school shall provide or cause to be provided such facilities and premises at the school as may reasonably be required for the purposes of a medical examination to which subsection (1) relates.

(3) Subsections (1) and (2) above shall extend, with all necessary modifications, to dental examinations as they do to medical examinations.

63. (1) If while a child is at school any sudden emergency or accident occurs to him which appears to necessitate medical treatment or to render such treatment advisable, it shall be the duty of the teacher for the time being responsible for that child to arrange for that treatment to be provided without unreasonable delay, and for the purposes of this section the parents of the child and that child shall be deemed to have consented to all treatment which an ordinarily prudent parent would consider should be carried out at once and without consulting him.

Emergency medical attention.

(2) No action founded on the absence of any consent which would otherwise be required shall lie against any person carrying out treatment to which subsection (1) relates.

(3) For the purposes of this section —

- (a) "teacher" includes a person for the time being in charge of a child at a boarding school or Government hostel;
- (b) "at school" includes, as well as any time when the child is on the school premises during school hours, any situation in which the child is in the charge of a teacher in connection with the activities of or sponsored by the school, wherever they may take place, and at any time when a child is a boarder or living at a Government hostel includes all times when he is in the charge of a teacher (as above defined).

64. (1) It is the duty of the proprietor and head teacher of any independent school having boarders and of the person in charge of any Government hostel subject to this section, to ensure that every boarder at such school or hostel receives such medical attention as an ordinarily prudent parent would ensure he received if the pupil was living in the parent's household at the time.

General medical attention.

(2) Nothing in subsection (1) above authorises the furnishing of medical treatment without the consent of the parents of the child in cases where it is reasonably practicable to seek that consent before furnishing that treatment unless it is reasonable to assume that that consent to the treatment would be given by the parents in all the circumstances of the case.

65. (1) The Chief Medical Officer may, if he considers that there is by reason of any infection or disease sufficient cause to do so direct that any school or part of a school or all schools be closed for such period as he may direct or until notified by him to the contrary.

Closure of schools.

(2) Any person who fails to comply with a direction under subsection (1) above commits an offence and is liable on conviction to a fine not exceeding five thousand pounds or to imprisonment for six months or to both such fine and such imprisonment.

### *Corporal punishment*

66. It is unlawful for a pupil under the age of eleven years to be corporally punished by a member of the staff of any school at which he is a pupil.

Corporal  
punishment.

(2) It is unlawful for a pupil who has attained the age of eleven years to be corporally punished unless he is male and —

- (a) no parent of that child has notified the head teacher of the school at which he is a pupil that that parent objects to his being corporally punished;
- (b) the corporal punishment is moderate both in means and amount and in any case is not such as to be likely to cause any injury to any bone or organ or break the skin of the pupil,
- (c) the corporal punishment is carried out by the head teacher or deputy head teacher of the school,
- (d) the name of the pupil, the nature and amount of the corporal punishment, the date of it being carried out and the name of the person who carried out and of any other member of staff present at the time are recorded in a register or book kept for the purpose by the head teacher.

(3) No teacher may be required against his will to carry out corporal punishment of a pupil.

(4) No parent shall be induced by means of any threat or promise not to object to corporal punishment of his child.

(5) The book or register maintained under subsection 2(d) above shall be produced to the Director, to any person authorised by the Director to demand its production and to any police officer.

(6) It is the duty of the Director of Education to ensure that every parent of any male pupil is sufficiently notified of his right to object to that child being corporally punished at school and, without prejudice to the generality of section 79 below, regulations made under section 79 may prescribe the manner of notification under this subsection to a parent and the time or times at which such notification shall be given.

### *Inspection of schools*

67. (1) The Director may on reasonable notice cause any school or any class of any school to be inspected either by him personally or an inspector appointed by him generally or for the purpose of the particular inspection.

Inspections of  
schools.

(2) Every person employed in or about any school, and in the case of an independent school the proprietor, shall permit and facilitate to the best of his ability the carrying out of an inspection under this section.

(3) It shall be the duty of the Director to inspect or cause inspections to be made of every school at such intervals as appear to him to be appropriate, but not less frequently than once in every calendar year.

(4) Any person who wilfully obstructs the carrying out of an inspection under this section commits an offence and is liable to a fine not exceeding £500 or to imprisonment for three months or both such fine and such imprisonment.

68. (1) A person carrying out an inspection made under 67 above may —

- (a) enter and remain in any classroom or other part of the school;
- (b) put or cause any teacher to put questions to pupils generally or to a particular pupil;
- (c) observe the manner in which any teacher instructs any pupil or any particular pupil in any subject or part of a subject;

Powers of  
inspector.

- (d) require any pupil to demonstrate his knowledge or skill in any subject or part of a subject in which he is being or has been taught at the school;
- (e) require the production to him for his inspection of any written or practical work done by any pupil;
- (f) inspect any register or record maintained at the school;
- (g) require that any pupil or pupils undertake and complete any such written or other test as he may specify and that the product of such test be delivered to him;
- (h) any other thing he is permitted to do by regulations made under this Ordinance.

(2) Notwithstanding subsection (1) above, a person carrying out an inspection may not require any pupil who is excused from attendance at religious instruction to do anything specifically related to religious instruction given at the school or which implicitly involves religious knowledge of any kind.

69. (1) If the inspector is not the Director he shall as soon as possible after concluding his inspection send a written report thereon to the Director, and the Director shall send a copy thereof to the head teacher of the school and, in the case of an independent school, to the proprietor of the school.

Report of inspection.

(2) In the case of an inspection undertaken by the Director personally, the Director shall make out a written report thereof as soon as possible after concluding the inspection and shall send a copy thereof to the head teacher and, in the case of an independent school, to the proprietor of the school.

(3) When sending a copy of the report of an inspection under subsection (1) or (2) above the Director shall notify the head teacher and, in the case of an independent school, the proprietor that he may, if he wishes, make written representations to the Director within one month of such notification in relation to anything said in the report and that the Director will forward a copy of those representations to the Governor, the Chief Executive and the Board under subsection (4) below.

(4) As soon as possibly after the expiry of the period of one month referred to in subsection (3) above, the Director shall send to —

- (a) the Governor;
- (b) the Chief Executive; and
- (c) the Board.

a copy of the report and of any written representations he has received in relation to it from the head teacher or, in the case of an independent school, the proprietor.

## PART VII FURTHER EDUCATION AND LIBRARY

70. (1) The Governor may provide or secure the provision by others of facilities for further education that is to say —

General powers as to further education.

- (a) full-time and part-time education for persons over compulsory education age; and
- (b) leisure-time occupation, in such organised cultural training and recreational activities as are suited to their requirements, for any persons over compulsory education age who are able and willing to profit by the facilities provided by that purpose.

(2) The powers of the Governor under subsection (1) above includes power to pay the whole or part of the cost of the provision of such facilities by others.

(3) It shall be the duty of the Director to advise the Governor as to the exercise of his powers under this section and to be responsible for the management of all facilities provided under the authority of this section.



(4) Insofar as is reasonably possible the use of Government schools and their facilities for further education purposes outside school hours or outside school terms shall be encouraged by the Governor and by the Director.

71. A person attending further education courses provided by the Governor may be required to pay fees towards the cost of providing such courses and payment to or towards the cost of any materials used by that person during any such course.

Fees for further education.

### *The Public Library Service*

72. (1) From the commencement of this section, it shall be the duty of the Director to superintend, and promote the improvement of the public library service heretofore provided by the Stanley Town Library, and so far as is reasonably possible having regard to moneys voted for the purpose by the Legislative Council and to other available resources, including the the availability of premises and manpower to endeavour to establish and operate a national library service of which all books, periodicals, pamphlets and written material whatever heretofore belonging to Stanley Town Library shall form part.

Public Library Service.

(2) The Director shall, insofar as is reasonably possible, endeavour to ensure that all libraries operated as part of the facilities of Government schools from the commencement of this section are operated and managed as part of the national library service but nothing in this subsection shall confer any right upon any member of the public to enter upon any school library.

73. (1) The Director may accept gifts of books and other written material for the benefit of the national library service.

Acceptance of gifts.

(2) The Director may accept gifts of money on condition that the same be applied towards the purchase of books or written materials for the benefit of the national library service and shall so apply the same as soon as is reasonably possible: pending such application the same shall be paid into the Consolidated Fund.

74. There may be operated as part of the national library service such services, such as the lending of recorded tapes of books and the provision of photocopying and microfiche facilities as are reasonably ancillary to it and the provision of which has been approved by the Governor.

Ancillary Services.

75. (1) Such charges as are reasonable and have been approved by the Governor may be made for any service provided as part of the national library service.

Charges.

(2) Without prejudice to the generality of subsection (1) above, the powers under that subsection include the power to make a charge for reserving a book, for lending any book (except that no charge may be made for lending any book to any person under the age of sixteen years) and for late return of any book.

## **PART VIII GENERAL**

### *Scholarships, Bursaries and Training Awards*

76. (1) For the purposes of this Part —

Definitions.

- (a) "a Bursary" is a payment of money towards the cost of a course of education at an educational institution whether within the Falkland Islands or not;
- (b) "a Scholarship" is a payment of money intended to defray the cost of a course of education at an educational institution whether within the Falkland Islands or not, but not necessarily including the cost of travel between the holder's home and the educational institution or the cost of the holder's clothing and maintenance;
- (c) "a Training Award" is a payment of the cost or to defray part of the cost of training the holder or imparting to the holder ability in or knowledge of some business, trade, profession or occupation or the use of any equipment or technique.

(2) For the purposes of this Part "educational institution" includes any school, college or university educating persons with a view to them sitting and passing academic examinations in any subject.

77. (1) Bursaries, Scholarships and Training Awards may be granted out of money appropriated for the purpose by the Legislative Council.

Award of Bursaries Scholarships and Training Awards.

(2) The Scholarship Committee of the Board shall advise the Director as to the grant of Bursaries, Scholarships and Training Awards and the Director shall, unless the Governor otherwise approves, act in accordance with such advice.

(3) Nothing in this Part applies in respect of the provision at the expense of the Government of any education or training intended to fit a public officer for promotion or to impart to him, for the benefit of the public service, any skill, knowledge or ability, where during that education or training the person concerned remains a public officer.

78 (1) A person not ordinarily resident in the Falkland Islands is not eligible for any Bursary, Scholarship or Training Award.

Eligibility.

(2) It shall be lawful to discriminate in the grant of Bursaries, Scholarships and Training Awards in favour of persons belonging to the Falkland Islands as against persons not so belonging.

(3) A person granted a Training Award may be required as a condition thereof to undertake in writing to return to the Falkland Islands at the conclusion of his training and there for a period not exceeding five years after his return to make himself available for suitable employment and in default thereof that he shall be indebted to the Crown in the amount specified in such undertaking.

#### *Miscellaneous*

79. The Governor may by Order make regulations prescribing anything necessary or convenient to be prescribed for the purposes of this Ordinance.

Regulations.

80. Where it is provided by any provision of this Ordinance that any thing shall be an offence against this Ordinance but no punishment is specified elsewhere in this Ordinance in relation to that offence, that offence shall be punishable on conviction by a fine not exceeding £500.

Offences.

81. (1) The Education Ordinance 1967 is repealed.

Repeal.

(2) Notwithstanding subsection (1) above, all regulations made under any provision of the Education Ordinance 1967 which were in force immediately before the commencement of this section shall remain in force, so far as they are consistent with this Ordinance, until they are revoked by regulations made under section 79 above.

**SCHEDULE***Procedure of the Board (section 11(4))*

1. The Board shall meet at least four times in every year and shall ordinarily meet at intervals of not greater than three months.
2. The Board may meet at any convenient place and premises in the Falkland Islands except that it shall not meet upon licensed premises.
3. At each meeting of the Board at which a quorum is present the Board shall proceed to consider and confirm the minutes of the previous meeting and to deal with matters arising thereon before other business.
4. Meetings of the Board shall ordinarily be convened by the Secretary at the request of the Director but any two members may require the Secretary to convene a meeting of the Board for the purpose of the transaction of the business specified in their requisition.
5. Ordinarily, meetings of the Board shall be convened by seven days previous notice in writing, but the members may waive or abridge the notice required.

# The Crimes Bill 1989

(No. of 1989)

## ARRANGEMENT OF PROVISIONS

### PART I

#### INTRODUCTORY

Clause

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2. Interpretation.

##### *English crimes adopted*

3. Common law offences.
4. Punishment of common law offences triable summarily.
5. Statutory offences replacing common law offences.
6. English statutes adopted.
7. Modification of Interpretation and General Clauses Ordinance 1977.

##### *Provisions relating to prosecution of offences*

8. Prosecution of an act or omission which is an offence under two or more statutory provisions.
9. Prosecution of an act or omission which is an offence by statute and at common law.

### PART II

#### OFFENCES

##### *Offences related to public safety*

10. Offences related to minefields.
11. Possession of unexploded ordnance.
12. Sale of explosives.
13. Casting fireworks etc.
14. Offence of having article with blade or point in public place.
15. Sale etc. of crossbows to young persons.
16. Possession of crossbow by person under the age of 17.
17. Prohibited use of crossbow.
18. Punishment of offences under sections 15 to 17.
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##### *Offences against the person*

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- 22. Possession of indecent photograph of child.
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*Conspiracy to defraud*

- 24. Conspiracy to defraud.

*Interception of communications*

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- 26. Causing disaffection among members of the police force.
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## GENERAL

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- 1. English Acts applied to the Falkland Islands
  - Part 1 - General Offences
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- 3. Amendments of Ordinances.

**A Bill for  
An Ordinance  
to make futher and better provision in relation to crimes.**

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 Crimes Ordinance 1989.

Short title and  
commencement.

- (2) This Ordinance may be brought into force —

- (a) on such date as is mentioned in a notice published in the Gazette not being earlier than the date of publication of that notice in the Gazette; or
- (b) in stages, and in relation to any particular provision, on such date as may be provided in relation thereto by a notice published in the Gazette, not being earlier in relation to that provision than the date of publication of that notice in the Gazette.

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

Interpretation.

“crossbow” means a bow fixed transversely on a stock the string of which bow is drawn mechanically, or if drawn by hand is held drawn by a notch or projection upon the stock, the string of the bow being released from the notch or projection by pressure on a trigger so as to propel a bolt, arrow, quarrel or other missile;

“English Act” means an Act of the Parliament at Westminster which is in force in and has effect in England, regardless of any other place in which it is in force or has effect;

“enactment” means any provision of any English Act or Ordinance of the Falkland Islands which has effect within the Falkland Islands;

“minefield” means an area of land indicated by signs or by a combination of signs and fences to be a place where mines lie;

“public officer” includes a police officer;

“toy crossbow” has the meaning assigned by section 15(4) below.

*English crimes adopted*

3. (1) All offences which, at the commencement of this section, were offences at common law in England shall, subject to subsection (2) below, be offences at common law in the Falkland Islands.

Common law  
offences.

(2) Notwithstanding subsection (1), any offence which subsequent to the commencement of this section, ceases by virtue of any statutory provision in England to be an offence at common law in England, shall as from the commencement of that provision, cease to be an offence at common law in the Falkland Islands.

(3) Notwithstanding any provision of any law for the time being in force in England, every common law offence is in the Falkland Islands triable summarily unless any provision of any Ordinance of the Falkland Islands requires that that offence be tried on indictment.

4. Every offence to which section 3(1) above relates and which is triable summarily by virtue of section 3(3) above shall be punishable on conviction by a fine not exceeding the maximum of level 6 on the standard scale or by imprisonment for a term not exceeding two years or both.

Punishment of common law offences triable summarily.

5. Where any offence which, by section 3(1) above is an offence in the Falkland Islands ceases by virtue of any provision of any statute in England ('the first provision') to be an offence at common law in England and any act or omission which prior to the law coming into force of the first provision would have constituted an offence at common law constitutes a statutory offence in England under the first provision or any other provision of any statute in England ('the second provision'), the first provision and the second provision shall, if and to the extent that they do not otherwise apply in the Falkland Islands, apply in the Falkland Islands by virtue of this subsection so as to constitute that act or omission a statutory offence in the Falkland Islands.

Statutory offences.

(2) An offence which is a statutory offence by reason of subsection (1) above is punishable in the same manner as it would be punishable if it had been committed in England and section 4 above shall not apply to it.

6. (1) The English Acts mentioned in the first column of Part 1 of Schedule 1 hereto apply in the Falkland Islands to the extent mentioned in the second column of that Schedule and subject to such modifications and exceptions as are set out in the third column of that Schedule and further subject to the general modifications specified in Part 2 of that Schedule.

English statutory offences adopted.

(2) Any person who, within the Falkland Islands does anything or omits to do anything which under any provision applying in the Falkland Islands by virtue of subsection (1) constitutes an offence against that provision commits an offence and subject to any provision of this or any other Ordinance to the contrary is punishable in respect thereof as provided in any provision relating thereto applying in the Falkland Islands by virtue of subsection (1) above.

7. On the commencement of this section, section 81A of the Interpretation and General Clauses Ordinance 1977 shall cease to have effect insofar as it adopts as part of the law of the Falkland Islands any 1900 English Law (as defined in the said section) or any law amending or modifying the same which in either case creates or defines an offence or prescribes the punishment or mode of trial of any offence.

Modification of Interpretation and General Clauses Ordinance 1977 (No. 11 of 1977).

#### *Provisions relating to prosecution of offences*

8. (1) Where the same act or omission constitutes an offence under two or more statutory provisions the person doing that act or making that omission may be prosecuted under either or any of those provisions.

Prosecution of an act or omission which is an offence under two or more statutory provisions.

(2) Nothing in subsection (1) permits a person to be convicted of more than one offence on the basis of the same act or omission contrary to the rules known as the duplicity rule and the double jeopardy rule.

9. Where the same act or omission constitutes an offence by statute and at common law the person doing that act or making that omission may be prosecuted in respect of the statutory offence or the common law offence or in respect of both the statutory offence and the common law offence, but that person may not be convicted of both such offences.

Prosecution of an act or omission which is an offence by statute and at common law.

## PART II

## OFFENCES

*Offences related to public safety*

10. (1) A person commits an offence who —

Offences related  
to minefields.

- (a) wilfully enters a minefield without lawful authority; or
- (b) without lawful authority wilfully causes a mine to explode or attempts so to do; or
- (c) without lawful authority wilfully cuts or removes any part of any fence dividing any minefield from any other land; or
- (d) without lawful authority removes, damages or obscures any sign or notice warning of the existence of or depicting the boundaries or a boundary of a minefield, or warning of the possibility that mines may be found in the vicinity; or
- (e) wilfully drives any animal into a minefield.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for twelve months or both such fine and such imprisonment.

(3) For the purposes of subsection (1) above, "without lawful authority" means without authority given by or on behalf of the Commander British Forces.

11. (1) A person commits an offence who knowingly possesses any unexploded ordnance without lawful authority.

Possession of  
unexploded  
ordnance.

(2) For the purposes of this section —

"unexploded ordnance" means any grenade, mine, mortar round, rocket or shell containing any explosive substance; and

"without lawful authority" has the same meaning as it has under section 10(3) above.

(3) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 3 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

(4) A person does not commit an offence under subsection (1) above if the ordnance in question is upon any land or in any building of which he is the occupier and he or a predecessor in occupation has reported the presence of the ordnance to the Royal Engineers Explosive Ordnance Detachment or to the police but the burden of proof of such report shall lie upon him.

12. (1) A person commits an offence who sells any explosive to any other person under the age of sixteen years.

Sale of  
explosives.

(2) A person commits an offence who sells or offers for sale any explosive in any road, street, alleyway, thoroughfare or public place.

(3) A person convicted of an offence under subsection (1) or subsection (2) above is liable to a fine not exceeding the maximum of level 3 on the standard scale.

13. (1) A person commits an offence who casts any firework in any road, street, alleyway, thoroughfare or public place or, without the authority of the occupier thereof into or upon any land or building.

Casting  
fireworks etc.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 2 on the standard scale.

14. (1) Subject to subsections (4) and (5) below, a person commits an offence who has an article to which this section applies with him in a public place.

Offence of hav-  
ing article with  
blade or point in  
public place.

(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife, and also applies to a crossbow and any missile intended to be discharged by a crossbow.

(3) This section applies to a folding pocket knife if the cutting edge of its blade exceeds three inches.



(4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4) above it shall be a defence for a person charged with an offence under this section to prove that he had the article with him —

- (a) for use at work;
- (b) for religious reasons; or
- (c) as part of any national costume.

(6) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 2 on the standard scale.

15. (1) A person commits an offence who sells or lets on hire a crossbow or a part of a crossbow to a person under the age of seventeen years.

Sale etc. of crossbows to young persons.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that on reasonable grounds he believed the person to whom he sold or let on hire the crossbow to be seventeen years of age or over.

(3) A person under the age of seventeen years who buys or hires a crossbow or part of a crossbow commits an offence.

(4) Nothing in subsections (1) and (3) above applies to a toy crossbow, that is to say a crossbow with a draw weight of less than 1.4 kilograms.

16. (1) Except as provided by subsection (2) below, a person under the age of seventeen years commits an offence if he has with him —

Possession of crossbow by person under the age of 17.

- (a) a crossbow (other than a toy crossbow) which is capable of discharging a missile; or
- (b) parts of a crossbow (other than a toy crossbow) which together (and without any other parts) can be assembled to form a crossbow capable of discharging a missile.

(2) No offence is committed under subsection (1) above if —

- (a) the person under the age of seventeen years is under the supervision of a person who is of the age of twenty one years at least; or
- (b) the crossbow is within the dwellinghouse within which the person under the age of seventeen years usually resides.

17. (1) A person commits an offence who discharges a crossbow (other than a toy crossbow) —

Prohibited use of crossbows.

- (a) in any road or public place; or
- (b) on any beach; or
- (c) on any other land without the permission of the occupier of that land; or
- (d) in any sanctuary or reserve (including Stanley Common); or
- (e) in any place so that a bolt or missile discharged thereby falls in or traverses a place in which, had the crossbow been discharged there, an offence would have been committed under any of paragraphs (a) to (d) above.

(2) A person commits an offence who uses at night a crossbow (other than a toy crossbow) in any place outside a building.

18. (1) A person convicted of an offence under any provision of sections 15 to 17 inclusive above is liable to a fine not exceeding the maximum of level 4 on the standard scale.

Punishment of offences under sections 15 to 17.

(2) A court which convicts a person of an offence to which subsection (1) above relates may, on the occasion of that conviction, order that the crossbow be delivered up to the court and be forfeit to Her Majesty.

(3) A person who fails to deliver up the crossbow in question within seven days of the making of the order under subsection (2) above or such longer time as the court may have allowed on making the order, commits an offence and is liable on conviction thereof to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a period not exceeding three months or both such fine and such imprisonment.

(4) An appeal lies against an order under subsection (2) as if it were a sentence imposed on conviction.

19. (1) If a police officer believes with reasonable cause that a person is committing or has committed an offence under any of sections 15 to 17 above he may -

Powers of search and seizure.

- (a) search that person for a crossbow or part of a crossbow;
- (b) search any vehicle, or anything in or on a vehicle, in or on which the police officer suspects with reasonable cause there is a crossbow or part of a crossbow.

(2) A police officer may detain a person or vehicle for the purpose of a search under subsection (1) above.

(3) A police officer may seize and retain for the purpose of proceedings for an offence under sections 15 to 17 above, anything which appears to him to be a crossbow or part of a crossbow.

(4) For the purpose of exercising the powers conferred by this section, a police officer may enter any land other than a dwellinghouse.

#### *Offences against the person*

20. (1) A public officer or person acting in any official capacity, whatever his nationality, commits the offence of torture if in the Falkland Islands he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

Torture.

(2) A person not falling within subsection (1) above commits the offence of torture, whatever his nationality, if -

- (a) in the Falkland Islands he intentionally inflicts severe pain or suffering on another at the instigation or with the consent or acquiescence of a public officer or of a person acting in an official capacity; and
- (b) the public officer or other person is performing or purporting to perform his official duties when he instigates the commission of the offence or consents to or acquiesces in it.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or an omission.

(4) It shall be a defence for a person charged with an offence under this section in respect of any conduct of his to prove that he had lawful authority, justification or excuse for that conduct.

(5) For the purposes of this section "lawful authority, justification or excuse" means lawful authority, justification or excuse under the law of the Falkland Islands.

(6) A person who commits the offence of torture shall be liable on conviction to imprisonment for life.

21. (1) Proceedings for an offence under section 20 above shall not be begun except by or with the consent of the Attorney General.

Supplementary to section 20.

(2) Torture and the offences related to torture specified in Schedule 2 to this Ordinance shall be triable only on indictment.

(3) If at any time an Order in Council made under section 138(1) of the Criminal Justice Act 1988 extending sections 134 and 135 of the said Act to the Falkland Islands (with such modifications and exceptions as may be specified in the Order) has effect, and for so long only as such an Order has effect, section 20 above shall not be of effect.

### *Indecency*

22. (1) A person commits an offence if he has in his possession an indecent photograph of another person who is under the age of sixteen years.

Possession of indecent photograph of child.

(2) Where a person is charged with an offence under subsection (1) above, it is a defence for him to prove —

- (a) that he had a legitimate reason for having the photograph in his possession; or
- (b) that he had not himself seen the photograph and did not know, nor had any cause to suspect, it to be indecent; or
- (c) that the photograph was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

(3) A person convicted of an offence under subsection (1) shall be liable to a fine not exceeding the maximum of level 3 on the standard scale.

(4) Sections 1(3), 2(3), 3 and 7 of the Protection of Children Act 1978 (in its application to the Falkland Islands by virtue of section 6(1) above and Schedule 1 below) shall have effect as if any reference in them to that Act included a reference to this section.

(5) In subsection (1) above the reference to the age of the person of whom the photograph is taken is a reference to his age at the time the photograph was taken.

23. (1) Anybody commits an offence who unlawfully, wilfully and publicly exposes his person.

Indecent exposure.

(2) It is a defence for anybody charged with an offence under subsection (1) to prove that he reasonably supposed that his person would not be seen by anybody who might be offended thereby.

(3) Anybody convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

### *Conspiracy to defraud*

24. (1) If —

- (a) a person agrees with another person that a course of conduct shall be pursued; and
- (b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intention,

Charges of and penalty for conspiracy to defraud.

the fact that it will do so shall not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement.

(2) A person convicted of conspiracy to defraud is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for ten years or both such fine and such imprisonment.

### *Interception of communications*

25. (1) Subject to the following provisions of this section, a person who intentionally intercepts a communication in the course of its transmission by post or by means of a public telecommunications system, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.

Prohibition on interception.

(2) It is a defence for a person charged with an offence under subsection (1) above to prove —

- (a) that he had at the time of the alleged offence reasonable grounds for believing that the person to whom, or the person by whom, the communication is sent has consented to the interception;

- (b) the communication was intercepted for purposes connected with the provision of postal or public telecommunication services or with the enforcement of any enactment relating to the use of those services; or
  - (c) the communication was being transmitted by wireless telegraphy and was intercepted with lawful authority for purposes connected with the issue of licences under the Telecommunications Ordinance 1988 or detection of interference with wireless telegraphy.
- (4) No proceedings for an offence under subsection (1) above shall be brought except by or with the consent of the Attorney General.

*Offences in relation to the police force*

26. (1) A person commits an offence who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst members of the Falkland Islands Police Force, or induces or attempts to induce, or does any act calculated to induce any member of the Falkland Islands Police Force to withhold his services or commit breaches of discipline.
- Causing disaffection amongst members of the police force.
- (2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for two years or both such fine and such imprisonment.
- (3) Subsection (1) above applies to reserve police officers as it does to members of the Falkland Islands Police Force.
27. (1) It is the duty of every person in the Falkland Islands to aid and assist any police officer who calls upon him so to do in the execution of that officer's duty.
- Duty to aid police officers.
- (2) The duty under subsection (1) above is proved to have arisen if it is proved —
- (a) that the police officer saw a breach of the peace committed; and
  - (b) that the police officer called upon the person concerned to aid and assist him; and
  - (c) that there was a reasonable necessity for calling upon the person concerned for his aid and assistance; and
  - (d) that the person concerned, without any physical impossibility or lawful excuse refused to aid and assist the police officer.
- (3) A person who is under a duty to aid and assist a police officer and who refuses without physical impossibility or lawful excuse to do so, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.
28. (1) Any person who assaults a police officer in the execution of his duty or a person assisting a police officer in the course of his duty, commits an offence and subject to subsection (2) is liable to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- Assaults on police officers.
- (2) If a person convicted of an offence under subsection (1) is shown to have had a firearm or an imitation firearm in his possession at the time of that offence, unless he shows that he had it in his possession for a lawful object and subject to subsection (3) below, he is liable to imprisonment for a term not exceeding seven years.
- (3) A person is not liable to the increased penalty provided by subsection (2) above unless, before he is put to his plea in respect of the alleged offence, he is notified in writing that the prosecution intend to show that he was in possession of a firearm or imitation firearm at the time of that offence.
29. (1) Any person who resists or wilfully obstructs a police officer in the course of his duty commits an offence.
- Obstructing police officer in the execution of his duty.
- (2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of standard level 3 or to imprisonment for a term not exceeding one month or both such fine and such imprisonment.

### *Escape*

**30. (1)** Where a person is —

- (a) lawfully in the custody of a police officer or other public officer; or
- (b) lawfully detained in any place; or
- (c) serving any sentence of imprisonment or other custodial sentence,

Negligently permitting person to escape.

any police officer or other public officer who voluntarily or negligently allows that person to escape commits an offence.

(2) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

**31. (1)** any person who being —

- (a) lawfully in the custody of a police officer or other public officer; or
- (b) lawfully detained in any place; or
- (c) serving any sentence of imprisonment or other custodial sentence,

To escape an offence.

commits an offence if he escapes and regardless of whether or not his escape was effected by artifice or in consequence of the negligence of the person having custody of him and regardless of whether it was made from a police station or a prison or not.

(2) A person convicted of an offence under subsection (1) is subject to section 34 below, liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for a term not exceeding twelve months.

**32.** For the purposes of sections 30 and 31 above, a prisoner shall be deemed to be lawfully in custody while he is confined in or is being taken to or from any prison and while he is working, or is for any reason, outside the prison in the custody or under the control of an officer of the prison and while he is being taken to any place to which he is required or authorised to be taken, or is kept in custody in pursuance of any such requirement or authorisation.

Meaning of legal custody.

**33. (1)** Any person who aids any person who —

- (a) is lawfully in the custody of a police officer or other public officer; or
- (b) is lawfully detained in any place; or
- (c) is serving a sentence of imprisonment,

Assisting persons to escape.

assists that person to escape therefrom or who, with intent to facilitate the escape of any prisoner, conveys any thing into a prison or to a prisoner or places anything anywhere with a view to it coming into the possession of a prisoner, commits an offence.

(2) A person who is convicted of an offence under subsection (1) is subject to section 34 below, liable to imprisonment for a term not exceeding five years.

**34.** Any person who uses —

- (a) violence; or
- (b) explosives; or
- (c) any offensive weapon; or
- (d) a threat of the use of any thing mentioned in (a) to (c) inclusive above,

Using violence etc. to escape.

to assist in effecting his own escape, contrary to section 31(1) above, or to assist the escape of another, contrary to section 33(1) above, is liable on conviction of the offence under section 31(1) above or section 33(1) above, as the case may be, to imprisonment for a term not exceeding ten years instead of the penalty to which he would otherwise be liable under section 31(2) above or section 33(2) above, as the case may be.

### *Highways*

35. (1) A person commits an offence who, without lawful authority or excuse, wilfully obstructs free passage along a highway. Obstruction of highways.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 3.

36. (1) A person commits an offence who without lawful authority or excuse — Damage to highway.

- (a) makes a ditch or excavation in a public road or other highway; or
- (b) deposits anything whatsoever on a highway so as to damage the highway; or
- (c) by lighting a fire, or using an explosive substance within fifty feet from the centre of the carriageway of any highway, damages that highway.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 3 on the standard scale.

### *False alarms etc.*

37. (1) A person commits an offence who knowingly gives or causes to be given a false alarm of fire to the police force or to the fire service. False alarm of fire.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

38. (1) A person commits an offence who causes any wasteful employment of any police officer by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry. Wasting time of police

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

39. (1) A person commits an offence who knowing that there is no sufficient reason to do so summons or causes an ambulance or Government medical officer to be summoned to attend at any place. Wrongfully summoning ambulance or doctor.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

### *Disorderly behaviour*

40. (1) A person commits an offence who at a lawful public meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called. Endeavour to break-up lawful public meetings.

(2) A person who incites any other person to commit an offence under subsection (1) commits an offence under this subsection.

## PART III

### GENERAL

41. (1) The Ordinances mentioned in the first column of Schedule 3 to this Ordinance are amended in the manner set out in the second column of that Schedule. Amendment of existing Ordinances.

(2) Notwithstanding subsection (1) above, a person who does any act or makes any omission which was at the time it was done or made an offence under any Ordinance amended by subsection (1) above may be prosecuted and punished in respect thereof as if subsection (1) above had not been enacted.

42. (1) A person may not by virtue of any provision of this Ordinance be prosecuted in respect of any act or omission which did not constitute an offence at the time it was done or made. No retrospective effect.

(2) A person is not by virtue of any provision of this Ordinance liable in respect of any offence committed before the commencement of this Ordinance to any more severe punishment than that to which he would have been liable if this Ordinance had not been enacted.

## SCHEDULE 1 (section 6)

## English Acts applied to the Falkland Islands

## Part 1

*General Offences*

<i>Column 1 Act</i>	<i>Column 2 Extent to which adopted</i>	<i>Column 3 Modifications</i>
(1) Treason Act 1351 (25 Edw.3 Stat.5c2)	(1) The whole	(1) None
(2) 11 Hen.7c.1 (Treason) (1495)	(2) The whole	(2) None
(3) Sale of Offices (Act 1551 (5 and 6 Edw.6 c.16)	(3) Sections 1,2 and 4.	(3) The Act shall be taken to relate to any office under the Crown in the Falkland Islands.
(4) Treason Act 1695 (7 and 8 Will.3 c.3)	(4) Sections 5 and 6.	(4) In section 5 for "within the Kingdome of England dominion of Wales or towne of Berwick upon Tweed" substitute "the Falkland Islands", and for "unless the same indictment been found by a grand jury" substitute "unless proceedings be commenced".
(5) Piracy Act 1698 (11 Will.3 c.7)	(5) Sections 7,8,11 and 12.	(5) -
(6) Piracy Act 1721 (8 Geo.1 c.24)	(6) Sections 1,2 and 6.	(6) -
(7) Disorderly Houses Act 1751 25 Geo.2 c.36)	(7) Section 8	(7) -
(8) Treason Act 1790 (30 Geo.3 c.48)	(8) Section 1	(8) -
(9) Servants' Charac- ters Act 1792 (32 Geo.3 c.56)	(9) Sections 1 to 6 (inclusive) and 8	(9) -
(10) Shipping Offences Act 1793 (33 Geo.3 c.67)	(10) Sections 1,3,4 and 8.	(10) -
(11) Treason Act 1795 (36 Geo.3 c.7)	(11) Sections 1 and 5.	(11) -
(12) Incitement to Mutiny Act 1797 (37 Geo.3 c.70)	(12) Sections 1 and 3.	(12) -
(13) Sale of Offices Act 1809 (49 Geo. 126)	(13) Preamble, sections 4,5,6,9,10 and 11.	(13) -
(14) Treason Act 1814 (54 Geo.3 c.146)	(14) Section 1.	(14) -



(15) Treason Act 1817 (57 Geo.3 c.6)	(15) Sections 1,4,5	(15) -
(16) Unlawful Drilling Act 1819 (60 Geo.3 & 1 Geo 4 c.1)	(16) Sections 1,2,4 and 7.	(16) -
(17) Piracy Act 1837 (7 Will.4 & 1 Vict. c.88)	(17) Section 2.	(17) -
(18) Treason Act 1842 (5 & 6 Vict. c.51)	(18) Section 2.	(18) -
(19) Treason Felony Act 1848 (11 & 12 Vict. c. 12)	(19) Sections 3 and 7.	(19) In section 3, the words "United Kingdom" where they firstly, thirdly and fourthly appear shall be replaced with the words "Falkland Islands" (but not where they secondly appear) and the words "to be transported beyond the seas for life" shall be replaced by the words "to imprisonment for life".
(20) Piracy Act 1850 (13 & 14 Vict. c.26)	(20) Sections 5 and 6.	(20) -
(21) Malicious Damage Act 1861 (24 and 25 Vict. c.97)	(21) Sections 35,36,47, 48 and 58.	(21) In sections 35 and 47 the words "to be kept in penal servitude for life ... or to be imprisoned" shall be replac- ed by the words "to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for five years or both".  In section 36, the words "to be imprisoned for any term not exceeding two years, with or without hard labour" shall be replaced by the words "a fine not exceeding the maximum of level 4 on the standard scale or to im- prisonment for two years or both such fine and such imprisonment".  In section 48 the words "to be kept in penal servitude for any term not exceeding seven years ... or to be imprisoned" shall be replaced by the words "a fine not exceeding the maximum of level 5 on the standard scale or to im- prisonment for five years or both".

(22) Forgery Act 1861  
(24 & 25 Vict. c.98)

(22) Sections 34,36  
and 37.

(22) The sections adopted shall be modified so that offences against them are all punishable by a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for seven years or both.

(23) Offences Against  
the Person Act 1861  
(24 & 25 Vict. c.100)

(23) Sections 4,5,9,10,  
16,17,18,20, to 40  
(inclusive) 42 to 47  
(inclusive) 57 to 60  
(inclusive) and 64.

(23) Any reference in any section adopted to any person on conviction of any offence being liable to be kept in penal servitude for life shall be substituted by a reference to him being liable to life imprisonment.

Any reference to any person on conviction of any offence being liable to penal servitude or to be kept in penal servitude for a specified period of years shall be substituted by a reference to him being liable on conviction of that offence to imprisonment for the same period.

Any reference to a person being liable on conviction of any offence to penal servitude (with no term therein specified) shall be substituted by a reference to him being liable on conviction of that offence to imprisonment for three years.

The words "or to be imprisoned" appearing in sections 28,29,30, and 32 shall be omitted.

The words "with or without hard labour" appearing in sections 34,35,36, 38,47 and 60 shall be omitted.

Section 35 shall be limited in its application in accordance with the provisions of section 17A(1) of the Road Traffic Ordinance.

Sections 39,40 and 42 shall be modified —

(a) by the substitution for the words "two justices of the peace" of the words "Magistrate's Court or Summary Court"; and

(b) by the omission of the words "and kept to hard labour in the common gaol or house of correction".

Section 43 shall be modified —

(a) by the substitution for the words "two justices of the peace" of the words "the Magistrate's Court or the Summary Court".

(b) by the substitution for the words "the said justices" of the words "the court";

(c) by the substitution for the words "their opinion" of the words "its opinion";

(d) by the omission of the words from (and including) "in the common gaol" (where it first appears) to (and including) the words "hard labour" and by the omission of all words after "level 4 on the standard scale".

Section 44 shall be modified by the substitution of the words "the court" for the words "the justices", and the word "it" for the word "they" and by the substitution of the words "shall cause a certificate to be delivered" for the words "they shall forthwith make out a certificate".

(24) In place of section 13, the following shall have effect —

"13. The expression "court of summary jurisdiction" means the Magistrate's Court and the Summary Court".

(24) Conspiracy and Protection of property Act 1875 (38 and 39 Vict. c.86)

(24) Sections 1, 5, 6, 7, 8, 10, 11, 15, 16 and 17.

(25) Explosive Substances  
Act 1883 (46 and 47 Vict.  
c.3)

(25) The whole Act.

(26) Public Bodies Corrupt  
Practices Act 1889 (52 and  
53 Vict. c.69)

(26) Sections 1,2,3(2),4,7  
and 10.

(26) In section 2, paragraph  
(a) shall be omitted and the  
following substituted —

“(a) be liable to a fine not ex-  
ceeding the maximum of  
level 10 on the standard scale  
or to imprisonment for 7  
years or both”, and in  
paragraph (d) the words “the  
Legislative Council” shall be  
substituted for “Parliament”.

In section 17, the words “but  
does not include any public  
body as above defined ex-  
isting elsewhere than in the  
United Kingdom” shall be  
omitted and replaced by the  
words “and extends to the  
Government, and any tender  
board, appointments board,  
disciplinary board or com-  
mittee or any other board or  
committee appointed by or  
on behalf of the Governor or  
the Government to exercise  
any function in the discharge  
of the business of the  
Government of the Falkland  
Islands”.

(27) Prevention of Corrup-  
tion Act 1906 (6 Edw.7  
c.34)

(27) Sections 1,2(1),(3) and  
(6)

(27) The words “indictment”  
and “with or without hard  
labour” in section 1(1) shall  
be omitted.

In section 1(1) after the word  
“fine”, where it first appears  
there shall be inserted the  
words “not exceeding the  
maximum of level 6 on the  
standard scale” and all words  
after the word “fine” where  
it next appears in the subsec-  
tion shall be omitted.

In section 2(1) there shall be  
substituted for all words ap-  
pearing after the word “in-  
stituted” the words “without  
the consent of the Attorney  
General”.

(28) Perjury Act 1911 (1 and 2 Geo.5 c.6)

(28) Sections 1, 1A, 2 to 7 (inclusive) and 12 to 16 (inclusive).

In section 2(6) the words "Supreme Court" shall be substituted for the words "Crown Court".

(28) The Act insofar as it is adopted shall have effect as if it contained the following provision —

"20. If any person in a written statement tendered in evidence in criminal proceedings by virtue of any provision of any enactment enabling it to be so tendered wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 or to imprisonment for a term not exceeding two years or both such fine and such imprisonment".

The above inserted provision may be cited as section 20 of the Perjury Act 1911 in its application to the Falkland Islands.

In sections 1A, 2, 3, 4, 5, 6 and 7 the words "on indictment" shall be omitted.

In sections 2(2), 3(1) and 4(1) the words "imprisonment" shall be substituted for the words "penal servitude" and for all words after "seven years" there shall be substituted the words "or to a fine not exceeding the maximum of level 8 or both such imprisonment and such fine".

In section 5 the words "or Ordinance" shall be inserted after "Act of Parliament".

(29) "Imprisonment" shall be substituted for "penal servitude" wherever those words appear.

(29) Prevention of Corruption Act 1916 (6 & 7 Geo.5 c.64)

(29) The whole Act, except sections 1 and 3.

(30) Firearms Act 1920	(30) Sections 16 and 19(1).	(30) -
(31) Judicial Proceedings (Regulation of Reports) Act 1926 (16 & 17 Geo.5 c.61)	(31) The whole Act.	(31) -
(32) Infant Life (Preservation) Act and 1929 (19 & 20)	(32) Sections 1, 2(2) and 2(3) and 3.	(32) The word "imprisonment" shall be substituted for the Geo.5 c.34) words "penal servitude" in section 1(2).
(33) Incitement to Dissaffection Act 1934 (24 & 25 Geo.5 c.56)	(33) The whole Act.	(33) -
(34) Public Order Act 1936 (1 Edw.8 and 1 Geo.6 c.6)	(34) Sections 1 and 2 (inclusive), 7, 9 and 10.	(34) In section 1(2) the words "except such as are authorised by Section 6 of the Prosecution of Offences Act 1979" shall be omitted.  In section 7(2) the words "or section 5 or 5A" shall be omitted.  In section 7(3) the words "four or five" shall be omitted.  In section 9(1) the definition of "public procession" shall be omitted.  In section 9(3) the words "by the council of any borough or district or" shall be omitted.
(35) Infanticide Act 1938 (1 and 2 Geo 6 c.36)	(35) The whole Act.	(35) -
(36) Fraudulent Mediums Act 1951 (14 & 15 Geo.6 c.33)	(36) Section 1.	(36) -
(37) Children and Young Persons (Harmful Publications) Act 1955 (3 & 4 Eliz.2 c.28)	(37) The whole Act.	(37) -
(38) Sexual Offences Act 1956 (4 & 5 Eliz.2 c.69)	(38) Sections 1 to 7 (inclusive), 9 to 17 (inclusive), 19 to 56 (inclusive, except section 37(2) and 37(4) insofar as it relates to section 37(2) and except section 37(7)(a) and (b)) First Schedule (except paragraph 5) and Second Schedule (except column 2).	(38) Nothing in section 37 shall exclude the operation of any enactment of the Falkland Islands (whether made before or after the passing of this Ordinance) which is inconsistent with section 37 and section 37 shall take effect subject to such enactment.

(39) Restriction of Offensive Weapons Act 1959 (7 & 8 Eliz.2 c.57)	(39) The whole Act.	(39) -
(40) Street Offences Act 1959 (7 & 8 Eliz. 2 c.57)	(40) Sections 1(1) to (4) (inclusive), 2, 4 and 5(1).	(40) In section 1(2) the words "as defined in section 75 of the Criminal Justice Act 1982" shall be omitted.  In section 2(1) the words "the Summary Court" shall be substituted for the words "a Magistrates' Court".  In section 2(2) all words after "chief officer of police" shall be omitted.
(41) Obscene Publications Act 1959 (7 & 8 Eliz.2 c.66)	Sections 1, 2(1), 2(3), 2(4), 2(4A), 2(5) and 2(6), 3,4 and 5(1).	
(42) Indecency with Children Act 1960 (8 & 9 Eliz.2 c.33)	(42) The whole Act.	(42) -
(43) Suicide Act 1961 (9 & 10 Eliz.2 c.60)	Sections 1 and 2, 3(1) and First Schedule.	(43) -
(44) Obscene Publications Act 1964 (1967 c.74)	(44) The whole Act.	(44) -
(45) Sexual Offences Act 1967 (1967 c. 60)	(45) The whole Act.	(45) -
(46) Theft Act 1968 (1968 c.60)	(46) The whole Act except Sections 12(3), 14, 26(2) and 26(4), 29, 30(3) and 30(5).	(46) Section 33 shall have effect as if the following appeared as subsection (5) of that subsection —  “(5) The foregoing provisions of this section shall have effect as if all the enactments referred to therein applied to and formed part of the law of the Falkland Islands and so as to constitute as an offence against the law of the Falkland Islands any act or omission done or made within the Falkland Islands which, if done or made in England, would be an offence under any such enactment in England and to that extent each of the said enactments is adopted as law of the Falkland Islands”.

(47) Unsolicited Goods  
and Services Act 1971  
(1971 c.30)  
(48) Criminal Damage Act  
1971 (1971 c.48)

(49) Criminal Justice Act  
1972 (1972 c.71)

(47) Sections 4,5, 6(1) and  
7(1).

(48) The whole Act except  
Section 7(1), 8, 11(2) to  
11(7) (inclusive), 12(1) and  
12(3) to (6) (inclusive).

(49) Section 6.

(47) -

(48) The words "on indict-  
ment" shall be omitted  
wherever they occur.

(49) The following subsec-  
tion shall be substituted for  
subsection 6(5) —

"(5) Any order under the  
said section 28 made by the  
Summary Court or the  
Magistrate's Court shall be  
suspended —

(a) in any case until the ex-  
piration of the period  
prescribed by law for giving  
notice of appeal;

(b) where notice of appeal is  
given within the period so  
prescribed, until the deter-  
mination of the appeal; but  
this subsection shall not app-  
ly where the order is made  
under section 28(1)(a) or (b)  
of the Theft Act 1968 in its  
application to the Falkland  
Islands and the court so  
directs, being of the opinion  
that the title to the goods to  
be restored or, as the case  
may be, delivered or transfer-  
red under the order is not in  
dispute."

(50) -

(50) Sexual Offences  
(Amendment) Act 1976  
(1976 c.82)

(50) Section 1.

(51) Criminal Law Act  
1977 (1977 c.45)

(51) Part I, (except sec-  
tions 1(3), 5(10) and 5(11)).  
Part II, (except section 11  
and 13(2)), Part IV sec-  
tions 51 and 54 and in  
Part VI, section 65(1) and  
(3).

(51) In section 5(2), the  
words from and including  
"and" to the end are  
omitted.

The following section shall  
have effect in place of sec-  
tion 7 —

"7(1) Any person who is on  
any premises as a trespasser  
after having entered as such  
commits an offence if he  
fails to leave those premises  
on being required to do  
so —



(a) by a police officer in uniform, or

(b) by or on behalf of and with the authority of any person who is in law entitled to immediate occupation and use of those premises.

(2) A person who is lawfully upon premises cannot commit an offence under this section.

(3) A person who commits an offence under subsection (1) above is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for six months or both".

The following provision shall have effect in place of section 10(1)

"(1) Subject to the following provisions of this section, a person commits an offence who resists or intentionally obstructs any person who with the authority of any court in the Falkland Islands is engaged in executing any process issued by that court for the purpose of enforcing any judgment or order for the recovery of any premises or for the delivery of possession of any premises".

(52) The following provision shall have effect in place of section 4 —

"4(1) A person convicted of an offence under section 1 or section 2 of this Act shall be liable to a fine not exceeding the maximum of level 8 on the standard scale or to imprisonment for five years or both such fine and such imprisonment.

(52) Theft Act 1978 (1978 c.31)

(52) The whole Act except sections 4, 5(4) and 5(5), 6 and 7(2) and 7(3).

- (53) Protection of Children Act 1978 (1978 c.37)
- (53) The whole Act except sections 9(2) and 9(3).
- (53) -
- (54) Indecent Displays (Control) Act 1981 (1981 c.42)
- (54) The whole Act except sections 2(1) and 4(2), 5(3), 5(4) and 5(5).
- (54) Paragraphs (d) and (e) of section 1(4) shall be omitted and section 4(1)(a) shall be modified by the insertion therein after the words "Independent Broadcasting Authority" of the words "or the Falkland Islands Broadcasting Service or the Services Sound and Vision Corporation".
- (55) Forgery and Counterfeiting Act 1981.(1981 c.45)
- (55) The whole Act except sections 5(4) and (5), 11, 12, 21,23,24(6), 26 and 30 to 33 (inclusive).
- (55) Any reference in the Act to —
- (a) "Post Office" shall be construed as a reference to the Falkland Islands Post Office;
- (b) "Inland Revenue stamp" shall be construed as a reference to any stamp by use of which payment of any tax or duty may be made or payment thereof or exemption therefrom may be denoted;
- (c) "the Treasury", except in section 27, shall be construed as a reference to the Financial Secretary.
- Section 6(1) shall be modified —
- (a) by the omission of the word "summary";
- (b) by the substitution of the following paragraph for paragraph (a) thereof —
- "(a) to a fine not exceeding the maximum of level 6 on the standard scale";

(c) by the omission of the words "six months" in paragraph (b) thereof and their replacement by the words "two years except in a case to which subsection (2) applies;"

Section 18 shall be modified:

(a) by the insertion in subsection (1) thereof, immediately after the words "British currency note" wherever they appear of the words "or Falkland Islands' currency note"; and

(b) by the insertion in subsection (2) thereof, immediately after the definition of "British currency note" of the following definition —

"Falkland Islands' currency note" means any note which has been issued under the authority of the Commissioner of Currency; and"

Section 19 shall be modified —

(a) by the insertion in subsection (1) thereof immediately after the words "British coin" and "British coins" of the words "or Falkland Islands' coin"

(b) in subsection (2) by the insertion, after the definition of "imitation British coins" of the following definition —

"imitation Falkland Islands coin" means any thing which resembles a Falkland Islands' coin in shape, size and the substance of which it is made"; and

(c) by the addition of a new subsection (3) —

"(3) For the purposes of this section, a British coin is not capable of being an imitation Falkland Islands' coin and a Falkland Islands' coin is not capable of being an imitation British coin".

Section 22 shall be modified:

(a) by the omission of subsection (1) thereof and by the substitution of the following subsection for that subsection —

“(1) A person convicted of an offence to which this subsection applies is liable —

(a) to a fine not exceeding the maximum of level 10 on the standard scale;

(b) to imprisonment for a term not exceeding 10 years;

(c) both such fine and such imprisonment”.

(b) by the omission of subsection (3) thereof and by the substitution of the following subsection for that subsection —

“(3) A person convicted of an offence to which this subsection applies is liable —

(a) to a fine not exceeding the maximum of level 5 on the standard scale;

(b) to imprisonment for a term not exceeding two years; or

(c) to both such fine and such imprisonment”; and

(c) by the omission of subsection (5) thereof and the substitution of the following subsection for that subsection —

“(5) A person convicted of an offence under section 18 or 19 above shall be liable to a fine not exceeding the maximum of level 4 on the standard scale”.

Section 24 shall be modified by the insertion before the words “justice of the peace” and “justice” of the words “the Senior Magistrate or”

(56) Criminal Attempts  
Acts 1981 (1981 c.47)

(56) The whole Act except  
sections 5(1), 7(1), 8, 9(4)  
and 11.

Section 27 is amended in paragraph (i) of subsection (1) by the insertion after the words "Northern Ireland" of the words "the Falkland Islands";

(56) Section 1 shall be modified by the omission of subsection (4) thereof and by the substitution of the following subsection in its place —

"(4) This section applies to any offence which, if it were completed, would on conviction of the offender render him liable to imprisonment for two years or more, other than —

(a) conspiracy (at common law or under section 1 of the Criminal Law Act 1977 in its application to the Falkland Islands or under any other enactment);

(b) aiding, abetting, counselling, procuring or suborning the commission of an offence."

Section 4 shall be replaced by the following new section —

"4(1) A person guilty by virtue of section 1 above of attempting to commit an offence shall —

(a) if the offence is murder or any other offence the sentence for which is fixed by law, be liable on conviction to imprisonment for life;

(b) in any other case, be liable on conviction to any penalty to which he would have been liable on conviction of the substantive offence.

(2) Where a person is charged with an offence under section 1 above of an attempt under a special statutory provision of attempting to commit an offence and (in the alternative)

with having committed the offence he is also charged with having attempted to commit, the two charges shall, unless the court for some special reason decides to the contrary, be tried together.

(3) Where, in proceedings against a person for an offence under section 1 above, there is sufficient evidence in law to support a finding that he did an act falling within subsection (1) of that section, the question whether or not he did so is a question of fact.

(4) Where, in proceedings against a person for an offence under a special statutory provision, there is evidence sufficient in law to support a finding that he did an act falling within subsection (3) of section 3 above, the question as to whether or not his act fell within that subsection is a question of fact.

(5) Subsection (1) above shall have effect subject to such of the provisions of the Sexual Offences Act 1956 in its application to the Falkland Islands as relate to attempts to commit offences under that Act".

Section 9(5) shall be replaced by the following new subsection —

"(5) In this section —

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"trailer" means a vehicle drawn by a motor vehicle except a side car attached to a motor cycle".

(57) Section 1 shall have effect only for the purpose of assisting the construction of subsequent provisions.

(57) Nuclear Materials  
(Offences) Act 1983 (1983  
c.18)

(57) The whole Act, except  
section 7.

(58) Child Abduction Act  
1984 (1984 c.37)

(58) The whole Act.

(58) Section 1(8) shall be modified by the insertion, immediately before the words "a local authority" of the words "the Government".

Section 4(1) shall be replaced by the following subsection —

"(1) A person convicted of an offence under this Part of this Act shall be liable to imprisonment for seven years."

(59) Public Order Act 1986  
(1986 c.64)

(59) The whole Act except Part II and Part IV and except section 20.

(59) Section 1(6) is modified by the omission of the words "or indictment"

Section 2 is modified by the omission of subsection (5) and by its replacement by the following subsection —

"(5) A person guilty of violent disorder is liable on conviction to a fine not exceeding the maximum of level 8 on the standard scale or to imprisonment for five years or both such fine and such imprisonment".

Section 3 is modified by the omission of subsection (7) and by its replacement by the following subsection —

"(7) A person guilty of affray is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for three years or both such fine and such imprisonment".

Section 4 is modified by the omission of the words "or summary conviction" in subsection (4).

Section 5 is modified by the omission of the words "on summary conviction" in subsection (6).

Section 7 is modified —

(a) by the substitution of the words "Attorney General" for the words "Director of Public Prosecutions" in subsection (1);

(b) by the omission of the words enclosed by parentheses in subsection (3); and

(c) by the omission of subsection (4).

Section 24 is modified by —

(a) the omission of the words “If in England and Wales” in subsection (1) and by the substitution in their place of the words “If the Senior Magistrate or”;

(b) the omission of paragraph (b) of subsection 4.

Section 26(1) is modified by the insertion after the word “Parliament” of the words “or in the Legislative Council”.

Section 27 is modified by the substitution of the following subsection for the subsection (3) therein appearing —

“(3) A person convicted of an offence under this Part is liable to imprisonment for a term not exceeding two years or to a fine not exceeding the maximum of level 7 on the standard scale or both such imprisonment and such fine”.

Section 29 is modified —

(a) in the definition of “broadcast” by the omission of the words in parentheses and by their substitution by the following words —

“within the meaning of the Telecommunications Ordinance 1988”; and

(b) the definition of “cable programme service” shall be omitted.

Section 39 is modified by —

(a) the omission of the word “summary” in subsection (2);

(b) the substitution of the following subsection for the subsection (5) appearing therein —



"(5) In this section —

"land" does not include buildings other than —

(a) buildings not being a dwelling used solely for agricultural operations and being occupied together with agricultural land or being or forming part of a market garden;

(b) buildings of which the occupier is the Crown (including Her Majesty in right of Her Government in the United Kingdom);

"occupier" means the person in law entitled to possession of the land;

"property" means property within the meaning of Section 10(1) of the Criminal Damage Act 1971 in its application to the Falkland Islands;

"senior police officer" means the most senior in rank of the police officers present at the scene (and where two or more police officers so present hold the same rank the most senior of those officers is the officer who has held that rank longest or, if no distinction in rank can thus be made, the oldest of those officers is the most senior);

"trespasser", in relation to land, means a person who is a trespasser as against the occupier of the land;

"vehicle" includes a caravan (that is to say, any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported as a motor vehicle or trailer) and any motor vehicle so designed or adapted but not including any tent);

(60) Night Poaching Act  
1828 (9 Geo.4 c.69)

(60) Sections 1,2,9, 12 and  
13.

and a person may be regarded for the purposes of this section as having the purpose of residing in a place notwithstanding that he has a home elsewhere".

(60) in section 13 the words "duck, geese" shall be inserted after the word "grouse".

(61) Game Act 1831 (1 & 2  
Will. 4 c.32)

(61) Sections 7 to 12 (inclusive), 23, 24, 30, 31, 31A (as inserted by section 119 and Schedule 6 to the Police and Criminal Evidence Act 1984), 32, 34, 36, 41 and 46.

(62) Night Poaching Act  
1844 (7 & 8 Vict. c.29)

(62) Section 1

(63) Dogs Act 1871 (34 &  
35 Vict. c.56)

(63) Section 2

(64) Cruelty to Animals  
Act 1876 (39 & 40 Vict.  
c.77)

(64) The whole Act except  
sections 15-20

(64) Any reference to "the Secretary of State" shall be replaced by a reference to the Governor.

Any reference to a judge of the High Court shall be replaced by a reference to a judge of the Supreme Court.

Section 14 shall be replaced by the following section —

"14. Offences against this Act may be prosecuted before and penalties under this Act recovered before the Magistrate's Court and before the Summary Court".

(65) Dogs Act 1906 (6  
Edw. 7 c.32)

(65) Sections 1(4), 3 and 4.

(65) Section 3 is modified —

(a) by the omission of the words "of a police area" in subsection (6),

(b) by the substitution of the words "Consolidated Fund" for the words "police fund" wherever they appear in subsection (9).

(66) Protection of Animals  
Act 1911 (1 & 2 Geo. 5  
c.27)

(66) Sections 1,2,3 5(2), (3)  
and (4) and 7 to 15  
(inclusive)

(66) Sections 2, 11 and 12 are modified by the omission of the words "duly registered" wherever they appear therein.

(67) Cinematograph Films (Animals) Act 1937 (1 Edw. 8 & 1 Geo. 6 c.59)	(67) The whole Act	Section 11(3) is modified by the substitution of the words "out of the Consolidated Fund" for all words appearing after the word "defrayed".
(68) Dogs Amendment Act 1938 (1 & 2 Geo.6 c.21)	(68) The whole Act	(68) The words "the Supreme Court" shall be substituted for the words "Crown Court" wherever they appear in the Act.
(69) Prevention of Damage by Rabbits Act 1939 (2 & 3 Geo. 6 c.43)	(69) Part II	
(70) Docking and Nicking of Horses Act 1949 (12, 13 & 14 Geo. 6 c.70)	(70) The whole Act	(70) "customs officer" is substituted for the words "officer of Customs and Excise" wherever appearing in the Act and "Government Veterinary Officer" is substituted for "the Minister of Agriculture, Fisheries and Food" and "the said Minister" wherever appearing in the Act.
(71) Pet Animals Act 1951 (14 & 15 Geo. 6 c.35)	(71) Sections 2 and 3, 5(1) and 8(1).	
(72) Cockfighting Act 1952 (15 & 16 Geo. 6 & 1 Eliz. 2 c.59)	(72) The whole Act	(71) In the proviso to subsection 1(2) there shall be omitted the words "of fourteen days" and the words "by virtue of section thirty-one of the Summary Jurisdiction Act 1879".
(73) Dogs (Protection of Livestock) Act 1953 (1 & 2 Eliz. 2 c.28)	(73) The whole Act except section 3(2).	In section 2(1) (a) the words "for the police area in which the land is situated" shall be omitted.  "Governor" shall be substituted for the word "Minister" wherever appearing in the Act.

(74) Protection of Animals  
(Anaesthetics) Act 1954 (2  
& 3 Eliz. 2 c.46)

(74) The whole Act except  
section 5(6)

(75) Game Laws (Amend-  
ment) Act 1960 (8 & 9  
Eliz. 2 c.36)

(75) Sections 1, 4 and 6(1),  
(2) and (3)

(76) Abandonment of  
Animals Act 1960 (8 & 9  
Eliz. 2 c.43)

(76) The whole Act

(77) Animals (Cruel  
Poisons) Act 1962 (10 & 11  
Eliz 2 c.26)

(77) The whole Act

(78) Protection of Animals  
(Anaesthetics) Act 1964  
(1964 c.39)

(78) Section 1 (except  
subsections (2) and (3))  
and section 2(1)

(79) Agriculture  
(Miscellaneous Provisions)  
Act 1968

(79) Sections 1, 7(1) and  
(2)

(80) Game Act 1970 (1970  
c.13)

(80) Sections 1(3) and 2(1)

#### *Auctions*

(81) Auctions (Bidding  
Agreements) Act 1927 (17  
& 18 Geo.5 c.12)

(81) Sections 1 and 4(1)

(81) In section 1(1), the words  
after the word "Act" and ap-  
pearing before the word  
"Provided" shall be omitted  
and replaced by the follow-  
ing words —

"and shall be liable on con-  
viction to a fine not ex-  
ceeding the maximum of  
level 7 on the standard scale  
or to imprisonment for two  
years or to both such fine  
and such imprisonment"

(82) Mock Auctions Act  
1961

(82) The whole Act except  
sections 2 and 4(2)

(82) The following subsec-  
tion shall be substituted for  
section 1(2) —

"(2) A person convicted of  
an offence under this Act  
shall be liable to a fine not  
exceeding the maximum of  
level 5 on the standard scale  
or to imprisonment for three  
months or both such fine  
and such imprisonment"

#### *Betting and Gaming*

(83) Gaming Act 1845 (8 &  
9 Vict. c.109)

(83) Section 17

*Charities*

(84) War Charities Act  
1940 (3 & 4 Geo. 6 c.31)

(84) Sections 1(1) and 9(2)

*Children*

(85) Children and Young  
Persons Act 1933 (23 Geo.  
5 c.12)

(85) Sections 1, 3 to 5 (in-  
clusive), 7, 10 to 12 (in-  
clusive), 14, 17, 20, 21, 23  
to 30 (inclusive), 39 and 40  
and First Schedule.

(85) The Act, so far as  
adopted, is modified  
generally —

(a) by deleting all references  
to byelaws and substituting  
for them references to  
regulations;

(b) by deleting all references  
to duly qualified medical  
practitioners and by  
substituting for them  
references to Government  
medical officers.

In section 1(1)(a) the words  
“on indictment” are omitted.

Section 1(1)(b) is omitted.

In section 1(5)(a) —

(i) the words “on indict-  
ment” are omitted; and

(ii) the words “penal ser-  
vitude” are omitted and  
replaced by the word  
“imprisonment”.

Section 1(5)(b) is omitted.

Section 3(2) is omitted.

The proviso to section 7(1) is  
omitted.

In section 10(1A) the words  
“local education authority”  
and “authority” are omitted  
and replaced by the words  
“Attorney General”.

In section 10(4) the words  
“Board of Education” are  
omitted and replaced by the  
words “Governor”.

The proviso to section 11 is  
omitted.

Section 12(5) is replaced by  
the following subsection —

“(5) Proceedings for an of-  
fence under this section may  
only be instituted by or on  
the direction of the Attorney  
General”.

In section 20(2) the words "A local authority" and "authority" are omitted and replaced by the words "the Governor".

Section 20(3) is omitted.

In section 23 the words "a chief officer of police" are omitted and replaced by the words "the Attorney General".

In section 24(2) the words "A local authority" are omitted and replaced by the words "the Governor".

In section 24(4) the word "authority" is omitted and replaced, in both places where it occurs, by the word "Governor".

In section 25(2) and (3) the words "a police magistrate" and "the police magistrate" are omitted wherever they occur and replaced by the words "the Senior Magistrate", and section 25(9) is omitted.

In section 28(1) the words "by the local authority or by a constable" are omitted and are replaced by the words "by or on behalf of the Government or by a police officer".

In section 28(2) the words "Any authorised officer of the said authority or any constable" are omitted and are replaced by the words "A police officer".

In section 28(3) —

(a) the words "any officer or constable" are omitted and replaced by the words "a police officer"; and (b) the word "summary" is omitted.

In section 39(2) the word "summary" is omitted.

(86) In section 35(2) -

(a) the words "or section 30 of the principal Scottish Act" shall be omitted.

(86) The Children and Young Persons Act 1963 (9 & 10 Eliz. 2 c.39)

(86) Section 35(2)

(87) Tattooing of Minors  
Act 1969 (1969 c.24)

(88) Criminal Libel Act  
1819 (60 Geo.3 & 1 Geo. 4  
c.8)

(89) Libel Act 1843 (6 & 7  
Vict. c.96)

(90) Newspapers, Printers  
and Reading Rooms  
Repeal Act 1869 (32 and  
33 Vict. c.24)

(91) Newspaper Libel and  
Registration Act (44 and  
45 Vict. c.60)

(92) Law of Libel Amend-  
ment Act 1888

(93) Post Office Act 1953  
(1 & 2 Eliz.2 c.36)

(87) The whole Act

*Libel and Slander*

(88) Sections 1 to 3  
(inclusive)

(89) Sections 4 to 7 (in-  
clusive) and 9

(90) Sections 1 and 2 and  
Second Schedule

(91) Sections 4 and 9 to 12  
(inclusive), 18 and 20

(92) Sections 8 and 11

*Post Office*

(93) Sections 11, 22, 23(1),  
25, 26, 27(4), 28, 32, 53,  
55 to 69 (inclusive) and 89

(b) the words "either of  
those sections" shall be  
omitted and replaced by  
the words "that section".

(89) Section 4 is modified  
by the omission of the  
words "common gaol or  
house of correction".

Sections 6 and 7 are  
modified by the omission  
of all references to an  
indictment.

Where, in any provision  
adopted, there is a  
reference to a person being  
liable on conviction to a  
fine, and the maximum  
amount of that fine is not  
specified, the maximum  
fine is the maximum of  
level 4 on the standard  
scale.

Any reference in any provi-  
sion adopted to a misde-  
meanour is replaced by a  
reference to an offence.

Section 11(2) is replaced by  
the following  
subsection —

"(2) A person contravening  
subsection (1) above com-  
mits an offence and is  
liable on conviction to a  
fine not exceeding the  
maximum of level 5 or to  
imprisonment for a term  
not exceeding twelve  
months or both such fine  
and such imprisonment."

*Theatres*

(94) Theatres Act 1968  
(1968 c.54)

(94) Sections 2 to 10 (inclusive) 15(1) (2) and (3),  
16, 18 and 20(1)

(94) In section 15(1) —  
(a) The words “Senior Magistrate or” shall be inserted before the words “justice of the peace” and “justice”; and  
(b) the words “authorised officer of the licensing authority” shall be omitted.

**Part 2**

*General adaptations and modifications  
of enactments mentioned in Part 1 above*

Except as specifically otherwise provided, every reference in any enactment mentioned in Part 1 above to —

“the Attorney General” shall be construed as a reference to the Attorney General of the Falkland Islands

“England”, “England and Wales”, “Great Britain” or “the United Kingdom”, save in relation to citizenship of the United Kingdom, and except where the context otherwise requires shall be construed as a reference to the Falkland Islands

“felony” or “misdemeanour” shall be construed as a reference to an offence

“the High Court” shall be construed as a reference to the Supreme Court

“the Director of Public Prosecutions” shall be construed as a reference to the Attorney General

“the Secretary of State” shall, unless other provision is made in Part 1 above of this Schedule, be construed as a reference to the Governor

a “constable” shall be construed as a reference to a “police officer”

**SCHEDULE 2 (section 21(2))**

*Offences related to Torture triable only on indictment*

Attempted torture;

Counselling, procuring, commanding, aiding or abetting torture.

(Section 41(1))

**SCHEDULE 3**

*Amendments of Ordinances*

1. Application of Enactments Ordinance 1954.

1A. In the Schedule there are deleted all references to —  
(a) Licensing Act 1902;  
(b) Prevention of Corruption act 1906;  
(c) Perjury Act 1911;  
(d) Larceny Act 1916;  
(e) Prevention of Corruption Act 1916;



- (f) Gaming Act 1922;
- (g) Protection of Animals (Cruelty to Dogs) Act 1933;
- (h) Vagrancy Act 1935;
- (i) Coinage Offences Act 1936;
- (j) Treason Act 1945;
- (k) Coinage Act 1946;
- (l) Suicide Act 1961;
- (m) Sexual Offences Act 1956;
- (n) Obscene Publications Act 1959.

B. All references in item 38 of the Schedule to provisions of the Children and Young Persons Act 1933 adopted by this Ordinance shall be omitted.

2. Sections 42 to 45 inclusive.

In the Schedule paragraphs (3),(4),(7),(8) and (9) are deleted.

2. Prison Ordinance 1966

3. Interpretation and General Clauses Ordinance 1977



**THE**  
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**NOTICE**

The following is published in this Gazette —

**The Legislative Council (Privileges) Bill 1989.**

# The Legislative Council (Privileges) Bill 1989

(No.     of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Interpretation.
3. Absolute privilege in relation to words spoken in Legislative Council.
4. Absolute privilege of witnesses.
5. Absolute privilege in relation to certain documents laid before Legislative Council.
6. Supplementary to sections 4 and 5.
7. Publication by authority of Legislative Council.
8. Prohibition of publication of proceedings of Legislative Council.

**A Bill for  
An Ordinance**

**to declare certain privileges of the Legislative Council and for  
connected purposes.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Legislative Council (Privileges) Ordinance 1989. Short title.
2. In this Ordinance, "member of the Legislative Council" includes the Governor or other person presiding at a meeting thereof, the Commander British Forces and the Attorney General. Interpretation.
3. (1) Words spoken by a member of the Legislative Council in that Council or before any committee of that Council are absolutely privileged and no court has jurisdiction to entertain an action in respect of them. Absolute privilege in relation to words spoken in Legislative Council.

(2) Subsection (1) above does not extend to the repetition by a member of the Legislative Council, in any form, of words spoken by him or any other member in that Council or before any committee of that Council.

(3) In subsection (1), "action" includes criminal proceedings of any kind.
4. Any evidence given by any witness to any committee of the Legislative Council which has summoned that witness in accordance with any Ordinance to give evidence before it is privileged, in the case of oral evidence, to the same extent as it would be if a member of the Legislative Council had spoken the words in the Legislative Council and in the case of documents or other written evidence, to the same extent as if it had been laid before the Legislative Council in pursuance of some statutory requirement so to do. Absolute privilege of witnesses.
5. (1) All accounts, papers, reports or other documents of any kind which are, in pursuance of any statutory requirement or in pursuance of a request of the Legislative Council conveyed through its Clerk laid before the Council are absolutely privileged insofar as the resultant publication to the Council is concerned, and no action may be founded on such publication. Absolute privilege in relation to certain documents laid before Legislative Council.

(2) Subsection (1) above shall apply, with all necessary modifications, in respect of accounts, papers, reports or other documents of any kind which are produced to any committee of the Legislative Council at the request of that committee.

6. No court shall have jurisdiction to restrain any person from doing anything which is absolutely privileged under section 4 or 5 above.

7. (1) The Legislative Council may require any report, paper, proceedings or other document whatsoever to be published by authority of the Legislative Council.

(2) No person shall be liable to any proceedings civil or criminal for, on account of or in respect of the publication of any report, paper, proceedings or other document where the publication was by authority of the Legislative Council.

(3) A certificate in writing signed by the Attorney General or by the Clerk of the Legislative Council that the report, paper, proceedings or other document specified therein was published by authority of the Legislative Council shall be conclusive evidence of that fact.

8. (1) The Legislative Council may by resolution, should it deem it expedient so to do, but only on the recommendation of the Governor acting in his discretion but subject to subsection (2) below, prohibit the publication of its proceedings or any part thereof.

(2) The Governor shall not make a recommendation to which subsection (1) relates unless for a reason or reasons which he shall disclose to the Legislative Council at the time of making the recommendation, he considers it in the public interest so to do.

(3) A person commits an offence who publishes any part of any proceedings of the Legislative Council to which a prohibition under subsection (1) above relates and, on conviction of that offence, he is liable to a fine not exceeding £10,000.

Supplementary  
to sections 4 and  
5.

Publication by  
authority of  
Legislative  
Council.

Prohibition of  
publication of  
proceedings of  
Legislative  
Council.

Ref: LEGCO/10/4.

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## OBJECTS AND REASONS

As stated in the long title.



**THE**  
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NOTICE

No. 17

13th April 1989.

**A. L. Lee & Son Limited**

Stanley, Falkland Islands.

Pursuant to section 293(1) of the Companies Act 1948, notice is hereby given that a meeting of the creditors of the company will be held at 44 John Street, Stanley on Monday 1st May 1989 at 2.30 p.m. for the purposes set out in sections 294 to 296 of the Companies Act 1948.

Creditors may vote either in person or by proxy and forms can be obtained free of charge from Consultancy Services Falklands Limited, 44 John Street, Stanley. To be valid, a proxy must be lodged with the company at 44 John Street, Stanley before or at the meeting at which it is to be used.

A list of names of the company's creditors will be available for inspection, free of charge within the offices of Consultancy Services Falklands Limited, 44 John Street, Stanley during the two business days preceding the above meeting.

By order of the Board.

**A. R. LEE,**  
*Director.*

Ref: LEG/31/3.



# THE FALKLAND ISLANDS GAZETTE

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No. 10

## Appointments

Mrs. Jennifer Mary Pollard, Personal Assistant,  
Fisheries Department, 31.10.88.

Ms Pauline Moore, Woman Police Constable,  
Falkland Islands Police Force, 6.3.89.

Graham Leslie Gleadell, Chief Development  
Economist, Secretariat, 7.4.89.

## Acting Appointment

Vernon Robert Steen, Acting General Manager,  
Falkland Islands Government Air Service, 29.3.89.

## NOTICES

No. 16. 11th April 1989.

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

The following persons have been registered to practise  
in the Falkland Islands, South Georgia, and the  
British Antarctic Territory —

Medical Practitioners	Qualifications
Marsden, Bruce	M.B., C.L.B, M.R.C.S., L.R.C.P.
Kumarasena, H. D.	M.B., M.S., F.R.C.
Carter, Martin	M.B.B.S., F.F.A.R.C.S.
Holt, Simon	M.A., M.B., B.C.H.I.R., F.R.C.S.
Hamilton, Andrew	B.S.C., M.B., C.H.B.
Willis, Frances	M.B., B.S.
Makkison, Ian	M.B., B.S.

## Midwives

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

## Dentists

Barnes, Trevor	B.D.S., HONS., L.D.S., R.C.S.
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Ref: MED/7/2.

## In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE  
(Cap. 1)

IN THE MATTER OF CLARENCE GEORGE BIGGS,  
deceased of Stanley, Falkland Islands, who died at  
Stanley on the 10th of August 1986, intestate.

WHEREAS Hazel Rose Goodwin has applied for let-  
ters of administration *de bonis non* 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 peti-  
tioner 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.  
11th April 1989

Ref: PRO/20/86.

**In the Supreme Court of the Falkland Islands**

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE  
(Cap. 1)

IN THE MATTER OF BERNARD LAYTON BIGGS,  
deceased of Stanley, Falkland Islands, who died at  
Stanley on the 5th of April 1988, intestate.

WHEREAS Hazel Rose Goodwin has applied for let-  
ters 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 peti-  
tioner 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.  
11th April 1989.

Ref: PRO/9/89.

**In the Supreme Court of the Falkland Islands**

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE  
(Cap. 1)

IN THE MATTER OF WILLIAM ARTHUR ETHERIDGE,  
deceased of Stanley, Falkland Islands, who died at  
Stanley on the 21st of December 1988, intestate.

WHEREAS Stuart Barrett Wallace has applied for let-  
ters 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 peti-  
tioner 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.  
13th April 1989.

Ref: PRO/8/89.

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**NOTICE**

The following are published in this Gazette —

- The Electoral Ordinance 1988 (No. 21 of 1988);**
  - The Mare Harbour (Declaration and Definition) Order 1989 (S.R. & O. No. 9 of 1989);**
  - The Land (Subdivision for Non-Residents) Amendment Bill 1989;**
  - The Land (Amendment) Bill 1989;**
  - The Media Trust Bill 1989;**
  - The Interpretation and General Clauses (Amendment) Bill 1989;**
  - The Family Allowances (Amendment) Bill 1989;**
  - The Non-Contributory Old Age Pensions (Amendment) Bill 1989;**
  - The Old Age Pensions (Amendment) Bill 1989;**
  - The Petroleum Products (Amendment) Bill 1989;**
  - The Road Traffic (Amendment) Bill 1989.**
-



# The Electoral Ordinance 1988

(No. 21 of 1988)

## ARRANGEMENT OF PROVISIONS

### PART I

#### PRELIMINARY

##### Section

1. Short Title and Commencement.
2. Interpretation.
3. Meaning of "resident".
4. Meaning of "qualifying period".
5. Meaning of "qualifying date".

### PART II

#### ELECTORAL REGISTRATION

6. Constituencies.
7. Appointment of registration officer.
8. Constituency in respect of which a person may be registered.
9. Preparation of preliminary list: claims for inclusion.
10. Objections to inclusion of person's name in the preliminary list.
11. Appeals.
12. Intervals at which register to be prepared etc.
13. Form of preliminary list.
14. Contents of register and publication.
15. Period of effectiveness of register.
16. Amendment, alteration of register after publication.
17. Inspection of and copies of register.
18. Information as to right to claim and to object.
19. Assistance.
20. Disqualification list.
21. Returns by householders.
22. Application forms.

### PART III

#### POSTAL VOTES, PROXY VOTES AND POSTAL PROXY VOTES

##### *Postal votes*

23. Application for postal vote.
24. Postal Voters' list.

25. Cancellation or variation of postal vote arrangement.
26. Duration of postal voting arrangement.

*Proxy votes*

27. Application for proxy vote.
28. Position of proxy.
29. Inducement or intimidation as to appointment of proxy.
30. Proxy list.
31. Cancellation of proxy voting arrangements.
32. Automatic cesser of proxy voting arrangements.
33. Supplemental provisions relating to the cancellation of proxy voting arrangements.

*Postal proxy votes.*

34. Application for a postal proxy vote.
35. Postal proxy list.
36. Cancellation or variation of postal proxy vote arrangements.
37. Duration of postal proxy vote arrangements.
38. Cancellation of entries in postal proxy list.

*Supplementary*

39. Admission of proxy voters' list and postal proxy voters' list in evidence.
40. Inspection of and copies of lists.

PART IV

SUPPLEMENTAL TO PARTS II AND III

41. Supplemental provisions as to register and lists.
42. Publicity for certain matters.
43. Power of registration officer to require documents to be produced or a statutory declaration to be made etc.
44. Governor's directions.
45. Registration expenses.
46. Correction of register.

PART V

ELECTIONS AND VOTING

*Preliminary*

47. Returning officer.
48. Writs of election.
49. Contents of writ.
50. Election timetable.
51. Notice of election.
52. Delivery of nomination papers.

53. Disqualification from election.
54. Conduct of elections.
55. Manner of voting.
56. Closing of register and lists.
57. Postal voters and postal proxy voters voting at polling place.
58. Electors to be able to vote at any polling place.
59. Appointment of polling places.
60. Mobile polling places in Camp constituency.
61. Publicity for election arrangements.

*Nomination of candidates*

62. Nomination of candidates.
63. Subscription of nomination paper.
64. Consent to nomination.
65. Deposit.
66. Right to attend nomination.
67. Decisions as to validity of nomination papers.
68. Withdrawal of candidates.
69. Publication of nominations and withdrawals etc.
70. Abandonment of nomination proceedings.
71. Method of election.

*Poll: introductory provisions*

72. Polls to be taken by ballot.
73. The ballot papers.
74. The official mark.
75. Prohibition of disclosure of vote.
76. Use of public buildings.
77. Countermand or abandonment of poll on death of candidate.

*Postal voting*

78. Postal ballot papers.
79. Persons entitled to be present at issue and receipt of postal ballot papers.
80. Declaration of secrecy in relation to postal ballot papers.
81. Notice of issue of postal ballot papers.
82. Marking of postal ballot paper.
83. Refusal to issue postal ballot paper.
84. Posting of postal ballot papers.
85. Provision of postal voters' ballot box.
86. Sealing up of special lists and counterfoils.
87. Spoilt postal ballot papers.

88. Receipt of covering envelope.
89. Opening of postal voters' ballot box.
90. Opening of covering envelopes.
91. Sealing up of rejected votes and declarations of identity.
92. Opening of ballot paper envelopes.
93. Abandoned poll: postal ballot papers.
94. Forwarding documents and packets related to postal ballot papers.

#### *Preparations for Poll*

95. Certified copies of register and of lists.
96. Effect of registers etc.
97. Requirement of secrecy.
98. Marking of register and lists.
99. Appointment of presiding officers and clerks.
100. Equipment of polling places and mobile polling team.
101. Appointment of polling and counting agents.
102. Declaration of secrecy.

#### *Conduct of poll*

103. Admission to polling place etc.
104. Keeping of order at polling place etc.
105. Sealing of ballot boxes.
106. Voting with mobile polling team.
107. Questions to be put to voters.
108. Person whose name appears on postal voters' list.
109. Challenge of voter.
110. Person in respect of whom a proxy has been appointed.
111. Person whose name appears on postal proxy voters' list.
112. Voting procedure.
113. Votes marked by presiding officer.
114. Voting by blind persons.
115. Tendered ballot papers.
116. Spoilt ballot papers.
117. Adjournment of poll in case of riot.
118. Procedure on close of poll.
119. Application of section 118 to mobile polling teams.

#### *The count*

120. Attendance at counting of votes.
121. The count.
122. Re-count.

- 123. Rejected ballot papers.
- 124. Decisions on ballot papers.
- 125. Equality of votes.
- 126. Declaration of result.
- 127. The return.

*Disposal of documents*

- 128. Sealing of ballot papers.
- 129. Forwarding of documents.
- 130. Orders for production.
- 131. Retention and public inspection of documents.

*Disposal of deposit*

- 132. Return and or forfeiture of deposit.

PART VI

THE ELECTION CAMPAIGN  
AND ELECTION EXPENSES

*Appointment, death, removal etc. of election agent*

- 133. Appointment of election agent.
- 134. Office of election agents: publication or particulars of agent.
- 135. Death of election agent: revocation of appointment of election agent.

*Control of and of amount of election expenses*

- 136. Limitation of election expenses.
- 137. Expenses of joint candidates.
- 138. Making of contracts through an election agent.
- 139. Payment of expenses through election agent.
- 140. Personal expenses of candidate and petty expenses.
- 141. Prohibition of expenses not authorised by election agent.
- 142. Time for sending in and paying claims.
- 143. Disputed claims.
- 144. Claim by election agent.
- 145. Return as to election expenses.
- 146. Declarations as to election expenses.
- 147. Cases where return and declarations are not needed.
- 148. Punishment for failure to comply with sections 145 and 146.
- 149. Authorised excuses for failures as respects returns and declarations.
- 150. Power of court to obtain information from election agent.
- 151. Inspection of returns and declarations.

*Provisions relating to campaign*

- 152. Candidate's right to send election address post free.
- 153. Right to use certain schools and halls for meetings at elections.
- 154. Disturbance at election meetings.
- 155. Officials not to act for candidates.
- 156. Police officials not to canvass.
- 157. False statements as to candidates.
- 158. Corrupt withdrawal from candidature.
- 159. Premises not to be used as committee rooms.
- 160. Payments for exhibition of election notices.
- 161. Prohibition of paid canvassers.
- 162. Providing money for illegal purpose.
- 163. Bribery.
- 164. Treating and undue influence.

*Supplementary*

- 165. Savings.
- 166. Rights of creditors.

## PART VII

## LEGAL PROCEEDINGS

*Questioning of election*

- 167. Method of questioning election.
- 168. Presentation and service of election petition.
- 169. Form of election petition.
- 170. Time for presentation of election petition.
- 171. Security for costs of an election petition.
- 172. Consolidation of petitions.
- 173. Trial of petition.
- 174. Witnesses.
- 175. Conclusion of trial of an election petition.
- 176. Withdrawal of an election petition.
- 177. Punishment for corrupt withdrawal.
- 178. Abatement of petition etc.
- 179. Notice of intention not to oppose petition.
- 180. Costs of petition.

*Consequences of finding of a corrupt or illegal practice*

- 181. Report as to candidate guilty of corrupt or illegal practice.
- 182. Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.

183. Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.

*Further provisions as to avoidance of elections and striking off of votes*

184. Avoidance of election for general corruption.  
185. Votes to be struck off for corrupt and illegal practices.

*Power to except innocent act from being illegal practice, payment or hiring*

186. Power to except innocent act from being illegal practice, payment, employment or hiring.

*Prosecution for corrupt or illegal practices*

187. Authority of Attorney General required for prosecution.  
188. Prosecutions for corrupt practices.  
189. Prosecutions for illegal practices.  
190. Convictions of illegal practice on charge of corrupt practice etc.  
191. Incapacities on conviction of corrupt or illegal practice.  
192. Mitigation of penalties.

*Illegal payments, employments or hirings*

193. Illegal payments, employments or hirings.

*General provisions as to prosecutions*

194. Time limit for prosecutions.  
195. Offences by corporations.  
196. Evidence by certificate of holding of election.

*Supplemental*

197. Rules of procedure.  
198. Costs.  
199. Service of notices.

PART VIII

DETERMINATIONS BY SUPREME COURT AS TO WHETHER PERSON HAS  
CEASED TO BE A MEMBER OF THE LEGISLATIVE COUNCIL.

200. Vacation petitions and cesser petitions.  
201. Presentation of vacation petitions and cesser petitions.  
202. Form of vacation petitions and cesser petitions.  
203. Certificates as evidence.  
204. Application of certain provisions of Part VII above.  
205. Powers of Supreme Court on determination of petition under this Part.  
206. Powers of Governor in certain cases.

207. Supplementary to section 205.

PART IX  
GENERAL.

*Transitional provisions*

208. Existing registers.

*Regulations*

209. Regulations.

*Miscellaneous*

210. Penalty for certain offences.  
211. Repeals.





## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON,  
*Governor.*

### The Electoral Ordinance 1988

(No. 21 of 1988)

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.

*(Assented to: 27th April 1989)*  
*(Commencement: on publication)*  
*(Published: 28th April 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

#### PART I PRELIMINARY

1. This Ordinance may be cited as the Electoral Ordinance 1988.

Short title.

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

Interpretation.

“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;

- "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 construed 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;
- “return as to election expenses” means a return (including the bills and receipts to be transmitted therewith) to be made under section 145(i) 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 (3) 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;
    - (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 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 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 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 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;
  - (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 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 does 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.

Meaning of  
"qualifying  
date".

(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 such distance as may be prescribed from the spire of Christ Church cathedral, Stanley.

Constituencies.

(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 the prescribed distance 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.

Appointment of  
registration  
officer.

(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

(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.

Person to be entitled to be registered in constituency in which he usually lives.

(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 or in which he usually lived when he was last physically present in the Falkland Islands —

Rule 1 In general, a person usually lives in that place to which, when away therefrom, he intends to return.

Rule 2 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.

Rule 3 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.

Rule 4 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

Preparation of preliminary list: claims for inclusion.

- (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.

(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 officer 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;
- (b) a person who is a relevant person by or in respect of whom a claim has been made under section 9(2) above,

Objections to inclusion of person's name in the preliminary list.

may by notice in writing ("an objection") delivered to the registration officer within twenty-eight 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 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.

(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 aggrieved by the decision of the registration officer — Appeals.

(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 the 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.

Form of preliminary list.

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.

Contents of register and publication.

(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 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.

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.

Period of effectiveness of register.

(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.

Amendment or alteration of register after publication.

(2) The register may not be amended during the closed period.

(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.

Inspection of and copies of register.

(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 £2, 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.

Information as to right to claim and object.

19. (1) The registration officer may, with the prior approval of the Governor engage such persons as may be necessary to assist him in the compilation of the preliminary list.

Assistance.

(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").

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.

Returns by householders.

(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.

(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.

(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 form.

(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").

Application for postal votes.

(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 a postal voter he will not be allowed to vote at 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 —

Postal Voters' list.

- (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 —
  - (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, alternatively, 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.

(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' list substitute the address specified in that notice for the address previously appearing in the postal voters' 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.

Application for  
proxy vote.

(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.

(3) Only a person who is an elector in respect of the same constituency may be named as a proxy under paragraph (b) of subsection (2) above.

(4) An application under subsection (2) above shall be accompanied by the consent in writing of the person named under paragraph (b) thereof as the person to be appointed as proxy, to act as such proxy.

(5) A person may not be appointed the proxy of more than two other electors.

(6) An application for permission to vote by proxy shall not be granted during the closed period.

(7) The registration officer shall forthwith consider an application to vote by proxy received by him and, subject to subsection (6), 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 (2) above is not already the proxy of two other electors, he shall grant it.

(8) If the registration officer rejects an application 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.

(9) 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.

29. (1) A person commits an offence under this Ordinance who —

Inducement or  
intimidation as  
to appointment  
of proxy.

- (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.

30. (1) The registration officer shall maintain a list ("the proxy list") in which he shall record — Proxy list.

- (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.

*Cancellation of proxy voting arrangements.*

(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.

*Automatic cesser of proxy voting arrangement.*

(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 —

- (a) 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.*

(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 —

- (a) it complies with the provisions of subsection (3) below; and
- (b) the proxy is already a postal voter in respect of his right to vote otherwise 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 —

- (a) it is signed by the proxy 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 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 record —

Postal proxy list.

- (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.

- (a) for the words "postal voter" wherever they appear therein there shall be 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.

- (a) it would be inconsistent with his application for a postal proxy vote for him to be entitled to vote as proxy at 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,

Cancellation of entries in postal proxy list.

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 it on his behalf, be conclusive evidence as to —

Admission of proxy voters' list and postal proxy voters' list in evidence.

- (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 —

- (i) 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 —

- (i) anything which, under subsection (1) above, the proxy voters' list is not admissible in evidence to prove;
- (ii) 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 £1) 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.



PART IV  
SUPPLEMENTAL TO PARTS  
II AND III

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.

Supplemental provisions as to register and lists.

(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 —

Publicity for certain matters.

- (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 —

Power of registration officer to require documents to be produced or a statutory declaration to be made etc.

- (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 issuing 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 —

- (a) in any statutory declaration made in pursuance 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 such statutory 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.

Governor's  
directions.

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.

Registration  
expenses.

(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 accommodation 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.

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 the returning officer in respect of both constituencies. Returning officer.

(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 —

- (a) 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;
- (c) holds or has at 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;
- (e) 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. Writs of election.

(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.

Contents of writ.

50. The proceedings at an election subsequent to the issue of the writ shall be conducted in accordance with the following timetable —

Election  
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 election 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.

Delivery of nomination papers.

(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.

### *Disqualification*

53. (1) A person is not qualified to be elected as a member of the Legislative Council —

Disqualification.

- (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 or is so declared by subsection (2) below.

(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) the office of Chief Executive, Attorney General, Financial Secretary, Principal Auditor or Government Secretary;
- (b) any other office by virtue of which he is, for the time being, head of any department of the government (and, for the purpose of this paragraph, a person who is an accounting officer for the purposes of the Finance and Audit Ordinance 1988 is head of a department of the government);
- (c) Registrar General, Director of Fisheries, Deputy Director of Fisheries, Deputy Financial Secretary, Deputy Government Secretary, Deputy Director of Public Works, Crown Counsel or Crown Solicitor;
- (d) any office in the Falkland Islands Police Force other than that of reserve police officer;
- (e) any judicial office except as justice of the peace (including any justice of the peace who is a magistrate other than the Senior Magistrate);
- (f) any office in the employ of Her Majesty's Government in the United Kingdom;
- (g) the office of General Manager or Assistant General Manager of the Falkland Islands Development Corporation;
- (h) any office designated for the purposes by Order of the Governor acting in accordance with the advice of Executive Council,

and the offices described in paragraphs (f) and (g) above are prescribed as public offices in accordance with section 24(4) (a) of the Constitution.

(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 —

- (a) 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.

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.

(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.

Manner of voting.

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 —

Closing of register and lists.

- (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.

Postal voters and postal proxy voters voting at polling place.

(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.

Electors to be able to vote at any polling place.

(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 constituency shall be differently coloured from that used in the election on the same day in respect of the other constituency.

(4) Nothing in subsection (1) shall enable an elector to vote in respect of a constituency in respect of which he is not an elector or require a polling place to be provided in a constituency 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 which a poll is to be taken in any election and shall do so not later than ten days before polling day.

Appointment of  
polling places.

(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 announcement on more than one occasion on any day.

Publicity for  
election  
arrangements.

(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.

Nomination of  
candidates.

(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.

Subscription of  
nomination  
paper.

(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 is 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 —

Consent to  
nomination.

(a) a document appearing him to be a facsimile copy telegraphically transmitted of an original document so signed; or



(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. Deposit.

(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. Right to attend nomination.

(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. Decisions as to validity of nomination papers.

(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 a 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.

(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.

Publications of nominations and withdrawals etc.

(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 abandonment, nor shall anything done before the abandonment be invalidated by reason thereof.

Abandonment of nomination proceedings.

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.

Method of election.

(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 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.

Polls to be taken by ballot.

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.

The ballot papers.

(2) Every ballot paper shall be in the prescribed form and shall be printed in accordance with the directions therein, and —

- (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.

The official mark.

(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.

Prohibition of disclosure of vote.

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.

Use of public buildings.

(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 —

Countermand or abandonment of poll on death of a candidate.

- (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.

(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.

Postal ballot papers.

(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,

Persons entitled to be present at issue and receipt of postal ballot papers.

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 a 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.

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.

Notice of issue of postal ballot papers.

(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.

Marking of postal paper.

(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.

Refusal to issue postal ballot paper.

**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.

Posting of postal ballot papers.

(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.

Provision of postal voters' ballot box.

(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.

- (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.

Spoilt postal  
ballot papers.

(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.

Receipt of cover-  
ing envelope.

89. (1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

Opening of  
postal voters'  
ballot box.

(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.

Opening of  
covering  
envelopes.

(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").

(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 no 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.

Sealing up of rejected votes.

**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.

Opening of 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 —

Abandoned poll: postal ballot papers.

- (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.

- (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 an 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 —

Requirement of  
secrecy.

- (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 —

- (i) 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.

(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 £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.

Marking of register and lists.

(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.

Appointment of presiding officers and clerks.

(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.

Equipment of polling places and mobile polling team.

(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.

(4) A notice in the prescribed form, giving directions for the guidance of the voters in voting, shall be printed in conspicuous 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.

Appointment of  
polling and  
counting agents.

(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) above 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's 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 have 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 provision 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 appointed 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;

- (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 admitted to a polling place or as the case may be, before a mobile polling team, at the same time, and shall exclude all other persons except —

Admission to  
polling place etc.

- (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.

Keeping of order  
at polling place  
etc.

(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.

Sealing of ballot  
boxes.

(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.

**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.

Voting with  
mobile polling  
team.

**107. (1)** 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 —

Questions to be  
put to voters:  
personation.

- (a) in the case of a person applying as an elector —
  - (i) are you the person registered in the 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.?

(2) A person commits a corrupt practice if he commits, aids, abets, counsels, or procures the commission of, the offence of personation.

(3) A person commits the offence of personation if he —

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy —
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(4) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

**108. (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 ballot paper, the presiding officer or team leader (as the case may be) shall ask him the following questions —

Person whose  
name appears on  
postal voters'  
list.

- (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

Challenge of  
voter.

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.

Person in respect of whom a proxy has been appointed.

(2) The presiding officer or team leader shall then proceed in accordance with section 115 below (tendered ballot papers).

**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.

Person whose name appears on postal proxy 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 immediately before delivery —

Voting procedure.

- (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 —

Vote as marked by presiding officer.

- (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.

Voting by blind persons.

(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.

(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 —

- (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 subsection (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 or 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

Tendered ballot  
papers.

Spoilt ballot  
papers.

Adjournment of  
poll in case of  
riot.

(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.

(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 —

Procedure on  
close of the poll.

- (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;
- (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

Application of  
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.

Attendance at  
counting of  
votes.

(2) Without prejudice to subsection (6) below, 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.



(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.

(6) So far as it is reasonably practicable, the returning officer shall permit all persons who wish to attend the count to do so.

**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 the packets containing the unused 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 agents 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 re-count of the votes is completed, require the returning 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.

Re-count.

(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 —

Rejected ballot papers.

- (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

(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 —

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

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 —

- (a) the word "rejected" on any ballot paper which under this section is not to be counted; and
- (b) in the case of a ballot paper on which any vote is counted under subsection (2) above, 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 part, under the several heads of —

- (a) want of official mark;
- (b) voting for more candidates than voter is entitled to;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or wholly void for uncertainty;
- (e) rejected in part.

**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.

Decisions on  
ballot papers.

**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.

Equality of  
votes.

**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.

Declaration of  
result.

**(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 return the name of each person elected to the Governor.

The return.

*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.

Sealing of ballot papers.

(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 —

Forwarding of documents.

- (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 Government 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.

(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.

Retention and public inspection of documents.

(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.

Return or forfeiture of deposit.

(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

##### *Appointment, 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 or 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 of this subsection, the candidate shall be deemed to have appointed himself as his own election agent.

Appointment of 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 construed 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.

Office of election agent: publication of particulars of agent.

(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.

(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.

Death of election agent: revocation of appointment of election agent.

(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 or 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.

Limitation of election expenses.

(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;

- (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.

Making of contracts through an election agent.

(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.

Payment of expenses through election agent.

(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.

Personal expenses of candidates and petty expenses.

(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,

- (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 —
  - (i) 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 or;
- (b) knowingly makes the declaration required by subsection (2) above falsely,

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.

Time for sending in and paying claims.

(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.

Disputed claims.

(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 pursuant 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.

(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.

Claim by election agent.

**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.

Return as to election expenses.

(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.

Declaration as to election expenses.

(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



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. Notwithstanding 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.

- (a) who is a candidate at an election, but is so only because he has been declared by others to be a candidate; and
- (b) who has not consented to the declaration or taken any part as a candidate in the election.

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.

Punishment for failure to comply with sections 145 and 146.

149. (1) A candidate or his election agent may apply for relief under this section to the Supreme Court or to the Senior Magistrate.

Authorized excuses for failures as respects return and declarations.

(2) Relief under this section may be granted —

- (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 or 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.

(9) The jurisdiction vested 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 expenses, the court before making an order under the said section, shall order that person to attend before the court.

Power of court to require information from election agent.

(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.

Inspections of returns and declarations.

(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.

Candidate's right to send election address post free.

(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 —

Right to use certain schools and halls for meetings at elections.

(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

- (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.

Disturbance at election meetings.

(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.

Officials not to act for candidates.

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.

Police officers not to canvass.

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 effecting 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 —

False statements as to candidates.

- (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.

(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.

Corrupt withdrawal from candidature.

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.

Premises not to be used as committee rooms.

(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.

Payment for exhibition of election notices.

(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.

Prohibition of paid canvassers.

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.

Providing money for illegal purpose.

#### *Bribery, treating and undue influence*

163. (1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

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;

- (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 if 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 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 if 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 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. Savings.

(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.

165. 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,

Rights of  
creditors.

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 by a petition complaining of an undue election or undue return ("an election petition") presented in accordance with this Part. Method of ques-  
tioning election.

(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.

Presentation and  
service of elec-  
tion petition.

(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 — Form of election  
petition.

- (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;

(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, 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.

Time for presentation of election petition.

(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) Subsections (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.

Security for costs of an election petition.

(2) Except as provided by subsection (1) above, the Supreme Court may, on the application of any respondent made to it 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



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 it 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.

Consolidation of petitions.

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.

(2) The Supreme Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicably consistent 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 prorogation or dissolution of the Legislative Council under section 29 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 it 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 nearly as circumstances admit as in a civil action tried by the Supreme Court.

Witnesses.



(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 in 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 forthwith certify in writing the determination and the determination so certified shall be final and no appeal shall lie from such determination.

Conclusion of trial of an election petition.

(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.

Withdrawal of election petition.

(2) An election petition by the Attorney General may be withdrawn at any time before the determination thereof.

(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.

Punishment for corrupt withdrawal.

(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.

Abatement of petition etc.

(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 subsections (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

(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.

(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 and 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.

Costs of petition.

(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 enforced 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*

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.

Report as to candidate guilty of 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 reasonable 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.

Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.

(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.

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.

Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.

(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;
- (b) of holding any public or judicial 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.

Avoidance of election for general corruption.

(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.

Votes to be struck off for corrupt or illegal practices.

(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.

Power to except innocent act from being illegal practice, payment, employment or hiring.

(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

(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 Ordinance making it an illegal practice, payment, employment or hiring and thereupon 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 in 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.

Authority of Attorney General required for prosecution.

188. (1) A corrupt practice shall only be triable on indictment before the Supreme Court.

Prosecutions for corrupt practice.

(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 £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.

Prosecutions for illegal practice.

(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.

Conviction of illegal practice on charge of corrupt practice etc.

191. Subject to the provisions of section 192 below, but in addition to any punishment imposed as provided by the foregoing provisions —

Incapacities on conviction of corrupt or illegal practice.

(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 thenceforth cease so far as it is imposed in respect of those matters.

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 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.

(6) The jurisdiction vested in the Supreme Court by subsection (5) above shall be exercised 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 £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.

Illegal payments, employments or hirings.

(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.

Time limit for prosecutions.

(2) For the purpose of this section the issue of a summons, warrant or other process shall be deemed to be a commencement 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.

Offences by corporations.

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.

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. Rules of procedure.

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. Costs.

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 by himself by any court for any purpose of this Part may be served — Service of notices.

- (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. Vacation petitions and cesser petitions.

(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.

(2) If the Attorney General is not himself a petitioner, the Attorney General shall be a respondent to the petition. Presentation of vacation petitions and cesser petitions.

(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.



- (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 —

- (a) the person named therein was on the date specified therein sentenced by a court in an overseas country to death or imprisonment (by whatever name called);
- (b) the person so named was so sentenced in a specified overseas country;
- (c) 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. Sections 174, 178 to 180 inclusive and 197 above shall apply in a respect of a petition under any provision of this Part as they do to a petition under Part VII above.

Application of certain provisions of 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.

Powers of Supreme Court on determination of petition under this part.

(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 some 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.

Powers of Governor in certain cases.

(2) Nothing in subsection (1) above shall be construed as in any way —



- (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 disqualified.

Supplementary  
to section 205.

## PART IX GENERAL

### *Transitional provisions*

208. Until registers first come into force under the provisions of this Ordinance, the 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.

Existing  
registers.

### *Regulations*

209. The Governor may make regulations —

Regulations.

- (a) prescribing fees to be paid in connection with anything done under this Ordinance;
- (b) prescribing forms to be used for the purposes of this Ordinance; and
- (c) prescribing any other matter necessary or convenient for the purposes of this Ordinance.

210. In respect of any offence under any provision of this Ordinance in relation to which no other penalty is prescribed, a person committing that offence is liable on conviction to a fine of £250.

Penalty for cer-  
tain offences.

211. The Legislative Council (Elections) Ordinance is repealed.

Repeals.

Ref: LEGCO/10/1.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING,  
*Clerk of Councils.*

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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  
27th day of April 1989.

W. H. FULLERTON,  
*Governor.*

# The Naval Ports Ordinance 1987

(Section 3)

## The Mare Harbour (Declaration and Definition) Order 1989

(S.R. & O. No. 9 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Section

1. Citation and Commencement.
2. Interpretation.
3. Declaration and definition.

# The Naval Ports Ordinance 1987

(Section 3)

## The Mare Harbour (Declaration and Definition) Order 1989

(S.R. & O. No. 9 of 1989)

IN EXERCISE of my powers under Section 3 of the Naval Ports Ordinance 1987, I make the following Order —

1. This Order may be cited as the Mare Harbour (Declaration and Definition) Order 1989 and shall come into force on the date it is first published in the Gazette. Citation and Commencement.
2. In this Order — Interpretation.  
 "Mare Harbour" means the area of land and water described in the Schedule hereto;  
 "the Chart" means the December 1986 edition of Admiralty Chart 2506 (Mare Harbour and Approaches) corrected to February 1987.
3. (1) Mare Harbour is declared to be a naval port. Declaration and Definition.  
 (2) The limits of Mare Harbour are defined as being the area enclosed by the co-ordinates set out in the Schedule to this Order.

### SCHEDULE

(Definition of limits of Mare Harbour)

1. In this Schedule, any references to any place, point or feature shall be construed as a reference to that place, point or feature as depicted on the Chart.
2. The limits of Mare Harbour shall be ascertained and determined as follows —
  - (a) Starting at Pandora Point at 51°55.26 S and 58°27.71 W, follow the coast in a generally northerly direction through Prominent Point to Arrow Head.
  - (b) From Arrow Head follow the coast in a generally easterly direction through Providence Head, Forrest Point, Baker Head and Kurri Point and from Kurri Point onwards following the shorelines to Boot Head (thus by (a) and (b) enclosing East Cove and Hecate Channel).
  - (c) From Boot Head follow the shoreline to a point at 51°53.67 S and 58°29.96 W on Anvil Point.

- (d) From the last-mentioned position follow a closing line to the point which is  $51^{\circ}54$  S and  $58^{\circ}30.80$  W and from that point follow a further closing line to the north-east point of Johnson's Island at  $51^{\circ}54.42$  S and  $58^{\circ}30.15$  W.
- (e) From the last-mentioned point follow a closing line to Sniper Island at a point which is  $51^{\circ}55.01$  S and  $58^{\circ}29.91$  W and from there a closing line to Pandora Point at the point which is  $51^{\circ}55.26$  S and  $58^{\circ}27.71$  W (thus, by (a), (b), (c), (d) and (e) starting and finishing at the same point at Pandora Point).

Made this 17th day of April 1989.

W. H. FULLERTON,  
*Governor.*

Ref: CUS/44/1.

## EXPLANATORY MEMORANDUM

## Land (Subdivision for Non-Residents) (Amendment) Bill 1989

Introductory

Examination of the Land (Subdivision for Non-Residents) Ordinance 1985 has revealed that a person who is a non-resident could avoid the need to obtain a licence under its provisions to acquire land by purchasing or acquiring in the name of a company.

It also appears that a number of Falkland Islanders who for every other purpose are regarded as being resident would, as the Ordinance stands be "non-resident" for its purposes and require a Licence under its terms if they wanted to obtain a piece of land under 500 acres in Camp.

The attached Bill seeks to remedy these defects.

Detail

Clause 2 of the Bill would substitute a new definition of "non-resident" very much tied in with the provisions of the Electoral Ordinance 1988.

## The Land (Subdivision for Non-Residents) Amendment Bill 1989

(No.     of 1989)

## ARRANGEMENT OF PROVISIONS

## Clause

1. Short Title.
2. Amendment of section 2 of Land (Subdivision for Non-Residents) Ordinance 1985.

**A Bill for  
An Ordinance  
to amend the Land (Subdivision for Non-Residents) Ordinance  
1985.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Land (Subdivision for Non-Residents) (Amendment) Ordinance 1989. Short title.

2. Section 2 of the Land (Subdivision for Non-Residents) Ordinance 1985 is amended by deleting the definition of “non-resident” presently therein appearing and substituting therefor the following new definition — Amendment of  
section 2 of  
Land (Subdivi-  
sion for Non-  
Residents) Or-  
dinance 1985.

““non-resident”, means

(a) in relation to a corporation —

- (i) a corporation incorporated or existing as a body corporate other than under the laws of the Falkland Islands; and
- (ii) a company incorporated under the laws of the Falkland Islands the majority of the issued share capital or stock of which carrying voting rights at general meetings of the company is owned directly or indirectly by persons who, having regard to paragraph (c) below, are to be treated as being non-resident and, any company the issued share capital or stock of which is divided into two or more classes carrying voting rights at general meetings of the company or of any class of shareholders or stockholders, if the majority of the shares or stock of any such class is owned directly or indirectly by persons who under paragraph (c) below, are to be regarded as non-resident; and

- (b) in relation to partnership firms having separate legal personality under the Companies and Private Partnership Ordinance or otherwise, any such partnership firm where, if the partnership were to be dissolved at the time in question, persons who, having regard to paragraph (c) below, are to be regarded as non-resident would be entitled to receive in aggregate the greater part of any surplus of the assets of the partnership over the liabilities of the partnership; and
- (c) in relation to persons, any person who if —
  - (i) the day in question were the qualifying date (within the meaning of the Electoral Ordinance 1988);
  - (ii) he was then a Commonwealth citizen of or above the age of eighteen years,  
 (disregarding any circumstance other than non-residence by reason of which he might be disqualified) would not be entitled to be registered as an elector by reason of his not being regarded as being resident for the purposes of the registration provisions of that Ordinance; and
- (d) any overseas government or governmental authority except Her Majesty's Government in the United Kingdom or a department or ministry of that government".

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#### OBJECTS AND REASONS

To amend the principal Ordinance in relation to the definition of "non-resident".

Ref: LND/10/1.

## EXPLANATORY MEMORANDUM

## Land (Amendment) Bill 1989

Introductory

The Land Ordinance is overdue for a thoroughgoing revision but this cannot yet be achieved. In the meantime a number of amendments appear to be urgently necessary and the attached Bill has been prepared for that purpose.

Detail

Clause 2 of the Bill would effect the amendments referred to above.

Paragraph (a) of the Clause would merely substitute "Chief Executive" and "Senior Magistrate" for "Colonial Secretary" and "Magistrate".

Paragraph (b) would repeal section 23(2) and section 26 of the Land Ordinance. Section 23(2) provides that when the Crown refuses to renew a lease it must pay compensation for any improvements made to the land. Section 26 deals with the assessment of that compensation. Section 23(2) derives from the days the Crown used to lease large tracts of land for farming purposes in Camp: the farmer would build buildings, fences etc and, if the lease were not renewed, he would, but for section 23(2), not be compensated. The Crown does not now lease farms without an option to purchase the freehold. On the other hand it does lease land in Stanley for various purposes and, should the Crown have to pay for "improvements" if it refused to renew the lease, this would be quite unfair (no other lessor is under such an obligation). Some of the "improvements" are not of any use except to the lessee. The existence of the provision has resulted in the Crown not being willing to grant a lease in some cases.

Paragraph (c) of Clause 2 would result in a lessee not being able to surrender (as at present he can) all Crown leases he holds merely because the Crown refuses to renew one of them. (This is achieved by amending section 25 of the present Ordinance). The lessee would still be able to do so, however, if the lease not renewed related to land farmed or worked together with land comprised in the other leases held by the lessee.

Paragraph (d) of Clause 2 would prevent obligations to the Crown being unenforceable for certain technical legal reasons.

Paragraph (e) of Clause 2 would provide that the statutory fencing obligations in section 28A of the existing Ordinance do not apply —

- (i) contrary to written agreement between the parties; or
- (ii) contrary to a condition imposed by the Crown on disposing with the land.

## The Land (Amendment) Bill 1989

(No. of 1989)

## ARRANGEMENT OF PROVISIONS

## Clause

1. Short Title.
2. Amendment of the Land Ordinance.



**A Bill for  
An Ordinance  
to amend the Land Ordinance.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Land (Amendment) Ordinance 1989.
2. The Land Ordinance is amended —

Short title.

Amendment of  
the Land  
Ordinance.

- (a) by the substitution of the words "Chief Executive" for the words "Colonial Secretary" wherever appearing therein, and by the words "Senior Magistrate" for the words "magistrate" wherever appearing therein;
- (b) by the repeal of sections 23(2) and 26 thereof;
- (c) by the insertion in section 25 thereof after the words "Crown lands held by him" of the words "and farmed or worked together with the land comprised in the first-mentioned lease";
- (d) by the addition to section 28 thereof of the following new subsections (3) and (4) —

"(3) Subject to subsection (4) every reservation, restriction or condition contained in any lease conveyance or grant of land by the Crown as lessor transferee or grantor shall be enforceable by the Crown against the lessee, transferee or grantee of the land concerned and every successor in title of his under that lease, conveyance or grant and whether the reservation, restriction or condition shall be positive or negative in nature and notwithstanding any rule of law or equity otherwise to the contrary and without (in the case of a restriction or condition in the nature of a negative obligation or restrictive obligation or restrictive covenant (however described)) the same having been annexed for the benefit of other land owned by the Crown and capable of benefitting therefrom and without

the Crown being obliged to show that it owns or has any interest in any land capable of benefitting therefrom.

(4) Subsection (3) shall have effect subject to section 27 above”;

(e) in section 28A —

- (i) by the insertion at the commencement thereof of the words “(1) Subject to subsection (2)”;
- (ii) by deleting at the commencement of paragraphs (1), (2), (3), (4), (5), (6) and (7) those numeric prefixes and substituting for them respectively the alphabetical prefixes (a), (b), (c), (d), (e), (f) and (g);
- (iii) by adding thereto the following subsection —

“(2) Nothing in subsection (1) applies insofar as would be inconsistent with any agreement comprised in any deed registered under this Ordinance binding upon the respective owners or so as to impose on the Crown any obligation contrary to a condition to which section 28(3) relates”

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#### OBJECTS AND REASONS

To make a number of miscellaneous amendments to the Land Ordinance.

Ref: LND/10/1.

# The Media Trust Bill 1989

(No.     of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Interpretation.
3. Establishment of a Media Trust.
4. Appointment of trustees.
5. Duties of trust.
6. Duties of trustees.
7. Powers of trust.
8. Books of Accounts to be kept.
9. Annual Accounts.
10. Limitation of expenditure.
11. Subsidy by the Government.
12. Meetings of trust.

**A Bill for  
An Ordinance**  
**to establish a trust to be responsible for the editorial policy,  
control and publishing of a newspaper and editorial policy of the  
Falkland Islands Broadcasting Station and for connected purposes.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Media Trust Ordinance 1989. Short title.
2. In this Ordinance, unless the context otherwise requires — Interpretation.
  - “the company” has the meaning ascribed by section 3(1) below;
  - “the broadcasting station” means the Falkland Islands Broadcasting Station;
  - “the newspaper” means the newspaper referred to in section 5; and
  - “the trust” means the trust established by section 3.
3. (1) There shall be a trust known as the Falkland Islands Media Trust (“the trust”) which shall be a body corporate with perpetual succession and a common seal. Establishment of a Media Trust.
  - (2) All the property which immediately prior to the commencement of this Ordinance belonged to Penguin News Limited (“the company”) is hereby vested in the trust.
  - (3) All debts and liabilities whatsoever of the company immediately prior to the commencement of this Ordinance are hereby transferred to and become the debt and liabilities of the Government which shall pay and discharge or perform the same (if any) as soon as conveniently may be or, with the consent of persons entitled to the benefit of the said trust transfer them to the trust for the trust to pay, discharge or perform the same.
  - (4) Penguin News Limited is hereby dissolved.
4. (1) The Governor acting in his discretion shall appoint five persons to be members of the trust (“trustees”). Appointment of trustees.
  - (2) No person who is —

- (a) not qualified to be registered as a voter under the Electoral Ordinance 1988;
- (b) is a member of the Legislative Council; or
- (c) is disqualified from election as a member of the Legislative Council

may be appointed as a trustee.

(3) A trustee shall subject to subsection (4) below hold office as such for four years but, subject to this Ordinance, is eligible for re-appointment.

(4) A trustee shall cease to hold office as such —

- (a) on ceasing to be qualified to be registered as a voter under the Electoral Ordinance 1988;
- (b) on becoming a member of the Legislative Council;
- (c) on becoming disqualified to be elected as a member of the Legislative Council;
- (d) on delivering his resignation in writing to the Governor; or
- (e) on being removed from office by the Governor acting in his discretion.

5. (1) Subject to subsection (2) it shall be the object of the trust, so far as funds belonging to or made available to the trust and all other relevant circumstances allow — Duties of trust.

- (a) to publish regularly a newspaper to circulate in the Falkland Islands and to be available for persons outside the Falkland Islands to purchase on subscription;
- (b) to ensure that the newspaper and the broadcasting station are in their respective editorial policies independent from control by the Government, any political party, trade union, religious body, or any other body, sect or interest group other than the trust;
- (c) to ensure that the newspaper and the broadcasting station are informative of news and current affairs within the Falkland Islands, likely to be of interest generally to persons in the Falkland Islands and so far as is ancillary thereto and, in the opinion of the trust likely to be of interest to such persons, informative of matters outside the Falkland Islands;
- (d) subject to subsection (3), to ensure as far as possible that the programmes broadcast by the broadcasting station comply with the following requirements —
  - (i) that nothing is included in the programmes which offends against good taste or decency or is likely to incite to crime or lead to disorder or to be offensive to public feeling;
  - (ii) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;
  - (iii) that proper proportions of the recorded and other matter included in the programmes are of Falkland Islands' origin;
  - (iv) that due impartiality is preserved on the part of the persons providing the programmes in relation to any matter which, for any reason, is likely to be controversial;
  - (v) that a sufficient amount of broadcasting time is made available, at suitable times of day, for official, governmental or other announcements.

(2) The duties under subsection (1) are qualified so as to permit and take into account any restraint on the freedom of speech contemplated under the provisions of the Constitution or, subject to the Constitution, required by law.

(3) The duties under subsection (1)(d) above do not extend so as to in any way require the broadcasting time at the commencement of this Ordinance allotted to the British Forces Broadcasting Service to be varied, or to cast upon the trust any responsibility for the content of programmes broadcast by that service or by the British Broadcasting Corporation and relayed by the broadcasting station.

(4) The trust may delegate to an editor of the newspaper the day to day performance of its duties under subsection (1) above so far as they affect a newspaper, but the trustees shall nonetheless continue to be responsible for the performance of the same.

(5) The broadcasting station shall remain the property of the Government and the staff thereof shall be and continue to be employed by the Government and the financial control of the broadcasting station and its finances shall be the responsibility of the Government: accordingly, nothing in section 6 to 11 below applies in respect of the broadcasting station.

6. (1) Every trustee shall, subject to this Ordinance, have the like duties towards the trust and to persons dealing with the trust as if —

Duties of trustees.

(a) the trust were a company registered with limited liability under the provisions of the Companies Act 1948 in its application to the Falkland Islands; and

(b) he were a director of that company.

(2) A trustee shall not be personally liable in respect of anything done by him in his capacity as a trustee unless were the trust a company of the kind mentioned in subsection (1) above and were he a director of that company he would be personally liable as such director under the provisions of the said Act.

7. The trust shall have such powers as are set out in Schedule 1 to this Ordinance but subject to such conditions as are there set out.

Powers of trust.

8. (1) The trust shall in relation to the newspaper keep or cause to be kept such books of account as are necessary faithfully to record all financial transactions of the trust and of the newspaper and all such books of account shall be produced at all reasonable times to the Financial Secretary, the Principal Auditor or any other public officer authorised by either of them.

Books of Accounts to be kept.

(2) The provisions of the Finance and Audit Ordinance 1988 as to the audit of accounts shall apply to the books of account required to be kept by subsection (1) and as to the trustees and employees of the trust as if they were public officers and the books of account were kept in relation to expenditure and income of a department of government.

(3) Nothing in subsection (2) shall render the funds of the trust public funds or require its accounts to be treated as part of the public accounts of the Falkland Islands.

9. (1) The trust shall, in the month of July in every year, cause a profit and loss account as to its activities in the period to the preceding 30th June, and a balance sheet as at that date ("the annual accounts") to be drawn up and, as soon as conveniently possible thereafter, audited.

Annual accounts.

(2) The annual accounts and the auditor's report thereon shall, as soon as reasonably possible, be transmitted to the Governor who shall cause the same to be laid on the table of the Legislative Council at the first convenient meeting of that council after he receives them from the trust.

(3) So soon as reasonably possible after the Legislative Council meeting referred to in subsection (2) above the profit and loss account and balance sheet and auditor's report thereon shall be published in the Gazette.

10. (1) It shall not be lawful for the trust to expend, or to commit itself to expenditure of, any sum which is reasonably likely to cause to be exceeded the aggregate of —

Limitation of expenditure.

(a) the income likely to be received from sale of newspapers and advertising space and any other business carried on by the trust with the consent of the Governor;

(b) any subvention or subsidy paid or payable to the trust by the Government or by any other authority.

(c) any gift of money paid or payable to the trust;

(d) any sum borrowed by the trust with the consent of the Governor.

(2) A trustee who knowingly permits the trust to incur expenditure contrary to subsection (1) above is personally liable to reimburse that expenditure unless the Governor relieves him of that liability by instrument under his hand.

- |   |                            |
|---|----------------------------|
| 11. There may be paid out of the Consolidated Fund to the trust such sums as are appropriated by Ordinance for the purpose. | Subsidy by the Government. |
| 12. Schedule 2 of this Ordinance shall apply in relation to meetings of the trust and procedure thereat.                    | Meetings of trust.         |

#### SCHEDULE 1

(section 7)

1. To continue to publish and circulate the newspaper known as the "Penguin News" and to make arrangements, subject to the approval of the Governor advised by the Executive Council as to its printing.
2. Subject to such restrictions and conditions as may be notified by the Governor to carry on the business of newspaper proprietors and general publishers and advertising agents.
3. Subject to this Ordinance, to employ such staff as may be appropriate for the foregoing purposes.
4. To acquire, use and operate such property of any kind as may be necessary for any of the foregoing purposes, on such terms as the trust thinks fit, subject to this Ordinance, and to dispose of any property belonging to it on such terms as the trust thinks fit.
5. To purchase or take on lease such buildings and land as may be necessary for any of the foregoing purposes.
6. With the consent of the Governor, to open and operate such bank accounts for any of the above purposes: provided that all cheques and other bills of exchange shall be signed by at least two trustees.
7. With the prior consent of the Governor, and subject to such conditions as he may specify, to borrow money for the purposes of the trust.

#### SCHEDULE 2

(section 12)

1. The trust shall meet at least four times in every year and meetings shall be on such dates and at such times as shall be decided by the Chairman, subject to paragraph 5.
2. The trustee appointed by the Governor to be Chairman of the trust shall chair meetings of the trust when he is present: in his absence the trustees present at the meeting shall elect one of their number to chair the meeting.
3. The quorum for every meeting of the trust shall be three trustees personally present and no business shall be transacted at any time when a quorum is not present except to adjourn that meeting.
4. All matters coming before the trust for decision at a meeting shall be decided in accordance with the views of the majority of the trustees present at the meeting, if necessary upon a vote of the trustees. In the event of an equality of votes, the chairman of the meeting shall have and shall exercise a second or casting vote.
5. Any two trustees may requisition a meeting of the trust at any time by writing signed by them delivered to the Chairman and the Chairman on receipt of such a requisition shall convene a meeting to be held within fourteen days.
6. At least seven days' notice shall be given of every meeting unless such notice is abridged by consent of at least four trustees.
7. Any person may attend a meeting by invitation of the trustees and, if so invited, may speak thereat, but he shall not vote.
8. The trustees shall appoint one of their number or some other person to keep minutes of each of their meetings and shall deliver a copy of such minutes so soon as available (without waiting for confirmation thereof) to the Governor, the Chief Executive and the Financial Secretary.
9. Subject to the foregoing, and to the Ordinance, the trust may regulate its own procedure.

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#### OBJECTS AND REASONS

To establish a trust to be responsible for the editorial policy of a newspaper and of a public broadcasting station and for the financial control of the newspaper.

## Interpretation and General Clauses (Amendment) Bill 1989

(No.     of 1989)

### ARRANGEMENT OF PROVISIONS

#### Clause

1. Short Title.
2. Interpretation.
3. Amendment of the principal Ordinance.

#### Schedule



**A Bill for  
An Ordinance  
to amend the Interpretation and General Clauses Ordinance 1977.**

BE IT ENACTED by the Legislative Council of the Falkland Islands, as follows —

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1989. Short title.
2. In this Ordinance, "the principal Ordinance" means the Interpretation and General Clauses Ordinance 1977. Interpretation.
3. The principal Ordinance is amended in the manner specified in the Schedule hereto. Amendment of principal Ordinance.

**SCHEDULE**  
*Amendments of principal Ordinance* (section 3)

(a) Section 1 of the principal Ordinance is amended by the insertion of the figures "1977" after the word "Ordinance" appearing therein.

(b) Section 2 of the principal Ordinance is repealed and replaced by the following new section 2 —

"Application to other  
instruments and to itself.  
(1978 c.30 s.23(1))

2. (1) The provisions of this Ordinance apply, so far as is applicable, and unless contrary intention appears, to all Ordinances and subsidiary legislation and whether enacted or made before or after the commencement of this Ordinance.

(1978 c.30 s.23(2))

(2) In the application of this Ordinance to Ordinances enacted or subsidiary legislation made after the commencement of this Ordinance, all references to an enactment include an enactment comprised in subsidiary legislation whenever made, and references to the enactment passing or repeal of an enactment are to be construed accordingly.

(3) This Ordinance shall apply to itself, but notwithstanding subsections (1) and (2) of this section, this Ordinance does not apply to any imperial enactment to which the Interpretation Act 1978 applies."

(c) Section 3 of the principal Ordinance is amended as follows —

(i) the definition of “alien” appearing therein is repealed and replaced by the following definition —

“alien” —

- (a) in relation to any time before 1st January 1983, means any person who was not, at that time:
  - (i) a British subject, a British protected person (within the meaning of those phrases under the British Nationality Act 1948); or
  - (ii) a citizen of the Republic of Ireland; and
- (b) in relation to any time after 31st December 1982, means any person who is not, at that time —
  - (i) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British subject (within the meaning of those phrases under the British Nationality Act 1981); or
  - (ii) a Commonwealth citizen (within the meaning of that phrase under the British Nationality Act 1981); or
  - (iii) a citizen of the Republic of Ireland;

(ii) the definition of “Chief Secretary” appearing therein is repealed and replaced by the following new definition —

“Chief Executive” means the person for the time being holding or acting in the office of Chief Executive;”

(iii) by inserting, immediately after the definition of “common law” the following new definition —

(S.I. 1985 No. 444) “the Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985;”

(iv) by repealing the definition of “The Dependencies”;

(v) by inserting immediately after the definition of “dues”, the following new definition —

“enactment” includes any imperial enactment, any Ordinance and any subsidiary legislation;”

(vi) by repealing the definitions of “Governor”, “Governor in Council”, “Governor in Executive Council” and “Governor with the advice of Executive Council” and replacing them with the following definition —

“ “Governor”, “Governor in Council”, “Governor in Executive Council” and “Governor with the advice of Executive Council” mean the Governor or other officer for the time being administering the Government of the Colony acting after consultation with the Executive Council except in any case where the Constitution authorises or requires him to act otherwise than after such consultation where it shall mean, the Governor acting in his discretion;”

(vii) by repealing the definition of “Harbour” appearing therein and replacing it with the following definition —

"Harbour" has the same meaning as it has under the Harbour Ordinance;

(viii) by repealing the definition of "judge" appearing therein and by replacing it with the following definition —

"judge" means the Chief Justice and any person appointed to sit as an acting judge of the Supreme Court under section 80(1) of the Constitution;"

(ix) by repealing the definition of "Magistrate" appearing therein and replacing it with the following definition —

"Magistrate's Court" means the court of that name existing under the Administration of Justice Ordinance;"

(x) by repealing the definition of "land" and by replacing it with the following definition —

"land" includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

(xi) by repealing the definition of "Ordinance" and "enactment" appearing therein and by replacing it with the following definition —

"Ordinance" means any Ordinance enacted by the Governor and any subsidiary legislation made under any such Ordinance;"

(xii) by amending the definition of "statutory declaration", in paragraph (a) of such definition by amending the title of the Act therein mentioned to read "Statutory Declarations Act 1835";

(xiii) by inserting, immediately after the definition of "subsidiary legislation" and "regulations", the following definition —

"Summary Court" means the court of that name existing under the Administration of Justice Ordinance;"

(xiv) by repealing the definition of "summary conviction" appearing therein and replacing it with the following definition —

"summary conviction" means a conviction otherwise than on indictment;"

(xv) by repealing the definition of "territorial waters" appearing therein and by replacing it with the following definition —

"territorial sea" and "territorial waters" means such part of the seas surrounding the Colony as in accordance with the law of the Falkland Islands are the territorial sea or territorial waters of the Falkland Islands;"

(xvi) by adding to the definition of "treaty" appearing therein, immediately after the word "thereto" the following words —

"(but nothing in this definition shall be construed as applying to the Falkland Islands anything to which it refers and which would not, apart from this definition, so apply)"; and

(xvii) by repealing the definition of "triable summarily" appearing therein and replacing it with the following definition —

"triable summarily", in relation to an offence, means triable by the Magistrate's Court or by the Summary Court (and notwithstanding that the offence might also be triable on indictment);"

(d) Section 8 of the principal Ordinance is repealed and replaced by the following section —

"References to service by post.

(1978 c.30 s.7)

8. Where an Ordinance or subsidiary legislation authorizes or requires any document to be served by post (whether the expression "serve" or the expression "give" or "send" or "notify" or any other expression is used) then, unless (the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time when the letter would be delivered in the ordinary course of the post."

(e) Section 11 of the principal Ordinance is repealed and is replaced by the following section 11 —

"Citation of other Ordinances.

11. (1) Where an Ordinance cites another Ordinance by year, number in a year, chapter or title number or a section or other portion of another Ordinance by number or letter, the reference shall, unless the contrary intention appears, be read as referring —

- (a) in the case of Ordinances included in any revised edition of the laws printed by authority, to that edition;
- (b) in the case of Ordinances not so included, to the Ordinances published in the Gazette with such rectifications as may have been made by Order made under section 101(1);

(f) The principal Ordinance is amended by inserting therein the following new section 11A, immediately after section 11 —

"Evidence in relation to certain matters concerning Ordinances.

11A (1) Where, in accordance with paragraph 4 of Annex A to the Constitution any printed copy of an Ordinance printed by the Government Printer or other authorised printer bears printed thereon —

- (a) in the case of an Ordinance assented to by the Governor particulars of the day on which he gave such assent;
- (b) in the case of a law assented to by Her Majesty through a Secretary of State, particulars of the day on which the Governor signified such assent thereto by proclamation in the Gazette;
- (c) particulars of the day on which the law was published in the Gazette; or
- (d) particulars of the day on which the law came into operation or, if that day shall not have been determined, a reference to the provision whereby it may be determined,

those particulars shall, unless the contrary be proved, be deemed to be correctly stated and shall be received without further proof as evidence of the facts to which the particulars in question relate.

(2) Where any Ordinance or other instrument or document whatsoever bears thereon a statement printed thereon that the Ordinance, instrument or document was printed by the Government Printer or another authorised printer, that statement shall, unless the contrary be proved, be deemed to be correctly made and shall be received without further proof as evidence of the fact stated";

(g) Section 12 of the principal Ordinance is repealed and replaced by the following new Section 12 —

"Publication and  
commencement of laws.

12. (1) Nothing in section 11A shall be construed as permitting any Ordinance to come into operation until such time as it has been published in the Gazette.

(2) If so expressed therein, a law may have effect retrospective from the date of its publication in the Gazette, but —

- (a) no act or omission which did not constitute an offence at the time it was done or made shall retrospectively become an offence; and
- (b) no law shall render any offence committed before that law came into operation punishable more severely than it would have been if that law had not been made.

(3) For the sake of avoidance of doubt, it is declared that this section applies to subsidiary legislation as well as to Ordinances";

(h) Sections 14(1) and 14(2) and section 15 of the principal Ordinance are amended by inserting therein immediately after the word "Ordinance", wherever appearing therein, the words "or other enactment";

(i) Section 16(1) of the principal Ordinance is repealed and replaced by the following subsection —

'(1) Any reference in any enactment to "any Ordinance", "any Ordinance or other enactment" or to "any enactment" shall be construed as follows —

- (a) in the case of a reference to "any Ordinance", to any Ordinance for the time being in force; and
- (b) in the case of a reference to "any Ordinance or other enactment" or to "any enactment", to any enactment for the time being in force";

(j) Section 16(2) and 16(3) of the principal Ordinance are amended by the insertion immediately after the word "Ordinance" wherever it appears therein, of the words "or other enactment";

(k) Section 19 of the principal Ordinance is repealed and replaced by the following —

"19. A copy of every Ordinance for the time being in force and a copy of all subsidiary legislation for the time being in force shall be available for inspection without charge at the offices of the Attorney General during such time as the same are open for business";

(l) Section 20 of the principal Ordinance is repealed and replaced by the following —

"Printing of laws.

20. (1) Paragraph 4 of Annex A to the Constitution applies to the printing of laws.

(2) For all purposes of this Ordinance a law which is published in a supplement to the Gazette which is issued with and published at the same time as, and which is referred to in, an issue of the Gazette is deemed to have been published in that issue";

(m) Sections 23, 24 and 25 of the principal Ordinance are repealed and replaced by the following new sections 23 and 24 —

"Repeal of repeal.  
(1978 c.30 s.15)

23. Where an Ordinance repeals a repealing enactment, the repeal does not revive any enactment previously repealed unless words are added reviving it.

Effect of repeal generally.

24. (1) Without prejudice to section 23, where an Ordinance repeals an enactment, the repeal does not, unless the contrary intention appears —

(1978 c.30 s.16)

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment;
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against that enactment;
- (e) affect any investigation, legal proceeding or remedy in respect

of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

(2) This section applies to the expiry of a temporary enactment as if it had been repealed by an Ordinance.

Repeal and re-enactment.

25. (1) Where an Ordinance repeals a previous enactment and substitutes provisions for the enactment repealed, the repealed enactment remains in force until the substituted provisions come into force.

(1978 c.30 s.17)

(2) Where an Ordinance repeals and re-enacts, with or without modification, a previous enactment then, unless the contrary intention appears, in so far as any subsidiary legislation made or other thing done under the enactment so repealed, or having effect as if so made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision.”

(n) Section 32 of the principal Ordinance is amended by deleting the words “after the publication of the Ordinance in the Gazette” appearing therein and by replacing them with the words “after the Ordinance has been assented to”;

(o) Section 36 of the principal Ordinance is repealed and replaced by the following section —

“36. (1) Where any subsidiary legislation continues to have effect under section 25(2), it may be amended as if made under the repealing or re-enacting Ordinance.

(2) Where an Ordinance repeals and re-enacts any enactment and any subsidiary legislation made under the repealed enactment continues to have effect under section 25(2) above or any provision of that repealing Ordinance, that subsidiary legislation may be revoked by any subsidiary legislation made under the repealing Ordinance.”

(p) Section 39(2) of the principal Ordinance is amended by the deletion of the words “the holder for the time being of that public office” appearing therein and by replacing them with the words “the person holding or acting in that office for the time being”;

(q) Section 40(4) of the principal Ordinance is repealed and is replaced by the following subsection —

“(4) Subsection (3) has effect in relation to any public officer, public body or authority having powers to which subsection (1) relates as it has effect in relation to the Governor.”;

(r) Section 41(2) of the principal Ordinance is amended by the deletion of the words “Nothing in this section shall affect” and by replacing them with the words “Nothing in subsection (1) shall authorise any person to contravene any applicable rule of natural justice or”;

(s) Section 55(3) and section 56 of the principal Ordinance are amended by the deletion of “Chief Secretary” and by replacing them with the words “Chief Executive”;

(t) Section 63(1) of the principal Ordinance is amended by deleting everything appearing after the word “signified” appearing therein and by inserting after that word the words “under the hand of the Clerk of the Councils”;

(u) Section 64 of the principal Ordinance is repealed;

(v) Section 65(4) and (5) of the principal Ordinance are repealed;

(w) Section 78 of the principal Ordinance is amended —

(i) by constituting the existing section as subsection (1) of that section; and

(ii) by adding to section 78 the following new subsection —

“(2) Without prejudice to subsection (1), a reference in any law to an imperial enactment shall be construed as extending to any later imperial enactment which modifies or augments the earlier imperial enactment.”

(x) Section 90 of the principal Ordinance is repealed and replaced by the following section —

- "90. (1) All offences are triable summarily except offences which by any provision of any Ordinance are required to be tried on indictment.
- (2) Any offence which, under subsection (1), may be tried summarily and which is punishable on conviction by imprisonment for six months or more or by a fine exceeding £2,500 or more or by both such imprisonment and such fine may, subject to subsections (3) and (4), be tried on indictment.
- (3) An offence to which subsection (2) relates may only be tried on indictment if the offender is committed by a competent court for trial on indictment before the Supreme Court.
- (4) A person may only be committed for trial on indictment before the Supreme Court in respect of an offence which under subsection (1) is triable summarily if —
- (a) on the same occasion he is committed for trial on indictment before the Supreme Court in respect of another offence which is not triable summarily; or
  - (b) he was on an earlier occasion so committed in respect of an offence which is not triable summarily and he has yet to stand his trial before the Supreme Court in respect of that offence";
- (y) Section 93 of the principal Ordinance is amended by the deletion of all words appearing after the words "Attorney General" where they first appear therein and by substituting for the first mentioned words the words "that provision shall be construed as providing that such a prosecution may only be instituted by or with the consent of the Attorney General and that no other consent is required;"
- (z) Section 95 of the principal Ordinance is amended —
- (a) by deleting the words "general revenue of the Colony" appearing therein and by replacing them with the words "Consolidated Fund"; and
  - (b) by deleting the proviso;
- (aa) Section 96 of the principal Ordinance is amended by deleting the words "general revenue of the Colony" appearing therein and by replacing them with the words "Consolidated Fund"; and
- (ab) Section 105 of the principal Ordinance is repealed and replaced by the following section —
- "Publication of Ordinances as amended.      **105.** (1) The Government Printer may, with the authority of the Attorney General, print a consolidated version of any law (that is to say, incorporating therein all amendments which have been made to such law since the same was enacted or made) and may publish any such consolidated version in the Gazette.
- (2) Any consolidated version of a law published pursuant to this section shall bear at the foot thereof a statement that it is published pursuant to this section and that it is a consolidated version and shall be admissible in evidence and, unless the contrary be proved, shall be deemed correctly to state the content of the law in question at the date of its publication in the Gazette."

#### OBJECTS AND REASONS

This Bill seeks to effect several dozen amendments to the Interpretation and General Clauses Ordinance. The great majority of these are consequential on other changes in the laws or circumstances of the Falkland Islands including most importantly, the Constitution.

Ref: LEG/10/5.

# The Family Allowances (Amendment) Bill 1989

(No. of 1989)

## 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 1989 and shall come into force on the 1st January 1990.

Citation and  
commencement.

2. The Family Allowances Ordinance 1960 is amended by —

Amendment of  
Ordinance No. 9  
of 1960.

- (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 £33”; 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-eight pounds in addition to the allowance or allowances being paid under subsection (2)”.

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## OBJECTS AND REASONS

To increase the sums payable under the Family Allowances Ordinance 1960.



# The Non-Contributory Old Age Pensions (Amendment) Bill 1989

(No. of 1989)

## 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) Ordinance 1989 and shall come into force on the 3rd July 1989. | Short title and commencement. |
| 2. In this Ordinance, "the principal Ordinance" means the Non-Contributory Old Age Pensions Ordinance 1961.  | The Principal Ordinance.      |
| 3. The Schedule to the principal Ordinance is replaced by the following Schedule —   | Replacement of Schedule.      |

### "SCHEDULE

Married man.. ... ..	£57
Unmarried person ... ..	£41
Man or woman separated or living apart from his or her husband or wife ... ..	£41"

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### OBJECTS AND REASONS

To increase the sums payable under the Non-Contributory Old Age Pensions Ordinance 1961.

Ref: TRE/2/2

# The Old Age Pensions (Amendment) Bill 1989

(No. of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short title.
2. The principal Ordinance.
3. Repeal and Replacement of Section 6 (2) of the Principal Ordinance.
4. Repeal and Replacement of Section 6 B of the Principal Ordinance.
5. Replacement of the 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) Ordinance 1989 and shall come into force on 3rd July 1989. Short title.
2. In this Ordinance, "the principal Ordinance" means The Old Age Pensions Ordinance 1952. The principal Ordinance.
3. Section 6(2) of the principal Ordinance is repealed and replaced by the following new section 6(2) Repeal and replacement of section 6 (2) of the Principal Ordinance.

"(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 £3.80 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 £5.70 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 £9.50 per week if between the ages of 17 and 64 years".
4. Section 6B of the principal Ordinance is repealed and replaced by the following new section 6B — Repeal and replacement of Section 6 B of the principal Ordinance.

"6B Notwithstanding any other provisions of this Ordinance relating to the payment of contributions and pensions, the following special provisions shall apply to female contributors —

  - (a) a female contributor shall be entitled to an unmarried pension at the rate set out in the Schedule;
  - (b) contributions shall be compulsory by and in respect of a female contributor during such period or periods as she earns at a rate of £3,200 or more per annum together with an additional sum of £800 per annum for every child of school age maintained by her;
  - (c) the contributions payable by and in respect of a female contributor shall be at the rate set out in section 6 of this Ordinance;
  - (d) every female contributor other than the widow of a contributor shall, on reaching the age of 50, be liable to contribute continuously to the Fund at the rates prescribed in section 6 until she reaches the age of 64;

- (e) any female unable to make the contributions required under the immediately preceding paragraph shall apply to the Board for assistance in the payment of such contributions if necessary to the full extent of contributions and, if the Board is satisfied that she is unable to make the contributions required, contributions on her behalf shall be paid out of the Consolidated Fund:

Provided that if at any time during the period of ten years preceding her sixtieth birthday such female contributor is gainfully employed and is in receipt of an income at a rate of not less than £3,200 per annum together with an additional £800 per annum for each child of school age, she shall, so long as she is so gainfully employed, pay contributions at the rate prescribed in section 6;

- (f) a female contributor whose employment is of a casual nature, involving several employers during any one week, shall be deemed to be a self-employed person."

5. The Schedule to the principal Ordinance is replaced by the following Schedule —

Replacement of  
the Schedule.

#### "SCHEDULE

##### Section 4(2)

##### RATES OF PENSION

Married man ... .. £66 per week.  
Unmarried man, or widower, or man whose marriage has been dissolved by decree of a competent court, or man separated or living apart from his wife who cannot prove that he is contributing to her support ... .. £43 per week.  
Widow of pensioner during widowhood ... .. £43 per week.  
Unmarried female contributor or a married female contributor not living with or being maintained by her husband ... .. £43 per week."

---

#### OBJECTS AND REASONS

To increase contributory Old Age Pensions and the contributions payable by contributors and their employers. The Bill also provides for an increase in the amount that a female contributor may earn before contributions by her shall be compulsory.

Ref: TRE/2/1.

# The Petroleum Products (Amendment) Bill 1989

(No. of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Amendment of Petroleum Products Ordinance 1973.

## A Bill for An Ordinance To amend the Petroleum Products Ordinance 1973.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows —

1. This Ordinance may be cited as the Petroleum Products (Amendment) Ordinance 1989.
2. The Petroleum Products Ordinance 1973 is amended in the manner specified in the Schedule to this Ordinance.

Short title.

Amendments of  
Petroleum Pro-  
ducts Ordinance  
1973.

### SCHEDULE (Section 2)

#### Amendments to the Petroleum Products Ordinance 1973

The Petroleum Products Ordinance 1973 is amended —

- (a) by repealing section 2 thereof and replacing it with the following new section 2 —

“2. In this Ordinance unless the context otherwise requires “petroleum products” means —

- (a) crude petroleum, and any fuel oil made or refined from petroleum or made or refined from coal, shale, peat or any bituminous substance;
- (b) any other fuel oil produced directly or indirectly from petroleum or from any oil made or refined as specified in paragraph (a); and
- (c) mixtures containing petroleum or any fuel oil specified in paragraph (a).”

- (b) by repealing section 4(1) of the Ordinance and replacing it with the following new subsection —

“(1) Subject to this Ordinance, a person commits an offence who, except as he may be authorised by a licence granted by the Governor so to do, in the Falkland Islands (including its territorial waters) imports, in the course of business sells or otherwise supplies, or stores for any purpose any petroleum products.”; and

- (c) by deleting the full-stop at the end of paragraph (b) of section 7 and replacing it with the words “; and” and by adding the following new paragraph (c) to section 7 —

“(c) to petroleum products stored in the fuel tank of any vessel, aircraft or vehicle and intended to be consumed in that vessel, aircraft or vehicle.”

### OBJECTS AND REASONS

To replace section 2 of the Petroleum Products Ordinance so as to allow lubricants to be sold et cetera without a licence. To replace section 4(1) of that Ordinance by a new subsection reflecting more accurately the intent of the Ordinance and to amend section 7 for a similar reason.

Ref: FUE/10/1.

Road Traffic (Amendment) Bill 1989  
(No. of 1989)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.
2. Amendment of Cap 50.

(No. of 1989)

## 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) Ordinance 1989.
2. The Road Traffic Ordinance is amended in the manner specified in the Schedule to this Ordinance.

Short title.

Amendment of  
Cap.60.

#### SCHEDULE

(section 2)

The Road Traffic Ordinance is amended

- (a) by the repeal of sections 4(4), 5(7) and section 11;
- (b) by the insertion therein, immediately thereafter section 16K of the following new sections —

"16L (1) Arrangements may be made by the Governor for the patrolling of places where children cross roads on their way to or from school, during periods between the hours of eight in the morning and half past five in the afternoon when children are so on their way, by persons appointed by him for that purpose.

"Arrangements  
for patrolling  
school crossings.

(2) Persons appointed under subsection (1) shall be entitled to receive such remuneration as may from time to time be allowed by the Governor.

(3) For the sake of avoidance of doubt, it is hereby declared that every police officer in uniform may exercise all the powers under section 16M of a school crossing patrol.

(4) In this section and in section 16M "school crossing patrol" means a person appointed under subsection (1) above.

16M (1) When between the hours of eight in the morning and half past five in the afternoon a vehicle is approaching a place in a road where children on their way to or from school are crossing or seeking to cross the road, a school crossing patrol wearing a uniform approved by the Governor shall have power, by exhibiting a prescribed sign, to require the person driving or propelling the vehicle to stop it.

Stopping of  
vehicles at  
school crossing.

(2) When a person has been required under subsection (1) above to stop a vehicle —

- (a) he shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross and so as not to stop or impede their crossing; and
- (b) the vehicle shall not be put in motion again so as to reach the place in question so long as the sign continues to be exhibited.

(3) A person who fails to comply with paragraph (a) of subsection (2) above, or causes a vehicle to be put in motion in contravention of paragraph (b) of that subsection, shall be guilty of an offence.

(4) For the purposes of this section —

- (a) where it is proved that a sign was exhibited by a school crossing patrol, it shall be presumed, unless the contrary is proved, to be of a size, colour and type prescribed, or of a description authorised under the provisions of this Ordinance;
- (b) where it is proved that a school crossing patrol was wearing a uniform, the uniform shall be presumed, unless the contrary is proved, to be a uniform approved by the Governor; and
- (c) where it is proved that a prescribed sign was exhibited by a school crossing patrol at a place in a road where children were crossing or seeking to cross the road, it shall be presumed, unless the contrary is proved, that those children were on their way to or from school."

#### OBJECTS AND REASONS

The purposes of this Bill are to repeal certain provisions of the Road Traffic Ordinance which have been replaced by other provisions and to make provision for school crossing patrols.

Ref: POL/10/5.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

*Vol. XCVIII*

*11th MAY 1989*

*No. 11*

## NOTICES

No. 18

1st May 1989.

**The Companies Act 1948**

### **Special Resolution to Appoint Liquidator**

Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**A. L. Lee & Son Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at 44 John Street, Stanley on **1st May 1989**, the following **Special Resolution** was duly passed —

“That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be hereby appointed Liquidator(s) for the purposes of such winding-up.”

**Signature - A. L. Lee.**

**Description - Chairman.**

**Presented by - Consultancy Services Falklands Limited.**

**Presenter's Reference - Andrew Dey.**

No. 19

3rd May 1989.

**The Companies Act 1948**

### **Notice of Appointment of Liquidator (Members') Voluntary Winding up**

Pursuant to section 305 of the Companies Act 1948

**Name of Company - A. L. Lee & Son Limited.**

**Nature of Business - Building Merchants.**

**Address of Registered Office - 10 Allardyce Street, Stanley, Falkland Islands.**

**Liquidator(s) Name(s) and Address(es) - Andrew Dey, 44 John Street, Stanley, Falkland Islands.**

**Date of Appointment - 1st May 1989.**

**By Whom Appointed - Extraordinary General Meeting of Company by Special Resolution.**

**Signature(s) Andrew Dey (Liquidator(s))**

**Dated - 3rd May 1989.**

**Attested by - John Scannell.**

**Description - Trainee Solicitor.**

No. 20

3rd May 1989.

**Notice to Creditors to send in claims****Name of Company - A. L. Lee & Son Limited (in Voluntary liquidation).**

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Twenty-sixth day of May 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator of the said Company; and, if so required by notice in writing by the said Liquidator, are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

Dated - 3rd May 1989.

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**NOTICE**

The following are published in this Gazette —

**The Road Traffic (Amendment) (No. 2) Ordinance 1988 Commencement Order 1989 (S.R. & O. No. 10 of 1989);**

**The Elections (Boundaries of Constituencies) Regulations 1989 (S.R. & O. No. 11 of 1989);**

**The Electoral Forms Regulations 1989 (S.R. & O. No. 12 of 1989);**

**The Supplementary Appropriation (Amendment) Bill 1989;**

**The Supplementary Appropriation (1988-1989) (No. 3) Bill 1989.**



# The Road Traffic (Amendment) (No. 2) Ordinance 1988

(No. 27 of 1988)

## The Road Traffic (Amendment) (No. 2) Ordinance 1988 Commencement Order 1989

(S.R. & O. No. 10 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation.
2. Commencement of Ordinance.

# The Road Traffic (Amendment) (No. 2) Ordinance 1988

(No. 27 of 1988)

## The Road Traffic (Amendment) (No. 2) Ordinance 1988 Commencement Order 1989

(S.R. & O. No. 10 of 1989)

IN EXERCISE of my powers under section 1 of the Road Traffic (Amendment) (No. 2) Ordinance 1988, I make the following Order —

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. This Order may be cited as The Road Traffic (Amendment) (No. 2) Ordinance 1988 Commencement Order 1989.</li> <li>2. The Road Traffic (Amendment) (No. 2) Ordinance 1988 shall come into force on the first day of July 1989.</li> </ol> | <p>Citation.</p> <p>Commencement of Ordinance.</p> |
|---|--|

Made this 2nd day of May 1989.

W. H. FULLERTON,  
*Governor.*

Ref: POL/10/5.

## Electoral Ordinance 1988

(No. 21 of 1988)

### Elections (Boundaries of Constituencies) Regulations 1989

(S.R. & O. No. 11 of 1989)

#### ARRANGEMENT OF PROVISIONS

##### Paragraph

1. Citation and commencement.
2. Boundaries of constituencies.

## Electoral Ordinance 1988

(No. 21 of 1988)

### Elections (Boundaries of Constituencies) Regulations 1989

(S.R. & O. No. 11 of 1989)

IN EXERCISE of my powers under section 209 of the Electoral Ordinance 1988 and of all other powers me enabling in that behalf, I make the following Regulations —

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. These Regulations may be cited as the Elections (Boundaries of Constituencies) Regulations 1989 and shall come into force on the date they are first published in the Gazette.</li> <li>2. The distance of three and one half miles from the spire of Christchurch Cathedral, Stanley is prescribed for the purposes of section 6(1) and (2) of the Electoral Ordinance 1988 (provisions as to extent of the Stanley Constituency and the Camp Constituency).</li> </ol> | <p>Citation and commencement.</p> <p>Boundaries of constituencies.</p> |
|--|--|

Made this 2nd day of May 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEGCO/10/1.

# The Electoral Ordinance 1988

(No. 21 of 1988)

## Electoral Forms Regulations 1989

(S. R. & O. No. 12 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation and commencement.
2. Forms.

#### Schedule - Electoral Forms

I	S 9	Claim for Inclusion of Name in Electoral Register
II	S 10	Objection to Inclusion of Person's Name in Preliminary List of Voters.
III	S 10	Notice to Person of Objection to Inclusion of his/her name in Preliminary List of Voters.
IV	S 9 & 10	Notice of Decision by Registration Officer.
V	S 21	Request for Information from Householder.
VI	S 22	Form of Application for registration as an Elector.
VII	S 23	Form of Application for a Postal Vote.
VIII	S 23	Notice of Determination of an Application for a Postal Vote.
IX	S 25	Form for cancellation of postal vote or change of Falkland Islands address for postal ballot papers.
X	S 25	Notice giving effect to notice of cancellation of postal vote or change of Falkland Islands address for postal ballot papers.
XI	S 27	Form of Application for a Proxy Vote.
XII	S 27	Form of Consent to Act as Proxy.
XIII	S 27 & S 28	Notice to applicant of Determination of an Application for a Proxy Vote.
XIV	S 27	Notice to Proxy of Determination of an Application for a Proxy Vote.
XV	S 31	Form for Cancellation of Proxy Vote.
XVI	S 31	Notice giving effect to notice of Cancellation of Proxy Vote.
XVII	S 34	Form of Application for a Postal Proxy Vote.
XVIII	S 34	Notice of Determination of an Application for a Postal Proxy Vote.

XIX	S 36	Form for Cancellation of Postal Proxy Vote or change of Falkland Islands address for postal ballot papers.
XX	S 36	Notice giving effect to Notice of Cancellation of Postal Proxy Vote or change of Falkland Islands address for postal ballot papers.
XXI	S 48	Writ of Election (Camp)
XXII	S 48	Writ of Election (Stanley)
XXIII	S 62	Nomination Paper (Camp)
XXIV	S 62	Nomination Paper (Stanley)
XXV	S 64	Form of Consent to Nomination.
XXVI	S 68	Notice of Withdrawal of Candidature.
XXVII	S 68	Notice of Withdrawal of Candidature in respect of Candidate who is outside the Falkland Islands.
XXVIII	S 73	Form of Ballot Paper.
XXIX	S 73	Directions as to Printing Ballot Paper.
XXX	S 78	Declaration of Identity of Elector entitled to vote by Post.
XXXI	S 78	Form of Guidance as to manner of voting by Post.
XXXII	S 100	Form of Guidance as to the manner of voting.
XXXIII	S 114	Form of Declaration to be made by the Companion of a Blind Voter.
XXXIV	S 145	Return and Declaration as to Election Expenses Form of Return.
XXXV	S 146	Form of Declaration as to Election Expenses.
XXXVI	S 169	Election Petition.
XXXVII	S 202	Vacation/ Cesser Petition.

## The Electoral Ordinance 1988

(No. 21 of 1988)

## Electoral Forms Regulations 1989

(S.R. & O. No. 12 of 1989)

IN EXERCISE of my powers under section 209 of the Electoral Ordinance 1988 I make the following Regulations —

1. These Regulations may be cited as the Electoral Forms Regulations 1989 and shall come into force on the date of their first publication in the Gazette.
2. The forms set out in the Schedule to these Regulations are prescribed and shall be used for the purpose under the Electoral Ordinance 1988 to which they are expressed to be applicable and with such variations as the circumstances of the particular case may require.

Citation and  
commencement.

Forms.

## SCHEDULE

(regulation 2)

(S9)

## ELECTORAL FORM I

## CLAIM FOR INCLUSION OF NAME IN ELECTORAL REGISTER

(Note: This form is for use when a person's name has been omitted from the Preliminary List of electors published in the Gazette).

TO: The Registration Officer \*Camp/\*Stanley Constituency.

I, ..... of .....  
(full name) (address)

CLAIM that \*my name/\*the name of

(here insert full name of another person)

which has been omitted from the Preliminary List of electors in the Gazette should be included in the Register of Electors for the \*Camp/\*Stanley Constituency.

(Note: A person can make a claim for the inclusion of his own name or that of another person).

I give the following particulars in support of the claim --

1. Address at which person to whom claim relates was living on 15th May last:

.....  
.....

2. Address at which person to whom claim relates is presently living:

.....  
.....

3. Date of birth of person to whom claim relates:...../...../.....  
(day) (month) (year)

4. Place and country of birth of person to whom claim relates:

.....in.....  
(place) (country)

5. Country of citizenship of person to whom claim relates:.....

(Note: A person cannot be registered as an elector unless he is a Commonwealth Citizen).

6. Details of ALL absences of person to whom claim relates from Falkland Islands,

(a) during last TEN years if that person was NOT born in the Falkland Islands;

(b) during last FIVE years if that person WAS born in the Falkland Islands.

(Note: The dates of absences (as accurately as possible) should be given and the reason(s) for such absence(s). If there have been no absences at all, write "NONE" below).

.....  
.....  
.....  
.....  
.....  
.....

Dated.....

Signed.....

Witness.....

Note: This claim must be signed and dated by the claimant, whose signature must be witnessed by

(a) another person whose name appears in the Preliminary List of electors; or

(b) a justice of the peace.

\* Delete whichever is inapplicable

(S10)

## ELECTORAL FORM II

### OBJECTION TO INCLUSION OF PERSON'S NAME IN PRELIMINARY LIST OF ELECTORS

(Please read the Notes attached to this Form before completing)

TO: The Registration Officer \*Camp/\*Stanley Constituency.

I, .....  
(full name of objector)

of .....  
(address of objector)

**OBJECT** to the inclusion in the Preliminary List of electors of the name

of .....  
(person whose name is objected to)

who is shown in the Preliminary List of electors as being of

.....  
(address shown in Preliminary List for person objected to)

\* I am myself a person whose name appears in the Preliminary List of electors for the above Constituency/\*  
I am entitled to be registered as an elector for the Constituency and have submitted a claim for the inclusion  
of my name in the Register of Electors.

The ground(s) of my objection to the inclusion of the name of the above-named person are.....

.....  
.....  
.....  
(here set out grounds)

Dated..... 19.....

Signed .....

Witness.....

**Note:** This Objection must be signed and dated by the person making the objection whose signature must be witnessed by

- (a) another person whose name appears in the Preliminary List; or
- (b) a justice of the peace.

\* Delete whichever is inapplicable.

#### NOTES TO FORM II

1. An objection to the inclusion of a person's name in the Preliminary List can only be made by a person whose own name appears in the Preliminary List of electors for the relevant Constituency or who is entitled to be registered as an elector.

2. An objection must be on one or more grounds which, if correct, mean that the person to whom objection is made is not entitled to be registered as an elector. The ground or grounds on which objection is made must be stated in this form.

(Examples of grounds for objection are):

- (i) that the person is not a Commonwealth citizen;
- (ii) that the person has not resided in the Falkland Islands long enough;
- (iii) that the person has been away from the Falkland Islands too long;
- (iv) that the person was under 18 on 15th May last;
- (v) that the person is disqualified by law from being an elector;
- (vi) that the person did not live in this constituency on 15th May last.

(This list is not complete).

3. An objection **MUST** reach the Registration Officer within 28 days of the first publication in the Gazette of the Preliminary List of electors.

(S10)

**ELECTORAL FORM III****NOTICE TO PERSON OF OBJECTION TO INCLUSION OF HIS/HER NAME IN PRELIMINARY LIST OF ELECTORS**

TO:

**TAKE NOTICE** that I have received an objection from.....  
(name of objector)of .....  
(address of objector)

to the inclusion of your name in the Preliminary List of electors for the \*Camp/\*Stanley Constituency. I attach a copy of his/her objection.

I AM REQUIRED by law to decide upon the objection: that is whether to include your name in the Register of Electors or not. Do you want to make any representations to me in respect of the objection? If you do, you must send them in writing to me to reach me within 14 days of the date of this Notice. You may, if you wish, use the reverse of this Form upon which to write your representations.

Upon receipt of any representations from you or upon the expiration of 21 days from the date upon which this Notice is sent to you, I will decide the matter having regard only to the objection and any representations I receive from you.

Date.....19.....

Signed.....  
Registration Officer \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable.

(S9 &amp; 10)

**ELECTORAL FORM IV****NOTICE OF DECISION BY REGISTRATION OFFICER**TO: .....  
(\*claimant/\*objector)and TO: .....  
(person affected by objection)

Date.....

**TAKE NOTICE** that I have now decided the \*claim/\*objection relating to the inclusion of \*your name/\*the name of..... in the Preliminary List of electors.

I have decided \*to include it/\*NOT to include it in the Register of Electors.

If you are dissatisfied with my decision you may appeal to the Senior Magistrate by notice in writing setting out the grounds of your appeal. Any such notice must be sent so as to reach him (not me) within 21 days of today's date.

Signed.....  
Registration Officer \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable

(S21)

## ELECTORAL FORM V

## REQUEST FOR INFORMATION FROM HOUSEHOLDER

**(Please read attached notes to this Form before completing)**

I, ..... of .....  
(name of householder) (address)

certify that on 15th May 19.....

1. The persons listed at 4 below were of the age of eighteen years or over and ordinarily lived in the above household on that date;
2. The said persons <sup>(1)</sup> are all Commonwealth Citizens; <sup>(2)</sup>
3. The said persons <sup>(1)</sup> are all EITHER persons born in the Falkland Islands OR persons who on 15th May 19....., had resided in the Falkland Islands for at least five years and who are NOT members of H.M. Regular Armed Forces.
4. PERSONS ORDINARILY AT ABOVE ADDRESS WHO ARE ENTITLED TO BE REGISTERED AS ELECTORS

(a) Name \_\_\_\_\_  
(surname) (first names)

Date of birth:.....

(b) Name. \_\_\_\_\_  
(surname) (forenames)

Date of birth:.....

(c) Name.....  
(surname) (forenames)

Date of birth:.....

(d) Name.....  
(surname) (forenames)

Date of birth:.....

(e) Name.....  
(surname) (forenames)

Date of birth:.....

\* Delete whichever is inapplicable

5. I FURTHER CERTIFY that the person (s) listed at 6 below:

- (a) would ordinarily live at the above household  
(b) was/were temporarily absent from the Falkland Islands on 15 May 19.....  
(c) is a/are Commonwealth Citizen(s) <sup>(2)</sup>  
(d) had attained the age of eighteen years on 15 May 19.....

- 6. PERSONS TEMPORARILY ABSENT FROM ABOVE ADDRESS WHO ARE ENTITLED TO BE REGISTERED AS ELECTOR(S)**

(a).....  
(surname) (forenames)

Date of birth:.....

reason for absence from Falkland Islands:.....  
 .....  
 .....



(b).....  
(surname) (forenames)

Date of birth:.....

reason for absence from Falkland Islands:.....

Dated .....19.....

Signed .....

**(Householder)**

Witness<sup>(3)</sup> .....

## NOTES TO FORM W

1. The Constitution states that the following persons shall not be qualified to be registered as electors:
  - (a) A person certified to be insane or otherwise adjudged to be of unsound mind under any law;
  - (b) A person who is under sentence of death or serving a sentence of imprisonment for a term exceeding 12 months;
  - (c) A person disqualified by or under any law from being registered as an elector by reason of having been convicted of an offence relating to elections;
  - (d) Members of H.M. Regular Armed Forces unless they are regarded as belonging to the Falkland Islands (members of the Falkland Islands Defence Force are not regarded as members of H.M. Regular Armed Forces);
  - (e) A person who is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state.
2. A person cannot be registered as an elector unless he is a Commonwealth Citizen.
3. This form must be signed and dated by the householder, whose signature must be witnessed by
  - (a) another householder; or
  - (b) a justice of the peace.

(S22)

## ELECTORAL FORM VI

## FORM OF APPLICATION FOR REGISTRATION AS AN ELECTOR

TO: The Registration Officer for the \*Camp/\*Stanley Constituency.

I, .....  
(full name)

Of .....  
(address)

apply for registration as an elector for the above constituency.

(Note to applicant: You MUST answer such of the following questions as are appropriate and delete inappropriate alternatives)

1. What was your date of birth:...../...../.....  
(day) (month) (year)

2. What was your place and country of birth:

(place).....

(country).....

3. Of which Commonwealth Country are you a citizen:.....

(Note: United Kingdom and British Dependent territories are "Commonwealth Countries" as are all countries of which Her Majesty the Queen is Head of State and a number of republics which acknowledge the Queen as Head of the Commonwealth. If in doubt as to whether a country is a Commonwealth Country, enquire of the Registration Officer.)

4. (a) Did you live at the address you have given above on 15 May last?  
YES/NO\*.

(b) If you have answered "NO" to question 4(a), at what address were you living on 15 May last:

.....

(c) If the address you have given as your present address OR the address you have given at 4(b) is outside the Falkland Islands —

(i) when did you last leave the Falkland Islands:

.....

(ii) give particulars of all your absence(s) from the Falkland Islands during the last 10 years (you may continue your answer on an attached piece of paper if necessary)

.....

(iii) what were the reasons for your absences mentioned at 4(c)(ii) above

.....

(Continue on an attached piece of paper if necessary).

Dated.....19.....

Signature.....

Note: There are complex rules as to allowable absences. These differ according to whether the applicant was born in the Falkland Islands or not. The Registration Officer, in many cases, will need to make further enquiries of applicants who have been absent from the Falkland Islands. A person who was NOT born in the Falkland Islands should note that he cannot be registered as an elector unless he has five years residence in the Falkland Islands AND his absences do not exceed those permitted by law.

\* Delete whichever is inapplicable

(S23)

### ELECTORAL FORM VII

#### FORM OF APPLICATION FOR A POSTAL VOTE

(Please read the Notes attached to this Form before completing)

TO: The Registration Officer \*Camp/\*Stanley Constituency.

I,..... of.....  
(full name) (address)

hereby apply to be allowed to vote at an election by post<sup>(1)</sup>

1. I wish to be allowed to vote by post in respect of<sup>(2)</sup>:

(a) the election to be held on.....

(b) all elections held within the period from.....  
to.....

(c) elections generally

2. Postal ballot papers may be sent to me in the Falkland Islands at:.....

.....(3)

Dated.....

Signed<sup>(4)</sup>.....

Witness<sup>(4)</sup>.....

\* Delete whichever is inapplicable.

**NOTES TO FORM VII**

1. 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. This period is known as "the closed period" and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
2. An elector should choose (and indicate by striking out on the Form those options which he does not wish to select) in respect of which election or elections he wishes to hold a postal vote. If the elector's Application Form does not specify his choice, it shall be deemed to have been made in respect of elections generally.
3. The Application Form must contain an address in the Falkland Islands to which postal ballot papers are to be sent. Failure to specify a Falkland Islands address will render the application invalid.
4. The Application Form must be signed by the elector personally, whose signature must be witnessed by another elector or by a justice of the peace.

(S23)

**ELECTORAL FORM VIII****NOTICE OF DETERMINATION OF AN APPLICATION FOR A POSTAL VOTE**

TO:..... of.....  
 (name of applicant) (address)

I refer to your application for a postal vote dated..... and \*confirm that your application has been granted. Your name will now be entered on the Postal Voters List for the \*election, \*elections generally or \*elections to be held during the period of time specified in your application. If you wish to cancel the arrangement for a postal vote or change the address in the Falkland Islands to which your postal ballot papers are to be sent, please complete and return **ELECTORAL FORM IX**

**PLEASE NOTE THAT WHILST YOU ARE REGISTERED AS A POSTAL VOTER YOU WILL NOT BE ALLOWED TO VOTE AT AN ELECTION BY COMPLETING A BALLOT PAPER AT A POLLING PLACE UNLESS YOU SATISFY THE PRESIDING OFFICER AT THAT POLLING PLACE THAT YOU HAVE NOT RECEIVED A POSTAL BALLOT PAPER IN RESPECT OF THAT ELECTION**

\*write to inform you that I have rejected your application for the following reason(s):-

.....  
 .....  
 .....

Dated.....

Signed.....

Registration Officer for \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable.

(S25)

**ELECTORAL FORM IX****FORM FOR CANCELLATION OF POSTAL VOTE OR CHANGE OF FALKLAND ISLANDS ADDRESS FOR POSTAL BALLOT PAPERS**

TO: The Registration Officer \*Camp/\*Stanley Constituency

I, ..... of .....  
 (full name) (address)

hereby \* give notice of cancellation of my postal vote

\* notify you that my address in the Falkland Islands to which postal ballot papers are to be sent has changed and that my new address is:

.....  
 .....

Dated.....

Signed.....

Witness.....

**Note: This notice must be signed and dated by the postal voter, whose signature must be witnessed by an elector or a justice of the peace.**

\* Delete whichever is inapplicable.

**NOTICE GIVING EFFECT TO NOTICE OF CANCELLATION OF POSTAL VOTE OR CHANGE OF FALKLAND ISLANDS ADDRESS FOR POSTAL BALLOT PAPERS**

\* notification of change of address in the Falkland Islands to which postal ballot papers are sent..... and \* confirm that your name and other details have been removed from the Postal Voters' List/ \* confirm that the Postal Voters' List has been amended so as to show the change of address in the Falkland Islands to which your postal ballot papers are to be sent, as.....

Registration Officer \*Camp/\*Stanley Constituency

(S27)

(Please read the Notes attached to this Form before completing)

**\* Delete whichever is inapplicable.**

1. The Registration Officer shall not grant an application for permission to vote by proxy 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. This period is known as “the closed period” and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
2. An elector should choose (and indicate by striking out on the form those options which he does not wish to select) in respect of which election or elections he wishes his proxy to hold a proxy vote.
3. Your proxy must be someone who is an elector in respect of the same constituency as you and he/she may not be appointed the proxy of more than two electors.
4. Please obtain **ELECTORAL FORM XII** on which your proxy may indicate his/her consent to act for you.
5. The Application Form must be signed by the elector personally, whose signature must be witnessed by another elector or by a justice of the peace.

(S27)

**ELECTORAL FORM XII****FORM OF CONSENT TO ACT AS PROXY**

TO: The Registration Officer \*Camp/\*Stanley Constituency

I, ..... of .....  
(full name) (address)refer to the application of .....  
(full name of applicant)of .....  
(address of applicant)

dated..... for permission to vote by proxy and hereby consent to act as proxy for that person.

Dated.....

Signed.....

**NOTE: YOU MAY ONLY BE APPOINTED AS SOMEONE'S PROXY IF YOU ARE AN ELECTOR IN RESPECT OF THE SAME CONSTITUENCY AND YOU MAY NOT BE APPOINTED THE PROXY OF MORE THAN TWO ELECTORS**

\* Delete whichever is inapplicable.

(S27 &amp; S28)

**ELECTORAL FORM XIII****NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION FOR A PROXY VOTE**TO:..... of .....  
(name of applicant) (address)I refer to your application to be permitted to vote by proxy dated..... and \*confirm that your application has been granted. Your name and address and your proxy's name and address have been entered on the proxy list for the \*election, \*elections generally or \*elections to be held during the period of time specified in your application. If you wish to cancel the arrangement for a proxy vote please complete and return **ELECTORAL FORM XV****PLEASE NOTE THAT YOUR PROXY IS ENTITLED TO COMPLETE A BALLOT PAPER AT AN ELECTION ON YOUR BEHALF BUT <sup>(1)</sup> HE IS NOT BOUND SO TO DO, AND <sup>(2)</sup> IF HE DOES COMPLETE A BALLOT PAPER ON YOUR BEHALF, IT IS NOT RELEVANT FOR ANY PURPOSE OF THE ELECTORAL ORDINANCE AS TO WHETHER HE HAS DONE SO IN ACCORDANCE WITH YOUR WISHES OR INTENTIONS.**

\*write to inform you that I have rejected your application for the following reason(s):-

.....  
.....  
.....  
.....  
.....

Dated.....

Signed.....

Registration Officer for \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable.

(S27)

**ELECTORAL FORM XIV****NOTICE TO PROXY OF DETERMINATION OF AN APPLICATION FOR A PROXY VOTE**

TO:..... of.....  
 (full name of proxy named) (proxy's address)

I refer to the application of..... of  
 (name of applicant voter)

.....  
 (voter's address)

dated..... to permit you to vote by proxy on \*his/\*her behalf and confirm that the application has been granted. Your name and address and the applicant's name and address have been entered on the Proxy List for the \*election, \*elections generally or \*elections to be held during the period of time specified in the application.

Dated.....

Signed.....  
 Registration Officer for \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable

(S31)

**ELECTORAL FORM XV****FORM FOR CANCELLATION OF PROXY VOTE**

TO: The Registration Officer \*Camp/\*Stanley Constituency

TO:..... of.....  
 (full name) (address)

hereby give notice of cancellation of my arrangement to vote by proxy

Dated.....

Signed.....

Witness.....

**NOTE:** This notice must be signed and dated by the elector concerned, whose signature must be witnessed by another elector or by a justice of the peace.

\* Delete whichever is inapplicable

(S31)

**ELECTORAL FORM XVI****NOTICE GIVING EFFECT TO NOTICE OF CANCELLATION OF PROXY VOTE**

TO:..... of.....  
 (full name of applicant voter) (address)

TO:..... of.....  
 (full name of applicant's proxy) (address)

I refer to the notice of cancellation of the arrangement to vote by proxy dated..... submitted by the applicant and confirm that the name and address of the applicant and the name and address of the proxy have been removed from the Proxy List with effect on and from.....

Dated.....

Signed.....  
 Registration Officer \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable

**ELECTORAL FORM XVII****FORM OF APPLICATION FOR A POSTAL PROXY VOTE**

(Please read the Notes attached to this Form before completing)

TO: The Registration Officer \*Camp/\*Stanley Constituency

I, ..... of .....  
 (full name) (address)

hereby confirm that \* I am the proxy of/ \* I am the proxy named in an application submitted to appoint me the proxy of

..... of .....  
 (full name of elector) (address)

and I apply to be allowed to vote as proxy by post<sup>(1)</sup> & <sup>(2)</sup>

1. My application is made in respect of<sup>(3)</sup>:

- (a) the election to be held on.....
- (b) all elections held within the period from..... to.....
- (c) elections generally

2. Postal ballot papers for completion by me as proxy for the above elector may be sent to me in the Falkland Islands at<sup>(4)</sup> .....

Dated .....

Signed<sup>(5)</sup> .....

Witness<sup>(5)</sup> .....

\* Delete whichever is inapplicable

**NOTES TO FORM XVII**

1. An application for a postal vote shall not be granted unless:
  - (a) **ELECTORAL FORM XVII** is completed in full, and
  - (b) the applicant is already a postal voter in respect of his right to vote (otherwise than as proxy for another) or an application by him for a postal vote in respect of his right to vote is allowed at the same time.
2. The Registration Officer shall not grant an application for a postal proxy 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. This period is known as "the closed period" and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
3. The applicant should choose (and indicate by striking out on the Form those options which he does not wish to select) in respect of which election or elections he wishes to hold a postal vote. If the elector's Application Form does not specify his choice, it shall be deemed to have been made in respect of elections generally.
4. The Application Form must contain an address in the Falkland Islands to which postal ballot papers are to be sent. Failure to specify a Falkland Islands address will render the application invalid.
5. The Application Form must be signed by the proxy personally, whose signature must be witnessed by another elector or by a justice of the peace.

(S34)

**ELECTORAL FORM XVIII****NOTICE OF DETERMINATION OF AN APPLICATION FOR A POSTAL PROXY VOTE**

TO:..... of.....  
 (name of applicant) (address)

I refer to your application for a postal proxy vote dated..... and \*confirm that your application has been granted. Your name will now be entered on the Postal Proxy Voters List for the \*election, \*elections generally or \*elections to be held during the period of time specified in your application. If you wish to cancel the arrangement for a postal proxy vote or change the address in the Falkland Islands to which your postal ballot papers are to be sent, please complete and return **ELECTORAL FORM XIX**

**PLEASE NOTE THAT WHILST YOU ARE REGISTERED AS A POSTAL PROXY VOTER YOU WILL NOT BE ALLOWED TO VOTE AT AN ELECTION BY COMPLETING A BALLOT PAPER AT A POLLING PLACE UNLESS YOU SATISFY THE PRESIDING OFFICER AT THAT POLLING PLACE THAT YOU HAVE NOT RECEIVED A POSTAL BALLOT PAPER IN RESPECT OF THAT ELECTION.**

\*write to inform you that I have rejected your application for the following reason(s):-.....

Dated.....

Signed.....

Registration Officer for \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable

(S35)

**ELECTORAL FORM XIX****FORM FOR CANCELLATION OF POSTAL PROXY VOTE OR CHANGE OF FALKLAND ISLANDS ADDRESS FOR POSTAL BALLOT PAPERS**

TO: The Registration Officer \*Camp/\*Stanley Constituency

I,..... of.....  
 (full name) (address)

hereby \*give notice of cancellation of my postal proxy vote OR

\*notify you that my address in the Falkland Islands to which postal ballot papers are to be sent has changed and that my new address is

Dated.....

Signed.....

Witness.....

**NOTE: This notice must be signed and dated by the postal proxy voter, whose signature must be witnessed by an elector or a justice of the peace.**

\* Delete whichever is inapplicable

(S36)

**ELECTORAL FORM XX****NOTICE GIVING EFFECT TO NOTICE OF CANCELLATION OF POSTAL PROXY VOTE OR CHANGE OF FALKLAND ISLANDS ADDRESS FOR POSTAL BALLOT PAPERS**

TO:..... of.....  
 (full name of elector) (address)

I refer to the \*notice of cancellation of your postal proxy vote/

\*notification of change of address in the Falkland Islands to which postal ballot papers are to be sent dated..... and

\*confirm that your name and other details have been removed from the Postal Proxy Voters' List/

\*confirm that the Postal Proxy Voters' List has been amended so as to show the address in the Falkland Islands to which your postal ballot papers are to be sent, as.....

with effect on and from.....

Dated.....

Signed.....

Registration Officer \*Camp/\*Stanley Constituency

\* Delete whichever is inapplicable



(S48 Camp)

**ELECTORAL FORM XXI****WRIT OF ELECTION**

TO: the Returning Officer for the Camp Constituency

**IN THE NAME of Her Majesty ELIZABETH THE SECOND** by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith

**BY HIS EXCELLENCY** ( ) Governor of the Colony of the Falkland Islands to the Returning Officer for the Camp Constituency Greeting

**WHEREAS** the Legislative Council has been dissolved in accordance with Section 29(3) of Schedule 1 to The Falkland Islands Constitution Order 1985

**AND WHEREAS** by way of Proclamation the day of has been appointed as the date on which a general election is to be held with the Falkland Islands

**NOW THEREFORE I, ( ) do COMMAND THAT** due notice being first given you do cause election to be made according to law of such numbers of members of the Legislative Council as is requisite for the Camp Constituency

**AND THAT** you return this writ endorsed as provided by law on or before the day of

**GIVEN** under my hand and the Public Seal of the Falkland Islands at Government House, Stanley this day of in the year of our Lord

Governor

Received the within writ on the day of

Signed.....

Returning Officer for the Camp Constituency

I hereby certify that the person or persons elected for the Camp Constituency in pursuance of the within written writ is/are

Signed.....

Returning Officer for the Camp Constituency

(S48 Stanley)

**ELECTORAL FORM XXII****WRIT OF ELECTION**

TO: the Returning Officer for the Stanley Constituency

**IN THE NAME of Her Majesty ELIZABETH THE SECOND** by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith

**BY HIS EXCELLENCY** ( ) Governor of the Colony of the Falkland Islands to the Returning Officer for the Stanley Constituency Greeting

**WHEREAS** the Legislative Council has been dissolved in accordance with Section 29(3) of Schedule 1 to The Falkland Islands Constitution Order 1985

**AND WHEREAS** by way of Proclamation the day of has been appointed as the date on which a general election is to be held with the Falkland Islands

**NOW THEREFORE I, ( ) do COMMAND THAT** due notice being first given you do cause election to be made according to law of such numbers of members of the Legislative Council as is requisite for the Stanley Constituency

**AND THAT** you return this writ endorsed as provided by law on or before the day of

**GIVEN** under my hand and the Public Seal of the Falkland Islands at Government House, Stanley this day of in the year of our Lord

Governor

Received the within writ on the day of

Signed.....

Returning Officer for the Stanley Constituency

I hereby certify that the person or persons elected for the Stanley Constituency in pursuance of the within written writ is/are

Signed.....

Returning Officer for the Stanley Constituency

**ELECTORAL FORM XXIII**  
**FORM OF NOMINATION PAPER**

(Please read the Notes attached to the Form before completing)

**ELECTION OF A CANDIDATE** to serve in Legislative Council for the Camp Constituency.

We, the undersigned, being electors for the said Camp Constituency, do hereby nominate the undermentioned person as a candidate at the election to be held on

Candidate's Surname	Other names in Full	Description	Place of Residence

Signatures	Electoral number
Proposer _____	
Seconder _____	
We, the undersigned, being electors for the said Constituency, do hereby assent to the foregoing nomination	
1. _____	
2. _____	
3. _____	
4. _____	
5. _____	
6. _____	
7. _____	
8. _____	

**Notes:**

1. The attention of candidates and electors is drawn to the law governing the nomination of candidates and the directions for the completion of nomination papers which are contained within sections 62 - 68 of the Electoral Ordinance 1988. A set of notes entitled "**Guide to Electoral Practice and Procedure for Candidates**" contains a summary of the law. This publication is available from Returning Officers, the Attorney General's Chambers and the offices of the Registrar General.
2. A person's electoral number is his number in the register of electors for his constituency.
3. An elector may subscribe more than one nomination paper. However, he may not subscribe more nomination papers at any election than there are persons to be elected at that election.
4. In order to be validly nominated, a candidate must give his consent to nomination. His consent must be attested by one witness and delivered to the Returning Officer at his office not more than six weeks before the day on which the nomination paper is delivered to the Returning Officer. A candidate should obtain **ELECTORAL FORM XXV** on which he may indicate his consent to nomination.
5. A deposit of £100 should accompany this form of nomination.

**ELECTORAL FORM XXIV**  
**FORM OF NOMINATION PAPER**

(Please read the Notes attached to the Form before completing)

**ELECTION OF A CANDIDATE** to serve in Legislative Council for the Stanley Constituency.

We, the undersigned, being electors for the said Camp Constituency, do hereby nominate the undermentioned person as a candidate at the election to be held on

Candidate's Surname	Other names in Full	Description	Place of Residence

Signatures	Electoral number
Proposer _____	
Seconder _____	
We, the undersigned, being electors for the said Constituency, do hereby assent to the foregoing nomination	
1. _____	
2. _____	
3. _____	
4. _____	
5. _____	
6. _____	
7. _____	
8. _____	

**Notes:**

1. The attention of candidates and electors is drawn to the law governing the nomination of candidates and the directions for the completion of nomination papers which are contained within sections 62 - 68 of the Electoral Ordinance 1988. A set of notes entitled "Guide to Electoral Practice and Procedure for Candidates" contains a summary of the law. This publication is available from Returning Officers, the Attorney General's Chambers and the offices of the Registrar General.
2. A person's electoral number is his number in the register of electors for his constituency.
3. An elector may subscribe more than one nomination paper. However, he may not subscribe more nomination papers at any election than there are persons to be elected at that election.
4. In order to be validly nominated, a candidate must give his consent to nomination. His consent must be attested by one witness and delivered to the Returning Officer at his office not more than six weeks before the day on which the nomination paper is delivered to the Returning Officer. A candidate should obtain **ELECTORAL FORM XXV** on which he may indicate his consent to nomination.
5. A deposit of £100 should accompany this form of nomination.

(S64)

**ELECTORAL FORM XXV**  
**FORM OF CONSENT TO NOMINATION**

(Please read the Notes attached to this Form before completing)

TO: the Returning Officer for the \*Camp/\*Stanley Constituency

I, ..... of .....  
(the nominated elector) (address)

hereby consent to nomination as a candidate for the \*Camp/\*Stanley Constituency in the forthcoming election.

I hereby confirm that I am aware of the provisions of section 24 of the Constitution and that, to the best of my knowledge and belief, I am not disqualified from being elected as a member of the Legislative Council.

Dated .....

Signed .....

Witness .....

\* Delete whichever is inapplicable.

Notes:

1. This form of consent must be delivered to the Returning Officer at his office not more than six weeks before the day on which the candidate's nomination paper is delivered to the Returning Officer.
2. This form of consent must be signed and dated by the candidate, whose signature must be attested by one witness, who should sign the form where indicated.

(S58)

**ELECTORAL FORM XXVI**  
**NOTICE OF WITHDRAWAL OF CANDIDATURE**

TO: the Registration Officer for the \*Camp/\*Stanley Constituency

I, ..... of .....  
(name of candidate) (address)

hereby give notice of the withdrawal of my candidature in the forthcoming election.

Dated .....

Signed .....

Witness .....

Note: This form must be signed by the candidate personally. His signature should be attested by one witness and the form delivered to the Returning Officer at his office before the close of nominations.

\* Delete whichever is inapplicable.

(S68)

**ELECTORAL FORM XXVII**  
**NOTICE OF WITHDRAWAL OF CANDIDATURE IN RESPECT OF CANDIDATE WHO IS OUTSIDE**  
**THE FALKLAND ISLANDS**

TO: the Returning Officer for the \*Camp/\*Stanley Constituency

I, ..... of .....  
(name of proposer) (address)

hereby confirm that I am one of the nominators of

..... of .....  
(name of candidate) (address)

I further confirm that the above mentioned candidate is absent from the Falkland Islands and I am hereby authorised to withdraw his candidature in the forthcoming election.

Dated .....

Signed .....

Witness .....

Note: This Notice must be signed and dated by the candidate's proposer whose signature must be attested by one witness who should sign his name where indicated. The form must be delivered to the Returning Officer at his office before the close of nominations.

\* Delete whichever is inapplicable.

**ELECTORAL FORM XXVIII**  
**FORM OF BALLOT PAPER**  
**FORM OF FRONT OF BALLOT PAPER**

<b>Counterfoil No.</b>  <b>The counterfoil is to have a number to correspond with that on the back of the Ballot Paper</b>	1.	BROWN (JOHN EDWARD Brown, of 52 George Street, Stanley, Plumber)	
	2.	BROWN (THOMAS WILLIAM Brown, of 13 London Road, Stanley, Salesman)	
	3.	JONES (William David Jones, of 4a High Street, Stanley, Printer)	
	4.	SMITH (Mary Smith of 27 Goose Green Place, Stanley, Accountant)	
	5.	WILLIAMS (DAVID RICHARD Williams, of 17 North Arm Street, Stanley, Builder)	
	6.	WILLIAMS (ROBERT EVAN Williams, of 93 Shackleton Place, Stanley, Grocer)	
	7.	WRIGHT (Elizabeth Sheila Wright, of 23 Common Hill, Stanley, Secretary)	

**FORM FOR BACK OF BALLOT PAPER**

**NO.**

Election for the \*Camp/\*Stanley Constituency

On                      day of                      198

**Note: The number on the ballot paper is to correspond with that on the counterfoil.**

**\* Delete whichever is inapplicable.**

(S73)

**ELECTORAL FORM XXIX****DIRECTIONS AS TO PRINTING BALLOT PAPER**

1. Nothing is to be printed on a ballot paper except in accordance with these directions.
2. Where an election is to be held in the Camp Constituency and the Stanley Constituency on the same day, the colour of the ballot papers used in the two constituencies must be different. Also, the colour to be used for postal ballot papers must differ from that of all other ballot papers.
3. So far as is practicable, the following arrangements shall be observed in the printing of ballot papers —
  - (a) No word shall be printed on the face except the particulars of the candidates;
  - (b) No rule shall be printed on the face except the horizontal rules separating the particulars of the candidates from one another and the vertical rules separating those particulars from the numbers on the lefthand side and the spaces on the right where the vote(s) are to be marked;
  - (c) The whole space between the top and bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.
4. The surname of each candidate shall in all cases be printed by itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used —
  - (a) if his surname is the same as another candidate's for his other names; and
  - (b) if his other names are also the same as another candidate's, either for his residence or for his description unless each of them is the same as that of another candidate with the same surname and other names.
5. The number on the back of the ballot paper shall be printed in large characters.

(S78)

**ELECTORAL FORM XXX****DECLARATION OF IDENTITY OF ELECTOR ENTITLED TO VOTE BY POST**

TO: the Returning Officer \*Camp/\*Stanley Constituency

I, ..... of .....  
 (name of postal voter) (address)

declare and confirm that my name appears on the Postal Voters List and that the accompanying ballot paper contained within the envelope marked "ballot paper envelope" constitutes my vote in the election of members for the Legislative Council of the Falkland Islands.

Dated .....

Signed .....

Witness .....

Note: The postal voter must sign this Declaration personally. His signature must be witnessed by another elector or, where it is not possible for an elector to witness the signature, any person of sound mind and above 18 years of age.

**PLEASE REFER TO THE FORM OF GUIDANCE AS TO THE MANNER OF VOTING BY POST****\* Delete whichever is inapplicable.**

**ELECTORAL FORM XXXI**  
**FORM OF GUIDANCE AS TO THE MANNER OF VOTING BY POST**  
**ELECTION OF MEMBERS<sup>(2)</sup> OF THE LEGISLATIVE COUNCIL**  
 ( )<sup>(1)</sup> CONSTITUENCY

**POSTAL VOTERS: AT THIS ELECTION YOU MAY VOTE FOR NOT MORE THAN**  
 ( )<sup>(1)</sup> CANDIDATES

1. As a postal voter, you will receive the following documents from the Returning Officer for your constituency:
  - (1) This form of guidance as to the manner of voting by post (**ELECTORAL FORM XXI**);
  - (2) A ballot paper (**ELECTORAL FORM XXVIII**);
  - (3) A declaration of identity (**ELECTORAL FORM XXX**);
  - (4) A covering envelope;
  - (5) A ballot paper envelope bearing the number of your ballot paper.
2. In order to return a valid postal vote you should deal with the documents you have received as follows:-
  - (a) Place a cross on the righthand side of the ballot paper opposite the name (s) of the candidate(s) for whom you vote: thus "X"

**YOU MAY VOTE FOR NOT MORE THAN ( )<sup>(1)</sup> CANDIDATES (s)<sup>(2)</sup> ONLY**

**YOU DO NOT HAVE TO USE ALL YOUR VOTES**

- (b) After you have voted, place the ballot paper within the ballot paper envelope. The ballot paper envelope is the smaller of the two envelopes which you will have received and it is marked with the words "ballot paper envelope". The ballot paper envelope also bears the number shown on your ballot paper. Please check that the numbers correspond with each other.
- (c) When you have placed your ballot paper within the ballot paper envelope, seal the envelope and place it within the covering envelope.

**DO NOT SEAL THE COVERING ENVELOPE AT THIS STAGE**

The covering envelope is the larger of the two envelopes which you will have received and is marked with the words "the covering envelope". You will see that the covering envelope is addressed to the Returning Officer of your constituency.

- (d) complete the Declaration of Identity (**ELECTORAL FORM XXX**), date, sign and comply with the directions relating to witnessing of your signature.
- (e) place the completed Declaration of Identity (**ELECTORAL FORM XXX**) in the covering envelope.
- (f) Seal the covering envelope (which will now contain the ballot paper envelope and the Declaration of Identity) and post the covering envelope to the Returning Officer for your constituency.
- (g) If you accidentally spoil a ballot paper in such manner that it cannot conveniently be used as a ballot paper, send it back to the Returning Officer together with the other documents which you have received (i.e. the Declaration of Identity, the ballot paper envelope and the covering envelope). On receipt of the documents, the Returning Officer shall issue another postal ballot paper and other documents to you unless the returned documents are received too late for another postal ballot paper to be returned before the close of the poll.
- (h) If you —
  - (a) vote for more than ( )<sup>(1)</sup> candidate(s)<sup>(2)</sup>; or
  - (b) make any mark on the ballot paper by which anybody can tell it is your ballot paper, your ballot paper will be void and will not be counted.

**BUT YOU DO NOT HAVE TO USE ALL YOUR VOTES IF YOU DO NOT WISH TO DO SO**

**NOTES:**

1. Brackets marked ( )<sup>(1)</sup> to be completed appropriately.
2. Brackets marked (s)<sup>(2)</sup> to be omitted from Form if only one candidate is to be elected.

## ELECTORAL FORM XXXII

ELECTION OF MEMBER(S)<sup>2</sup> OF THE LEGISLATIVE COUNCIL( )<sup>(1)</sup> CONSTITUENCYVOTERS: AT THIS ELECTION YOU MAY VOTE FOR NOT MORE THAN ( )<sup>(1)</sup>  
CANDIDATE(S)<sup>2</sup>

## GUIDANCE TO VOTERS

1. Make sure that the ballot paper, before it is handed to you, is stamped with the official mark.
2. Go into one of the compartments and, with the pencil provided, place a cross on the right-hand side of the ballot paper opposite the name(s) of the candidate(s) for whom you vote: thus "X".

YOU MAY VOTE FOR NOT MORE THAN ( )<sup>(1)</sup> CANDIDATE(S)<sup>2</sup>

YOU DO NOT HAVE TO USE ALL YOUR VOTES

3. After you have voted, fold the ballot paper so as to show the official mark, leave the voting compartment taking the ballot paper with you, and without showing the front of the ballot paper to anybody, show the official mark on the back of the ballot paper to the presiding officer. Then, in his presence, put the paper into the ballot box. Leave the polling place immediately afterwards.
4. If you accidentally spoil a ballot paper return it to the presiding officer. If the presiding officer is satisfied that you have accidentally spoiled a ballot paper he/she will give you another ballot paper.

5. If you —

(A) Vote for more than ( )<sup>(1)</sup> candidate(s)<sup>2</sup>; or

(B) Make any mark on the ballot paper by which anybody can tell it is your ballot paper,

your ballot paper will be void and will not be counted.

**BUT YOU DO NOT HAVE TO USE ALL YOUR VOTES IF YOU DO NOT WISH TO DO SO.**

6. Do not take your ballot paper out of the polling place. Do not put anything in the ballot box except a ballot paper.

## Notes:

1. Brackets marked ( )<sup>(1)</sup> to be completed appropriately.
2. Brackets marked (s)<sup>2</sup> to be omitted from Notice if only one candidate is to be elected.



(S114)

## ELECTORAL FORM XXXIII

## FORM OF DECLARATION TO BE MADE BY THE COMPANION OF A BLIND VOTER

I, ..... of .....  
 (name of person giving assistance) (address)

having been requested to assist .....  
 (name of blind person)

of ..... in the case of a blind person voting as proxy add - \* voting as proxy  
 for.....

of ..... whose number on the register is  
 ....., to record his vote at the election now being held in this Constituency, hereby  
 declare that --

\* EITHER I am entitled to vote as an elector at the said election \* OR I am  
 the ..... of the said voter and have attained the age of eighteen years

AND that I have not previously assisted any blind person (except  
 ..... of .....)  
 to vote at the said election.

Dated .....

Signed .....

I, the undersigned, being the \*presiding officer/\*team leader of the mobile polling team for the \*Camp/Stanley  
 Constituency, hereby certify that the above declaration, having been first read to the above named declarant,  
 was signed by the declarant in my presence.

Dated .....

..... minutes past ..... o'clock (a.m./p.m.)

Signed .....

Note: All names (blind voter, assister, presiding officer etc.) must be appropriately completed.

\* Delete whichever is inapplicable.

(S145)

## ELECTORAL FORM XXXIV

## RETURN AND DECLARATION AS TO ELECTION EXPENSES FORM OF RETURN

Election in the \*Camp/\*Stanley Constituency

Date of publication of notice of election.....

Name of candidate.....

1. I\* am the election agent of the person named above as a candidate at this election \*am the person  
 named above as a candidate at this election and was my own election agent.

Note: Where there has been a change of election agent suitable variations may be introduced here and  
 elsewhere in the return.

2. I hereby make the following return of \*the candidate's/\*my election expenses at this election.

## Receipts

Note: Include all money, securities or equivalent of money received in respect of expenses incurred on ac-  
 count of or in connection with or incidental to the above election.

\*Received of the above-named candidate (or, if the candidate is his own election  
 agent) \*Paid by me. £

Received of (set out separately the name and description of each person, club,  
 society or association and the amount received from him or them) £

### Expenditure

**Note - The return shall deal under a separate heading or sub-heading with any expenses included in it as respects which a return is required to be made by section 144 of the Ordinance.**

\* Candidate's personal expenses —

paid \*by him/ \*by me as candidate

paid \*by me /by me acting as my election agent

Received by me for my services as election agent(omit if candidate is his own election agent)

Paid to <sup>(1)</sup> as polling agent

Paid to <sup>(1)(2)</sup> as \*clerk/\*messenger for \_\_\_\_\_ days services

\*Paid to the following persons in respect of goods supplied \_\_\_\_\_  
or work and labour done

to <sup>(1)(2)</sup> (set out the nature of the goods supplied  
or work and labour done thus)

\*printing /\*advertising /\*stationery

Paid to <sup>(1)(2)</sup> as a speaker at a public meeting at  
on \_\_\_\_\_ 19 \_\_\_\_\_

as \*remuneration/\*expenses

Paid for the hire of rooms

for holding public meetings —

paid to <sup>(1)(2)</sup> for hire of  
(identify the rooms by naming or describing them)

for committee rooms —

paid to <sup>(1)(2)</sup> for hire of  
(identify the rooms by naming or describing them)

Paid for postage

Paid for telegrams (or any similar means of communication)

Paid for miscellaneous matters —

to <sup>(1)(2)</sup>  
(set out the reason for the payment)

\*In addition to the above I am aware (unless the candidate is his own election agent add) \*as election agent for the above-named candidate/of the following disputed and unpaid claims — \_\_\_\_\_

Disputed claims —

by <sup>(3)</sup> for (set out the goods, work and labour, or other matter on the grounds  
of which the claim is based)

Unpaid claims allowed by the \_\_\_\_\_ court to be paid after the  
proper time or in respect of which application has been or is about to be made  
to the \_\_\_\_\_ court

(state in each case whether the Supreme Court, Magistrates Court or some other  
court) —

by <sup>(3)</sup> for (set out the goods, work and labour, or other matter on the  
ground of which the claim is due)

Signature of person making return.....

#### NOTES:

(1) Set out separately the name and description of each person with the amount paid to him.

(2) These particulars may be set out in a separate list annexed to and referred to in the account

(3) Set out separately the name and description of each person with the amount paid to or claimed by him.

\* Delete whichever is inapplicable.

**ELECTORAL FORM XXXV  
FORM OF DECLARATIONS**

Election in the \*Camp/\*Stanley Constituency

Date of publication of notice of election.....

Name of candidate.....

I solemnly and sincerely declare as follows:-

1. I\* am the person named above as a candidate at this election and was my own election agent /\* was at this election the election agent of the person named above as a candidate.
2. I have examined the return of election expenses about to be delivered/\*by my election agent/\*by me to the Returning Officer of the \*Camp/ \*Stanley Constituency a copy of which is now shown to me and marked, and to the best of my knowledge and belief it is a complete and correct return as required by law.
3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid \*by my election agent/ \*by me, except as otherwise stated in relation to \*my/\*the candidate's personal expenses.
4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature of declarant.....

Signed and declared by the above named declarant on the ..... day of ..... before me,  
Justice of the peace.....

Note: Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.

\* Delete whichever is inapplicable.

(S169)

**ELECTORAL FORM XXXVI**

IN THE SUPREME COURT

Falkland Islands

In the Matter of The Electoral Ordinance 1988

And in the Matter of an Election for the\*Camp/\*Stanley Constituency held on the  
day of ..... 19.....

Between  
and

Petitioner(s)(1)  
Respondent(s)(2)

**ELECTION PETITION**

1. The Petition of A.B., of (address) (and C.D. of (address)) shows:  
That the Petitioner A.B. (is a person who voted or had a right to vote or was a candidate) at the above election (is the Attorney General).
2. That the election was held on the.....day of..... 19..... when JK and LM were candidates, and on the..... day of.....19..... the Returning Officer declared that the said JK received..... votes and the said LM received..... votes and returned JK to the Governor as being duly elected.
3. That (state the facts on which the Petitioner or Petitioners rely — see note (3) to this Form)
4. (Where the petition alleges corrupt or illegal practices(4) state the event on which the time for the presentation of the petition depends and its date))

The (Petitioner therefore prays or Petitioners therefore pray):

- (a) (That it may be ordered that there be a (scrutiny or re-count) of the votes recorded as having been cast in the election);
- (b) That it may be determined that the said (J.K. was not duly (elected or returned) and that the election was void or L.M. was duly elected and ought to have been returned or J.K. was not duly elected and ought to have been returned or J.K. was not duly elected and that the said L.M. was duly elected and ought to have been returned, or in the alternative that the election was void or as the case may be);
- (c) That the (Petitioner or Petitioners) may have such further or other relief as may be just;

Dated.....

Signed.....

.....  
.....  
.....  
.....

(Petitioner or Petitioners)

This Petition was presented by (the Petitioner or Petitioners) (E.F. & Co.) whose address for service is (address) and who are Solicitors for the said (Petitioner or Petitioners).

(Please refer to the Notes to this Petition overleaf)

\* Delete whichever is inapplicable.

## NOTES TO ASSIST WITH THE COMPLETION OF AN ELECTION PETITION

No election or return to the Legislative Council shall be questioned except by a petition in the form hereof which must be filed:

- (a) at the Office of the Supreme Court with 3 copies;
- (b) within (except in certain special circumstances) 28 days after the date of first publication of the election to which the petition relates.

### YOU SHOULD SEEK THE ASSISTANCE OF THE ATTORNEY GENERAL WHEN COMPLETING THE PETITION

Specific points to note from the form of Petition are as follows

- (1) An election petition may be presented by
  - (a) any person entitled to vote in the election to which it relates (ie a person who is a registered elector);
  - (b) any candidate;
  - (c) the Attorney General.
- (2) The Respondents to an election petition shall be
  - (a) the Attorney General if he is not himself a Petitioner;
  - (b) all persons who were candidates at the election (except any candidate presenting the Petition);
  - (c) the Returning Officer, if his conduct is being queried;
  - (d) any other person whom the Supreme Court may order to be a respondent.
- (3) An election may be questioned by proceedings complaining of an undue election or undue return. Whilst these expressions are not defined, they would extend to certain circumstances in which the election can be avoided or other appropriate relief obtained, examples would be as follows:
  - (a) Corrupt or illegal practices carried out by a candidate or his agent would render the candidate's election void.
    - (i) Corrupt practices include incurring expenses not authorised by the election agent, making a false declaration of expenses, bribery, treating or undue influence.
    - (ii) Illegal practices include failure to make payments through the election agent of a candidate, paying a late claim for expenses or paying a claim late, offences in connection with the return of expenses and the accompanying declaration, disturbing or inciting others to disturb election meetings, making false statements as to candidates, paying an elector for the display of election posters other than in the ordinary course of his business and making an illegal payment, employment or living.
  - (b) The election of a candidate may be declared invalid by reason of some act or omission by the Returning Officer or other person in breach of his official duty if it appears to the Court that the election was not so conducted as to be substantially in accordance with the law as to elections, or if the act or omission effected the result of the election.
  - (c) The election of a candidate is void by reason of general corruption, bribery, treating or intimidation if, and only if, it is shown that corrupt or illegal practices or illegal payments, employments or hirings have so extensively prevailed at the election that they may reasonably be supposed to have effected the result.
  - (d) The validity of a nomination can be questioned on an election petition.
  - (e) Where it is alleged that the votes were wrongly counted the Supreme Court can, on proceedings begun by an election petition, order a re-count.
  - (f) Where it is alleged that because, some votes were improperly admitted or rejected, the successful candidate did not in fact secure a majority of lawful votes, the Supreme Court can, on proceedings begun by election petition order a scrutiny.

**There is no need to set out or refer to any evidence in support of the Petition. A simple statement of the facts as you perceive them is all that is required.**

IN THE SUPREME COURT  
Falkland Islands  
In the Matter of the Electoral Ordinance 1988  
And in the Matter of the membership of  
the Legislative Council of

Respondent(s)<sup>(2)</sup>

**(Please refer to the Notes to this Petition overleaf)**

# **NOTES TO ASSIST WITH THE COMPLETION OF A VACATION OR CESSER PETITION**

The question as to whether a member of the Legislative Council has vacated his seat or is required pursuant to 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 predominantly in the form indicated in these Regulations.

## **YOU SHOULD SEEK THE ASSISTANCE OF THE ATTORNEY GENERAL WHEN COMPLETING THE PETITION**

Specific points to note from the form of Petition are as follows

- (1) A vacation or cesser petition may be presented by
  - (a) in the case of an elected member of the Legislative Council, any person registered as a voter in the constituency for which the member concerned was elected; and
  - (b) in the case of any other member of the Legislative Council, any elected member of the Legislative Council or by the Attorney General.
- (2) The respondents to a vacation or cesser petition shall be
  - (a) the Attorney General if he is not himself a Petitioner;
  - (b) the member whose seat in the Legislative Council is the subject of the Petition; and
  - (c) any other person whom the Supreme Court may order to be a respondent;
- (3) The Petition need only state the grounds on which relief is sought. The facts on which the Petitioner or Petitioners rely should be set out in the Petition, but the evidence by which they are to be proved need not be stated.
- (4) The circumstances in which the Supreme Court will determine whether a member of Legislative Council has vacated his seat or is required to cease to perform his functions as such, are listed in the Constitution. Of particular importance are sections 24, 25, 26 and 30. Assistance is available from the Attorney General's Chambers in connection with the grounds or facts upon which the Petition is based.

Made this 10th day of May 1989.

**R. SAMPSON,**  
*Acting Governor.*

Ref: LEGCO/10/1.

# Supplementary Appropriation (Amendment) Bill 1989

(No.     of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Repeal of section 6 of No. 15 of 1988.

## A Bill for An Ordinance to amend the Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988.

BE IN ENACTED by the Legislature of the Falkland Islands as follows —

- |   |  |
|---|--|
| 1. This Ordinance may be cited as the Supplementary Appropriation (Amendment) Ordinance 1989.   | Short title                            |
| 2. Section 6 of the Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988 is repealed. | Repeal of section 6 of No. 15 of 1988. |

---

## OBJECTS AND REASONS

The object of this Bill is to render all farms, however owned, qualified to apply for agricultural grants funded by sums appropriated under the Supplementary Appropriation (No. 2) Ordinance 1988-1989.

Ref: FIS/29/31.

# The Supplementary Appropriation (1988-1989) (No. 3) Bill 1989

(No. of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Appropriation of £3,668,920 for the services of the year 1988-1989.

### Schedule



**A Bill for  
An Ordinance  
to appropriate and authorise the withdrawal from the Consolidated  
Fund of additional sums totalling £3,668,920 for the service of  
the financial year ending on 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. 3) Ordinance 1989. 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 1st July 1988 and ending on 30th June 1989 ("the financial year") sums not exceeding in aggregate the sum of three million, six hundred and sixty eight thousand, nine hundred and twenty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Services mentioned in the Schedule hereto and which will come in course of payment during the financial year. Appropriation  
of £3,668,920  
for the year  
1988-1989.

**SCHEDULE**

Number	Head of Service	£
100	Aviation	15,150
150	Posts and Telecommunications	4,420
200	Medical	30,700
250	Education and Training	5,600
300	Customs and Harbour	10,610
320	Fisheries	585,700
350	Public Works	110,590
390	Fox Bay Village	60,000
450	Justice	1,500
500	Military	10,280
550	Police, Fire and Rescue Service	6,520
600	Secretariat, Treasury and Central Store	2,056,390
700	Social Welfare	25,000
750	The Governor	3,860
850	Falkland Islands Government Office	24,600
900	Income Tax Refunds	70,000
TOTAL OPERATING SUPPLEMENTARY EXPENDITURE		3,020,920
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds	648,000
TOTAL SUPPLEMENTARY EXPENDITURE		3,668,920

**OBJECTS AND REASONS**

To provide for further supplementary expenditure as follows:

Stanley Fisheries Limited Withdrawal	1,750,000
Seamount Inquiry Expenses	100,000
Other approved by the Standing Finance Committee during the financial year	1,818,920
<b>TOTAL</b>	<b>£3,668,920</b>



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
 PUBLISHED BY AUTHORITY

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*Vol. XCVIII*

*19th MAY 1989*

*No. 12*

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**NOTICE**

No. 21

16th May 1989.

Notice to members of final meeting  
 (members' voluntary winding-up)

**Name of Company** - Australis Fisheries Limited (in Voluntary liquidation).

Notice is hereby given pursuant to sections 290 and 341 (1) (b) of the Companies Act 1948 that a General Meeting of the Members of the above-named Company will be held at 44 John Street, Stanley, Falkland Islands on **Friday, the thirtieth day of June 1989**, at 10 o'clock in the fore noon precisely, for the purpose of having an Account laid before them, and to receive the Liquidator(s) report, showing how the winding up of the Company has been conducted and its property disposed of, and of hearing any explanation that may be given by the Liquidator(s); and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator(s) thereof, shall be disposed of.

Any Member entitled to attend and vote at the above-mentioned Meeting is entitled to appoint a proxy to attend and vote instead of him, and such proxy need not also be a Member.

**Dated** - Sixteenth day of May 1989.

ANDREW DEY,  
 Liquidator.

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**NOTICE**

The following is published in this Gazette —

**The Supplementary Appropriation (1988-1989) Ordinance 1989.**

The Supplementary Appropriation (1988-1989) Ordinance 1989  
(No. 1 of 1989)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.
2. Appropriation of £3,668,920 for the services of the year 1988-1989.

Schedule



## SCHEDULE

Number	Head of Service	£
100	Aviation ... ..	15,150
150	Posts and Telecommunications ... ..	4,420
200	Medical ... ..	30,700
250	Education and Training ... ..	5,600
300	Customs and Harbour ... ..	10,610
320	Fisheries ... ..	585,700
350	Public Works ... ..	110,590
390	Fox Bay Village ... ..	60,000
450	Justice ... ..	1,500
500	Military ... ..	10,280
550	Police, Fire and Rescue Service ... ..	6,520
600	Secretariat, Treasury and Central Store ... ..	2,056,390
700	Social Welfare ... ..	25,000
750	The Governor ... ..	3,860
850	Falkland Islands Government Office ... ..	24,600
900	Income Tax Refunds ... ..	70,000
TOTAL OPERATING SUPPLEMENTARY EXPENDITURE		3,020,920
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds ... ..	648,000
TOTAL SUPPLEMENTARY EXPENDITURE		3,668,920

Passed by the Legislature of the Falkland Islands this 17th day of May 1989.

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  
19th day of May 1989.

R. SAMPSON,  
*Acting Governor.*

Ref: TRE/14/25.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

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26th MAY 1989

*No. 13*

## NOTICES

No. 22

22nd May 1989.

**The Companies Act 1948**

### Notice of Appointment of Liquidator (Members') Voluntary Winding up

Pursuant to section 305 of the Companies Act 1948

**Name of Company** - S.D.S. Limited.

**Nature of Business** - Fishing Company.

**Address of Registered Office** - Old Transmitting Station, Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 22nd May 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 22nd May 1989.

**Attested by** - G. B. Farquhar.

**Description** - Solicitor.

No. 23

22nd May 1989.

**The Companies Act 1948**

### Special Resolution to Appoint Liquidator

Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**S.D.S. Fishing Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at Secretariat, Stanley on 22nd May 1989, the following **Special Resolution** was duly passed —

“That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator(s) for the purposes of such winding-up.”

**Signature** - Ronald Sampson.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.

No. 24

23rd May 1989.

**Notice to Creditors to send in claims****Name of Company** - S.D.S. Fishing Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Second day of June 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator of the said Company: and, if so required by notice in writing by the said Liquidator, are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. (1) This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated** - 23rd May 1989.

No. 25

23rd May 1989.

**Everards Brewery (Falkland Islands) Limited**  
**Stanley**  
**Falklands Islands**  
**("the Company")**

Pursuant to section 293 (1) of the Companies Act 1948, notice is hereby given that a meeting of the creditors of the Company will be held at 44 John Street, Stanley on Monday 5th June 1989 at 2.30 p.m for the purposes set out in sections 294 to 296 of the Companies Act 1948.

Creditors may vote either in person or by proxy and forms of proxy are enclosed. To be valid, a proxy must be lodged with the Company at 44 John Street, Stanley before or at the meeting or in the adjourned meeting at which it is to be used.

A list of names of the company's creditors will be available for inspection, free of charge within the offices of C & P H Chalmers, 44 John Street, Stanley during the two business days preceding the above meeting.

By order of the Board.

**H. Milne,**  
*Director.*

**Dated** 23rd May 1989.



# THE FALKLAND ISLANDS GAZETTE

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*Vol. XCVIII*


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*31st MAY 1989*


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*No. 14*


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## Appointments

Miss Susan Jane Nightingale, Clerk, Public Service, 20.3.89.

Graham John Didlick, Police Constable, Falkland Islands Police Force, 19.5.89.

## Acting Appointments

Robert Mark Titterington, Acting Director of Civil Aviation, Civil Aviation Department, 27.4.89. - 3.5.89.

Zachary Stephenson, Acting Head Printer, Printing Office, 24.5.89.

Miss Mandy Gail Harrod, Acting Chief Nursing Officer, Medical Department, 20.5.89.

## Completion of Contract

Mrs. Wendy Joan Fitzgerald, Chief Nursing Officer, Medical Department, 20.5.89.

Colin George Davies, Teacher, Camp Education Department, 31.5.89.

## Resignations

Ms Carol Susan Howes, Woman Police Constable, Falkland Islands Police Force, 31.3.89.

Paul Frederick Jones, Police Constable, Falkland Islands Police Force, 31.5.89.

Miss Mhari Ashworth, Clerk, Public Service, 31.5.89.

Roy McGill, Assistant Air Traffic Controller, Civil Aviation Department, 31.5.89.

## Termination of Employment

Charles Henry Grocock, Engineman, Power Station, Public Works Department, 17.5.89.

No. 26

31st May 1989.

## Prisons Ordinance 1966

### Appointment of Board of Visiting Justices

In accordance with Section 7 of the Prisons Ordinance, I Hereby Appoint —

**Rose Mary McIlroy 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 1st day of January 1989.

Made this 10th day of May 1989.

**RONALD SAMPSON,**  
*Acting Governor.*

Ref: POL/19/1.



## The Legislative Council (Privileges) Ordinance 1989

(No. 2 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Section

1. Short Title.
2. Interpretation.
3. Absolute privilege in relation to words spoken in Legislative Council.
4. Absolute privilege of witnesses.
5. Absolute privilege in relation to certain documents laid before Legislative Council.
6. Supplementary to sections 4 and 5.
7. Publication by authority of Legislative Council.
8. Prohibition of publication of proceedings of Legislative Council.



## Colony of the Falkland Islands

RONALD SAMPSON,  
*Acting Governor.*

### An Ordinance

to declare certain privileges of the Legislative Council and for connected purposes.

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Legislative Council (Privileges) Ordinance 1989.

Short title.

2. In this Ordinance —

Interpretation.

“a Member of the Legislative Council” includes the Governor or other person presiding at a meeting of the Legislative Council, the Commander British Forces and the Attorney General; and

“repetition” means a repetition other than in the Legislative Council or before any Committee of that Council”

3. (1) Words spoken by a member of the Legislative Council in that Council or before any committee of that Council are absolutely privileged and no court has jurisdiction to entertain an action in respect of them.

Absolute privilege in relation to words spoken in Legislative Council.

(2) Subsection (1) above does not extend to the repetition by a member of the Legislative Council, in any form, of words spoken by him or any other member in that Council or before any committee of that Council.

(3) In subsection (1), “action” includes criminal proceedings of any kind.

4. Any evidence given by any witness to any committee of the Legislative Council which has summoned that witness in accordance with any Ordinance to give evidence before it is privileged, in the case of oral evidence, to the same extent as it would be if a member of the Legislative Council had spoken the words in the Legislative Council and in the case of documents or other written evidence, to the same extent as if it had been laid before the Legislative Council in pursuance of some statutory requirement so to do.

Absolute privilege of witnesses.

5. (1) All accounts, papers, reports or other documents of any kind which are, in pursuance of any statutory requirement or in pursuance of a request of the Legislative Council conveyed through its Clerk laid before the Council are absolutely privileged insofar as the resultant publication to the Council is concerned, and no action may be founded on such publication.

Absolute privilege in relation to certain documents laid before Legislative Council.

(2) Subsection (1) above shall apply, with all necessary modifications, in respect of accounts, papers, reports or other documents of any kind which are produced to any committee of the Legislative Council at the request of that committee.

6. No court shall have jurisdiction to restrain any person from doing anything which is absolutely privileged under section 4 or 5 above.

Supplementary to sections 4 and 5.

7. (1) The Legislative Council may require any report, paper, proceedings or other document whatsoever to be published by authority of the Legislative Council.

Publication by  
authority of  
Legislative  
Council.

(2) No person shall be liable to any proceedings civil or criminal for, on account of or in respect of the publication of any report, paper, proceedings or other document where the publication was by authority of the Legislative Council.

(3) A certificate in writing signed by the Attorney General or by the Clerk of the Legislative Council that the report, paper, proceedings or other document specified therein was published by authority of the Legislative Council shall be conclusive evidence of that fact.

8. (1) The Legislative Council may by resolution, should it deem it expedient so to do, but only on the recommendation of the Governor acting in his discretion but subject to subsection (2) below, prohibit the publication of its proceedings or any part thereof.

Prohibition of  
publication of  
proceedings of  
Legislative  
Council.

(2) The Governor shall not make a recommendation to which subsection (1) relates unless for a reason or reasons which he shall disclose to the Legislative Council at the time of making the recommendation, he considers it in the public interest so to do.

(3) A person commits an offence who publishes any part of any proceedings of the Legislative Council to which a prohibition under subsection (1) above relates and, on conviction of that offence, he is liable to a fine not exceeding £10,000.

Passed by the Legislature of the Falkland Islands this 26th day of April 1989.

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: LEGCO/10/4.

Assented to in Her Majesty's name  
and on Her Majesty's behalf this  
29th day of May 1989.

R. SAMPSON,  
*Acting Governor.*



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*6th June 1989*

*No. 15*

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**PROCLAMATION**

No. 2 of 1989

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 **WILLIAM HUGH FULLERTON**, 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, WILLIAM HUGH FULLERTON**, do hereby PROCLAIM that the Legislative Council shall be prorogued on Tuesday the 6th day of June 1989;

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 Saturday the 10th day of June 1989.

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, this 5th day of June in the year of our Lord One Thousand Nine Hundred and Eighty Nine.

**W. H. FULLERTON**,  
*Governor.*

GOD SAVE THE QUEEN



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)  
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*8th JUNE 1989*

*No. 16*

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**NOTICES**

No. 27

1st June 1989.

**The Companies Act 1948**

**Notice of Appointment of Liquidator (Members') Voluntary Winding up**

**Pursuant to section 305 of the Companies Act 1948**

**Name of Company** - A.G.S. Fisheries Limited.

**Nature of Business** - Fishing Company.

**Address of Registered Office** - Old Transmitting Station, Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 1st June 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 6th June 1989.

**Attested by** - John Scannell.

**Description** - Trainee Solicitor.

No. 28

1st June 1989.

**The Companies Act 1948**

**Special Resolution to Appoint Liquidator**

**Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948**

**A.G.S. Fisheries Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at Secretariat, Stanley on 1st June 1989, the following **Special Resolution** was duly passed —

"That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator(s) for the purposes of such winding-up."

**Signature** - John Buckland James.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.

No. 29

2nd June 1989.

**Notice to Creditors to send in claims****Name of Company - A.G.S. Fisheries Limited(in Voluntary liquidation).**

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Twenty third day of June 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator of the said Company: and, if so required by notice in writing by the said Liquidator, are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

**Dated - 2nd June 1989.**

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The following are published in this Gazette —

**The Appropriation Bill 1989;**

**The Appropriation (Agricultural Improvement Grants) Bill 1989.**

# The Appropriation Bill 1989

(No.      of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Appropriation of £35,959,730 for the service of the year 1989 - 1990.

### Schedule

# The Appropriation Bill 1989

(No.      of 1989)

## A Bill for An Ordinance

to Provide for the Service of the Financial Year commencing on 1st July 1989 and ending on 30th June 1990

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Appropriation Ordinance 1989.
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 1989 and ending on 30th June 1990 ("the financial year"), sums not exceeding in aggregate the sum of thirty five million, nine hundred and fifty nine thousand, seven hundred and thirty 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.

Short title.

Appropriation  
of £35,959,730  
for the year  
1989-90.

## SCHEDULE

Number	Head of Service	£
100	Aviation ... ..	785,000
150	Posts and Telecommunications ... ..	387,960
200	Medical ... ..	1,436,680
250	Education and Training ... ..	1,401,090
300	Customs and Harbour ... ..	605,230
320	Fisheries ... ..	5,825,400
350	Public Works ... ..	4,462,220
390	Fox Bay Village ... ..	72,920
400	Agriculture ... ..	156,960
450	Justice ... ..	190,120
500	Military ... ..	99,040
550	Police, Fire and Rescue Service ... ..	465,520
600	Secretariat, Treasury and Central Store ... ..	7,933,220
650	Pensions and Gratuities ... ..	278,400
700	Social Welfare ... ..	356,300
750	The Governor ... ..	116,870
800	Legislature ... ..	87,480
850	Falkland Islands Government Office ... ..	229,360
860	Agricultural Research Centre ... ..	472,420
880	FIDC Funding ... ..	10
900	Income Tax Refunds ... ..	130,000
TOTAL OPERATING EXPENDITURE		25,492,200
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds ... ..	10,467,530
TOTAL EXPENDITURE		35,959,730

Ref: TRE/14/25.

# The Appropriation (Agricultural Improvement Grants) Bill 1989

(No.      of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Appropriation of £500,000

### Schedule

# The Appropriation (Agricultural Improvement Grants) Bill 1989

(No.      of 1989)

## A Bill for An Ordinance

To appropriate £500,000 for expenditure on agricultural improvement grants during the year ending on 30th June 1990.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Appropriation (Agricultural Improvement Grants) Ordinance 1989. Short title.
2. (1) 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 1989 and ending on 30th June 1990 sums not exceeding in aggregate the sum of five hundred thousand pounds which sum is granted and shall be appropriated for the purpose and to defray the charges of the service expressed and particularly mentioned in the Schedule hereto. Appropriation of £500,000.
- (2) The said sum of £500,000 is granted and appropriated in addition to the sum granted and appropriated by the Appropriation Ordinance 1989 for the purposes therein expressed.

## SCHEDULE

951      Expenditure to be met from local funds

### Accounts Code

951 984      Agricultural Grants £500,000

Ref: TRE/14/25.





**THE**  
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*No. 17*

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**NOTICE**

The following is published in this Gazette —

**The Falklands Interim Port and Storage System Bill 1989.**

# The Falklands Interim Port and Storage System Bill 1989

(No.      of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Interpretation.
3. Fipass waters.
4. Rates.
5. Time at which rates are to be paid.
6. Exemption of vessels in Her Majesty's service, from rates.
7. Vessels returning from stress of weather.
8. Fipass manager may enter vessels to ascertain rates payable.
9. Master to produce certificate of registry.
10. Masters of vessels to give names of consignees, and accounts of goods to be unshipped etc.
11. Offence on part of masters giving no account or notice, or a false account or notice.
12. Shippers to give an account of goods intended to be shipped.
13. In case of dispute goods to be weighed or measured.
14. Expenses of weighing or measuring such goods.
15. Penalty for evading payment of rates.
16. Recovery of rates by distraint and sale of ship and tackle.
17. Recovery of rates on goods by distraint and sale or by action.
18. Disputes concerning rates or charges occasioned by distress.
19. Collector of Customs may withhold a clearance to any vessel until certificate is produced that the rates are paid, etc.
20. Powers of the Fipass manager.
21. Appointment of deputy Fipass manager.
22. Penalty on shipmasters not complying with directions, of the Fipass manager.
23. Penalty on Fipass manager, etc, for misbehaviour.
24. Penalty on persons offering bribes to officers, and on officers taking bribes.
25. Powers of Fipass manager as to mooring of vessels at Fipass and in Fipass waters.
26. Vessels to have hawsers, etc, fixed to moorings.
27. Penalty for wilfully cutting moorings.
28. Discharge of cargo and removal of vessels.
29. Penalty on wharfingers, giving undue preference in loading or unloading goods.
30. Removal of goods from Fipass.
31. Combustible matter on Fipass or vessel, to be removed.
32. Combustibles to be guarded during the night.

33. Power to enter ship and search for and extinguish fires or lights.
34. Owner and master of vessel answerable for damage to Fipass.
35. Regulations.
36. Offences and penalties.

## A Bill for An Ordinance

**To provide for the operation and management of the Falklands Interim Port and Storage System and to make provision for the levying of rates in respect of its use by vessels.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Falklands Interim Port and Storage System Ordinance 1989. Short title.

2. In this Ordinance Interpretation.

“berthing dues” means any due, fee or charge payable under this Ordinance in respect of a vessel which berths alongside Fipass or within Fipass waters;

“deputy Fipass manager” means the person appointed pursuant to the provisions of section 21;

“dynamically supported craft” means a craft that is operable on or above water and the weight of which, or a significant part thereof is balanced in one mode of operation by other than hydrostatic forces;

“Fipass” means the Falklands Interim Port and Storage System;

“Fipass manager” means the Chief Executive for the time being of the Falkland Islands Government (including the Chief Executive acting on the direction of the Governor) or any person authorised by the Chief Executive to act or exercise the powers of the Fipass manager;

“Fipass waters” means all those waters immediately surrounding Fipass and within a distance of one nautical mile from Fipass;

“master” in relation to a vessel means the person having for the time being command or charge of the vessel;

“owner” —

(a) in relation to a vessel means

- (i) the person or person registered or licensed as the owner of the vessel or in the absence of registration or licensing, the person or persons owning the vessel, except that in relation to a vessel owned by a state which is operated by a person registered as the vessel’s operator, it means the person registered as its operator; or
- (ii) a demise charterer of the vessel; and

(b) in relation to cargo, includes

- (i) the consignor, consignee or shipper of the cargo; and
- (ii) the agent of the owner of the cargo;

“rates” means berthing dues and stevedoring charges;

“ship” means any vessel used in navigation other than a vessel propelled by oars;

"stevedoring charges" means any due, fee or charge payable under this Ordinance in respect of stevedoring services rendered by or on behalf of the Falkland Islands Government at Fipass;

"vessel" includes

- (a) any ship, boat, dynamically supported craft, sea-plane or any other description of vessel used in navigation; and
- (b) any other description of vessel in the Falkland Islands or in the waters of the Falkland Islands not used in navigation or not constructed or adapted for use in navigation.

3. (1) This Ordinance shall, except where otherwise specifically provided, apply to all vessels using Fipass or located within Fipass waters. Fipass waters.

(2) The provisions of this Ordinance and any regulations made hereunder shall take precedence over the provisions of the Harbour Ordinance in the event of any conflict or inconsistency therewith.

4. (1) The Crown may charge rates to be paid as follows — Rates.

- (a) in the case of berthing dues, by the master or owner of the vessel to which they relate; and
- (b) in the case of stevedoring charges, by the owner of the goods to which they relate.

(2) The Governor may

- (a) determine and fix the amount and level of rates to be charged; and
- (b) refund or waive the payment of, in whole or in part, any rates due in respect of any vessel, goods or services.

(3) Where the amount and level of berthing dues are determined and fixed by reference to the tonnage of vessels the tonnage shall be ascertained according to the certified tonnage in the register of such vessels or shall be ascertained according to the rules of admeasurement for the time being established by law for regulating the admeasurement of the tonnage and burthen of the merchant shipping of the United Kingdom.

5. (1) If demanded by or on behalf of the Crown rates shall be paid as follows — Time at which rates are to be paid.

- (a) in the case of berthing dues, before the vessel to which they relate unmoors from Fipass; and
- (b) in the case of stevedoring charges where they relate to goods to be shipped, before the shipment, and, where they relate to goods to be unshipped, before the removal of the goods from Fipass.

(2) If not so demanded as provided for in subsection (1) rates shall be paid upon the date indicated upon any invoice issued by or on behalf of the Crown.

6. (1) Nothing contained in this Ordinance shall extend to charge with rates or to regulate or subject to any control — Exemption of vessels.

- (a) any vessel belonging to or employed in the service of Her Majesty using Fipass and not conveying goods for hire;
- (b) any of the officers or persons employed in the service of Her Majesty's Navy;
- (c) the Collector of Customs;
- (d) any vessel or goods being under seizure by the Collector of Customs;
- (e) any naval, victualling, or ordnance stores, or other stores or goods for the service of or being the property of Her Majesty;
- (f) any troops landed upon or delivered or disembarked from Fipass, or their baggage.

(2) Any person claiming and taking the benefit of any exemption pursuant to subsection (1) without being entitled thereto shall be guilty of an offence.

7. If any vessel for which berthing dues have been paid is obliged, from stress of weather or other sufficient cause, after leaving Fipass, to return with the same cargo, the berthing dues so paid shall not again be payable in respect of such vessel. Vessels returning from stress of whether.
8. The Fipass manager may, either alone or with any other persons, enter into any vessel lying alongside Fipass or within Fipass waters, in order to ascertain the rates payable in respect of such vessel, or of any goods therein. Fipass manager may enter vessels to ascertain rates payable.
9. (1) The master of every registered vessel situate within Fipass waters shall, on demand, produce the certificate of registry of such vessel to the Fipass manager. Master to produce certificate of registry.
- (2) Any master who refuses or neglects to produce the certificate as provided in subsection (1) shall be guilty of an offence.
10. Where any goods are intended to be unshipped upon Fipass or within Fipass waters, the master of the vessel containing such goods shall — Masters of vessels to give names of consignees, and accounts of goods to be unshipped etc.
- (a) within twelve hours after the arrival of his vessel alongside Fipass or within Fipass waters, deliver to the Fipass manager the name of the consignee of the goods intended to be unshipped or other person to whom the same are to be delivered, and, if the whole cargo is intended to be unshipped, a copy of the bill of lading or manifest of the cargo, or, if part only of the cargo is intended to be unshipped, the best account in writing in his power of the kinds, weights, and quantities of the several goods intended to be unshipped; and
- (b) if required so to do by the Fipass manager, give to him twelve hours notice of the time at which the cargo of his vessel or any part of the same is intended to be unshipped.
11. The master of a vessel of which the cargo or part of the cargo is unshipped upon Fipass or within Fipass waters, who fails to deliver or to give any of the particulars in regard to the cargo or the notice in regard to the shipment thereof required to be delivered or given by him pursuant to section 10, or who delivers or gives any false particulars or notice, shall be guilty of an offence. Offence on part of masters giving no account or notice, or a false account or notice.
12. (1) Prior to the commencement of shipment of any goods on board of any vessel lying alongside Fipass or within Fipass waters, the shipper of such goods shall give to the Fipass manager a true account, of the kinds, quantities and weights of such goods. Shippers to give an account of goods intended to be shipped.
- (2) Any shipper who ships or causes to be shipped any goods in a vessel as provided in subsection (1) without having given such accounts, or who gives or signs a false account of such goods, shall be guilty of an offence.
13. If any difference arises between the Fipass manager and the master of any vessel or the owner of any goods, concerning the weight or quantities of the goods in respect of which any stevedoring charges are payable, the Fipass manager may cause all such goods to be weighed or measured and, if necessary, may detain the vessel containing such goods until they have been weighed or measured. In case of dispute goods to be weighed or measured.
14. If the weight or quantity of any goods caused to be weighed or measured by the Fipass manager pursuant to section 13, is greater than that shown by the manifest, bill of lading, account or statement delivered by the master of the vessel or by the owners of the goods, the expenses of such weighing or measuring shall be paid by such master or owner to the Crown and shall be recoverable by the same means as are herein provided for the recovery of rates. Expenses of weighing or measuring such goods.
15. If the master or owner of any vessel or the owner of any goods evades the payment of rates payable to the Crown in respect of such vessel or goods, or any part thereof, he shall pay to the Crown three times the amount of the rates of which he has so evaded payment and the same shall be recoverable from such master or owners respectively in the manner prescribed in section 36 of this Ordinance. Penalty for evading payment of rates.
16. If the master or owner of any vessel in respect of which any berthing dues are payable to the Crown hereunder refuses or neglects to pay the same, or any part thereof; Recovery of berthing dues by distraint and sale of ship and tackle.

- (a) the Fipass manager may, with such assistance as he may deem necessary, go on board of such vessel and demand such berthing dues, and on non payment thereof, or of any part thereof, take, distrain, or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the matters so distrained or arrested until the berthing dues are paid and in the event that any berthing dues in respect of which any distress or arrestment has been made pursuant hereto remain unpaid upon the expiration of 7 days from the date of such distress or arrestment the Fipass manager may cause the matters so distrained or arrested to be appraised by two or more sworn appraisers, and afterwards cause the matters distrained or arrested, or any part thereof, to be sold, and with the proceeds of such sale may satisfy the berthing dues so unpaid, and the expenses of taking, keeping, appraising, and selling the matters so distrained or arrested, rendering the balance if any to the master of such vessel upon demand; or
    - (b) the Crown may recover such berthing dues by action in any court having competent jurisdiction, as if the amount payable was a civil debt owed to the Crown by the master or the owner of the vessel in respect of which the berthing dues are payable.
17. If the owner of any goods in respect of which any stevedoring charges are payable to the Crown hereunder refuses or neglects to pay the same, or any part thereof
- (a) the Fipass manager may enter any vessel lying alongside Fipass or within Fipass waters, in which the goods may be, with such assistance as he shall deem necessary and demand such stevedoring charges, and on non payment thereof, take or distrain, of his own authority such goods or, if the goods have been removed without payment of such stevedoring charges, he may distrain or arrest any other goods upon Fipass, belonging to the owner of such goods, and may sell the goods so distrained or arrested, and out of the proceeds of such sale pay the stevedoring charges due to the Crown rendering the balance, if any, to the owner of such goods, on demand; or
    - (b) the Crown may recover such stevedoring charges by action in any court having competent jurisdiction, as if the amount payable was a civil debt owed to the Crown by the owner of such goods.
18. If any dispute arises concerning the amount of any rates due, or the charges occasioned by any distress or arrestment, by virtue of this Ordinance, the person making such distress or using such arrestment may detain the goods or vessel distrained or arrested until the amount of the rates due or the charges of such distress or arrestment, be ascertained by the Senior Magistrate who, upon application made to him for that purpose, shall determine the same, and award such costs to be paid by either of the parties to the other of them as he shall think reasonable, and such costs, if not paid on demand, shall be levied by distress or pounding and sale, and the Senior Magistrate shall issue his warrant accordingly.
19. The Collector of Customs may, refuse to receive any entry or give any cocquet, discharge, or clearance, or to take any report inwards or outwards of any vessel liable to the payment of any of the rates imposed by this Ordinance, until the master of such vessel produces to him a certificate, under the hand of the Fipass manager, that the rates payable in respect of such vessel, and any goods imported or exported by such vessel, have been paid, or, if there be any dispute as to the rates payable, until he shall be satisfied that sufficient security has been given for the payment of such rates when ascertained, together with the expenses arising from the nonpayment thereof.
20. The Fipass manager may give directions for all or any of the following purposes; (that is to say)
- (a) for regulating the time at which and the manner in which any vessel shall enter into, go out of, or lie in or at Fipass and within Fipass waters, and its position, mooring or unmooring, placing and removing, whilst therein;
    - (b) for regulating the position in which any vessel shall take in or discharge its cargo or any part thereof, or shall take in or land its passengers or shall take in or deliver ballast within or on Fipass and within Fipass waters;

Recovery of berthing dues by restraint and sale of ship and tackle.

Disputes concerning rates or charges occasioned by distress.

Collector of Customs may withhold a clearance to any vessel until certificate is produced that the rates are paid, etc.

Powers of the Fipass manager.

- (c) for regulating the manner in which any vessel coming to Fipass shall be manoeuvred whilst it is within the facility waters, as well for the safety of such vessel as for preventing injury to other vessels, and to Fipass, and the moorings thereof;
- (d) for removing unservicable vessels and other obstructions from Fipass and Fipass waters and keeping the same clear;
- (e) for regulating the quantity of ballast or dead weight in the hold, which each vessel lying alongside Fipass or within Fipass waters shall have during the delivery of her cargo, or after having discharged the same:

provided always, that nothing contained in this Ordinance shall authorise the Fipass manager to do or cause to be done any act in any way repugnant to or inconsistent with any law relating to the customs, or any lawful direction made by the Collector of Customs.

21. (1) The Fipass manager may appoint a deputy Fipass manager to assist him to administer and ensure compliance with and with any directions given by him pursuant to the provisions of this Ordinance.

Appointment of deputy Fipass manager.

(2) Any deputy Fipass manager appointed pursuant to subsection (1) may exercise the powers granted to the Fipass manager by the provisions of this Ordinance.

22. (1) The master of every vessel lying alongside Fipass or within Fipass waters shall regulate such vessel according to the directions of the Fipass manager made in conformity with this Ordinance.

Penalty on ship-masters not complying with directions, of the Fipass manager.

(2) Any master of a vessel who, after notice of any such direction by the Fipass manager served upon him, shall not forthwith regulate such vessel according to such direction shall be guilty of an offence and liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

23. If the Fipass manager (other than the Chief Executive), the deputy Fipass manager or any of his assistants, without reasonable cause, or in an unreasonable or unfair manner, exercise any of the powers or authorities vested in the Fipass manager by this Ordinance, the person so offending shall be guilty of an offence.

Penalty on Fipass manager, etc, for misbehaviour.

24. Any person who gives or offers any sum of money, or any thing whatsoever, by way of reward or bribe to the Fipass manager or any person employed in or about Fipass, for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing such Fipass manager or other person to do or omit to do anything relating to his office, and any Fipass manager or other person who receives any such reward or bribe as aforesaid, shall be guilty of an offence and liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for 2 years or both such fine and such imprisonment.

Penalty on persons offering bribes to officers, and on officers taking bribes.

25. (1) If the master of any vessel lying alongside Fipass or within Fipass waters, shall not moor, unmoor, place or remove such vessel according to the directions of the Fipass manager, or if there be no person on board any such vessel to attend to such direction, the Fipass manager may cause such vessel to be moored, unmoored, placed, or removed as he shall think fit, at Fipass or within Fipass waters and for that purpose the Fipass manager may cast off, unloose, or cut the rope, or unshackle or break the chain, by which any such vessel is moored or fastened; and all expenses attending the mooring, unmooring, placing, or removing of such vessel shall be paid to the Crown by the master of such vessel:

Powers of Fipass manager as to mooring of vessels at Fipass and in Fipass waters.

Provided always, that before the Fipass manager shall unloose or cut any rope, or unshackle or break any chain, by which any vessel without any person on board to protect the same shall be moored or fastened, he shall cause a sufficient number of persons to be put on board of such vessel for the protection of the same.

(2) The master of any vessel lying alongside Fipass or within Fipass waters who does not moor, unmoor, place, or remove the same according to the directions of the Fipass manager shall be guilty of an offence and be liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

26. (1) Every vessel alongside Fipass or within Fipass waters shall have substantial hawsers, tow lines, and fasts fixed to the dolphins, booms, buoys, or mooring posts located upon Fipass or within Fipass waters, when required by the Fipass manager.

Vessels to have hawsers, etc, fixed to moorings.

(2) The master of any vessel lying alongside Fipass or within Fipass waters, without substantial hawsers, tow-lines, or fasts fixed as aforesaid, after notice has been given to the master of such vessel to furnish or fix the same, shall be guilty of an offence.

27. Any person, other than the Fipass manager, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel lying alongside Fipass or within Fipass waters shall be guilty of an offence and liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for 2 years or both such fine and such imprisonment.

Penalty for wilfully cutting moorings.

28. (1) The master of every vessel which shall go alongside Fipass for the purpose of being discharged of her cargo shall cause her to be so discharged as soon as conveniently may be after entering therein, and shall cause her, after being so discharged, to be removed without loss of time, to such part of Fipass or into such part of Fipass waters directed by the Fipass manager.

Discharge of cargo.

(2) The master of any vessel who shall not cause her to be so removed as provided in subsection (1) within twenty-four hours after being so required so to do by notice in writing signed by the Fipass manager, commits an offence, and the Fipass manager may cause such vessel to be so removed, and the expenses of such removal shall be paid to the Crown by the master of such vessel.

29. Any wharfinger or other person under the direction of the Fipass manager, or any of their lessees, or the servants of such lessees, who gives any undue preference or shows any partiality in loading or unloading any goods on any part of Fipass shall be guilty of an offence.

Penalty on wharfingers, giving undue preference in loading or unloading goods.

30. The Fipass manager, or any person appointed by the Fipass manager, may remove any goods located upon Fipass without the consent of the Fipass manager and not belonging to the Crown, to any convenient place, and keep the same until payment to the Crown of the expenses of such removal, and of the keeping of the goods; and if such expenses be not paid within seven days, after demand thereof made upon the owner, or if no such owner can be found, the Crown may sell such goods, and out of the proceeds of such sale pay such expenses, rendering the balance, if any, to the owner on demand.

Removal of goods from Fipass.

31. Every person being the owner of or having the charge of any diesel oil, tar, pitch, resin, spirituous liquors, turpentine, oil, or other combustible thing, which shall be upon Fipass, or on the deck of any vessel lying alongside Fipass or within Fipass waters shall cause the same to be removed to a place of safety immediately after being required so to do by notice in writing, signed by the Fipass manager, and if he fails so to do shall be guilty of an offence.

Combustible matter on Fipass or vessel to be removed.

32. If any combustible thing as described in section 31 shall remain on any part of Fipass or on the deck of any vessel lying alongside Fipass or within Fipass waters, after sunset, the owner or person having the charge of the same, or on his default the Fipass manager, at the expense of such owner or person, shall provide a sufficient number of persons to guard the same from half an hour before sunset to half an hour after sunrise; and such expense, if not paid by the said owner or person to the Crown, on demand, shall be ascertained by the Fipass manager and may be recovered by the Crown as if the amount of such ascertained expense was a civil debt owed to the Crown by such owner or person.

Combustibles to be guarded during the night.

33. The Chief Fire Officer may enter into any vessel lying alongside Fipass or within Fipass waters to search for any fire or light in or suspected to be in such vessel, and may extinguish the same; and any person who obstructs or fails without due cause to assist the Chief Fire Officer in the execution of such duty shall be guilty of an offence.

Power of Chief Fire officer to enter ship and search for and extinguish fires or lights.

34. The owner of every vessel shall be answerable to the Crown for any damage done by such vessel or by any person employed about the same, to Fipass and the master or person having the charge of such vessel through whose wilful act or negligence any such damage is done shall also be liable to make good the same; and the Crown may detain any such vessel until sufficient security has been given for the amount of damage done by the same.

Owner and master of vessel answerable for damage to Fipass.

35. (1) The Governor may make Regulations for the better carrying out of the provisions of this Ordinance.

Regulations.



(2) Without derogating from the generality of subsection (1) Regulations made hereunder may be made

- (a) for regulating the use of Fipass;
- (b) for regulating the exercise of the several powers vested in the Fipass manager;
- (c) for regulating the admission of vessels into Fipass waters and their removal out of and from the same, and for the good order and government of such vessels whilst lying alongside Fipass or within Fipass waters;
- (d) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing, and removing of all goods within the limits of Fipass and Fipass waters;
- (e) for regulating the hours during which the entrance to Fipass shall be open;
- (f) for regulating the duties and conduct of all persons, not being customs officers, who shall be employed at or present upon Fipass;
- (g) for regulating the use of fires and lights within Fipass or within Fipass waters and within any vessel lying alongside Fipass or within Fipass waters;
- (h) for preventing damage or injury to any vessel lying alongside Fipass or within Fipass waters and any goods upon Fipass.

36. (1) Any person who commits an offence against this Ordinance or any regulation made hereunder, for which no other penalty is specifically provided, shall be liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

Offences and  
penalties.

(2) Any penalty imposed pursuant to section 15 shall be recovered or enforced in the same manner as a penalty or fine imposed by the Senior Magistrate or Court of Summary Jurisdiction in criminal proceedings may be recovered or enforced.



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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**NOTICE**

The following is published in this Gazette pursuant to section 12(3)(b) of the Electoral Ordinance 1988:

**The Preliminary List of Electors.**

## STANLEY CONSTITUENCY

## Register of Electors

1	Adams,	Annagret*	58	Betts	Alan Sturdee*
2	"	Carol Margaret*	59	"	Donald William
3	"	John Harvey	60	"	Ellen Alma*
4	"	Marjorie Rose	61	"	George Winston Charles
5	Alazia,	Albert Faulkner*	62	"	Lucia Elizabeth
6	"	Anita Jayne*	63	"	Melody Christine
7	"	Charles*	64	"	Shirley Rose
8	"	Freda	65	"	Terence Severine
9	"	Freda Evelyn	66	Biggs,	Alastair Gordon
10	"	George Robert	67	"	Betty Josephine
11	"	Hazel	68	"	Darlene Joanna
12	"	Henry John*	69	"	Edith Joan
13	"	James Andrew	70	"	Frances
14	"	Maggie Ann*	71	"	Hilda Evangeline*
15	"	Yvonne	72	"	Irene Mary
16	Aldridge,	Caroline Mary	73	"	Kathleen Frances*
17	"	Kenneth John	74	"	Leslie Frederick
18	Alexander,	Anya	75	"	Madge Bridget Frances*
19	Allan,	Erwin	76	"	Michael Elfed
20	Almonacid,	Gladys Mabel	77	"	Peter Julian Basil
21	"	Orlando	78	"	Robert William
22	Anderson,	Andrew Ronald*	79	Binnie,	Malcolm George Stanley
23	"	Eddie	80	"	Michele Paula
24	"	Edward Bernard*	81	"	Susan
25	"	Elizabeth Nellie*	82	Birmingham,	John
26	"	Gertrude Maud*	83	"	Susan Jane
27	"	Gloria	84	Blackley,	Candy Joy
28	"	Hector Christian*	85	"	Charles David*
29	"	Helen*	86	"	Hilda
30	"	Jenny	87	"	Janet Agnes Mary*
31	"	Marina Rose	88	"	John David
32	"	Mildred Nessie*	89	Blizard,	Lawrence Gordon*
33	"	Richard Louis	90	"	Malvina Mary
34	"	Ronald	91	Blyth,	Agnes Ruth*
35	"	Stephen Robert*	92	"	Alfred John*
36	"	Tony James	93	"	John*
37	Armstrong,	Jacqueline	94	Bonner,	Donald William*
38	Ashley,	Nora Phyllis*	95	"	Linda Jane
39	Barnes,	Ernest*	96	"	Nicholas
40	"	Marie	97	"	Paul Roderick
41	"	Molly Stella*	98	"	Timothy
42	"	Sigrid Geraldine Wells*	99	"	Vera Ann
43	Barton,	Arthur John	100	"	Vera Joan
44	Bennett,	Harold*	101	"	Violet*
45	"	Lena Grace Gertrude*	102	Booth,	Jessie*
46	Berntsen,	Christian Olaf Alexander*	103	"	Joseph Bories*
47	"	Diana Mary	104	"	Mary*
48	"	Gina Michelle	105	"	Myriam Margaret Lucia
49	"	John Alexander	106	"	Stuart Alfred*
50	"	Kathleen Gladys*	107	Bound,	Graham Leslie
51	"	Lavina Maud*	108	"	Joan*
52	"	Olaf Christian Alexander	109	Bowles,	Hayley Trina
53	"	Patrick	110	"	Norma Evangeline
54	"	Raymond	111	"	William Edward*
55	"	William Alexander	112	Bragger,	Edward Laurence
56	"	William Blyth*	113	"	Olga
57	Bertrand,	Catherine Gladys*			

114	Browning,	Althea Maria	171	Clasen,	Mally
115	"	Edwina	172	Clausen,	Denzil George Gustavus*
116	"	Gavin	173	Clayton,	Susan
117	"	James Samuel*	174	Cletheroe,	Daphne Harriet*
118	"	Rex*	175	"	Kenneth Stanley
119	"	Richard William	176	"	Lily Catherine*
120	"	Trevor Osneith	177	"	Stanley William*
121	Buckett,	Ronald Peter	178	"	William Harold*
122	Buckland,	Charles Ronald	179	Clifton,	Charles*
123	Bundes,	Robert John Christian*	180	"	Darwin Lewis*
124	Burns,	Mary Anne*	181	"	Jessie Emily Jane*
125	Burston,	Catherine	182	"	Neil*
126	"	Stephen Leslie*	183	"	Stephen Peter
127	Butcher,	Michael George	184	"	Valerie Ann
128	"	Trudi	185	Connolly,	Kevin Barry
129	Butler,	Elsie Maud*	186	Coombe,	Peter
130	"	Ernest Joseph*	187	"	Shirley Anne
131	"	Frederick Lowther Edward Olai*	188	Coutts,	Carolynne
132	"	George Joseph	189	"	Charles
133	"	Joan May	190	"	Charles Lindsay*
134	"	Lawrence Jonathan	191	"	John
135	"	Margaret Orlanda	192	"	Olga
136	"	Orlanda Betty	193	"	Peter
137	"	Sheila Olga*	194	"	Stephanie Anne
138	Card,	Denise	195	Curtis,	Alfred William Hamilton
139	Carey,	Anthony Michael*	196	"	Barbara Joan
140	"	Gladys*	197	Davies,	Anthony Warren
141	"	Mary Ann Margaret*	198	"	Colin George
142	"	Terence James*	199	"	Jacqueline Nancy
143	"	Trudi Ann	200	Davis,	Albert Henry
144	Cartmell,	Frederick James	201	"	Elsie Gladys Margaret*
145	"	Sarah Matilda*	202	"	William John*
146	Castle,	David Peter	203	Davy,	Patrick Alex Field
147	"	Isobel	204	Dickson,	Caroline Christine Bird*
148	Ceballos,	Claudette	205	Down,	Janet
149	"	Eulogio Gabriel	206	"	Robert William Michael
150	Chater,	Annie	207	Duncan,	Avis Marion*
151	"	Anthony Richard	208	"	Doreen*
152	Cheek,	Diane*	209	"	William*
153	"	Frederick John*	210	Etheridge,	Alice Mary
154	"	Gerald Winston	211	Evans,	Derek Stanley
155	"	Janet Linda*	212	"	Gladys Alberta*
156	"	John Edward*	213	"	Michael David
157	"	Marie	214	"	Richard Gregory*
158	Clarke,	Camilla Marie	215	Eynon,	Carol
159	"	Derek Simon*	216	"	David John
160	"	Doreen*	217	"	Leeann Watson*
161	"	Hector	218	Fairfield,	Bonita Doreen
162	"	Jane Lucacia*	219	"	James Steven*
163	"	Joyce Kathleen	220	Faria,	Basil Hary*
164	"	Kathleen Gay	221	"	Mary Ann
165	"	Martin James	222	"	Paul
166	"	Marvin Thomas	223	Felton,	Anthony Terence*
167	"	Petula Jane	224	"	Faith Dilys
168	"	Ronald John*	225	"	Sonia Ellen
169	"	Rudy Thomas	226	"	Violet Regina Margaret
170	"	Trudi Ann	227	"	Walter Arthur*

228	Ferguson,	Ethel Mary*	285	Hadden,	Alexander Burnett*
229	Findlay,	Bruce Murdock	286	"	Sheila Peggy*
230	"	Carrie Madeline Helen	287	Halford,	Rodney John
231	Finlayson,	Hugh*	288	"	Sharon*
232	"	Iris Dwenda Margaret	289	Hall,	Marilyn Joyce
233	"	Peter	290	Halliday,	Evelyn Edna*
234	"	Phyllis*	291	"	Gerald
235	"	Teresa Rose	292	"	John Arthur Leslie*
236	Fleuret,	Kathleen Mary*	293	"	Leslie John*
237	"	Theodore Clovis*	294	"	Mabel*
238	Fogerty,	Richard Edwin John	295	"	Margaret Mary*
239	Ford,	Arthur Henry*	296	"	Raynor
240	"	Charles David*	297	Hansen,	Douglas John
241	"	Cherry Rose	298	"	Keva Elizabeth
242	"	Colin Stewart	299	"	Terence Darwin
243	"	Colleen Mary	300	Harris,	Christopher James
244	"	David	301	"	Heather
245	"	Dorothy Minnie*	302	"	Jayne Elizabeth*
246	"	Elizabeth Harriet*	303	"	Jill Yolanda Miller
247	"	Fanny Davidson	304	"	Leslie Sidney
248	"	Frederick James	305	"	Michael Ronald
249	"	Hazel	306	"	Ralph Aaron
250	"	James Edward*	307	Harvey,	Muriel Elsie Elizabeth*
251	"	John	308	Hawksworth,	David
252	"	Leann Caroline*	309	"	Mary Catherine
253	"	Leonard	310	"	Pauline May
254	"	Marilyn Christina	311	"	Terence
255	"	Michael	312	Hayward,	Marjorie
256	"	Robert	313	"	Peter Dennis
257	Fullerton,	Mary Ellen*	314	Hazell,	Trudi Eileen Felton*
258	Gilbert,	Judith Elizabeth	315	Heathman,	Albert Stanley Kenneth*
259	"	Robert Ernest	316	"	Malcolm Keith
260	Gilding,	Peter Bernard	317	"	Violet*
261	Gooch,	Cecilia Ines Millard Bennett*	318	Hewitt,	Frances Agnes
262	"	Dudley Frederick*	319	"	Gary George
263	Goodwin,	Bert Samuel*	320	"	Kevin John*
264	"	Colin Valentine	321	"	Margaret Ann
265	"	Hazel Rose	322	"	Neil George*
266	"	June Elizabeth	323	"	Rachel Catherine Orissa*
267	"	June Rose Elizabeth	324	"	Robert John David*
268	"	Kathleen Edith Marguerite*	325	Hills,	Heather Margaret*
269	"	Laurence Henry	326	"	Richard William*
270	"	Margaret Ann	327	Hirtle,	Christine*
271	"	Michael Sturdee*	328	"	Debbie Ann
272	"	Neil Alexander William	329	"	Leonard Lloyd
273	"	Robin Christopher	330	"	Mary Ann*
274	"	Una	331	"	Robert Andrew Eric
275	"	William Andrew Nutt*	332	"	Rose Ann Shirley*
276	Goss,	Grace Elizabeth*	333	"	Sandra May Winifred
277	"	Morgan Edmund	334	"	Shirley
278	"	Simon Peter Miller	335	"	Wallace Carlinden*
279	"	William Henry (Jnr)	336	"	Zane Eric*
280	"	William Henry (Snr)*	337	Hobman,	Anilda Marilu
281	Gould,	Arthur William	338	"	David Gonsalo
282	Grant,	Leonard John*	339	"	Juan Jose Eleuterio
283	"	Mildred*	340	Howatt,	Derek Frank
284	Grocock,	Trevor	341	Howe,	Alison Delia

342	Howe,	Paul Anthony	399	Lee,	Trudi Dale
343	Huanel,	Jose Raul	400	Livermore,	Anton*
344	Jacobsen,	Alistair	401	"	Darren
345	"	Catherine Joan	402	"	Marie Ann
346	Jaffray,	Angus	403	Lloyd,	Melvyn John
347	"	Estell Anita	404	"	Valerie Ann
348	"	Frank Alexander*	405	Loftus,	Anthony
349	"	Helen Rose	406	"	Colleen
350	"	Kenneth Ian	407	Lowe,	Adrian Stewart
351	"	Robin George	408	Luxton,	Ernest Falkland*
352	"	Stephen James	409	"	Michael
353	"	Terri Ann*	410	"	Nicola
354	"	Tony	411	"	Sybil Grace*
355	"	William*	412	"	Winifred Ellen*
356	Jennings,	Mary Ann Helen	413	Lyse,	Ethel Malvina
357	"	Neil	414	"	George Walter*
358	Johnson,	Howard William*	415	"	Linda Margaret
359	"	Kenneth John	416	"	Reginald Sturdee*
360	"	Lily Ann	417	"	Sydney Russell*
361	"	Michael Neil	418	Macaskill,	Angus Lindsey*
362	"	Stanley Howard*	419	"	Jeannette May
363	Jones,	Albert Charles*	420	"	John
364	"	John Hugh	421	Malcolm,	George*
365	"	Kevin Richard	422	"	Velma
366	"	Michael David	423	Maitland,	Elizabeth Eve
367	"	Michelle	424	May,	Brian Roy
368	"	Sheila Janice	425	"	Bruce Raymond
369	"	Yvonne Malvina	426	"	Corenne Norma
370	Keenleyside,	Charles Desmond (Snr)*	427	"	Heather
371	"	Charles Desmond (Jnr)*	428	"	James John*
372	"	Dorothy Maud*	429	"	Monica
373	"	Manfred Michael Ian	430	"	William Albert*
374	"	Nanette Barbara	431	Mercer,	Christel
375	"	Susan Noreen	432	Middleton,	Brian
376	Kenny,	Erling	433	"	Caroline Ann
377	Kidd,	Lillian Rose Orissa	434	"	Dennis Michael
378	Kiddle,	Robert Karl	435	"	Ellen*
379	King,	Anna Constance Eve	436	"	Graham Cyril
380	"	Desmond George Buckley*	437	"	James (2)*
381	"	Gladys Evelyn*	438	"	Joan Eliza
382	"	Nanette	439	"	Leonard
383	"	Peter Thomas*	440	"	Margaret Wilhelmina*
384	"	Robert John*	441	"	Phillip John
385	"	Rosemarie	442	"	Sharon Elizabeth
386	"	Vernon Thomas*	443	"	Shirley
387	Laffi,	Atilio Segundo	444	Miller,	Andrew Nigel*
388	"	Kathleen Mary	445	"	Betty Lois*
389	Lang,	James	446	"	Carol
390	"	William Frank	447	"	Florence Roberta*
391	Larsen,	Ellen	448	"	Philip Charles
392	"	Margaret Anne*	449	"	Sidney*
393	Lee,	Alfred Leslie*	450	"	Simon Roy
394	"	Derek William	451	"	Timothy John Durose
395	"	Elsie Adelaide*	452	Milne,	Henry Millar*
396	"	Gladys	453	"	Madeline Marie Irma*
397	"	Leslie James	454	Minto,	Graham Stewart
398	"	Owen Henry	455	"	Patrick Andrew

456	Minto,	Timothy Ian	513	McKay,	Jane Elizabeth*
457	Miranda,	Augusto*	514	"	Jeannic Paulina
458	"	Ramon	515	"	Michael John
459	"	Winifred Dorothy*	516	"	Neil
460	Mitchell,	Leon John	517	"	Paul Anthony
461	Moffat,	Angela	518	"	Peter John
462	"	James	519	"	Rex
463	Morris,	Alana Marie	520	"	Shelley Jane
464	"	David*	521	"	Stephen John
465	"	Trevor Alan	522	"	William Robert*
466	Morrison,	Donald Ewen*	523	McKenzie,	Alice Maude
467	"	Fayan	524	"	Charles Alexander Albert John
468	"	Graham Stewart	525	McLaren,	Tony Eugene Terence*
469	"	Herman*	526	McLeod,	David
470	"	Hyacinth Emily*	527	"	Donald Henry
471	"	Muriel Eliza Ivy*	528	"	Ellen May*
472	"	Nanette Rose	529	"	Janet Wensley
473	"	Patrick	530	"	John (1)
474	"	Paul Roderick	531	"	John (2)
475	"	Stewart	532	"	Madeline Jean
476	"	Trevor	533	"	Margaret Anne
477	"	Valerie Ann	534	"	Michael William
478	"	William Roderick Halliday	535	"	Robert
479	Murphy,	Ann Susan	536	"	Robert John
480	"	Bessie*	537	"	Shona Marguerite
481	"	Michael James*	538	McPhee,	Gerald Ian*
482	MacDonald,	Colin George	539	"	Grace Darling*
483	"	Irene	540	"	Iris Blanche
484	"	John Alexander Horne*	541	"	Marjorie May
485	"	Kerena Michelle	542	"	Natalie Marianne
486	"	Vanda Joan	543	"	Owen Horace*
487	McAskill,	Susan Blanche*	544	"	Patrick*
488	McBain,	Arthur	545	McRae,	Marlaine Rose
489	"	Rhoda Margaret	546	"	Richard Winston
490	McBeth,	Phyllis Elizabeth Grace	547	Neal,	Richard John
491	McCallum,	Bettina Kay	548	Neilson,	Barry Marwood
492	"	Christopher John	549	"	Margaret
493	"	Elaine Michele	550	Newman,	Dorothy Elizabeth*
494	"	Ellen*	551	"	Joyce Noreen
495	"	Jack*	552	"	Marlene
496	"	James*	553	"	Raymond Winston
497	"	Timothy Andrew	554	"	Sheena Melanie*
500	McCormick,	Dale Ronald*	555	"	Wilfred Lawrence*
501	"	Wayne Stanley James*	556	Newell,	Joseph Orr
502	McEachern,	Gloria Jane	557	"	Trudi Malvina
503	McGill,	Darrel Ian*	558	Nightingale,	Susan Jane*
504	"	Doris Mary*	559	Nutter,	Arthur Albert
505	"	Gary	560	"	Josephine Lesley
506	"	Glenda	561	Parrin,	Norman George*
507	"	Ian Peter	562	Pauloni,	Hilary Maud*
508	"	Len Stanford*	563	"	Romolo Vittorio*
509	"	Lorraine Iris	564	Peake,	Arthur
510	"	Roy*	565	"	Clair Linda
511	McGillivray,	Carole Lynda Jane*	566	Peart,	Robert Ernest
512	McKay,	Clara Mary*	567	"	Rose Louisa
	"	Heather Valerie	568	Peck,	Beatrice Ena*
	"	James John*	569	"	Burned Brian

570	Peck,	Eleanor Margaret	627	Ross,	Colin*
571	"	Evelyn Elizabeth	628	"	Glenn Stephen
572	"	James*	629	"	Janet
573	"	Kim Brian	630	"	Lachlan Neil
574	"	Mary*	631	"	Marie
575	"	Maureen Heather	632	"	Roy
576	"	Patrick William	633	"	Sheena Margaret
577	"	Shirley	634	Rowland,	Charlene Rose
578	"	Terence John	635	Rowlands,	Catherine Annie*
579	Perkins,	Vivienne Esther Mary	636	"	Daisy Malvina*
580	Perry,	Augustave Walter*	637	"	Harold Theodore
581	"	Beatrice Annie Jane*	638	"	John Richard*
582	"	Christopher*	639	"	Neil
583	"	Hilda Blanche	640	"	Robert John
584	"	Robert Juan Carlos	641	Rozee,	Betty Ellen
585	"	Thomas George	642	"	Derek Robert Thomas*
586	"	Thora Virginia*	643	Sackett,	Jacqueline
587	Pettersson,	Derek Richard	644	"	Michael John Carlos
588	"	Eileen Heather	645	Sarney,	Harry*
589	"	Tony	646	Shedden,	James Alexander*
590	Phillips,	David Dawson	647	Shepherd,	Sylvia Ann*
591	"	Jessie Catherine*	648	Short,	Andrez Peter
592	Platt,	Veronica Shirley	649	"	Celia Soledad
593	Pole-Evans,	Amy Rose	650	"	Charles William
594	"	Michael Anthony	651	"	Christina Ethel*
595	Pollard,	Jennifer Mary	652	"	Donald Robert Gordon
596	Poole,	Charles Lawrence*	653	"	Emily Christina
597	"	Ella Josephine	654	"	Gavin Phillip
598	"	Evelyn May*	655	"	Joseph Leslie*
599	"	Isabella Jane*	656	"	Lisa Helen
600	"	Nancy Margaret	657	"	Montana Tyrone
601	"	Raymond John	658	"	Peter Robert
602	"	Steven Charles	659	"	Philip Stanley*
603	"	William John*	660	"	Rose Stella
604	Porter,	Brian Charles	661	"	Vilma Alicia
605	"	Charles*	662	Simpson,	Bertha Veronica
606	"	Jean Lavinia	663	"	James Garry
607	"	William Kenneth	664	"	John Frederick
608	Reeves,	Cheryl Rose	665	"	Mirabelle Hermione
609	"	Michael*	666	Smith,	Alexander Gordon
610	Reid,	Colleen Rose	667	"	Ana Bonita
611	"	Reynold Gus	668	"	Bruce Dennis*
612	Reive,	Ernest*	669	"	Colin David
613	"	Roma Endora Mary*	670	"	Derek
614	Rendell,	Michael	671	"	Ellen Mary
615	"	Phyllis Mary*	672	"	Gerard Alexander
616	Roberts,	Diana Christine*	673	"	Ileen Rose
617	"	Laura May	674	"	Janice
618	"	Peter James	675	"	James Stanley*
619	"	William Henry*	676	"	James Terence*
620	Robertson,	Paul Jonathan*	677	"	Jean Waddell
621	Robson,	Gerard Michael	678	"	Jennifer Ethel
622	"	Gladys Mary	679	"	Joan Lucy Ann
623	"	Louis Michael*	680	"	John
624	"	Miranda Gay	681	"	Julia Trinidad
625	"	Phyllis Ann	682	"	Martyn James
626	"	Raymond Nigel	683	"	Norah Kathleen



684	Smith,	Owen Archibald	741	Thain,	Stephanie Ann*
685	"	Paulette Rose	742	Thom,	David Anderson*
686	"	Rhona	743	"	Dorothy Irene
687	"	Sidney Frederick	744	"	Norma Ann
688	"	Terence George	745	Thompson,	George Henry
689	"	Violet Catherine*	746	"	William John*
690	Sollis,	Sarah Emma Maude*	747	Toase,	Cora Agnes
691	Sornsen,	James Winston	748	Towersey,	Diane Katherine
692	Spall,	Christopher Richard	749	Triggs,	Michael David
693	Spinks,	Alexander	750	Turner,	Alva Ynonne
694	"	Malvina Ellen*	751	"	Andrea Mary Pitaluga*
695	Spruce,	Helena Joan*	752	"	Arthur Leonard Pitaluga
696	"	Terence George*	753	"	Melvyn George
697	Steen,	Allan Graham*	754	Vidal,	Eileen Nora*
698	"	Barbara Ingrid*	755	Wallace,	Fraser Barrett
699	"	Emma Jane*	756	"	Maria Lillian
700	"	Gail*	757	"	Stuart Barrett
701	"	Vernon Robert	758	Watson,	Catherine Wilhelmina Jessie*
702	Stephenson,	James	759	"	Hannah Maude*
703	"	Joan Margaret	760	"	Harold
704	"	Katrina*	761	"	Lisa Marie
705	"	Zachary	762	"	Paul
706	Stewart,	Aarron Stephen*	763	Watts,	Ada Mabel*
707	"	Ceila Joyce	764	"	Amara Theresa*
708	"	David William*	765	"	Patrick James
709	"	Duane William*	766	White,	Kathleen Elizabeth*
710	"	Hulda Fraser	767	Whitney,	Frederick William
711	"	John	768	"	Jason*
712	"	Kenneth Barry*	769	"	Kurt Ian*
713	"	Phyllis Marjorie	770	"	Patricia Denise*
714	"	Robert	771	"	Susan Joan
715	"	Sylvia Rose	772	Wilkinson,	Robert John*
716	Strange,	Ian John	773	Williams,	Charlotte Agnes*
717	"	Maria Marta	774	"	Eugene
718	Sullivan,	Susan Vera	775	"	Marlene Rose Elizabeth
719	Summers,	Brian	776	Wylie,	Julian Richard
720	"	Derek Raymond	777	"	Wendy Jennifer
721	"	Edith Catherine	778	Zuvic,	Kuzma Mario
722	"	Irvin Gerard	779	"	Sharon Marie
723	"	Judith Orissa*			
724	"	Michael Kenneth			
725	"	Nigel Clive			
726	"	Owen William			
727	"	Pamela Rosemary Cheek			
728	"	Rowena Elsie			
729	"	Sheila			
730	"	Sybella Catherine Ann			
731	"	Sylvia Jean			
732	"	Terence			
733	"	Tony			
734	"	Veronica			
735	"	William Edward*			
736	Teale,	Jeanette			
737	Teggart,	Carol Wendy*			
738	Tellez,	Jose Hector			
739	Thain,	John			
740	"	Julia			

\* NOT LIABLE TO SERVE AS A JUROR

## CAMP CONSTITUENCY

## Register of Electors

1001	Alazia	Mandy Gwyneth	1058	Clarke,	Ian
1002	"	Michael Robert	1059	"	Jeanette
1003	"	Stuart John	1060	"	Michael Jan
1004	"	Thora Lilian*	1061	"	Terence John
1005	Aldridge,	Brian George	1062	"	Violet Rose
1006	"	Olive Elizabeth	1063	Clausen,	Denzil
1007	Anderson,	Margaret Catherine	1064	"	Henry Edward
1008	"	Reginald Stanford	1065	Clifton,	Doreen
1009	Arger,	Trudi Lynette	1066	"	Leonard
1010	Ashworth,	Glennis	1067	"	Terence Charles
1011	"	Malcolm	1068	"	Thora Janeene
1012	Barnes,	Deirdre	1069	Cockwell,	Grizelda Susan
1013	"	Marshall	1070	"	John Richard*
1014	"	Paul*	1071	Collins,	Peter Anthony
1015	"	Trevor Marshall	1072	"	Shiralee*
1016	Barton,	John David*	1073	Coutts,	Alexander*
1017	Beattie,	Betty	1074	"	Frederick George
1018	"	Thomas George	1075	Davis,	Aase
1019	Berntsen,	Arena Janice	1076	"	Mandy John
1020	"	Benjamin John	1077	"	Maurice Nigel
1021	"	Ellen Rose	1078	"	Nicholas
1022	"	Iain Kenneth	1079	"	Raymond
1023	"	Kenneth Frederick	1080	"	Reginald John
1024	"	Leon	1081	"	Violet
1025	"	Pamela Margaret	1082	"	William James
1026	Betts,	Arthur John*	1083	"	Yona
1027	"	Bernard Keith	1084	Dearling,	Leo Alexander*
1028	"	Cyril Severine*	1085	Dickson,	Doreen
1029	"	Diane Joan	1086	"	Gerald William
1030	"	Hyacinth Emily*	1087	"	Iris
1031	"	Irene Marion	1088	"	Ronald Edward
1032	Billett,	Leslie William	1089	Dobbynys,	Timothy John
1033	Binnie,	Horace James*	1090	Donnelly,	Daniel
1034	"	Linda Rose	1091	"	Joyce Elizabeth
1035	"	Ronald Eric	1092	Duncan,	Peter Ree Howard
1036	"	Rose Helen*	1093	Dunford,	David Philip
1037	Blackley,	Maurice	1094	Edwards,	Norma
1038	Blake,	Anthony Thomas*	1095	Evans,	Olwyn Carol
1039	"	Heidi Jane*	1096	"	Raymond
1040	"	Lionel Geoffrey*	1097	Fairley,	John
1041	"	Lyndsay Rae	1098	Ferguson,	Finlay James
1042	"	Paul Wickham*	1099	"	John William
1043	"	Sally Gwynfa	1100	"	Robert John
1044	Bonner,	Avril Margaret Rose	1101	"	Rose
1045	"	Keith James	1102	"	Thelma
1046	"	Simon	1103	Findlay,	Andrew John*
1047	"	Susan Anne	1104	"	Gerald
1048	Butler,	Ian Jeffrey	1105	Finlayson,	Barry Donald*
1049	"	Marilyn	1106	"	Iris Heather
1050	Buckett,	Roy Peter	1107	"	Neil Roderick
1051	Cartmell,	Andrew Nutt	1108	Ford,	Neil Fraser
1052	Chandler,	Ann Beatrice	1109	"	Penelope Rose
1053	"	Edward	1110	Forster,	Gwyneth May
1054	Clarke,	David James	1111	"	James
1055	"	Fiona Alison	1112	Fox,	Eileen Mary
1056	"	Frederick Thomas	1113	Giles,	Gilbert
1057	"	Gwynne Edwina	1114	Gleadell,	Ian Keith

1115	Gleadell,	Marklin John	1175	Larsen,	Josephine Mary
1116	"	Mavis Marie	1176	"	Ronald Ivan
1117	Goodwin,	Emily Rose	1177	"	Yvonne
1118	"	Mandy Hazel	1178	Lee,	Carole
1119	"	Robin	1179	"	Elizabeth
1120	"	Sarah Margaret Rose*	1180	"	John Alfred
1121	"	William John Maurice	1181	"	Robin Myles*
1122	Goss,	Dorothy Ellen	1182	"	Rodney William*
1123	"	Eric Miller*	1183	Lewis,	Jean*
1124	"	Ian Ernest Earl	1184	Lloyd,	John Moelwyn
1125	"	Margaret Rose	1185	Luxton,	Patricia Maureen
1126	"	Peter	1186	"	William Robert*
1127	"	Roderick Jacob*	1187	Maddocks,	Robert Charles
1128	"	Shirley Ann	1188	Marsh,	Alastair Roy
1129	Gray,	David Edward	1189	"	Anna Deirdre
1130	"	Patricia May	1190	"	Arlette Sharon
1131	Green,	David William*	1191	"	Frank
1132	Grocock,	Charles Henry	1192	"	Gavin Nicholas
1133	Halliday,	Joyce Isabella Patience	1193	"	June Helen
1134	"	Kenneth William	1194	"	Leon Peter
1135	Hansen,	Ian	1195	"	Marlane Rose
1136	"	Lionel Raymond	1196	"	Robin Frank
1137	"	Rose Idina	1197	May,	Christopher Raymond
1138	"	Susan Ann	1198	"	Linsey Olga
1139	Hardcastle,	Brook*	1199	Miller,	Betty
1140	"	Eileen Beryl*	1200	"	Gail Marie
1141	Harvey,	Beatrice Louisa Catherine	1201	"	James Albert
1142	"	Jen	1202	Minnell,	Adrian James*
1143	"	Valerie Ann	1203	"	Benjamin James
1144	Heathman,	Ailsa	1204	"	Donna Maria
1145	"	Ewart Tony	1205	"	Hazel Eileen
1146	Hewitt,	Brian David	1206	"	Michael Robert
1147	Hirtle,	Anthony	1207	Minto,	Alistair Daen
1148	"	Doris Linda	1208	Morrison,	Doreen
1149	"	Fenton	1209	"	Edgar Ewen
1150	"	Odette Susan*	1210	"	Eric George
1151	"	Susan Mary	1211	"	Gerald
1152	Hutton,	Elizabeth Isabella	1212	"	Jacqueline Denise Anita
1153	"	Phillip	1213	"	Joan Margaret
1154	Jaffray,	Alexander	1214	"	Kathleen Iris
1155	"	Brian	1215	"	Kenneth
1156	"	Eileen	1216	"	Lena
1157	"	Elliott Jessie	1217	"	Leslie Theodore Norman
1158	"	Ian	1218	"	Lewis Ronald
1159	"	Janet	1219	"	John*
1160	"	John	1220	"	Michael John
1161	"	John Willie	1221	"	Nigel Peter
1162	"	Phyllis	1222	"	Ronald Terence
1163	"	Stephen Andrew*	1223	"	Susan Margaret
1164	"	Terence Roy*	1224	"	Violet Sarah
1165	Johnson,	Michael Neil	1225	MacBeth,	Raymond John
1166	Jones,	Kevin Richard	1226	McCormick,	Pauline Margaret Ruth
1167	Jonson,	Carl	1227	McGhie,	Roy
1168	Kilmartin,	Dinah May	1228	McGill,	Robin Perry
1169	"	Kevin Seaton*	1229	McKay,	Christine
1170	Knight,	Nigel Arthur	1230	"	Ellen Rose
1171	"	Shirley Louvaine Patricia	1231	"	Frazer Roderick
1172	Lang,	Patrick Andrew	1232	"	Ian Roderick
1173	"	Sandra Shirleen	1233	"	Isabella Alice
1174	"	Velma Emily	1234	"	Josephine Ann

1235	McKay,	Kenneth Andrew	1295	Smith,	George Patterson
1236	"	Richard	1296	"	Gwenifer May
1237	"	Roderick John	1297	"	Heather
1238	McLeod,	Albert John	1298	"	Iola Winifred*
1239	"	Henry Donald Alexander*	1299	"	Jenny Lorraine
1240	"	Isabella Diana Frances	1300	"	Margaret Mary
1241	"	Sarah Rose	1301	"	Michael Edmund
1242	McMullen,	June	1302	"	Osmond Raymond*
1243	"	Tony	1303	"	Robert William
1244	McPhee,	Kenneth John*	1304	"	Robin Charles
1245	"	June Iris*	1305	"	Russel James*
1246	McRae,	David Michael	1306	Stevens,	Richard James
1247	"	Gloria Linda	1307	"	Toni Donna
1248	"	Robert George Hector*	1308	Summers,	Dennis David
1249	Napier,	Lily	1309	Thorsen,	David Molier
1250	"	Roderick Bertrand*	1310	"	Gloria Penelope
1251	Newman,	Adrian Henry Frederick	1311	Turner,	Diana Jane*
1252	"	Clive Alexander	1312	"	Ronald
1253	"	Dwenda Rose	1313	Velasquez,	Arleen*
1254	"	Rebecca Dickson	1314	Wallace,	Michael
1255	Nightingale,	Charlene	1315	"	Una
1256	"	Peter Richard	1316	Watson,	Glenda Joyce
1257	Peck,	Christine	1317	"	Neil
1258	"	Davina Margaret	1318	Whitney,	Agnes Kathleen*
1259	"	Paul	1319	"	Daneila Grace
1260	Phillips,	Albert James	1320	"	Dennis
1261	"	Carol Joan	1321	"	Henry Leslie*
1262	"	Lynda	1322	"	Keith
1263	"	Terence	1323	"	Lana Rose
1264	Pitaluga,	Jene Ellen	1324	"	Leona Ann
1265	"	Nicholas Alexander Robinson	1325	"	Patrick George
1266	"	Robin Andreas McIntosh*	1326	"	Robert Michael
1267	Pole-Evans,	Anthony Reginald*	1327	Wilkinson,	David Clive Walter
1268	"	David Llewellyn	1328	"	Rosemary
1269	"	Shirley Hellen			
1270	"	Suzan			
1271	"	William Reginald			
1272	Porter,	George*			
1273	"	Joan			
1274	Reeves,	Ronald James			
1275	Reid,	Albert John*			
1276	"	Ann			
1277	Robertson,	Ann			
1278	"	Peter Charles			
1279	"	Sally Jean*			
1280	Ross,	Odette Ellen May			
1281	"	William Henry			
1282	Rozee,	Ronald David			
1283	Shepherd,	Ramsey			
1284	Short,	Arthur Richard*			
1285	"	Derek Patrick*			
1286	"	Isobel Rose			
1287	"	Patrick Warburton			
1288	"	Robert Charles			
1289	"	Robert George			
1290	Sinclair,	Simon Keith			
1291	Smith,	Andrew John			
1292	"	Anthony David			
1293	"	Eric			
1294	"	Francis David			

\* NOT LIABLE TO SERVE AS A JUROR



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)  
PUBLISHED BY AUTHORITY**

*Vol. XCVIII*

*16th JUNE 1989*

*No. 19*

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

Customs Ordinance (Cap. 16)

(Section 5)

RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 1 of 1989

RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Cap. 16), on the 16th day of June 1989, as follows —

1. That the Customs Order No. 6 of 1948 be amended by the substitution for item 5 of paragraph 2 thereof as follows —

"5. Tobacco —		
(a) Cigars	Per Kilo	£40.43
(b) Cigarettes	Per Kilo	£29.23
(c) Tobacco	Per Kilo	£26.57"

2. This Resolution may be cited as the Customs (Amendment of Import Duties) Resolution 1989 and shall come into force on the 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

Ref: CUS/10/2.



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

Vol. XCVIII

19th JUNE 1989

No. 20

**NOTICES**

No. 30

19th June 1989.

**The Companies Act 1948**

**Notice of Appointment of Liquidator (Members') Voluntary Winding up**

Pursuant to section 305 of the Companies Act 1948

**Name of Company** - Everards Brewery (Falkland Islands) Limited.

**Nature of Business** - Brewers.

**Address of Registered Office** - 2 Hebe Place, Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, Consultancy Services Falklands Limited, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 5th June 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 6th June 1989.

**Attested by** - John Scannell.

**Description** - Trainee Solicitor.

No. 31

19th June 1989.

**The Companies Act 1948**

**Special Resolution to Appoint Liquidator**

Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**Everards Brewery (Falkland Islands) Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at 44 John Street, Stanley on 5th June 1989, the following **Special Resolution** was duly passed —

"That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator for the purposes of such winding-up"

**Signature** - Harry Milne.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.

No. 32

19th June 1989.

**Notice to Creditors to send in claims****Name of Company - Everards Brewery (Falkland Islands) Limited (in Voluntary liquidation).**

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Twenty third day of June 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator(s) of the said Company: and, if so required by notice in writing by the said Liquidator(s), are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated - 6th June 1989.**



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
 PUBLISHED BY AUTHORITY

Vol. XCVIII

21st JUNE 1989

No. 21

**NOTICES**

No. 33

21st June 1989.

**The Companies Act 1948**

**Notice of Appointment of Liquidator (Members') Voluntary Winding up**

Pursuant to section 305 of the Companies Act 1948

**Name of Company** - S.J. Fisheries Limited.

**Nature of Business** - Fishing Company.

**Address of Registered Office** - Old Transmitting Station Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, Consultancy Services Falklands Limited, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 7th June 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 13th June 1989.

**Attested by** - John Buckland-James.

**Description** - Financial Secretary.

No. 34

21st June 1989.

**The Companies Act 1948**

**Special Resolution to Appoint Liquidator**

Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948

**S.J. Fisheries Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at Secretariat, Stanley on 7th June 1989, the following **Special Resolution** was duly passed —

"That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator for the purposes of such winding-up."

**Signature** - Ronald Sampson.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.



No. 35

21st June 1989.

**Notice to Creditors to send in claims****Name of Company** - S.J. Fisheries Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Third day of July 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator(s) of the said Company: and, if so required by notice in writing by the said Liquidator(s), are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated** - 9th June 1989.

No. 36

21st June 1989.

**The Companies Act 1948****Notice of Appointment of Liquidator (Members') Voluntary Winding up****Pursuant to section 305 of the Companies Act 1948****Name of Company** - Stanco Limited.**Nature of Business** - Fishing Company.**Address of Registered Office** - Old Transmitting Station, Stanley, Falkland Islands.**Liquidator Name and Address** - Andrew Dey, Consultancy Services Falklands Limited, 44 John Street, Stanley, Falkland Islands.**Date of Appointment** - 16th June 1989.**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.**Signature** Andrew Dey (Liquidator)**Dated** - 16th June 1989.**Attested by** - G. B. Farquhar.**Description** - Solicitor.

No. 37

21st June 1989.

**The Companies Act 1948****Special Resolution to Appoint Liquidator****Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948****Stanco Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at Secretariat, Stanley on **16th June 1989**, the following **Special Resolution** was duly passed —

"That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator for the purposes of such winding-up."

**Signature** - Ronald Sampson.**Description** - Chairman.**Presented by** - Consultancy Services Falklands Limited.**Presenter's Reference** - Andrew Dey.

No. 38

21st June 1989.

**Notice to Creditors to send in claims****Name of Company - Stanco Limited (in Voluntary liquidation).**

Notice is hereby given that the Creditors of the above-named Company are required, on or before the seventh day of June 1989, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator(s) of the said Company: and, if so required by notice in writing by the said Liquidator(s), are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved. This notice is purely formal and all known Creditors have been, or will be, paid in full.

**Dated - 16th June 1989.**

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# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

*Vol. XCVIII*

*30th JUNE 1989*

*No. 22*

## Appointments

Mrs Ann Murphy, Clerk, Public Service, 13.2.89.  
Mrs Trudi Eileen Felton Hazell, Woman Police Constable, Falkland Islands Police Force, 1.5.89.  
Miss Coral Elizabeth McGill, Clerk, Public Service, 16.5.89.  
Andrew David Alsop, Chief Pilot, F.I.G.A.S., 30.5.89.  
Robert Brent Collie, Teacher, Camp Education, Education Department, 2.6.89.  
Gerard Martin Hoppe, Senior Pasture Agronomist, Agricultural Research Department, 13.6.89.

## Acting Appointments

Vernon Robert Steen, Acting General Manager, F.I.G.A.S. 29.3.89. - 18.5.89.

## Completion of Contract

Kenneth David Greenland, Chief Police Officer, Falklands Islands Police Force 20.6.89.

## Resignations

Miss Anna Constance Eve King, Senior Clerk, Education Department, 17.5.89.

## Withdrawal of Resignations

Miss Mhari Ashworth, Clerk, Public Service, 31.5.89.  
Roy McGill, Assistant Air Traffic Controller, Civil Aviation Department, 31.5.89.

## Transfer

Mrs Alison Dodd, from Senior Clerk, F.I.G.O. to Senior Clerk, Education Department, 26.5.89.

## NOTICES

No. 39

27th June 1989

### Application for a Publicans Retail Licence

In accordance with Section 7 (1) of the Licensing Ordinance, Mr. Kevin Barry Connally has applied for a Publicans retail licence in respect of the premises known as Monty's Restaurant and Hotel.

2. Any objection to the granting of a licence must be made to the Treasury within 21 days from the appearance of this notice in the Gazette.

J. Buckland-James,  
*Financial Secretary.*

The Treasury,  
Stanley.  
27th June 1989.

REF: 33/B/1.

No. 40

27th June 1989.

NOTICE IS HEREBY GIVEN that the fees charged in respect of children boarding at the Government Stanley Hostel are revised as follows with effect from term beginning 21st September 1989 —

First Child £66.00 per term;

Second Child £44.00 per term;

Third and subsequent children remain free of charge.

Ref: EDU/22/3.

No. 41

27th June 1989.

NOTICE IS HEREBY GIVEN that the fees charged in respect of broadcast announcements and advertising at the Falkland Islands Broadcasting Station are revised as follows with effect from 1st July 1989:

Written Messages

10p per word, with a minimum fee of £2.00.

Recorded Messages

£5.00 per minute

Ref: BRD/31/2.

No. 42

27th June 1989

NOTICE IS HEREBY GIVEN that, under Section 5 of the Stanley Rates Ordinance 1973, the Standing Finance Committee has fixed a rate poundage of £4.60 to be levied on the net annual value of premises in Stanley in respect of the period 1st July 1989 to 30th June 1990.

PLEASE NOTE that any rate not paid by 30th September 1989 is subject to a mandatory 5% penalty.

Ref: TRE/2/20.

In accordance with Section 3 of the old Age Pensions Ordinance 1952 His Excellency the Governor, W. H. Fullerton Esquire, appointed Mrs Velma Malcom to be a member of the Old Age Pensions Board of Management on the 19th day of June 1989.

C. REDSTONE,  
Government Secretary.

Ref: AG/LEG/1.

### In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF HANSON CHRISTOPHER DETTLEFF, deceased of Stanley, Falkland Islands, who died at Stanley on the 20th day of February 1978, intestate.

WHEREAS Sharon Halford as Official Administration 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 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,  
29th June 1989.

Ref: PRO/10/87.

S. HALFORD,  
Registrar.

### In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF JAMES HEWITT, deceased of Stanley, Falkland Islands, who died at Stanley on the 20th day of February 1978, leaving a will dated the 25th day of January 1978.

WHEREAS Francis Hewitt, has applied for Letters of Administration with the said will annexed 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 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,  
29th June 1989.

Ref: PRO/12/78.

S. HALFORD,  
Registrar.



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*10th JULY 1989*

*No. 23*

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**NOTICES**

No. 43

10th July 1989.

**The Companies Act 1948**

**Notice of Appointment of Liquidator (Members') Voluntary Winding up**

**Pursuant to section 305 of the Companies Act 1948**

**Name of Company** - Stancal Limited.

**Nature of Business** - Fishing Company.

**Address of Registered Office** - Old Transmitting Station, Stanley, Falkland Islands.

**Liquidator(s) Name(s) and Address(es)** - Andrew Dey, 44 John Street, Stanley, Falkland Islands.

**Date of Appointment** - 30th June 1989.

**By Whom Appointed** - Extraordinary General Meeting of Company by Special Resolution.

**Signature(s)** Andrew Dey (Liquidator(s))

**Dated** - 4th July 1989.

**Attested by** - G.B. Farquhar.

**Description** - Solicitor.

No. 44

10th July 1989.

**The Companies Act 1948**

**Special Resolution to Appoint Liquidator**

**Pursuant to sections 141(2) and 278(1)(b) of the Companies Act 1948**

**Stancal Limited.**

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at Secretariat, Stanley on **30th June 1989**, the following **Special Resolution** was duly passed —

"That the Company be wound up voluntarily, and that **Andrew Dey of Consultancy Services Falklands Limited** be and he is hereby appointed Liquidator(s) for the purposes of such winding-up."

**Signature** - John Buckland James.

**Description** - Chairman.

**Presented by** - Consultancy Services Falklands Limited.

**Presenter's Reference** - Andrew Dey.

No. 45

10th July 1989.

**Notice to Creditors to send in claims****Name of Company - Stancal Limited(in Voluntary liquidation).**

Notice is hereby given that the Creditors of the above-named Company are required, on or before the **Twenty eighth day of July 1989**, to send their names and addresses, with particulars of their debts or claims, and the names and addresses of their Solicitors (if any), to the undersigned, **Mr Andrew Dey, of Consultancy Services Falklands Limited, 44 John Street, Stanley**, the Liquidator of the said Company: and, if so required by notice in writing by the said Liquidator, are, by their Solicitors or personally, to come in and prove their said debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

**Dated - 4th July 1989.**  
  

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# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*Vol. XCVIII*


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*31st JULY 1989*


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*No. 24*


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## Appointment

David Michael West, Deputy Lands & Agricultural Officer, Agricultural Department, 4.7.89.

## Acting Appointments

Dr. Robert James McIlroy, MB, Ch.B, Acting Senior Medical Officer, Medical Department, 5.11.88. - 4.7.89.

Simon Peter Miller Goss, Acting Clerk of Councils, 14.6.89.

Mark Timothy Bullock, Acting Chief Police Officer, Falkland Islands Police, 1.7.89.

Miss Linda Margaret Lyse, Acting Chief Accountant, Treasury Department, 3.7.89.

Dr. Andrew Robert Hamilton, MB, Ch.B, Acting Senior Medical Officer, Medical Department, 5.7.89.

Arthur John Barton, Acting Director of Fisheries, Fisheries Department, 8.7.89.

## Promotion

Mrs. Mary Helen Jennings, from Clerk, Public Service, to Personal Assistant, Treasury Department, 1.7.89.

## Transfers

Miss Jennifer Ethel Smith, from Woman Police Constable, Falkland Islands Police, to Assistant Immigration Officer, Immigration Department, 1.7.89.

Miss Irene McConnell, Personal Assistant, Secretariat, to Personal Assistant, Fisheries Department, 1.7.89.

## Completion of Contract

Mrs. Enid Clarke, Senior Nurse, Medical Department, 31.5.89.

## Re-appointment

Mrs. Enid Clarke, Senior Nurse, Medical Department, 1.6.89.

## Resignation

Mrs. Jennifer Mary Pollard, Personal Assistant, Fisheries Department, 7.7.89.



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)  
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*No. 25*

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**NOTICE**

The following are published in this Gazette —

- The Appropriation Ordinance (No. 3 of 1989);**
- The Appropriation (Agricultural Improvement Grants) Ordinance (No. 4 of 1989);**
- The Old Age Pensions (Amendment) Ordinance (No. 5 of 1989);**
- The Non-Contributory Old Age Pensions (Amendment) Ordinance (No. 6 of 1989);**
- The Family Allowances (Amendment) Ordinance (No. 7 of 1989);**
- The Employment Protection Ordinance (No. 8 of 1989).**



## The Appropriation Ordinance 1989

(No. 3 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Section

1. Short Title.
2. Appropriation of £37,270,830 for the services of the year 1989-1990.

#### Schedule



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Appropriation Ordinance 1989

(No. 3 of 1989)

An Ordinance to appropriate and authorise the withdrawal from the Consolidated Fund of sums totalling £37,270,830 for the service of the financial year ending on 30th June 1989.

(Assented to: 26th July 1989)  
(Commencement: on publication)  
(Published: 1st August 1989)

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Appropriation Ordinance 1989.
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 1989 and ending on 30th June 1990 ("the financial year"), sums not exceeding in aggregate the sum of thirty seven million, two hundred and seventy thousand, eight hundred and thirty 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.

Short title.

Appropriation  
of £37,270,830  
for the year  
1989-1990.

### SCHEDULE

Number	Head of Service	£
100	Aviation ... ..	787,000
150	Posts and Telecommunications ... ..	387,960
200	Medical ... ..	1,452,680
250	Education and Training ... ..	1,382,790
300	Customs and Harbour ... ..	505,230
320	Fisheries ... ..	5,725,400
350	Public Works ... ..	4,488,220
390	Fox Bay Village ... ..	97,920
400	Agriculture ... ..	156,960
450	Justice ... ..	188,710
500	Military ... ..	111,040
550	Police, Fire and Rescue Service ... ..	470,820
600	Secretariat, Treasury and Central Store ... ..	8,030,970
650	Pensions and Gratuities ... ..	320,400
700	Social Welfare ... ..	356,300
750	The Governor ... ..	116,870
800	Legislature ... ..	143,750
850	Falkland Islands Government Office ... ..	188,360
860	Agricultural Research Centre ... ..	472,420
880	FIDC Funding ... ..	10
900	Income Tax Refunds ... ..	130,000
TOTAL OPERATING EXPENDITURE		25,513,810
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds ... ..	11,757,020
TOTAL EXPENDITURE		37,270,830

Ref: TRE/14/25.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

The Appropriation (Agricultural Improvement Grants) Ordinance  
1989.

(No. 4 of 1989)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. Appropriation of £500,000

Schedule



## Colony of the Falkland Islands

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

### The Appropriation (Agricultural Improvement Grants) Ordinance 1989.

(No. 4 of 1989)

An Ordinance to appropriate £500,000 for expenditure on  
agricultural improvement grants during the year ending on 30th  
June 1990.

*(Assented to: 26th July 1989)*  
*(Commencement: on publication)*  
*(Published: 1st August 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

- |   |   |
|---|---|
| <p>1. This Ordinance may be cited as the Appropriation (Agricultural Improvement Grants) Ordinance 1989.</p> <p>2. (1) 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 1989 and ending on 30th June 1990 sums not exceeding in aggregate the sum of five hundred thousand pounds which sum is granted and shall be appropriated for the purpose and to defray the charges of the service expressed and particularly mentioned in the Schedule hereto.</p> <p>(2) The said sum of five hundred thousand pounds is granted and appropriated in addition to the sum granted and appropriated by the Appropriation Ordinance 1989 for the purposes therein expressed.</p> | <p>Short title.</p> <p>Appropriation of £500,000.</p> |
|---|---|

#### SCHEDULE

951 Expenditure to be met from local funds

*Accounts Code*

951 984 Agricultural Grants £500,000

Ref: TRE/14/25.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*

The Old Age Pensions (Amendment) Ordinance 1989.  
(No. 5 of 1989)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. The principal Ordinance.
3. Repeal and replacement of Section 6 (2) of the Principal Ordinance.
4. Repeal and replacement of Section 6 B of the Principal Ordinance.
5. Replacement of the Schedule.



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Old Age Pensions (Amendment) Ordinance 1989.

(No. 5 of 1989)

### An Ordinance to amend the Old Age Pensions Ordinance 1952.

(Assented to: 26th July 1989)

(Commencement: 3rd July 1989)

(Published: 1st August 1989)

ENACTED by the Legislature of the Falkland Islands as follows —

- |   |  |
|---|--|
| <p>1. This Ordinance may be cited as the Old Age Pensions (Amendment) Ordinance 1989 and shall come into force on 3rd July 1989.</p>  | <p>Short title.</p>  |
| <p>2. In this Ordinance, "the principal Ordinance" means The Old Age Pensions Ordinance 1952.</p>   | <p>The principal Ordinance.</p>  |
| <p>3. Section 6(2) of the principal Ordinance is repealed and replaced by the following new section 6(2)</p> <p>"(2) Subject to the provisions of this Ordinance —</p> <p>(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 £3.80 per week if between the ages of 17 and 64 years;</p> <p>(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 £5.70 per week if the employed male person or female contributor is between the ages of 17 and 64 years;</p> <p>(c) every self employed male person and every self employed female contributor shall be liable to pay weekly contributions at the rate of £9.50 per week if between the ages of 17 and 64 years".</p> | <p>Repeal and replacement of section 6 (2) of the Principal Ordinance.</p> |
| <p>4. Section 6B of the principal Ordinance is repealed and replaced by the following new section 6B —</p> <p>"6B Notwithstanding any other provisions of this Ordinance relating to the payment of contributions and pensions, the following special provisions shall apply to female contributors —</p> <p>(a) a female contributor shall be entitled to an unmarried pension at the rate set out in the Schedule;</p> <p>(b) contributions shall be compulsory by and in respect of a female contributor during such period or periods as she earns at a rate of £3,200 or more per annum together with an additional sum of £800 per annum for every child of school age maintained by her;</p>   | <p>Repeal and replacement of Section 6 B of the principal Ordinance.</p>   |

- (c) the contributions payable by and in respect of a female contributor shall be at the rate set out in section 6 of this Ordinance;
- (d) every female contributor other than the widow of a contributor shall, on reaching the age of 50, be liable to contribute continuously to the Fund at the rates prescribed in section 6 until she reaches the age of 64;
- (e) any female unable to make the contributions required under the immediately preceding paragraph shall apply to the Board for assistance in the payment of such contributions if necessary to the full extent of contributions and, if the Board is satisfied that she is unable to make the contributions required, contributions on her behalf shall be paid out of the Consolidated Fund:  
  
Provided that if at any time during the period of ten years preceding her sixtieth birthday such female contributor is gainfully employed and is in receipt of an income at a rate of not less than £3,200 per annum together with an additional £800 per annum for each child of school age, she shall, so long as she is so gainfully employed, pay contributions at the rate prescribed in section 6;
- (f) a female contributor whose employment is of a casual nature, involving several employers during any one week, shall be deemed to be a self-employed person."

5. The Schedule to the principal Ordinance is replaced by the following Schedule — Replacement of the Schedule.

“SCHEDULE

Section 4(2)

RATES OF PENSION

Married man ... .. £66 per week.  
Unmarried man, or widower, or man whose marriage has been dissolved by decree of a competent court, or man separated or living apart from his wife who cannot prove that he is contributing to her support ... .. £43 per week.  
Widow of pensioner during widowhood ... .. £43 per week.  
Unmarried female contributor or a married female contributor not living with or being maintained by her husband ... .. £43 per week.”

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*



## The Non-Contributory Old Age Pensions (Amendment) Ordinance 1989.

(No. 6 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Section

1. Short title and Commencement.
2. The principal Ordinance.
3. Replacement of schedule.

ELIZABETH II



Colony of the Falkland Islands

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

The Non-Contributory Old Age Pensions (Amendment)  
Ordinance 1989.

(No. 6 of 1989)

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

*(Assented to: 26th July 1989)*  
*(Commencement: 3rd July 1989)*  
*(Published: 1st August 1989)*

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 1989 and shall come into force on the 3rd July 1989. | Short title and commencement. |
| 2. In this Ordinance, "the principal Ordinance" means the Non-Contributory Old Age Pensions Ordinance 1961.  | The Principal Ordinance.      |
| 3. The Schedule to the principal Ordinance is replaced by the following Schedule —<br>"SCHEDULE  | Replacement of Schedule.      |
| Married man.. ... .. £57   |                               |
| Unmarried person ... .. £41  |                               |
| Man or woman separated or living apart from his or her husband or wife ... .. £41"   |                               |

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*

## The Family Allowances (Amendment) Ordinance 1989.

(No. 7 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Section

1. Citation and Commencement.
2. Amendment of Ordinance No. 9 of 1960.



## Colony of the Falkland Islands

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

### The Family Allowances (Amendment) Ordinance 1989.

(No. 7 of 1989)

### An Ordinance to amend the Family Allowances Ordinance 1960.

*(Assented to: 26th July 1989)*  
*(Commencement: 1st January 1990)*  
*(Published: 1st August 1989)*

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

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1989 and shall come into force on the 1st January 1990.

Citation and  
commencement.

2. The Family Allowances Ordinance 1960 is amended by —

Amendment of  
Ordinance No. 9  
of 1960.

(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 £33”; 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-eight pounds in addition to the allowance or allowances being paid under subsection (2)”.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Employment Protection Ordinance 1989

(No. 8 of 1989)

## ARRANGEMENT OF PROVISIONS

### PART I

#### PRELIMINARY

##### *Introductory*

#### Section

1. Short title and commencement.
2. Interpretation.

##### *Excluded service.*

3. Excluded service.

### PART II

#### PARTICULAR TERMS OF EMPLOYMENT

##### *Written particulars of terms of employment.*

4. Written particulars of terms of employment.
5. Supplementary provisions relating to statements under section 4.
6. Changes in terms of employment.
7. Exclusion of certain contracts in writing.
8. Employees ceasing to be excluded from sections 4 to 6.
9. Power of Governor to require further particulars.

##### *Itemised pay statements.*

10. Right to itemised pay statements.
11. Standing statement of fixed deductions.
12. Power of Governor to amend sections 10 and 11.

##### *Enforcement of rights under Part II.*

13. References to Summary Court.

##### *Transitional.*

14. Transitional provision in relation to Part II.

### PART III

#### RIGHTS ARISING IN THE COURSE OF EMPLOYMENT

##### *Guarantee payments.*

15. Right to guarantee payments.
16. General exclusion from right under section 15.
17. Calculation of guarantee payment.

- 18. Limits on amount of and entitlement to guarantee payment.
- 19. Supplementary provisions relating to guarantee payments.
- 20. Complaint to the Summary Court.
- 21. Exemption Orders.

*Suspension from work on medical ground.*

- 22. Right to remuneration or suspension on medical grounds.
- 23. General exclusion from right under section 22.
- 24. Calculation of remuneration.
- 25. Complaint to Summary Court.

*Trade union membership and activities.*

- 26. Trade union activities.
- 27. Complaint to Summary Court.
- 28. Supplementary provisions relating to complaints under section 27.
- 29. Assessment of compensation on a complaint under section 27.
- 30. Awards against third parties.

*Time off work.*

- 31. Time off work for carrying out trade union duties.
- 32. Time off for trade union activities.
- 33. Time off for public duties.
- 34. Time off for attendance at a court.
- 35. Time off for the purpose of seeking medical or dental attention.
- 36. Provision as to Summary Court.
- 37. Time off for ante-natal care.
- 38. Provisions supplementary to sections 31 to 37.

PART IV

MATERNITY

*General provisions.*

- 39. Right to employee in respect of pregnancy and confinement.

*Maternity pay.*

- 40. Maternity pay.
- 41. Calculation of maternity pay.
- 42. Complaint to Summary Court.

*Right to Return to work.*

- 43. Right to return to work.

- 44. Enforcement of rights under section 43.
- 45. Exercise of right to return to work.
- 46. Contractual right to return to work.

## PART V

### TERMINATION OF EMPLOYMENT.

- 47. Rights of employer and employee to minimum period of notice.
- 48. Rights of employee in period of notice.
- 49. Measure of damages in proceedings against employers.
- 50. Statutory contracts.
- 51. Written statements of reasons for dismissal.

## PART VI

### UNFAIR DISMISSAL

#### *Right not to be unfairly dismissed.*

- 52. Right not to be unfairly dismissed.

#### *Meaning of unfair dismissal.*

- 53. Meaning of "dismissal".
- 54. Failure to permit woman to return to work after confinement treated as dismissal.
- 55. Exclusion of section 54 in certain cases.
- 56. General provisions relating to fairness of dismissal.
- 57. Dismissal relating to trade union membership.
- 58. Dismissal on ground of redundancy.
- 59. Dismissal on ground of pregnancy.
- 60. Dismissal of replacement.
- 61. Dismissal in connection with lock-out, strike or other industrial action.
- 62. Pressure on employer to dismiss unfairly.

#### *Exclusion of section 52.*

- 63. Qualifying period and upper age limit.
- 64. Extended qualifying period where no more than twenty employees.

#### *Remedies for unfair dismissal.*

- 65. Complaint to Summary Court.
- 66. Remedies for unfair dismissal.
- 67. Order for re-instatement or re-engagement.
- 68. Supplementary provisions relating to section 67.
- 69. Enforcement of section 67 order and compensation.

*Amount of compensation.*

- 70. Compensation for unfair dismissal.
- 71. Calculation of basic award.
- 72. Calculation of compensatory award.
- 73. Limit on compensation.
- 74. Calculation of special award.
- 75. Awards against third parties.

*Interim relief.*

- 76. Interim relief pending determination of complaint of unfair dismissal.
- 77. Orders for continuation of contract of employment.
- 78. Supplementary provisions relating to interim relief.

## PART VII

## REDUNDANCY PAYMENTS

*Right to redundancy payment.*

- 79. General provisions as to right to redundancy payment.
- 80. General exclusions from right to redundancy payments.
- 81. Dismissal by employer.
- 82. Renewal of contract or re-engagement.
- 83. Employee anticipating expiry of employer's notice.
- 84. Failure to permit woman to return to work after confinement treated as dismissal.
- 85. Lay-off and short time.
- 86. Right to redundancy payment by reason of lay-off or short time.
- 87. Supplementary provisions relating to lay-off and short time.
- 88. The relevant date.
- 89. Reference of questions to Summary Court.
- 90. Special provisions as to termination of contract in cases of misconduct or industrial dispute.
- 91. Implied or constructive termination of contract.
- 92. Change of ownership of business.
- 93. Section 92 not to apply in certain circumstances.
- 94. Exclusion or reduction of redundancy payments on account of pension rights.
- 95. Domestic servants.
- 96. Claims for redundancy payments.
- 97. Written particulars of redundancy payment.
- 98. Provision as to notices.

## PART VIII

## INSOLVENCY OF EMPLOYER

- 99. Priority of certain debts on insolvency.
- 100. Employee's rights on insolvency of employer.



- 101. Transfer of rights to the Crown.
- 102. Power of Governor to obtain information in connection with applications.
- 103. Interpretation of sections 99 to 102.

## PART IX

### GENERAL

#### *Contracting out of provisions of Ordinance.*

- 104. Restrictions on contracting out.

#### *Excluded classes of employment.*

- 105. Employment outside the Falkland Islands.
- 106. Contracts for fixed term.
- 107. Mariners.
- 108. Miscellaneous classes of employment.

#### *Review of limits.*

- 109. Review of limits.

#### *Supplemental provisions.*

- 110. Death of employee or employer.
- 111. Computation of period of continuous employment.
- 112. Calculation of normal working hours and week's pay.
- 113. Offences by bodies corporate.

#### *Appeals to the Supreme Court.*

- 114. Appeals to the Supreme Court.

#### *Miscellaneous*

- 115. Supplemental provisions as to proceedings before the Supreme Court.
- 116. Regulations.

## SCHEDULES

- Schedule 1 Supplementary provisions relating to maternity.
- Schedule 2 Rights of employee in period of notice.
- Schedule 3 Calculation of redundancy payments.
- Schedule 4 Death of employee or employer.
- Schedule 5 Computation of periods of employment.
- Schedule 6 Calculation of normal working hours and a week's pay.

# The Employment Protection Ordinance 1989.

(No. 8 of 1989)

ELIZABETH II



Colony of the Falkland Islands

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

The Employment Protection Ordinance 1989.

(No. 8 of 1989)

An Ordinance to confer statutory rights on employees arising out of their employment and for purposes connected therewith.

*(assented to: 26th July 1989)*

*(commencement: on publication)*

*(published: 31st July 1989)*

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 1989.

Short title and  
commencement.

(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

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);

“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 remuneration 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 modifications) 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 construed 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 construed 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 —

- (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. Excluded service.

(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 —

- (a) 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 be 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 (1) 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.

Changes in terms of employment.

(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 identity 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 statement 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.

- (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 paragraph (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.

Employees becoming or ceasing to be excluded from sections 4 to 6.

(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.

Power of Governor to require further particulars.

#### *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 —

Rights to itemised pay statements.

- (a) the gross amount of the wages or salary;
- (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 deductions, 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,

Standing statement of fixed deductions.

- (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



(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 to 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 employer’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 occurs 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.

Calculation of  
guarantee  
payment.

(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.

Limits on  
amount of and  
entitlement to  
guarantee  
payment.

(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

- (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").

Supplementary provisions relating to guarantee payments.

(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.

Complaint to the Summary Court.

(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.

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 unreasonably 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.

Calculation of remuneration.

(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.

Complaint to Summary Court.

(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 —

Trade union activities.

- (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,

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 action has been taken against him by his employer in contravention of section 26.

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 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 it shall be for the employer to show the purpose for which action was taken against the complainant.

Supplementary  
provisions  
relating to  
complaints  
under section  
27.

(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.

Assessment of  
compensation on  
a complaint  
under section  
27.

(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 —

Awards against  
third parties.

- (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,

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*

31. (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 employer 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 off under this section for any purpose shall, subject to the following provisions of this section, pay him for the time taken off 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;
- (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 —

Time off for for  
attendance at a  
court.

- (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 £ 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.

Time off for the  
purpose of seek-  
ing medical or  
dental attention.

(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 £ 5000 or both.

36. (1) The Summary Court shall not consider —

Provision as to  
Summary Court.

- (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.

(2) Where the Summary Court finds any complaint mentioned in subsection (1)(a) well-founded, 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.

Time off for  
ante natal care.

(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 accordance 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.

(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 employment (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 —

- (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.

Provisions supplementary to sections 31 to 37.

(2) In subsection (1) —

"collective bargaining" means negotiations related to or connected with one or more of the following matters —

- (a) terms or conditions of employment, or the physical 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 immediately 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 —
  - (i) 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.

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).

Maternity pay.

(2) An employee shall not be entitled to maternity pay for any absence before the beginning of the eleventh 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
- (b) the amount payable for any other day shall be taken as one-sixth of the amount 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.

Right to return to work.

(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 —

- (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.

Enforcement of rights under section 43.

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").

Exercise of right to return to work.

(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.

(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 employment, 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.

Contractual right to return to work.

(2) The provisions of sections 43, 44, 45, 54 and 84 and paragraphs 1 to 4 and 6 of Schedule 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.

Rights of employer and employee to minimum period of notice.

(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.



(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).

Rights of  
employee in  
period of notice.

(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.

Measure of  
damages in pro-  
ceedings against  
employers.

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.

Statutory  
contract.

51. (1) An employee shall be entitled —

- (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,

Written state-  
ment of reasons  
for.

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 —



- (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.

Right of employee not to be unfairly dismissed.

(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.

Meaning of dismissal.

(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" —

- (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)),

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.

Failure to permit woman to return to work after confinement treated as dismissal.

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).

Exclusion of section 54 in certain cases.

(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.

General provisions relating to fairness of dismissal.

(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 —

Dismissal on ground of redundancy.

- (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.

- (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;

- (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 referred 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 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.

**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 fulfilling the requirements of section 56(1)(b) or whether the employer acted reasonably in treating it as a sufficient reason for dismissing him, —

Pressure on employer to dismiss unfairly.

- (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 52 does not apply to the dismissal of an employee from any employment if the employee —

Qualifying period and up-per age limit.

- (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 —

Extended qualifying period where no more than twenty employees.

- (a) the period (ending with the effective date of termination) during which the employee was continuously employed did not exceed two years; and

- (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.

Complaint to  
Summary Court.

(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.

Remedies for  
unfair dismissal.

(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.

(2) An order for reinstatement is an order that the employer shall treat the complainant 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 benefited from an improvement in his terms and conditions of employment had he not been dismissed, an order for reinstatement shall require him to be treated as if he had benefited 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;
- (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 —

Supplementary provisions relating to section 67.

- (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 employer'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.

Enforcement of section 67 order and compensation.

(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 compensation 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 permanent 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
- (c) 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);



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 it 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 court 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 £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 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 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 equitable 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, exceeds 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.

Limit on  
compensation.

(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 —

Calculation of  
special award.

(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.

(a) 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

- (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 those 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 employment.

(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 separately 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 non-compliance.

## 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
  - (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,

General provisions as to right to redundancy payment.

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



- (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 —

- (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 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.

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.



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 —

- (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
- (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.

Failure to permit woman to return to work after confinement treated as dismissal.

**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.

Lay-off and short time.

(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 —

Right to redundancy payment by reason of lay-off 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 lay-off 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 redundancy 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 employment 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.

Reference of questions to 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 which 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 redundancy 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.

Special provisions as to termination of contract in cases of misconduct or industrial dispute.

Implied or constructive termination of contract.

(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 —

Change of ownership of business.

- (a) 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 referred 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 referred to in section 82.

(5) The preceding 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 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 person by whom a business, or part of a business, is owned immediately before a change (whether 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.

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 not to apply in certain circumstances.

section 92 shall not apply, and for all the purposes of this Part, the previous owner of the business shall, 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 dismissed, 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.

Exclusion or reduction of redundancy payments on account of pension rights.

(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.

Domestic servants.

(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 —

Claims for redundancy payments.

- (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



- (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.

Provision as to notices.

(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.



## PART VIII

## INSOLVENCY OF EMPLOYER

99. (1) An amount to which this section applies shall be treated for the purposes of —
- (a) section 33 of the Bankruptcy Act 1914; and
  - (b) section 319 of the Companies Act 1948;

Priority of  
certain debts on  
insolvency.

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 in-  
solvency 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.

(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 —

Restrictions on  
contracting out.

- (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.

Employment  
outside the  
Falkland Islands.

(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.

(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.

Contracts for  
fixed term.

(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

Mariners.

(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 4, 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.

(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.

Death of employee or 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.

Computation of period of continuous employment.

(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,

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 employment 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 aggregate 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.

Calculation of  
normal working  
hours and a  
week's pay.

**113. (1)** Where an offence under section 102 committed by a body corporate is proved to have been committed with the consent or connivance 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.

Offences by  
bodies corporate.

(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.

Appeals to the  
Supreme Court.

(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.

(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.

Supplemental provisions as to proceedings before the Summary Court or Supreme Court.

(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, 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.

Regulations.

## 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 payment 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 employee 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.



## 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 this 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 liability 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 —

- (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 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 sub-paragraph) 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.

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 payments 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.

## 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.

##### *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 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 such 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.

*Death during notice period*

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 section 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 deceased 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 personal 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 sub-paragraph (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 period 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 substituted 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 84, 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 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 tribunal 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 relation 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 or, as the case may be, shall not break the continuity of 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 fall under paragraph 3, 4 or 5.

*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 employer 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*

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 —
- (a) 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 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 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 persons, 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 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 —

- (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 accept 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.

**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 of 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 this paragraph to remuneration varying with the amount of work done include references to remuneration which may include any commission or 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) 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) For the purpose of the application of sub-paragraph (2) to a case falling within paragraph 2, sub-paragraph (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 week 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 Act which is later than the relevant date as defined by section 88(1), the relevant date as defined by section 88(1);
- (l) 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 date 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 fairly 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 employer.

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.

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Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

Ref: LEG/10/75.



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**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
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**NOTICE**

The following are published in this Gazette —

**The Education Ordinance (No. 9 of 1989);**

**The Crimes Ordinance (No. 10 of 1989);**

**The Media Trust Ordinance (No. 11 of 1989);**

**The Land (Amendment) Ordinance No. 12 of 1989);**

**The Land (Subdivision for Non-Residents) Amendment Ordinance (No. 13 of 1989).**





# The Education Ordinance 1989.

(No. 9 of 1989)

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ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

The Education Ordinance 1989.

(No. 9 of 1989)

An Ordinance to make new provision as to education in the Falkland Islands and in relation to the education of persons ordinarily resident in the Falkland Islands.

*(assented to: 26th July 1989)*  
*(commencement: on publication)*  
*(published: 2nd August 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

PART I

INTRODUCTORY

1. This Ordinance may be cited as the Education Ordinance 1989 and shall come into operation on such date as may be fixed by the Governor by notice published in the Gazette, but the Governor may fix different dates in respect of different provisions of this Ordinance.

Short title and  
commencement.

2. In this Ordinance unless the context otherwise requires —

Interpretation.

“academic year” means the period of one year commencing on 1st February in each year;

“the Board” means the Board of Education established by section 5(1) below;

“Bursary” has the meaning given by section 76(1) below;

“Camp Education Service” has the meaning given by section 33(2) below;

“child” means a person of compulsory education age;

“children with special educational needs” means children to whom section 31(1) below relates;

“compulsory education age” has the meaning given by section 17(1) below;

“the Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985;

“the Director” means the public officer for the time being holding or acting in the office of Director of Education created by section 3(1) below;

"efficient education" in relation to a child means education suitable to his age, ability and aptitude;

"Government School" means a school provided by and belonging to Her Majesty in right and title of the Falkland Islands acting through Her Government in the Falkland Islands;

"the Governor" where the Governor is required by the Constitution to consult the Executive Council means the Governor acting after consultation with the Executive Council but otherwise means the Governor acting in his discretion;

"head teacher" in relation to a school means the teacher for the time being in charge of that school, however his post is described;

"independent school" has the meaning given by section 34(1) below;

"itinerant teacher" has the meaning given by section 60(1) below;

"lower limit of compulsory education" and "lower limit" means such age as is the lower limit of compulsory education under section 17 below;

"parent" includes any person for the time being having lawful custody of a child;

"recognised school" means a school in respect of which a certificate issued under section 39 below is current;

"regularly", in relation to attendance at school, means punctual attendance at and throughout such number of school sessions falling within a school term as equals or exceeds the minimum number of sessions at which attendance is required by regulations;

"the Secretary" means the Secretary of the Board;

"scholarship" has the meaning given by section 76(1) below;

"school" means an institution in which education is provided to children or young persons;

"Training Award" has the meaning given by section 76(1) below;

"upper age limit of compulsory education" and "upper limit" means such age as is the upper limit of compulsory education under section 17 below;

"young person" means a person above compulsory school age but under the age of eighteen years;

## PART II ADMINISTRATION *Director and Assistant Directors*

3. (1) There shall be a Director of Education who shall be appointed by the Governor acting in his discretion.

Director of  
Education.

(2) The person appointed under subsection (1) shall be a person who appears to the Governor to be suitable to hold such appointment by virtue of his qualifications and experience in the fields of education or educational administration or both.

(3) Subsection (2) above shall not apply so as to prevent a person not holding the qualifications and experience thereby required being appointed under section 58(1) of the Interpretation and General Clauses Ordinance 1977 temporarily to hold or act in the office of Director of Education.

(4) The Director shall have such duties as may be imposed on him by or under this Ordinance and such additional duties as the Governor, acting in his discretion, may assign to him.

(5) The person who, immediately prior to the commencement of this section, held the office variously described as Chief Education Officer and Superintendent of Education shall be deemed to have been appointed as Director under subsection (1) above on such commencement.

4. (1) The Governor, acting in his discretion, may appoint one or more persons each to be an Assistant Director of Education.

Assistant Directors of Education.

(2) The duties of an Assistant Director of Education shall be to assist the Director in the performance of his duties.

(3) The Director may by writing authorise an Assistant Director to exercise in his name and on his behalf all or any of the powers under this Ordinance specified in such authorisation of the Director but no such authorisation shall preclude the Director from exercising personally any such power.

#### *Board of Education*

5. (1) There shall be a Board of Education consisting of five persons.

Constitution of Board of Education.

(2) The Director shall *ex officio* be a member of the Board of Education.

(3) One of the members of the Board shall be appointed by the Governor from among persons who are elected members of the Legislative Council in respect of the Camp Constituency and another of the members of the Board shall be appointed by the Governor from among persons who are elected members of the Legislative Council in respect of the Stanley Constituency and one of the members appointed under this subsection shall be appointed to be the Chairman of the Board.

(4) One of the members of the Board shall be appointed by the Governor from among persons who —

- (a) are parents of a child under the age of twelve years who is a pupil at a school in the Falkland Islands; and
- (b) are not employed as a teacher or otherwise as a public officer in the department of which the Director is head;
- (c) are not an elected member of the Legislative Council.

(5) One of the members of the Board shall be appointed by the Governor from among persons who —

- (a) are parents of a child over the age of eleven years who is a pupil at a school in the Falkland Islands;
- (b) are not employed as a teacher; and
- (c) are not an elected member of the Legislative Council.

6. (1) A person who is appointed a member of the Board under subsection (3) of section 5 above shall cease to be a member —

Cesser of membership of Board.

- (a) upon the expiration of two years from the date of his appointment; or
- (b) upon the date on which the Legislative Council first sits following its dissolution next occurring after his appointment; or
- (c) upon resigning his appointment as such member by writing delivered to the Governor; or
- (d) upon his ceasing to be an elected member of the Legislative Council,

whichever first occurs.

(2) A person who is appointed a member of the Board under subsection (4) or (5) of section 5 above shall cease to be a member —

- (a) at such time as he by reason of no longer being a parent of a child —
  - (i) of the requisite age; or

(ii) who attends as a pupil at a school in the Falkland Islands, would no longer be qualified to be appointed as a member under one or other or both of those subsections; or

- (b) if he is sentenced by a court in the Falkland Islands to imprisonment for a term of twelve months or longer;
- (c) upon his election as a member of the Legislative Council; or
- (d) upon the expiration of three years from the date of his appointment; or
- (e) upon becoming employed as a teacher or otherwise as a public officer in the department of which the Director is head; or
- (f) upon resigning his appointment as such member by writing delivered to the Governor,

whichever first occurs.

(3) A person who has ceased to be by effluxion of time to be a member of the Board may, if he is eligible to be appointed as a member under subsection (3), (4) or (5) of section 5 above, be re-appointed as such a member.

7. (1) The Governor shall appoint a public officer to be the Secretary of the Board.

Secretary of Board.

(2) The Secretary shall attend meetings of the Board, take minutes thereof and maintain the Board's records.

(3) The Secretary may speak at meetings of the Board, if invited so to do by the Chairman but may not vote on any matter coming before the Board.

8. (1) Unless otherwise decided by the Board, the Board shall meet in private.

Attendance of other persons at meetings of Board.

(2) Any person may attend a meeting of the Board or some part thereof by invitation of the Board, and may take part in the discussion of any matter in which he is invited to take part but only a member of the Board may vote in relation to any matter before the Board.

#### *Functions of the Director and of the Board*

9. (1) The Director is responsible to the Governor —

Functions of Director.

- (a) for the promotion of the education of the people of the Falkland Islands and the progressive development of institutions devoted to that purpose;
- (b) for the inspection and supervision of all schools and educational institutions in the Falkland Islands and for ensuring so far as possible —
  - (i) that such schools and educational institutions are efficiently conducted and managed;
  - (ii) that adequate educational standards are achieved in the tuition of pupils attending at such schools and in the tuition of persons attending at such educational institutions;
- (c) for the management and administration of the Camp Education system and for ensuring that children receiving tuition through such system receive tuition comparable so nearly as is reasonably possible with that which such children would receive at a Government School in Stanley;
- (d) for the supervision of itinerant teachers;
- (e) for devising such curricula and syllabuses as may be necessary or convenient for the purposes of any of the foregoing paragraphs;
- (f) for the supervision of the national library service in the Falkland Islands (including the Stanley Town Library); and
- (g) for the administration of overseas scholarships and training awards provided by the Government to persons ordinarily resident in the Falkland Islands.

(2) The Director shall not later than the 14th March in each year prepare and lay before the Board a report as to the exercise of his functions during the preceding calendar year, the state of education in the Falkland Islands and such proposals or policies as the Director wishes to make or adopt relevant to such functions or as to the improvement of the state of education in the Falkland Islands (hereinafter called "the annual report").

(3) The annual report shall, whenever reasonably practicable, be considered by the Board at the same meeting as it considers the draft estimates of the Education Department for the financial year commencing on the 30th June following the calendar year to which the annual report relates.

(4) The Director shall, as soon as is reasonably practicable after the annual report has been considered by the Board, forward a copy of the annual report together with the Board's comments and observations thereon to the Governor who shall cause the same to be considered by the Executive Council.

(5) It shall be the duty of the Director to conform and comply with all lawful instructions given to him by the Governor or by the Chief Executive.

10. (1) The Board shall assist the Director in the performance and fulfilment of his functions under section 9 above by —

Functions of the Board.

- (a) advising the Director in matters of educational policy;
- (b) advising the Director as to the ways and means it considers the Director's functions under section 9(1) might best be performed;
- (c) advising the Director on any matter referred to it by the Director for its advice.

(2) The Director shall refer to the Board for its advice any matter which the Governor has required him to refer to the Board for advice, and may refer to the Board for its advice any matter relating to the discharge of his functions under section 9 above upon which he wishes to obtain the Board's advice.

(3) Any member of the Board may request the Board to consider and advise the Director upon any matter which that member considers relevant to the discharge of the Director's functions under section 9 above.

#### *Supplementary provisions relating to the Board*

11. (1) The quorum at meetings of the Board shall be the Director and two other members of the Board, and no business may be transacted at any meeting of the Board save to adjourn that meeting unless a quorum is present thereat.

Quorum voting and procedure at meetings of the Board.

(2) Matters coming before the Board for decision shall, subject to subsection (3) below, be decided by the votes of the members present other than the Director.

(3) In the event that there is an equality of votes on any matter the Chairman shall have and shall exercise a casting vote and that matter shall then be taken to have been decided in accordance with the manner in which the Chairman has cast his vote.

(4) The provisions of the Schedule shall apply in relation to the meetings of the Board and subject thereto and to the provisions of this Ordinance the Board may determine its own procedure.

12. (1) The Board may with the consent of the Governor establish such committees subordinate to the Board as it shall consider necessary and shall establish a Library Committee and a Scholarships and Awards Committee.

Establishment of committees.

(2) Every committee established by the Board shall consist of the Director, who shall be chairman thereof, not more than two other members of the Board and at least two other persons who shall be appointed by the Board after consultation with the Governor.

(3) The provisions of this Ordinance, save section 11 (1) and (2) above, subsection (1) and (2) of this section, and section 15 below, which apply to the Board shall apply with all necessary modifications and adaptations to any Committee established under this section.



13. Members of the Board and of any committee of the Board shall be entitled to be paid and receive all travelling and other expenses reasonably incidental to their attendance at meetings of the Board or any committee of which they are a member, and shall not by virtue thereof be deemed to hold an office of profit under the Crown.

Expenses.

#### *General provisions*

14. (1) It shall be the duty of the Director, the Board and every committee of the Board so far as his or its powers under this Ordinance or otherwise extend and so far as moneys are lawfully available to him or it and other resources permit, to contribute to the spiritual, moral, mental and physical development of the people of the Falkland Islands by ensuring that efficient education is available to every person in the Falkland Islands in accordance with his needs, irrespective of gender and, subject to the subsequent provisions of this section without regard to his race, nationality or place of origin.

General duty to people of Falkland Islands.

(2) Nothing in subsection (1) shall —

- (a) require any education to be available to any person not ordinarily resident in the Falkland Islands who is above the upper age limit of compulsory education;
- (b) require education to be provided in any language of instruction other than English;
- (c) require education to be provided in accordance with the beliefs, tenets or practices of any cult, religion or national group; or
- (d) require scholarships and awards to be available without discriminating between persons who belong to the Falkland Islands or who are ordinarily resident in the Falkland Islands and persons who do not belong to the Falkland Islands or who are not ordinarily resident in the Falkland Islands.

15. (1) The Director shall not be bound to act in accordance with any advice the Board may have given to him in relation to any matter but, subject to subsections (2) and (3) below, if he proposes to act contrary to any advice given to him by the Board he shall report to the Governor in writing that he proposes to do so and his reasons for so doing.

Director normally to act in accordance with boards advice.

(2) Subsection (1) shall not apply where, in the opinion of the Director, it is necessary for him to act urgently but, in such a case, if he acts contrary to the advice of the Board, he shall report to the Governor that he has done so and his reasons for so doing.

(3) Nothing in the preceding provisions of this Part shall be construed as derogating in any way from the Director's functions under the Finance and Audit Ordinance 1988 as an accounting officer or excuse the Director for acting contrary to that Ordinance or financial instructions or stores instructions issued thereunder.

(4) Where the Director, under subsection (1) or (2) above acts contrary to the advice of the Board, he shall also record that fact in the annual report under section 9(2) above.

16. (1) All teachers at Government schools shall be appointed by or on behalf of the Governor in accordance with the Constitution and no teacher shall be dismissed except by or on behalf of the Governor in accordance with the Constitution.

Appointment of teachers etc.

(2) Subject to the Constitution, any teacher to whom subsection (1) above relates may at the discretion of the Director be transferred to a post of teacher at another Government school provided that he shall not without his consent be reduced in rank, salary or grading by virtue of a transfer under the provisions of this subsection.

(3) Subsection (2) above has effect in addition and not in substitution for anything else enabling a teacher to be transferred from one post to another.

### **PART III CHILDREN OF COMPULSORY EDUCATION AGE**

#### *Preliminary*

17. (1) For the purposes of this Part a child is of compulsory education age at a particular time if —

Compulsory education age.

- (a) his age at that time equals or exceeds the lower limit or at any time in any term then current his age will equal or exceed the lower limit; and
- (b) his age did not equal or exceed the upper limit at the commencement of the academic year then current.

(2) For the purposes of this section, and subject to the provisions of subsection (3) below, "the lower limit" is five years and "the upper limit" is fifteen years and the "academic year" is the period beginning on 1st February in every year and ending on 31st January in the following year.

(3) The Governor may by Order vary the lower limit or the upper limit or both such limits and if he does so, subsection (2) above shall be read with such modifications as are required by the provisions of that Order: provided that an Order under this subsection shall not have effect until it has been affirmed by a resolution of the Legislative Council.

18. (1) Nothing in section 17 above shall operate so as to prevent arrangements being made for the education at Government schools or at other schools which are recognised schools of children who are not of compulsory education age.

Voluntary school attendance.

(2) The Director shall, so far as is reasonably practicable, make arrangements —

- (a) enabling every child who has attained, or will during the then current term attain, the age of five years;
- (b) subject to subsection (3), enabling every child who has attained the upper limit of compulsory education age but whose age did not on 1st February in that academic year exceed sixteen years,

to attend a Government school for the purpose of obtaining education, if his parents wish him to do so.

(3) Paragraph (b) of subsection (2) above does not apply —

- (a) so as to require the arrangements referred to therein to be made in respect of any child who was —
  - (i) not ordinarily resident in the Falkland Islands during any substantial part of the preceding school year, excluding school vacations; and
  - (ii) who did not during such time as he was so resident, regularly attend at a Government school;
- (b) so as to require the arrangements referred to therein to be made in respect of any child who, in the reasonable opinion of the Director —
  - (i) is not capable of obtaining adequate educational benefit therefrom, or
  - (ii) whose attendance at the Government school in question is likely to be disruptive or to the prejudice of the education of other children attending at that school.

19. (1) It shall be the duty of the parent of a child of compulsory education age to ensure that that child receives an efficient education.

Duty to secure sufficient education of child.

(2) A parent shall be deemed to fulfil his duty under subsection (1) above if he secures that the child in question regularly attends as a pupil at a Government school in accordance with the subsequent provisions of this Ordinance.

(3) Unless a parent fulfils the duty imposed by subsection (1) above in the manner mentioned in subsection (2) above, the onus is on him to show that the duty is being fulfilled.

(4) A parent may, subject to subsection (3), fulfil the duty imposed by subsection (1) above —

- (a) in the manner mentioned in subsection (2) above;
- (b) if the child ordinarily resides in Camp by securing that the child regularly attends as a pupil at a recognised school;
- (c) if the child ordinarily resides in Camp by securing that the child regularly and sufficiently applies himself to a course of education provided by the Camp Education Service;

- (d) by securing that the child regularly attends as a pupil at a school outside the Falkland Islands;
- (e) by any other means specifically approved in relation to the child by the Director.

*Detailed provisions as to education obligations*

20. (1) A child of compulsory education age who ordinarily resides in Stanley shall, unless he attends as a pupil at a school outside the Falkland Islands, or, by authorisation of the Director under section 19(4)(e) above he is being educated in some other manner be registered as a pupil at a Government school or at a recognised school.

Provisions as to Stanley.

(2) The duty under subsection (1) above to register a child arises —

- (a) where the child is ordinarily resident in Stanley, when he attains the lower limit of compulsory education age, on the first day of the relevant term;
- (b) where the child becomes ordinarily resident in Stanley after he attains the lower limit of compulsory education age, on his becoming so resident or, if he becomes so resident during a school vacation, on the first day of the next following school term.
- (3) A parent who contravenes the preceding provisions of this section commits an offence under this Ordinance.

21. (1) Where the parent of a child ordinarily resident in Camp intends to discharge the duty imposed on him by section 19(1) above by securing the attendance of his child at a Government school or a recognised school, he shall register that child as a pupil at that school.

Camp children.

(2) Where the parent of a child ordinarily resident in Camp intends to discharge the duty imposed on him by section 19(1) above by the use of the Camp Education Service he shall register the child as a pupil of the Camp Education Service.

(3) The parent of a child who is registered as a pupil of the Camp Education Service shall inform the Director of Education in writing of any change in that child's usual place of abode.

(4) A parent who contravenes the preceding provisions of this section commits an offence under this Ordinance.

22. (1) It is the duty of the parent of every child of compulsory education age who is a registered pupil at a school to ensure that that child regularly attends at that school unless by any provision of this Ordinance he is excused from so doing.

Duty of parent to secure attendance of child who is registered pupil.

(2) A parent is excused from the duty imposed by subsection (1) above if —

- (a) the child is being efficiently educated in some other manner permitted by section 19 above in relation to him; or
- (b) the child does not form part of the same household as the parent does.

(3) Where to the knowledge of a parent to whom the duty under subsection (1) applies a relevant child of his is likely to be absent from attendance at a school at which he is registered as a pupil on more than two consecutive school days, that parent shall, unless another parent of that child does so, notify the head teacher of the school of that fact, and the reason for and likely duration of that likely absence.

(4) When a child of compulsory education age returns to attendance at a school at which he is a registered pupil, having been absent therefrom other than with the permission in advance of the head teacher of the school, the parent of that child shall, unless another parent of that child does so, notify the head teacher of the reason for that absence.

(5) Where a registered pupil of a school of compulsory education age is or has been absent from that school, in circumstances where that absence is not explained by a notification under subsection (3) or (4) above, the head teacher of that school or the Director may require any parent of that child who forms part of the same household as that child to notify him in writing of the reason for that absence.

the religious body to which the pupil belongs, or to receive religious instruction in accordance with such tenets outside school hours, the Director shall make arrangements for affording to the pupil reasonable opportunities for so doing and such arrangements may provide for affording facilities for such worship or instruction on the school premises, so however that such arrangements shall not entail expenditure by the Government.

25. (1) If it appears to the Director that the parent of any child of compulsory education age is failing to perform the duty imposed on him by section 19(1) above, it shall be the duty of the Director to serve upon the parent a notice requiring him, within such time as shall be specified in the notice not being less than fourteen days from the service of the notice, to satisfy the Director that the child is receiving efficient education either by regular attendance at school or otherwise.

School attendance Orders.

(2) If, after such a notice has been served upon a parent by the Director the parent fails to satisfy the Director that the child to whom the notice relates is receiving efficient education then, if in the opinion of the Director it is expedient that he should attend school the Director shall (subject to subsection (3) and (4) below), serve upon the parent an order requiring him to cause the child to become a registered pupil at the school named in the order.

(3) No order shall be served under subsection (2) above in relation to a child ordinarily resident in Camp unless —

- (a) the Director believes that there is no other available and reasonably suitable method of securing the efficient education of the child;
- (b) the child is of the age of eleven years or more; and
- (c) if the school is in Stanley the Director is satisfied that there is available in respect of the child a place at a hostel maintained by the Government in relation to the school.

(4) Where the Director, except for the provisions of subsection (3) above would otherwise be required to serve upon a parent an order under subsection (2) above and the Director is satisfied that arrangements can suitably be made for the child to be educated through the Camp Education Service, the Director shall instead of serving upon the parent an order under subsection (2) above serve upon the parent an order requiring the parent to be enrolled as a pupil of the Camp Education Service.

(5) If at any time while an order under subsection (2) or subsection (3) above is in force with respect to any child the parent of the child makes application to the Director requesting that the order be revoked on the ground that satisfactory arrangements have been made for the child to receive efficient education otherwise than in accordance with the order, the Director shall revoke the order in compliance with the request unless he is of opinion that no satisfactory arrangements have been made for the education of the child otherwise than in accordance with the order, and if a parent is aggrieved by a refusal of the Director to comply with such request, he may refer the question to the Governor, who shall give such direction thereon as he thinks fit.

(6) If any person upon whom an order under subsection (2) or (4) above is served fails to comply with the requirements of the order he commits an offence under this Ordinance.

26. (1) The requirement of regular attendance at a school imposed by section 22(1) above is regular attendance on school days between such times as shall be prescribed by regulations made under this Ordinance during such school terms as shall be prescribed by such regulations.

Required attendance.

(2) For the purposes of subsection (1) above —

- (a) a child who is sent to school unclean in person or in such a physical state or dressed in such a way that the parent ought reasonably to know that the head teacher will, as a matter of discipline, refuse him admission, does not attend school;
- (b) a child who arrives at school after the register of attendance has been closed for that morning or afternoon does not attend school on that morning or afternoon;

(6) A person commits an offence under this Ordinance who —

- (a) fails to perform a duty under subsection (1) above;
- (b) being obliged to notify a head teacher as required by subsection (3) or (4) above, fails to do so; or
- (c) having received a requirement under subsection (5) above, fails to comply with it within three days of its receipt.

23. (1) In any proceedings for an offence to which section 22(6)(a) above relates, subject to subsection (2) below, the child shall not be deemed to have failed to have attended regularly at the school by reason of his absence therefrom with leave of the head teacher or Director or —

Supplementary  
to section 22.

- (a) at any time when he was prevented from attending by reason of sickness or any unavoidable cause;
- (b) on any day exclusively set apart for religious observance by the religious body to which he belongs; or
- (c) if the parent proves that the school at which the child is a registered pupil is not within walking distance of the child's home and that no arrangements have been made by the Director either for his transport to and from the school or for enabling him to become a registered pupil at a school nearer to his home and that the parent could not reasonably himself have transported or arranged the transport of the child to the school.

(2) Subsection (1) above shall not apply in relation to a child who is a boarder at the school or who resides at a hostel maintained by the Government in relation to the school and such a child shall be deemed to have failed to attend regularly at the school if he is absent therefrom, other than as permitted by this Ordinance, without leave of the head teacher or Director during any part of a school term at a time when he was not prevented from being present by reason of sickness or any unavoidable cause.

(3) In this section, the expression "walking distance" means, in relation to a child who has not attained the age of eight years, two miles, and in the case of any other child, three miles, measured by the nearest available route.

24. (1) If the parent of any pupil in attendance at any Government school requests that he be wholly or partly excused from attendance at religious worship in the school or from attendance at religious instruction in the school, or from attendance at both religious worship and religious instruction in the school then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

Saving as to  
religious  
instruction.

(2) Where a pupil has been wholly or partly excused from attendance at religious worship or instruction in any Government school in accordance with the provisions of this section, and the Director is satisfied —

- (a) that the parent of the pupil desires him to receive religious instruction of a kind which is not provided in the school during the periods during which he is excused from such attendance;
- (b) that the pupil cannot with reasonable convenience be sent to another Government school where religious instruction of the kind desired by the parent is provided; and
- (c) that arrangements have been made for him to receive religious instruction during school hours elsewhere,

the pupil may be withdrawn from school during such periods as are reasonably necessary for the purpose of enabling him to receive religious instruction in accordance with the arrangements, but the pupil shall not be so withdrawn unless the Director is satisfied that the arrangements are such as will not interfere with the attendance of the pupil at the school on any day except at the beginning or end of the school session on that day.

(3) Where the parent of any pupil who is a boarder at a Government school or who resides at a hostel maintained by the Government in relation to the school requests that the pupil is permitted to attend worship in accordance with the tenets of a particular religious denomination on Sundays or other days exclusively set apart for religious observance by

the religious body to which the pupil belongs, or to receive religious instruction in accordance with such tenets outside school hours, the Director shall make arrangements for affording to the pupil reasonable opportunities for so doing and such arrangements may provide for affording facilities for such worship or instruction on the school premises, so however that such arrangements shall not entail expenditure by the Government.

25. (1) If it appears to the Director that the parent of any child of compulsory education age is failing to perform the duty imposed on him by section 19(1) above, it shall be the duty of the Director to serve upon the parent a notice requiring him, within such time as shall be specified in the notice not being less than fourteen days from the service of the notice, to satisfy the Director that the child is receiving efficient education either by regular attendance at school or otherwise.

School attendance Orders.

(2) If, after such a notice has been served upon a parent by the Director, the parent fails to satisfy the Director that the child to whom the notice relates is receiving efficient education then, if in the opinion of the Director it is expedient that he should attend school the Director shall (subject to subsection (3) and (4) below), serve upon the parent an order requiring him to cause the child to become a registered pupil at the school named in the order.

(3) No order shall be served under subsection (2) above in relation to a child ordinarily resident in Camp unless —

- (a) the Director believes that there is no other available and reasonably suitable method of securing the efficient education of the child;
- (b) the child is of the age of eleven years or more; and
- (c) if the school is in Stanley the Director is satisfied that there is available in respect of the child a place at a hostel maintained by the Government in relation to the school.

(4) Where the Director, except for the provisions of subsection (3) above would otherwise be required to serve upon a parent an order under subsection (2) above and the Director is satisfied that arrangements can suitably be made for the child to be educated through the Camp Education Service, the Director shall instead of serving upon the Child an order under subsection (2) above serve upon the parent an order requiring the child to be enrolled as a pupil of the Camp Education Service.

(5) If at any time while an order under subsection (2) or subsection (3) above is in force with respect to any child the parent of the child makes application to the Director requesting that the order be revoked on the ground that satisfactory arrangements have been made for the child to receive efficient education otherwise than in accordance with the order, the Director shall revoke the order in compliance with the request unless he is of opinion that no satisfactory arrangements have been made for the education of the child otherwise than in accordance with the order, and if a parent is aggrieved by a refusal of the Director to comply with such request, he may refer the question to the Governor, who shall give such direction thereon as he thinks fit.

(6) If any person upon whom an order under subsection (2) or (4) above is served fails to comply with the requirements of the order he commits an offence under this Ordinance.

26. (1) The requirement of regular attendance at a school imposed by section 22(1) above is regular attendance on school days between such times as shall be prescribed by regulations made under this Ordinance during such school terms as shall be prescribed by such regulations.

Required attendance.

(2) For the purposes of subsection (1) above —

- (a) a child who is sent to school unclean in person or in such a physical state or dressed in such a way that the parent ought reasonably to know that the head teacher will, as a matter of discipline, refuse him admission, does not attend school;
- (b) a child who arrives at school after the register of attendance has been closed for that morning or afternoon does not attend school on that morning or afternoon;

- (c) "school days" means such days other than Saturdays, Sundays, public holidays and occasional holidays as fall during a school term.

(3) A parent of a child of compulsory education age who is registered as a pupil at any school who fails, other than as he may be excused by this Ordinance, to secure the regular attendance of that child at that school commits an offence under this Ordinance.

27. (1) It shall be the duty of the head teacher of every Government school and of the head teacher of every recognised school to ensure that a register of attendance of pupils at that school is maintained and faithfully records, in such manner as the Director may require, the attendance of pupils registered at that school.

Register of attendance to be maintained.

(2) A person who wilfully makes any false entry in any register maintained pursuant to subsection (1) commits an offence under this Ordinance.

(3) A register maintained pursuant to subsection (1) above and any extract of any entries contained in such register certified by the head teacher of the relevant school as being a true extract of such entries shall be admissible in evidence in any proceedings for an offence under this Ordinance and shall constitute *prima facie* evidence of the facts therein recorded or appearing.

28. (1) It shall be the duty of a parent of a child of compulsory education age who is enrolled with the Camp Education Service to ensure so far as is reasonably possible and except insofar as he may be excused by reason of the child's illness or by other reasonable cause that the child diligently pursues such course of education as is provided in respect of that child by the Camp Education Service.

Duty of parent of child enrolled with Camp Education Service.

(2) The duty imposed by subsection (1) above includes a duty to ensure that the child attends any sessions of instruction provided in respect of that child by an itinerant teacher.

(3) In the event that a parent is in breach of his duty under subsection (1) the Director may apply to the Magistrate's Court or to the Court of Summary Jurisdiction for an order that the parent fulfil that duty and the court may grant such order and impose such penalty (not exceeding £1,000) as it sees fit to be payable in the event of breach of or non-compliance by the parent with that order.

#### *Provision of schools etc.*

29. (1) There shall be provided and maintained in Stanley out of moneys appropriated for the purpose by the Legislative Council by Ordinance, such types and numbers of schools and of such size and capacity and incorporating such facilities as the Governor shall think necessary to provide an efficient education to such number of pupils as he shall consider are likely to be of compulsory education age and whose parents will wish to register them as pupils thereat.

Government schools.

(2) In addition to any accommodation and facilities provided under subsection (1) above, the Governor shall as soon as possible provide at a school maintained in accordance with that subsection such additional accommodation and facilities as may be appropriate so as to enable the upper limit of compulsory education age specified in section 17(2) as originally enacted above to be increased by one year.

(3) Without prejudice to the provisions of subsections (1) and (2) above, the Governor shall provide at schools maintained in accordance with subsection (1) above such accommodation and facilities as are in the opinion of the Governor necessary to provide an efficient education to pupils voluntarily attending school in accordance with section 18 above.

30. (1) It shall be lawful for the Governor to provide and maintain in Camp such schools as the Governor shall think fit to provide and maintain.

Provision of schools in Camp.

(2) In addition to and without prejudice to his powers under subsection (1), the Governor may —

- (a) contribute to the costs and expenses of any other person of providing and maintaining a school in Camp;
- (b) contribute to the costs and expenses of any other person of providing a teacher for any children in Camp.



31. (1) Nothing in section 29 shall be construed as imposing any additional obligation upon the Governor in relation to children who, by reason of any mental or physical handicap, disease or bodily infirmity or by reason of circumstances special to themselves or to their parents, have special educational needs and the Governor's obligations under that section are sufficiently performed if those needs are disregarded but the Governor shall, in relation to such children, have the powers conferred by the subsequent provisions of this section.

Children with special educational needs.

(2) The Governor may, in relation to children to whom subsection (1) above relates ("children with special educational needs") out of moneys appropriated for the purpose by the Legislative Council —

- (a) provide at any school provided and maintained under section 29(1) or 30(1) above such accommodation and facilities as he may think fit in relation to such children;
- (b) contribute towards or pay the costs incurred by any other person in the provision or maintenance of accommodation and facilities in relation to such children and whether in the Falkland Islands or overseas;
- (c) contribute towards or pay the fees and other expenses (including travel, accommodation and clothing and maintenance expenses) incurred by the parents of such children or any other person in connection with the education of such children either in the Falkland Islands or overseas.

(3) In addition to his powers under subsection (2) the Governor may employ teachers for children with special educational needs and may contribute towards the remuneration and expenses (including travel expenses) of such teachers employed by others and the cost of accommodation of such teachers.

32. (1) The Director shall compile and maintain a register of children with special educational needs and shall advise the Governor as to the exercise of the Governor's powers under section 31 above for the benefit of such children.

Register of children with special educational needs.

(2) The register referred to in subsection (1) above shall not be open to public inspection but a digest or summary of the register shall be incorporated in the Director's annual report required by section 9(2) above.

(3) For the sake of avoidance of doubt, it is hereby declared that a child does not have special educational needs for the purposes of this Part merely because he ordinarily resides at a considerable distance from a school suitable for him to attend.

#### *Camp Education Service*

33. (1) The Governor shall out of moneys appropriated for educational purposes by the Legislative Council provide and maintain the Camp Education Service.

Duty of Governor to maintain Camp Education Service.

(2) For the purposes of this section "the Camp Education Service" means a service of education by means of television or radio broadcasts, written material, video tapes or films, text books and visits by itinerant teachers designed to provide an efficient education to those children ordinarily resident in Camp as are not receiving an efficient education by some other means permitted under this Ordinance.

(3) For the purposes of the performance of the duty under subsection (1) above, the Governor may provide and maintain or contribute towards the cost of such television, radio transmitting and receiving equipment as he sees fit.

### PART IV PRIVATE EDUCATION

#### *Conduct of independent schools*

34. (1) It shall be unlawful for any person, after the expiry of three months from the commencement of this section, to conduct a school not provided and maintained by the Governor under this Ordinance ("an independent school") unless he shall have obtained the permission of the Director so to do.

Approval of independent schools.



(2) Subsection (1) shall not apply to a school which was being conducted immediately prior to the commencement of this section until twelve months after such commencement.

(3) The Director shall take the following matters into consideration upon an application for his permission to conduct an independent school —

- (a) the suitability of the premises proposed to be used as a school premises in respect of children of the ages, gender or genders and number specified in the application as being likely to attend the school and in assessing such suitability the Director shall, without prejudice to the generality of the foregoing take into account —
  - (i) the age and state and condition of repair of the premises,
  - (ii) the facilities for heating the premises,
  - (iii) the toilet and washing facilities available to the children attending the school, and
  - (iv) the appliances provided for fighting fire and the means of escape in case of fire;
- (b) the number and type of teachers intended to be engaged in the conduct of the school;
- (c) the age and number of children proposed to be educated at the school;
- (d) any information provided by the applicant as to the proposed curriculum of the school;
- (e) whether, if the Director's approval to the conduct of the school is given, the applicant wishes any contribution to be made from public funds towards the cost of establishment or operation of the school; and
- (f) any other matter the Director considers relevant.

(3) The Director may grant or refuse permission for the conduct of a school and, if he grants permission may do so subject to conditions to be observed and performed by the applicant.

(4) A permission granted by the Director shall be valid —

- (a) while the school continues to be conducted by the applicant;
- (b) while the school continues to occupy the same premises;
- (c) for the period of time specified therein; and
- (d) until the expiration of one month from the service of a notice of revocation of the permission,

whichever is the shortest.

(5) Without prejudice to the power of the Director to impose conditions, the following conditions shall be deemed to be contained in every permission granted under this section —

- (a) no child shall be refused admission as a pupil to the school on the ground of his race, nationality or place of origin nor, unless the application specified that the school was to be provided for children of a particular religious denomination or sect, on the ground of the religion, religious denomination or sect or absence of religious belief of the child or any of his parents;
- (b) no person shall be employed or engaged as a teacher at the school unless he has the permission of the Director to be employed or engaged as a teacher, granted under the subsequent provisions of this Part; and
- (c) the permission shall cease to be valid in the event of any material adverse variation, likely to be of more than a temporary nature, from any of the particulars stated in the application.

(6) An operator of a school who conducts a school without the permission required by subsection (1) above, or wilfully contravenes any condition contained or deemed to be contained in a permission granted under this section,

commits an offence and is liable to a fine not exceeding fifty pounds multiplied by the number of days preceding his conviction the contravention is proved to have continued.

(7) For the purposes of subsection (1) an undertaking is a school if it is intended to provide instruction at it to pupils of four years of age or over in any subject or subjects normally or usually taught at a Government school.

35. (1) The Director may, subject to subsection (4) below, from time to time at the request of the person conducting a school to which a permission granted under section 34 above relates, vary a condition subject to which that permission was granted.

Variation of conditions applicable to a school.

(2) The Director may, subject to subsection (3) below, if he considers it necessary to impose any new condition or vary any condition subject to which any permission granted under section 34 above relates, serve notice upon the person conducting the school of a proposed new condition or of the manner in which he proposes to vary a condition and —

- (a) if that person consents to such new condition or variation of an existing condition, he may impose such new condition or vary that existing condition accordingly;
- (b) must consider any representations made by that person in response to such notice and having done so may if he thinks fit, impose that new condition or vary that existing condition (with such modifications therein if any in his proposals as he may have been persuaded to make by such representations);
- (c) if he receives no representations within such time, not being less than twenty-one days, as is specified in such notice, may proceed to impose such new condition or vary such existing condition accordingly.

(3) Whenever the Director, in accordance with subsection (1) or (2) above imposes a new condition or varies an existing condition he shall serve notice thereof, and the operative date thereof, on the operator and as and from the operative date the permission granted under section 34 above shall have effect accordingly.

(4) The Director may not in exercise of his powers under this section vary any condition deemed by section 34 (5) above to be contained in a licence.

36. (1) Any applicant for a permission under section 34 above or holder of a permission granted under that section who is aggrieved by —

Appeals to the Governor.

- (a) the refusal of a permission under section 34 above;
- (b) the imposition of any condition subject to which such a permission is granted or subsequently imposed thereon (not being a condition deemed by section 34(5) above to be contained in such permission);
- (c) the variation of any condition pursuant to section 35 above;
- (d) any refusal of the Director at the request of the holder to remove or vary any condition imposed in a permission by the Director; or
- (e) the date specified as the operative date in respect of a condition or varied condition pursuant to section 35(3) above,

may appeal to the Governor in writing against the relevant decision of the Director.

(2) The Governor on determination of any appeal to which subsection (1) above relates may allow the appeal by varying the relevant decision of the Director in such manner as the Governor thinks fit or may dismiss the appeal.

(3) Where the Governor on determination of an appeal under this section varies the decision of the Director the decision as so varied shall, from the date of notification of the Governor's determination of the appeal, have effect as if the Director had determined the matter in the first instance in the same manner.

#### *Independent teachers*

37. (1) Subject to this section, it shall be unlawful for any person after the expiry of three months from the commencement of this section to be employed or engaged as a teacher or to accept employment or engagement as a teacher without the permission of the Director so to do.

Teachers not to teach without authorisation.

(2) Subsection (1) above does not apply until the expiry of twelve months from the commencement of this section to a person who at any time during the six months immediately preceding such commencement was employed or engaged as a teacher.

(3) Nothing in subsection (1) applies so as to require any person who teaches only his own children or who is employed as a teacher by the Government whether in a Government school or as an itinerant teacher or as a teacher seconded to teach in a recognised school.

(4) A person who wishes to obtain permission to be employed or engaged as teacher shall make application to the Director in writing giving sufficient particulars of the teaching tasks he wishes to be permitted to undertake.

(5) The Director shall exercise his powers under subsection (6) below only for the purpose of ensuring that a person employed or engaged as a teacher has sufficient qualifications properly to undertake the teaching tasks he undertakes and that he is otherwise a fit and proper person to be employed or engaged as a teacher and, without prejudice to the generality of the foregoing —

- (a) he shall not refuse permission on grounds of the applicant's gender, race, nationality, place of origin or religious belief or absence of such belief;
- (b) he shall not refuse the application on the ground of inadequate qualifications if he is satisfied that the applicant is qualified in the United Kingdom, Australia, New Zealand or the Republic of Ireland or some other country which the Director considers appropriate, to undertake like teaching tasks to those specified in the application at a school maintained in that country by the appropriate local or central government authority.

(6) The Director may, subject to the foregoing provisions of this section, grant or refuse an application to which this section relates, and if he grants such permission may do so subject to such conditions as in his opinion are reasonably required in the interests of the efficient education of the pupils of the person to whom the permission relates.

(7) The provisions of section 35 above apply with all necessary modifications and adaptations to imposition of new conditions and variation of existing conditions in a permission to which this section relates as they do in relation to a permission granted under section 34.

38. (1) Any person who works as a teacher contrary to any provision of this Part commits an offence under this Ordinance.

Teaching without permission.

(2) Any person who employs or engages another person as a teacher who is not permitted by this Part to work as a teacher commits an offence under this Ordinance.

### *General*

39. (1) Any person applying for permission to conduct an independent school or conducting an independent school may apply for a certificate that that school shall be a recognised school.

Certificate that school recognised school.

(2) The Director may grant a certificate that a school is a recognised school if —

- (a) he is satisfied that the school offers or will offer an efficient education to children of compulsory education age attending as pupils at that school; and
- (b) the applicant undertakes to comply with the provisions of this Ordinance relating to recognised schools.

40. (1) The Director may, if he considers it desirable that any permission or certificate issued under this Part should be revoked serve notice upon the holder thereof that he is considering the revocation of such permission or certificate and the grounds on which he is considering doing so.

Revocation of permit or certificate.

(2) Any person who is served with a notice under subsection (1) above may within such time as is specified therein, which shall not be less than twenty-one days, make representations in writing to the Director against revocation of the permit or certificate in question.

(3) Upon the expiry of the time limited in the notice served under subsection (1) above for making representations to him, and after considering any representations he may have received, the Director may if he thinks fit revoke the permission or certificate, but shall not do so on any ground which was not specified in the notice served under subsection (1) above.

(4) If the Director revokes a permission or certificate, he shall serve notice in writing on the prior holder thereof of such revocation and that notice shall contain a statement of the ground or grounds on which the revocation is founded.

*Provisions as to recognised schools*

**41. (1)** Subject to the provisions of this Ordinance, the Governor may on the recommendation of the Director make a grant of money towards the cost of establishing or operating a recognised school.

Grants-in-Aid of recognised schools.

(2) The Governor may not make any grant of money under subsection (1) towards the cost of conducting religious worship or providing religious instruction according to the tenets or beliefs of any sect, denomination or religion.

(3) The Governor may, on the recommendation of the Director, provide or lend any property to on such terms as he shall think fit, for the purpose of it being used or expended in connection with the operation of a recognised school.

(4) The powers of the Governor under subsection (1) above extend so as to enable him subject to subsection (2) above to defray any particular item or items of expenditure.

(5) Assistance under any provision of this section may be made subject to the performance of such conditions as the Governor may think fit.

**42. (1)** Where a recognised school charges fees or requires other payments in relation to the education of pupils thereat, the Governor may on the recommendation of the Director —

Assistance to pupils of recognised schools.

- (a) defray the whole or part of the other fees or charges made in respect of any particular pupil or pupils or pupils of a particular category;
- (b) make grants of money to the parents of any particular pupil or pupils or pupils of a particular category (and may do so on a basis of the financial circumstances of particular parents).

(2) The Governor shall not exercise his powers under this section so as to discriminate on the basis of the gender, race, religious belief, nationality or place of origin of any child.

**43. (1)** Where, in the opinion of the Governor, it is desirable in the public interest to enter into an agreement in relation to a recognised school providing for payments to be made out of the Consolidated Fund in years other than the then current financial year, the Governor may subject to subsections (2) and (3) below enter into such an agreement and payments not falling to be made within the then current financial year shall be charged upon the Consolidated Fund.

Support Agreements with recognised schools.

(2) No agreement to which subsection (1) relates shall —

- (a) provide for any payment to be made after the fourth anniversary of the date thereof;
- (b) provide for any payment to be made which, if it fell within the current financial year, might not, subject to sufficient funds having been appropriated by the Legislative Council, be paid under the provisions of section 41 or section 42 above; or
- (c) provide for any payment to be made until after such time as the agreement has been laid on the table of the Legislative Council.

(3) Every agreement to which subsection (1) above relates shall be laid on the table of the Legislative Council after it is made and if at that meeting a resolution is passed nullifying the agreement it shall be of no further effect, but otherwise (subject to the antecedent provisions of this section) it shall have effect in accordance with its terms.

**44. (1)** The Governor may, on the recommendation of the Director, second teachers who are public officers to teach in recognised schools and may, on the recommendation of the Director employ persons to teach in recognised schools and such persons shall be public officers and nothing in the preceding provisions of this Part relating to permission to teach shall apply to them.

Seconded teachers in recognised schools.

(2) A person seconded or employed under subsection (1) above may not be suspended from duty without the consent of the Director and may not be dismissed except by the authority of the Governor.

### *Obligations of recognised schools*

45. (1) The provisions of section 27 above in relation to registers of attendance apply in relation to a recognised school.

Records to be kept.

(2) The head teachers of every recognised school shall maintain or cause to be maintained such records as to the tuition given, the standard of achievement reached and the performance of teachers and the efficacy generally of the recognised school as an educational institution as the Director may require to be maintained or as may be prescribed by regulations made under this Ordinance.

(3) The proprietor of every recognised school which is in receipt of any financial assistance under the foregoing provisions of this Part shall maintain or cause to be maintained such accounts and records relating to the finances of the school and of financial matters affecting the school as the Governor or the Financial Secretary may require or as may be prescribed by regulations made under this Ordinance.

(4) The proprietor and head teacher shall produce at any reasonable time any records required under subsection (2) above to the Director and any person authorised by him and shall permit the Director and any such person to take copies thereof.

46. (1) The Director may require any recognised school to follow a curriculum stipulated by the Director and stipulate standards of proficiency in educational subjects which should be regarded as minimum standards of attainment to be achieved by children of a given age or ability group attending at that school.

Curriculum.

(2) The proprietor and head teacher of any recognised school in respect of which a curriculum has been stipulated under subsection (1) above shall so far as is reasonably possible implement that curriculum and shall bring to the attention of the Director any circumstance preventing or hindering them in so doing.

## PART V GOVERNMENT SCHOOLS

### *Staff*

47. (1) In respect of every Government school there shall be a head teacher who shall be appointed by the Governor after consultation with the Director.

Head teachers.

(2) The head teacher of a Government school shall be responsible to the Director for the proper administration of that school with the assistance of the staff subordinate to him.

(3) In subsection (2) above, the expression "administration", without prejudice to the generality of that expression, includes —

- (a) the supervision of all teachers subordinate to the head teacher employed at that school, and the encouragement of those teachers by precept and example;
- (b) the supervision of the syllabus, in consultation with subject teachers, in relation to all subjects taught at the school, with particular reference to the curriculum, if any, stipulated by the Director;
- (c) the organisation in consultation so far as may be necessary of other teaching staff, of the timetable of teaching periods at the school;
- (d) encouragement of every pupil of the school to achieve the best performance he is capable of achieving in every activity of the school;
- (e) consultation with the School Managers whenever necessary;
- (f) liaison with the parents of children and any representative organisation of parents on all matters of common interest;
- (g) the inculcation in pupils attending the school, according to their respective abilities, of educational and other standards which will fit them for adult life in a democratic society.

(4) The head teacher of a Government school is responsible to the Director for the management of the school buildings.

48. There shall be such number of teachers and other staff at a Government school as may be determined by the Governor and they shall be appointed by the Governor after consultation with the Director. Teacher and other staff.

49. (1) No person shall, subject to subsection (2) below, be discriminated against in respect of appointment or promotion of any post to which section 47 or 48 relates on the ground of gender, race, religious belief or place of origin. Provision as to discrimination.

(2) It shall be lawful to discriminate in favour of the appointment or promotion to a post of persons who belong to the Falkland Islands and to limit appointment or promotion to any such post to persons who are Commonwealth citizens or citizens of the Republic of Ireland.

### *School Managers*

50. (1) In respect of each Government school there shall be a Committee of Managers consisting of -- School Managers.

- (a) the head teacher;
- (b) one person appointed by the Board (and who may be a member of the Board, other than the Director) who shall be the chairman of the Committee;
- (c) four persons appointed by the Governor, of whom at least two shall, at the time of appointment be a parent of one or more children attending that school.

(2) A member of the Committee of Managers, other than the head teacher, shall hold office as such until --

- (a) he resigns his office in writing delivered to the Governor (in the case of a person appointed by the Governor) or the Secretary to the Board (in the case of a person appointed by the Board);
- (b) he is convicted in the Falkland Islands of any offence in respect of which he is sentenced to an immediate term of imprisonment;
- (c) in the case of a person appointed by the Board he ceases to be a member of the Board;
- (d) in the case of a person appointed by the Governor, the expiry of two years from the date of his appointment.

(3) There shall be a secretary to the Committee who shall be appointed by the head teacher and who shall attend at meetings of the Committee but who shall not speak thereat, unless invited to do so by the person presiding thereat.

(4) The Director and in his absence from any meeting any one person authorised by the Director to do so on his behalf, may attend at any meeting of the Committee and may speak in relation to any matter coming before the Committee at any of its meetings, but shall not vote in relation thereto.

51. The functions of the Committee of Managers of Government school are --

Functions of Managers.

- (a) to consider and advise upon such matters in relation to the operation of the school, the provision of education thereat, as to the facilities and equipment of the school or the health and safety of the pupils attending thereat as --
  - (i) the Board,
  - (ii) the Director, or
  - (iii) the head teacher or any other member of the Committee,
 may have requested the Committee to consider;
- (b) to make to the Director such recommendations and representations in relation to any matter considered by the Committee as it considers appropriate;

- (c) to consult as often as may be necessary with the parents of pupils attending the school and, in the case of a Government school primarily intended for pupils over the age of eleven years, with the pupils, on any matter on which the Committee considers it appropriate to consult them;
- (d) to advise the head teacher on any matter on which the head teacher seeks advice or upon which the managers choose to advise the head teacher;
- (e) to exercise any powers conferred upon it by this or any other Ordinance.

52. (1) Meetings of the Committee shall, subject to subsection (2) be convened by the head teacher, provided that a meeting shall be held at least once in every school term.

Convening of meetings of Committee.

(2) The Director may, subject to subsection (3), convene a meeting of the Committee at any time and the head teacher shall convene a meeting of the Committee if requested to do so by at least two members of the Committee.

(3) Seven days' notice at least shall be given of every meeting of the Committee and the Director, if he has not himself convened the meeting, shall be given at least that amount of notice of the meeting.

(4) Except with the consent of the Director, no meeting of the Committee shall take place —

- (a) other than at the school; or
- (b) during any school vacation.

53. Minutes of all meetings of the Committee shall be kept by its secretary and copies of such minutes shall, without delay, be sent to the Director.

Minutes of Committee Meetings.  
Procedure of Committee.

54. (1) If the Chairman of the Committee is absent therefrom, the other members present at the meeting, other than the head teacher, shall elect a person from among their number to preside at that meeting.

(2) Matters falling to be decided at any meeting of the Committee shall be decided by the votes of the members, other than the head teacher, and in the event of an equality of votes the Chairman or other member presiding at the meeting shall have and shall exercise a second or casting vote and that matter shall then be decided in accordance therewith.

(3) No business shall be transacted at any meeting of the Committee unless the head teacher and two other members at least are present during the transaction of that business.

(4) Save as provided in the foregoing provisions of this Part, a Committee of Managers is free to determine its own procedure.

55. The head teacher of a Government school is not bound to act in accordance with the advice of the Committee of Managers of that school but in any case where he does not do so he shall as soon as is reasonably possible report that fact to the Director together with his reasons for not following that advice and shall inform the Committee thereof at its next meeting.

Head teacher may depart from advice.

#### *Dual use of Government schools*

56. (1) Insofar as is reasonably possible all buildings and other facilities at Government schools shall be available, in accordance with arrangements agreed by the Governor after consultation with the Director, outside school hours and at weekends and during vacations to the public or bodies or associations of persons.

Use of school.

(2) Without prejudice to the generality of subsection (1) above, arrangements shall be made for the use by the public wherever reasonably possible of gymnasia, halls and sports facilities provided in connection with Government schools.

### **PART VI**

#### **PROVISIONS APPLICABLE TO ALL SCHOOLS AND TO TUITION BY TEACHERS**

##### *School Year*

57. (1) The academic year shall begin on 1st February in each calendar year.

Divisions of academic year.

(2) The first term of the academic year shall commence on or after the 1st February and be fifteen weeks in length, so arranged as to allow during such term a holiday of one week coinciding with Camp Sports week.

(3) There shall be a school vacation of two weeks in length between the first term of the academic year and the commencement of the second term of that year.

(4) The second term of the academic year shall be twelve weeks in length and there shall be a school vacation of three weeks in length between the second term and the third term.

(5) The third term of the academic year shall commence on the day following the end of the school vacation referred to in subsection (4) above and shall end on the Wednesday of the week preceding the week in which Christmas Day occurs, provided that if Christmas Day occurs on a Sunday, the third term shall end on 14th December in that year.

(6) The dates of commencement and conclusion of each term of an academic year shall be published in the Gazette during the December of the preceding year.

(7) The provisions of this section apply in respect of recognised schools, save as may be stipulated in respect of any academic year in any notice published under subsection (7) above.

58. (1) The Governor acting in his discretion after consultation with or on the recommendation of the Director may declare any day or part of a day which would otherwise be a school day or part thereof to be an occasional holiday either in respect of all schools or in respect of a particular school or schools.

Occasional  
holidays.

(2) No pupil shall be obliged to attend school during such part of any day as has been declared to be an occasional holiday.

(3) Not more than three school days (or their equivalent in length of time) falling within any one term may be declared to be occasional holidays.

59. (1) Teachers and other staff employed in schools may be required to take annual leave due to them exclusively during school vacations.

Teachers obligations during  
school vacations.

(2) School vacations are periods of time when pupils are not required to attend school and do not constitute an augmentation of the leave entitlement of teachers and other staff employed in schools who may accordingly be required to perform educational or other tasks directly related to education (including preparation for teaching) or attend courses during school vacations: provided that teachers shall be allowed an adequate respite in which to refresh themselves between the conclusion of one term and the commencement of the next.

(3) Unless taken as part of a teacher's leave entitlement, or taken outside the Falkland Islands no part of any school vacation allowed as respite under subsection (2) above shall be counted against the leave entitlement of that teacher.

(4) This section applies to teachers in all schools but does not apply to itinerant teachers.

#### *Itinerant teachers*

60. (1) The Governor may appoint suitably qualified persons to undertake tuition on an itinerant basis of persons under the age of sixteen years in Camp. Persons so appointed are for the purposes of this Ordinance known as "itinerant teachers".

Employment of  
itinerant  
teachers.

(2) The duties of itinerant teachers are, as they may be directed by the Director so to do, to go from place to place in Camp and to teach such persons as they may be required to teach in the places to which they go.

(3) The preceding provisions of this Part relating to the leave and respite of teachers and the division of the year into terms do not apply to itinerant teachers or to tuition by itinerant teachers and itinerant teachers shall take their annual leave at such time or times as may be agreed by the Director and shall in addition receive such periods of respite as the Director may agree.

61. (1) The occupier of any property in Camp may be requested by the Director to make available for use and occupation by itinerant teachers and their pupils such buildings or

Accommodation  
and facilities for  
itinerant  
teachers.



room or rooms as shall be reasonably suitable and available for the purpose, and in respect of such use shall be entitled to receive such payment or payments as shall constitute adequate compensation for such use and occupation, including any fuel power or other facilities provided in connection with such use and occupation.

(2) Any request under subsection (1) may include a requirement to provide temporary sleeping and living accommodation for the itinerant teacher.

(3) The Governor may pay or contribute to the cost of repair or maintenance of any room or building likely to be required for use by an itinerant teacher.

(4) Nothing in subsection (1) above shall require any payment to be made to the parent of a pupil of the itinerant teacher.

### *Medical*

62. (1) Every pupil at every school (whether or not it is a Government school) shall as directed by the Chief Medical Officer present himself for medical examination from time to time at the school or some other suitable place but shall not be so examined contrary to the expressed wishes of his parents, nor shall, subject to section 63 below, any treatment be given to such child contrary to such wishes.

Medical and dental examination of pupils.

(2) The proprietor and head teacher of any independent school shall provide or cause to be provided such facilities and premises at the school as may reasonably be required for the purposes of a medical examination to which subsection (1) relates.

(3) Subsections (1) and (2) above shall extend, with all necessary modifications, to dental examinations as they do to medical examinations.

63. (1) If while a child is at school any sudden emergency or accident occurs to him which appears to necessitate medical treatment or to render such treatment advisable, it shall be the duty of the teacher for the time being responsible for that child to arrange for that treatment to be provided without unreasonable delay, and for the purposes of this section the parents of the child and that child shall be deemed to have consented to all treatment which an ordinarily prudent parent would consider should be carried out at once and without consulting him.

Emergency medical attention.

(2) No action founded on the absence of any consent which would otherwise be required shall lie against any person carrying out treatment to which subsection (1) relates.

(3) For the purposes of this section —

- (a) "teacher" includes a person for the time being in charge of a child at a boarding school or Government hostel;
- (b) "at school" includes, as well as any time when the child is on the school premises during school hours, any situation in which the child is in the charge of a teacher in connection with the activities of or sponsored by the school, wherever they may take place, and at any time when a child is a boarder or living at a Government hostel includes all times when he is in the charge of a teacher (as above defined).

64. (1) It is the duty of the proprietor and head teacher of any independent school having boarders and of the person in charge of any Government hostel subject to this section, to ensure that every boarder at such school or hostel receives such medical attention as an ordinarily prudent parent would ensure he received if the pupil was living in the parent's household at the time.

General medical attention.

(2) Nothing in subsection (1) above authorises the furnishing of medical treatment without the consent of the parents of the child in cases where it is reasonably practicable to seek that consent before furnishing that treatment unless it is reasonable to assume that that consent to the treatment would be given by the parents in all the circumstances of the case.

65. (1) The Chief Medical Officer may, if he considers that there is by reason of any infection or disease sufficient cause to do so direct that any school or part of a school or all schools be closed for such period as he may direct or until notified by him to the contrary.

Closure of schools.

(2) Any person who fails to comply with a direction under subsection (1) above commits an offence and is liable on conviction to a fine not exceeding five thousand pounds or to imprisonment for six months or to both such fine and such imprisonment.

### *Corporal punishment*

66. (1) It is unlawful for a pupil under the age of eleven years to be corporally punished by a member of the staff of any school at which he is a pupil.

Corporal  
punishment.

(2) It is unlawful for a pupil who has attained the age of eleven years to be corporally punished unless he is male and —

- (a) no parent of that child has notified the head teacher of the school at which he is a pupil that that parent objects to his being corporally punished;
- (b) the corporal punishment is moderate both in means and amount and in any case is not such as to be likely to cause any injury to any bone or organ or break the skin of the pupil;
- (c) the corporal punishment is carried out by the head teacher or deputy head teacher of the school;
- (d) the name of the pupil, the nature and amount of the corporal punishment, the date of it being carried out and the name of the person who carried out and of any other member of staff present at the time are recorded in a register or book kept for the purpose by the head teacher.

(3) No teacher may be required against his will to carry out corporal punishment of a pupil.

(4) No parent shall be induced by means of any threat or promise not to object to corporal punishment of his child.

(5) The book or register maintained under subsection 2(d) above shall be produced to the Director, to any person authorised by the Director to demand its production and to any police officer.

(6) It is the duty of the Director of Education to ensure that every parent of any male pupil is sufficiently notified of his right to object to that child being corporally punished at school and, without prejudice to the generality of section 79 below, regulations made under section 79 may prescribe the manner of notification under this subsection to a parent and the time or times at which such notification shall be given.

### *Inspection of schools*

67. (1) The Director may on reasonable notice cause any school or any class of any school to be inspected either by him personally or an inspector appointed by him generally or for the purpose of the particular inspection.

Inspections of  
schools.

(2) Every person employed in or about any school, and in the case of an independent school the proprietor, shall permit and facilitate to the best of his ability the carrying out of an inspection under this section.

(3) It shall be the duty of the Director to inspect or cause inspections to be made of every school at such intervals as appear to him to be appropriate, but not less frequently than once in every calendar year.

(4) Any person who wilfully obstructs the carrying out of an inspection under this section commits an offence and is liable to a fine not exceeding £500 or to imprisonment for three months or both such fine and such imprisonment.

68. (1) A person carrying out an inspection made under 67 above may —

Powers of  
inspector.

- (a) enter and remain in any classroom or other part of the school;
- (b) put or cause any teacher to put questions to pupils generally or to a particular pupil;
- (c) observe the manner in which any teacher instructs any pupil or any particular pupil in any subject or part of a subject;

- (d) require any pupil to demonstrate his knowledge or skill in any subject or part of a subject in which he is being or has been taught at the school;
- (e) require the production to him for his inspection of any written or practical work done by any pupil;
- (f) inspect any register or record maintained at the school;
- (g) require that any pupil or pupils undertake and complete any such written or other test as he may specify and that the product of such test be delivered to him;
- (h) any other thing he is permitted to do by regulations made under this Ordinance.

(2) Notwithstanding subsection (1) above, a person carrying out an inspection may not require any pupil who is excused from attendance at religious instruction to do anything specifically related to religious instruction given at the school or which implicitly involves religious knowledge of any kind.

69. (1) If the inspector is not the Director he shall as soon as possible after concluding his inspection send a written report thereon to the Director, and the Director shall send a copy thereof to the head teacher of the school and, in the case of an independent school, to the proprietor of the school.

Report of  
inspection.

(2) In the case of an inspection undertaken by the Director personally, the Director shall make out a written report thereof as soon as possible after concluding the inspection and shall send a copy thereof to the head teacher and, in the case of an independent school, to the proprietor of the school.

(3) When sending a copy of the report of an inspection under subsection (1) or (2) above the Director shall notify the head teacher and, in the case of an independent school, the proprietor that he may, if he wishes, make written representations to the Director within one month of such notification in relation to anything said in the report and that the Director will forward a copy of those representations to the Governor, the Chief Executive and the Board under subsection (4) below.

(4) As soon as possibly after the expiry of the period of one month referred to in subsection (3) above, the Director shall send to —

- (a) the Governor;
- (b) the Chief Executive; and
- (c) the Board.

a copy of the report and of any written representations he has received in relation to it from the head teacher or, in the case of an independent school, the proprietor.

## PART VII FURTHER EDUCATION AND LIBRARY

70. (1) The Governor may provide or secure the provision by others of facilities for further education that is to say —

General powers  
as to further  
education.

- (a) full-time and part-time education for persons over compulsory education age; and
- (b) leisure-time occupation, in such organised cultural training and recreational activities as are suited to their requirements, for any persons over compulsory education age who are able and willing to profit by the facilities provided by that purpose.

(2) The powers of the Governor under subsection (1) above includes power to pay the whole or part of the cost of the provision of such facilities by others.

(3) It shall be the duty of the Director to advise the Governor as to the exercise of his powers under this section and to be responsible for the management of all facilities provided under the authority of this section.

(4) Insofar as is reasonably possible the use of Government schools and their facilities for further education purposes outside school hours or outside school terms shall be encouraged by the Governor and by the Director.

71. A person attending further education courses provided by the Governor may be required to pay fees towards the cost of providing such courses and payment to or towards the cost of any materials used by that person during any such course.

Fees for further education.

### *The Public Library Service*

72. (1) From the commencement of this section, it shall be the duty of the Director to superintend, and promote the improvement of the public library service heretofore provided by the Stanley Town Library, and so far as is reasonably possible having regard to moneys voted for the purpose by the Legislative Council and to other available resources, including the the availability of premises and manpower to endeavour to establish and operate a national library service of which all books, periodicals, pamphlets and written material whatever heretofore belonging to Stanley Town Library shall form part.

Public Library Service.

(2) The Director shall, insofar as is reasonably possible, endeavour to ensure that all libraries operated as part of the facilities of Government schools from the commencement of this section are operated and managed as part of the national library service but nothing in this subsection shall confer any right upon any member of the public to enter upon any school library.

73. (1) The Director may accept gifts of books and other written material for the benefit of the national library service.

Acceptance of gifts.

(2) The Director may accept gifts of money on condition that the same be applied towards the purchase of books or written materials for the benefit of the national library service and shall so apply the same as soon as is reasonably possible: pending such application the same shall be paid into the Consolidated Fund.

74. There may be operated as part of the national library service such services, such as the lending of recorded tapes of books and the provision of photocopying and microfiche facilities as are reasonably ancillary to it and the provision of which has been approved by the Governor.

Ancillary Services.

75. (1) Such charges as are reasonable and have been approved by the Governor may be made for any service provided as part of the national library service.

Charges.

(2) Without prejudice to the generality of subsection (1) above, the powers under that subsection include the power to make a charge for reserving a book, for lending any book (except that no charge may be made for lending any book to any person under the age of sixteen years) and for late return of any book.

## **PART VIII GENERAL**

### *Scholarships, Bursaries and Training Awards*

76. (1) For the purposes of this Part —

Definitions.

- (a) "a Bursary" is a payment of money towards the cost of a course of education at an educational institution whether within the Falkland Islands or not;
- (b) "a Scholarship" is a payment of money intended to defray the cost of a course of education at an educational institution whether within the Falkland Islands or not, but not necessarily including the cost of travel between the holder's home and the educational institution or the cost of the holder's clothing and maintenance;
- (c) "a Training Award" is a payment of the cost or to defray part of the cost of training the holder or imparting to the holder ability in or knowledge of some business, trade, profession or occupation or the use of any equipment or technique.

(2) For the purposes of this Part "educational institution" includes any school, college or university educating persons with a view to them sitting and passing academic examinations in any subject.

77. (1) Bursaries, Scholarships and Training Awards may be granted out of money appropriated for the purpose by the Legislative Council.

Award of Bursaries Scholarships and Training Awards.

(2) The Scholarship Committee of the Board shall advise the Director as to the grant of Bursaries, Scholarships and Training Awards and the Director shall, unless the Governor otherwise approves, act in accordance with such advice.

(3) Nothing in this Part applies in respect of the provision at the expense of the Government of any education or training intended to fit a public officer for promotion or to impart to him, for the benefit of the public service, any skill, knowledge or ability, where during that education or training the person concerned remains a public officer.

78 (1) A person not ordinarily resident in the Falkland Islands is not eligible for any Bursary, Scholarship or Training Award.

Eligibility.

(2) It shall be lawful to discriminate in the grant of Bursaries, Scholarships and Training Awards in favour of persons belonging to the Falkland Islands as against persons not so belonging.

(3) A person granted a Training Award may be required as a condition thereof to undertake in writing to return to the Falkland Islands at the conclusion of his training and there for a period not exceeding five years after his return to make himself available for suitable employment and in default thereof that he shall be indebted to the Crown in the amount specified in such undertaking.

#### *Miscellaneous*

79. The Governor may by Order make regulations prescribing anything necessary or convenient to be prescribed for the purposes of this Ordinance.

Regulations.

80. Where it is provided by any provision of this Ordinance that any thing shall be an offence against this Ordinance but no punishment is specified elsewhere in this Ordinance in relation to that offence, that offence shall be punishable on conviction by a fine not exceeding £500.

Offences.

81. (1) The Education Ordinance 1967 is repealed.

Repeal.

(2) Notwithstanding subsection (1) above, all regulations made under any provision of the Education Ordinance 1967 which were in force immediately before the commencement of this section shall remain in force, so far as they are consistent with this Ordinance, until they are revoked by regulations made under section 79 above.

**SCHEDULE***Procedure of the Board (section 11(4))*

1. The Board shall meet at least four times in every year and shall ordinarily meet at intervals of not greater than three months.
  2. The Board may meet at any convenient place and premises in the Falkland Islands except that it shall not meet upon licensed premises.
  3. At each meeting of the Board at which a quorum is present the Board shall proceed to consider and confirm the minutes of the previous meeting and to deal with matters arising thereon before other business.
  4. Meetings of the Board shall ordinarily be convened by the Secretary at the request of the Director but any two members may require the Secretary to convene a meeting of the Board for the purpose of the transaction of the business specified in their requisition.
  5. Ordinarily, meetings of the Board shall be convened by seven days previous notice in writing, but the members may waive or abridge the notice required.
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Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Crimes Ordinance 1989.

(No. 10 of 1989)

## ARRANGEMENT OF PROVISIONS

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3. Common law offences.
4. Punishment of common law offences triable summarily.
5. Statutory offences replacing common law offences.
6. English statutes adopted.
7. Modification of Interpretation and General Clauses Ordinance 1977.

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8. Prosecution of an act or omission which is an offence under two or more statutory provisions.
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## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Crimes Ordinance 1989.

(No. 10 of 1989)

An Ordinance to make futher and better provision in relation to crimes.

(assented to: 26th July 1989)

(commencement: on publication)

(published: 2nd August 1989)

ENACTED by the Legislature of the Falkland Islands as follows —

#### PART I

#### Preliminary

#### INTRODUCTORY

1. (1) This Ordinance may be cited as the Crimes Ordinance 1989.

Short title and  
commencement.

(2) This Ordinance may be brought into force —

- (a) on such date as is mentioned in a notice published in the Gazette not being earlier than the date of publication of that notice in the Gazette; or
- (b) in stages, and in relation to any particular provision, on such date as may be provided in relation thereto by a notice published in the Gazette, not being earlier in relation to that provision than the date of publication of that notice in the Gazette.

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

Interpretation.

“crossbow” means a bow fixed transversely on a stock the string of which bow is drawn mechanically, or if drawn by hand is held drawn by a notch or projection upon the stock, the string of the bow being released from the notch or projection by pressure on a trigger so as to propel a bolt, arrow, quarrel or other missile;

“English Act” means an Act of the Parliament at Westminster which is in force in and has effect in England, regardless of any other place in which it is in force or has effect;

“enactment” means any provision of any English Act or Ordinance of the Falkland Islands which has effect within the Falkland Islands;

“minefield” means an area of land indicated by signs or by a combination of signs and fences to be a place where mines lie;

“public officer” includes a police officer;

“toy crossbow” has the meaning assigned by section 15(4) below.

#### *English crimes adopted*

3. (1) All offences which, at the commencement of this section, were offences at common law in England shall, subject to subsection (2) below, be offences at common law in the Falkland Islands.

Common law  
offences.

(2) Notwithstanding subsection (1), any offence which subsequent to the commencement of this section, ceases by virtue of any statutory provision in England to be an offence at common law in England, shall as from the commencement of that provision, cease to be an offence at common law in the Falkland Islands.

(3) Notwithstanding any provision of any law for the time being in force in England, every common law offence is in the Falkland Islands triable summarily unless any provision of any Ordinance of the Falkland Islands requires that that offence be tried on indictment.

4. Every offence to which section 3(1) above relates and which is triable summarily by virtue of section 3(3) above shall be punishable on conviction by a fine not exceeding the maximum of level 6 on the standard scale or by imprisonment for a term not exceeding two years or both.

Punishment of common law offences triable summarily.

5. Where any offence which, by section 3(1) above is an offence in the Falkland Islands ceases by virtue of any provision of any statute in England ('the first provision') to be an offence at common law in England and any act or omission which prior to the law coming into force of the first provision would have constituted an offence at common law constitutes a statutory offence in England under the first provision or any other provision of any statute in England ('the second provision'), the first provision and the second provision shall, if and to the extent that they do not otherwise apply in the Falkland Islands, apply in the Falkland Islands by virtue of this subsection so as to constitute that act or omission a statutory offence in the Falkland Islands.

Statutory offences.

(2) An offence which is a statutory offence by reason of subsection (1) above is punishable in the same manner as it would be punishable if it had been committed in England and section 4 above shall not apply to it.

6. (1) The English Acts mentioned in the first column of Part 1 of Schedule 1 hereto apply in the Falkland Islands to the extent mentioned in the second column of that Schedule and subject to such modifications and exceptions as are set out in the third column of that Schedule and further subject to the general modifications specified in Part 2 of that Schedule.

English statutory offences adopted.

(2) Any person who, within the Falkland Islands does anything or omits to do anything which under any provision applying in the Falkland Islands by virtue of subsection (1) constitutes an offence against that provision commits an offence and subject to any provision of this or any other Ordinance to the contrary is punishable in respect thereof as provided in any provision relating thereto applying in the Falkland Islands by virtue of subsection (1) above.

7. On the commencement of this section, section 81A of the Interpretation and General Clauses Ordinance 1977 shall cease to have effect insofar as it adopts as part of the law of the Falkland Islands any 1900 English Law (as defined in the said section) or any law amending or modifying the same which in either case creates or defines an offence or prescribes the punishment or mode of trial of any offence.

Modification of Interpretation and General Clauses Ordinance 1977 (No. 11 of 1977).

#### *Provisions relating to prosecution of offences*

8. (1) Where the same act or omission constitutes an offence under two or more statutory provisions the person doing that act or making that omission may be prosecuted under either or any of those provisions.

Prosecution of an act or omission which is an offence under two or more statutory provisions.

(2) Nothing in subsection (1) permits a person to be convicted of more than one offence on the basis of the same act or omission contrary to the rules known as the duplicity rule and the double jeopardy rule.

9. Where the same act or omission constitutes an offence by statute and at common law the person doing that act or making that omission may be prosecuted in respect of the statutory offence or the common law offence or in respect of both the statutory offence and the common law offence, but that person may not be convicted of both such offences.

Prosecution of an act or omission which is an offence by statute and at common law.

## PART II

### OFFENCES

#### *Offences related to public safety*

10. (1) A person commits an offence who —

Offences related  
to minefields.

- (a) wilfully enters a minefield without lawful authority; or
- (b) without lawful authority wilfully causes a mine to explode or attempts so to do; or
- (c) without lawful authority wilfully cuts or removes any part of any fence dividing any minefield from any other land; or
- (d) without lawful authority removes, damages or obscures any sign or notice warning of the existence of or depicting the boundaries or a boundary of a minefield, or warning of the possibility that mines may be found in the vicinity; or
- (e) wilfully drives any animal into a minefield.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for twelve months or both such fine and such imprisonment.

(3) For the purposes of subsection (1) above, "without lawful authority" means without authority given by or on behalf of the Commander British Forces.

11. (1) A person commits an offence who knowingly possesses any unexploded ordnance without lawful authority.

Possession of  
unexploded  
ordnance.

(2) For the purposes of this section —

"unexploded ordnance" means any grenade, mine, mortar round, rocket or shell containing any explosive substance; and

"without lawful authority" has the same meaning as it has under section 10(3) above.

(3) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 3 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

(4) A person does not commit an offence under subsection (1) above if the ordnance in question is upon any land or in any building of which he is the occupier and he or a predecessor in occupation has reported the presence of the ordnance to the Royal Engineers Explosive Ordnance Detachment or to the police but the burden of proof of such report shall lie upon him.

12. (1) A person commits an offence who sells any explosive to any other person under the age of sixteen years.

Sale of  
explosives.

(2) A person commits an offence who sells or offers for sale any explosive in any road, street, alleyway, thoroughfare or public place.

(3) A person convicted of an offence under subsection (1) or subsection (2) above is liable to a fine not exceeding the maximum of level 3 on the standard scale.

13. (1) A person commits an offence who casts any firework in any road, street, alleyway, thoroughfare or public place or, without the authority of the occupier thereof into or upon any land or building.

Casting  
fireworks etc.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 2 on the standard scale.

14. (1) Subject to subsections (4) and (5) below, a person commits an offence who has an article to which this section applies with him in a public place.

Offence of hav-  
ing article with  
blade or point in  
public place.

(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife, and also applies to a crossbow and any missile intended to be discharged by a crossbow.

(3) This section applies to a folding pocket knife if the cutting edge of its blade exceeds three inches.

(4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.

(5) Without prejudice to the generality of subsection (4) above it shall be a defence for a person charged with an offence under this section to prove that he had the article with him —

- (a) for use at work;
- (b) for religious reasons; or
- (c) as part of any national costume.

(6) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 2 on the standard scale.

15. (1) A person commits an offence who sells or lets on hire a crossbow or a part of a crossbow to a person under the age of seventeen years.

Sale etc. of  
crossbows to  
young persons.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that on reasonable grounds he believed the person to whom he sold or let on hire the crossbow to be seventeen years of age or over.

(3) A person under the age of seventeen years who buys or hires a crossbow or part of a crossbow commits an offence.

(4) Nothing in subsections (1) and (3) above applies to a toy crossbow, that is to say a crossbow with a draw weight of less than 1.4 kilograms.

16. (1) Except as provided by subsection (2) below, a person under the age of seventeen years commits an offence if he has with him —

Possession of  
crossbow by per-  
son under the  
age of 17.

- (a) a crossbow (other than a toy crossbow) which is capable of discharging a missile; or
- (b) parts of a crossbow (other than a toy crossbow) which together (and without any other parts) can be assembled to form a crossbow capable of discharging a missile.

(2) No offence is committed under subsection (1) above if —

- (a) the person under the age of seventeen years is under the supervision of a person who is of the age of twenty one years at least; or
- (b) the crossbow is within the dwellinghouse within which the person under the age of seventeen years usually resides.

17. (1) A person commits an offence who discharges a crossbow (other than a toy crossbow) —

Prohibited use  
of crossbows.

- (a) in any road or public place; or
- (b) on any beach; or
- (c) on any other land without the permission of the occupier of that land; or
- (d) in any sanctuary or reserve (including Stanley Common); or
- (e) in any place so that a bolt or missile discharged thereby falls in or traverses a place in which, had the crossbow been discharged there, an offence would have been committed under any of paragraphs (a) to (d) above.

(2) A person commits an offence who uses at night a crossbow (other than a toy crossbow) in any place outside a building.

18. (1) A person convicted of an offence under any provision of sections 15 to 17 inclusive above is liable to a fine not exceeding the maximum of level 4 on the standard scale.

Punishment of  
offences under  
sections 15 to  
17.

(2) A court which convicts a person of an offence to which subsection (1) above relates may, on the occasion of that conviction, order that the crossbow be delivered up to the court and be forfeit to Her Majesty.

(3) A person who fails to deliver up the crossbow in question within seven days of the making of the order under subsection (2) above or such longer time as the court may have allowed on making the order, commits an offence and is liable on conviction thereof to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a period not exceeding three months or both such fine and such imprisonment.

(4) An appeal lies against an order under subsection (2) as if it were a sentence imposed on conviction.

19. (1) If a police officer believes with reasonable cause that a person is committing or has committed an offence under any of sections 15 to 17 above he may -

Powers of search and seizure.

- (a) search that person for a crossbow or part of a crossbow;
- (b) search any vehicle, or anything in or on a vehicle, in or on which the police officer suspects with reasonable cause there is a crossbow or part of a crossbow.

(2) A police officer may detain a person or vehicle for the purpose of a search under subsection (1) above.

(3) A police officer may seize and retain for the purpose of proceedings for an offence under sections 15 to 17 above, anything which appears to him to be a crossbow or part of a crossbow.

(4) For the purpose of exercising the powers conferred by this section, a police officer may enter any land other than a dwellinghouse.

#### *Offences against the person*

20. (1) A public officer or person acting in any official capacity, whatever his nationality, commits the offence of torture if in the Falkland Islands he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.

Torture.

(2) A person not falling within subsection (1) above commits the offence of torture, whatever his nationality, if —

- (a) in the Falkland Islands he intentionally inflicts severe pain or suffering on another at the instigation or with the consent or acquiescence of a public officer or of a person acting in an official capacity; and
- (b) the public officer or other person is performing or purporting to perform his official duties when he instigates the commission of the offence or consents to or acquiesces in it.

(3) It is immaterial whether the pain or suffering is physical or mental and whether it is caused by an act or an omission.

(4) It shall be a defence for a person charged with an offence under this section in respect of any conduct of his to prove that he had lawful authority, justification or excuse for that conduct.

(5) For the purposes of this section "lawful authority, justification or excuse" means lawful authority, justification or excuse under the law of the Falkland Islands.

(6) A person who commits the offence of torture shall be liable on conviction to imprisonment for life.

21. (1) Proceedings for an offence under section 20 above shall not be begun except by or with the consent of the Attorney General.

Supplementary to section 20.

(2) Torture and the offences related to torture specified in Schedule 2 to this Ordinance shall be triable only on indictment.

(3) If at any time an Order in Council made under section 138(1) of the Criminal Justice Act 1988 extending sections 134 and 135 of the said Act to the Falkland Islands (with such modifications and exceptions as may be specified in the Order) has effect, and for so long only as such an Order has effect, section 20 above shall not be of effect.

### *Indecency*

22. (1) A person commits an offence if he has in his possession an indecent photograph of another person who is under the age of sixteen years.

Possession of  
indecent  
photograph of  
child.

(2) Where a person is charged with an offence under subsection (1) above, it is a defence for him to prove —

- (a) that he had a legitimate reason for having the photograph in his possession; or
- (b) that he had not himself seen the photograph and did not know, nor had any cause to suspect, it to be indecent; or
- (c) that the photograph was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

(3) A person convicted of an offence under subsection (1) shall be liable to a fine not exceeding the maximum of level 3 on the standard scale.

(4) Sections 1(3), 2(3), 3 and 7 of the Protection of Children Act 1978 (in its application to the Falkland Islands by virtue of section 6(1) above and Schedule 1 below) shall have effect as if any reference in them to that Act included a reference to this section.

(5) In subsection (1) above the reference to the age of the person of whom the photograph is taken is a reference to his age at the time the photograph was taken.

23. (1) Anybody commits an offence who unlawfully, wilfully and publicly exposes his person.

Indecent  
exposure.

(2) It is a defence for anybody charged with an offence under subsection (1) to prove that he reasonably supposed that his person would not be seen by anybody who might be offended thereby.

(3) Anybody convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

### *Conspiracy to defraud*

24. (1) If —

- (a) a person agrees with another person that a course of conduct shall be pursued; and
- (b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intention,

Charges of and  
penalty for  
conspiracy to  
defraud.

the fact that it will do so shall not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement.

(2) A person convicted of conspiracy to defraud is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for ten years or both such fine and such imprisonment.

### *Interception of communications*

25. (1) Subject to the following provisions of this section, a person who intentionally intercepts a communication in the course of its transmission by post or by means of a public telecommunications system, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.

Prohibition on  
interception.

(2) It is a defence for a person charged with an offence under subsection (1) above to prove —

- (a) that he had at the time of the alleged offence reasonable grounds for believing that the person to whom, or the person by whom, the communication is sent has consented to the interception;

- (b) the communication was intercepted for purposes connected with the provision of postal or public telecommunication services or with the enforcement of any enactment relating to the use of those services; or
- (c) the communication was being transmitted by wireless telegraphy and was intercepted with lawful authority for purposes connected with the issue of licences under the Telecommunications Ordinance 1988 or detection of interference with wireless telegraphy.

(4) No proceedings for an offence under subsection (1) above shall be brought except by or with the consent of the Attorney General.

*Offences in relation to the police force*

26. (1) A person commits an offence who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst members of the Falkland Islands Police Force, or induces or attempts to induce, or does any act calculated to induce any member of the Falkland Islands Police Force to withhold his services or commit breaches of discipline.

Causing disaffection amongst members of the police force.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for two years or both such fine and such imprisonment.

(3) Subsection (1) above applies to reserve police officers as it does to members of the Falkland Islands Police Force.

27. (1) It is the duty of every person in the Falkland Islands to aid and assist any police officer who calls upon him so to do in the execution of that officer's duty.

Duty to aid police officers.

(2) The duty under subsection (1) above is proved to have arisen if it is proved —

- (a) that the police officer saw a breach of the peace committed; and
- (b) that the police officer called upon the person concerned to aid and assist him; and
- (c) that there was a reasonable necessity for calling upon the person concerned for his aid and assistance; and
- (d) that the person concerned, without any physical impossibility or lawful excuse refused to aid and assist the police officer.

(3) A person who is under a duty to aid and assist a police officer and who refuses without physical impossibility or lawful excuse to do so, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

28. (1) Any person who assaults a police officer in the execution of his duty or a person assisting a police officer in the course of his duty, commits an offence and subject to subsection (2) is liable to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Assaults on police officers.

(2) If a person convicted of an offence under subsection (1) is shown to have had a firearm or an imitation firearm in his possession at the time of that offence, unless he shows that he had it in his possession for a lawful object and subject to subsection (3) below, he is liable to imprisonment for a term not exceeding seven years.

(3) A person is not liable to the increased penalty provided by subsection (2) above unless, before he is put to his plea in respect of the alleged offence, he is notified in writing that the prosecution intend to show that he was in possession of a firearm or imitation firearm at the time of that offence.

29. (1) Any person who resists or wilfully obstructs a police officer in the course of his duty commits an offence.

Obstructing police officer in the execution of his duty.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of standard level 3 or to imprisonment for a term not exceeding one month or both such fine and such imprisonment.

### *Escape*

**30. (1)** Where a person is —

- (a) lawfully in the custody of a police officer or other public officer; or
- (b) lawfully detained in any place; or
- (c) serving any sentence of imprisonment or other custodial sentence,

Negligently per-  
mitting person  
to escape.

any police officer or other public officer who voluntarily or negligently allows that person to escape commits an offence.

(2) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

**31. (1)** any person who being —

- (a) lawfully in the custody of a police officer or other public officer; or
- (b) lawfully detained in any place; or
- (c) serving any sentence of imprisonment or other custodial sentence,

To escape an  
offence.

commits an offence if he escapes and regardless of whether or not his escape was effected by artifice or in consequence of the negligence of the person having custody of him and regardless of whether it was made from a police station or a prison or not.

(2) A person convicted of an offence under subsection (1) is subject to section 34 below, liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for a term not exceeding twelve months.

**32.** For the purposes of sections 30 and 31 above, a prisoner shall be deemed to be lawfully in custody while he is confined in or is being taken to or from any prison and while he is working, or is for any reason, outside the prison in the custody or under the control of an officer of the prison and while he is being taken to any place to which he is required or authorised to be taken, or is kept in custody in pursuance of any such requirement or authorisation.

Meaning of legal  
custody.

**33. (1)** Any person who aids any person who —

- (a) is lawfully in the custody of a police officer or other public officer; or
- (b) is lawfully detained in any place; or
- (c) is serving a sentence of imprisonment,

Assisting  
persons to  
escape.

assists that person to escape therefrom or who, with intent to facilitate the escape of any prisoner, conveys any thing into a prison or to a prisoner or places anything anywhere with a view to it coming into the possession of a prisoner, commits an offence.

(2) A person who is convicted of an offence under subsection (1) is subject to section 34 below, liable to imprisonment for a term not exceeding five years.

**34.** Any person who uses —

- (a) violence; or
- (b) explosives; or
- (c) any offensive weapon; or
- (d) a threat of the use of any thing mentioned in (a) to (c) inclusive above,

Using violence  
etc. to escape.

to assist in effecting his own escape, contrary to section 31(1) above, or to assist the escape of another, contrary to section 33(1) above, is liable on conviction of the offence under section 31(1) above or section 33(1) above, as the case may be, to imprisonment for a term not exceeding ten years instead of the penalty to which he would otherwise be liable under section 31(2) above or section 33(2) above, as the case may be.



### *Highways*

35. (1) A person commits an offence who, without lawful authority or excuse, wilfully obstructs free passage along a highway. Obstruction of highways.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 3.

36. (1) A person commits an offence who without lawful authority or excuse —

- (a) makes a ditch or excavation in a public road or other highway; or
- (b) deposits anything whatsoever on a highway so as to damage the highway; or
- (c) by lighting a fire, or using an explosive substance within fifty feet from the centre of the carriageway of any highway, damages that highway.

Damage to highway.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 3 on the standard scale.

### *False alarms etc.*

37. (1) A person commits an offence who knowingly gives or causes to be given a false alarm of fire to the police force or to the fire service. False alarm of fire.

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

38. (1) A person commits an offence who causes any wasteful employment of any police officer by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry.

Wasting time of police

(2) A person convicted of an offence under subsection (1) above is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

39. (1) A person commits an offence who knowing that there is no sufficient reason to do so summons or causes an ambulance or Government medical officer to be summoned to attend at any place.

Wrongfully summoning ambulance or doctor.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months or both such fine and such imprisonment.

### *Disorderly behaviour*

40. (1) A person commits an offence who at a lawful public meeting acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called.

Endeavour to break-up lawful public meetings.

(2) A person who incites any other person to commit an offence under subsection (1) commits an offence under this subsection.

## PART III

### GENERAL

41. (1) The Ordinances mentioned in the first column of Schedule 3 to this Ordinance are amended in the manner set out in the second column of that Schedule.

Amendment of existing Ordinances.

(2) Notwithstanding subsection (1) above, a person who does any act or makes any omission which was at the time it was done or made an offence under any Ordinance amended by subsection (1) above may be prosecuted and punished in respect thereof as if subsection (1) above had not been enacted.

**42. (1)** A person may not by virtue of any provision of this Ordinance be prosecuted in respect of any act or omission which did not constitute an offence at the time it was done or made. No retrospective effect.

**(2)** A person is not by virtue of any provision of this Ordinance liable in respect of any offence committed before the commencement of this Ordinance to any more severe punishment than that to which he would have been liable if this Ordinance had not been enacted.

## SCHEDULE 1 (section 6)

## English Acts applied to the Falkland Islands

## Part 1

*General Offences*

<i>Column 1 Act</i>	<i>Column 2 Extent to which adopted</i>	<i>Column 3 Modifications</i>
(1) Treason Act 1351 (25 Edw.3 Stat.5c2)	(1) The whole	(1) None
(2) 11 Hen.7c.1 (Treason) (1495)	(2) The whole	(2) None
(3) Sale of Offices (Act 1551 (5 and 6 Edw.6 c.16)	(3) Sections 1,2 and 4.	(3) The Act shall be taken to relate to any office under the Crown in the Falkland Islands.
(4) Treason Act 1695 (7 and 8 Will.3 c.3)	(4) Sections 5 and 6.	(4) In section 5 for "within the Kingdome of England dominion of Wales or towne of Berwick upon Tweed" substitute "the Falkland Islands", and for "unless the same indictment been found by a grand jury" substitute "unless proceedings be commenced".
(5) Piracy Act 1698 (11 Will.3 c.7)	(5) Sections 7,8,11 and 12.	(5) -
(6) Piracy Act 1721 (8 Geo.1 c.24)	(6) Sections 1,2 and 6.	(6) -
(7) Disorderly Houses Act 1751 25 Geo.2 c.36)	(7) Section 8	(7) -
(8) Treason Act 1790 (30 Geo.3 c.48)	(8) Section 1	(8) -
(9) Servants' Charac- ters Act 1792 (32 Geo.3 c.56)	(9) Sections 1 to 6 (inclusive) and 8	(9) -
(10) Shipping Offences Act 1793 (33 Geo.3 c.67)	(10) Sections 1,3,4 and 8.	(10) -
(11) Treason Act 1795 (36 Geo.3 c.7)	(11) Sections 1 and 5.	(11) -
(12) Incitement to Mutiny Act 1797 (37 Geo.3 c.70)	(12) Sections 1 and 3.	(12) -
(13) Sale of Offices Act 1809 (49 Geo. 126)	(13) Preamble, sections 4,5,6,9,10 and 11.	(13) -
(14) Treason Act 1814 (54 Geo.3 c.146)	(14) Section 1.	(14) -

(15) Treason Act 1817 (57 Geo.3 c.6)	(15) Sections 1,4,5	(15) -
(16) Unlawful Drilling Act 1819 (60 Geo.3 & 1 Geo 4 c.1)	(16) Sections 1,2,4 and 7.	(16) -
(17) Piracy Act 1837 (7 Will.4 & 1 Vict. c.88)	(17) Section 2.	(17) -
(18) Treason Act 1842 (5 & 6 Vict. c.51)	(18) Section 2.	(18) -
(19) Treason Felony Act 1848 (11 & 12 Vict. c. 12)	(19) Sections 3 and 7.	(19) In section 3, the words "United Kingdom" where they firstly, thirdly and fourthly appear shall be replaced with the words "Falkland Islands" (but not where they secondly appear) and the words "to be transported beyond the seas for life" shall be replaced by the words "to imprisonment for life".
(20) Piracy Act 1850 (13 & 14 Vict. c.26)	(20) Sections 5 and 6.	(20) -
(21) Malicious Damage Act 1861 (24 and 25 Vict. c.97)	(21) Sections 35,36,47, 48 and 58.	(21) In sections 35 and 47 the words "to be kept in penal servitude for life ... or to be imprisoned" shall be replaced by the words "to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for five years or both".  In section 36, the words "to be imprisoned for any term not exceeding two years, with or without hard labour" shall be replaced by the words "a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for two years or both such fine and such imprisonment".  In section 48 the words "to be kept in penal servitude for any term not exceeding seven years ... or to be imprisoned" shall be replaced by the words "a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for five years or both".

(22) Forgery Act 1861  
(24 & 25 Vict. c.98)

(22) Sections 34,36  
and 37.

(22) The sections adopted shall be modified so that offences against them are all punishable by a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for seven years or both.

(23) Offences Against  
the Person Act 1861  
(24 & 25 Vict. c.100)

(23) Sections 4,5,9,10,  
16,17,18,20, to 40  
(inclusive) 42 to 47  
(inclusive) 57 to 60  
(inclusive) and 64.

(23) Any reference in any section adopted to any person on conviction of any offence being liable to be kept in penal servitude for life shall be substituted by a reference to him being liable to life imprisonment.

Any reference to any person on conviction of any offence being liable to penal servitude or to be kept in penal servitude for a specified period of years shall be substituted by a reference to him being liable on conviction of that offence to imprisonment for the same period.

Any reference to a person being liable on conviction of any offence to penal servitude (with no term therein specified) shall be substituted by a reference to him being liable on conviction of that offence to imprisonment for three years.

The words "or to be imprisoned" appearing in sections 28,29,30, and 32 shall be omitted.

The words "with or without hard labour" appearing in sections 34,35,36, 38,47 and 60 shall be omitted.

Section 35 shall be limited in its application in accordance with the provisions of section 17A(1) of the Road Traffic Ordinance.

Sections 39,40 and 42 shall be modified —

(a) by the substitution for the words "two justices of the peace" of the words "Magistrate's Court or Summary Court"; and

(b) by the omission of the words "and kept to hard labour in the common gaol or house of correction".

Section 43 shall be modified —

(a) by the substitution for the words "two justices of the peace" of the words "the Magistrate's Court or the Summary Court".

(b) by the substitution for the words "the said justices" of the words "the court";

(c) by the substitution for the words "their opinion" of the words "its opinion";

(d) by the omission of the words from (and including) "in the common gaol" (where it first appears) to (and including) the words "hard labour" and by the omission of all words after "level 4 on the standard scale".

Section 44 shall be modified by the substitution of the words "the court" for the words "the justices", and the word "it" for the word "they" and by the substitution of the words "shall cause a certificate to be delivered" for the words "they shall forthwith make out a certificate".

(24) Conspiracy and Protection of property Act 1875 (38 and 39 Vict. c.86)

(24) Sections 1, 5, 6, 7, 8, 10, 11, 15, 16 and 17.

(24) In place of section 13, the following shall have effect —

"13. The expression "court of summary jurisdiction" means the Magistrate's Court and the Summary Court".

(25) Explosive Substances  
Act 1883 (46 and 47 Vict.  
c.3)

(25) The whole Act.

(26) Public Bodies Corrupt  
Practices Act 1889 (52 and  
53 Vict. c.69)

(26) Sections 1,2,3(2),4,7  
and 10.

(26) In section 2, paragraph  
(a) shall be omitted and the  
following substituted —

“(a) be liable to a fine not ex-  
ceeding the maximum of  
level 10 on the standard scale  
or to imprisonment for 7  
years or both”, and in  
paragraph (d) the words “the  
Legislative Council” shall be  
substituted for “Parliament”.

In section 17, the words “but  
does not include any public  
body as above defined ex-  
isting elsewhere than in the  
United Kingdom” shall be  
omitted and replaced by the  
words “and extends to the  
Government, and any tender  
board, appointments board,  
disciplinary board or com-  
mittee or any other board or  
committee appointed by or  
on behalf of the Governor or  
the Government to exercise  
any function in the discharge  
of the business of the  
Government of the Falkland  
Islands”.

(27) Prevention of Corrup-  
tion Act 1906 (6 Edw.7  
c.34)

(27) Sections 1,2(1),(3) and  
(6)

(27) The words “indictment”  
and “with or without hard  
labour” in section 1(1) shall  
be omitted.

In section 1(1) after the word  
“fine”, where it first appears  
there shall be inserted the  
words “not exceeding the  
maximum of level 6 on the  
standard scale” and all words  
after the word “fine” where  
it next appears in the subsec-  
tion shall be omitted.

In section 2(1) there shall be  
substituted for all words ap-  
pearing after the word “in-  
stituted” the words “without  
the consent of the Attorney  
General”.

(28) Perjury Act 1911 (1 and 2 Geo.5 c.6)

(28) Sections 1, 1A, 2 to 7 (inclusive) and 12 to 16 (inclusive).

In section 2(6) the words "Supreme Court" shall be substituted for the words "Crown Court".

(28) The Act insofar as it is adopted shall have effect as if it contained the following provision —

"20. If any person in a written statement tendered in evidence in criminal proceedings by virtue of any provision of any enactment enabling it to be so tendered wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 or to imprisonment for a term not exceeding two years or both such fine and such imprisonment".

The above inserted provision may be cited as section 20 of the Perjury Act 1911 in its application to the Falkland Islands.

In sections 1A, 2, 3, 4, 5, 6 and 7 the words "on indictment" shall be omitted.

In sections 2(2), 3(1) and 4(1) the words "imprisonment" shall be substituted for the words "penal servitude" and for all words after "seven years" there shall be substituted the words "or to a fine not exceeding the maximum of level 8 or both such imprisonment and such fine".

In section 5 the words "or Ordinance" shall be inserted after "Act of Parliament".

(29) "Imprisonment" shall be substituted for "penal servitude" wherever those words appear.

(29) Prevention of Corruption Act 1916 (6 & 7 Geo.5 c.64)

(29) The whole Act, except sections 1 and 3.



(30) Firearms Act 1920	(30) Sections 16 and 19(1).	(30) -
(31) Judicial Proceedings (Regulation of Reports) Act 1926 (16 & 17 Geo.5 c.61)	(31) The whole Act.	(31) -
(32) Infant Life (Preservation) Act and 1929 (19 & 20)	(32) Sections 1, 2(2) and 2(3) and 3.	(32) The word "imprisonment" shall be substituted for the Geo.5 c.34) words "penal servitude" in section 1(2).
(33) Incitement to Dissaffection Act 1934 (24 & 25 Geo.5 c.56)	(33) The whole Act.	(33) -
(34) Public Order Act 1936 (1 Edw.8 and 1 Geo.6 c.6)	(34) Sections 1 and 2 (inclusive), 7, 9 and 10.	(34) In section 1(2) the words "except such as are authorised by Section 6 of the Prosecution of Offences Act 1979" shall be omitted.  In section 7(2) the words "or section 5 or 5A" shall be omitted.  In section 7(3) the words "four or five" shall be omitted.  In section 9(1) the definition of "public procession" shall be omitted.  In section 9(3) the words "by the council of any borough or district or" shall be omitted.
(35) Infanticide Act 1938 (1 and 2 Geo 6 c.36)	(35) The whole Act.	(35) -
(36) Fraudulent Mediums Act 1951 (14 & 15 Geo.6 c.33)	(36) Section 1.	(36) -
(37) Children and Young Persons (Harmful Publications) Act 1955 (3 & 4 Eliz.2 c.28)	(37) The whole Act.	(37) -
(38) Sexual Offences Act 1956 (4 & 5 Eliz.2 c.69)	(38) Sections 1 to 7 (inclusive), 9 to 17 (inclusive), 19 to 56 (inclusive, except section 37(2) and 37(4) insofar as it relates to section 37(2) and except section 37(7)(a) and (b)) First Schedule (except paragraph 5) and Second Schedule (except column 2).	(38) Nothing in section 37 shall exclude the operation of any enactment of the Falkland Islands (whether made before or after the passing of this Ordinance) which is inconsistent with section 37 and section 37 shall take effect subject to such enactment.

(39) Restriction of Offensive Weapons Act 1959 (7 & 8 Eliz.2 c.57)	(39) The whole Act.	(39) -
(40) Street Offences Act 1959 (7 & 8 Eliz. 2 c.57)	(40) Sections 1(1) to (4) (inclusive), 2, 4 and 5(1).	(40) In section 1(2) the words "as defined in section 75 of the Criminal Justice Act 1982" shall be omitted.  In section 2(1) the words "the Summary Court" shall be substituted for the words "a Magistrates' Court".  In section 2(2) all words after "chief officer of police" shall be omitted.
(41) Obscene Publications Act 1959 (7 & 8 Eliz.2 c.66)	Sections 1, 2(1), 2(3), 2(4), 2(4A), 2(5) and 2(6), 3,4 and 5(1).	
(42) Indecency with Children Act 1960 (8 & 9 Eliz.2 c.33)	(42) The whole Act.	(42) -
(43) Suicide Act 1961 (9 & 10 Eliz.2 c.60)	Sections 1 and 2, 3(1) and First Schedule.	(43) -
(44) Obscene Publications Act 1964 (1967 c.74)	(44) The whole Act.	(44) -
(45) Sexual Offences Act 1967 (1967 c. 60)	(45) The whole Act.	(45) -
(46) Theft Act 1968 (1968 c.60)	(46) The whole Act except Sections 12(3), 14, 26(2) and 26(4), 29, 30(3) and 30(5).	(46) Section 33 shall have effect as if the following appeared as subsection (5) of that subsection —  “(5) The foregoing provisions of this section shall have effect as if all the enactments referred to therein applied to and formed part of the law of the Falkland Islands and so as to constitute as an offence against the law of the Falkland Islands any act or omission done or made within the Falkland Islands which, if done or made in England, would be an offence under any such enactment in England and to that extent each of the said enactments is adopted as law of the Falkland Islands”.

(47) Unsolicited Goods and Services Act 1971 (1971 c.30)	(47) Sections 4,5, 6(1) and 7(1).	(47) -
(48) Criminal Damage Act 1971 (1971 c.48)	(48) The whole Act except Section 7(1), 8, 11(2) to 11(7) (inclusive), 12(1) and 12(3) to (6) (inclusive).	(48) The words "on indictment" shall be omitted wherever they occur.
(49) Criminal Justice Act 1972 (1972 c.71)	(49) Section 6.	(49) The following subsection shall be substituted for subsection 6(5) —  "(5) Any order under the said section 28 made by the Summary Court or the Magistrate's Court shall be suspended —  (a) in any case until the expiration of the period prescribed by law for giving notice of appeal;  (b) where notice of appeal is given within the period so prescribed, until the determination of the appeal; but this subsection shall not apply where the order is made under section 28(1)(a) or (b) of the Theft Act 1968 in its application to the Falkland Islands and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute."
(50) Sexual Offences (Amendment) Act 1976 (1976 c.82)	(50) Section 1.	(50) -
(51) Criminal Law Act 1977 (1977 c.45)	(51) Part I, (except sections 1(3), 5(10) and 5(11)). Part II, (except section 11 and 13(2)), Part IV sections 51 and 54 and in Part VI, section 65(1) and (3).	(51) In section 5(2), the words from and including "and" to the end are omitted.  The following section shall have effect in place of section 7 —  "7(1) Any person who is on any premises as a trespasser after having entered as such commits an offence if he fails to leave those premises on being required to do so —

(a) by a police officer in uniform, or

(b) by or on behalf of and with the authority of any person who is in law entitled to immediate occupation and use of those premises.

(2) A person who is lawfully upon premises cannot commit an offence under this section.

(3) A person who commits an offence under subsection (1) above is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for six months or both".

The following provision shall have effect in place of section 10(1)

"(1) Subject to the following provisions of this section, a person commits an offence who resists or intentionally obstructs any person who with the authority of any court in the Falkland Islands is engaged in executing any process issued by that court for the purpose of enforcing any judgment or order for the recovery of any premises or for the delivery of possession of any premises".

(52) The following provision shall have effect in place of section 4 —

"4(1) A person convicted of an offence under section 1 or section 2 of this Act shall be liable to a fine not exceeding the maximum of level 8 on the standard scale or to imprisonment for five years or both such fine and such imprisonment.

(52) Theft Act 1978 (1978 c.31)

(52) The whole Act except sections 4, 5(4) and 5(5), 6 and 7(2) and 7(3).

- (53) Protection of Children Act 1978 (1978 c.37)
- (53) The whole Act except sections 9(2) and 9(3).
- (53) -
- (54) Indecent Displays (Control) Act 1981 (1981 c.42)
- (54) The whole Act except sections 2(1) and 4(2), 5(3), 5(4) and 5(5).
- (54) Paragraphs (d) and (e) of section 1(4) shall be omitted and section 4(1)(a) shall be modified by the insertion therein after the words "Independent Broadcasting Authority" of the words "or the Falkland Islands Broadcasting Service or the Services Sound and Vision Corporation".
- (55) Forgery and Counterfeiting Act 1981(1981 c.45)
- (55) The whole Act except sections 5(4) and (5), 11, 12, 21,23,24(6), 26 and 30 to 33 (inclusive).
- (55) Any reference in the Act to —
- (a) "Post Office" shall be construed as a reference to the Falkland Islands Post Office;
- (b) "Inland Revenue stamp" shall be construed as a reference to any stamp by use of which payment of any tax or duty may be made or payment thereof or exemption therefrom may be denoted;
- (c) "the Treasury", except in section 27, shall be construed as a reference to the Financial Secretary.
- Section 6(1) shall be modified —
- (a) by the omission of the word "summary";
- (b) by the substitution of the following paragraph for paragraph (a) thereof —
- "(a) to a fine not exceeding the maximum of level 6 on the standard scale";

(c) by the omission of the words "six months" in paragraph (b) thereof and their replacement by the words "two years except in a case to which subsection (2) applies;"

Section 18 shall be modified:

(a) by the insertion in subsection (1) thereof, immediately after the words "British currency note" wherever they appear of the words "or Falkland Islands' currency note"; and

(b) by the insertion in subsection (2) thereof, immediately after the definition of "British currency note" of the following definition —

"Falkland Islands' currency note" means any note which has been issued under the authority of the Commissioner of Currency; and"

Section 19 shall be modified —

(a) by the insertion in subsection (1) thereof immediately after the words "British coin" and "British coins" of the words "or Falkland Islands' coin"

(b) in subsection (2) by the insertion, after the definition of "imitation British coins" of the following definition —

"imitation Falkland Islands coin" means any thing which resembles a Falkland Islands' coin in shape, size and the substance of which it is made"; and

(c) by the addition of a new subsection (3) —

"(3) For the purposes of this section, a British coin is not capable of being an imitation Falkland Islands' coin and a Falkland Islands' coin is not capable of being an imitation British coin".

Section 22 shall be modified:

(a) by the omission of subsection (1) thereof and by the substitution of the following subsection for that subsection —

“(1) A person convicted of an offence to which this subsection applies is liable —

(a) to a fine not exceeding the maximum of level 10 on the standard scale;

(b) to imprisonment for a term not exceeding 10 years;

(c) both such fine and such imprisonment”.

(b) by the omission of subsection (3) thereof and by the substitution of the following subsection for that subsection —

“(3) A person convicted of an offence to which this subsection applies is liable —

(a) to a fine not exceeding the maximum of level 5 on the standard scale;

(b) to imprisonment for a term not exceeding two years; or

(c) to both such fine and such imprisonment”; and

(c) by the omission of subsection (5) thereof and the substitution of the following subsection for that subsection —

“(5) A person convicted of an offence under section 18 or 19 above shall be liable to a fine not exceeding the maximum of level 4 on the standard scale”.

Section 24 shall be modified by the insertion before the words “justice of the peace” and “justice” of the words “the Senior Magistrate or”

(56) Criminal Attempts  
Acts 1981 (1981 c.47)

(56) The whole Act except  
sections 5(1), 7(1), 8, 9(4)  
and 11.

Section 27 is amended in paragraph (i) of subsection (1) by the insertion after the words "Northern Ireland" of the words "the Falkland Islands,"

(56) Section 1 shall be modified by the omission of subsection (4) thereof and by the substitution of the following subsection in its place —

"(4) This section applies to any offence which, if it were completed, would on conviction of the offender render him liable to imprisonment for two years or more, other than —

(a) conspiracy (at common law or under section 1 of the Criminal Law Act 1977 in its application to the Falkland Islands or under any other enactment);

(b) aiding, abetting, counselling, procuring or suborning the commission of an offence."

Section 4 shall be replaced by the following new section —

"4(1) A person guilty by virtue of section 1 above of attempting to commit an offence shall —

(a) if the offence is murder or any other offence the sentence for which is fixed by law, be liable on conviction to imprisonment for life;

(b) in any other case, be liable on conviction to any penalty to which he would have been liable on conviction of the substantive offence.

(2) Where a person is charged with an offence under section 1 above of an attempt under a special statutory provision of attempting to commit an offence and (in the alternative)



with having committed the offence he is also charged with having attempted to commit, the two charges shall, unless the court for some special reason decides to the contrary, be tried together.

(3) Where, in proceedings against a person for an offence under section 1 above, there is sufficient evidence in law to support a finding that he did an act falling within subsection (1) of that section, the question whether or not he did so is a question of fact.

(4) Where, in proceedings against a person for an offence under a special statutory provision, there is evidence sufficient in law to support a finding that he did an act falling within subsection (3) of section 3 above, the question as to whether or not his act fell within that subsection is a question of fact.

(5) Subsection (1) above shall have effect subject to such of the provisions of the Sexual Offences Act 1956 in its application to the Falkland Islands as relate to attempts to commit offences under that Act".

Section 9(5) shall be replaced by the following new subsection —

"(5) In this section —

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads;

"trailer" means a vehicle drawn by a motor vehicle except a side car attached to a motor cycle".

(57) Section 1 shall have effect only for the purpose of assisting the construction of subsequent provisions.

(57) Nuclear Materials  
(Offences) Act 1983 (1983  
c.18)

(57) The whole Act, except  
section 7.

(58) Child Abduction Act  
1984 (1984 c.37)

(58) The whole Act.

(58) Section 1(8) shall be modified by the insertion, immediately before the words "a local authority" of the words "the Government".

Section 4(1) shall be replaced by the following subsection —

"(1) A person convicted of an offence under this Part of this Act shall be liable to imprisonment for seven years."

(59) Public Order Act 1986  
(1986 c.64)

(59) The whole Act except Part II and Part IV and except section 29.

(59) Section 1(6) is modified by the omission of the words "or indictment"

Section 2 is modified by the omission of subsection (5) and by its replacement by the following subsection —

"(5) A person guilty of violent disorder is liable on conviction to a fine not exceeding the maximum of level 8 on the standard scale or to imprisonment for five years or both such fine and such imprisonment".

Section 3 is modified by the omission of subsection (7) and by its replacement by the following subsection —

"(7) A person guilty of affray is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for three years or both such fine and such imprisonment".

Section 4 is modified by the omission of the words "or summary conviction" in subsection (4).

Section 5 is modified by the omission of the words "on summary conviction" in subsection (6).

Section 7 is modified —

(a) by the substitution of the words "Attorney General" for the words "Director of Public Prosecutions" in subsection (1);

(b) by the omission of the words enclosed by parentheses in subsection (3); and

(c) by the omission of subsection (4).

Section 24 is modified by —

(a) the omission of the words “If in England and Wales” in subsection (1) and by the substitution in their place of the words “If the Senior Magistrate or”;

(b) the omission of paragraph (b) of subsection 4.

Section 26(1) is modified by the insertion after the word “Parliament” of the words “or in the Legislative Council”.

Section 27 is modified by the substitution of the following subsection for the subsection (3) therein appearing —

“(3) A person convicted of an offence under this Part is liable to imprisonment for a term not exceeding two years or to a fine not exceeding the maximum of level 7 on the standard scale or both such imprisonment and such fine”.

Section 29 is modified —

(a) in the definition of “broadcast” by the omission of the words in parentheses and by their substitution by the following words —

“within the meaning of the Telecommunications Ordinance 1988”; and

(b) the definition of “cable programme service” shall be omitted.

Section 39 is modified by —

(a) the omission of the word “summary” in subsection (2);

(b) the substitution of the following subsection for the subsection (5) appearing therein —

"(5) In this section —

"land" does not include buildings other than —

(a) buildings not being a dwelling used solely for agricultural operations and being occupied together with agricultural land or being or forming part of a market garden;

(b) buildings of which the occupier is the Crown (including Her Majesty in right of Her Government in the United Kingdom);

"occupier" means the person in law entitled to possession of the land;

"property" means property within the meaning of Section 10(1) of the Criminal Damage Act 1971 in its application to the Falkland Islands;

"senior police officer" means the most senior in rank of the police officers present at the scene (and where two or more police officers so present hold the same rank the most senior of those officers is the officer who has held that rank longest or, if no distinction in rank can thus be made, the oldest of those officers is the most senior);

"trespasser", in relation to land, means a person who is a trespasser as against the occupier of the land;

"vehicle" includes a caravan (that is to say, any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported as a motor vehicle or trailer) and any motor vehicle so designed or adapted but not including any tent);

(60) Night Poaching Act  
1828 (9 Geo.4 c.69)

(60) Sections 1,2,9, 12 and  
13.

(61) Game Act 1831 (1 & 2  
Will. 4 c.32)

(61) Sections 7 to 12 (in-  
clusive), 23, 24, 30, 31,  
31A (as inserted by section  
119 and Schedule 6 to the  
Police and Criminal  
Evidence Act 1984), 32,  
34, 36, 41 and 46.

(62) Night Poaching Act  
1844 (7 & 8 Vict. c.29)

(62) Section 1

(63) Dogs Act 1871 (34 &  
35 Vict. c.56)

(63) Section 2

(64) Cruelty to Animals  
Act 1876 (39 & 40 Vict.  
c.77)

(64) The whole Act except  
sections 15-20

and a person may be regard-  
ed for the purposes of this  
section as having the purpose  
of residing in a place not-  
withstanding that he has a  
home elsewhere".

(60) in section 13 the words  
"duck, geese" shall be in-  
serted after the word  
"grouse".

(64) Any reference to "the  
Secretary of State" shall be  
replaced by a reference to the  
Governor.

Any reference to a judge of  
the High Court shall be  
replaced by a reference to a  
judge of the Supreme Court.

Section 14 shall be replaced  
by the following section —

"14. Offences against this  
Act may be prosecuted  
before and penalties under  
this Act recovered before the  
Magistrate's Court and  
before the Summary Court".

(65) Dogs Act 1906 (6  
Edw. 7 c.32)

(65) Sections 1(4), 3 and 4.

(65) Section 3 is modified —

(a) by the omission of the  
words "of a police area" in  
subsection (6),

(b) by the substitution of the  
words "Consolidated Fund"  
for the words "police fund"  
wherever they appear in  
subsection (9).

(66) Protection of Animals  
Act 1911 (1 & 2 Geo. 5  
c.27)

(66) Sections 1,2,3 5(2), (3)  
and (4) and 7 to 15  
(inclusive)

(66) Sections 2, 11 and 12 are  
modified by the omission of  
the words "duly registered"  
wherever they appear therein.

(67) Cinematograph Films (Animals) Act 1937 (1 Edw. 8 & 1 Geo. 6 c.59)	(67) The whole Act	Section 11(3) is modified by the substitution of the words "out of the Consolidated Fund" for all words appearing after the word "defrayed".
(68) Dogs Amendment Act 1938 (1 & 2 Geo.6 c.21)	(68) The whole Act	(68) The words "the Supreme Court" shall be substituted for the words "Crown Court" wherever they appear in the Act.
(69) Prevention of Damage by Rabbits Act 1939 (2 & 3 Geo. 6 c.43)	(69) Part II	
(70) Docking and Nicking of Horses Act 1949 (12, 13 & 14 Geo. 6 c.70)	(70) The whole Act	(70) "customs officer" is substituted for the words "officer of Customs and Excise" wherever appearing in the Act and "Government Veterinary Officer" is substituted for "the Minister of Agriculture, Fisheries and Food" and "the said Minister" wherever appearing in the Act.
(71) Pet Animals Act 1951 (14 & 15 Geo. 6 c.35)	(71) Sections 2 and 3, 5(1) and 8(1).	
(72) Cockfighting Act 1952 (15 & 16 Geo. 6 & 1 Eliz. 2 c.59)	(72) The whole Act	(71) In the proviso to subsection 1(2) there shall be omitted the words "of fourteen days" and the words "by virtue of section thirty-one of the Summary Jurisdiction Act 1879".
(73) Dogs (Protection of Livestock) Act 1953 (1 & 2 Eliz. 2 c.28)	(73) The whole Act except section 3(2).	In section 2(1) (a) the words "for the police area in which the land is situated" shall be omitted.  "Governor" shall be substituted for the word "Minister" wherever appearing in the Act.

(74) Protection of Animals (Anaesthetics) Act 1954 (2 & 3 Eliz. 2 c.46)	(74) The whole Act except section 5(6)
(75) Game Laws (Amendment) Act 1960 (8 & 9 Eliz. 2 c.36)	(75) Sections 1, 4 and 6(1), (2) and (3)
(76) Abandonment of Animals Act 1960 (8 & 9 Eliz. 2 c.43)	(76) The whole Act
(77) Animals (Cruel Poisons) Act 1962 (10 & 11 Eliz 2 c.26)	(77) The whole Act
(78) Protection of Animals (Anaesthetics) Act 1964 (1964 c.39)	(78) Section 1 (except subsections (2) and (3)) and section 2(1)
(79) Agriculture (Miscellaneous Provisions) Act 1968	(79) Sections 1, 7(1) and (2)
(80) Game Act 1970 (1970 c.13)	(80) Sections 1(3) and 2(1)

#### *Auctions*

(81) Auctions (Bidding Agreements) Act 1927 (17 & 18 Geo.5 c.12)	(81) Sections 1 and 4(1)	(81) In section 1(1), the words after the word "Act" and appearing before the word "Provided" shall be omitted and replaced by the following words —  "and shall be liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale or to imprisonment for two years or to both such fine and such imprisonment"
(82) Mock Auctions Act 1961	(82) The whole Act except sections 2 and 4(2)	(82) The following subsection shall be substituted for section 1(2) —  "(2) A person convicted of an offence under this Act shall be liable to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for three months or both such fine and such imprisonment."

#### *Betting and Gaming*

(83) Gaming Act 1845 (8 & 9 Vict. c.109)	(83) Section 17
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*Charities*

(84) War Charities Act  
1940 (3 & 4 Geo. 6 c.31)

(84) Sections 1(1) and 9(2)

*Children*

(85) Children and Young  
Persons Act 1933 (23 Geo.  
5 c.12)

(85) Sections 1, 3 to 5 (in-  
clusive), 7, 10 to 12 (in-  
clusive), 14, 17, 20, 21, 23  
to 30 (inclusive), 39 and 40  
and First Schedule.

(85) The Act, so far as  
adopted, is modified  
generally —

(a) by deleting all references  
to byelaws and substituting  
for them references to  
regulations;

(b) by deleting all references  
to duly qualified medical  
practitioners and by  
substituting for them  
references to Government  
medical officers.

In section 1(1)(a) the words  
“on indictment” are omitted.

Section 1(1)(b) is omitted.

In section 1(5)(a) —

(i) the words “on indict-  
ment” are omitted; and

(ii) the words “penal ser-  
vitude” are omitted and  
replaced by the word  
“imprisonment”.

Section 1(5)(b) is omitted.

Section 3(2) is omitted.

The proviso to section 7(1) is  
omitted.

In section 10(1A) the words  
“local education authority”  
and “authority” are omitted  
and replaced by the words  
“Attorney General”.

In section 10(4) the words  
“Board of Education” are  
omitted and replaced by the  
words “Governor”.

The proviso to section 11 is  
omitted.

Section 12(5) is replaced by  
the following subsection —

“(5) Proceedings for an of-  
fence under this section may  
only be instituted by or on  
the direction of the Attorney  
General”.



In section 20(2) the words "A local authority" and "authority" are omitted and replaced by the words "the Governor".

Section 20(3) is omitted.

In section 23 the words "a chief officer of police" are omitted and replaced by the words "the Attorney General".

In section 24(2) the words "A local authority" are omitted and replaced by the words "the Governor".

In section 24(4) the word "authority" is omitted and replaced, in both places where it occurs, by the word "Governor".

In section 25(2) and (3) the words "a police magistrate" and "the police magistrate" are omitted wherever they occur and replaced by the words "the Senior Magistrate", and section 25(9) is omitted.

In section 28(1) the words "by the local authority or by a constable" are omitted and are replaced by the words "by or on behalf of the Government or by a police officer".

In section 28(2) the words "Any authorised officer of the said authority or any constable" are omitted and are replaced by the words "A police officer".

In section 28(3) —

(a) the words "any officer or constable" are omitted and replaced by the words "a police officer"; and (b) the word "summary" is omitted.

In section 39(2) the word "summary" is omitted.

(86) In section 35(2) -

(a) the words "or section 30 of the principal Scottish Act" shall be omitted.

(86) The Children and  
Young Persons Act 1963 (9  
& 10 Eliz. 2 c.39)

(86) Section 35(2)

(87) Tattooing of Minors  
Act 1969 (1969 c.24)

(88) Criminal Libel Act  
1819 (60 Geo.3 & 1 Geo. 4  
c.8)

(89) Libel Act 1843 (6 & 7  
Vict. c.96)

(87) The whole Act

*Libel and Slander*

(88) Sections 1 to 3  
(inclusive)

(89) Sections 4 to 7 (in-  
clusive) and 9

(b) the words "either of  
those sections" shall be  
omitted and replaced by  
the words "that section".

(89) Section 4 is modified  
by the omission of the  
words "common gaol or  
house of correction".

Sections 6 and 7 are  
modified by the omission  
of all references to an  
indictment.

(90) Newspapers, Printers  
and Reading Rooms  
Repeal Act 1869 (32 and  
33 Vict. c.24)

(91) Newspaper Libel and  
Registration Act (44 and  
45 Vict. c.60)

(92) Law of Libel Amend-  
ment Act 1888

(90) Sections 1 and 2 and  
Second Schedule

(91) Sections 4 and 9 to 12  
(inclusive), 18 and 20

(92) Sections 8 and 11

*Post Office*

(93) Post Office Act 1953  
(1 & 2 Eliz.2 c.36)

(93) Sections 11, 22, 23(1),  
25, 26, 27(4), 28, 32, 53,  
55 to 69 (inclusive) and 89

(93) Where, in any provi-  
sion adopted, there is a  
reference to a person being  
liable on conviction to a  
fine, and the maximum  
amount of that fine is not  
specified, the maximum  
fine is the maximum of  
level 4 on the standard  
scale.

Any reference in any provi-  
sion adopted to a misde-  
meanour is replaced by a  
reference to an offence.

Section 11(2) is replaced by  
the following  
subsection —

"(2) A person contravening  
subsection (1) above com-  
mits an offence and is  
liable on conviction to a  
fine not exceeding the  
maximum of level 5 or to  
imprisonment for a term  
not exceeding twelve  
months or both such fine  
and such imprisonment."

*Theatres*

(94) Theatres Act 1968  
(1968 c.54)

(94) Sections 2 to 10 (inclusive) 15(1) (2) and (3),  
16, 18 and 20(1)

(94) In section 15(1) —  
(a) The words “Senior Magistrate or” shall be inserted before the words “justice of the peace” and “justice”; and  
(b) the words “authorised officer of the licensing authority” shall be omitted.

**Part 2**

*General adaptations and modifications  
of enactments mentioned in Part 1 above*

Except as specifically otherwise provided, every reference in any enactment mentioned in Part 1 above to —

“the Attorney General” shall be construed as a reference to the Attorney General of the Falkland Islands

“England”, “England and Wales”, “Great Britain” or “the United Kingdom”, save in relation to citizenship of the United Kingdom, and except where the context otherwise requires shall be construed as a reference to the Falkland Islands

“felony” or “misdemeanour” shall be construed as a reference to an offence

“the High Court” shall be construed as a reference to the Supreme Court

“the Director of Public Prosecutions” shall be construed as a reference to the Attorney General

“the Secretary of State” shall, unless other provision is made in Part 1 above of this Schedule, be construed as a reference to the Governor

a “constable” shall be construed as a reference to a “police officer”

**SCHEDULE 2 (section 21(2))**

*Offences related to Torture triable only on indictment*

Attempted torture;

Counselling, procuring, commanding, aiding or abetting torture.

(Section 41(1))

**SCHEDULE 3**

*Amendments of Ordinances*

1. Application of Enactments Ordinance 1954.

1A. In the Schedule there are deleted all references to —

(a) Licensing Act 1902;

(b) Prevention of Corruption act 1906;

(c) Perjury Act 1911;

(d) Larceny Act 1916;

(e) Prevention of Corruption Act 1916;

- (f) Gaming Act 1922;
- (g) Protection of Animals (Cruelty to Dogs) Act 1933;
- (h) Vagrancy Act 1935;
- (i) Coinage Offences Act 1936;
- (j) Treason Act 1945;
- (k) Coinage Act 1946;
- (l) Suicide Act 1961;
- (m) Sexual Offences Act 1956;
- (n) Obscene Publications Act 1959.

B. All references in item 38 of the Schedule to provisions of the Children and Young Persons Act 1933 adopted by this Ordinance shall be omitted.

2. Sections 42 to 45 inclusive.

In the Schedule paragraphs (3),(4),(7),(8) and (9) are deleted.

2. Prison Ordinance 1966

3. Interpretation and General Clauses Ordinance 1977

Ref: LEG/10/72.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Media Trust Ordinance 1989

(No. 11 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Interpretation.
3. Establishment of a Media Trust.
4. Appointment of trustees.
5. Duties of trust.
6. Duties of trustees.
7. Powers of trust.
8. Books of Accounts to be kept.
9. Annual Accounts.
10. Limitation of expenditure.
11. Subsidy by the Government.
12. Meetings of trust.

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12. Meetings of trust.



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Media Trust Ordinance 1989

(No. 11 of 1989)

An Ordinance to establish a trust to be responsible for the editorial policy, control and publishing of a newspaper and editorial policy of the Falkland Islands Broadcasting Station and for connected purposes.

*(assented to: 26th July 1989)*  
*(commencement: on publication)*  
*(published: 2nd August 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Media Trust Ordinance 1989. Short title.
2. In this Ordinance, unless the context otherwise requires — Interpretation.
  - “the company” has the meaning ascribed by section 3(1) below;
  - “the broadcasting station” means the Falkland Islands Broadcasting Station;
  - “the newspaper” means the newspaper referred to in section 5; and
  - “the trust” means the trust established by section 3.
3. (1) There shall be a trust known as the Falkland Islands Media Trust (“the trust”) which shall be a body corporate with perpetual succession and a common seal. Establishment of a Media Trust.
  - (2) All the property which immediately prior to the commencement of this Ordinance belonged to Penguin News Limited (“the company”) is hereby vested in the trust.
  - (3) All debts and liabilities whatsoever of the company immediately prior to the commencement of this Ordinance are hereby transferred to and become the debt and liabilities of the Government which shall pay and discharge or perform the same (if any) as soon as conveniently may be or, with the consent of persons entitled to the benefit of the said trust transfer them to the trust for the trust to pay, discharge or perform the same.
  - (4) Penguin News Limited is hereby dissolved.
4. (1) The Governor acting in his discretion shall appoint five persons to be members of the trust (“trustees”). Appointment of trustees.
  - (2) No person who is —

- (a) not qualified to be registered as a voter under the Electoral Ordinance 1988;
- (b) is a member of the Legislative Council; or
- (c) is disqualified from election as a member of the Legislative Council

may be appointed as a trustee.

(3) A trustee shall subject to subsection (4) below hold office as such for four years but, subject to this Ordinance, is eligible for re-appointment.

(4) A trustee shall cease to hold office as such —

- (a) on ceasing to be qualified to be registered as a voter under the Electoral Ordinance 1988;
- (b) on becoming a member of the Legislative Council;
- (c) on becoming disqualified to be elected as a member of the Legislative Council;
- (d) on delivering his resignation in writing to the Governor; or
- (e) on being removed from office by the Governor acting in his discretion.

5. (1) Subject to subsection (2) it shall be the object of the trust, so far as funds belonging to or made available to the trust and all other relevant circumstances allow — Duties of trust.

- (a) to publish regularly a newspaper to circulate in the Falkland Islands and to be available for persons outside the Falkland Islands to purchase on subscription;
- (b) to ensure that the newspaper and the broadcasting station are in their respective editorial policies independent from control by the Government, any political party, trade union, religious body, or any other body, sect or interest group other than the trust;
- (c) to ensure that the newspaper and the broadcasting station are informative of news and current affairs within the Falkland Islands, likely to be of interest generally to persons in the Falkland Islands and so far as is ancillary thereto and, in the opinion of the trust likely to be of interest to such persons, informative of matters outside the Falkland Islands;
- (d) subject to subsection (3), to ensure as far as possible that the programmes broadcast by the broadcasting station comply with the following requirements —
  - (i) that nothing is included in the programmes which offends against good taste or decency or is likely to incite to crime or lead to disorder or to be offensive to public feeling;
  - (ii) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;
  - (iii) that proper proportions of the recorded and other matter included in the programmes are of Falkland Islands' origin;
  - (iv) that due impartiality is preserved on the part of the persons providing the programmes in relation to any matter which, for any reason, is likely to be controversial;
  - (v) that a sufficient amount of broadcasting time is made available, at suitable times of day, for official, governmental or other announcements;
  - (vi) that a sufficient amount of broadcasting time be afforded free of charge, impartially between candidates, at times of Legislative Council and other elections, to public bodies in the Falkland Islands.

(2) The duties under subsection (1) are qualified so as to permit and take into account any restraint on the freedom of speech contemplated under the provisions of the Constitution or, subject to the Constitution, required by law.

(3) The duties under subsection (1)(d) above do not extend so as to in any way require the broadcasting time at the commencement of this Ordinance allotted to the British Forces Broadcasting Service to be varied, or to cast upon the trust any responsibility for the content of programmes broadcast by that service or by the British Broadcasting Corporation and relayed by the broadcasting station.



(4) The trust may delegate to an editor of the newspaper the day to day performance of its duties under subsection (1) above so far as they affect a newspaper, but the trustees shall nonetheless continue to be responsible for the performance of the same.

(5) The broadcasting station shall remain the property of the Government and the staff thereof shall be and continue to be employed by the Government and the financial control of the broadcasting station and its finances shall be the responsibility of the Government: accordingly, nothing in section 6 to 11 below applies in respect of the broadcasting station.

6. (1) Every trustee shall, subject to this Ordinance, have the like duties towards the trust and to persons dealing with the trust as if —

Duties of trustees.

- (a) the trust were a company registered with limited liability under the provisions of the Companies Act 1948 in its application to the Falkland Islands; and
- (b) he were a director of that company.

(2) A trustee shall not be personally liable in respect of anything done by him in his capacity as a trustee unless were the trust a company of the kind mentioned in subsection (1) above and were he a director of that company he would be personally liable as such director under the provisions of the said Act.

7. The trust shall have such powers as are set out in Schedule 1 to this Ordinance but subject to such conditions as are there set out.

Powers of trust.

8. (1) The trust shall in relation to the newspaper keep or cause to be kept such books of account as are necessary faithfully to record all financial transactions of the trust and of the newspaper and all such books of account shall be produced at all reasonable times to the Financial Secretary, the Principal Auditor or any other public officer authorised by either of them.

Books of Accounts to be kept.

(2) The provisions of the Finance and Audit Ordinance 1988 as to the audit of accounts shall apply to the books of account required to be kept by subsection (1) and as to the trustees and employees of the trust as if they were public officers and the books of account were kept in relation to expenditure and income of a department of government.

(3) Nothing in subsection (2) shall render the funds of the trust public funds or require its accounts to be treated as part of the public accounts of the Falkland Islands.

9. (1) The trust shall, in the month of July in every year, cause a profit and loss account as to its activities in the period to the preceding 30th June, and a balance sheet as at that date ("the annual accounts") to be drawn up and, as soon as conveniently possible thereafter, audited.

Annual accounts.

(2) The annual accounts and the auditor's report thereon shall, as soon as reasonably possible, be transmitted to the Governor who shall cause the same to be laid on the table of the Legislative Council at the first convenient meeting of that council after he receives them from the trust.

(3) So soon as reasonably possible after the Legislative Council meeting referred to in subsection (2) above the profit and loss account and balance sheet and auditor's report thereon shall be published in the Gazette.

10. (1) It shall not be lawful for the trust to expend, or to commit itself to expenditure of, any sum which is reasonably likely to cause to be exceeded the aggregate of —

Limitation of expenditure.

- (a) the income likely to be received from sale of newspapers and advertising space and any other business carried on by the trust with the consent of the Governor;
- (b) any subvention or subsidy paid or payable to the trust by the Government or by any other authority.
- (c) any gift of money paid or payable to the trust;
- (d) any sum borrowed by the trust with the consent of the Governor.

(2) A trustee who knowingly permits the trust to incur expenditure contrary to subsection (1) above is personally liable to reimburse that expenditure unless the Governor relieves him of that liability by instrument under his hand.

- |   |                            |
|---|----------------------------|
| 11. There may be paid out of the Consolidated Fund to the trust such sums as are appropriated by Ordinance for the purpose. | Subsidy by the Government. |
| 12. Schedule 2 of this Ordinance shall apply in relation to meetings of the trust and procedure thereat.                    | Meetings of trust.         |

## SCHEDULE 1

(section 7)

1. To continue to publish and circulate the newspaper known as the "Penguin News" and to make arrangements, subject to the approval of the Governor advised by the Executive Council as to its printing.
2. Subject to such restrictions and conditions as may be notified by the Governor to carry on the business of newspaper proprietors and general publishers and advertising agents.
3. Subject to this Ordinance, to employ such staff as may be appropriate for the foregoing purposes.
4. To acquire, use and operate such property of any kind as may be necessary for any of the foregoing purposes, on such terms as the trust thinks fit, subject to this Ordinance, and to dispose of any property belonging to it on such terms as the trust thinks fit.
5. To purchase or take on lease such buildings and land as may be necessary for any of the foregoing purposes.
6. With the consent of the Governor, to open and operate such bank accounts for any of the above purposes: provided that all cheques and other bills of exchange shall be signed by at least two trustees.
7. With the prior consent of the Governor, and subject to such conditions as he may specify, to borrow money for the purposes of the trust.

## SCHEDULE 2

(section 12)

1. The trust shall meet at least four times in every year and meetings shall be on such dates and at such times as shall be decided by the Chairman, subject to paragraph 5.
2. The trustee appointed by the Governor to be Chairman of the trust shall chair meetings of the trust when he is present: in his absence the trustees present at the meeting shall elect one of their number to chair the meeting.
3. The quorum for every meeting of the trust shall be three trustees personally present and no business shall be transacted at any time when a quorum is not present except to adjourn that meeting.
4. All matters coming before the trust for decision at a meeting shall be decided in accordance with the views of the majority of the trustees present at the meeting, if necessary upon a vote of the trustees. In the event of an equality of votes, the chairman of the meeting shall have and shall exercise a second or casting vote.
5. Any two trustees may requisition a meeting of the trust at any time by writing signed by them delivered to the Chairman and the Chairman on receipt of such a requisition shall convene a meeting to be held within fourteen days.
6. At least seven days' notice shall be given of every meeting unless such notice is abridged by consent of at least four trustees.
7. Any person may attend a meeting by invitation of the trustees and, if so invited, may speak thereat, but he shall not vote.
8. The trustees shall appoint one of their number or some other person to keep minutes of each of their meetings and shall deliver a copy of such minutes so soon as available (without waiting for confirmation thereof) to the Governor, the Chief Executive and the Financial Secretary.
9. Subject to the foregoing, and to the Ordinance, the trust may regulate its own procedure.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Land (Amendment) Ordinance 1989.

(No. 12 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Amendment of the Land Ordinance.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

# The Land (Amendment) Ordinance 1989.

(No. 12 of 1989)

## An Ordinance to amend the Land Ordinance.

(assented to: 26th July 1989)  
(commencement: on publication)  
(published: 2nd August 1989)

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Land (Amendment) Ordinance 1989.

2. The Land Ordinance is amended —

- (a) by the substitution of the words "Chief Executive" for the words "Colonial Secretary" wherever appearing therein, and by the words "Senior Magistrate" for the words "magistrate" wherever appearing therein;
- (b) by the repeal of sections 23(2) and 26 thereof;
- (c) by the insertion in section 25 thereof after the words "Crown lands held by him" of the words "and farmed or worked together with the land comprised in the first-mentioned lease";
- (d) by the addition to section 28 thereof of the following new subsections (3) and (4) —

"(3) Subject to subsection (4) every reservation, restriction or condition contained in any lease conveyance or grant of land by the Crown as lessor transferror or grantor shall be enforceable by the Crown against the lessee, transferee or grantee of the land concerned and every successor in title of his under that lease, conveyance or grant and whether the reservation, restriction or condition shall be positive or negative in nature and notwithstanding any rule of law or equity otherwise to the contrary and without (in the case of a restriction or condition in the nature of a negative obligation or restrictive obligation or restrictive covenant (however described)) the same having been annexed for the benefit of other land owned by the Crown and capable of benefiting therefrom and without

Short title.

Amendment of  
the Land  
Ordinance.

the Crown being obliged to show that it owns or has any interest in any land capable of benefitting therefrom.

(4) Subsection (3) shall have effect subject to section 27 above";

(e) in section 28A —

- (i) by the insertion at the commencement thereof of the words "(1 Subject to subsection (2))";
- (ii) by deleting at the commencement of paragraphs (1), (2), (3), (4), (5), (6) and (7) those numeric prefixes and substituting for them respectively the alphabetical prefixes (a), (b), (c), (d), (e), (f) and (g);
- (iii) by adding thereto the following subsection —

"(2) Nothing in subsection (1) applies insofar as would be inconsistent with any agreement comprised in any deed registered under this Ordinance binding upon the respective owners or their respective predecessors in title or so as to impose on the Crown any obligation contrary to a condition to which section 28(3) relates."

Ref: LND/10/1.

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Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Land (Subdivision for Non-Residents) Amendment Ordinance 1989

(No. 13 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Amendment of section 2 of Land (Subdivision for Non-Residents) Ordinance 1985.

## ELIZABETH II



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

The Land (Subdivision for Non-Residents) Amendment Ordinance  
1989

(No. 13 of 1989)

An Ordinance to amend the Land (Subdivision for Non-Residents)  
Ordinance 1985.

*(assented to: 26th July 1989)*  
*(commencement: on publication)*  
*(published: 2nd August 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Land (Subdivision for Non-Residents) (Amendment) Ordinance 1989.

Short title.

2. Section 2 of the Land (Subdivision for Non-Residents) Ordinance 1985 is amended by deleting the definition of "non-resident" presently therein appearing and substituting therefor the following new definition —

Amendment of  
section 2 of  
Land (Subdivi-  
sion for Non-  
Residents) Or-  
dinance 1985.

““non-resident”, means

(a) in relation to a corporation —

- (i) a corporation incorporated or existing as a body corporate other than under the laws of the Falkland Islands; and
- (ii) a company incorporated under the laws of the Falkland Islands the majority of the issued share capital or stock of which carrying voting rights at general meetings of the company is owned directly or indirectly by persons who, having regard to paragraph (c) below, are to be treated as being non-resident and, any company the issued share capital or stock of which is divided into two or more classes carrying voting rights at general meetings of the company or of any class of shareholders or stockholders, if the majority of the shares or stock of any such class is owned directly or indirectly by persons who under paragraph (c) below, are to be regarded as non-resident; and



- (b) in relation to partnership firms having separate legal personality under the Companies and Private Partnership Ordinance or otherwise, any such partnership firm where, if the partnership were to be dissolved at the time in question, persons who, having regard to paragraph (c) below, are to be regarded as non-resident would be entitled to receive in aggregate the greater part of any surplus of the assets of the partnership over the liabilities of the partnership; and
- (c) in relation to persons, any person who if —
  - (i) the day in question were the qualifying date (within the meaning of the Electoral Ordinance 1988);
  - (ii) he was then a Commonwealth citizen of or above the age of eighteen years,  
(disregarding any circumstance other than non-residence by reason of which he might be disqualified) would not be entitled to be registered as an elector by reason of his not being regarded as being resident for the purposes of the registration provisions of that Ordinance; and
- (d) any overseas government or governmental authority except Her Majesty's Government in the United Kingdom or a department or ministry of that government".

Ref: LND/10/1.

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Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)**

**PUBLISHED BY AUTHORITY**

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**NOTICE**

The following are published in this Gazette —

**The Interpretation and General Clauses (Amendment) Ordinance (No. 14 of 1989);**

**The Road Traffic (Amendment) Ordinance (No. 15 of 1989);**

**The Petroleum Products (Amendment) Ordinance (No. 16 of 1989).**

# Interpretation and General Clauses (Amendment) Ordinance 1989

(No. 14 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Interpretation.
3. Amendment of the principal Ordinance.

### Schedule

ELIZABETH II



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

## Interpretation and General Clauses (Amendment) Ordinance 1989

(No. 14 of 1989)

## An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

(assented to: 26th July 1989)  
(commencement: on publication)  
(published: 4th August 1989)

ENACTED by the Legislative Council of the Falkland Islands, as follows —

- |  |                                   |
|--|-----------------------------------|
| 1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1989.         | Short title.                      |
| 2. In this Ordinance, "the principal Ordinance" means the Interpretation and General Clauses Ordinance 1977. | Interpretation.                   |
| 3. The principal Ordinance is amended in the manner specified in the Schedule hereto.                        | Amendment of principal Ordinance. |

SCHEDULE  
*Amendments of principal Ordinance*

(section 3)

(a) Section 1 of the principal Ordinance is amended by the insertion of the figures "1977" after the word "Ordinance" appearing therein.

(b) Section 2 of the principal Ordinance is repealed and replaced by the following new section 2 —

"Application to other  
instruments and to itself.  
(1978 c.30 s.23(1))

2. (1) The provisions of this Ordinance apply, so far as is applicable, and unless contrary intention appears, to all Ordinances and subsidiary legislation and whether enacted or made before or after the commencement of this Ordinance.

(1978 c.30 s.23(2))

(2) In the application of this Ordinance to Ordinances enacted or subsidiary legislation made after the commencement of this Ordinance, all references to an enactment include an enactment comprised in subsidiary legislation whenever made, and references to the enactment passing or repeal of an enactment are to be construed accordingly.

(3) This Ordinance shall apply to itself, but notwithstanding subsections (1) and (2) of this section, this Ordinance does not apply to any imperial enactment to which the Interpretation Act 1978 applies."

(c) Section 3 of the principal Ordinance is amended as follows —

(i) the definition of “alien” appearing therein is repealed and replaced by the following definition —

“alien” —

(a) in relation to any time before 1st January 1983, means any person who was not, at that time:

(i) a British subject, a British protected person (within the meaning of those phrases under the British Nationality Act 1948); or

(ii) a citizen of the Republic of Ireland; and

(b) in relation to any time after 31st December 1982, means any person who is not, at that time —

(i) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British subject (within the meaning of those phrases under the British Nationality Act 1981); or

(ii) a Commonwealth citizen (within the meaning of that phrase under the British Nationality Act 1981); or

(iii) a citizen of the Republic of Ireland;

(ii) the definition of “Chief Secretary” appearing therein is repealed and replaced by the following new definition —

“Chief Executive” means the person for the time being holding or acting in the office of “Chief Executive;”

(iii) by inserting, immediately after the definition of “common law” the following new definition —

(S.I. 1985 No. 444)

“the Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985;”

(iv) by repealing the definition of “The Dependencies”;

(v) by inserting immediately after the definition of “dues”, the following new definition —

“enactment” includes any imperial enactment, any Ordinance and any subsidiary legislation;”

(vi) by repealing the definitions of “Governor”, “Governor in Council”, “Governor in Executive Council” and “Governor with the advice of Executive Council” and replacing them with the following definition —

“Governor”, “Governor in Council”, “Governor in Executive Council” and “Governor with the advice of Executive Council” mean the Governor or other officer for the time being administering the Government of the Colony acting after consultation with the Executive Council except in any case where the Constitution authorises or requires him to act otherwise than after such consultation where it shall mean, the Governor acting in his discretion;”

(vii) by repealing the definition of “Harbour” appearing therein and replacing it with the following definition —

"Harbour" has the same meaning as it has under the Harbour Ordinance;

- (viii) by repealing the definition of "judge" appearing therein and by replacing it with the following definition —

"judge" means the Chief Justice and any person appointed to sit as an acting judge of the Supreme Court under section 80(1) of the Constitution;"

- (ix) by repealing the definition of "Magistrate" appearing therein and replacing it with the following definition —

"Magistrate's Court" means the court of that name existing under the Administration of Justice Ordinance;"

- (x) by repealing the definition of "land" and by replacing it with the following definition —

"land" includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

- (xi) by repealing the definition of "Ordinance" and "enactment" appearing therein and by replacing it with the following definition —

"Ordinance" means any Ordinance enacted by the Governor and any subsidiary legislation made under any such Ordinance;"

- (xii) by amending the definition of "statutory declaration", in paragraph (a) of such definition by amending the title of the Act therein mentioned to read "Statutory Declarations Act 1835";

- (xiii) by inserting, immediately after the definition of "subsidiary legislation" and "regulations", the following definition —

"Summary Court" means the court of that name existing under the Administration of Justice Ordinance;"

- (xiv) by repealing the definition of "summary conviction" appearing therein and replacing it with the following definition —

"summary conviction" means a conviction otherwise than on indictment;"

- (xv) by repealing the definition of "territorial waters" appearing therein and by replacing it with the following definition —

"territorial sea" and "territorial waters" means such part of the seas surrounding the Colony as in accordance with the law of the Falkland Islands are the territorial sea or territorial waters of the Falkland Islands;"

- (xvi) by adding to the definition of "treaty" appearing therein, immediately after the word "thereto" the following words —

"(but nothing in this definition shall be construed as applying to the Falkland Islands anything to which it refers and which would not, apart from this definition, so apply)"; and

(xvii) by repealing the definition of "triable summarily" appearing therein and replacing it with the following definition —

"“triable summarily”, in relation to an offence, means triable by the Magistrate’s Court or by the Summary Court (and notwithstanding that the offence might also be triable on indictment);”

(d) Section 8 of the principal Ordinance is repealed and replaced by the following section —

“References to service by post.

(1978 c.30 s.7)

**8.** Where an Ordinance or subsidiary legislation authorizes or requires any document to be served by post (whether the expression “serve” or the expression “give” or “send” or “notify” or any other expression is used) then, unless (the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time when the letter would be delivered in the ordinary course of the post.”

(e) Section 11 of the principal Ordinance is repealed and is replaced by the following section 11 —

“Citation of other Ordinances.

**11.** (1) Where an Ordinance cites another Ordinance by year, number in a year, chapter or title number or a section or other portion of another Ordinance by number or letter, the reference shall, unless the contrary intention appears, be read as referring —

- (a) in the case of Ordinances included in any revised edition of the laws printed by authority, to that edition;
- (b) in the case of Ordinances not so included, to the Ordinances published in the Gazette with such rectifications as may have been made by Order made under section 101(1);

(f) The principal Ordinance is amended by inserting therein the following new section 11A, immediately after section 11 —

“Evidence in relation to certain matters concerning Ordinances.

**11A** (1) Where, in accordance with paragraph 4 of Annex A to the Constitution any printed copy of an Ordinance printed by the Government Printer or other authorised printer bears printed thereon —

- (a) in the case of an Ordinance assented to by the Governor particulars of the day on which he gave such assent;
- (b) in the case of a law assented to by Her Majesty through a Secretary of State, particulars of the day on which the Governor signified such assent thereto by proclamation in the Gazette;
- (c) particulars of the day on which the law was published in the Gazette; or
- (d) particulars of the day on which the law came into operation or, if that day shall not have been determined, a reference to the provision whereby it may be determined,

those particulars shall, unless the contrary be proved, be deemed to be correctly stated and shall be received without further proof as evidence of the facts to which the particulars in question relate.

(2) Where any Ordinance or other instrument or document whatsoever bears thereon a statement printed thereon that the Ordinance, instrument or document was printed by the Government Printer or another authorised printer, that statement shall, unless the contrary be proved, be deemed to be correctly made and shall be received without further proof as evidence of the fact stated.”;

(g) Section 12 of the principal Ordinance is repealed and replaced by the following new Section 12 —

"Publication and  
commencement of laws.

12. (1) Nothing in section 11A shall be construed as permitting any Ordinance to come into operation until such time as it has been published in the Gazette.

(2) If so expressed therein, a law may have effect retrospective from the date of its publication in the Gazette, but —

- (a) no act or omission which did not constitute an offence at the time it was done or made shall retrospectively become an offence; and
- (b) no law shall render any offence committed before that law came into operation punishable more severely than it would have been if that law had not been made.

(3) For the sake of avoidance of doubt, it is declared that this section applies to subsidiary legislation as well as to Ordinances";

(h) Sections 14(1) and 14(2) and section 15 of the principal Ordinance are amended by inserting therein immediately after the word "Ordinance", wherever appearing therein, the words 'or other enactment';

(i) Section 16(1) of the principal Ordinance is repealed and replaced by the following subsection —

'(1) Any reference in any enactment to "any Ordinance", "any Ordinance or other enactment" or to "any enactment" shall be construed as follows —

- (a) in the case of a reference to "any Ordinance", to any Ordinance for the time being in force; and
- (b) in the case of a reference to "any Ordinance or other enactment" or to "any enactment", to any enactment for the time being in force";

(j) Section 16(2) and 16(3) of the principal Ordinance are amended by the insertion immediately after the word "Ordinance" wherever it appears therein, of the words "or other enactment";

(k) Section 19 of the principal Ordinance is repealed and replaced by the following —

"19. A copy of every Ordinance for the time being in force and a copy of all subsidiary legislation for the time being in force shall be available for inspection without charge at the offices of the Attorney General during such time as the same are open for business";

(l) Section 20 of the principal Ordinance is repealed and replaced by the following —

"Printing of laws.

20. (1) Paragraph 4 of Annex A to the Constitution applies to the printing of laws.

(2) For all purposes of this Ordinance a law which is published in a supplement to the Gazette which is issued with and published at the same time as, and which is referred to in, an issue of the Gazette is deemed to have been published in that issue";

(m) Sections 23, 24 and 25 of the principal Ordinance are repealed and replaced by the following new sections 23, 24 and 25 —

"Repeal of repeal.  
(1978 c.30 s.15)

23. Where an Ordinance repeals a repealing enactment, the repeal does not revive any enactment previously repealed unless words are added reviving it.

Effect of repeal generally.

24. (1) Without prejudice to section 23, where an Ordinance repeals an enactment, the repeal does not, unless the contrary intention appears —

(1978 c.30 s.16)

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment;
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against that enactment;
- (e) affect any investigation, legal proceeding or remedy in respect



of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

(2) This section applies to the expiry of a temporary enactment as if it had been repealed by an Ordinance.

Repeal and re-enactment.

25. (1) Where an Ordinance repeals a previous enactment and substitutes provisions for the enactment repealed, the repealed enactment remains in force until the substituted provisions come into force.

(1978 c.30 s.17)

(2) Where an Ordinance repeals and re-enacts, with or without modification, a previous enactment then, unless the contrary intention appears, in so far as any subsidiary legislation made or other thing done under the enactment so repealed, or having effect as if so made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision";

(n) Section 32 of the principal Ordinance is amended by deleting the words "after the publication of the Ordinance in the Gazette" appearing therein and by replacing them with the words "after the Ordinance has been assented to";

(o) Section 36 of the principal Ordinance is repealed and replaced by the following section —

"36. (1) Where any subsidiary legislation continues to have effect under section 25(2), it may be amended as if made under the repealing or re-enacting Ordinance.

(2) Where an Ordinance repeals and re-enacts any enactment and any subsidiary legislation made under the repealed enactment continues to have effect under section 25(2) above or any provision of that repealing Ordinance, that subsidiary legislation may be revoked by any subsidiary legislation made under the repealing Ordinance."

(p) Section 39(2) of the principal Ordinance is amended by the deletion of the words "the holder for the time being of that public office" appearing therein and by replacing them with the words "the person holding or acting in that office for the time being";

(q) Section 40(4) of the principal Ordinance is repealed and is replaced by the following subsection —

"(4) Subsection (3) has effect in relation to any public officer, public body or authority having powers to which subsection (1) relates as it has effect in relation to the Governor";

(r) Section 41(2) of the principal Ordinance is amended by the deletion of the words "Nothing in this section shall affect" and by replacing them with the words "Nothing in subsection (1) shall authorise any person to contravene any applicable rule of natural justice or";

(s) Section 55(3) and section 56 of the principal Ordinance are amended by the deletion of "Chief Secretary" and by replacing them with the words "Chief Executive";

(t) Section 63(1) of the principal Ordinance is amended by deleting everything appearing after the word "signified" appearing therein and by inserting after that word the words "under the hand of the Clerk of the Councils";

(v) Section 64 of the principal Ordinance is repealed;

(w) Sections 65(4) and (5) of the principal Ordinance are repealed;

(x) Section 78 of the principal Ordinance is amended —

(i) by constituting the existing section as subsection (1) of that section; and

(ii) by adding to section 78 the following new subsection —

"(2) Without prejudice to subsection (1), a reference in any law to an imperial enactment shall be construed as extending to any later imperial enactment which modifies or augments the earlier imperial enactment."

(y) Section 90 of the principal Ordinance is repealed and replaced by the following section —

"90. (1) All offences are triable summarily except offences which by any provision of any Ordinance are required to be tried on indictment.

(2) Any offence which, under subsection (1), may be tried summarily and which is punishable on conviction by imprisonment for six months or more or by a fine exceeding £2,500 or more or by both such imprisonment and such fine may, subject to subsection (3) and (4), be tried on indictment.

(3) An offence to which subsection (2) relates may only be tried on indictment if the offender is committed by a competent court for trial on indictment before the Supreme Court.

(4) A person may only be committed for trial on indictment before the Supreme Court in respect of an offence which under subsection (1) is triable summarily if —

(a) on the same occasion he is committed for trial on indictment before the Supreme Court in respect of another offence which is not triable summarily; or

(b) he was on an earlier occasion so committed in respect of an offence which is not triable summarily and he has yet to stand his trial before the Supreme Court in respect of that offence";

(z) Section 93 of the principal Ordinance is amended by the deletion of all words appearing after the words "Attorney General" where they first appear therein and by substituting for the first mentioned words the words "that provision shall be construed as providing that such a prosecution may only be instituted by or with the consent of the Attorney General and that no other consent is required."

(aa) Section 95 of the principal Ordinance is amended —

(a) by deleting the words "general revenue of the Colony" appearing therein and by replacing them with the words "Consolidated Fund"; and

(b) by deleting the proviso;

(ab) Section 96 of the principal Ordinance is amended by deleting the words "general revenue of the Colony" appearing therein and by replacing them with the words "Consolidated Fund"; and

(ac) Section 105 of the principal Ordinance is repealed and replaced by the following section —

"Publication of Ordinances as amended.

**105.** (1) The Government Printer may, with the authority of the Attorney General, print a consolidated version of any law (that is to say, incorporating therein all amendments which have been made to such law since the same was enacted or made) and may publish any such consolidated version in the Gazette.

(2) Any consolidated version of a law published pursuant to this section shall bear at the foot thereof a statement that it is published pursuant to this section and that it is a consolidated version and shall be admissible in evidence and, unless the contrary be proved, shall be deemed correctly to state the content of the law in question at the date of its publication in the Gazette."

Ref: LEG/10/5.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*

# Road Traffic (Amendment) Ordinance 1989

(No. 15 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Amendment of Cap 60.



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### Road Traffic (Amendment) Ordinance 1989

(No. 15 of 1989)

#### An Ordinance to amend the Road Traffic Ordinance.

*(assented to: 26th July 1989)*

*(commencement: on publication)*

*(published: 4th August 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 1989.
2. The Road Traffic Ordinance is amended in the manner specified in the Schedule to this Ordinance.

Short title.

Amendment of  
Cap.60.

#### SCHEDULE (section 2)

The Road Traffic Ordinance is amended

- (a) by the repeal of sections 4(4), 5(7) and section 11;
- (b) by the insertion therein, immediately after section 16K of the following new sections —

**"16L** (1) Arrangements may be made by the Governor for the patrolling of places where children cross roads on their way to or from school, during periods between the hours of eight in the morning and half past five in the afternoon when children are so on their way, by persons appointed by him for that purpose.

"Arrangements  
for patrolling  
school crossings.

(2) Persons appointed under subsection (1) shall be entitled to receive such remuneration as may from time to time be allowed by the Governor.

(3) For the sake of avoidance of doubt, it is hereby declared that every police officer in uniform may exercise all the powers under section 16M of a school crossing patrol.

(4) In this section and in section 16M "school crossing patrol" means a person appointed under subsection (1) above.

**16M** (1) When between the hours of eight in the morning and half past five in the afternoon a vehicle is approaching a place in a road where children on their way to or from school are crossing or seeking to cross the road, a school crossing patrol wearing a uniform approved by the Governor shall have power, by exhibiting a prescribed sign, to require the person driving or propelling the vehicle to stop it.

Stopping of  
vehicles at  
school crossing.

(2) When a person has been required under subsection (1) above to stop a vehicle —

(a) he shall cause the vehicle to stop before reaching the place where the children are crossing or seeking to cross and so as not to stop or impede their crossing; and

(b) the vehicle shall not be put in motion again so as to reach the place in question so long as the sign continues to be exhibited.

(3) A person who fails to comply with paragraph (a) of subsection (2) above, or causes a vehicle to be put in motion in contravention of paragraph (b) of that subsection, shall be guilty of an offence.

- (4) For the purposes of this section —
- (a) where it is proved that a sign was exhibited by a school crossing patrol, it shall be presumed, unless the contrary is proved, to be of a size, colour and type prescribed, or of a description authorised under the provisions of this Ordinance;
  - (b) where it is proved that a school crossing patrol was wearing a uniform, the uniform shall be presumed, unless the contrary is proved, to be a uniform approved by the Governor; and
  - (c) where it is proved that a prescribed sign was exhibited by a school crossing patrol at a place in a road where children were crossing or seeking to cross the road, it shall be presumed, unless the contrary is proved, that those children were on their way to or from school."

Ref: POL/10/5.

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Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Petroleum Products (Amendment) Ordinance 1989

(No. 16 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Amendment of Petroleum Products Ordinance 1973.



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Petroleum Products (Amendment) Ordinance 1989

(No. 16 of 1989)

### An Ordinance to amend the Petroleum Products Ordinance 1973.

*(assented to: 26th July 1989)*

*(commencement: on publication)*

*(published: 4th August 1989)*

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

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. This Ordinance may be cited as the Petroleum Products (Amendment) Ordinance 1989.</li> <li>2. The Petroleum Products Ordinance 1973 is amended in the manner specified in the Schedule to this Ordinance.</li> </ol> | <p>Short title.</p> <p>Amendments of Petroleum Products Ordinance 1973.</p> |
|--|---|

#### SCHEDULE (Section 2)

#### Amendments to the Petroleum Products Ordinance 1973

The Petroleum Products Ordinance 1973 is amended —

- (a) by repealing section 2 thereof and replacing it with the following new section 2 —
- "2. In this Ordinance unless the context otherwise requires "petroleum products" means —
  - (a) crude petroleum, and any fuel oil made or refined from petroleum or made or refined from coal, shale, peat or any bituminous substance;
  - (b) any other fuel oil produced directly or indirectly from petroleum or from any oil made or refined as specified in paragraph (a); and
  - (c) mixtures containing petroleum or any fuel oil specified in paragraph (a)";
- (b) by repealing section 4(1) of the Ordinance and replacing it with the following new subsection —
  - "(1) Subject to this Ordinance, a person commits an offence who, except as he may be authorised by a licence granted by the Governor so to do, in the Falkland Islands (including its territorial waters) imports, in the course of business sells or otherwise supplies, or stores for any purpose any petroleum products"; and
- (c) by deleting the full-stop at the end of paragraph (b) of section 7 and replacing it with the words "and" and by adding the following new paragraph (c) to section 7 —
  - "(c) to petroleum products stored in the fuel tank of any vessel, aircraft or vehicle and intended to be consumed in that vessel, aircraft or vehicle".

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*





**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)  
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**NOTICE**

The following is published in this Gazette —

**The Criminal Justice Bill 1989.**

## Explanatory Memorandum

### The Criminal Justice Bill 1989

#### Introductory

The Criminal Justice Bill 1989 seeks to consolidate with amendments and additions the law of the Falkland Islands related to the powers of the court to sentence offenders, the rehabilitation of offenders, bail, detention by the police, questioning and treatment of persons by the police, the police's powers of entry, search and seizure and the police's power of arrest. The Bill consists of 138 sections and eight schedules.

One of the reasons for the Bill is that the law of the Falkland Islands on the subject matter of the Bill is in some respects not altogether certain or not capable of ascertainment without a great deal of research and in any event is not readily available. The Bill is very largely based on provisions of The Powers of Criminal Courts Act 1973, The Rehabilitation of Offenders Act 1974, The Bail Act 1976, The Criminal Justice Act 1982, The Police and Criminal Evidence Act 1984 and The Criminal Justice Act 1988.

#### PART I OF THE BILL

Part I of the Bill is merely introductory and clause 1 provides for the Bill, if enacted, to come into force on such date as may be notified in the Gazette and for different dates to be so notified in respect of different provisions of the Ordinance. Clause 2 would contain a number of important definitions.

#### PART II OF THE BILL

Part II of the Bill deals largely with fines. Clause 3 would have the effect of increasing certain fines where higher fines previously applied to a second or subsequent conviction of an offence. Clause 3 would not apply to the offences specified in clause 3(3).

Clause 4 of the Bill would introduce a standard scale of fines and enable legislation to be made with reference to the standard scale of fines. Under clause 4 (5) the amount of fines on the standard scale could be reviewed from time to time as inflation might require. A number of English Acts which apply to the Falkland Islands already refer to a fine on the standard scale (the standard scale applying under section 37 of the Criminal Justice Act 1982 or under section 143 of the Magistrate's Court Act 1980). Clause 3 (3) would require any English enactment making a reference to fine on the standard scale to be construed by reference to the standard scale applying by virtue of clause 3(2).

Clause 5 would enable the Governor by Order in Council to amend existing fines stated in money terms to fines by reference to the standard scale.

#### PART III OF THE BILL

Part III of the Bill deals with a number of matters related to the powers of the courts to deal with offenders. It is largely based on The Powers of Criminal Courts Act 1973.

Clause 6 would confer a general power upon courts to defer sentence and would contain detailed provision relating to that power.

Clause 7 of the Bill would confer a general power for courts to make a probation order in respect of a convicted offender of or over the age of seventeen years. It would also contain a number of detailed requirements as to the contents of a probation order. Clause 8(1) would require the Governor to appoint a person to be the probation officer for the Falkland Islands. Clause 8(2) would enable a judge of the Supreme Court or the Senior Magistrate to appoint a person to be the probation officer for the purposes of any probation order if the probation officer appointed under clause 8(1) were unwilling or unable to act or if the judge or Senior Magistrate considered that the interests of the public and of the offender were better served by making such appointment. Clause 9 would make special provision in relation to probation orders requiring treatment for mental conditions. Clause 10 would deal with requirements in probation orders and clause 11 would deal with the discharge and amendment of probation orders. Clause 12 would deal with the powers of the courts in the event that a person the subject of a probation order were to be in breach of that order.

Clause 13 enables a court to discharge a person convicted of an offence either absolutely or conditionally if it is of opinion having regard to the circumstances including the nature of the offence and the character of the offender that it is inexpedient to inflict punishment and that a probation order is not appropriate. A conditional discharge would be one discharging the offender subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as is specified in the order. In the event that the person concerned is convicted of another offence during the period of the conditional discharge he is liable to be sentenced for the original offence and this must be explained to him (clause 13(3)). Clause 14 enables the courts to deal with a person convicted of a further offence during the period of a probation order or during a period of conditional discharge in any way in which he could have been

dealt with in respect of the offence for which probation order or discharge order has been made, if that order had not been made. Clause 15 makes special provision in relation to breaches of conditional discharge orders by young offenders and clause 16 enables a conditional discharge order to be substituted for a probation order if it appears to the court having power to discharge a probation order that that order is no longer appropriate in the case of the probationer.

Clause 17 would enable a court making a probation order or a conditional discharge order to allow any person who consents to do so to give security for the good behaviour of the offender. Clause 17 also contains further supplementary provisions as to probation orders and discharge orders. Clause 18(1) would provide that a probation order or a conditional or absolute discharge order would not, for certain purposes, rank as a conviction.

Clause 19 would make general provision in relation to sentences of imprisonment. Clause 20 would provide that a sentence of imprisonment should not generally be imposed on a person of or over the age of twenty-one years unless the court is of opinion that no other method of dealing with him is appropriate. Clause 21 would impose a general obligation to obtain a social inquiry report before deciding to imprison an offender. However, that requirement would not apply if in the circumstances of the case the court is of the opinion that it is unnecessary to obtain a social inquiry report but by clause 21(3) if the court were to reach such an opinion it would be bound to state in open court the reason why it was not reasonably practicable or it was unnecessary to obtain a social inquiry report.

Clause 22 would provide that a sentence of imprisonment should not generally be passed on a person under the age of twenty-one years and impose restrictions generally on custodial sentences on persons under the age of twenty-one years. Clause 23 would deal with detention of a young offender in a young offender institution. By clause 25 an offender sentenced to detention in a young offender institution may if the Governor so directs be detained in a prison instead of a young offender institution but only for a temporary purpose or in the absence of a suitable young offender institution being available to receive him. It may, in fact, be some time before a separate young offender institution is available in the Falkland Islands. However special provision might be made adjoining the prison, separate from adult offenders, for young offenders.

Clause 24 would limit the maximum term of detention of a young offender under the age of fifteen to the maximum term of imprisonment available in respect of the offence in the case of an adult offender or four months, whichever were the lower. For a young offender between the ages of fifteen or sixteen years the maximum term of detention would be the maximum term of imprisonment available in respect of an adult offender and twelve months whichever were the lower. The court could not in respect of a female under seventeen pass a sentence for her detention in a young offender institution for a period of less than four months nor could an aggregate term of detention for a young male offender under the age of fifteen be more than four months or for a male offender between fifteen and sixteen an aggregate term exceeding twelve months.

Clause 26 contains provision which in effect provide that a court shall not pass a sentence of detention in a young offender institution on a person under the age of twenty-one years unless the court is of opinion that no other method of dealing with him is appropriate. For that purpose imposes upon the court a duty to consider such information about the circumstances of the offender and relevant to his character and mental condition as is before the court. If a court passes a sentence of detention it is required to state in open court the reason for its opinion that no other method of dealing with him is appropriate.

Clause 27 deals with the case where a person under the age of twenty-one is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life. Clause 28 would make provision as to the term of detention for young offenders who are in default of payment of fines or in contempt of court.

Clauses 29 to 32 would deal with community service orders as a means of sentencing an offender who would otherwise, if over the age of sixteen years, be liable to imprisonment for the offence of which he is convicted. Clause 29 would provide that in such a case the court by or before which the person is convicted might, instead of dealing with him in any other way, if he consents and after considering a report by a probation officer or by a social worker or welfare officer and the court considers that the offender is a suitable person to perform work under a community service order, can make a community service order in respect of the offender. A community service order would be an order requiring the offender to perform a number of hours (specified in the order) of unpaid work: the number of hours concerned could not be less than forty and not more, in the case of an offender aged sixteen, than one hundred and twenty and in any other case not more than two hundred and forty.

Clause 30 would provide that an offender in respect of whom a community service order is in force would be obliged to notify any change of his address and perform for the number of hours specified in the order such work at such times as he might be instructed to perform. The number of hours concerned would ordinarily have to be worked during the period of twelve months beginning with the date on which the order was imposed. The officer supervising the performance of work under a community service order would be required by clause 30(3) so far as is practicable to avoid any conflict with the offender's religious beliefs and any interference with the times if any at which the offender works or attends a school or other educational establishment.

Clause 31 would enable the courts to deal with a breach of a community service order by fining the offender or by dealing with him in any way in which he could have been dealt with on conviction if the community service order had not been made in respect of him.

Clause 32 enables a community service order to be amended or revoked and substituted by another sentence if it appears to the court which made the order that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made.

Clauses 33 to 38 deal with suspended sentences of imprisonment. Clause 33(1) would enable a court which passes a sentence of imprisonment for a term of not more than two years for an offence to order that the sentence should not take effect unless the offender, during a period specified in the order, being not less than one year or more than two years from the date of the order, commits in the Falkland Islands another offence punishable with imprisonment and the court having power to do so then orders that the original sentence shall take effect. Under clause 33(2) a court would not be allowed to deal with an offender by way of a suspended sentence unless a sentence of imprisonment would otherwise have been appropriate. Equally, when a court makes a suspended sentence order, it cannot make a probation order in his case in respect of another offence of which he is convicted or for which he is dealt with by that court on the same occasion.

Clause 33(7) would enable a court which passes on an adult a sentence of imprisonment for a term of not less than three months and not more than two years to order that after the offender has served part of the sentence in prison the remainder of the sentence shall be held in suspense. The court may not make that kind of order unless the case appears to the court to be one in which an order for a wholly suspended sentence would not be appropriate.

Under clause 34, if an offender is convicted of an offence punishable with imprisonment during the operational period of a suspended sentence (that is to say during the period for which sentence of imprisonment has been suspended), the court convicting him of the later offence can order that the suspended sentence shall take effect with its original term unaltered, can order that the suspended sentence shall take effect for a reduced term, can extend the period of suspension (the operational period) or make no order. The court is, however, required to order that the suspended sentence shall take effect with the original term unaltered unless it is of opinion that it would be unjust to do so in view of all the circumstances including the facts of the subsequent offence. The remainder of clause 34 and clauses 35 and 36 deal with matters of detail in relation to the bringing into operation of suspended sentences where the offender is, during the period of suspension, convicted of a further offence. Clause 37 provides that where a suspended sentence for a term of more than six months is passed by a court for a single offence, the court may make a supervision order placing the offender under the supervision of a supervising officer for a period specified in the order (which must not be for a period exceeding the period for which the sentence is suspended). The supervising officer would normally be the probation officer and an offender in respect of whom a supervision order is in force would be obliged to keep in touch with his supervising officer. If an offender is in breach of a requirement of a supervision order he could, under clause 38, be brought before the court and fined.

Clauses 39 and 40 deal with the powers of the courts in relation to persistent offenders to impose an extended term of imprisonment. These powers could only be exercised by the Supreme Court or by the Magistrate's Court on an offender being convicted of an offence punishable with imprisonment for a term of two years or more and only if an offender has on a number of previous occasions been sentenced to imprisonment, the last of those occasions being not more than three years previously or he having been released from prison within the previous three years.

Clauses 41 to 43 deal with the powers of the courts to impose fines. Clause 41 would provide that where a person is convicted of an offence other than an offence for which the sentence is fixed by law the court, if not precluded from sentencing the offender by having done something else, may fine the offender instead of or in addition to dealing with him in any other way.

Clause 42 gives a general power to a court to allow time for the payment of fines, to direct payment of fines by instalments and in the case of forfeiture of recognizance to discharge the recognizance or reduce the amount thereunder. Under clause 42(2) the court would be obliged to fix a term of imprisonment or detention which a person fined would be liable to undergo if he did not pay the fine. The maximum period of imprisonment or detention would be fixed by clause 42(4) by relation to the table set out in it.

Clauses 44 to 48 would deal with compensation orders. Clause 44 would provide that on convicting the person of an offence the court instead of or in addition to dealing with him in any other way might make a compensation order requiring the convicted person to pay compensation for any personal injury, loss or damage resulting from the offence of which he was convicted or any other offence which is taken into consideration by the court in determining the sentence.

The convicted person might also be ordered to make payments for funeral expenses or bereavement in respect of a death from any such offence other than a death due to an accident arising out of the presence of a motor vehicle on a road. The court will be required to give reasons, on passing sentence, for not making a compensation order if it does not make such an order in a case where clause 44 empowers it to do so. A compensation order made by any court other than the Supreme Court could not, by clause 44(2) exceed £2,500. The Supreme Court would not be subject to this limitation. Where a court other than the Supreme Court takes into consideration in determining sentence the compensation or total compensation to be paid under a compensation order it may only do so (clause 44(2) provides) to the extent of the difference between the maximum compensation which could have been ordered to be paid and the total amount which is in fact ordered to be paid in respect of that offence or offences.

Where the property concerned is a motor vehicle and it is taken without the owner's consent, any damage done to the motor vehicle while it is out of the owner's possession is to be taken to have occurred as a result of the offence. This means that if a person takes or drives away another person's motor car, parks it outside his own house, goes to bed and during the night somebody else driving negligently damages that car, the person who took the car may be ordered to pay compensation for the damage in fact caused by somebody else to it. This is provided by clause 44(4).

A person who has the benefit of a compensation order in his favour will not be permitted to receive it until there is no further possibility of an appeal on which the order can be varied or set aside. This is provided by clause 45(1) and the remaining provisions of that clause make detailed provision in relation to the enforcement of compensation orders and appeals against compensation orders.

Clauses 49 to 65 contain detailed provision in relation to confiscation orders made in respect of the confiscation of the proceeds of an offence. The philosophy behind these provisions is that persons convicted of certain serious offences should not be entitled to benefit by retaining the proceeds of those offences. The court may not make a confiscation order in the case of any offence other than a drug traffic offence where the value of the offenders proceeds, and the amount recoverable, are not at least £10,000. Powers available for the enforcement of fines would, under the provisions, also be available in respect of confiscation orders. In prescribed circumstances, the Supreme Court could make restraint and charging orders. Restraint orders made under the provisions would prohibit the transfer or disposal of any realisable property (as defined) held by a specified person. Where a restraint order has been made, the court would be able to appoint a receiver to take possession of the property and to manage or otherwise deal with it. Dealing with property is defined in such a way as to include making a payment to a person to whom a debt is owed and removing the property from the Falkland Islands. Additionally, the police would have power to seize property in respect of which an order had been made so as to prevent its removal from the Falkland Islands. Charging orders under the provisions would impose on specified realisable property a charge for securing the payment of money to the Crown. They could only be made on the application of the Attorney General, and notice would have to be given to the persons affected by the order. Charging orders could be made subject to conditions. The Supreme Court, when a confiscation order is made and is not subject to appeal, might appoint a receiver in respect of realisable property. Provision is made for the proceeds of the property realised to be applied for the purpose of satisfying the confiscation order. It would be the obligation of the Supreme Court and the receiver to exercise their powers with a view to making available the value of any realisable property for the purpose of satisfying a confiscation order, but allowing third parties to retain or recover the value of their property. A confiscation order could be varied on application by the defendant on the grounds that the realisable property is inadequate to meet the amount to be recovered under the order. Detailed provision is included to cover the relationship between insolvency proceedings (winding up and bankruptcy) and the restraint and confiscation procedures where a person who holds realisable property is adjudged bankrupt or, being a company, is wound up. Provision is made for compensation to be payable to a person who has suffered loss as a result of an enforcement of a confiscation order where the defendant is not convicted, or his conviction is quashed and the defendant is pardoned by the Governor and where there has been serious default on the part of a person concerned in the investigational prosecution.

Clauses 66 to 68 deal with a number of miscellaneous matters. Clause 66 would enable the Supreme Court to deal with any person committed to it for sentence in the same way as that person could have been dealt with if he had been convicted by the Supreme Court. Clause 67 would enable a court convicting a person of an offence punishable with imprisonment for a term of two years or more to make an order depriving the offender of property which at the time of his apprehension was in his possession or control and which had been used for the purpose of committing or facilitating the commission of any offence (not necessarily the offence of which he was convicted) or was intended by him to be used for that purpose.

Clause 68 would enable the Supreme Court or the Magistrate's Court on dealing with any person convicted of an offence punishable by two years or more to disqualify that person or another person from holding or obtaining a driving licence if satisfied that the person in question (that is to say whether or not he is the person convicted) used a motor vehicle for the purpose of committing or facilitating the commission of the offence in question.

Clauses 69 and 70 contain some supplementary provisions. Clause 69 would enable the Governor to make regulations requiring a court to consider a social inquiry report about the offender for sentencing an offender in respect of an offence to which the regulations apply. Clause 70 would require any report by a probation officer made in relation to an offender with a view to assisting a court to decide the most suitable method of sentence to be given to the offender or his legal representative or, if he is under the age of seventeen years and is not represented by a legal practitioner, to his parent or guardian if present in court.

## PART IV - REHABILITATION OF OFFENDERS

Part IV of the Bill (clauses 71 to 77 inclusive) deals with the subject of rehabilitation of offenders. In so doing it follows closely the provisions of The Rehabilitation of Offenders Act 1974 of England. The basic object of the provisions is to enable a person who is convicted of an offence to "wipe the slate clean" after a period of years free from convictions. This is subject to a number of exceptions which may be made by regulations. In outline, it is intended that regulations to be made will exclude the operation of the Part to certain purposes related to specified professions, offices, employments and occupations, in relation to certain kinds of licences, certificates and permits (including firearms licences, for example) and in relation to certain kinds of proceedings (professional disciplinary proceedings, proceedings under the Firearms Ordinance, proceedings in relation to the employment of teachers).

Clause 71 would provide that subject to the subsequent provisions of the Part (and to regulations), a person convicted of an offence in respect of which the sentence is not excluded from rehabilitation and who has not subsequently been convicted during the rehabilitation period applicable to the first mentioned offence of a further offence the sentence for which is excluded from rehabilitation would become a "rehabilitated person". He would only become a rehabilitated person if he had served or otherwise undergone or complied with any sentence imposed on him in respect of his conviction (but failure to pay a fine or breach of a condition or recognizance to keep the peace or be of good behaviour and other similar kinds of breaches of condition would not amount to a failure to undergo or comply with a sentence).

When a person becomes a rehabilitated person he is to be treated, under clause 72, for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction. In those circumstances and subject to clauses 75 and 76, no evidence could be brought in any proceedings to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction. Furthermore such a person could not in any such proceedings be asked any question relating to his past which could not be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances.

Under clause 73(1), a person who has been sentenced to imprisonment for life or sentenced to imprisonment or youth custody for a term exceeding thirty months or sentenced to detention during Her Majesty's pleasure or for life or for a term of more than thirty months as a young offender convicted of a grave crime or sentenced to custody for life would be excluded from rehabilitation.

Clause 73(2) would specify the rehabilitation period by relation to two tables which are set out below it. These tables apply in respect of custodial sentences, but the subsequent provisions of clause 73 regulate the period of rehabilitation in any case where a custodial sentence is not imposed. Clause 74, on the other hand, would provide that where more than one sentence is imposed in respect of a conviction and none of those sentences imposed is excluded from rehabilitation then if the periods of rehabilitation applicable to those sentences differ, the rehabilitation period applicable to the conviction is to be the longer or the longest of those periods.

Clause 75 would contain a number of limitations on rehabilitation. The most important one is, perhaps, that in criminal proceedings past convictions could be brought up in evidence. Clause 76 contains detailed provision in relation to defamation actions and if a convicted person's previous convictions were improperly disclosed after he had become a rehabilitated person, subject to certain restrictions, he could bring proceedings for libel or slander as if he had not been convicted.

Clause 77 deal with the unauthorised disclosure of spent convictions and, subject to its detailed provisions, would in general make it an offence for a person without authority to disclose another person's spent convictions.

## PART V - BAIL

Clauses 78 to 86 are modelled on the provisions of The Bail Act 1976 of England, as amended. They create a presumption of entitlement to bail of a person accused of a criminal offence but this is subject to safeguards and exceptions. Additionally, (clause 80(6)) bail may be granted subject to conditions. These conditions may be varied in certain circumstances (clause 86(8)).

A person charged with treason cannot be granted bail except by order of a judge of the Supreme Court or of the Governor (clause 81(7)). Clause 81 and Schedule 3 to the Bill would lay down some general rules. Under paragraph 2 of Schedule 3 a defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that he, if released on bail (whether subject to conditions or not), would fail to surrender to custody or commit an offence while on bail or interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.



Additionally, a defendant need not be granted bail if the court is satisfied that he should be kept in custody for his own protection or if he is a child or young person, for his own welfare. If a person who has been released on bail in criminal proceedings fails to surrender to custody at the time he ought to do so, he may be arrested by warrant and there would be no obligation to further bail him. Paragraph 9 of Schedule 3 would lay down the considerations which the court must take into account in deciding whether or not to grant bail to a defendant. Clause 85 of the Bill would enable sureties to be taken for bail and make provision in relation to sureties and section 86 would render it an offence for a person to agree with another to indemnify that other against any liability which he might incur if the person bailed failed to surrender to bail.

#### PART VI OF THE BILL-DETENTION BY THE POLICE

Part VI of the Bill (clauses 87 to 101) are modelled on provisions of The Police and Criminal Evidence Act 1984 of the United Kingdom. The purpose of the provisions is to limit the time for which a person after being arrested may be kept in police detention without being bailed or being brought before a court. The provisions of Part VI would limit those periods to shorter periods than is the case in the United Kingdom. Clause 87 would provide that a person may not be kept in police detention except in accordance with the provisions of Part VI. Additionally, it would be the duty of the responsible officer (defined in clause 88) to order a person's immediate release if he becomes aware that the grounds for the detention of that person have ceased to apply and he is not aware of any other grounds on which the continued detention of the person could be justified. The release is to be without bail unless (clause 87(5)) the responsible officer considers that there is a need for further investigation of any matter in connection with which the person was detained or the proceedings may be taken against that person in respect of any such matter. In either such case, the release is to be on bail (provided of course that bail may properly be granted in accordance with the provisions of Part V).

Clause 88 would define "responsible officer" as being the Chief Police Officer or such other police officer on duty at the time in question who has been designated by him to be the responsible officer. If the Chief Police Officer has not designated any other officer to be the responsible officer, clause 88 (2) would deem him to have designated the most senior police officer on duty in Stanley for the time being as the responsible officer. However, (clause 88(3)), a police officer who is not of the rank of sergeant or above or who is involved in the investigation of an offence for which a person is in police detention cannot be regarded as the responsible officer in relation to the detained person. Clause 89 would lay down the duties of the responsible officer in relation to a person who has been detained by the police before a person is charged and clause 90 would lay down the duties of the responsible officer in respect of a person who has been detained after charge. Under clause 91, it would be the duty of the responsible officer to ensure that the provisions of Part VI in relation to a person detained were complied with. Under clause 92, a periodic review of the detention of a person detained would be required. Under clause 93, subject to its provisions, a person could not be kept in police detention for more than twenty-four hours without being charged. Special provision would be made by clause 93(5) in respect of a person who is arrested outside Stanley so that the period of twenty-four hours is extended by such period of time as is reasonably occupied in bringing him to Stanley. Under clause 93(6) a person who has been arrested and at the expiry of twenty-four hours after his arrest is still in police detention, and has not been charged, would have to be released at that time, either on bail or without bail but this would not apply where continued detention had been authorised under clause 94 or a warrant of further detention had been issued under clause 95.

Clause 94 would enable the Chief Police Officer in certain limited circumstances to authorise the keeping of a person in police detention for a period of a further thirty-six hours after the period of twenty-four hours. If, however, he does so he would have to tell the person affected why he is being detained further and record those reasons in writing and would be obliged to give the person or his lawyer an opportunity to make representations to him about the detention. Under clause 95 a court, on application by a police officer and if satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates are justified, could issue a warrant of further detention. Clause 95 makes detailed provision as to this. Clause 96 enables that period to be extended by the court where it considers there is reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

Clause 98 would provide that where a person has been charged and after being charged he is kept in police detention that he must be brought before a court within twenty-four hours or, if that time would expire on a Saturday, Sunday or public holiday, not later than the earliest convenient time on the first day following the day on which he was charged. However, clause 98(3) would provide that nothing in the clause would require a person who is in hospital to be brought before a court before he is well enough.

Clause 99 would apply to bail after arrest. Clause 100 would provide that nothing in Part VI relates to detention under the Immigration Ordinance or prevents a person applying for a writ of Habeas Corpus or other prerogative remedy.

#### PART VII - QUESTIONING TREATMENT OF PERSONS BY POLICE

Part VII, like Part VI, is modelled on certain provisions of The Police and Criminal Evidence Act 1984.

Clause 102 would abolish any power of search of a person which existed before Part VII came into force. Instead a personal search would only be allowable in accordance with the provisions of that clause. It would be the duty of the responsible officer at the police station to ascertain and record or cause to be recorded everything a person has with him when he is brought to the station after being arrested elsewhere or when he is arrested at the police station. All things that such a person has with him except clothes and personal effects may then be seized and retained if the responsible officer decides to do so but, if he does, he must tell the person from whom they are taken the reason for the seizure unless that person is violent or likely to become violent or incapable of understanding what is said to him. A person may be searched for the purpose of seizing anything he has on him when he is arrested or brought to the police station after having been arrested if and to the extent that the responsible officer considers it necessary. The police officer carrying out a search must be of the same sex as the person searched (clause 103 (8)).

Intimate searches (searches which consist of the physical examination of a person's body orifices, clause 2(1)) would be governed by clause 104. They could only be carried out if the Chief Police Officer authorises an intimate search and he may only authorise it if he has reasonable grounds for believing that an arrested person may have something concealed on him which he could use to cause physical injury to himself or others and he might use it while he is in police detention or in the custody of a court or he believes that he has a controlled drug such as heroin or cocaine upon his person with intent to supply another or with intent to evade a prohibition or restriction on exportation. The Chief Police Officer may not (clause 104(2)) authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it could not otherwise be found. An intimate search must ordinarily be carried out by a doctor or a nurse unless the Chief Police Officer for some reason which he is obliged to record as soon as possible in writing considers that that is not practicable. In such a case the search must be carried out by a police officer of the same sex as the person searched. The remainder of clause 104 includes further provisions intended to protect the rights of persons arrested in relation to intimate searches and to prevent abuses of the powers of search.

Clause 105 would require that when a person has been arrested and is being held in police custody he is entitled, if he so requests, to have one friend or relative or other person informed as soon as practicable that he has been arrested and is being detained. This right must be allowed as soon as practicable and in any case within two hours of the person's arrest. Similarly, clause 106 would guarantee the right of a person arrested to consult a legal practitioner privately. The person arrested must, except in so far as a delay is permitted under clause 106, be permitted to consult a legal practitioner as soon as is practicable. In any case, he must be permitted to consult a legal practitioner within thirty-six hours from the time of his arrest. Any delay is only permissible in respect of a person who is in police detention for a serious arrestable offence and if the Chief Police Officer authorises the delay and, in that case, the Chief Police Officer must record the reason for delay in writing. The Chief Police Officer is only permitted to authorise a delay in a person consulting a legal practitioner on the limited grounds which are set out in clause 106(8). If he does authorise a delay, the detained person must be told of the reason for the delay and that reason must be recorded.

Clause 107 would deal with the right to take fingerprints of a person who has been arrested by the police. Except as provided by the court a person's fingerprints could only be taken with his consent. However the Chief Police Officer can authorise them to be taken without the person's consent if he has reasonable grounds for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence and for believing that his fingerprints will tend to confirm or disprove his involvement. The Chief Police Officer's authorisation must be recorded in writing.

Clause 108 would deal with the taking of intimate samples. "Intimate samples" are defined by clause 111 as meaning a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair or a swab taken from a person's body orifice. For an intimate sample to be taken the authorisation of the Chief Police Officer and consent is required. The Chief Police Officer can only give the authorisation if he has reasonable grounds for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence and for believing that the sample would tend to confirm or disprove his involvement. "Serious arrestable offence" is dealt with by clause 112. The remainder of clause 108 contains detailed provision protecting the rights of the person from whom an intimate sample is to be taken.

Clause 109 deals with the taking of other samples (that is to say samples other than intimate samples). Ordinarily a non-intimate sample can only be taken with consent but there is provision for a non-intimate sample to be taken without consent if the Chief Police Officer authorises it and he has reasonable grounds for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence and for believing the sample will tend to confirm or disprove his involvement.

Clause 110 would provide that if fingerprints or samples had been taken from a person in connection with an offence and he is subsequently cleared of that offence those fingerprints or those samples must be destroyed as soon as is practicable after the conclusion of the proceedings. Sometimes, of course, fingerprints or samples are taken from a person in connection with the investigation of an offence and it is decided that he shall not be prosecuted for that offence. Unless he has admitted the offence and has been dealt with by way of being cautioned by a police officer, the fingerprints or samples must be destroyed as soon as is practicable after the decision not to prosecute him has been taken.



Lastly, sometimes persons give fingerprints or samples in connection with an investigation of an offence of which they are not suspected for elimination purposes. In those circumstances, the fingerprints or samples must be destroyed (clause 110(3)) as soon as they have fulfilled the purpose for which they were taken.

Clause 111 contains definitions for the purpose of Part VII and clause 112 defines "serious arrestable offence".

#### PART VIII - POWERS OF ENTRY SEARCH AND SEIZURE

Part VIII of the Bill deals with the powers of the police to enter premises to search them and to seize material. Clause 113 deals with the powers of the Senior Magistrate or a justice of the peace to issue a search warrant. The issue of a search warrant is subject to five basic conditions. These are that there are reasonable grounds for believing that a serious arrestable offence has been committed ("serious arrestable offence" has been defined in clause 112); and that there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and that the material is likely to be relevant evidence; and that the material does not consist of or include items subject to legal privilege, excluded material or special procedure material; and that one or more of a number of further conditions are satisfied. Those further conditions, one at least of which must be satisfied are specified in clause 113(3). They are that it is not practicable to communicate with any person entitled to grant entry to the premises; or that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence; or that the entry to the premises will not be granted unless a warrant is produced; or that the purpose of a search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can secure immediate entry to them. "Relevant evidence" is defined as meaning anything which would be admissible in evidence at a trial for the offence (clause 113 (4)). When a police officer possesses a search warrant he may seize and retain anything for which a search has been authorised under the warrant (clause 113(2)).

Clause 114 would deal with access to excluded material or special procedure material. "Excluded material" is defined by clause 116 as being "personal records" which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence; human tissue or tissue fluid which has been taken for the purposes of diagnoses or medical treatment and which a person holds in confidence and journalistic material which a person holds in confidence and which consists of documents or of records other than documents. For the purpose of the definition a person holds material other than journalistic material in confidence if he holds it subject to an express or implied undertaking to hold it in confidence or subject to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment passed after the Bill is enacted. For the purposes of the definition, a person holds journalistic material in confidence if he holds it subject to such an undertaking, restriction or obligation and it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism. It will be seen therefore that the effect of the provisions is to give a degree of protection to journalist's sources. "Journalistic material" would be defined by clause 118 as being material acquired or created for the purposes of journalism. However, it would only be journalistic material if it were in the possession of a person who acquired or created it for the purposes of journalism but a person who received material from someone who intends that the recipient should use it for the purposes of journalism is to be taken to have acquired it for those purposes. "Personal records" will be defined by clause 117 as records which a person has acquired or created in the course of any trade, business or profession (see clause 116), and they are documentary and other records concerning an individual (whether living or dead) who can be identified from them and which relate to his physical or mental health or to spiritual counselling or assistance given or to be given to him or to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who by reason of his office or occupation has responsibilities for his personal welfare or by reason of an order of a court has responsibilities for his supervision.

Under clause 114 (referred to above) access could only be obtained to "special procedure" material by order of the Supreme Court or of the Senior Magistrate. The special procedure set out in Schedule 5 would apply. First of all, one or other of the set of access conditions set out in paragraphs 2 and 3 of Schedule 5 would have to be satisfied. Notice of application for an order would have to be given and even if one or other of the sets of access conditions were satisfied the judge or Senior Magistrate would not necessarily be bound to grant access.

Under clause 115, absolute privilege from search warrants would apply in respect of certain material which is subject to legal privilege as defined by that section.

Clause 120 would impose certain safeguards in relation to search warrants. First of all when a police officer applies for a search warrant he would be obliged to state the ground on which he makes the application, the enactment under which the warrant would be issued, the premises which it is desired to enter and search and to identify so far as is practicable the articles or persons to be sought. The application for a search warrant would have to be supported by an information in writing and the police officer would be obliged to answer on oath any question that the justice of the peace, Senior Magistrate or judge hearing the application asks him.

Clause 120 would make further detailed provision in relation to the issue of search warrants. Under clause 121 a warrant to enter and search premises might be executed by any police officer and the warrant might authorise persons to accompany any police officer who is executing it. Entry and search under the warrant would have to be within one month from the date of its issue and would have to take place at a reasonable hour unless it appeared to the police officer executing it that the purpose of the search might be frustrated on an entry at a reasonable hour. Where the occupier of the premises which is to be entered and searched is present at the time when a police officer seeks to execute a warrant to enter and search them, the police officer would be obliged to identify himself to the occupier and, if not in uniform, to produce to him documentary evidence that he is a police officer, to produce the warrant to him and to supply him with a copy of it. Where the occupier of the premises is not present at the time that the search warrant is executed but some other person who appears to the police officer to be in charge of the premises is present then the police officer would have to treat him in the same way as he would have been obliged to have treated the occupier. If nobody is present at the premises the police officer is to leave a copy of the warrant in a prominent place on the premises. A police officer executing a warrant has to make an endorsement on it stating whether the articles or persons sought were found and whether any articles were seized other than the articles which were sought.

Under clause 122 certain limited rights of entering and searching premises without a warrant would be granted: to execute a warrant of arrest issued in connection with or arising out of criminal proceedings; for executing a warrant of commitment to prison issued under any provision of any enactment; for arresting a person for an arrestable offence; for recapturing a person who is unlawfully at large and who he is pursuing; or of saving life or limb or preventing serious damage to property. Except for the purpose of saving life or limb or preventing serious damage to property, a police officer could only enter and search premises if he had reasonable grounds for believing that the person for whom he is seeking is on the premises and then he could only enter and search parts of the premises which the occupiers of any dwelling comprised in the premises used in common with the occupiers of any other such dwelling and any such dwelling in which the police officer has reasonable grounds for believing that the person whom he is seeking may be. The power of search conferred is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised. Under clause 123, a police officer would have limited rights to enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence. First of all, he would have to have reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates to the offence or to some other arrestable offence which is connected or similar to that offence. He would, however, have the right to seize and retain anything for which he might properly search under the provisions of the clause. The power to search which would be conferred by the clause would only be a power to search to the extent that is reasonably required for the purpose of discovering evidence relevant to the offence for which the person has been arrested or to some other arrestable offence which is connected or similar to that offence. The powers conferred by clause 123 could only be exercised if a police officer of the rank of inspector or above has authorised them in writing to be used. Clause 123 contains further detailed provision intended to protect persons' rights.

Clause 124 deals with the powers of a police officer who is lawfully on any premises to seize anything which is on those premises. Under clause 124(2), the police officer might seize anything which is on the premises if he has reasonable grounds for believing that it has been obtained in consequence of the commission of an offence and that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed. Under clause 124(3), he would have the power to seize anything which is on the premises if he has reasonable grounds for believing that it is evidence in relation to an offence which is investigated or any other offence and that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed. Clause 124(4) would enable the police officer to require any information which is contained in a computer and is accessible from the premises to be produced in a form which it can be taken away and in which it is visible and legible, but subject to certain conditions. Clause 125 contains further provisions as to computerised information.

Clause 126(1) would require a police officer who seizes anything under any statutory power to provide the occupier of the premises from which it was seized or any person showing himself to have custody or control of the things seized immediately before the seizure to provide that person with a record of what he seized and under clause 126(2) he will be required to do so within a reasonable time from the making of the request for the record. The remainder of clause 126 confers rights of access to anything seized by the police and the right to copy anything seized by the police.

Clause 127 deals with the retention by the police of anything they have seized. In general, the police would have power to retain anything lawfully seized for the purposes of any criminal investigation or to establish its lawful owner. Clause 127(4) would provide that the police may not retain anything if a photograph or copy would be sufficient.

Clause 128 defines "premises" for the purposes of Parts VI - IX of the Bill.

## PART IX : ARREST

Part IX of the Bill deals with arrest and clause 129 would set out the circumstances in which a person may be arrested without warrant for an "arrestable offence".

Clause 130 would confer additional powers of arrest in respect of an offence which is not an arrestable offence but subject to the conditions set out in that section. By clause 131 all statutory powers of arrest without warrant or order contained in any enactment passed before the Bill were enacted would cease to have effect but this would not apply to the enactment specified in Schedule 6 to the Bill. Clause 132 would provide that a person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Clause 133 would provide that wherever reasonably practicable a person arrested is to be told as soon as is practicable of his arrest and the ground for it. Clause 134 would provide that when a person is voluntarily attending at a police station he is to be entitled to leave at will unless he is placed under arrest and if he is prevented from leaving at will he is to be told at once that he is under arrest. Clause 135 would deal with arrests for further offences where a person has already been arrested.

Clause 136 would make detailed provision in relation to the power to search a person who is arrested. First of all, a police officer would have power to search a person who has been arrested if he has reasonable grounds for believing that the arrested person may present a danger to himself or others. He would also have a power to search him, subject to the provisions of the clause, for anything which the arrested person might use to assist him to escape from lawful custody or which might be evidence relating to an offence and to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he has been arrested. However, the power of search for anything which the arrested person might use to escape from lawful custody or which might be evidence relating to an offence may only be used to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence. Further, a police officer would not have power to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves. Clause 136(5) would provide that a police officer might not search an arrested person for anything which he might use to assist him to escape from lawful custody unless he has reasonable grounds for believing that the person searched may have concealed on him anything which would assist him to escape. The remaining provisions of the clause make further detailed provision in relation to searches of persons.

#### PART X - GENERAL

Part X of the Bill consists of two clauses —

clause 137 which deals with the power to make rules or regulations and clause 138 which deals with repeals made by the Bill.

#### SCHEDULES

There then follow eight schedules.

Schedule 1 relates to clause 11(1) and the discharge and amendment of probation orders and contains detailed provision relating to that subject.

Schedule 2 (which relates to clause 33(16)) deals with a number of matters relating to sentencing.

Schedule 3 (which relates to clause 81) contains supplementary provisions about bail.

Schedule 4 (which relates to clause 112) sets out offences which are specified as serious arrestable offences.

Schedule 5 (which relates to clause 114) contains detailed provisions relating to the procedure for search warrants in special procedure cases.

Schedule 6 (which relates to clause 131(2)) deals with powers of arrest under enactments which are not subject to the general abolition of statutory powers of arrest.

Schedule 7 (which relates to clause 138(1)) deals with minor and consequential amendments to English statutes applying in the Falkland Islands which are necessary if the Bill is enacted.

Lastly, Schedule 8 (which relates to clause 138(2)) deals with repeals of existing Ordinances which would be necessary if the Criminal Justice Bill 1989 is enacted.

# The Criminal Justice Bill 1989

(No. of 1989)

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**A Bill for  
an Ordinance**

to make provision for fines to be imposed by reference to levels on a standard scale of fines; to make provision for amendment of existing fines so that they become fines by reference to a level on the standard scale; to make provision in relation to the powers of courts to deal with offenders, including probation orders and their discharge, absolute and conditional discharge orders, imposition of sentences of imprisonment, suspended and partly suspended sentences of imprisonment, special sentences in relation to young offenders and provisions relative to the sentencing of young offenders, community service orders, provisions in relation to persistent offenders, imposition of fines and taking and forfeiture of recognizances, compensation orders, confiscation of the proceeds of an offence; the powers of the Supreme Court on the committal of a person to it for sentence, deprivation of property orders and disqualifications from driving of an offender where a vehicle is used for the purposes of certain crimes, social inquiry reports and the reports of probation officers; to make provision for the rehabilitation of offenders in respect of certain past offences and the periods relative to such rehabilitation; defamation in respect of spent convictions and unauthorised disclosure of spent convictions, to make provision as to the grant of bail in criminal proceedings, general rights to bail, absconding from bail and sureties

for bail; to make provision as to the circumstances and conditions subject to which persons arrested may be detained by the police, the extension by the order of a court for a limited period of that time and the duties of police officers in relation to detained persons; to make provision as to the questioning and treatment of suspects by the police, searches of such persons, the rights of persons when arrested, the taking of intimate and other samples and fingerprints, the disposal of fingerprints; to make provision as to the police's power to enter and search and seize property to accord special protection to certain material; to provide when a person may be arrested without a warrant, the conditions subject to which a person may be arrested, the information which must be given to a person who is arrested and to provide for matters incidental to or consequent upon 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 Criminal Justice Ordinance 1989 and shall come into force on such date as shall be notified by the Governor by notice published in the Gazette:

Short title and  
commencement.

Provided that the Governor may so notify by one or more such notices that different provisions of this Ordinance shall come into force on different dates.

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

Interpretation.

“arrestable offence” has the meaning assigned to it by section 129 below;

“bail” and “bail in criminal proceedings” have the respective meanings assigned to them by section 78 below;

“child” has the meaning assigned to it by section 79(2) below;

“community service order” has the meaning assigned to it by section 29 below;

“compensation order” has the meaning assigned to it by section 44 below;

“confiscation order” has the meaning assigned to it by section 49 below;

“convicted” and “conviction” have the respective meanings assigned to them by section 79(1) below;

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film (including any microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom.

“enactment” means any provision of any Act having effect in the Falkland Islands any provision of any Ordinance and any provision of any subsidiary legislation made under any Ordinance or under any provision of any Act and having effect in the Falkland Islands;

"excluded material" has the meaning assigned by section 116 below;

"extended sentence certificate" has the meaning assigned by section 39(4) below;

"intimate search" means a search which consists of the physical examination of a person's body orifices;

"item subject to legal privilege" has the meaning assigned to it by section 115 below;

"journalistic material" has the meaning assigned to it by section 118 below;

"order for conditional discharge" has the meaning assigned to it by section 13(2) below;

"parent or guardian" means —

- (a) in the case of a child or young person in the care of the Government, the Welfare Officer;
- (b) in the case of a child or young person in the care of a voluntary organisation, that organisation;

"personal records" has the meaning assigned to it by section 117 below;

"period of conditional discharge" has the meaning assigned by section 13(2) below;

"probationer" means a person for the time being under supervision by virtue of a probation order;

"probation order" has the meaning assigned by section 7 below;

"probation period" means the period for which a probationer is placed under supervision by a probation order;

"realisable property" has the meaning assigned to it by section 52 below;

"responsible officer" means the chief police officer or such other police officer as is the responsible officer under the provisions of section 88 below;

"suspended sentence" means a sentence to which an order under section 33(1) below relates and "partially suspended sentence" means a sentence to which an order under section 33(7) below relates;

"vessel" includes any ship, boat, raft, or other apparatus constructed or adapted for floating on water.

(2) For the purposes of this Ordinance the age of an offender at a particular time shall be deemed to be or have been that which appears to the court after considering any available evidence to have been his age at that time.

(3) A person is in police detention for the purposes of this Ordinance if —

- (a) he has been taken to a police station after being arrested for an offence; or
- (b) he is arrested at a police station after attending voluntarily at the station or accompanying a police officer to it,

and is detained there or is detained elsewhere in the charge of a police officer, except that a person who is at a court after being charged is not in police detention for those purposes.

## PART II

### FINES ETCETERA

#### *Abolition of enhanced penalties*

3. (1) Subject to subsection (3) below, this section applies where under an enactment a person is convicted of a summary offence —

- (a) is liable to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or
- (b) is liable to imprisonment for a longer term in the case of a second or subsequent conviction; or

Abolition of enhanced penalties on subsequent conviction of summary offences. (1982 c.48 s.35.)

(c) is only liable to imprisonment in the case of a second or subsequent conviction.

(2) Where this section applies, a person convicted of an offence summarily shall be liable —

(a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;

(b) to imprisonment for a term not exceeding the longest or only term,

to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for imposition of a fine or maximum fine of that amount or imprisonment for that term.

(3) This section does not apply to offences under —

(a) sections 33 to 36 of the Sexual Offences Act 1956 in their application to the Falkland Islands (brothel-keeping and prostitution); or

(b) section 1(2) of the Street Offences Act 1959 in its application to the Falkland Islands (loitering and soliciting for the purposes of prostitution); or

(c) the Road Traffic Ordinance.

(c.60.)

#### *Introduction of standard scale of fines*

4. (1) There shall be a standard scale of fines for summary offences which shall be known as the standard scale.

Standard scale  
of fines for  
summary of-  
fences. (1982  
c.48 s.37.)

(2) The scale at the commencement of this section is —

<i>Amount of fine</i>	<i>Level on the scale</i>
£50	1
£100	2
£400	3
£1,000	4
£2,000	5
£6,000	6
£10,000	7
£15,000	8
£25,000	9
£50,000	10
£100,000	11
£250,000.	12

(3) Where in any provision of any English enactment which applies in the Falkland Islands by virtue of any provision of any Falkland Islands enactment it is provided —

(a) that a person convicted of a summary offence shall be liable on conviction to a fine or maximum fine by reference to a specified level of the standard scale; or

(b) by Order or other subordinate instrument a person liable on conviction of a summary offence (whether or not created by the Order or other instrument) to a fine or maximum fine by reference to a specified level on the standard scale,

it is to be construed as referring to the standard scale for which this section provides as that standard scale has effect from time to time by virtue of this section and not as a reference to the standard scale which by the provisions of section 37 of the Criminal Justice Act 1982 or of an Order under section 143 of the Magistrates Courts Act 1980 would apply in relation thereto in England.

(4) Where in any provision of any enactment of the Falkland Islands (whether contained in an enactment passed or made before or after this section comes into force) it is provided —

- (a) that a person convicted of a summary offence shall be liable on conviction to a fine or a maximum fine by reference to a specified level on the standard scale; or
- (b) that by an Order or other subordinate instrument a person convicted of a summary offence is liable (whether or not the offence was created by the Order or other instrument) to a fine or maximum fine by reference to a specified level on the standard scale,

that enactment is to be construed as referring to the standard scale for which subsection (2) above provides as that standard scale has effect from time to time by virtue either of subsection (2) or of an Order under subsection (5) below.

(5) If it appears to the Governor that there has been a change in the value of money since the Bill for this Ordinance was passed by the Legislative Council or since the last previous Order was made under the provisions of this subsection, he may by Order substitute for the sum or sums for the time being specified in subsection (2) above such other sum or sums as appear to him justified by the change.

5. (1) The Governor may by Order in Council amend any enactment of the Falkland Islands which provides for a person convicted of an offence triable summarily to be liable to a fine of the amount mentioned in that provision so as to provide that on conviction of that offence that person shall be liable to a fine or maximum fine by reference to a specified level on the standard scale.

Variation of existing fines.

(2) No variation in fine effected by an order under subsection (1) above shall have effect in relation to an offence committed before that Order is first published in the Gazette.

### PART III

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Preliminary*

6. (1) Subject to the provisions of this section, any court may defer passing sentence on an offender for the purpose of enabling the court or any other court to which it falls to deal with him to have regard, in dealing with him, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.

Deferment of sentence. 1973 (c.62 s.1.)

(2) Any deferment under this section shall be until such date as may be specified by the court, not being more than six months after the date on which the deferment is announced by the court; and subject to subsection (11) below, where the passing of sentence has been deferred under this section it shall not be further deferred thereunder.

(3) The power conferred by this section shall be exercisable only if the offender consents and the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

(4) A court which under this section has deferred passing sentence on an offender may deal with him before the expiration of the period of deferment if during that period he is convicted in the Falkland Islands of any offence.

(5) If an offender on whom a court has under this section deferred passing sentence in respect of one or more offences is during the period of deferment convicted in the Falkland Islands of any offence ("the subsequent offence"), then, without prejudice to subsection (4) above, the court which (whether during that period or not) passes sentence on him for the subsequent offence may also, if this has not already been done, deal with him for the first-mentioned offence or offences:

Provided that —

- (a) the power conferred by this subsection shall not be exercised by a court inferior to the court which deferred passing sentence; and
- (b) a court superior to the court which deferred passing sentence shall not pass any sentence which could not have been passed by the court which deferred sentence.

(6) Where a court which under this section has deferred passing sentence on an offender proposes to deal with him, whether on the date originally specified by the court or by virtue of subsection (4) above before that date, or where the offender does not appear on the date specified, the court may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest.

(7) It is hereby declared that in deferring the passing of a sentence under this section a court is to be regarded as exercising any power of adjourning the trial which is conferred upon it by any other enactment and that accordingly any provisions of any other enactment which apply in relation to the non-appearance of the accused apply (without prejudice to subsection (6) above) if the offender does not appear on the date specified in pursuance of subsection (2).

(8) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.

(9) Nothing in this section shall effect any power of any court to bind over an offender to come up for judgment when called upon or the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

(10) The power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred thereunder —

- (a) includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him; and
- (b) without prejudice to the generality of the foregoing, includes the power conferred by any enactment to commit him to a superior court for sentence.

(11) Where, in a case where the passing of sentence on an offender in respect of one or more offences has been deferred under this section, the Summary Court or the Magistrate's Court deals with him by committing him to the Supreme Court for sentence, the power of the Supreme Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the Supreme Court.

#### *Probation and discharge*

7. (1) Where a court by or before which a person of or over seventeen years of age is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion that having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient to do so, the court may, instead of sentencing him, make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer for a period to be specified in the order of not less than six months nor more than three years.

Probation. 1973  
(c.62 s.2.)

(2) A probation order shall name the probation officer under whose supervision the convicted offender is to be, if that probation officer is not to be the probation officer appointed under section 8(1) below.

(3) Subject to the provisions of subsection (4) below and section 9, 10 and 12 of this Ordinance, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences.

(4) Without prejudice to the power of the court under section 46 of this Ordinance to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the requirements of a probation order.

(5) Without prejudice to the generality of subsection (3) above, a probation order may include requirements relating to the residence of the offender, but

- (a) before making an order containing any such requirements, the court shall consider the home surroundings of the offender; and

- (b) where the order requires the offender to reside at a particular address, the period for which he is so required to reside shall be specified in the order.

(6) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order (including any additional requirements proposed to be inserted therein) and that if he fails to comply with it or commits another offence he will be liable to be sentenced for the original offence; and the court shall not make the order unless he expresses his willingness to comply with its requirements.

(7) The court by which a probation order is made shall forthwith give copies of the order to the probation officer appointed under section 8 (1) below or the probation officer named in the order and appointed under 8 (2) below, and the probation officer to which such copies are given shall give a copy of the order to the offender.

8. (1) The Governor acting in his discretion, but after consultation with the Chief Justice, shall appoint a person to be the Probation Officer for the Falkland Islands.

Appointment of  
Probation  
Officer.

(2) A Judge of the Supreme Court or the Senior Magistrate may appoint a person to be the Probation Officer for the purposes of any Probation Order if, for any reason, —

- (a) the Probation Officer appointed under subsection (1) above is unwilling or unable to act as probation officer for the purpose of that order; or
- (b) the Judge or Senior Magistrate considers that the interests of the public and of the offender are better served by making such appointment.

(3) There shall be payable to probation officers appointed under this section such sums by way of salary or otherwise as may be prescribed or in the absence of any such prescription as may be approved by the Governor.

9. (1) Where the court is satisfied, on the evidence of a duly qualified medical practitioner, that the mental condition of the offender is such as requires and may be susceptible to treatment but is not such as to warrant his detention in hospital, the court may, if it makes a probation order, include in it a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a duly qualified medical practitioner with a view to the improvement of the offender's mental condition.

Probation orders  
requiring treat-  
ment for mental  
condition. 1973  
(c.62 s.3.)

(2) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say —

- (a) treatment as a resident patient in a hospital;
- (b) treatment as a non-resident patient at such hospital or place as may be specified in the order; or
- (c) treatment by or under the direction of such duly qualified medical practitioner as may be specified in the order; but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

(3) A court shall not by virtue of this section include in a probation order a requirement that an offender shall submit to treatment for his mental condition unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient).

(4) While the probationer is under treatment as a resident patient in pursuance of the requirements of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the discharge or amendment of the order.

10. (1) Without prejudice to the generality of section 8 (3) above, the power conferred by that subsection includes power, subject to the provisions of this section, to require the probationer —

Requirements in  
probation  
orders. 1973  
(c.62 s.34A.)

- (a) to present himself to a person or persons specified in the order at a place or places so specified;



(b) to participate or refrain from participating in activities specified in the order —

(i) on a day or days so specified; or

(ii) during the probation period or such portion of it as may be so specified.

(2) A court shall not include in a probation order a requirement such as is mentioned in subsection (1) above unless it has first consulted a probation officer as to —

(a) the offender's circumstances; and

(b) the feasibility of securing compliance with the requirements, and is satisfied, having regard to the probation officer's report, that it is feasible to secure compliance with them.

(3) A court shall not include a requirement such as is mentioned in subsection (1) (a) above or a requirement to participate in activities if it would involve the cooperation of a person other than the probationer and the probation officer responsible for his supervision, unless that other person consents to its inclusion.

(4) A requirement such as is mentioned in subsection (1) (a) above shall operate to require the probationer —

(a) in accordance with instructions given by the probation officer responsible for his supervision, to present himself at a place for not more than sixty days; and

(b) while there, to comply with instructions given by, or under the authority of, the person in charge of the place.

(5) A requirement to participate in activities shall operate to require the probationer;

(a) in accordance with instructions given by the probation officer responsible for his supervision, to participate in the activities for not more than sixty days; and

(b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.

(7) Instructions given by a probation officer under subsection (4) or (5) above shall, so far as practicable, be such as to avoid any interference with the times, if any, at which the probationer normally works or attends a school or other educational establishment.

11. (1) The provisions of Schedule 1 to this Ordinance shall have effect in relation to the discharge and amendment of probation orders.

Discharge and amendment of probation orders. (1973 c.62 s.5.)

(2) Where, under the following provisions of this part of this Ordinance, a probationer is sentenced for the offence for which he was placed on probation, the probation order shall cease to have effect.

12. (1) If at any time during the probation period it appears on information to the Senior Magistrate or a justice of the peace that the probationer has failed to comply with any requirement of the order, he may issue a summons requiring the probationer to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

Breach of requirement of probation order. (1973 c.62 s.6.)

(2) Any summons or warrant issued under this section shall, if the summons or warrant was issued by or on the direction of the Senior Magistrate, direct the probationer to appear or be brought before the Magistrate's Court; if the summons or warrant was issued by or under the direction of a justice of the peace it shall direct the probationer to appear or be brought before the Summary Court.

(3) If it is proved to the satisfaction of the Magistrate's Court or the Summary Court before which a probationer appears or is brought under this section that the probationer has failed to comply with any of the requirements of the probation order, then, subject to the following provisions of this subsection, that court may deal with him in respect of the failure in any one of the following ways, that is to say -

(a) it may impose on him a fine not exceeding the maximum of level 3 of the standard scale; or

- (b) it may sentence him to imprisonment for 7 days; or
- (c) if the probation order was made by that court, it may deal with him for the offence in respect of which the probation order was made, in any manner in which he could deal with him if it had just convicted him of that offence; or;
- (d) where the probation order was made by another court, it may commit him to be dealt with by that court.

(4) Where a probationer is committed under subsection (3) (d) above to the court by which the probation order was made, the court committing the probationer may commit him in custody or release him on bail until he can be brought or appear before the court by which the probation order was made.

(5) A court which deals with a probationer's case under paragraph (d) of subsection (3) and subsection (4) above shall send to the court to which the probationer is committed a certificate signed by the Senior Magistrate (in the case of the Magistrate's Court) or a justice of the peace (in the case of the Summary Court), certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the court to which the probationer is committed.

(6) Where by virtue of paragraph (d) of subsection (3) and subsection (4) above, the probationer is brought or appears before the court which made a probation order in respect of him, and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of the probation order, the court may deal with him in respect of the failure in any of the ways mentioned in paragraphs (a), (b) and (c) of subsection (3).

(7) A probationer who is required by the probation order to submit to treatment for his mental condition shall not be treated for the purposes of this section as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court his refusal was reasonable having regard to all the circumstances; and without prejudice to the provisions of section 14 below, a probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be dealt with under this section in respect of a failure to comply with any requirement of the probation order.

(8) Any exercise by a court of any of its powers under subsection (3) or (6) above shall be without prejudice to the continuance of the probation order unless the court has, in exercise of its powers under either of those subsections dealt with the probationer for the offence in respect of which the probation order was made in a manner in which it could have dealt with him if he had just been convicted before that court of that offence.

(9) A fine imposed under subsection (3) or (6) above in respect of a failure to comply with the requirements of a probation order shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

13. (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the court may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified therein.

Absolute and conditional discharge. (1973 c.62 s. 7.)

(2) An order discharging a person subject to such a condition is in this Part referred to as "an order for conditional discharge", and the period specified in any such order (subject to section 14 (1) below) as "the period of conditional discharge".

(3) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) Where, under the following provisions of this Part, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

14. (1) If it appears to a relevant court, where that court has jurisdiction in accordance with subsection (2) below that a person in whose case a probation order or an order for conditional discharge has been made has been convicted by an inferior court of an offence committed during the relevant period and has been dealt with in respect of that offence, the relevant court may, subject to subsection (3) below, issue a summons requiring that person to appear at the place and time specified therein for a warrant for his arrest.

Commission of further offence by probationer or person conditionally discharged. (1973 c.62 s.8.)

(2) In this section —

- (a) “a relevant court” means the Supreme Court or the Magistrate’s Court where the probation order or order for conditional discharge was made by that court and the conviction referred to in subsection (1) above was by a court inferior to the court which made the probation order or the order for conditional discharge;
- (b) “the relevant period” means, in relation to a probation order, the probation period, and in relation to an order for conditional discharge, the period of conditional discharge.

(3) A summons or warrant may be issued under this section on the basis of any information which the authority issuing the summons or warrant believes to be credible.

(4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or be brought before the court by which the probation order or the order for conditional discharge was made.

(5) If a person in whose case a probation order or an order for conditional discharge has been made by the Supreme Court or the Magistrate’s Court is convicted by the Summary Court of an offence committed during the relevant period, the Summary Court may commit him to custody or release him on bail until he can be brought or appear before the court which made the probation order or order for conditional discharge; if a person in whose case a probation order or an order for conditional discharge has been made by the Supreme Court is convicted by the Magistrate’s Court of an offence committed during the relevant period, the Magistrate’s Court may commit him to custody or release him on bail until he can be brought or appear before the Supreme Court.

(7) Where it is proved to the satisfaction of the court by which a probation order or an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the relevant period, the court may deal with him, for the offence for which the order was made, in any manner in which it could deal with him if he had just been convicted by or before that court of that offence.

(8) If a person in whose case a probation order or an order for conditional discharge has been made by the Summary Court or the Magistrate’s Court is convicted before the Supreme Court of an offence committed during the relevant period or is dealt with by the Supreme Court for any such offence in respect of which he was committed for sentence to the Supreme Court, the Supreme Court may deal with him, for any offence for which the order was made, in any manner in which the court which made the probation order or order for conditional discharge could deal with him if it had just convicted him of that offence.

(9) If the person in whose case a probation order or an order for conditional discharge has been made by the Summary Court is convicted by the Magistrate’s Court of any offence committed during the relevant period, the Magistrate’s Court may deal with him for the offence for which the order was made, in any manner in which the Summary Court could deal with him if it had just convicted him of that offence.

15. Where an Order for conditional discharge has been made by a court in the case of an offender under seventeen years of age the powers exercisable by that or any other court after the offender has attained the age of seventeen years in the event of any breach of the order shall be those which would be exercisable if he had attained the age of seventeen years at the time of the commission of the offence in respect of which the order for conditional discharge has been made.

Breach of conditional discharge by young offender. (1973 c.62 s.9.)

16. (1) Where on an application made by the probationer or the probation officer it appears to the court having power to discharge a probation order that the order is no longer appropriate in the case of the probationer, the court may make, in substitution for the probation order, an order discharging him in respect of the original offence, subject to the condition that he commits no offence between the making of the order under this section and expiration of the probation period.

Substitution of conditional discharge for probation. (1973 c.62 s.11.)

(2) No application may be made under subsection (1) above while an appeal against the probation order is pending.

(3) A person in respect of whom an order is made under this section shall so long as the condition mentioned in subsection (1) above continues in force be treated in all respects and in particular for the purposes of section 14 above as if the original order made in his case had been an order for conditional discharge made by the court which made the original order and as if the period of the conditional discharge were the same as the probation period.

(4) Where an application under this section is made by the probation officer, it may be heard in the absence of the probationer if the officer produces to the court a statement by him that he understands the effect of an order made under this section and consents to the application being made.

(5) On the making of an order under this section the appropriate officer of the court shall forthwith give copies of the order to the probation officer, who shall give a copy to the person in respect of whom the order is made and to the person in charge of any institution in which that person was required by the probation order to reside.

17. (1) Any court may, on making a probation order or an order for conditional discharge under this Part if it thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to give security for the good behaviour of the offender.

Supplementary provision as to probation and discharge. (1973 c.62 s. 12.)

(2) For the purposes of this Ordinance, except section 7(7) and paragraph 1 of Schedule 2, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.

(3) In proceedings before the Supreme Court under the preceding provisions of this Ordinance, any question whether a probationer has failed to comply with the requirements of the probation order, and any question whether any person in whose case the probation order or an order for conditional discharge has been made has been convicted of an offence committed during the probation period or, as the case may be, the period of conditional discharge, shall be determined by the court and not by the verdict of a jury.

(4) Nothing in any previous provision of this Part shall be construed as taking away any power of the court, on making a probation order in respect of an offender or discharging an offender absolutely or conditionally, to order him to pay costs or compensation.

18. (1) Subject to subsection (2) and (3) below, a conviction of an offence for which an order is made under this Part placing the offender on probation or discharging him absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the preceding provisions of this Part and the purposes of section 1 (2) (b) of the Children and Young Persons Act 1969 in its application to the Falkland Islands.

Effect of probation and discharge. (1973 c.62 s.13.)

(2) Where the offender was of or over seventeen years of age at the time of his conviction of the offence in question and is subsequently sentenced under this Part for that offence, subsection (1) above shall cease to apply to the conviction.

(3) Nothing in subsection (1) above shall prevent an appeal whether against conviction or otherwise.

(4) Without prejudice to the preceding provisions of this section, the conviction of an offender who is placed on probation or discharged absolutely or conditionally under this Part shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons, or authorises or requires the imposition of any such disqualification or disability.

(5) The preceding provisions of this section shall not affect —

- (a) any right of any offender placed on probation or discharged absolutely or conditionally under this Part to rely on his conviction in bar of any subsequent proceedings for the same offence;
- (b) the restoration of any property in consequence of the conviction of any such offender; or
- (c) the operation, in relation to any such offender of any enactment or instrument in force at the commencement of this Ordinance which is expressed to extend to persons dealt with under section 1 (1) of the Probation Offenders Act 1907 as well as to convicted persons.

### *Imprisonment: General Provisions*

19. (1) Where a person is convicted of an offence against any enactment and is for that offence liable to be sentenced to imprisonment, but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

General power to impose sentence of imprisonment. (1973 c.62 s.18.)

(2) Where a person is convicted of an offence contrary to common law, the persons so convicted shall be liable to a fine not exceeding the maximum of level 6 or to imprisonment for two years or to both such fine and such imprisonment.

(3) A person shall, for the purposes of this section, be deemed not to have been convicted of an offence contrary to common law unless he was convicted on a charge, summons, information or indictment alleging that he committed that offence contrary to common law.

20. (1) No court shall pass a sentence of imprisonment on a person of or over twenty-one years of age on whom such a sentence has not previously been passed by a court in the Falkland Islands unless the court is of opinion that no other method of dealing with him is appropriate; and for the purpose of determining whether any other method of dealing with any such person is appropriate the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

Restrictions on imposing sentences of imprisonment on persons who have not previously served prison sentences. (1973 c.62 s.20.)

(2) Where the Magistrate's Court or Summary Court passes a sentence of imprisonment on any such person as is mentioned in subsection (1) above, the court shall state the reason for its opinion that no other method of dealing with him is appropriate, and cause that reason to be specified in the warrant of commitment and to be recorded on the court file relating to the proceedings in question

(3) For the purposes of this section -

- (a) a previous sentence of imprisonment which has been suspended and which has not taken effect under section 34 of this Ordinance shall be disregarded; and
- (b) "sentence of imprisonment" does not include a committal or attachment for contempt of court.

(4) Subsection (1) above does not affect the power of the court to pass sentence on any person for an offence the sentence for which is fixed by law.

(5) For the purposes of this section the age of the person shall be deemed to be that which it appears to the court to be after considering any available evidence.

21. (1) Subject to subsection (2) below the court shall wherever reasonably possible obtain a social inquiry report for the purpose of determining under section 20 (1) above whether there is any appropriate method of dealing with an offender other than imprisonment.

Social inquiry report for purposes of section 20. (1973 c.62 s.20A.)

(2) Subsection (1) above does not apply if in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.

(3) Where a court other than the Supreme Court without first obtaining a social inquiry report passes a sentence of imprisonment on a person of or over twenty-one years of age on whom such a sentence has not previously been passed by a court in the Falkland Islands, it shall state in open court the reason why it was not reasonably practicable or it was unnecessary to obtain such a report.

(4) A court which states a reason as required by subsection (3) above shall cause that reason to be specified in the warrant of commitment and in the court file relating to the proceedings.

(5) No sentence shall be invalidated by the failure of a court to comply with subsection (1) above, but any other court on appeal from that court shall obtain a social inquiry report if reasonably practicable so to do and if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.

(6) In determining whether it should deal with the offender otherwise than by passing a sentence of imprisonment on him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.

(7) In this section 'social inquiry report' means a report about a person and his circumstances made by a probation officer or other person whom the court believes to be a suitable person to make such a report.

#### *Custody and detention of persons under twenty-one*

22. (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under twenty-one years of age or commit such a person to prison for any reason.

General restriction on custodial sentences. (1982 c.48 s.1.)

(2) Nothing in subsection (1) above shall prevent the committal to prison of a person under twenty-one years of age who is remanded in custody or committed in custody for trial or sentence.

(3) Subject to section 53 of the Children and Young Persons' Act 1933 (punishment of certain grave crimes) in its application to the Falkland Islands, the only custodial orders that a court may make where a person under twenty-one years of age is convicted or found guilty of an offence are —

- (a) a sentence of detention in a young offender institution under section 23 below; and
- (b) a sentence of custody for life under section 27 below.

(4) A court may not —

- (a) pass a sentence of detention in a young offender institution; or
- (b) pass a sentence of custody for life under section 27 below, unless it is satisfied —
  - (i) that the circumstances, including the nature and gravity of the offence, are such that if the offender were aged twenty-one or over the court would pass a sentence of imprisonment; and
  - (ii) that he qualifies for a custodial sentence.

(5) An offender qualifies for a custodial sentence if —

- (a) he has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them; or
- (b) only a custodial sentence would be adequate to protect the public from serious harm from him; or
- (c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence from it cannot be justified.

23. (1) Subject to section 27 below and to section 53 of the Children and Young Persons' Act 1933 in its application to the Falkland Islands, where —

Detention in a young offender institution.

- (a) a male offender under twenty-one but not less than fourteen years of age or a female offender under twenty-one but not less than fifteen years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged twenty-one or over; and

(b) the court is satisfied of the matters referred to in section 22(4) above, the sentence that the court is to pass is a sentence of detention in a young offender institution.

(2) Subject to section 24(1) and (2) below, the maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.

(3) Subject to subsection (4) below and section 24(3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than twenty-one days.

(4) A court may pass a sentence of detention in a young offender institution for less than twenty-one days for an offence under section 28 below.

(5) Subject to section 24(4) below, where -

- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution; or
- (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence,

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

(6) Where an offender who —

- (a) is serving a sentence of detention in a young offender institution; and
- (b) is aged over twenty-one years,

is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.

**24. (1)** In the case of a male offender under fifteen the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of —

Special provision.

- (a) the maximum term of imprisonment the court may impose for the offence; and
- (b) four months.

(2) In the case of an offender aged fifteen or sixteen the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of —

- (a) the maximum term of imprisonment the court may impose for the offence; and
- (b) twelve months.

(3) Where an offender is a female under seventeen a court shall not pass a sentence for her detention in a young offender institution whose effect would be that she would be sentenced to a total term of four months or less.

(4) A court shall not pass a sentence of detention in a young offender institution on an offender whose effect would be that the offender would be sentenced to a total term which exceeds —

- (a) if the offender is male and under fifteen, four months; and
- (b) if the offender is aged fifteen or sixteen, twelve months.

(5) Where the total term of detention in a young offender institution to which an offender is sentenced exceeds —

- (a) in the case of a male offender under fifteen, four months; and
- (b) in the case of an offender aged fifteen or sixteen, twelve months,

so much of the term as exceeds four or twelve months as the case may be, shall be treated as remitted.



(6) In this section "total term" means —

- (a) in the case of an offender sentenced (whether or not on the case occasion) to two or more terms of detention in a young offender institution which are consecutive or wholly or partly concurrent, the aggregate of those terms;
- (b) in the case of any other offender, the sentence of detention in a young offender institution in question.

25. The Governor may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison instead of a young offender institution, but if he is under seventeen at the time of the direction, only for a temporary purpose or in the absence of a suitable young offender institution being available to receive him.

Accommodation of offenders sentenced to detention in a young offender institution.

26 (1) Subject to subsection (3), the provisions of sections 20 and 21 above shall apply in relation to a person under twenty-one years of age as they do to a person above that age with the modification required by subsection (2) below.

Application of sections 20 and 21 in respect of persons under the age of twenty one years.

(2) The modifications referred to in subsection (1) above are the substitution of a reference to a youth custody sentence or a sentence for custody for life for any reference to a term of imprisonment.

(3) Where —

- (a) the Supreme Court passes a sentence of detention in a young offender institution or a sentence of custody for life under section 27 below, or
- (b) the magistrate's court or the summary court passes a sentence of detention in a young offender institution,

it shall be its duty —

- (i) to state in open court that it is satisfied that he qualifies for a custodial sentence under one or more of the paragraphs of section 22(4) above, the paragraph or paragraphs in question and why it is so satisfied; and
- (ii) to explain it to the offender in open court and in ordinary language why it is passing a custodial sentence on him.

27. (1) Where a person under the age of twenty-one is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 53 (1) of the Children and Young Persons Act 1933 (detention of persons under eighteen convicted of murder) in its application to the Falkland Islands.

Custody for life. (1982 c.48 s.8.)

(2) Where a person aged seventeen years or over but under the age of twenty-one is convicted of any other offence for which a person aged twenty-one years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

28. (1) In any case where, but for section 22 (1) above, a court would have power —

- (a) to commit a person under twenty-one but not less than seventeen years or age to prison for default in payment of a fine or any other sum of money; or
- (b) to make an order fixing a term of imprisonment in the event of such a default by such a person; or
- (c) to commit such a person to prison for contempt of court or any kindred offence,

Detention of persons aged seventeen to twenty for default or contempt. (1982 c.48 s.9.)

the court shall have power to commit him to be detained under this section or, as the case may be, to make an order for fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.



(2) For the purposes of subsection (1) above, a power of the court to order a person to be imprisoned under legislation relating to the attachment of earnings in default of payment by that person of any sum ordered by a court to be paid shall be taken to be a power to commit him to prison.

### *Community service orders*

29. (1) Where a person of or over sixteen years of age is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may, instead of dealing with him in any other way (but subject to subsection (3)) below make an order (in this Part referred to as "a community service order") requiring him to perform unpaid work in accordance with subsequent provisions of this Part.

Community service orders in respect of convicted persons. (1973 c.62 s.14.)

The reference in this subsection to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this Part or any other enactment on the imprisonment of young offenders.

(2) The number of hours for which a person may be required to work under a community service order shall be specified in the order and shall be in the aggregate —

- (a) not less than forty; and
- (b) not more —
  - (i) in the case of an offender aged sixteen, than one hundred and twenty; and
  - (ii) in other cases, than two hundred and forty.

(3) A court shall not make a community service order in respect of any offender unless the offender consents and after considering a report by a probation officer or by a social worker or welfare officer employed by the Government about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer or such a social worker or welfare officer, the court is satisfied that the offender is a suitable person to perform work under such an order.

(4) A court shall not make a community service order in respect of any offender unless the court is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the part of the Falkland Islands in which the offender resides or will reside.

(5) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent shall not exceed the maximum specified in paragraph (b) (i) or (ii) of subsection (2) above.

(6) Before making a community service order the court shall explain to the offender in ordinary language —

- (a) the purpose and effect of the order (and in particular the requirements of the order as specified in section 30 below);
- (b) the consequences which may follow under section 31 below if he fails to comply with any of those requirements; and
- (c) that the court has under section 32 below the power to review the order on the application either of the offender or of a probation officer.

(7) The court by which a community service order is made shall forthwith give copies of the order to a probation officer assigned by the court to supervise the order (in this Part called "the relevant officer") and he shall give a copy to the offender.

(8) Nothing in subsection (1) above shall be construed as preventing a court which makes a community service order in respect of any offence from making an order for costs against, or imposing a disqualification on, the offender or for making in respect of the offence an order under section 44, 49, 67 or 68 of this Ordinance, or under section 28 of the Theft Act 1968 in its application to the Falkland Islands.

30. (1) An offender in respect of whom a community service order is in force shall —

- (a) report to the relevant officer and subsequently from time to time notify him of any change of address; and
- (b) perform for the number of hours specified in the order such work at such times as he may be instructed by the relevant officer.

- (2) Subject to section 32(1) below, the work required to be performed under a community service order shall be performed during the period of twelve months beginning with the date of the order; but unless revoked, the order shall remain in force until the offender has worked under it for number of hours specified in it.

(3) Instructions given by the relevant officer under this section shall, so far as practicable, be such as to avoid any conflict with the offender's religious beliefs and any interference with the times if any, at which he normally works or attends a school or other educational establishment.

31. (1) If at any time while a community service order is in force in respect of an offender it appears on information to the Senior Magistrate or to a justice of the peace that the offender has failed to comply with any of the requirements of section 30 above (including any failure satisfactorily to perform the work which he has been instructed to do), the Senior Magistrate or that justice may issue a summons requiring the offender to appear at the place and time specified there in, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(2) A summons or warrant issued under this section shall direct the offender —

- (a) in the case of a summons or warrant issued by or by order of the Senior Magistrate to appear or be brought before the Magistrate's Court; and
- (b) in the case of a summons or warrant issued by a justice of the peace shall direct the offender to appear or to be brought before the Summary Court.

(3) If it proved to the satisfaction of the Magistrate's Court that the offender has failed without reasonable excuse to comply with any of the requirements of section 30 above the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 or may —

- (a) if the community service order was made by the Magistrate's Court or the Summary Court, revoke the order and deal with the offender, for an offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
- (b) if the order was made by the Supreme Court, commit him to custody or release him on bail until he can be brought or appear before the Supreme Court.

(4) If it proved to the satisfaction of the Summary Court that an offender has failed without reasonable excuse to comply with any of the requirements of section 30 the Summary Court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 or may —

- (a) if the community service order was made by the Summary Court, revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the Summary Court if the order had not been made;
- (b) if the order was made by the Supreme Court or by the Magistrate's Court, commit him to custody or release him on bail until he can be brought or appear before the court which made the order.

(5) If the Magistrate's Court deals with an offender's case under subsection (3) (b) above it shall send to the Supreme Court a certificate signed by the Senior Magistrate certifying that the offender has failed to comply with the requirements of section 30 above in the respect specified in the certificate, together with such other particulars of the case as may be desirable;

Obligation of person subject to community service order. (1973 c.62 s.15.)

Breach of requirements of community service order. (1973 c.62 s.16.)

and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Supreme Court. The Summary Court if it deals with an offender's case under subsection (4) (b) above shall send to the court before which the offender is required to appear in accordance with that paragraph of that subsection a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of section 30 in the respect specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the court before which that offender is so required to appear.

(6) Where by virtue of subsection (3) (b) or (4) (b) above the offender is brought or appears before the Supreme Court and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of section 30, the Supreme Court may either —

- (a) without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3; or
- (b) revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the Supreme Court if the order had not been made.

(7) A person sentenced under subsection (3) (a) or (4) (a) above for an offence may appeal to the Supreme Court against the sentence.

(8) In proceedings before the Supreme Court under this section any question whether the offender has failed to comply with the requirements of section 30 shall be determined by the court and not by the verdict of the jury.

(9) A fine imposed under this section shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

32. (1) Where a community service order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to the court which made the order that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may extend, in relation to the order, the period of twelve months specified in section 30 (2) above.

Amendment and  
revocation of  
community ser-  
vice order, and  
substitution of  
other sentences.  
(1973 c.62 s.17.)

(2) Where such an order is in force and on any such application it appears to the court that, having regard to such circumstances, it would be in the interests of justice that the order should be revoked or that the offender should be dealt with in some other manner for the offence in respect of which the order was made, the court may —

- (a) if the order was made by it or a court inferior to it, revoke the order or revoke it and deal with the offender for that offence in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
- (b) if the order is made by a court superior to it, commit him to custody or release him on bail until he can be brought or appear before that superior court;

and where the court deals with the case under paragraph (b) it shall send to the superior court such particulars of the case as may be desirable.

(3) Where an offender in respect of whom such an order is in force —

- (a) is convicted of an offence before the Supreme Court; or
- (b) is committed by an inferior court to the Supreme Court for sentence and is brought before or appears before the Supreme Court; or
- (c) by virtue of subsection (2) (b) above is brought or appears before the Supreme Court,

and it appears to the Supreme Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Supreme Court may revoke the order or revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(4) A person sentenced under subsection (2) (a) above for an offence may appeal to the Supreme Court against the sentence.

(5) Where a court proposes to exercise its powers under subsection (1) or (2) above other wise than on the application of the offender it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

### *Suspended sentences of imprisonment*

33. (1) Subject to subsection (2) below, a court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than two years from the date of the order, the offender commits in the Falkland Islands another offence punishable with imprisonment and thereafter a court having power to do so orders under section 34 below that the original sentence shall take effect; and in this Part "operational period", in relation to a suspended sentence, means the period so specified.

Suspended sentences of imprisonment and partly suspended sentences of imprisonment. (1973 c.62 s.22.)

(2) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence by an order under subsection (1) above.

(3) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(4) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 34 below if during the operational period he commits an offence punishable with imprisonment.

(5) Where a court has passed a suspended sentence on any person, and that person is subsequently the subject of a youth custody sentence, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent youth custody sentence or any conviction or finding on which it was passed is quashed on appeal.

(6) Subject to any provision to the contrary contained in any enactment —

(a) a suspended sentence which has not taken effect under section 34 below shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture, or persons sentenced to imprisonment; and

(b) where a suspended sentence has taken effect under that section, the offender shall be treated for the purposes of the enactment and instruments excepted by paragraph (a) above as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

(7) Subject to subsection (8) below, where a court passes on an adult a sentence of imprisonment for a term of not less than three months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.

(8) A court shall not make a order under this section unless the case appears to the court to be one in which a order under the preceding provisions of this section (sentences wholly suspended) would not be appropriate.

(9) Subsection (8) above is without prejudice to section 22 above.

(10) The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall not be less than one quarter of the whole term, and the offender shall not be required to serve the latter part unless it is restored under subsection (11) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.

(11) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then subject to subsections (12) and (13) below a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.

(12) If a court, considering the offender's case with a view to exercising the powers of subsection (11) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.

(13) If an order restoring part of a sentence has been made under subsection (11) above, no order restoring any further part of it may be made.

(14) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.

(15) "Adult" in this section means a person who has attained the age twenty-one and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (7) above and he had no remission of imprisonment under those provisions of the laws relating to prisons which provide for remission of sentence for good conduct in prison.

(16) Schedule 2 to this Ordinance has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section.

34. (1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under section 35 below to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods —

Power of court on conviction of further offence to deal with suspended sentences. (1973 c.62 s.23.)

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
- (b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;
- (c) it may by order vary the original order under section 33 (1) above by substituting for the period specified therein a period expiring not later than two years from the date of the variation; or
- (d) it may make no order with respect to the suspended sentence,

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.

(3) In proceedings for dealing with an offender in respect of a suspended sentence which take place before the Supreme Court any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the judge and not by the verdict of a jury.

(4) Where a court deals with an offender under this section in respect of a suspended sentence the appropriate officer of the court shall notify the appropriate officer of the court which passed the sentence of the method adopted.

(5) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the appropriate officer of the court shall record that fact.

(6) For the purposes of any enactment conferring rights of appeal in criminal cases any order made by a court with respect to a suspended sentence shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

35. (1) An offender may be dealt with in respect of a suspended sentence or a partly suspended sentence

- (a) by the Supreme Court, irrespective of the court by which the suspended sentence or partly suspended sentence was passed;
- (b) by the Magistrate's Court, if the suspended sentence or partly suspended sentence was passed by the Magistrate's Court or by the Summary Court;
- (c) by the Summary Court if the suspended sentence or partly suspended sentence was passed by that court.

Court by which suspended sentence may be dealt with. (1973 c.62 s.24.)

(2) Where an offender is convicted by the Magistrate's Court or by the Summary Court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence or partly suspended sentence passed by the Supreme Court the court shall commit him in custody or on bail to the Supreme Court.

(3) For the purposes of this section and of section 38 below a suspended sentence or partly suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

36. (1) If it appears to the Supreme Court, where that court has jurisdiction in accordance with subsection (2) below or to the Senior Magistrate or justice of the peace having jurisdiction in accordance with that subsection, that an offender has been convicted in the Falkland Islands of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the Supreme Court, the Senior Magistrate or that justice may, subject to the following provisions of this section, issue a summons requiring the offender to appear at the place and time specified there in, or a warrant for his arrest.

Procedure where court convicting of further offence does not deal with suspended sentences. (1973 c.62 s.25.)

(2) Jurisdiction for the purposes of subsection (1) above may be exercised by —

- (a) any court having by virtue of section 35(1) above jurisdiction to deal with the offender; or
- (b) the Senior Magistrate where by virtue of section 35(1) above the Magistrate's Court has jurisdiction to deal with the offender;
- (c) a justice of the peace where or by virtue of section 35(1) above, the Summary Court has jurisdiction to deal with the offender.

(3) A justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(4) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed.

37. (1) Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order (in this Part referred to as "supervision order") placing the offender under the supervision of a supervising officer for a period specified in the order, being a period not exceeding the operational period of the suspended sentence.

Suspended sentence supervision orders. (1973 c.62 s.26.)

(2) The supervising officer shall be the probation officer or, if the supervision order is made by the Supreme Court or the Senior Magistrate, such other probation officer appointed pursuant to section 8 (2) above as may be named in the order.

(3) An offender in respect of whom a supervision order is in force shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

(4) The court by which a supervision order is made shall forthwith give copies of the order to the supervising officer who shall give a copy to the offender.

(5) A supervision order shall cease to have effect if before the end of the period specified in it —

- (a) a court orders under section 34 above that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
- (b) the order is discharged or replaced under the subsequent provisions of this section.

(6) A supervision order may be discharged, on the application of the supervising officer or the offender —

- (a) if it was made by the Supreme Court and includes a direction reserving the power of discharging it to that court, by the Supreme Court;
- (b) if it was made by the Supreme Court and does not include a direction of the kind referred to in paragraph (a) above, by the Magistrate's Court;
- (c) if it was made by the Magistrate's Court, by the Magistrate's Court;
- (d) if it was made by the Summary Court, by the Summary Court.

(7) Where under section 34 above a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a supervision order in respect of the offender —

- (a) in place of any such order made when the suspended sentence was passed; or
- (b) if the court which passed the sentence could have made such an order but did not do so.

(8) On making a supervision order the court shall in ordinary language explain its effect to the offender.

38. (1) If at any time while a supervision order is in force in respect of an offender it appears —

- (a) to the Senior Magistrate; or
- (b) to a justice of the peace,

Breach of requirement of suspended sentence supervision order. (1973 c.62 s.27.)

that the offender has failed to comply with any of the requirements of section 37 (3) above, he may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the offender —

- (a) to appear or be brought before the Magistrate's Court, in the case of a summons or warrant issued by the Senior Magistrate; and
- (b) to appear or be brought before the Summary Court in the case of a summons or warrant issued by a justice of the peace.

(3) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that he has failed without reasonable cause to comply with any of the requirements or section 37 (3) above the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 on the standard scale.

(4) A fine imposed under this section shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

#### *Powers relating to persistent offenders*

39. (1) Where an offender is convicted by the Supreme Court or by the Magistrate's Court of an offence punishable with imprisonment for a term of two years or more and the conditions specified in subsection (3) below are satisfied, then, if the court is satisfied, by reason

Punishment of persistent offenders. (1973 c.62 s.28.)



of his previous conduct and the likelihood of his committing further offences, that it is expedient to protect the public from him for a substantial time, the court may impose an extended term of imprisonment under this section.

(2) The extended term which may be imposed under this section for any offence may exceed the maximum term authorised for the offence apart from this section if the maximum so authorised is less than ten years, but shall not exceed ten years if the maximum so authorised is less than ten years or exceed five years if the maximum so authorised is less than five years.

(3) The conditions referred in subsection (1) above are —

- (a) that the offence was committed before the expiration of three years from the previous conviction of an offence punishable with imprisonment for a term of two years or more or from his final release from prison after serving a sentence of imprisonment passed on such a conviction; and
- (b) the offender has been convicted on at least three previous occasions since he attained the age of twenty one of offences punishable with imprisonment for a term of two years or more; and
- (c) the total length of the sentences of imprisonment to which he was sentenced on those occasions was not less than five years.

(4) Where an extended term of imprisonment is imposed on an offender under this section, the court shall issue a certificate (hereafter in this Part referred to as "an extended sentence certificate") stating that the term was so imposed.

40. (1) For the purposes of section 39(3)(a) above a certificate purporting to be signed by the chief officer of police to the effect —

- (a) that a prisoner was finally released from prison on a date specified in the certificate after serving a sentence so specified; or
- (b) that a prisoner had not been finally released from prison on a date so specified after serving a sentence so specified;

Supplementary provisions as to persistent offenders. (1973 c.62 s.29.)

shall be evidence of the matter so certified.

(2) For the purposes of section 39 (3) (b) above a person who has been convicted by the Magistrate's Court or by the Summary Court of an offence punishable on conviction with imprisonment for two years or more and sentenced for that offence by the Supreme Court, or on appeal from the Supreme Court, to imprisonment shall be treated as if he had been convicted of that offence by the Supreme Court.

(3) For the purpose of determining whether the conditions specified in section 39 (3) above are satisfied in relation to an offender no account shall be taken of any previous conviction or sentence unless notice has been given to the offender at least three days before the later sentence is passed on him that it is intended to prove the previous conviction or sentence to the court.

(4) For the purposes of subsection (3) above a certificate purporting to be signed by a police officer that a copy of a notice annexed to the certificate was given to an offender shall be evidence that it was so given and of the contents of the notice.

(5) In this section and in section 39 above "final release" includes a release pursuant to the provisions of section 65 (1) of the Constitution, but does not include any temporary discharge from prison whether under section 65 (1) of the Constitution or other wise.

#### *General power of court to impose fines*

41. Where a person is convicted of any offence other than an offence for which the sentence is fixed by law, the court if not precluded from sentencing the offender by its exercise of some other power (such as the power to make a probation order), may impose a fine instead of or in addition to dealing with him in any other way (such as imprisoning him) in which the court has power to deal with him, subject however to any enactment requiring the offender to be dealt with in a particular way.

General power of court to fine convicted offender. 1973 c.62 s.30.



42. (1) Subject to the provisions of this section, if a court imposes a fine on any person or forfeits his recognizance, the court may make an order —

- (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
- (b) directing payment of that amount by instalments of such amounts and on such dates respectively as may be specified in the order;
- (c) in the case of recognizance, discharging the recognizance or reducing the amount due thereunder.

Powers of courts in relation to fines and forfeited recognizances. (1973 c.62 s.31.)

(2) Subject to the provisions of this section, if a court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 28 above (detention of persons aged seventeen to twenty for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.

(3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by a court be committed to prison or detained in pursuance of an order under subsection (2) above unless —

- (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
- (b) it appears to the court that it is unlikely to be possible to enforce payment of the sum by other methods; or
- (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life, youth custody or detention in a detention centre for that or another offence, or sentences him as aforesaid for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term
  - (i) of imprisonment;
  - (ii) of youth custody;
  - (iii) of detention in a detention centre; or
  - (iv) of detention under section 28 above.

(4) Subject to subsections (5) and (6) below, the periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite thereto

T A B L E

An amount not exceeding £50.....	5 days
An amount exceeding £50 but not exceeding £100 .....	7 days
An amount exceeding £100 but not exceeding £400.....	14 days
An amount exceeding £400 but not exceeding £1,000.....	30 days
An amount exceeding £1,000 but not exceeding £2,000.....	45 days
An amount exceeding £2,000 but not exceeding £5,000.....	3 months
An amount exceeding £5,000 but not exceeding £10,000.....	6 months
An amount exceeding £10,000 but not exceeding £20,000.....	12 months
An amount exceeding £20,000 but not exceeding £50,000.....	18 months
An amount exceeding £50,000 but not exceeding £100,000.....	2 years
An amount exceeding £100,000 but not exceeding £250,000.....	3 years
An amount exceeding £250,000 but not exceeding £1,000,000.....	5 years
An amount exceeding £1,000,000.....	10 years

(5) Where the amount due at the time imprisonment or detention is imposed is so much of an fine or forfeited recognizance as remains due after part payment, then, subject to subsection (6) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the total sum.

(6) In calculating the reduction required under subsection (5) above any fraction of a day shall be left out of account and the maximum period shall be not be reduced to less than five days.

(7) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by a court to, or is serving or otherwise liable to serve, a term of imprisonment or youth custody or a term of detention under any provision of this Ordinance, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first - mentioned term.

(8) The power conferred by this section to discharge a recognizance or reduce the amount due thereunder shall be in addition to the powers conferred by any other enactment relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.

(9) Subject to subsection (10) below the powers conferred by this section shall not be taken as restricted by any enactment about committal by any court to another court which authorises the court to which an offender is committed to deal with that offender in any way in which the court from which the offender was committed might have dealt with him.

(10) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the court from which an offender is committed could have imposed, shall not exceed the period applicable to that fine (if imposed by that court) under any provision of the Customs Ordinance.

(11) This section shall not apply to a fine imposed by the Supreme Court on appeal against a decision of the Magistrate's Court or the Summary Court, but subsections (2), (3), (4), (5) and (6) above shall apply in relation to a fine imposed or recognizance forfeited by the Court of Appeal or by the Privy Council on appeal from the Court of Appeal, as they apply in relation to a fine imposed or recognizance forfeited by the Supreme Court, and the references to a court in subsections (2) and (3) above shall be construed accordingly.

43. Where a court makes any order against an offender for the payment of a fine or costs, or compensation a court may —

- (a) allow time for the payment of the sum due under that order;
- (b) direct payment of that sum by instalments of such amounts and on such dates respectively as the court may specify.

Power of court to allow time for payment, or payment by instalments, of fine costs or compensation. (1973 c.62 s.34.)

#### *Compensation Orders*

44. (1) Subject to the provisions of this Part, a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Part referred to as "a compensation order") requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken in consideration by the court in determining sentence or to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road; and a court shall give reasons, on passing sentence, for not making a compensation order if it does not make such an order in a case where this section empowers it to do so.

Compensation orders against convicted persons. (1973 c.62 s.35.)

(2) Compensation to be paid under a compensation order made by any court other than the Supreme Court in respect of any offence of which the court making the order has convicted the offender shall not exceed £2,500; and the compensation or total compensation to be paid under a compensation order or compensation orders made by any court other than the Supreme Court in respect of any offence or offences taken into consideration in

determining sentence shall not exceed the difference (if any) between the amount or total amount which under the preceding provisions of this subsection is the maximum for the offence or offences of which the offender has been convicted and the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

(3) Subject to subsection (2) above, compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.

(4) In the case of an offence under the Theft Act 1968 in its application to the Falkland Islands or under section 9P of the Road Traffic Ordinance, where the property in question is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of subsection (1) above as having resulted from the offence, however and by whomsoever the damage was caused.

(5) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if —

- (a) it is in respect of damage which is treated by subsection (4) above as resulting from an offence under the Theft Act 1968 in its application to the Falkland Islands or from an offence under section 9P of the Road Traffic Ordinance; or
- (b) it is in respect of injury, loss or damage as respects which the offender is uninsured in relation to the use of the vehicle and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.

(6) A vehicle, the use of which by any provision of or of the order or regulations made under the Road Traffic Ordinance, is exempted from insurance is not uninsured for the purposes of subsection (5) above.

(7) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.

(8) A compensation order in respect of bereavement may only be made for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the Fatal Accidents Act 1976 in its application to the Falkland Islands.

(9) The amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of the Fatal Accidents Act 1976.

(10) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.

(11) Where the court considers —

- (a) that it would be appropriate both to impose a fine and to make a compensation order; but
- (b) that the offender has insufficient means to pay both appropriate fine and appropriate compensation, the court shall give preference to compensation (though it may impose a fine as well).

45. (1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Enforcement  
and appeals.  
1973 c.62 s.36 as  
substituted by  
(1988 c.33 s.105.)

(2) Rules may be made providing how any court which has functions in relation to the enforcement of a compensation order is to deal with the money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.

(3) An appellate court may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order if annulled, shall not take effect and if varied shall take effect as varied.

(4) Where a court of further appeal restores a conviction, it may make any compensation order which the court of trial could have made.

(5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence —

- (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences of which he was convicted in the proceedings in which the order was made;
- (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

46. At any time before the person against whom a compensation order has been made has paid into court the whole of the compensation which the order requires him to pay, but at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, the Magistrate's Court or, in the case of a compensation order made by the Summary Court, the Summary Court, may, on the application of the person against whom it was made, discharge the order, or reduce the amount which remains to be paid, if it appears to the court —

Review of compensation orders.  
1973 c.62 s.37 as substituted by  
(1988 c.33 s.105.)

- (a) that the injury, loss or damage in respect of which the order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
- (b) in the case of an order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
- (c) that the means of the person against whom the order was made are insufficient to satisfy in full both the order and a confiscation order under this Ordinance made against him in the same proceedings; or
- (d) that the person against whom the order was made has suffered a substantial reduction in his means which was unexpected at the time when the compensation order was made, and that his means seem unlikely to increase for a considerable period;

but where the order was made by the Supreme Court, the Magistrate's Court shall not exercise any power conferred by this section in a case where it is satisfied as mentioned in paragraph (c) or (d) above unless it has first obtained the consent of the Chief Justice.

47. (1) This section shall have effect where a compensation order has been made in favour of any person in respect of any injury, loss or damages and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.

Effect of compensation order on subsequent award of damages in civil proceedings.  
1973 c.62 s.38 as substituted by  
(1988 c.33 s.105.)

(2) The damages in the civil proceedings shall be assessed without regard to the order; but the plaintiff may only recover an amount equal to the aggregate of the following —

- (a) any amount by which they exceed the compensation; and
- (b) a sum equal to any portion of the compensation which he fails to recover,

and may not enforce the judgement, so far as it relates to a sum such as is mentioned in paragraph (b) above, without the leave of the court.

#### *Recovery of compensation awarded by court*

48. (1) Where, in criminal proceedings, a court makes an order against the accused for payment of compensation, any sum required to be paid by such an order shall be treated, for the purposes of collection and enforcement, as if it had been adjudged to be paid on a conviction —

Provisions as to enforcement of compensation.

- (a) where the order is made by any court other than the Summary Court, by the Magistrate's Court; and
- (b) if the order is made by the Summary Court, by the Summary Court.

(2) A court making a compensation order may, if it thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, specify a longer period for that purpose, but not exceeding twelve months; and then, in the case of default —

- (a) the specified period shall be substituted as the maximum for which the person may be imprisoned in the event of default in payment; and
- (b) subsection (3) below shall apply for the reduction of the specified period where, at the time of the person's imprisonment, he has made part payment under the order.

(3) Where the amount due at the time imprisonment is imposed by reason of failure to pay a sum due under a compensation order is so much a sum adjudged to be paid by that order as remains due after part payment, then, subject to subsection (4) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the whole sum.

(4) In calculating the reduction required under subsection (3) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than five days.

(5) A court may not specify under subsection (2) above a period of imprisonment longer than that which it could order a person to undergo on imposing on him a fine equal in amount to the sum required to be paid by the order.

#### Confiscation of the proceeds of an offence

49. (1) The Supreme Court, the Magistrate's Court and the Summary Court shall each have power, in addition to dealing with an offender in any other way, to make an order under this section requiring him to pay such sum as the court thinks fit.

Confiscation  
orders.(1988 c.33  
s.71.)

(2) The Supreme Court may make such an order against an offender where —

- (a) he is found guilty of any offence to which this Part applies; and
- (b) it is satisfied —
  - (i) that he has benefitted from that offence or from that offence taken together with some other offence of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence, and which is not a drug trafficking offence; and
  - (ii) that his benefit is at least the minimum amount.

(3) The Magistrates Court and the Summary Court may make such an order against an offender where —

- (a) he is convicted of an offence prescribed for the purposes of this section by regulations made under this Ordinance; and
- (b) it is satisfied —
  - (i) that he has benefitted from that offence or from that offence taken together with some other offence prescribed by those regulations of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence; and
  - (ii) that his benefit is at least the minimum amount.

(4) For the purposes of this Part, a person benefits from an offence if he obtains property as a result of or in connection with its commission and his benefit is the value of the property so obtained.

(5) Where a person derives a pecuniary advantage as a result of or in connection with the commission of an offence, he is to be treated for the purposes of this Part as if he obtained as a result of or in connection with the commission of the offence a sum of money equal to the value of the pecuniary advantage.

(6) The sum which an order made by a court under this section requires an offender to pay must be at least the minimum amount, but must not exceed —

- (a) the benefit in respect of which it is made; or
- (b) the amount appearing to the court to be the amount that might be realised at the time the order is made,

whichever is the less.

(7) For the purposes of this Part, the minimum amount is £10,000 or such other amount as the Governor may specify by Order in Council.

(8) An Order in Council made by the Governor under subsection (7) shall not come into force until it has been approved by a resolution of the Legislative Council.

(9) In this Part —

- (a) an order made by a court under this section is referred to as a “confiscation order”;
- (b) “drug trafficking offence” has the same meaning as in the Drug Trafficking Offences Act 1986 in its application to the Falkland Islands;
- (c) references to an offence to which this Part applies are references to any offence which —
  - (i) is prescribed by regulations to which subsection (3) relates; or
  - (ii) if not so listed, is an offence, other than a drug trafficking offence, for which the defendant may, on conviction thereof by the Supreme Court or by the Magistrates Court, be sentenced to imprisonment for two years or more or might be so imprisoned if he were, at the time of commission of the offence, of the age of twenty- one years or more; and
- (d) a person against whom proceedings have been instituted for an offence to which this section applies is referred to (whether or not he has been convicted) as “the defendant”.

50. (1) A court shall not make a confiscation order unless the prosecutor has given written notice to the court to the effect that it appears to him that, were the court to consider that it ought to make such an order, it would be able to make an order requiring the offender to pay at least the minimum amount.

Making of confiscation orders.  
(1988 c.33 s.72.)

(2) If the prosecutor gives the court such a notice, the court shall determine whether it ought to make a confiscation order.

(3) When considering whether to make a confiscation order the court may take into account any information that has been placed before it showing that a victim of an offence to which the proceedings relate has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with the offence.

(4) If the court determines that it ought to make such an order, the court shall, before sentencing or otherwise dealing with the offender in respect of the offence or, as the case may be, any of the offences concerned, determine the amount to be recovered in his case by virtue of this section and make a confiscation order for that amount specifying the offence or offences.

(5) Were the court to make a confiscation order against the defendant in any proceedings, it shall be its duty, in respect of any offence of which he is convicted in those proceedings, to take account of the order before

- (a) imposing any fine on him;
- (b) making any order involving any payment by him, other than an order under the foregoing provisions of this Ordinance relating to compensation order; or

(c) making any order under —

- (i) section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders); or
- (ii) section 67 of this Ordinance (deprivation orders),

but subject to that shall leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of a confiscation order, restrict the court from dealing with an offender in any way it considers appropriate in respect of an offence to which this Part applies.

(7) Where —

- (a) a court makes both a confiscation order and an order for the payment of compensation under section 44 above against the same person in the same proceedings; and
- (b) it appears to the court that he will not have sufficient means to satisfy both the orders in full,

it shall direct that so much of the compensation as will not in its opinion be recoverable because of the insufficiency of his means shall be paid out of any sums recovered under the confiscation order.

51. (1) Where —

- (a) a defendant has been convicted of an offence to which this Part applies and the prosecutor tenders to the court a statement as to any matters relevant —
  - (i) to determining whether the defendant has benefitted from the offence or from any other offence to which this Part applies of which he is convicted in the same proceedings of which is taken into consideration in determining his sentence; or
  - (ii) to an assessment of the value of the defendant's benefit from the offence or any other offence to which this Part applies of which he is so convicted or which is so taken into consideration; and
- (b) the defendant accepts to any extent any allegation in the statement;

Statement, etc.  
relevant to mak-  
ing confiscation  
order. (1988 c.33  
s.73.)

the court may, for the purposes of so determining or making such an assessment, treat his acceptance as conclusive of the matters to which it relates.

(2) Where —

- (a) a statement is tendered under subsection (1)(a) above, and
- (b) the court is satisfied that a copy of that statement has been served on the defendant,

the court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with the requirement under subsection (2) above, he may be treated for the purposes of this section as accepting every allegation in the statement apart from —

- (a) any allegation in respect of which he has complied with the requirement; and
- (b) any allegation that he has benefitted from an offence or that any property was obtained by him as a result of or in connection with the commission of an offence.

(4) Where —

- (a) there is tendered to the court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made; and

(b) the prosecutor accepts to any extent any allegation in the statement; the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either —

- (a) orally before the court; or
- (b) in writing in accordance with rules of court.

(6) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by an acceptance under this section or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount of the court assesses to be the value of the defendant's benefit from the offence or, if more than one, all the offences in respect of which the order may be made.

52. (1) In this Part "realisable property" means, subject to subsection (2) below —

- (a) any property held by the defendant; and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Part.

Definition of principal terms used. (1988 c.33 s.74.)

(2) Property is not realisable property if —

- (a) an order under section 67 below (deprivation orders); or
- (b) an order under section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders),

is in force in respect of the property.

(3) For the purposes of this Part the amount that might be realised at the time a confiscation order is made is —

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Part.

(4) Subject to the following provisions of this section, for the purposes of this Part the value of property (other than cash) in relation to any person holding the property —

- (a) where any other person holds an interest in the property, is —
  - (i) the market value of the first mentioned person's beneficial interest in the property, less
  - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest; and (b) in any other case, is its market value.
- (b) in any other case, is its market value.

(5) References in this Part to the value at any time (referred to in subsection (6) below as "the material time") of any property obtained by a person as a result of or in connection with the commission of an offence are references to —

- (a) the value of the property to him when he obtained it adjusted to take account of subsequent charges in the value of money; or
- (b) where subsection (6) below applies, the value there mentioned,

whichever is the greater.

(6) If at the material time he holds —

- (a) the property which he obtained (not being cash); or
- (b) the property which, in whole or in part, directly or indirectly represents in his hands the property which he obtained,



the value referred to in subsection (5)(b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above, so far as it so represents the property which he obtained, but disregarding any charging order.

(7) Subject to subsection (12) below, references in this Part to the value at any time (referred to in subsection (8) below as "the material time") of a gift caught by this Part are references to —

- (a) the value of the gift to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or
- (b) where subsection (8) below applies, the value there mentioned,

whichever is the greater.

(8) Subject to subsection (12) below, if at the material time he holds —

- (a) the property which he received (not being cash) or
- (b) the property which, in whole or in part, directly or indirectly represents in his hands the property which he received;

the value referred to in subsection (7) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding any charging order.

(9) For the purposes of subsection (3) above, an obligation has priority at any time if it is an obligation of the defendant to —

- (a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or
- (b) pay any sum which would be included among the preferential debts (within the meaning given to that term by the Bankruptcy Act 1914 in its application to the Falkland Islands) in the defendant's bankruptcy commencing on the date of the confiscation order or on the defendant's winding-up under an order of the court made on that date.

(10) A gift (including a gift made before the commencement of this Part) is caught by this Part if —

- (a) it was made by the defendant at any time after the commission of the offence or, if more than one, the earliest of the offences to which the proceedings for the time being relate; and
- (b) the court considers it appropriate in all the circumstances to take the gift into account.

(11) The reference in subsection (10) above to an offence to which the proceedings for the time being relate includes, where the proceedings have resulted in the conviction of the defendant, a reference to any offence which the court takes into consideration when determining his sentence.

(12) For the purposes of this Part —

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and
- (b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

*Enforcement, etc. of confiscation orders*

53. (1) Where a court orders the defendant to pay an amount under section 49 above, section 42(1) to (6) above shall have effect as if that amount were a fine imposed on him by the court.

Application of procedure for enforcing fines. (1988 c.33 s.75.)

(2) Where —

- (a) a warrant of commitment is issued for a default in payment of an amount ordered to be paid under this Part in respect of an offence; and
- (b) at the time the warrant is issued, the defendant is liable to serve a term of custody in respect of the offence; the term of imprisonment or of detention under section 28 above (detention of persons aged seventeen to twenty for default) to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b) above.

(3) The reference in subsection (2) above to the term of custody which the defendant is liable to serve in respect of the offence, is a reference to the term of imprisonment or detention in a young offender institution which is liable to serve in respect of the offence; and for the purposes of this subsection —

- (a) consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; and
- (b) there shall be disregarded —
  - (i) any sentence suspended under section 28(1) above which has not taken effect at the time the warrant is issued;
  - (ii) in the case of a sentence of imprisonment passed with an order under section 34(7) above, any part of the sentence which the defendant has not at that time been required to serve in prison;
  - (iii) any term of imprisonment or detention fixed under section 42(2) above for which a warrant of commitment has not been issued at that time.

(4) This section applies in relation to confiscation orders made by an appellate court or court of further appeal as it applies in relation to confiscation orders made by the court of trial, and the reference in subsection (1) above to the court shall be construed accordingly.

54. (1) The powers conferred on the Supreme Court in the exercise of its civil jurisdiction by sections 55 (1) and 56(1) below are exercisable where —

Cases in which restraint orders and charging orders may be made. (1988 c.33 s.76.)

- (a) proceedings have been instituted in the Falkland Islands against the defendant for an offence to which this Part applies;
- (b) the proceedings have not been concluded; and
- (c) either a confiscation order has been made or it appears to the court that there are reasonable grounds for thinking that a confiscation order may be made in them.

(2) Those powers are also exercisable where —

- (a) the court is satisfied that, whether by the laying of information or otherwise, a person is to be charged with an offence to which this Part applies; and
- (b) it appears to the court that a confiscation order may be made in proceedings for the offence.

(3) For the purposes of sections 55 and 56 below at any time when the powers are exercisable before the proceedings have been instituted —

- (a) references in this Part to the defendant shall be construed as references to the person referred to in subsection (2)(a) above;
- (b) references in this Part to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) above for an offence to which this Part applies.

(4) Where the court has made an order under section 55(1) or 56(1) below by virtue of subsection (2) above, the court shall discharge the order if proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise) within such time as the court considers reasonable.

55. (1) The Supreme Court may by order (referred to in this Part as a "restraint order") prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order. Restraint orders.  
(1988 c.33 s.77.)

(2) Without prejudice to the generality of subsection (1) above, a restraint order may make such provision as the court thinks fit for living expenses and legal expenses.

(3) A restraint order may apply —

- (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
- (b) to realisable property held by a specified person, being property transferred to him after making of the order.

(4) This section shall not have effect in relation to any property for the time being subject to a charge under section 56 below.

(5) A restraint order —

- (a) may be made only on an application by or on behalf of the Attorney General;
- (b) may be made on an *ex parte* application to a judge in chambers; and
- (c) shall provide for notice to be given to persons affected by the order.

(6) A restraint order —

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged when proceedings for the offence are concluded.

(7) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(8) Where the Supreme Court has made a restraint order, the court may at any time appoint a receiver —

- (a) to take possession of any realisable property, and
- (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(9) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression) —

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
- (b) removing the property from the Falkland Islands.

(10) Where the Supreme Court has made a restraint order, a police officer may for the purpose of preventing any realisable property being removed from the Falkland Islands, seize the property.

(11) Property seized under subsection (10) above shall be dealt with in accordance with the court's directions.

56. (1) The Supreme Court may make a charging order on realisable property for securing the payment to the Crown — Charging orders  
in respect of  
land securities  
etc. (1988 c.33  
s.78.)

- (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged; and
- (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.

(2) For the purposes of this Part, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(3) A charging order

- (a) may be made only on an application by the Attorney General;
- (b) may be made on an *ex parte* application to a judge in chambers;
- (c) shall provide for notice to be given to persons affected by the order; and
- (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(4) Subject to subsection (6) below, a charge may be imposed by charging order only on —

- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Part —
  - (i) in any asset of a kind mentioned in subsection (5) below; or
  - (ii) under any trust; or
- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge made by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the above-mentioned trust.

(5) The assets referred to in subsection (4) above are —

- (a) land in the Falkland Islands; or
- (b) securities of any of the following kinds -
  - (i) government stock;
  - (ii) stock of any body (other than a building society or co-operative society) incorporated within the Falkland Islands;
  - (iii) stock of any body incorporated outside the Falkland Islands or of any country or territory outside the Falkland Islands, being stock registered in a register kept at any place within the Falkland Islands;
  - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Falkland Islands.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount payment of which is secured by the charge is paid into court.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

57. (1) Where —

- (a) a confiscation order is made;
- (b) the order is not subject to appeal; and
- (c) the proceedings in which it was made have not been concluded,

the Supreme Court may, on an application by the Attorney General, exercise the powers conferred by subsections (2) to (6) below.

(2) The court may appoint a receiver in respect of realisable property.

Realisation of  
property. (1988  
c.33 s.80.)

(3) The court may empower a receiver appointed under subsection (2) above, under section 55 above or in pursuance of a charging order —

- (a) to enforce any charge imposed under section 56 above on realisable property or on interest or dividends payable in respect of such property; and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 56 above, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Part as the court may direct and the court may, on the payment being made, order, transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 56 above.

(8) The court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

58. (1) Subject to subsection (2) below, the following sums in the hands of a receiver appointed under this Part or in pursuance of a charging order, that is —

- (a) the proceeds of the enforcement of any charge imposed under section 56 above;
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 55 or 57 above; and
- (c) any other sums, being property held by the defendant;

Application of  
proceeds of  
realisation and  
other sums.  
(1988 c.33 s.81.)

shall first be applied in payment of such expenses as are payable under section 63(2) below and then shall, after such payments (if any) as the Supreme Court may direct have been made out of the sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any such sums remains in the hands of such a receiver, the receiver shall distribute them —

- (a) among such of those who held property which has been realised under this Part, and
- (b) in such proportions,

as the Supreme Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(3) The receipt of any sum by the responsible officer of any court on account of an amount payable under a confiscation order shall reduce the amount so payable, but the responsible officer shall apply the money received for the purposes specified in this section and in the order so specified.

(4) The appropriate officer shall first pay any expenses incurred by a person and payable under section 63(2) below but not already paid under subsection (1) above.

(5) If the money was paid to the appropriate officer by a receiver appointed under this Part or in pursuance of a charging order, the appropriate officer shall next pay the receiver's remuneration and expenses.

(6) After making —

- (a) any payment required by subsection (4) above; and

- (b) in a case to which subsection (5) above applies, any payment required by that subsection,

the appropriate officer shall reimburse any amount paid under section 64(2) below.

(7) The appropriate officer shall finally pay any compensation directed to be paid out of any sums recovered under the confiscation order under section 50(7) above.

(8) Any balance in the hands of the appropriate officer after he has made all payments required by the foregoing provisions of this section shall be treated as if it were a fine imposed by the court.

(9) Where under subsection (3) above a sum falls to be applied, in payment both of compensation and of other outgoings —

- (a) the person entitled to the compensation shall be liable to pay to the Crown such an amount as bears to the remuneration or expenses the same proportion as the amount payable in accordance with the direction under section 50(7) above bears to the total amount payable under the confiscation order;
- (b) the appropriate officer shall deduct from the amount falling to be applied in payment of the compensation an amount equal to the amount of any liability arising by virtue of paragraph (a) above;
- (c) notwithstanding the deduction under paragraph (b) above, the person entitled to the compensation shall be treated as having received the whole amount which falls to be applied in payment of it; and
- (d) the amount deducted shall be paid into the Consolidated Fund.

59. (1) This section applies to the powers conferred on the Supreme Court by sections 55 to 58 above or on a receiver appointed under this Part or in pursuance of a charging order.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available to satisfy the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case, the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Part, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligations to satisfy the confiscation order.

60. (1) If, on an application by the defendant in respect of the confiscation order, the Supreme Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order, the court shall issue a certificate to that effect, giving the court's reasons.

(2) For the purposes of subsection (1) above —

- (a) in the case of realisable property held by a person who has been adjudged bankrupt or whose state has been sequestrated, the court shall take into account the extent to which any property held by him may be distributed among creditors; and
- (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Part from any realisation under this Part.

Exercise of powers by Supreme Court or receiver. (1988 c.33 s.82.)

Variation of confiscation orders. (1988 c.33 s.83.)

(3) Where a certificate has been issued under subsection (1) above, the defendant may apply to the court by which the confiscation order was made for the amount to be recovered under the order to be reduced.

(4) A court shall, on an application under subsection (3) above, substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case and substitute for the term of imprisonment or of detention fixed under section 42(2) above in respect of the amount to be recovered under the order, a shorter term determined in accordance with that section in respect of the lesser amount.

61. (1) Where a person who holds realisable property is adjudged bankrupt —

Bankruptcy of  
defendant etc.  
(1988 c.33 s.84.)

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and
- (b) any proceeds of property realised by virtue of section 55(8) or 57(5) or (6) above for the time being in the hands of the receiver appointed under section 55 or 57 above,

is excluded from the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986 in its application to the Falkland Islands.

(2) Where a person has been adjudged bankrupt, the powers conferred on the Supreme Court by sections 55 to 58 above or on a receiver so appointed shall not be exercised in relation to —

- (a) property for the time being comprised in the bankrupt's estate for the purposes of that Part of that Act;
- (b) property in respect of which his trustee in bankruptcy may (without leave of court) serve a notice under section 307 or 308 of that Act (after-acquired property and tools, clothes, etc. exceeding value of reasonable replacement); and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order

- (a) made before the order adjudging the person bankrupt; or
- (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of that Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being the subject of the restraint order.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Part

- (a) no order shall be made under section 339 or 423 of that Act (avoidance of certain transactions) in respect of the making of the gift at any time when proceedings for an offence to which this Part applies have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Part of property held by the person to whom the gift was made.

(7) In any case in which a petition in bankruptcy was presented, or a receiving order or an adjudication in bankruptcy was made, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force), this section shall have effect with the following modifications —

- (a) for references to the bankrupt's estate for the purposes of Part IX of that Act there shall be substituted references to the property of the bankrupt for the purposes of the Bankruptcy Act 1914 in its application to the Falkland Islands;
- (b) for references to the Act of 1986 and sections 280(2)(c), 286, 339 and 423 of that Act there shall be respectively substituted references to the Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act in their application to the Falkland Islands;
- (c) the reference in subsection (5) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to a receiver constituted by virtue of section 7 of the Act of 1914; and
- (d) subsection (2)(b) shall be omitted.

62. (1) Where realisable property is held by a company and an order for the winding-up of the company has been made or a resolution has been passed by the company for the voluntary winding-up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to —

Winding-up of company. (1988 c.33 s.86.)

- (a) property for the time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 55(8) or 57(5) or (6) above for the time being in the hands of a receiver appointed under section 55 or 57 above.

(2) Where, in the case of the company, such an order has been made or such a resolution has been passed, the powers conferred on the Supreme Court by sections 55 to 57 above or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable —

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors;
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding-up in respect of the property.

(3) Nothing in the Companies Act 1948 in its application to the Falkland Islands shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section —

“company” means any company which may be wound-up under the Companies Act 1948 in its application to the Falkland Islands; and

“the relevant time” means —

- (a) where no order for the winding-up of the company has been made, the time of the passing of the resolution for voluntary winding-up;
- (b) where such an order has been made and before the presentation of the petition for the winding-up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

63. (1) Without prejudice to the generality of any provision of the Insolvency Act 1986 or the Companies Act 1948 or of any other Act in its application to the Falkland Islands and to the provisions of any enactment of the Falkland Islands, where —

Insolvency officers dealing with property subject to restraint orders. (1988 c.33 s.87.)

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an Order of the court or otherwise) to seize or dispose of that property,



he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except insofar as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses —

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) for payment of those expenses under section 58(1) or (4) above.

(3) In this Part the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986.

64. (1) Where a receiver appointed under this Part or in pursuance of a charging order takes any action —

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property;
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

Receiver: supplementary provisions. (1988 c.33 s.88.)

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 58(5) above, be paid by the prosecutor or, in a case where proceedings for an offence to which this Part applies are not instituted, by the person on whose application the receiver was appointed.

65. (1) If proceedings are instituted against a person for an offence or offences to which section 49 above applies and either —

Compensation. (1988 c.33 s.89.)

- (a) the proceedings do not result in his conviction for any such offence, or
- (b) where he is convicted of one or more such offences —
  - (i) the conviction or convictions concerned are quashed, or
  - (ii) he is pardoned by the Governor in the name and on behalf of Her Majesty in respect of the conviction or convictions concerned,

the Supreme Court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Supreme Court shall not order compensation to be paid in any case unless the court is satisfied —

- (a) that there has been some serious default on the part of the person concerned in the investigation or prosecution of the offence concerned, being a person mentioned in subsection (5) below; and
- (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order under this Part.

(3) The court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued even if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the Supreme Court thinks just in all the circumstances of the case, and the compensation shall be charged upon and paid out of the Consolidated Fund.

(5) The persons referred to in subsection (2)(a) above are —

- (a) any member of the Falkland Islands Police Force;
- (b) any legal practitioner in the employment of the Crown;
- (c) the Collector of Customs; and
- (d) the Commissioner of Income Tax.

#### *Miscellaneous powers*

66. (1) Where an offender is committed by the Magistrate's Court or by the Summary Court for sentence under the provisions of any law providing for such committal, the Supreme Court shall enquire into the circumstances of the case and shall have power to deal with the offender in any manner in which it could deal with him if he had just been convicted of the offence by the Supreme Court.

Powers of  
Supreme Court  
on committal  
for sentence.  
(1973 c.62 s.42.)

(2) Where an offender aged fifteen or sixteen is committed by the Magistrate's Court or by the Summary Court for sentence the Supreme Court shall enquire into the circumstances of the case and shall have power —

- (a) subject to section 24 above (maximum term of detention in young offender institution of young offender under the age of seventeen), to sentence him to a term of detention in a young offender institution not exceeding the maximum term of imprisonment for the offence; or
- (b) to deal with him in any manner in which the court committing him for sentence might have dealt with him.

67. (1) Where a person is convicted of an offence punishable with imprisonment for a term of two years or more and the court by or before which he is convicted is satisfied that any property which was in his possession or under his control at the time of his apprehension —

Power to deprive  
offender of pro-  
perty used, or  
intended for  
purposes of  
crime.

- (a) has been used for the purpose of committing, or facilitating the commission of, any offence; or
- (b) was intended by him to be used for that purpose;

the court may make a order under this section in respect of that property.

(2) Facilitating the commission of an offence shall be taken for the purposes of this section and section 68 below to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection, and references in this or that section to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of a young offender.

(3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

(4) The Police (Property) Act 1897 in its application to the Falkland Islands shall apply, with the following modifications, to property which is in the possession of the police by virtue of this section —

- (a) no application shall be made under section 1 (1) of that Act by any claimant of the property after the expiration of 6 months from the date on which the order in respect of the property was made under this section; and
- (b) no such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property or that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in subsection (1) above.

(5) In relation to property which is in the possession of the police by virtue of this section, the power to make regulations under section 2 (1) of the Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained

and no order of a competent court has been with respect there to) shall include power to make regulations for disposal in cases where no application by a claimant of the property has been made within the period specified in subsection (4) (a) above or no such application has succeeded.

68. (1) This section applies where a person is convicted before the Supreme Court or the Magistrate's Court of an offence punishable with imprisonment for a term of two years or more or, having been convicted by the Summary Court of such an offence, is committed to the Supreme Court for sentence.

Driving disqualification where vehicle used for purposes of crime. (1973 c.62 s.44.)

(2) If in a case to which this section applies the Supreme Court, or as the case may be the Magistrate's Court, is satisfied that a motor vehicle was used (by the person convicted or by any one else) for the purpose of committing, or facilitating the commission of, the offence in question (within the meaning of section 67 above), the court may order the person convicted to be disqualified, from such period as the court thinks fit, for holding or obtaining a licence to drive a motor vehicle granted under the Road Traffic Ordinance.

(3) A court which makes an order under this section disqualifying a person for holding or obtaining any such licence as is mentioned in subsection (2) above shall require him to produce any such licence held by him; and if he does not produce the licence as required he commits an offence under section 5(10) of the Road Traffic Ordinance (failure to produce licence for endorsement).

### *Supplemental*

69. (1) The Governor may by regulations make provision requiring that in any case to which the regulations apply a court or court of particular description shall before passing on any person a sentence to which the regulations apply consider a social enquiry report, that is to say report about him and his circumstances, made by a probation officer or any other person authorised to do so by the rules.

Social enquiry report before sentence.

(2) Regulations under this section may apply to a sentence of imprisonment or detention of any class prescribed by the regulations and may make different provisions for different cases.

(3) No sentence shall be invalidated by the failure of a court to consider a social enquiry report in accordance with regulations under subsection (1) above, but any other court on appeal from that court shall consider such a report in determining whether a different sentence should be passed on the applicant from the sentence passed on him by the court below.

(4) In this section "sentence of imprisonment or detention" means a sentence of imprisonment, or a sentence of detention passed under section 53 or the Children and Young Persons Act 1933 (young offenders convicted of grave crimes) in its application to the Falkland Islands.

70. (1) Subject to subsection (2) below, where a report by a probation officer is made to any court with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, a copy of the report shall be given by the court to the offender or the legal practitioner representing him (if any).

Reports of probation officers.

(2) If the offender is under seventeen years of age and is not represented by any legal practitioner, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

## PART IV

### REHABILITATION OF OFFENDERS

#### *Preliminary*

71. (1) Subject to subsection (2) below, where an individual has been convicted, whether before or after the commencement of this Part, of any offence or offences, and the following conditions are satisfied, that is to say —

Rehabilitated persons and spent convictions. (1974 c.53 s.1.)

- (a) he did not have imposed on him in respect of that conviction a sentence which is excluded from rehabilitation under this Part; and

- (b) he has not had imposed on him in respect of a subsequent conviction during the rehabilitation period applicable to the first - mentioned conviction in accordance with section 74 below a sentence which is excluded from rehabilitation under this Part;

then after the end of the rehabilitation period so applicable (including, where appropriate any extension under section 74 (4) below of the period originally applicable to the first - mentioned conviction) or, where that rehabilitation period ended before the commencement of this Part, after the commencement of this Part, that individual shall for the purposes of this Part be treated as a rehabilitated person in respect of the first - mentioned conviction and that conviction shall for those purposes be treated as spent.

(2) A person shall not become a rehabilitated person for the purposes of this Part in respect of a conviction unless he has served or otherwise undergone or complied with any sentence imposed on him in respect of that conviction; but the following shall not, by virtue of this subsection, prevent a person from becoming a rehabilitated person for those purposes —

- (a) failure to pay a fine or other sum adjudged to be paid by or imposed on a conviction, or breach of a condition of a recognizance to keep the peace or be of good behaviour;
- (b) breach of any condition or requirement applicable in relation to a sentence which renders the person to whom it applies liable to be dealt with for the offence for which the sentence was imposed, or, where the sentence was a suspended sentence of imprisonment, liable to be dealt with in respect of that sentence (whether or not, in any case, he is in fact so dealt with);
- (c) failure to comply with any requirement of a suspended sentence supervision order.

(3) Where in respect of a conviction a person has been sentenced to imprisonment with an Order under section 34(7) of this Ordinance, he is to be treated for the purposes of subsection (2) above as having served the sentence as soon as he completes service of so much of the sentence as was by that order required to be served in prison.

(4) In this Part "sentence" includes any order made by a court in dealing with a person in respect for his conviction of any offence or offences, other than —

- (a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction, or for want of sufficient distress to satisfy any such fine or other sum;
- (b) an order dealing with a person in respect of a suspended sentence of imprisonment.

(5) In this Part, references to a conviction, however expressed, include references —

- (a) to a conviction by or before a court outside the Falkland Islands; and
- (b) to any finding (other than a finding linked with a finding of insanity) in any criminal proceedings or in care proceedings under section 1 of the Children and Young Persons Act 1969 in its application to the Falkland Islands that a person has committed an offence or done the act or made the admission charge;

and notwithstanding anything in section 18 above (conviction of a person put on probation or discharged to be deemed to not be a conviction) a conviction in respect of which an order is made placing the person convicted on probation or discharging him absolutely or conditionally shall be treated as a conviction for the purposes of this Part and the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction for those purposes accordingly.

72. (1) Subject to sections 75 and 76 below, a person who has become a rehabilitated person for the purposes of this Part in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction; and notwithstanding the provisions of any other enactment or rule of law to the contrary, but subject as aforesaid —

Effect of  
rehabilitation.  
(1974 c.53 s.4.)

- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Falkland Islands to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was a subject of a spent conviction; and
  - (b) a person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.
- (2) Subject to the provisions of any order made under subsection (4) below, where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or any other person otherwise than in proceedings before a judicial authority —
- (a) the question shall be treated as not relating to spent convictions or to any circumstances and ancillary to spent convictions, and the answer thereto may be framed accordingly; and
  - (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstance ancillary to a spent conviction in his answer to the question.
- (3) Subject to the provisions of any order made under subsection (4) below —
- (a) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction or any circumstances ancillary to a spent conviction (whether the conviction is his own or another's); and
  - (b) a conviction which has become spent or any circumstances ancillary thereto, or any failure to disclose a spent conviction or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or prejudice him in any way in any occupation or employment.
- (4) The Governor may by order —
- (a) make such provisions as seem to him appropriate for excluding or modifying the application of either or both of paragraphs (a) and (b) of subsection (2) above in relation to the questions put in such circumstances as may be specified in the order;
  - (b) provide for such exceptions from the provisions of subsection (3) above as seem to him appropriate, in such cases or classes of case, and in relation to convictions of such a description, as may be specified in the order.
- (5) For the purposes of this section and section 75 below any of the following are circumstances ancillary to a conviction, that is to say —
- (a) the offence or offences which were the subject of that conviction;
  - (b) the conduct constituting that offence or those offences; and
  - (c) any process or proceedings preliminary to that conviction any sentence imposed in respect of that conviction, any proceedings (whether by way of appeal or otherwise) for reviewing that conviction or any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.
- (6) For the purposes of this section and section 75 below "proceedings before a judicial authority" includes, in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power —
- (a) by virtue of any enactment, law, custom or practice;

- (b) under the rules governing any association, institution, profession, occupation or employment; or
- (c) under any provision of an agreement providing for arbitration with respect to questions arising thereunder,

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.

#### *Rehabilitation periods*

73. (1) The sentences excluded from rehabilitation under this Part are —

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment or youth custody for a term exceeding thirty months;
- (c) a sentence of detention during Her Majesty's pleasure or for life, or for a term exceeding thirty months passed under section 53 of the Children and Young Persons Act 1933 (young offenders convicted of grave crimes) in its application to the Falkland Islands; and
- (d) a sentence of custody for life,

Rehabilitation periods for particular sentences.  
(1974 c.53 s.5.)

and any other sentence is a sentence subject to rehabilitation under this Part.

(2) For the purposes of this Part —

- (a) the rehabilitation period applicable to a sentence specified in the first column of Table A below is the period specified in the second column of that Table in relation to that sentence, or, where the sentence was imposed on a person who was under seventeen years of age of the date of his conviction, half that period; and
- (b) the rehabilitation period applicable to a sentence specified in the first column of Table B below is the period specified in the second column of that Table in relation to that sentence,

reckoned in either case from the date of the conviction in respect of which the sentence was imposed.

#### T A B L E A

Rehabilitation periods subject to reduction by half for persons under seventeen

<u>Sentence</u>	<u>Rehabilitation period</u>
A sentence of imprisonment or youth custody for a term exceeding six months but not exceeding thirty months.	Ten years.
A sentence of imprisonment or youth custody for a term not exceeding six months.	Seven years.
A fine or any other sentence subject to rehabilitation under this Part, not being a sentence to which Table B below or any of subsections (3) or (6) below applies.	Five years.

TABLE B

Rehabilitation periods for certain sentences confined to young offenders

<u>Sentence</u>	<u>Rehabilitation period</u>
A sentence of detention for a term exceeding 6 months but not exceeding 30 months passed under section 53 of the Children and Young Persons Act 1933 in its application to the Falkland Islands.	Five years.
A order for detention in a young offenders institution made under section 23 above.	Three years.

(3) The rehabilitation period applicable to an order discharging a person absolutely for an offence shall be six months from the date of the conviction.

(4) Where in respect of a conviction a person was conditionally discharged, bound over to keep the peace or be of good behaviour, or placed on probation, the rehabilitation period applicable to the sentence shall be one year from the date of the conviction or a period beginning with that date and ending when the order for conditional discharge or probation order or (as the case may be) the recognizance to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

(5) Where in respect of a conviction any of the following sentences was imposed, that is to say —

- (a) an order under section 57 of the Children and Young Persons Act 1933 in its application to the Falkland Islands committing the person convicted to the care of a fit person;
- (b) a supervision order under any provision of the Children and Young Persons Act 1933 or the Children and Young Persons Act 1963 in its application to the Falkland Islands;
- (c) a care order or a supervision order under any provision of the Children and Young Persons Act 1969 in its application to the Falkland Islands,

the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.

(6) Where in respect of the conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.

(7) For the purposes of this section —

- (a) consecutive terms of imprisonment or of detention under section 53 of the Children and Young Persons Act 1933 in its application to the Falkland Islands, and terms which are wholly or partly concurrent (being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
- (b) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed; and
- (c) a sentence imposed by a court outside the Falkland Islands shall be treated as a sentence of that one of the descriptions mentioned in this section which most nearly corresponds to the sentence imposed.



(8) References in this section to the period during which a probation order, or a care order or supervision order under the Children and Young Persons Act 1969 in its application to the Falkland Islands, is or was in force include references to any period to which any order or requirement to which this subsection applies, being an order or requirement made or imposed directly or indirectly in substitution for the first mentioned order or requirement, is or was in force.

74. (1) Where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Part) the rehabilitation period applicable to the conviction is, subject to the following provisions of this section, the period applicable to the sentence in accordance with section 73 above.

The rehabilitation period applicable to a conviction. (1974 c.53 s.6.)

(2) Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Part, then, subject to the following provisions of this section, if the periods applicable to those sentences in accordance with section 73 above differ, the rehabilitation period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.

(3) Without prejudice to subsection (2) above, where in respect of a conviction a person was conditionally discharged or placed on probation and after the end of the rehabilitation period applicable to the conviction in accordance with subsection (1) or (2) above he is dealt with, in consequence of a breach of conditional discharge or probation, for the offence for which the order for conditional discharge or probation order was made, then, if the rehabilitation period applicable to the conviction in accordance with subsection (2) above (taking into account any sentence imposed when he is so dealt with) ends later than the rehabilitation period previously applicable to the conviction, he shall be treated for the purposes of this Part as not having become a rehabilitated person in respect of that conviction, and the conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.

(4) Subject to subsection (5) below, where during the rehabilitation period applicable to a conviction —

- (a) the person convicted is convicted of a further offence; and
- (b) no sentence excluded from rehabilitation under this Part is imposed on him in respect of the later conviction;

if the rehabilitation period applicable in accordance with this section to either of the convictions would end earlier than the period so applicable in relation to the other, the rehabilitation period which would (apart from this subsection) end the earlier shall be extended so as to end at the same time as the other rehabilitation period.

(5) For the purposes of subsection (4)(a) above there shall be disregarded any conviction by or before a court outside the Falkland Islands of an offence in respect of the conduct of which, if it had taken place in the Falkland Islands, would not have constituted an offence in the Falkland Islands.

75. (1) Nothing in section 72 (1) above shall affect —

- (a) the exercise by the Governor of any of his powers under section 65 of Constitution (powers of pardon etc);
- (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
- (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction; or
- (d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond that of the rehabilitation period applicable in accordance with section 74 above to the conviction.

Limitations on rehabilitation under this Part, etc. (1974 c.53 s.7.)

(2) Nothing in section 72 (1) above shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto —



- (a) in any criminal proceedings before a court in the Falkland Islands (including any appeal or reference in a criminal matter);
- (b) in any proceedings relating to adoption or to the guardianship, wardship, marriage, custody, care or control of, or access to, any minor, or to the provision by any person of accommodation, care or schooling for minors;
- (c) in any care proceedings under section 1 of the Children and Young Persons Act 1969 in its application to the Falkland Islands or on appeal from any such proceedings, or in any proceedings relating to the variation or discharge of a care order or supervision order under that Act;
- (d) in any proceedings in which he is a party or a witness, provided that, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding the provisions of section 72 (1) above.

(3) If at any stage in any proceedings before a judicial authority in the Falkland Islands (not being proceedings to which by virtue of any of the paragraphs of subsection (2) above section 72(1) above has no application, or proceedings to which section 76 below applies) the authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding the provisions of section 72 (1) above, and may determine any issue to which the evidence relates in disregard, so far as necessary, of those provisions.

(4) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

76. (1) This section applies to any action for libel or slander begun after the commencement of this Part by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.

Defamation actions. (1974 c.53 s.8.)

(2) Nothing in section 72(1) above shall affect an action to which this section applies where the publication complained of took place before the conviction in question became spent, and the following provisions of this section shall not apply in any such case.

(3) Subject to subsections (5) and (6) below, nothing in section 72(1) above shall prevent the defendant in an action to which this section applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him, or restrict the matters he may have established in support of any such defence.

(4) Without prejudice to the generality of subsection (3) above, where in any such action malice is alleged against the defendant who is relying on a defence of qualified privilege, nothing in section 72(1) above shall restrict the matters he may establish in rebuttal of the allegation.

(5) A defendant in any such action shall not by virtue of subsection (3) above be entitled to rely upon the defence of justification if the publication is proved to have been made with malice.

(6) Subject to subsection (7) below a defendant in any such action shall not, by virtue of subsection (3) above, be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing (whether under section 3 of the Law of Libel Amendment Act 1888 in its application to the Falkland Islands or otherwise) the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled inadmissible in the proceedings by virtue of section 72(1) above.

(7) Subsection (3) above shall apply without the qualifications imposed by section (6) in relation to —

- (a) any report of judicial proceedings contained in any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law; and

- (b) any report or account of judicial proceedings published for *bona fide* educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.

77. (1) In this section —

“official record” means a record kept for the purposes of its functions by any court, police force, Government department or other public authority in the Falkland Islands, or a record kept, in the Falkland Islands or elsewhere, for the purposes of any of Her Majesty’s Forces, being in either case a record containing information about persons convicted of offences; and

“specified information” means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction.

(2) Subject to the provisions of any order made under subsection (5) below, any person who, in the course of his official duties has at any time had custody of or access to any official record or the information contained therein, commits an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained in the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.

(3) In any proceedings for an offence under subsection (2) above it shall be a defence for the accused person to show that the disclosure was made —

- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person; or
- (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(4) A person who obtains any specified information for an official record by means of any fraud, dishonesty or bribe commits an offence.

(5) A person who is convicted of an offence under subsection (2) above shall be liable to a fine not exceeding the maximum of level 4 on the standard scale.

(6) A person who is convicted of an offence under subsection (4) above shall be liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for 6 months or to both.

(7) Proceedings for an offence under subsection (2) or (4) shall not be instituted except by or by the direction of the Attorney General.

## PART V

### BAIL

#### *Preliminary*

78. (1) In this Part “bail in criminal proceedings” means —

- (a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or
- (b) bail grantable in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued.

(2) In this Part “bail” means bail grantable under the law (including common law) for the time being in force.

(3) This section does not apply to bail in or in connection with proceedings outside the Falkland Islands.

Unauthorised disclosure of spent convictions. (1974 c.53 s.9.)

Meaning of “bail in criminal proceedings”. (1976 c.63 s.1)

(4) This section does not apply to bail granted before the coming into force of this Ordinance.

(5) This section applies —

- (a) whether the offence was committed in the Falkland Islands or elsewhere,
- (b) whether it is an offence under the law of the Falkland Islands, or of any other country or territory.

(6) Bail in criminal proceedings shall be granted (and in particular shall be granted unconditionally or conditionally) in accordance with this Part.

79. (1) In this Part, unless the context otherwise requires, "conviction" includes —

- (a) a finding of guilt;
- (b) a finding that a person is not guilty by reason of insanity;
- (c) a finding under any provision of law providing for remand for medical examination that the person in question did the act or made the omission charged; and
- (d) a conviction of an offence for which an order is made placing the offender on probation or discharging him absolutely or conditionally,

Other definitions. (1976 c.63 s.2.)

and "convicted" shall be construed accordingly.

(2) In this Part, unless the context otherwise requires —

"child" means a person under the age of fourteen;

"court" includes a judge of a court, including the Senior Magistrate and a Magistrate or a justice of the peace and, in the case of a specified court, includes a judge or (as the case may be) Senior Magistrate or Magistrate or justice having powers to act in connection with proceedings before that court;

"offence" includes an alleged offence;

"proceedings against a fugitive offender" means proceedings under section 9 of the Extradition Act 1870 or section 7 of the Fugitive Offenders Act 1967 in their respective application to the Falkland Islands;

"surrender to custody" means, in relation to a person released on bail, surrendering himself into the custody of the court or of a police officer (according to the requirements of the grant of bail) at the time and place for the time being appointed for him to do so;

"vary", in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions;

"young person" means a person who has attained the age of fourteen and is under the age of seventeen.

(3) Where an enactment (whenever made) which relates to bail in criminal proceedings refers to the person bailed appearing before a court, it is to be construed unless the context otherwise requires as referring to his surrendering himself into the custody of the court.

(4) Any reference in this Part to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Part.

#### *Incidents of bail in criminal proceedings*

80. (1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody, and that duty is enforceable in accordance with section 83 of this Ordinance.

General provisions. (1976 c.63 s.3.)

(2) No recognizance for his surrender to custody shall be taken from him.

(3) Except as provided by this section —

- (a) no security for his surrender to custody shall be taken from him,
- (b) he shall not be required to provide a surety or sureties for his surrender to custody, and
- (c) no other requirement shall be imposed on him as a condition of bail.

(4) He may be required, before release on bail, to provide a surety or sureties to secure his surrender to custody.

(5) If it appears that he is unlikely to remain in the Falkland Islands until the time appointed for him to surrender to custody, he may be required, before release on bail, to give security for his surrender to custody. The security may be given by him or on his behalf.

(6) He may be required (but only by a court) to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that —

- (a) he surrenders to custody,
- (b) he does not commit an offence while on bail,
- (c) he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person,
- (d) he makes himself available for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence.

(7) If a parent or guardian of a child or young person consents to be surety for the child or young person for the purposes of this subsection, the parent or guardian may be required to secure that the child or young person complies with any requirement imposed on him by the court on granting or varying the conditions of bail but —

- (a) no requirements shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young person will attain the age of seventeen before the time to be appointed for him to surrender to custody; and
- (b) the parent or guardian shall not be required to secure compliance with any requirement to which his consent does not extend and shall not, in respect of those requirements to which his consent does extend, be bound in a sum greater than £200.

(8) Where a court has granted bail in criminal proceedings the court or, where that court has committed a person on bail to the Supreme Court for trial or to be sentenced or otherwise dealt with, that court or the Supreme Court may on application —

- (a) by or on behalf of the person to whom bail was granted, or
- (b) by the prosecutor or a police officer, vary the conditions of bail or impose conditions in respect of bail which has been granted unconditionally.

#### *Bail for accused persons and others*

81. (1) A person to whom this section applies shall be granted bail except as provided in Schedule 3 to this Ordinance.

(2) This section applies to a person who is accused of an offence when —

- (a) he appears or is brought before the Summary Court, the Magistrate's Court or the Supreme Court in the course of or in connection with proceedings for the offence, or
- (b) he applies to a court for bail in connection with the proceedings.

This subsection does not apply, as respects proceedings on or after a person's conviction of the offence or proceedings against a fugitive offender for the offence.

(3) This section also applies to a person who, having been convicted of an offence, appears or is brought before a court to be dealt with the antecedent provisions of this Ordinance relating to breach of a requirement of a probation order or of a community service order.

(4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the court for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence.

(5) Schedule 3 to this Ordinance also has effect as respects conditions of bail for a person to whom this section applies.

(6) In Schedule 3 to this Ordinance "the defendant" means a person to whom this section applies and any reference to a defendant whose case is adjourned for enquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4) above.

(7) Notwithstanding the foregoing provisions of this section, a person charged with treason shall not be granted bail except by order of a judge of the Supreme Court or of the Governor.

General rights to bail of accused persons and others. (1976 c.63 s.4.)

*Supplementary*

82. (1) Subject to subsection (2) below, where —

- (a) a court or police officer grants bail in criminal proceedings; or
- (b) a court withholds bail in criminal proceedings from a person to whom section 81 above applies, or
- (c) a court, officer of the court or police officer appoints a time or place or a court or officer of the court appoints a different time or place for a person granted bail in criminal proceedings to surrender to custody; or
- (d) a court varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

Supplementary provisions about decisions on bail. (1976 c.63 s.5.)

that court, officer or police officer shall make a record of the decision in the prescribed manner and containing the prescribed particulars and, if requested to do so by the person in relation to whom the decision was taken, shall cause him to be given a copy of the record of the decision as soon as practicable after the record is made.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest for bail the police officer who releases on bail the person arrested shall make the record required by subsection (1) above instead of the judge, Senior Magistrate or justice who issued the warrant.

(3) Where the Summary Court, the Magistrate's Court or the Supreme Court

- (a) withholds bail in criminal proceedings, or
- (b) imposes conditions in granting bail in criminal proceedings, or
- (c) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings, and does so in relation to a person to whom section 81 above applies, then the court shall, with a view to enabling him to consider making an application in the matter to the Supreme Court or another judge of the Supreme Court, give reasons for withholding bail or for imposing or varying the conditions.

(4) A court which is by virtue of subsection (3) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and shall (except in a case where, by virtue of subsection (5) below this need not be done) give a copy of that note to the person in relation to whom the decision was taken.

(5) A court need not give a copy of the note of the reasons for its decision to the person in relation in whom the decision was taken where that person is represented by a legal practitioner unless that legal practitioner requests the court to do so.

(6) Where the Summary Court or the Magistrate's Court withholds bail in criminal proceedings from a person who is not represented by a legal practitioner the court shall inform him that he may apply to the Supreme Court to be granted bail.

(7) Where a person has given security in pursuance of section 80 (5) above, and a court is satisfied that he failed to surrender to custody then, unless it appears that he had reasonable cause for his failure, the court may order the forfeiture of the security.

(8) If a court orders the forfeiture of his security under subsection (7) above, the court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(9) An order under subsection (7) above shall, unless previously revoked, take effect at the end of 21 days beginning with the day on which it was made.

(10) A court which has ordered the forfeiture of a security under subsection (7) above may, if satisfied on an application made by or on behalf of the person who gave it that he did after all have reasonable cause for his failure to surrender to custody, by order remit the forfeiture or declare that it extends to such amount less than the full value of the security as it thinks fit to order.

(11) An application under subsection (9) above may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.

(12) A security which has been ordered to be forfeited by a court under subsection (7) above shall, to the extent of the forfeiture

- (a) if it consists of money, be accounted for and paid in the same manner as a fine imposed by that court would be;
- (b) if it does not consist of money, be enforced by the Magistrate's Court.

(13) Where an order is made under subsection (9) above after the order for forfeiture of the security in question has taken effect, any money which would have fallen to be repaid or paid over to the person who gave the security if the order under subsection (9) had been made before the order for forfeiture took effect shall be repaid or paid over to him.

(14) In this section "prescribed", in relation to the decision of a court or an officer of the court, means prescribed by rules applying to the court in question or, in relation to a decision of a police officer, prescribed by direction of the Attorney General.

83. (1) A person who has been released on bail in criminal proceedings commits an offence if without reasonable cause he fails to surrender to custody.

Offence of  
absconding by  
person released  
on bail. (1976  
c.63 s.6.)

(2) If a person who has been released on bail in criminal proceedings, and

- (a) has been released on bail in criminal proceedings, and
- (b) having reasonable cause therefor, has failed to surrender to custody,

fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he commits an offence.

(3) It shall be for the accused to prove that he had reasonable cause for his failure to surrender to custody.

(4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.

(5) Where the Summary Court convicts a person of an offence under subsection (1) or (2) above the court may if it thinks —

- (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than that court has power to inflict; or
- (b) in a case where it commits that person for trial to the Supreme Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) or (2) above by the Supreme Court,

commit him in custody or on bail to the Supreme Court for sentence.

(6) A person who is convicted of an offence under subsection (1) or (2) above and is not committed to the Supreme Court for sentence shall be liable to imprisonment for a term not exceeding three years (if he is so convicted by the Magistrate's Court) or to a term not exceeding 3 months (if he is so convicted by the Summary Court) and, in either case in addition to any such term of imprisonment to a fine not exceeding the maximum of level 5 on the standard scale and a person who is so committed for sentence or is dealt with by the Supreme Court shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding the maximum of level 7 on the standard scale or to both.

(7) In any proceedings for an offence under subsection (1) or (2) above a document purporting to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and to be duly certified to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(8) For the purposes of subsection (7) above —

- (a) "the prescribed record" means the record of the decision of the court, officer or police officer made in pursuance of section 82 (1) above;
- (b) the copy of the prescribed record is duly certified if it is certified by the appropriate officer of the court or, as the case may be, by the police officer who took the decision or a police officer designated for the purpose by the chief officer of police;

- (c) "the appropriate officer" of the court is,
  - (i) in relation to the Magistrate's Court and the Summary Court the clerk to such court
  - (ii) in the case of the Supreme Court, the Registrar of the Supreme Court;
  - (iii) in the case of the court of appeal, the Registrar of that court or any deputy registrar of that court.

84. (1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of the court fails to surrender to custody at the time appointed for him to do so the court may issue a warrant for his arrest.

Liability to arrest for absconding or breaking conditions of bail. (1976 c.63 s.7.)

(2) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume the hearing of the proceedings, the court may issue a warrant for his arrest; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the court.

(3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court may be arrested without warrant by a police officer —

- (a) if the police officer has reasonable grounds for believing that that person is not likely to surrender to custody;
  - (b) if the police officer has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
  - (c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a police officer in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.
- (4) A person arrested in pursuance of subsection (3) above —
- (a) shall, except where he was arrested within 24 hours of the time appointed for him to surrender to custody, be brought as soon as practicable and in any event within 24 hours after his arrest before the Senior Magistrate or a justice of the peace; and
  - (b) in the said excepted case shall be brought before the court at which he was to have surrendered to custody.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(5) The Senior Magistrate or a justice of the peace, when a person is brought under subsection (4) above before him, may subject to subsection (6) below, if he is of opinion that that person —

- (a) is not likely to surrender to custody, or
- (b) has broken or is likely to break any condition of his bail, remand him in custody or commit him to custody, as the case may require, or alternatively, grant him bail subject to the same or to different conditions, but if not of that opinion shall grant him bail subject to the same conditions (if any) as were originally imposed.

(6) Where the person so brought before the Senior Magistrate or a justice of the peace is a child or young person and bail is not then granted to that person, subsection (5) above shall have effect subject to the provisions of section 23 of the Children and Young Persons Act 1969 in its application to the Falkland Islands.

85. (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides one or more surety or sureties for the purpose of securing that he surrenders to custody.

Bail with sureties. (1976 c.63 s.8)

(2) In considering the suitability for that purpose of a proposed surety, regard may be had (amongst other things) to —

- (a) the surety's financial resources;
- (b) his character and any previous convictions of his; and
- (c) his proximity (whether in point of kinship, place of residence or otherwise) to the person for whom he is to be surety.



(3) Where a court grants a person bail in criminal proceedings on such a condition but is unable to release him because no surety or no suitable surety is available, the court shall fix the amount in which the surety is to be bound and subsections (4) and (5) below shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently.

(4) Where this subsection applies the recognizance of the surety may be entered into before such of the following persons or descriptions of persons as the court may by order specify or, if it makes no such order, before any of the following persons, that is to say —

- (a) where the decision is taken by the Magistrate's Court or the Summary Court, before the Senior Magistrate, a justice of the peace, or a police officer who is either of the rank of sergeant or above or is, at the time in question, the senior officer on duty at the Police Station Stanley;
- (b) where the decision is taken by the Supreme Court, before any of the persons specified in paragraph (a) above or before the Registrar of the Supreme Court;
- (c) where the decision is taken by the Court of Appeal, before any of the persons specified in paragraph (a) above, the Registrar of the Supreme Court, the Registrar or any Deputy Registrar of the Court of Appeal or, if the Court of Appeal rules so provide, by a person of such other description as is specified in the rules;

and Supreme Court rules or Summary Court rules may also prescribe the manner in which a recognizance which is to be entered into before such a person is to be entered into and the persons by whom and the manner in which the recognizance may be enforced.

(5) Where a surety seeks to enter into his recognizance before any person in accordance with subsection (4) above but that person declines to take his recognizance because he is not satisfied of the surety's suitability, the surety may apply to the Magistrate's Court or the Summary Court for that court to take his recognizance and that court shall, if satisfied of his suitability, take his recognizance.

(6) Where, in pursuance of subsection (4) above, a recognizance is entered into other wise than before the court that fixed the amount of the recognizance, the same consequences shall follow as if it has been entered into before that court.

#### *Miscellaneous*

86. (1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person shall be guilty of an offence.

(2) An offence under subsection (1) above is committed whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not the agreement contemplates compensation in money or in money's worth.

(3) A person who commits an offence under subsection (1) above shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding the maximum of level 5.

(4) No proceedings for an offence under subsection (1) above shall be instituted except by or with the consent of the Attorney General.

*Offence of agreeing to indemnify sureties in criminal proceedings. (1976 c.63 s.9)*

### PART VI

#### DETENTION

##### *Detention-conditions and duration*

87. (1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part.

(2) Subject to subsection (3) below, if at any time the responsible officer —

- (a) becomes aware, in relation to any person in police detention of that person have ceased to apply;
- (b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part,

it shall be the duty of the responsible officer, subject to subsection (4) below, to order his immediate release from custody.

*Limitations on police detention. (1984 c.60 s.34)*



(3) No person in police detention shall be released except on the authority of the responsible officer.

(4) A person who appears to the responsible officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

(5) A person whose release is ordered under subsection (2) above shall be released without bail unless it appears to the responsible officer —

(a) that there is a need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or

(b) that proceedings may be taken against him in respect of any such matter, and, if it so appears, he should be released on bail.

(6) For the purposes of this Part a person arrested under section 9H(5) of the Road Traffic Ordinance is arrested for an offence.

88. (1) In this Part “responsible officer” means the chief police officer or such other police officer on duty at the time in question who has been designated by the chief police officer to be the responsible officer in respect of the time in question.

Responsible  
officers.

(2) The chief police officer may designate police officers to be the responsible officer for the purposes of subsection (1) above, but unless he has under the foregoing provisions of the subsection designated another police officer to be the responsible officer for the purposes of subsection (1) above, he shall be deemed to have designated the most senior police officer on duty in Stanley for the time being to be the responsible officer for the purposes of subsection (1) above.

(3) Notwithstanding the foregoing provisions of this section where the police officer who at the time in question would, under the foregoing provisions of this section, be the responsible officer —

(a) is not of the rank of sergeant or above; and

(b) is involved in the investigation of an offence for which a person is in police detention,

he shall not for the purposes of this Part in relation to that person be the responsible officer and the Chief Police Officer shall be the responsible officer in relation to that person.

89. (1) Where —

(a) a person is arrested for an offence —

(i) without a warrant; or

(ii) under a warrant not endorsed for bail, or

(b) a person returns to a police station to answer to bail,

the responsible officer shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such a period as is necessary to enable him to do so.

(2) If the responsible officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail, unless the responsible officer has reasonable grounds for believing that his detention without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.

(3) If the responsible officer has reasonable grounds for so believing, he may authorise the person arrested to be kept in police detention.

(4) Where a responsible officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the responsible officer of the grounds for his detention.

(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made —

(a) incapable of understanding what is said to him;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

Duties of  
responsible of-  
ficer before  
charge. (1984  
c.60 s.37.)

(7) Subject to section 93 (5) below if the responsible officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested —

- (a) shall be charged; or
- (b) shall be released without charge, either on bail or without bail.

(8) Where —

- (a) a person is released under subsection (7) (b) above; and
- (b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,

it shall be the duty of the responsible officer so to inform him.

(9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.

(10) The duty imposed on the responsible officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

(11) Where —

- (a) an arrested juvenile who is arrested without a warrant is not released under subsection (2) above; and
- (b) it appears to the responsible officer that a decision falls to be taken in pursuance of section 5(2) of the Children and Young Persons Act 1969 in its application to the Falkland Islands whether to lay an information in respect of an offence alleged to have been committed by the arrested juvenile, it shall be the duty of the responsible officer to inform him that such a decision falls to be taken and to specify the offence.

(12) It shall also be the duty of the responsible officer —

- (a) to take such steps as are practicable to ascertain the identity of a person responsible for the welfare of the arrested juvenile; and
- (b) if —
  - (i) he ascertains the identity of any such person; and
  - (ii) it is practicable to give that person the information which subsection (11) above requires the custody officer to give to the arrested juvenile,
 to give that person the information as soon as it is practicable to do so.

(13) For the purposes of subsection (12) above the persons who may be responsible for the welfare of an arrested juvenile are —

- (a) his parent or guardian; and
- (b) any other person who has for the time being assumed responsibility for his welfare.

(14) If it appears to the responsible officer that a supervision order, as defined in section 11 of the Children and Young Persons Act 1969 in its application to the Falkland Islands, is in force in respect of the arrested juvenile, the responsible officer shall also give the information to the person responsible for the arrested juvenile's supervision, as soon as it is practicable to do so.

(15) In this Part —

“arrested juvenile” means a person arrested with or without a warrant who appears to be under the age of seventeen and who is not excluded from this Part by section 101 below; “endorsed for bail” means endorsed with a direction for bail in accordance with any law for the time being in force in the Falkland Islands and relating to endorsements of warrants for bail.

90. (1) Where a person arrested for an offence otherwise than under a warrant endorsed for bail is charged with an offence, the responsible officer shall order his release from police detention, either on bail or without bail, unless —

- (a) if the person arrested is not an arrested juvenile —

Duties of responsible officer after charge. (1984 c.60 s.36.)

- (i) his name or address cannot be ascertained or the responsible officer has reasonable grounds for doubting whether a name or address cannot be ascertained or the responsible officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;
  - (ii) the responsible officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection or to prevent him from causing physical injury to any other person or from causing loss of or damage to property; or
  - (iii) the responsible officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer bail or that his detention is necessary to prevent him interfering with the administration of justice or with the investigation of offences or of a particular offence;
- (b) if he is an arrested juvenile —
- (i) any of the requirements of paragraph (a) above is satisfied; or
  - (ii) the responsible officer has reasonable grounds for believing that he ought be detained in his own interest.

(2) If the release of a person arrested is not required by subsection (1) above, the responsible officer may authorise him to be kept in police detention.

(3) Where a responsible officer authorises a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.

(4) Subject to subsection (5) below, the written record shall be made in the presence of the person charged who shall at that time be informed by the responsible officer of the grounds for his detention.

(5) Subsection (4) above shall not apply when the person charged is, at the time when the written record is made —

- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

91. (1) Subject to subsections (2) and (4) below, it shall be the duty of the responsible officer to ensure —

- (a) that all persons in police detention are treated in accordance with this Part and any code of practice issued under it and relating to treatment of persons in police detention; and
- (b) that all matters relating to such persons which are required by this Part or by such code of practice to be recorded are recorded in the custody records relating to such persons.

(2) If the responsible officer, in accordance with any code of practice issued under this Part transfers or permits the transfer of a person in police detention —

- (a) to the custody of a police officer investigating an offence for which that person is in police detention; or
- (b) to the custody of an officer who has charge of that person outside the police station,

the responsible officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1)(a) above; and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Part and of any such code of practice as are mentioned in subsection (1) above.

(3) If the person detained is subsequently returned to the custody of the responsible officer, it shall be the duty of the officer investigating the offence to report to the responsible officer as to the manner in which this section and the code of practice have been complied with while that person was in his custody.

92. (1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this section by the chief police officer or such other police officer as may have been designated by the chief police officer and who is of at least the rank of sergeant.

Responsibilities  
in relation to  
persons detain-  
ed. (1984 c.60  
s.39.)

Review of police  
detention. (1984  
c.60 s.40.)

(2) The officer to whom it falls to carry out a review is referred to in this section as a "review officer".

(3) Subject to subsection (4) below —

- (a) the first review shall be not later than six hours after the detention was first authorised;
- (b) the second review shall be not later than nine hours after the first;
- (c) subsequent reviews shall be at intervals of not more than nine hours.

(4) A review may be postponed —

- (a) if, having regard to all the circumstances prevailing at the latest time for it specified in subsection (3) above, it is not practicable to carry out the review at that time;
- (b) without prejudice to the generality of paragraph (a) above —
  - (i) if at that time the person in detention is being questioned by a police officer and the review officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned; or
  - (ii) if at that time no review officer is readily available.

(5) If the review is postponed under subsection (4) above it should be carried out as soon as practicable after the latest time specified for it in subsection (3) above.

(6) If the review is carried out after postponement under subsection (4) above, the fact that it was so carried out shall not effect any requirement of this section as to the time at which any subsequent review is to be carried out.

(7) The review officer shall record the reasons for any postponement of a review in the custody record.

(8) Subject to subsection (9) below, where the person whose detention is under review has not been charged before the time of the review section 89 (1) to (6) above shall have effect in relation to him, but with the substitution —

- (a) of references to the person whose detention is under review for references to the person arrested; and
- (b) of references to the review officer for references to the responsible officer.

(9) Where a person has been kept in police detention by virtue of section 89 (9) above, section 89 (1) to (6) shall not have effect in relation to him but it shall be the duty of the review officer to determine whether he is yet in a fit state.

(10) Where the person whose detention is under review has been charged before the time of the review, section 90 (1) to (5) above shall have effect in relation to him, with the substitution of references to the person whose detention is under review for references to the person arrested.

(11) Where —

- (a) an officer of higher rank than the review officer gives directions relating to a person in police detention; and
- (b) the directions are at variance —
  - (i) with any decision made or action taken by the review officer in the performance of a duty imposed on him under this Part; or
  - (ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the review officer shall refer the matter at once to the chief police officer.

(12) Before determining whether to authorise a persons continued detention the review officer shall give —

- (a) that person (unless he is asleep); or
- (b) any legal practitioner representing him who is available at the time of the review,

an opportunity to make representations to him about the detention.

(13) Subject to subsection (14) below, the person whose detention is under review or his legal practitioner may make representations under subsection (12) above either orally or in writing.

(14) The review officer may refuse to hear all representations from the person whose detention is under review if he considers that he is unfit to make such representations by reason of his condition or behaviour.

93. (1) Subject to the following provisions of this section and to sections 82 and 83 above, a person shall not be kept in police detention for more than twenty-four hours without being charged.

Limits on period  
of detention  
without charge.  
(1984 c.60 s.41.)

(2) The period of twenty-four hours mentioned in subsection (1) above is to be calculated from the time of the person's arrest and, for the sake of avoidance of doubt, it is hereby declared that in the case of a person who —

- (a) attends voluntarily at a police station; or
- (b) accompanies a police officer to a police station without having been arrested, and is arrested at the police station, the period of twenty-four hours mentioned in subsection (1) is to be calculated from the time of his arrest at the police station.

(3) Where —

- (a) a person —
  - (i) has been arrested for an offence; and
  - (ii) is detained at a police station in consequence of that arrest; and
- (b) while being detained in respect of the said offence, he is arrested in respect of a further offence;

subsections (1) and (2) above shall have effect as if every reference to a person being arrested were a reference to that person's arrest or being arrested for the offence for which he was originally arrested.

(4) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purposes of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part, but any other time while he is in hospital or on his way there or back shall not be so included.

(5) Where a person is arrested outside Stanley the period of twenty-four hours mentioned in subsection (1) above and in subsections (6), (7) and (8) below is extended by such period of time as is reasonably occupied in bringing him to Stanley.

(6) Subject to subsection (7) below, a person who has been arrested and who at the expiry of twenty-four hours after his arrest is still in police detention and has not been charged shall be released at that time either on bail or without bail.

(7) Subsection (6) above does not apply to a person who is detained for more than twenty-four hours after the relevant time has been authorised or is otherwise permitted in accordance with section 94 or 95 below.

(8) A person released under subsection (6) above shall not be re-arrested without a warrant for the offence for which he was originally arrested unless new evidence justifying a further arrest has come to light since his release.

94. (1) Where the chief police officer has reasonable grounds for believing that —

Authorisation of  
continued deten-  
tion. (1984 c.60  
s.42.)

- (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is a serious arrestable offence; and
- (c) the investigation is being conducted diligently and expeditiously,

he may authorise the keeping of that person in police detention for a period expiring at or before thirty-six hours after the period of twenty-four hours mentioned in section 93(1) and (2) above.

(2) Where the chief police officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty —

- (a) to inform that person of the grounds for his continued detention; and
- (b) to record the grounds in that person's custody record.

(3) Before determining whether to authorise the keeping of a person in detention under subsection (1) above, the chief police officer shall give —

- (a) that person; or
- (b) any legal practitioner representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,

an opportunity to make representations to him about the detention.

(4) Subject to subsection (5) below, the person in detention or his legal practitioner may make representations under subsection (3) above either orally or in writing.

(5) The chief police officer may refuse to hear oral representations from the person in detention if he considers that he is unfit to make representations by reason of his condition or behaviour.

(6) Where —

- (a) the Chief Police Officer authorises the keeping of a person in detention under subsection (1) above; and
- (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 105 or 106 below,

the chief police officer —

- (i) shall inform him of that right;
- (ii) shall permit the person to exercise that right if he wishes to do so;
- (iii) shall record in his custody record the time at which he was informed of the right in accordance with sub-paragraph (i) above, and whether or not he exercised that right, and if he exercised that right, the time at which he exercised it.

(7) Where the Chief Police Officer has authorised the keeping of a person who has not been charged in detention under subsection (1) above, he shall be released from detention, either on bail or without bail not later than thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2) above unless —

- (a) he has been charged with an offence; or
- (b) the continued detention is authorised or otherwise permitted in accordance with section 95 below.

(8) A person released under subsection (7) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release.

95. (1) Where, on an application on oath made by a police officer and supported by an information, the Magistrate's Court or the Summary Court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

Warrants of  
further detention.  
(1984 c.60 s.43.)

(2) A court may not hear an application for a warrant of further detention unless the person to whom the application relates —

- (a) has been furnished with a copy of the information; and
- (b) has been brought before the court for the hearing.

(3) A person's further detention is only justified for the purposes of this section or section 96 below if —

- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is a serious arrestable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(4) Subject to subsection (6) below, an application for a warrant of further detention may be made —

- (a) at any time before the expiry of thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2); or
- (b) in a case where —

(i) it is not practicable for the court to which the application will be made to sit at the expiry of thirty-six hours after the said period of twenty-four hours; but

(ii) the court will sit during the six hours following the end of that period, at any time before the expiry of the said six hours.

(5) In a case to which subsection (4)(b) above applies —

(a) the person to whom the application relates may be kept in police detention until the application is heard; and

(b) the responsible officer shall make a note in that person's custody record —

(i) of the fact that he was kept in police detention for more than thirty-six hours after the relevant time; and

(ii) of the reason why he was so kept.

(6) If —

(a) an application for a warrant of further detention is made after the expiry of thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2); and

(b) it appears to the court that it would have been reasonable for the police to make it before the expiry of that period,

the court shall dismiss the application.

(7) Where on a application such as is mentioned in subsection (1) above the court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it shall be its duty —

(a) to refuse the application; or

(b) to adjourn the hearing of it until a time not later than thirty-six hours after the expiry of the period of twenty-four hours mentioned in section 93 (1) and (2).

(8) The person to whom the application relates may be kept in police detention during the adjournment.

(9) A warrant of further detention shall

(a) state the time at which it is issued;

(b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.

(10) Subject to subsection (11) below, the period stated in a warrant of further detention shall be such a period as the court thinks fit, having regard to the evidence before it.

(11) The period shall not be longer than thirty-six hours.

(12) Any information submitted in support of an application under this section shall state —

(a) the nature of the offence for which the person to whom the application relates has been arrested;

(b) the general nature of the evidence on which that person was arrested;

(c) what enquiries relating to the offence have been made by the police and what further enquiries are proposed by them;

(d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further enquiries.

(13) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or released, either on bail or without bail.

(14) Where a warrant of further detention is issued, the person to whom it relates shall be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.

(15) A person released under subsection (14) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release.

96. (1) On an application on oath made by a police officer and supported by an information the Magistrate's Court or the Summary Court may extend a warrant of further detention issued under section 95 above if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

Extension of warrants of further detention. (1984 c.60 s.44.)

(2) The period for which a warrant of further detention may be extended shall be such period as the court thinks fit, not being longer than a period of forty-eight hours.

(3) A warrant of further detention shall, if extended, under this section, be endorsed with a note of the period of the extension.

(4) Subsections (2) and (12) of section 95 above shall apply to an application made under this section as they apply to an application made under that section.

(5) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or released either on bail or without bail.

97. In sections 95 and 96 above "Magistrate's Court" means the Senior Magistrate sitting otherwise than in open court and the Summary Court means two or more justices of the peace sitting otherwise than in open court.

Detention before charge-supplementary. (1984 c.60 s.45.)

#### *Detention - miscellaneous*

98. (1) Where a person is charged with an offence and after being charged is kept in police detention, he shall be brought before the Magistrate's Court or the Summary Court in accordance with the provisions of this section.

Detention after charge. (1984 c.60 s.46.)

(2) The period within which a person is to be brought before a court in accordance with subsection (1) above is a period expiring not later than twenty-four hours from the time at which he was charged unless that time would expire on a Saturday, Sunday or public holiday in which case the person concerned is to be brought before a court not later than the earliest convenient time at which he can be brought before a court on the first day following the day on which he was charged which is not a Saturday, Sunday or public holiday.

(3) Nothing in this section requires a person who is in hospital to be brought before a court if he is not well enough.

99. (1) Subject to subsection (2) below, a release on bail of a person under this Part shall be a release on bail granted in accordance with Part V above.

Bail after arrest. 1984 c.60 s.4.

(2) Nothing in Part V above shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since his release.

(3) Subject to subsection (4) below, in this Part references to "bail" are references to bail subject to a duty —

(a) to appear before the Magistrate's Court or the Summary Court at such time and such place; or

(b) to attend at such a police station at such time,

as the responsible officer may appoint.

(4) Where the responsible officer has granted bail to a person subject to a duty to appear at a police station, the responsible officer may give notice in writing to that person that his attendance at the police station is not required.

(5) Where a person arrested for an offence who was released on bail subject to a duty to attend at a police station so attends, he may be detained without charge in connection with that offence only if the responsible officer has reasonable grounds for believing that his detention is necessary —

(a) to secure or preserve evidence relating to the offence; or



- (b) to obtain such evidence by questioning him.

(6) Where a person is detained under subsection (5) above, any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part.

(7) Where a person who is released on bail subject to a duty to attend at a police station is re-arrested, the provisions of this Part shall apply to him as they apply to a person arrested for the first time.

100. Nothing in this Part shall affect —

- (a) any powers conferred by or by virtue of the Immigration Ordinance 1987 upon any police officer or immigration officer to detain any person for purposes connected with the control of immigration; or
- (b) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

Savings. (1984  
c.60 s.51.)

101. This Part does not apply to a child (as for the time being defined for the purposes of the Children and Young Persons Act 1969 in its application to the Falkland Islands) who is arrested without a warrant other than for homicide and to whom section 28(4) and (5) of that Act accordingly apply.

Children. (1984  
c.60 s.52.)

## PART VII

### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### *Powers of search*

102. (1) There shall cease to have effect any enactment passed before this Ordinance in so far as it authorises —

- (a) any search by a police officer of a person in police detention at a police station; or
- (b) an intimate search of a person by a police officer;

Abolition of certain power of police officers to search persons. (1984 c.60 s.53.)

and any rule of common law which authorises a search such as is mentioned in paragraph

(a) (b) above is abolished.

103. (1) The responsible officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is —

- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or
- (b) arrested at the station after —
  - (i) having attended voluntarily there; or
  - (ii) having accompanied a police officer there without having been arrested.

Searches of detained persons. (1984 c.60 s.54.)

(2) In the case of an arrested person the record shall be made as part of his custody record.

(3) Subject to subsection (4) below, the responsible officer may seize and retain any such thing or cause any such thing to be seized and retained.

(4) Clothes and personal effects may only be seized if the responsible officer —

- (a) believes that the person from whom they are seized may use them —
  - (i) to cause physical injury to himself or any other person;
  - (ii) to damage property;
  - (iii) to interfere with evidence; or
  - (iv) to assist him to escape; or
- (b) has reasonable grounds for believing that they may be evidence relating to an offence.

(5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is —

- (a) violent or likely to become violent; or
- (b) incapable of understanding what is said to him.

(6) Subject to subsection (7) below, a person may be searched if the responsible officer considers it necessary to enable him to carry out his duty under subsection (1) above and to the extent that the responsible officer considers necessary for that purpose.

- (7) An intimate search may not be conducted under this section.
- (8) A search under this section shall be carried out by a police officer.
- (9) The police officer carrying out a search shall be of the same sex as the person searched.

104. (1) Subject to the following provisions of this section, if the chief police officer has reasonable grounds for believing —

Intimate searches. (1984 c.60 s.55.)

- (a) that a person who has been arrested and is in police detention may have concealed on him any thing which —
  - (i) he could use to cause physical injury to himself or others; and
  - (ii) he might so use it while he is in police detention or in the custody of a court; or
- (b) that such a person —
  - (i) may have a Class A Drug concealed on him; and
  - (ii) was in possession of it with the appropriate criminal intent before his arrest,

he may authorise such a search of that person.

(2) The chief police officer may not authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it cannot be found without his being intimately searched.

(3) The chief police officer may give an authorisation under subsection (1) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(4) An intimate search which is only a drug offence search shall be by way of examination by a suitably qualified person.

(5) Except as provided by subsection (4) above, an intimate search shall be by way of examination by a suitably qualified person unless the chief police officer for some reason which he shall as soon as possible record in writing, considers that this is not practicable.

(6) An intimate search which is not carried out as mentioned in subsection (5) above shall be carried out by a police officer.

(7) A police officer may not carry out an intimate search of a person of the opposite sex.

(8) No intimate search may be carried out except —

- (a) at a police station;
- (b) at a hospital; or
- (c) at some other place used for medical purposes.

(9) An intimate search which is only a drug offence search may not be carried out at a police station.

(10) If an intimate search of a person is carried out, the custody record relating to him shall state —

- (a) which parts of his body were searched; and
- (b) why they were searched.

(11) The information required to be recorded by subsection (10) above shall be recorded as soon as practicable after the completion of the search.

(12) The responsible officer may seize and retain anything which is found on an intimate search of a person, or cause any such thing to be seized and retained —

- (a) if he believes that the person from whom it is seized may use it —
  - (i) to cause physical injury to himself or any other person;
  - (ii) to damage property;

- (iii) to interfere with evidence; or
  - (iv) to assist him to escape; or
  - (b) if he has reasonable grounds for believing that it may be evidence relating to an offence.
- (13) Where anything is seized under this section, the person from whom it is seized shall be told the reason for the seizure unless he is —
- (a) violent or likely to become violent; or
  - (b) incapable of understanding what is said to him.
- (14) In this section —

“the appropriate criminal intent” means an intent to commit an offence under —

- (a) section 5(2) of the Misuse of Drugs Ordinance 1987 (possession of controlled drug with intent to supply to another); or
- (b) section 128 of the Customs Ordinance (exportation etc. with intent to evade a prohibition or restriction);

“Class A drug” has the same meaning as it has under the Misuse of Drugs Ordinance 1987;

“drug offence search” means an intimate search for a Class A drug which a police officer has authorised by virtue of subsection (1)(b) above; and

“suitably qualified person” means a government medical officer, or a person who is a nurse whose name is registered in the register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting by virtue of qualifications in nursing.

#### *Other rights when arrested*

**105.** (1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable, that he has been arrested and is being detained there.

Right to have someone informed when arrested. (1984 c.60 s.56.)

(2) In any case the person in custody must be permitted to exercise the right conferred by subsection (1) above within two hours from the time of his arrest.

**106.** (1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a legal practitioner privately at any time.

Access to legal advice. (1984 c.60 s.58.)

(2) Subject to subsection (3) below, a request under subsection (1) above and the time at which it was made shall be recorded in the custody record.

(3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at court after being charged with an offence.

(4) If a person makes such a request, he must be permitted to consult a legal practitioner as soon as is practicable except to the extent that delay is permitted by this section.

(5) In any case he must be permitted to consult a legal practitioner within thirty-six hours from the time of his arrest.

(6) Delay in compliance with the request is only permitted —

- (a) in the case of a person who is in police detention for a serious arrestable offence; and
- (b) if the chief police officer authorises it.

(7) The chief police officer may give an authorisation under subsection (6) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) The chief police officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by subsection (1) above at the time when the person detained desires to exercise it —

- (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or

- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence.

(9) If delay is authorised —

- (a) the detained person shall be told the reason for it; and
- (b) the reason shall be noted on his custody record.

(10) The duties imposed by subsection (9) above shall be performed as soon as is practicable.

(11) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.

107. (1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.

Fingerprinting.  
(1984 c.60 s.61.)

(2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.

(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if the chief police officer authorises them to be taken.

(4) The chief police officer may only give an authorisation under subsection (3) above if he has reasonable grounds —

- (a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and
- (b) for believing that his fingerprints will tend to confirm or disprove his involvement.

(5) The chief police officer may give an authorisation under subsection (3)(a) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

108. (1) An intimate sample may be taken from a person in police detention only —

Intimate  
samples. (1984  
c.60 s.62.)

- (a) if the chief police officer authorises it to be taken; and
- (b) if the appropriate consent is given.

(2) The chief police officer may only give an authorisation if he has reasonable grounds —

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(3) The chief police officer may give an authorisation under subsection (1) above orally or in writing but, if he given it orally, he shall confirm it in writing as soon as is practicable.

(4) The appropriate consent must be given in writing.

(5) Where —

- (a) an authorisation has been given; and
- (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

a police officer shall inform the person from whom the sample is to be taken —

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(6) The duty imposed by subsection (5)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

- (7) If an intimate sample is taken from a person —
- (a) the authorisation by virtue of which it was taken;
  - (b) the grounds for giving the authorisation; and
  - (c) the fact that the appropriate consent was given,

shall be recorded as soon as is practicable after the sample is taken.

(8) If an intimate sample is taken from a person detained at a police station, the matter is required to be recorded by subsection (7) above shall be recorded in his custody record.

(9) An intimate sample, other than a sample of urine or saliva, may only be taken from a person by a Government medical officer.

(10) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence —

- (a) the court, in determining —
  - (i) whether to commit that person for trial; or
  - (ii) whether there is a case to answer; and
- (b) the court or jury, in determining whether that person is guilty of the offence charged,

may draw such inference from the refusal as appears proper; and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence against the person in relation to which the refusal is material.

(11) Nothing in this section affects sections 9(H) to 9(M) of the Road Traffic Ordinance.

109. (1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.

Other samples.  
(1984 c.60 s.63.)

(2) Consent to the taking of a non-intimate sample must be given in writing.

(3) A non-intimate sample may be taken from a person without the appropriate consent if —

- (a) he is in police detention or is being held in custody by the police on the authority of a court; and
- (b) the chief police officer authorises it to be taken without the appropriate consent.

(4) The chief police officer may only give an authorisation under subsection (3) above if he has reasonable grounds —

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(5) The chief police officer may give an authorisation under subsection (3) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Where —

- (a) an authorisation has been given; and
- (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,

a police officer shall inform the person from whom the sample is to be taken —

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(7) The duty imposed by subsection (6)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If a non-intimate sample is taken from a person by virtue of subsection (3) above —

- (a) the authorisation by virtue of which it was taken; and
- (b) the grounds for giving the authorisation,

shall be recorded as soon as is practicable after the sample is taken.

(9) If a non-intimate sample is taken from a person detained at a police station, the matter required to be recorded by subsection (8) above shall be recorded in his custody record.

110. (1) If —

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) he is cleared of that offence,

Destruction of  
finger prints and  
samples. (1984  
c.60 s.64.)

they must be destroyed as soon as is practicable after the conclusion of the proceedings.

(2) If —

- (a) fingerprints or samples are taken from a person in connection with such an investigation; and
- (b) it is decided that he shall not be prosecuted for the offence and he has not admitted it and been dealt with by way of being cautioned by a police officer,

they must be destroyed as soon as is practicable after that decision is taken.

(3) If —

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) that person is not suspected of having committed the offence —

they must be destroyed as soon as they have fulfilled the purpose for which they were taken.

(4) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.

(5) If fingerprints are destroyed, any copies of them shall also be destroyed.

(6) A person who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have the right to witness it.

111. In this Part —

“Appropriate consent” means —

- (a) in relation to a person who has attained the age of seventeen years, the consent of that person;
- (b) in relation to a person who has not attained that age but has attained the age of fourteen years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of fourteen years, the consent of his parent or guardian;

Supplementary  
to this Part.  
1984 c.60 s.65.

“fingerprints” includes palmprints;

“intimate sample” means a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair, or a swab taken from a person’s body orifice;

“non-intimate sample” means —

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or under a nail;
- (c) a swab taken from any part of a person’s body other than a body orifice;
- (d) a footprint or a similar impression of any part of a person’s body other than a part of his hand.

112. (1) This section has effect for determining whether an offence is a serious arrestable offence for the purposes of this Ordinance.

Meaning of  
"serious ar-  
restable offence".  
(1984 c.60 s.116.)

(2) The following offences are always serious —

- (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 4; and
- (b) an offence under an enactment specified in Part II of that Schedule.

(3) Subject to subsections (4) and (5) below, any other arrestable offence is serious only if its commission —

- (a) has led to any of the consequences specified in sub-section (6) below; or
- (b) is intended or is likely to lead to any of those consequences.

(4) An arrestable offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in subsection (5) below.

(5) The consequences mentioned in sub-sections (3) and (4) above are —

- (a) serious harm to the security of the Falkland Islands or of the United Kingdom or to public order;
- (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
- (c) the death of any person;
- (d) serious injury to any person;
- (e) substantial financial gain to any person; and
- (f) serious financial loss to any person.

(6) Loss is serious for the purposes of this section if, having regard to all the circumstances, it is serious for the person who suffers it.

(7) In this section "injury" includes any disease and any impairment of a person's physical or mental condition.

## PART VIII

### POWERS OF ENTRY, SEARCH AND SEIZURE

#### *Search warrants*

113. (1) If on application made by a police officer, the Senior Magistrate or a justice of the peace is satisfied that there are reasonable grounds for believing —

Powers to  
authorise entry  
and search of  
premises. (1984  
c.60 s.8.)

- (a) that a serious arrestable offence has been committed; and
- (b) that there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and
- (c) that the material is likely to be relevant evidence; and
- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and
- (e) that any of the conditions specified in subsection (3) below applies,

he may issue a warrant authorising a police officer to enter and search the premises.

(2) A police officer may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in subsection (1)(e) above are —

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (c) that the entry to the premises will not be granted unless a warrant is produced;
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can secure immediate entry to them.

(4) In this Ordinance "relevant evidence", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

(5) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

**114. (1)** A police officer may obtain access to excluded material or special procedure material for the purposes of a criminal investigation by making an application under Schedule 5 below and in accordance with that Schedule.

Special provisions as to access. (1984 c.60 s.9.)

(2) Any enactment passed before this Ordinance under which a search of premises for the purposes of a criminal investigation could be authorised by the issue of a warrant to a police officer shall cease to have effect so far as it relates to the authorisation of searches —

- (a) for items subject to legal privilege; or
- (b) for excluded material; or
- (c) for special procedure material consisting of documents or records other than documents.

**115. (1)** Subject to subsection (2) below, in this Ordinance "items subject to legal privilege" means —

Meaning of "items subject to legal privilege". (1984 c.60 s.10.)

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative or any other person made in connection with or in contemplation of legal proceedings and for the purpose of such proceedings; and
- (c) items enclosed with or referred to in such communications and made —
  - (i) in connection with the giving of legal advice; or
  - (ii) in connection with or in contemplation of legal proceedings and for the purpose of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

**116. (1)** Subject to the following provisions of this section, in this Ordinance "excluded material" means —

Meaning of "excluded material". (1984 c.60 s.11.)

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;
- (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;
- (c) journalistic material which a person holds in confidence and which consists —
  - (i) of documents; or
  - (ii) of records other than documents.

(2) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject —

- (a) to an express or implied undertaking to hold it in confidence; or



- (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment passed after this Ordinance.
- (3) A person holds journalistic material in confidence for the purposes of this section if —
  - (a) he holds it subject to such an undertaking, restriction or obligation; and
  - (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

117. In this Part “personal records” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating —

Meaning of  
“personal  
records”. (1984  
c.60 s.12.)

- (a) to his physical or mental health;
- (b) to spiritual counselling or assistance given or to be given to him; or
- (c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who —
  - (i) by reason of his office or occupation has responsibilities for his personal welfare; or
  - (ii) by reason of an order of a court has responsibilities for his supervision.

118. (1) Subject to subsection (2) below, in this Ordinance “journalistic material” means material acquired or created for the purposes of journalism.

Meaning of  
“journalistic  
material”. (1984  
c.60 s.13.)

(2) Material is only journalistic material for the purposes of this Ordinance if it is in the possession of a person who acquired or created it for the purposes of journalism.

(3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

119. (1) In this Ordinance “special procedure material” means —

Meaning of  
“special pro-  
cedure material”.  
(1984 c.60 s.14.)

- (a) material to which subsection (2) below applies; and
- (b) journalistic material, other than excluded material.

(2) Subject to the following provisions of this section, this subsection applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who —

- (a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and
- (b) holds it subject —
  - (i) to an express or implied undertaking to hold it in confidence; or
  - (ii) to a restriction or obligation such as is mentioned in section 116(2)(b) above.

(3) Where material is acquired —

- (a) by an employee from his employer and in the course of his employment; or
- (b) by a company from an associated company —

it is only special procedure material if it was special procedure material immediately before the acquisition.

(4) Where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.

(5) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.

(6) A company is to be treated as another's associated company for the purposes of this section at a given time if, at that time or at any time within one year previously, one of the two has control of the other, or both are under the control of the same person or persons.

(7) For the purposes of subsection (6) a person shall be taken to have control of a company —

- (a) if he exercises, or is able to exercise or is entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses, or is entitled to acquire, the greater part of the share capital or voting power in the company, or
- (b) if he possesses, or is entitled to acquire, either —
  - (i) the greater part of the issued share capital of the company, or
  - (ii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed, or
  - (iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding-up, would be available for distribution among members, or
- (c) if in the event of a winding-up he would be entitled to the greater part of the assets available for distribution among members.

(8) For the purposes of subsection (6) above, where two or more persons together satisfy any of the conditions in paragraphs (a) to (c) of subsection (7) above, they shall be taken to have control of the company.

(9) In subsection (7) above "member" includes any person having a share or interest in the capital or income of the company, and, for the purposes of that subsection, a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire; and, for the purposes of paragraphs (b)(iii) and (c) of that subsection, any loan creditor may be treated as a member (and the references to share capital as including loan capital).

(10) For the purposes of subsections (8) and (9) above, there shall be attributed to any person any rights or powers of a nominee for him, that is to say any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(11) For the purposes of subsections (8) and (9) above, there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or any associate of his or any two or more associates of his, including those attributed to a company or associate under subsection (5) above, but not those attributed to an associate under this subsection.

(13) For the purposes of subsection (11) "associate" means in relation to a person —

- (a) any spouse, parent, grandparent, child or grandchild or brother or sister of the person;
- (b) the trustee or trustees of any settlement in relation to which the person is, or any person referred to in (a) above (living or dead) is or was a settlor; and
- (c) where the person is interested in any shares or obligations to the company which are subject to any trust, or are part of the estate of a deceased person, any other person interested therein.

120. (1) This section and section 121 below have effect in relation to the issue to police officers under any enactment, including an enactment passed after this Ordinance, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 121 below.

Search Warrants  
Safeguards.  
(1984 c.60 s.15.)

(2) Where a police officer applies for any such warrant, it shall be his duty

- (a) to state —
  - (i) the ground on which he makes the application; and
  - (ii) the enactment under which the warrant would be issued;
- (b) to specify the premises which it is desired to enter and search; and
- (c) to identify, so far as is practicable, the articles or persons to be sought.

(3) An application for such a warrant shall be made *ex parte* and supported by an information in writing.

(4) The police officer shall answer on oath any question that the justice of the peace, Senior Magistrate or judge hearing the application asks him.

(5) A warrant shall authorise an entry on one occasion only.

(6) A warrant —

- (a) shall specify —
  - (i) the name of the person who applies for it;
  - (ii) the date on which it is issued;
  - (iii) the enactment under which it is issued; and
  - (iv) the premises to be searched; and
- (b) shall identify, so far as is practicable, the articles or persons to be sought.

(7) Two copies shall be made of a warrant, and each of them shall be clearly certified as copies.

121. (1) A warrant to enter and search premises may be executed by any police officer.

(2) Such a warrant may authorise persons to accompany any police officer who is executing it.

Execution of  
warrants. (1984  
c.60 s.16.)

(3) Entry and search under a warrant must be within one month from the date of its issue.

(4) Entry and search under a warrant must be at a reasonable hour unless it appears to the police officer executing it that the purpose of the search may be frustrated on an entry at a reasonable hour.

(5) Where the occupier of premises which are to be entered and searched is present at the time when a police officer seeks to execute a warrant to enter and search them, the police officer —

- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a police officer;
- (b) shall produce the warrant to him; and
- (c) shall supply him with a copy of it.

(6) Where —

- (a) the occupier of such premises is not present at the time when a police officer seeks to execute such a warrant; but
- (b) some other person who appears to the police officer to be in charge of the premises is present —

subsection (5) above shall have effect as if any reference to the occupier were a reference to that other person.

(7) If there is no person present who appears to the police officer to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.

(8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(9) A police officer executing a warrant shall make an endorsement on it stating —

- (a) whether the articles or persons sought were found; and
  - (b) whether any articles were seized, other than articles which were sought.
- (10) A warrant which —
- (a) has been executed; or
  - (b) has not been executed within the time authorised for its execution,

shall be returned to the office of the court out of which it was issued.

(11) A warrant which is returned under sub-section (10) above shall be retained for twelve months from its return in the court office.

(12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he should be allowed to do so.

#### *Entry and search without search warrant*

122. (1) Subject to the following provisions of this section and without prejudice to any other enactment, a police officer may enter and search any premises for the purpose —

Entry for purpose of arrest etc. (1984 c.60 s.17.)

- (a) of executing —
  - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
  - (ii) a warrant of commitment issued under any provision of any enactment;
- (b) of arresting a person for an arrestable offence;
- (c) of recapturing a person who is unlawfully at large and whom he is pursuing; or
- (d) of saving life or limb or preventing serious damage to property.

(2) Except for the purpose specified in paragraph (d) of subsection (1) above, the powers of entry and search conferred by this section

- (a) are only exercisable if the police officer has reasonable grounds for believing that the person whom he is seeking is on the premises; and
- (b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search —
  - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
  - (ii) any such dwelling in which the police officer has reasonable grounds for believing that the person whom he is seeking may be.

(3) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

(4) Subject to subsection (5) below, all the rules of common law under which a police officer has power to enter premises without a warrant are hereby abolished.

(5) Nothing in subsection (4) above affects any power of entry to deal with or prevent a breach of the peace.

123. (1) Subject to the following provisions of this section, a police officer may enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates

Entry and search after arrest. (1984 c.60 s.18.)

- (a) to that offence; or
- (b) to some other arrestable offence which is connected or similar to that offence.

(2) A police officer may seize and retain anything for which he may search under subsection (1) above.

(3) The power to search conferred by subsection (1) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence.

(4) Subject to subsection (5) below, the powers conferred by this section may not be exercised unless an officer of the rank of Inspector or above has authorised them in writing.

(5) A police officer may conduct a search under subsection (1) above —

(a) before taking the person to a police station; and

(b) without obtaining an authorisation under subsection (4) above,

if the presence of that person at a place other than the police station is necessary for the effective investigation of the offence.

(6) If a police officer conducts a search by virtue of subsection (5) above, he shall inform an officer of the rank of Inspector or above that he has made the search as soon as is practicable after he has made it.

(7) An officer who —

(a) authorises a search; or

(b) is informed of a search under subsection (6) above, shall make a record in writing —

(i) of the grounds for the search; and

(ii) of the nature of the evidence that was sought.

(8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of his custody record.

#### *Seizure etc.*

124. (1) The powers conferred by sub-sections (2), (3) and (4) below are exercisable by a police officer who is lawfully on any premises.

General power  
of seizure etc.  
(1984 c.60 s.19.)

(2) The police officer may seize anything which is on the premises if he has reasonable grounds for believing —

(a) that it has been obtained in consequence of the commission of an offence; and

(b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) The police officer may seize anything which is on the premises if he has reasonable grounds for believing —

(a) that it is evidence in relation to an offence which he is investigating or any other offence; and

(b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(4) The police officer may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reasonable grounds for believing —

(a) that —

(i) it is evidence in relation to an offence which he is investigating or any other offence; or

(ii) it has been obtained in consequence of the commission of an offence; and

- (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.

(5) The powers conferred by this section are in addition to any power otherwise conferred.

(6) No power of seizure conferred on a police officer under any enactment (including an enactment passed after this Ordinance) is to be taken to authorise the seizure of an item which the police officer exercising the power has reasonable grounds for believing to be subject to legal privilege.

125. (1) Every power of seizure which is conferred by an enactment to which this section applies on a police officer who has entered premises in the exercise of a power conferred by an enactment shall be construed as including a power to require any information contained in a computer and accessible from the premises to be produced in a form in which it can be taken away and which it is visible and legible.

Extension of powers of seizure to computerised information. (1984 c.60 s.20.)

(2) This section applies —

- (a) to any enactment passed before this Ordinance;
- (b) to sections 113 and 123 above;
- (c) To paragraph 13 of Schedule 5 to this Ordinance; and
- (d) To any enactment passed after this Ordinance.

126. (1) A police officer who seizes anything in the exercise of a power conferred by any enactment, including an enactment passed after this Ordinance, shall, if so requested by a person showing himself —

Access and copying. (1984 c.60 s.21.)

- (a) to be the occupier of premises on which it was seized; or
- (b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (8) below, if a request for permission to be granted access to anything which —

- (a) has been seized by a police officer; and
- (b) is retained by the police for the purpose of investigating an offence,

is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of a police officer.

(4) Subject to subsection (8) below, if a request for a photograph or copy of any such thing is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall —

- (a) allow the person who made the request access to it under the supervision of a police officer for the purpose of photographing it or copying it; or
- (b) photograph or copy it or cause it to be photographed or copied.

(5) A police officer may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under subsection (4) above.

(6) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice —

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of investigating for which the thing was seized; or
- (c) any criminal proceedings which may be brought as a result of —
  - (i) the investigation of which he is in charge; or
  - (ii) any such investigation as is mentioned in paragraph (b) above.

127. (1) Subject to subsection (4) below, anything which has been seized by a police officer or taken away by a police officer following a requirement made by virtue of sections 124 or 125 above may be retained so long as is necessary in all of the circumstances.

Retention. (1984 c.60 s.22.)

- (2) Without prejudice to the generality of subsection (1) above —
  - (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by subsection (4) below —
    - (i) for use as evidence at a trial for an offence; or
    - (ii) for forensic examination or for investigation in connection with an offence; and
  - (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) Nothing seized on the grounds that it may be used —
  - (a) to cause physical injury to any person;
  - (b) to damage property;
  - (c) to interfere with evidence; or
  - (d) to assist in escape from police detention or lawful custody,

may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.

(4) Nothing may be retained for either of the purposes mentioned in subsection (2)(a) above if a photograph or copy would be sufficient for that purpose.

(5) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897 in its application to the Falkland Islands.

### *Supplementary*

128. In Parts VI to IX of this Ordinance “premises” includes any place and, in particular, includes —

Meaning of “premises” etc. (1984 c.60 s.23.)

- (a) any vehicle, vessel, aircraft or hovercraft; and
- (b) any tent or moveable structure.

## PART IX

### ARREST

129. (1) The powers of summary arrest conferred by the following subsections shall apply —

- (a) to offences for which the sentence is fixed by law;
- (b) to offences for which a person of twenty-one years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years or more (or might be so sentenced by a court) but for a restriction imposed by law on the length of time for which the court sentencing the offender may imprison him, notwithstanding that the offence in question attracts a maximum sentence for imprisonment for a term of five years or more; and
- (c) to the offences to which sub-section (2) below applies,

Arrest without warrant for arrestable offences. (1984 c.60 s.24.)

and in this Ordinance “arrestable offence” means any such offence.

(2) The offences to which this subsection applies are

- (a) offences for which a person may be arrested under the Customs Ordinance;
- (b) offences under the Official Secrets Acts 1911 and 1920 in their application to the Falkland Islands that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them;
- (c) offences under section 14 (indecent assault on a woman), 22 (causing prostitution of women) or 23 (procurement of girl under twenty-one) of the Sexual Offences Act 1956 in its application to the Falkland Islands;
- (d) offences under section 9P(2) of the Road Traffic Ordinance (taking a motor vehicle or other conveyance without authority etc.) or section 25(1) (going equipped for stealing, etc.) of the Theft Act 1968 in its application to the Falkland Islands; and
- (e) offences under Section 1 of the Public Bodies Corrupt Practices Act 1889 (corruption in office) in its application to the Falkland Islands or section 1 of the Prevention of Corruption Act 1906 (corrupt transactions with agents) in its application to the Falkland Islands.

(3) Without prejudice to the provisions of any enactment dealing with an offence of attempting to commit a criminal offence, the powers of summary arrest conferred by the following subsections shall also apply to the offences of

- (a) conspiring to commit any of the offences mentioned in subsection (2) above;
- (b) attempting to commit any such offence;
- (c) inciting, aiding, abetting, counselling or procuring the commission of any such offence;

and such offences are also arrestable offences for the purposes of this Ordinance.

(4) Any person may arrest without a warrant —

- (a) anyone who is in the act of committing an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be committing such an offence.

(5) Where an arrestable offence has been committed, any person may arrest without a warrant —

- (a) anyone who is guilty of the offence;
- (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(6) Where a police officer has reasonable grounds for suspecting that an arrestable offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(7) A police officer may arrest without a warrant —

- (a) anyone who is about to commit an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be about to commit an arrestable offence.

130. (1) Where a police officer has reasonable grounds for suspecting that any offence which is not an arrestable offence has been committed or attempted, or is being committed or attempted, he may arrest the relevant person if it appears to him that service of a summons is impracticable or inappropriate because any of the general arrest conditions is satisfied.

General arrest conditions. (1984 c.60 s.25.)

(2) In this section "the relevant person" means any person whom the police officer has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit it.

(3) The general arrest conditions are —

- (a) that the name of the relevant person is unknown to, and cannot be readily ascertained by, the police officer;
- (b) that the police officer has reasonable grounds for doubting whether a name furnished by the relevant person as his name is his real name;
- (c) that —



- (i) the relevant person has failed to furnish a satisfactory address for service; or
  - (ii) the police officer has reasonable grounds for doubting whether an address furnished by the relevant person is a satisfactory address for service;
  - (d) that the police officer has reasonable grounds for believing that arrest is necessary to prevent the relevant person —
    - (i) causing physical injury to himself or any other person;
    - (ii) suffering physical injury;
    - (iii) causing loss of or damage to property;
    - (iv) committing an offence against public decency; or
    - (v) causing an unlawful obstruction of the highway;
  - (e) that the police officer has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the relevant person.
- (4) For the purposes of subsection (3) above an address is a satisfactory address for service if it appears to the police officer —
- (a) that the relevant person will be at it for a sufficiently long period for it to be possible to serve him with a summons; or
  - (b) that some other person specified by the relevant person will accept service of a summons for the relevant person at it.

(5) Nothing in subsection (3)(d) above authorises the arrest of a person under subparagraph (iv) of that paragraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.

(6) This section shall not prejudice any power of arrest conferred apart from this section.

**131.** (1) Subject to subsection (2) below so much of any enactment passed before this Ordinance as enables a police officer —

- (a) to arrest a person for an offence without a warrant; or
- (b) to arrest a person otherwise than for an offence without a warrant or an order of a court,

Repeal of statutory powers of arrest without warrant or order. (1984 c.60 s.26.)

shall cease to have effect.

(2) Nothing in subsection (1) above affects the enactments specified in schedule 6 to this Ordinance in their application to the Falkland Islands.

**132.** (1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Use of force in making arrest etcetera. (1988.)

(2) Subsection (1) above shall replace the rules of the common law on the question of when force used for a purpose mentioned in the subsection is justified for that purpose.

**133.** (1) Subject to subsection (5) below, where a person is arrested, otherwise than being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his arrest.

Information to be given on arrest. (1984 c.60 s.28.)

(2) Where a person is arrested by a police officer, subsection (1) above applies regardless of whether the fact of the arrest is obvious.

(3) Subject to subsection (5) below, no arrest is lawful unless the person arrested is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.

(4) Where a person is arrested by a police officer, subsection (3) applies regardless of whether the ground for the arrest is obvious.

(5) Nothing in this section is to be taken to require a person to be informed —

- (a) that he is under arrest; or
- (b) of the ground for the arrest,

if it was not reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

**134.** Where for the purpose of assisting with an investigation a person attends voluntarily at a police station or at any other place where a police officer is present or accompanies a police officer to a police station or any such other place without having been arrested —

Voluntary attendance at police station etc. (1984 c.60 s.29.)

- (a) he shall be entitled to leave at will unless he is placed under arrest;
- (b) he shall be informed at once that he is under arrest if a decision is taken by a police officer to prevent him from leaving at will.

135. Where —

- (a) A person —
  - (i) has been arrested for an offence; and
  - (ii) is at a police station in consequence of that arrest; and
- (b) it appears to a police officer that, if he were released from that arrest, he would be liable to arrest for some other offence,

Arrest for further offence.  
(1984 c.60 s.31.)

he shall be arrested for that other offence.

136. (1) A police officer may search an arrested person, in any case where the person to be searched has been arrested at a place other than a police station, if the police officer has reasonable grounds for believing that the arrested person may present a danger to himself or others.

Search upon arrest. (1984 c. 60 s. 32.)

(2) Subject to subsections (3) to (5) below, a police officer shall also have power in any such case —

- (a) to search the arrested person for anything —
  - (i) which he might use to assist him to escape from lawful custody; or
  - (ii) which might be evidence relating to an offence; and
- (b) to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he has been arrested.

(3) The power to search conferred by sub-section (2) above is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(4) The powers conferred by this section to search a person are not to be construed as authorising a police officer to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves.

(5) A police officer may not search a person in exercise of the power conferred by subsection (2)(a) above unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that paragraph.

(6) A police officer may not search premises in the exercise of the power conferred by subsection (2)(b) above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that paragraph on the premises.

(7) Insofar as the power of search conferred by subsection (2)(b) above relates to premises consisting of two or more separate dwellings, it is limited to a power to search —

- (a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and
- (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(8) A police officer searching a person in the exercise of the power conferred by subsection (1) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or any other person.

(9) A police officer searching a person in the exercise of the power conferred by subsection (2)(a) above may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing —

- (a) that he might use it to assist him to escape from lawful custody; or
- (b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.

## PART X

### GENERAL

137. The Governor may make any rules or regulations necessary or convenient for the purpose of giving effect to any provision of this Ordinance. Power to make rules and regulations.
138. (1) The enactments mentioned in Schedule 7 to this Ordinance shall have effect with the amendments there specified. Amendments and repeals.
- (2) The enactments mentioned in Schedule 8 to this Ordinance (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

### SCHEDULE 1

#### (section 11(1))

#### *Discharge and amendment of probation orders*

##### *Discharge*

1. (1) A probation order may be discharged, in accordance with the following provisions of this paragraph, on an application made by the probation officer or by the probationer.
- (2) No application may be made under subparagraph (1) above while an appeal against the probation order is pending.
- (3) The power to discharge the order shall be exercised by the court by which the order was made.

##### *Amendment*

2. (1) Subject to subparagraph (2) below, the court may, on an application made by the probation officer or by the probationer, by order amend a probation order by cancelling any of the requirements of the order or by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include under section 7, 9 or 10 of this Ordinance if it were then making the order.
- (2) No application may be made under subparagraph (1) above while an appeal against the probation order is pending.
- (3) The power of the court under this paragraph to amend a probation order shall be subject to the following restrictions —
- (a) the court shall not amend the probation order by reducing the probation period, or by extending that period beyond the end of three years from the date of the original order;
  - (b) the court shall not amend a probation order by inserting therein a requirement that the probationer shall submit to treatment for his mental condition unless the amendment order is made within three months after the date of the original order.
3. Subject to paragraph 4 below, where the medical practitioner by whom or under whose direction a probationer is being treated for his medical condition in pursuance of any requirement of the probation order is of the opinion —
- (a) that the treatment of the probationer should be continued beyond the period specified in that behalf in the order, or
  - (b) that the probationer needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of a probation order, or
  - (c) that the probationer is not susceptible to treatment, or
  - (d) that the probationer does not require further treatment,

or where the practitioner is for any reason unwilling to continue to treat or direct the treatment of the probationer, he shall make a report in writing to that effect to the probation officer and the probation officer shall apply to the court for the variation or cancellation of the requirement.

4. No application may be made under paragraph 3 above while an appeal against the probation order is pending.

### *General*

5. (1) Subject to subparagraph (2) below, where the court proposes to amend the probation order under this Schedule, otherwise than on the application of the probationer, it shall summon him to appear before the court; and the court shall not amend a probation order unless the probationer expresses his willingness to comply with the requirements of the order as amended.

(2) This paragraph shall not apply to an order cancelling a requirement of the probation order or reducing the period of any requirement.

6. (1) On the making of an order discharging or amending a probation order, the appropriate officer of the court shall forthwith give copies of the order to the probation officer.

(2) A probation officer to whom in accordance with subparagraph (1) above, copies of an order are given shall give a copy to the probationer and to the person in charge of any institution in which the probationer is or was required by the order to reside.

## SCHEDULE 2

(section 33(16))

### *Matters ancillary to Section 33*

#### *Probation orders*

1. Where a court makes an order under section 33(7) above with respect to a sentence of imprisonment, it shall not make a probation order in the offender's case in respect of another offence of which he is convicted by or before that court, or for which he is dealt with by that court.

#### *Courts competent to restore sentence held in suspense*

2. (1) In relation to a sentence of imprisonment part of which is held in suspense, the courts competent under section 33(11) above are —

- (a) the Supreme Court; and
- (b) where the sentence was passed by the Magistrate's Court or by the Summary Court, the Magistrate's Court; and
- (c) where the sentence was passed by the Summary Court, the Summary Court.

(2) Where an offender is convicted by the Magistrate's Court or by the Summary Court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the whole period of a sentence passed by the Supreme Court with an order under section 33(1) above —

- (a) it may, if it thinks fit, commit him to custody or on bail to the Supreme Court; and
- (b) if it does not, it shall give written notice of the conviction to the appropriate officer of that court.

(3) For the purposes of this and the next following paragraph, a sentence of imprisonment passed on an offender with an order under section 33(7) above shall be treated as having been passed (with such an order) by the court which originally sentenced him.

#### *Recall of offender on re-conviction*

3. (1) If it appears to the Supreme Court, or to the Senior Magistrate or to a justice of the peace in each case, having jurisdiction under subparagraph (2) below, that an offender has been convicted in the Falkland Islands of an offence punishable with imprisonment committed during the whole period of a sentence passed with an order under section 33(7) above and that he has not been dealt with in respect of the part of the sentence held in suspense, that court or the Senior Magistrate or that justice may, subject to the following provisions of this paragraph, issue a summons requiring the offender to appear at the place and time specified therein, or a warrant for his arrest.

(2) Jurisdiction for the purposes of subparagraph (1) above may be exercised —

- (a) if the sentence was passed by the Supreme Court, by that court or by the Senior Magistrate;

- (b) if it was passed by the Magistrate's Court or by the Summary Court, by the Senior Magistrate or by a justice of the peace.

(3) A summons or warrant issued under this paragraph shall direct the offender to appear or to be brought before the court by which the original sentence of imprisonment was passed.

*Consecutive sentences of imprisonment*

4. (1) This paragraph applies where —

- (a) an offender is serving consecutive sentences of imprisonment; and
- (b) at least one of the sentences was passed with an order under section 33(7) of this Ordinance.

(2) Where this paragraph applies the offender shall, so far as the consecutive sentences are concerned, be treated for the purposes —

- (a) of computing the date when he should be released from prison; and
- (b) of calculating the term of imprisonment liable to be restored under section 33(11) of this Ordinance;

as if he had been sentenced to a single term of imprisonment with an order under section 34(1) of this Ordinance of which the part which he is immediately required to serve in prison were the aggregate —

- (i) of the part which he is required to serve in prison of any consecutive sentence passed with an order under section 33(7) of this Ordinance; and
- (ii) of the whole term of any other consecutive sentences,

and of which the part which is held in suspense were the aggregate of all part of the sentences which were ordered to be held in suspense under that section.

(3) Section 33(15) of this Ordinance shall have effect, in relation to any consecutive sentence passed with an order under section 33(7) of this Ordinance, as if for the words following the word "prison" there were substituted the following words "if —

- (a) none of the sentences to which he is subject had been passed with an order under subsection (7) above; and
- (b) he had not had, in respect of any sentence passed with such an order any remission for industry and good conduct in prison."

(4) In this paragraph "a consecutive sentence" means a sentence which is one of two or more sentences of imprisonment the terms of which have been ordered to run consecutively.

*Miscellaneous (Procedural)*

5. Where the offender is before the Supreme Court with a view to the exercise by that court of its powers under section 33(11) above, any question whether and, if so, when he has been convicted of an offence shall be determined by the court and not by the verdict of a jury.

6. Where the offender has been before a court with a view to its exercising those powers, the appropriate officer shall —

- (a) if the court decided not to exercise the powers, record that fact; and
- (b) whether or not it exercised them, notify the appropriate officer of the court which passed the original sentence as to the manner in which the offender was dealt with.

7. For the purposes of any enactment conferring rights of appeal in criminal cases, the restoration by a court under section 33(11) above of a part of a sentence held in suspense shall be treated as a sentence passed on the offender by that court for the original offence, that is to say the offence for which the original sentence was passed with an order under section 33(7) above.

*Miscellaneous (Consequential)*

8. Where a sentence of imprisonment is passed with an order under section 33(7) above, it is still to be regarded for all purposes as a sentence of imprisonment for the term stated by the court notwithstanding that part of it is held in suspense by virtue of the order;

and, for the avoidance of doubt, a sentence of which part is held in suspense by virtue of such an order is not to be regarded as falling within the expression "suspended sentence" for the purposes of any legislation, instrument or document.

9. Where an offender is sentenced to imprisonment with an order under section 33(7) above, and having served part of the sentence in prison, is discharged by virtue of having received remission for industry and good conduct, the remainder of the sentence being held in suspense, the sentence is not to be regarded as having expired.

### SCHEDULE 3

(section 81)

#### *Persons entitled to bail: Supplementary provisions*

#### PART I

#### *Defendants accused or convicted of imprisonable offences*

##### *Defendants to whom Part I applies*

1. Where the offence or one of the offences of which the Defendant is accused or convicted in the proceedings is punishable with imprisonment the following provisions of this Part of this Schedule apply.

##### *Exceptions to right to bail*

2. The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would —

- (a) fail to surrender to custody, or
- (b) commit an offence while on bail, or
- (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

3. The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

4. The defendant need not be granted bail if he is in custody in pursuance of a sentence of court or of any authority acting under any of the Services Acts.

5. The defendant need not be granted bail where the court is satisfied that it is not being practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

6. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 84 of this Ordinance.

Exception applicable only to defendant whose case is adjourned for enquiries or a report

7. Where his case is adjourned for inquiries or a report, the defendant need not be granted bail if it appears to the court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody.

##### *Restriction of conditions of bail*

8. (1) Subject to subparagraph (3) below, where the defendant is granted bail, no conditions shall be imposed under subsections (4) to (7) of section 80 of this Ordinance unless it appears to the court that it is necessary to do so for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2 of this Part of this Schedule or, in the case of a condition under subsection (6)(d) of section 80, that it is necessary to impose it to enable inquiries or a report to be made into the defendant's physical or mental condition.

(2) Subparagraph (1) above also applies on any application to the court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(3) The restriction imposed by subparagraph (1) above shall not apply in the case of a person accused of murder (where the court if it grants bail shall, unless it considers that satisfactory reports on his mental condition have already been obtained, impose as conditions of bail —

- (a) a requirement that the accused shall undergo examination by two medical practitioners for the purpose of enabling such reports to be prepared; and
- (b) a requirement that he shall for that purpose attend at such institution or place as the court directs and comply with any other directions which may be given to him for that purpose by either of those practitioners).

*Decisions under paragraph 2*

9. In taking the decisions required by paragraph 2 of this Part of this Schedule, the court shall have regard to such of the following considerations as appear to it to be relevant, that is to say —

- (a) the nature and seriousness of the offence or default (and the probable method of dealing with the defendant for it),
- (b) the character, antecedents, associations and community ties of the defendant,
- (c) the defendant's record as respects the fulfilment of his obligations under previous grants of bail in criminal proceedings,
- (d) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence of his having committed the offence or having defaulted,

as well as to any others which appear to be relevant.

10. (1) If —

- (a) the defendant is charged with an offence to which this paragraph applies; and
- (b) representations are made as to any of the matters mentioned in paragraph 2 of this Part of this Schedule; and
- (c) the court decides to grant him bail,

the court shall state the reasons for its decision and shall cause those reasons to be included in the record of the proceedings.

(2) The offences to which this paragraph applies are —

- (a) murder;
- (b) manslaughter;
- (c) rape;
- (d) attempted murder; and
- (e) attempted rape.

## PART II

### *Defendants accused or convicted of non-imprisonable offences*

#### *Defendants to whom Part II applies*

1. Where the offence or every offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment the following provisions of this Part of this Schedule apply.

#### *Exceptions to right to bail*

2. The defendant need not be granted bail if —

- (a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and
- (b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.

3. The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
4. The defendant need not be granted bail if he is in custody in pursuance of a sentence of a court or of any authority acting under any of the Services Acts. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 84 of this Ordinance.

### PART III

#### *Decisions where bail refused on previous hearing*

1. If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing whether the defendant is a person to whom section 81 of this Ordinance applies and remains in custody, or whether he ought to be granted bail.
2. At the first hearing after that at which the court decided not to grant the defendant bail, he may support an application for bail with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).
3. At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.

### PART IV

#### INTERPRETATION

1. For the purposes of this Schedule the question of whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.
2. References in this Schedule to previous grants of bail in criminal proceedings include references to bail granted before the coming into force of this Ordinance or the relevant provisions thereof.
3. References in this Schedule to a defendant's being kept in custody or being in custody include (where the defendant is a child or young person) references to his being kept or being in the care of the government in pursuance of a warrant of commitment under section 23(1) of the Children and Young Persons' Act 1969 in its application to the Falkland Islands.
4. In this Schedule —  
 "court", in the expression "sentence of a court", includes a service court and "sentence", in that expression, shall be construed in accordance with that definition;  
 "default", in relation to the defendant, means the default for which he is to be dealt with under section 12 or section 31 of this Ordinance;  
 "the Services Acts" means the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.

### SCHEDULE 4

#### (Section 112)

#### SERIOUS ARRESTABLE OFFENCES

#### PART I

#### *Offences mentioned in Section 112(2)(a)*

1. Treason.
2. Murder.
3. Manslaughter.
4. Rape.
5. Kidnapping.
6. Incest with a girl under the age of 13.
7. Buggery with —
  - (a) a boy under the age of 16; or
  - (b) a person who has not consented.



8. Indecent assault which constitutes an act of gross indecency.

## PART II

### *Offences mentioned in Section 112(2)(b)*

#### *Explosive Substances Act 1883*

1. Section 2 (causing explosion likely to endanger life or property).

#### *Sexual Offences Act 1956*

2. Section 5 (intercourse with a girl under the age of 13).

#### *Taking of Hostages Act 1982*

3. Section 1 (hostage-taking).

#### *Aviation Security Act 1982*

4. Section 1 (hi-jacking).

#### *Road Traffic Ordinance (Cap.60)*

5. Section 9 (causing death by reckless driving).

#### *Firearms Ordinance 1987*

6. Section 23 (possession of firearms with intent to injure).
7. Section 24 (use of firearms or imitation firearm to effect an unlawful purpose).

## SCHEDULE 5

### (section 114)

## SPECIAL PROCEDURE

### *Making of orders*

1. If on application by a police officer, a judge of the Supreme Court or the Senior Magistrate is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 4 below.

2. The first set of access conditions is fulfilled if —

- (a) there are reasonable grounds for believing —
  - (i) that a serious arrestable offence has been committed;
  - (ii) that there is material which consists of special procedure or includes special procedure material and does not also include excluded material on premises specified in the application;
  - (iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and
  - (iv) that the material is likely to be relevant evidence;
- (b) other methods of obtaining the material —
  - (i) have been tried without success; or
  - (ii) have not been tried because it appeared that they were bound to fail; and
- (c) it is in the public interest, having regard —
  - (i) to the benefit likely to accrue to the investigation if the material is obtained; and
  - (ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

3. The second set of access conditions is fulfilled if
  - (a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special procedure material on premises specified in the application;
  - (b) but for section 114(2) above a search of the premises for that material could have been authorised by the issue of a warrant to a police officer under an enactment other than this Schedule; and
  - (c) the issue of such a warrant would have been appropriate.
4. An order under this paragraph is an order that the person who appears to the judge or the Senior Magistrate to be in possession of the material to which the application relates shall —
  - (a) produce it to a police officer for him to take away; or
  - (b) give a police officer access to it,
 not later than the end of the period of seven days from the date of the order or the end of such longer period as the order may specify.
5. Where the material consists of information contained in a computer —
  - (a) an order under paragraph 4(a) above shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
  - (b) an order under paragraph 4(b) above shall have effect as an order to give a police officer access to the material in a form in which it is visible and legible.
6. For the purposes of sections 126 and 127 above material produced in pursuance of an order under paragraph 4(a) above shall be treated as if it were material seized by a police officer.

*Notice of applications for orders*

7. An application for an order under paragraph 4 above shall be made *inter partes*.
8. Notice of an application for such an order may be served on a person either by delivering it to him or by leaving it at his proper address or by sending it by post to him in a registered letter or by the recorded delivery service.
9. Such a notice may be served —
  - (a) on a body corporate, by serving it on the body's secretary or clerk or other similar officer; and
  - (b) on a partnership, by serving it on one of the partners.
10. For the purposes of this Schedule, the proper address of a person, in the case of secretary or clerk or other similar officer of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm shall be that of the principal office of the firm, and in any other case shall be the last known address of the person to be served.
11. Where notice of an application for an order under paragraph 4 above has been served on a person, he shall not conceal, destroy, alter or dispose of the material to which the application relates except —
  - (a) with the leave of a judge or of the Senior Magistrate; or
  - (b) with the written permission of a police officer of the rank of inspector or above,

until —

- (i) the application is dismissed or abandoned; or
- (ii) he has complied with an order under paragraph 4 above made on the application.

*Issue of warrants by judge of the Supreme Court or  
by the Senior Magistrate*

12. If on an application made by a police officer, a judge of the Supreme Court or the Senior Magistrate —

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- (a) is satisfied —
  - (i) that either set of access conditions is fulfilled; and
  - (ii) that any of the further conditions set out in paragraph 14 below is also fulfilled; or
- (b) is satisfied —
  - (i) that the second set of access conditions is fulfilled; and
  - (ii) that an order under paragraph 4 above relating to the material has not been complied with,

he may issue a warrant authorising a police officer to enter and search the premises.

13. A police officer may seize and retain anything for which a search has been authorised under paragraph 12 above.

14. The further conditions mentioned in paragraph 12(a)(ii) above are —

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;
- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that the material contains information which —
  - (i) is subject to a restriction or obligation such as is mentioned in section 116(2)(b) above; and
  - (ii) is likely to be disclosed in breach of it if a warrant is not issued;
- (d) that service of notice of an application for an order under paragraph 4 above may seriously prejudice the investigation.

15. (1) If a person fails to comply with an order under paragraph 4 above, a judge or the Senior Magistrate may deal with him as if he had committed a contempt of the Supreme Court.

(2) Any enactment relating to contempt of the Supreme Court shall have effect in relation to such a failure as if it were such a contempt.

## SCHEDULE 6

(section 131(2))

### PRESERVED POWERS OF ARREST

#### PART I

(Powers of arrest under Falkland Islands Ordinances)

Customs Ordinance (Cap. 16)

Dangerous Goods Ordinance 1987

Immigration Ordinance 1987

Misuse of Drugs Ordinance 1987

Road Traffic Ordinance (Cap.60)

Firearms Ordinance 1987

#### PART II

(Powers of arrest under United Kingdom or English provisions applying in the Falkland Islands)

Section 12(1) of the Protection of Animals Act 1911

Section 7(3) of the Public Order Act 1936

Section 1(3) of the Street Offences Act 1959

Sections 28(2) and 32 of the Children and Young Persons Act 1969

Section 16 of the Child Care Act 1980

Sections 60(5) and 61(1) of the Animal Health Act 1981

Section 5(5) of the Repatriation of Prisoners Act 1984

## SCHEDULE 7

(section 138(1))

### MINOR AND CONSEQUENTIAL AMENDMENTS

1. In the Dogs (Protection of Livestock) Act 1953 in its application to the Falkland Islands, the following section shall be inserted after section 2 —

If an application made by a police officer, the Senior Magistrate or a justice of the peace is satisfied that there are reasonable grounds for believing —

“Powers of Senior Magistrate and justice of the peace to authorise entry and search.

- (a) that an offence under this Act has been committed; and
- (b) that the dog in respect of which the offence has been committed is on premises specified in the application,

he may issue a warrant authorising a police officer to enter and search the premises in order to identify the dog”.

2. At the end of section 41 of the Sexual Offences Act 1956 (power to arrest in cases of soliciting by men) in its application to the Falkland Islands there shall be added “but a police officer may only do so in accordance with section 130 of the Criminal Justice Ordinance 1989”

3. In the Children and Young Persons Act 1969 in its application to the Falkland Islands —

- (a) in section 28(4), for the words “a police officer not below the rank of inspector or by the police officer in charge of” there shall be substituted the words “the responsible officer (within the meaning given to that phrase by the Criminal Justice Ordinance 1989)”; and
- (b) the following section shall be substituted for section 29 —

29. A child or young person arrested in pursuance of a warrant shall not be released unless he or his parent or guardian (with or without sureties) enters into a recognisance for such amount as the responsible officer (within the meaning given to that phrase by the Criminal Justice Ordinance 1989) considers will secure his attendance at the hearing of the charge; and the recognisance entered into in pursuance of this section may, if the responsible officer thinks fit, be conditional upon the attendance of the parent or guardian at the hearing in addition to the child or young person.”

“Recognisance or release of arrested child or young person.

## SCHEDULE 8

### REPEALS

#### *Extent of Repeal*

Schedule to the following ments Ordinance 1954 extent —

- (a) paragraph 4 (which relates to the Probation of Offenders Act 1907)
- (b) paragraph 56 (which relates to the Criminal Justice Act 1948) insofar as it relates to sections 3-8, 11, 12 (probation orders and discharge) 17(2) (restriction on imprisonment) 37(1)(c) and 37(6) (bail) and 43 (reports of probation officers)

Section 9P(4).

#### *Statute*

1. Application of Enactments ordinance 1954.

Road Traffic Ordinance (Cap. 60)



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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**NOTICE**

The following is published in this Gazette pursuant to section 12(3)(c) of the Electoral Ordinance 1988:

**Register of Electors.**

## STANLEY CONSTITUENCY

## Register of Electors

1	Adams,	Annagret*	59	Bertrand,	Catherine Gladys*
2	"	Carol Margaret*	60	Betts	Alan Sturdee*
3	"	John Harvey	61	"	Donald William
4	"	Marjorie Rose	62	"	Ellen Alma*
5	Alazia,	Albert Faulkner*	63	"	George Winston Charles
6	"	Anita Jayne*	64	"	Lucia Elizabeth
7	"	Charles*	65	"	Melody Christine
8	"	Freda	66	"	Shirley Rose
9	"	Freda Evelyn	67	"	Terence Severine
10	"	George Robert*	68	Biggs,	Alastair Gordon
11	"	Hazel	69	"	Betty Josephine
12	"	Henry John*	70	"	Darlene Joanna
13	"	James Andrew	71	"	Edith Joan
14	"	Maggie Ann*	72	"	Frances
15	"	Yvonne Anderson	73	"	Hilda Evangeline*
16	Aldridge,	Caroline Mary	74	"	Irene Mary*
17	"	Kenneth John	75	"	Kathleen Frances*
18	Alexander,	Anya Evelyn	76	"	Leslie Frederick
19	Allan,	Erwin	77	"	Madge Bridget Frances*
20	Almonacid,	Gladys Mabel	78	"	Michael Elfed
21	"	Oriando	79	"	Pauline Lynx
22	Anderson,	Andrew Ronald*	80	"	Peter Julian Basil
23	"	Eddie	81	"	Robert William
24	"	Edward Bernard*	82	Binnie,	Malcolm George Stanley
25	"	Elizabeth Nellie*	83	"	Michele Paula
26	"	Gertrude Maud*	84	"	Susan
27	"	Gloria	85	Birmingham, John	
28	"	Hector Christian*	86	"	Susan Jane
29	"	Helen*	87	Blackley,	Candy Joy
30	"	Jenny	88	"	Charles David*
31	"	Marina Rose	89	"	Hilda
32	"	Mildred Nessie*	90	"	Janet Agnes Mary*
33	"	Richard Louis	91	"	John David
34	"	Ronald	92	Blizard,	Lawrence Gordon*
35	"	Stephen Robert*	93	"	Malvina Mary
36	"	Tony James	94	Blyth,	Agnes Ruth*
37	Armstrong,	Jacqueline	95	"	Alfred John*
38	Ashley,	Nora Phyllis*	96	"	John*
39	Barnes,	Ernest*	97	Bonner,	Donald William*
40	"	Marie	98	"	Linda Jane
41	"	Molly Stella*	99	"	Nicholas
42	"	Sigrid Geraldine Wells*	100	"	Paul Roderick
43	Barton,	Arthur John	101	"	Timothy
44	Bennett,	Harold*	102	"	Vera Ann
45	"	Lena Grace Gertrude*	103	"	Vera Joan
46	Berntsen,	Cecilia del Rosario	104	"	Violet*
47	"	Christian Olaf Alexander*	105	Booth,	Jessie*
48	"	Diana Mary	106	"	Joseph Bories*
49	"	Gina Michelle	107	"	Myriam Margaret Lucia
50	"	John Alexander	108	"	Stuart Alfred*
51	"	Kathleen Gladys*	109	Bound,	Graham Leslie
52	"	Lavina Maud*	110	"	Joan*
53	"	Mary Clarissa Elizabeth *	111	Bowles,	Hayley Trina
54	"	Olaf Christian Alexander	112	"	Norma Evangeline
55	"	Patrick	113	"	William Edward*
56	"	Valdamar Lars	114	Bragger,	Edward Laurence
57	"	William Alexander	115	"	Olga
58	"	William Blyth*			

116	Browning,	Althea Maria	172	Clasen,	Mally
117	"	Edwina	173	Clausen,	Denzil George Gustavus*
118	"	Gavin	174	Clayton,	Susan
119	"	James Samuel*	175	Cletheroe,	Daphne Harriet*
120	"	Rex*	176	"	Kenneth Stanley
121	"	Richard William	177	"	Lily Catherine*
122	"	Trevor Osneth	178	"	Stanley William*
123	Buckett,	Ronald Peter	179	"	William Harold*
124	Buckland,	Charles Ronald	180	Clifton,	Charles*
125	Bundes,	Robert John Christian*	181	"	Darwin Lewis*
126	Burns,	Mary Anne*	182	"	Jessie Emily Jane*
127	Burston,	Catherine	183	"	Neil*
128	"	Stephen Leslie*	184	"	Stephen Peter
129	Butcher,	Michael George	185	"	Valerie Ann
130	"	Trudi	186	Connolly,	Kevin Barry
131	Butler,	Elsie Maud*	187	Coombe,	Peter
132	"	Ernest Joseph*	188	"	Shirley Anne
133	"	Frederick Lowther Edward Olai*	189	Coutts,	Carolynne
134	"	George Joseph	190	"	Charles
135	"	Joan May	191	"	Charles Lindsay*
136	"	Lawrence Jonathan	192	"	John
137	"	Margaret Orlanda	193	"	Olga
138	"	Orlanda Betty	194	"	Peter
139	"	Sheila Olga*	195	"	Stephanie Anne
140	Card,	Denise	196	Curtis,	Alfred William Hamilton
141	Carey,	Anthony Michael*	197	"	Barbara Joan
142	"	Gladys*	198	Davies,	Anthony Warren
143	"	Mary Ann Margaret*	199	"	Colin George
144	"	Terence James*	200	"	Jacqueline Nancy
145	"	Trudi Ann	201	Davis,	Albert Henry
146	Cartmell,	Frederick James	202	"	Elsie Gladys Margaret*
147	Castle,	David Peter	203	"	William John*
148	"	Isobel	204	Davy,	Patrick Alex Field
149	Ceballos,	Claudette	205	Dickson,	Caroline Christine Bird*
150	"	Eulogio Gabriel	206	Down,	Janet
151	Chater,	Annie	207	"	Robert William Michael
152	"	Anthony Richard	208	Duncan,	Avis Marion*
153	Cheek,	Diane	209	"	Doreen*
154	"	Frederick John*	210	"	William*
155	"	Gerald Winston	211	Etheridge,	Alice Mary
156	"	Janet Linda*	212	Evans,	Derek Stanley
157	"	John Edward*	213	"	Gladys Alberta*
158	"	Marie	214	"	Michael David
159	Clarke,	Camilla Marie	215	"	Richard Gregory*
160	"	Derek Simon*	216	Eynon,	Carol
161	"	Doreen*	217	"	David John
162	"	Hector*	218	"	Leeann Watson*
163	"	Jane Lucacia*	219	Fairfield,	Bonita Doreen
164	"	Joyce Kathleen*	220	"	James Steven*
165	"	Kathleen Gay	221	Faria,	Basil Hary*
166	"	Martin James	222	"	Mary Ann
167	"	Marvin Thomas	223	"	Paul
168	"	Petula Jane	224	Felton,	Anthony Terence*
169	"	Ronald John*	225	"	Faith Dilys
170	"	Rudy Thomas	226	"	Sonia Ellen
171	"	Trudi Ann	227	"	Violet Regina Margaret
			228	"	Walter Arthur*



229	Ferguson,	Ethel Mary*	286	Hadden,	Alexander Burnett*
230	Findlay,	Bruce Murdock	287	"	Sheila Peggy*
231	"	Carrie Madeline Helen	288	Halford,	Rodney John
232	Finlayson,	Hugh*	289	"	Sharon*
233	"	Iris Dwenda Margaret*	290	Hall,	Marilyn Joyce
234	"	Peter	291	Halliday,	Evelyn Edna*
235	"	Phyllis*	292	"	Gerald
236	"	Teresa Rose	293	"	John Arthur Leslie*
237	Fleuret,	Kathleen Mary*	294	"	Leslie John*
238	"	Theodore Clovis*	295	"	Margaret Mary*
239	Fogerty,	Richard Edwin John	296	"	Raynor
240	Ford,	Arthur Henry*	297	Hansen,	Douglas John
241	"	Charles David*	298	"	Keva Elizabeth
242	"	Cherry Rose	299	"	Terence Darwin
243	"	Colin Stewart	300	Harris,	Christopher James
244	"	Colleen Mary	301	"	Heather
245	"	David	302	"	Jayne Elizabeth*
246	"	Dorothy Minnie*	303	"	Jill Yolanda Miller
247	"	Elizabeth Harriet*	304	"	Leslie Sidney
248	"	Fanny Davidson*	305	"	Michael Ronald
249	"	Frederick James	306	"	Ralph Aaron
250	"	Hazel	307	Harvey,	Muriel Elsie Elizabeth*
251	"	James Edward*	308	Hawksworth,	David
252	"	John	309	"	Mary Catherine
253	"	Leann Caroline*	310	"	Pauline May
254	"	Leonard	311	"	Terence
255	"	Marilyn Christina	312	Hayward,	Marjorie
256	"	Michael	313	"	Peter Dennis
257	"	Robert	314	Hazell,	Trudi Eileen Felton*
258	Fullerton,	Mary Ellen*	315	Heathman,	Albert Stanley Kenneth*
259	Gilbert,	Judith Elizabeth	316	"	Malcolm Keith
260	"	Robert Ernest	317	"	Violet*
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262	Gooch,	Cecilia Ines Millard Bennett*	319	"	Gary George
263	"	Dudley Frederick*	320	"	Kevin John*
264	Goodwin,	Bert Samuel*	321	"	Margaret Ann
265	"	Colin Valentine	322	"	Neil George*
266	"	Hazel Rose	323	"	Rachel Catherine Orissa*
267	"	June Elizabeth	324	"	Robert John David*
268	"	June Rose Elizabeth	325	Hills,	Heather Margaret*
269	"	Kathleen Edith Marguerite*	326	"	Richard William*
270	"	Laurence Henry	327	Hirtle,	Christine*
271	"	Margaret Ann	328	"	Debbie Ann
272	"	Michael Sturdee*	329	"	Leonard Lloyd
273	"	Neil Alexander William	330	"	Mary Ann*
274	"	Robin Christopher	331	"	Robert Andrew Eric
275	"	Una	332	"	Rose Ann Shirley*
276	"	William Andrew Nutt*	333	"	Sandra May Winifred
277	Goss,	Grace Elizabeth*	334	"	Shirley
278	"	Morgan Edmund	335	"	Wallace Carlinden*
279	"	Simon Peter Miller	336	"	Zane Eric*
280	"	William Henry (Jnr)	337	Hobman,	Anilda Marilu
281	"	William Henry (Snr)*	338	"	David Gonsalo
282	Gould,	Arthur William	339	"	Juan Jose Eleuterio
283	Grant,	Leonard John*	340	Howatt,	Derek Frank
284	"	Mildred*	341	Howe,	Alison Delia
285	Grocock,	Trevor			

342	Howe,	Paul Anthony	399	Lee,	Trudi Dale
343	Huanel,	Jose Raul	400	Livermore,	Anton*
344	Jacobsen,	Alistair	401	"	Darren
345	"	Catherine Joan	402	"	Marie Ann
346	Jaffray,	Angus	403	Lloyd,	Melvyn John
347	"	Estell Anita	404	"	Valerie Ann
348	"	Frank Alexander*	405	Loftus,	Anthony
349	"	Helen Rose	406	"	Colleen
350	"	Kenneth Ian	407	Lowe,	Adrian Stewart
351	"	Robin George	408	Luxton,	Ernest Falkland*
352	"	Stephen James	409	"	Michael
353	"	Terri Ann*	410	"	Nicola
354	"	Tony	411	"	Sybil Grace*
355	"	William*	412	"	Winifred Ellen*
356	Jennings,	Mary Ann Helen	413	Lyse,	Ethel Malvina
357	"	Neil	414	"	George Walter*
358	Johnson,	Howard William*	415	"	Linda Margaret
359	"	Kenneth John	416	"	Reginald Sturdee*
360	"	Lily Ann	417	"	Sydney Russell*
361	"	Michael Neil	418	Macaskill,	Angus Lindsey*
362	"	Stanley Howard*	419	"	Jeannette May
363	Jones,	Albert Charles*	420	"	John
364	"	John Hugh	421	Malcolm,	George*
365	"	Kevin Richard	422	"	Velma
366	"	Michael David	423	Maitland,	Elizabeth Eve
367	"	Michelle	424	May,	Brian Roy
368	"	Sheila Janice	425	"	Bruce Raymond
369	"	Yvonne Malvina	426	"	Corenne Norma
370	Keenleyside,	Charles Desmond (Snr)*	427	"	Heather
371	"	Charles Desmond (Jnr)*	428	"	James John*
372	"	Dorothy Maud*	429	"	Monica
373	"	Manfred Michael Ian	430	"	William Albert*
374	"	Nanette Barbara	431	Mercer,	Christel
375	"	Susan Noreen	432	Middleton,	Brian
376	Kenny,	Erling	433	"	Caroline Ann
377	Kidd,	Lillian Rose Orissa	434	"	Dennis Michael
378	Kiddle,	Robert Karl	435	"	Ellen*
379	King,	Anna Constance Eve	436	"	Graham Cyril
380	"	Desmond George Buckley*	437	"	James (2)*
381	"	Gladys Evelyn*	438	"	Joan Eliza
382	"	Nanette	439	"	Leonard
383	"	Peter Thomas*	440	"	Margaret Wilhelmina*
384	"	Robert John*	441	"	Phillip John
385	"	Rosemarie	442	"	Sharon Elizabeth
386	"	Vernon Thomas*	443	"	Shirley
387	Laffi,	Atilio Segundo	444	Miller,	Andrew Nigel*
388	"	Kathleen Mary	445	"	Betty Lois*
389	Lang,	James Patrick	446	"	Carol
390	"	William Frank	447	"	Florence Roberta*
391	Larsen,	Ellen	448	"	Philip Charles
392	"	Margaret Anne*	449	"	Sidney*
393	Lee,	Alfred Leslie*	450	"	Simon Roy
394	"	Derek William	451	"	Timothy John Durose
395	"	Elsie Adelaide*	452	Milne,	Henry Millar*
396	"	Gladys	453	"	Madeline Marie Irma*
397	"	Leslie James	454	Minto,	Graham Stewart
398	"	Owen Henry	455	"	Patrick Andrew

456	Minto,	Timothy Ian	513	McKay,	Jane Elizabeth*
457	Miranda,	Augusto*	514	"	Jeannie Paulina
458	"	Ramon	515	"	Michael John
459	"	Winifred Dorothy*	516	"	Neil
460	Mitchell,	Leon John	517	"	Paul Anthony
461	Moffat,	Angela	518	"	Peter John
462	"	James	519	"	Rex
463	Morris,	Alana Marie	520	"	Shelley Jane
464	"	David*	521	"	Stephen John
465	"	Trevor Alan	522	"	William Robert*
466	Morrison,	Donald Ewen*	523	McKenzie,	Alice Maude
467	"	Fayan	524	"	Charles Alexander Albert John
468	"	Graham Stewart	525	McLaren,	Tony Eugene Terence*
469	"	Herman*	526	McLeod,	David
470	"	Hyacinth Emily*	527	"	Donald Henry
471	"	Muriel Eliza Ivy*	528	"	Ellen May*
472	"	Nanette Rose	529	"	Janet Wensley
473	"	Patrick	530	"	John (1)
474	"	Paul Roderick	531	"	John (2)
475	"	Stewart	532	"	Madeline Jean
476	"	Trevor	533	"	Margaret Anne
477	"	Valerie Ann	534	"	Michael William
478	"	William Roderick Halliday	535	"	Robert
479	Murphy,	Ann Susan	536	"	Robert John
480	"	Bessie*	537	"	Shona Marguerite
481	"	Michael James*	538	McPhee,	Gerald Ian*
482	MacDonald,	Colin George	539	"	Grace Darling*
483	"	Irene	540	"	Iris Blanche
484	"	John Alexander Horne*	541	"	Marjorie May
485	"	Kerena Michelle	542	"	Natalie Marianne
486	"	Vanda Joan	543	"	Owen Horace*
487	McAskill,	Susan Blanche*	544	"	Patrick*
488	McBain,	Arthur	545	McRae,	Marlaine Rose
489	"	Rhoda Margaret	546	"	Richard Winston
490	McBeth,	Phyllis Elizabeth Grace	547	Neal,	Richard John
491	McCallum,	Bettina Kay	548	Neilson,	Barry Marwood
492	"	Christopher John	549	"	Margaret
493	"	Elaine Michele	550	Newman,	Dorothy Elizabeth*
494	"	Ellen*	551	"	Joyce Noreen
495	"	Jack*	552	"	Marlene
496	"	James*	553	"	Raymond Winston
497	"	Timothy Andrew	554	"	Sheena Melanie*
498	McCormick,	Dale Ronald*	555	"	Wilfred Lawrence*
499	"	Wayne Stanley James*	556	Newell,	Joseph Orr
500	McEachern,	Gloria Jane	557	"	Trudi Malvina
501	McGill,	Darrel Ian*	558	Nightingale,	Susan Jane*
502	"	Doris Mary*	559	Nutter,	Arthur Albert
503	"	Gary	560	"	Josephine Lesley
504	"	Glenda	561	Parrin,	Norman George*
505	"	Ian Peter	562	Pauloni,	Hilary Maud*
506	"	Len Stanford*	563	"	Romolo Vittorio*
507	"	Lorraine Iris	564	Peake,	Arthur
508	"	Roy*	565	"	Clair Linda
509	McGillivray,	Carole Lynda Jane*	566	Peart,	Robert Ernest
510	McKay,	Clara Mary*	567	"	Rose Louisa
511	"	Heather Valerie	568	Peck,	Beatrice Ena*
512	"	James John*	569	"	Burned Brian

570	Peck,	Eleanor Margaret	628	Ross,	Colin*
571	"	Evelyn Elizabeth	629	"	Glenn Stephen
572	"	James*	630	"	Janet
573	"	Kim Brian	631	"	Lachlan Neil
574	"	Mary*	632	"	Marie
575	"	Maureen Heather	633	"	Roy
576	"	Patrick William*	634	"	Sheena Margaret
577	"	Shirley	635	Rowland,	Charlene Rose
578	"	Terence John	636	Rowlands,	Catherine Annie*
579	Perkins,	Vivienne Esther Mary	637	"	Daisy Malvina*
580	Perry,	Augustave Walter*	638	"	Harold Theodore
581	"	Beatrice Annie Jane*	639	"	John Richard*
582	"	Christopher*	640	"	Neil
583	"	Hilda Blanche	641	"	Robert John
584	"	Robert Juan Carlos	642	Rozee,	Betty Ellen
585	"	Thomas George*	643	"	Derek Robert Thomas*
586	"	Thora Virginia*	644	Sackett,	Jacqueline
587	Pettersson,	Derek Richard	645	"	Michael John Carlos
588	"	Eileen Heather	646	Samney,	Harry*
589	"	Tony	647	Shedden,	James Alexander*
590	Phillips,	David Dawson	648	Shepherd,	Sylvia Ann*
591	"	Jessie Catherine*	649	Short,	Andrez Peter
592	Platt,	Veronica Shirley	650	"	Celia Soledad
593	Pole-Evans,	Amy Rose	651	"	Charles William
594	"	Michael Anthony	652	"	Christina Ethel*
595	Pollard,	Jennifer Mary	653	"	Donald Robert Gordon
596	Poole,	Charles Lawrence*	654	"	Emily Christina
597	"	Ella Josephine	655	"	Gavin Phillip
598	"	Evelyn May*	656	"	Joseph Leslie*
599	"	Isabella Jane*	657	"	Lisa Helen
600	"	Nancy Margaret	658	"	Montana Tyrone
601	"	Raymond John	659	"	Peter Robert
602	"	Steven Charles	660	"	Philip Stanley*
603	"	William John*	661	"	Rose Stella
604	Porter,	Brian Charles	662	"	Vilma Alicia
605	"	Charles*	663	Simpson,	James Garry
606	"	Jean Lavinia	664	"	Mirabelle Hermione
607	"	William Kenneth	665	Smith,	Alexander Gordon
608	Reddick,	Keith John	666	"	Ana Bonita
609	Reeves,	Cheryl Rose	667	"	Bruce Dennis*
610	"	Michael*	668	"	Colin David
611	Reid,	Colleen Rose	669	"	Derek
612	"	Reynold Gus	670	"	Ellen Mary
613	Reive,	Ernest*	671	"	Gerard Alexander
614	"	Roma Endora Mary*	672	"	Ileen Rose
615	Rendell,	Michael	673	"	Janice
616	"	Phyllis Mary*	674	"	James Stanley*
617	Roberts,	Diana Christine*	675	"	James Terence*
618	"	Laura May	676	"	Jean Waddell
619	"	Peter James	677	"	Jennifer Ethel
620	"	William Henry*	678	"	Joan Lucy Ann
621	Robertson,	Paul Jonathan*	679	"	John
622	Robson,	Gerard Michael	680	"	Julia Trinidad
623	"	Gladys Mary	681	"	Martyn James
624	"	Louis Michael*			
625	"	Miranda Gay			
626	"	Phyllis Ann			
627	"	Raymond Nigel			

682	Smith,	Norah Kathleen	740	Thain,	Stephanie Ann*
683	"	Owen Archibald	741	Thom,	David Anderson*
684	"	Paulette Rose	742	"	Dorothy Irene
685	"	Rhona	743	"	Norma Ann
686	"	Sidney Frederick	744	Thompson,	George Henry*
687	"	Terence George	745	"	William John*
688	"	Violet Catherine*	746	Toase,	Cora Agnes*
689	Sollis,	Sarah Emma Maude*	747	Towersey,	Diane Katherine
690	Sornsen,	James Winston	748	Triggs,	Michael David
691	Spall,	Christopher Richard	749	Turner,	Alva Ynonne
692	Spinks,	Alexander	750	"	Andrea Mary Pitaluga*
693	"	Malvina Ellen*	751	"	Arthur Leonard Pitaluga
694	Spruce,	Helena Joan*	752	"	Melvyn George
695	"	Terence George*	753	Vidal,	Eileen Nora*
696	Steen,	Allan Graham*	754	Wallace,	Fraser Barrett
697	"	Barbara Ingrid*	755	"	Maria Lillian
698	"	Emma Jane*	756	"	Stuart Barrett
699	"	Gail*	757	Watson,	Catherine Wilhelmina Jessie*
700	"	Vernon Robert	758	"	Hannah Maude*
701	Stephenson,	James	759	"	Harold
702	"	Joan Margaret	760	"	Lisa Marie
703	"	Katrina*	761	"	Paul
704	"	Zachary	762	Watts,	Ada Mabel*
705	Stewart,	Aarron Stephen*	763	"	Amara Theresa*
706	"	Ceila Joyce	764	"	Patrick James
707	"	David William*	765	White,	Kathleen Elizabeth*
708	"	Duane William*	766	Whitney,	Frederick William
709	"	Hulda Fraser	767	"	Jason*
710	"	John	768	"	Kurt Ian*
711	"	Kenneth Barry*	769	"	Patricia Denise*
712	"	Phyllis Marjorie	770	"	Susan Joan
713	"	Robert	771	Wilkinson,	Robert John*
714	"	Sylvia Rose	772	Williams,	Charlotte Agnes*
715	Strange,	Ian John	773	"	Eugene
716	"	Maria Marta	774	"	Marlene Rose Elizabeth
717	Sullivan,	Susan Vera	775	Wylie,	Julian Richard
718	Summers,	Brian	776	"	Wendy Jennifer
719	"	Derek Raymond	777	Zuvic,	Kuzma Mario
720	"	Edith Catherine*	778	"	Sharon Marie
721	"	Irvin Gerard			
722	"	Judith Orissa*			
723	"	Michael Kenneth			
724	"	Nigel Clive			
725	"	Owen William			
726	"	Pamela Rosemary Cheek			
727	"	Rowena Elsie			
728	"	Sheila			
729	"	Sybella Catherine Ann			
730	"	Sylvia Jean			
731	"	Terence			
732	"	Tony			
733	"	Veronica			
734	"	William Edward*			
735	Teale,	Jeanette			
736	Teggart,	Carol Wendy*			
737	Tellez,	Jose Hector			
738	Thain,	John			
739	"	Julia			

\* NOT LIABLE TO SERVE AS A JUROR

## CAMP CONSTITUENCY

## Register of Electors

1001	Alazia	Mandy Gwyneth	1059	Clarke,	Ian
1002	"	Michael Robert	1060	"	Jeanette
1003	"	Stuart John	1061	"	Michael Jan
1004	"	Thora Lilian*	1062	"	Terence John
1005	Aldridge,	Brian George	1063	"	Violet Rose
1006	"	Olive Elizabeth	1064	Clausen,	Denzil
1007	Anderson,	Margaret Catherine	1065	"	Henry Edward
1008	"	Reginald Stanford	1066	Clifton,	Doreen
1009	Arger,	Trudi Lynette	1067	"	Leonard
1010	Ashworth,	Glennis	1068	"	Terence Charles
1011	"	Malcolm	1069	"	Thora Janeene
1012	Barnes,	Deirdre	1070	Cockwell,	Grizelda Susan
1013	"	Marshall	1071	"	John Richard*
1014	"	Paul*	1072	Collins,	Peter Anthony
1015	"	Trevor Marshall	1073	"	Shiralee*
1016	Barton,	John David*	1074	Coutts,	Alexander*
1017	Beattie,	Betty	1075	"	Frederick George
1018	"	Thomas George	1076	Davis,	Aase
1019	Berntsen,	Arena Janice	1077	"	Mandy John
1020	"	Benjamin John	1078	"	Maurice Nigel
1021	"	Ellen Rose	1079	"	Nicholas
1022	"	Iain Kenneth	1080	"	Raymond Andrew
1023	"	Kenneth Frederick	1081	"	Reginald John
1024	"	Leon	1082	"	Violet
1025	"	Pamela Margaret	1083	"	William James
1026	Betts,	Arthur John*	1084	"	Yona
1027	"	Bernard Keith	1085	Dearling,	Leo Alexander*
1028	"	Cyril Severine*	1086	Dickson,	Doreen
1029	"	Diane Joan	1087	"	Gerald William
1030	"	Hyacinth Emily*	1088	"	Iris
1031	"	Irene Marion	1089	"	Ronald Edward
1032	Billett,	Leslie William	1090	Dobbynys,	Timothy John
1033	Binnie,	Horace James*	1091	Donnelly,	Daniel
1034	"	Linda Rose	1092	"	Joyce Elizabeth
1035	"	Ronald Eric	1093	Duncan,	Peter Ree Howard
1036	"	Rose Helen*	1094	Dunford,	David Philip
1037	Blackley,	Maurice	1095	Edwards,	Norma
1038	Blake,	Anthony Thomas*	1096	Evans,	Olwyn Carol
1039	"	Heidi Jane*	1097	"	Raymond
1040	"	Lionel Geoffrey*	1098	Fairley,	John
1041	"	Lyndsay Rae	1099	Ferguson,	Finlay James
1042	"	Paul Wickham*	1100	"	John William
1043	"	Sally Gwynfa	1101	"	Robert John
1044	Bonner,	Avril Margaret Rose	1102	"	Rose
1045	"	Keith James	1103	"	Thelma
1046	"	Simon	1104	Findlay,	Andrew John*
1047	"	Susan Anne	1105	"	Gerald
1048	Butler,	Ian Jeffrey	1106	Finlayson,	Barry Donald*
1049	"	Marilyn	1107	"	Iris Heather
1050	Buckett,	Roy Peter	1108	"	Neil Roderick
1051	Cartmell,	Andrew Nutt	1109	Ford,	Neil Fraser
1052	Chandler,	Ann Beatrice	1110	"	Penelope Rose
1053	"	Edward	1111	Forster,	Gwyneth May
1054	Clapp,	Kevin Christopher	1112	"	James
1055	Clarke,	David James	1113	Fox,	Eileen Mary
1056	"	Fiona Alison	1114	Giles,	Gilbert
1057	"	Frederick Thomas	1115	Gleadell,	Ian Keith
1058	"	Gwynne Edwina			

1116	Gleadell,	Marklin John	1176	Larsen,	Josephine Mary
1117	"	Mavis Marie	1177	"	Ronald Ivan
1118	Goodwin,	Emily Rose	1178	"	Yvonne
1119	"	Mandy Hazel	1179	Lee,	Carole
1120	"	Robin	1180	"	Elizabeth
1121	"	Sarah Margaret Rose*	1181	"	John Alfred
1122	"	William John Maurice	1182	"	Robin Myles*
1123	Goss,	Dorothy Ellen	1183	"	Rodney William*
1124	"	Eric Miller*	1184	Lewis,	Jean*
1125	"	Ian Ernest Earle	1185	Lloyd,	John Moelwyn
1126	"	Margaret Rose	1186	Luxton,	Patricia Maureen
1127	"	Peter	1187	"	William Robert*
1128	"	Roderick Jacob*	1188	Maddocks,	Robert Charles
1129	"	Shirley Ann	1189	Marsh,	Alastair Roy
1130	Gray,	David Edward	1190	"	Anna Deirdre
1131	"	Patricia May	1191	"	Arlette Sharon
1132	Green,	David William*	1192	"	Frank
1133	Grocock,	Charles Henry	1193	"	Gavin Nicholas
1134	Halliday,	Joyce Isabella Patience	1194	"	June Helen
1135	"	Kenneth William	1195	"	Leon Peter
1136	Hansen,	Ian	1196	"	Marlane Rose
1137	"	Lionel Raymond	1197	"	Robin Frank
1138	"	Rose Idina	1198	May,	Christopher Raymond
1139	"	Susan Ann	1199	"	Linsey Olga
1140	Hardcastle,	Brook*	1200	Miller,	Betty
1141	"	Eileen Beryl*	1201	"	Gail Marie
1142	Harvey,	Beatrice Louisa Catherine	1202	"	James Albert
1143	"	Jen	1203	Minnell,	Adrian James*
1144	"	Valerie Ann	1204	"	Benjamin James
1145	Heathman,	Ailsa	1205	"	Donna Maria
1146	"	Ewart Tony	1206	"	Hazel Eileen
1147	Hewitt,	Brian David	1207	"	Michael Robert
1148	Hirtle,	Anthony	1208	Minto,	Alistair Daen
1149	"	Doris Linda	1209	Morrison,	Doreen
1150	"	Fenton	1210	"	Edgar Ewen
1151	"	Odette Susan*	1211	"	Eric George
1152	"	Susan Mary	1212	"	Gerald
1153	Hutton,	Elizabeth Isabella	1213	"	Jacqueline Denise Anita
1154	"	Phillip	1214	"	Joan Margaret
1155	Jaffray,	Alexander	1215	"	Kathleen Iris
1156	"	Brian	1216	"	Kenneth
1157	"	Eileen	1217	"	Lena
1158	"	Elliott Jessie	1218	"	Leslie Theodore Norman
1159	"	Ian	1219	"	Lewis Ronald
1160	"	Janet	1220	"	John*
1161	"	John	1221	"	Michael John
1162	"	John Willie	1222	"	Nigel Peter
1163	"	Phyllis	1223	"	Ronald Terence
1164	"	Stephen Andrew*	1224	"	Susan Margaret
1165	"	Terence Roy*	1225	"	Violet Sarah
1166	Johnson,	Michael Neil	1226	MacBeth,	Raymond John
1167	Jones,	Kevin Richard	1227	McCormick,	Pauline Margaret Ruth
1168	Jonson,	Carl	1228	McGhie,	Roy
1169	Kilmartin,	Dinah May	1229	McGill,	Robin Perry
1170	"	Kevin Seaton*	1230	McKay,	Christine
1171	Knight,	Nigel Arthur	1231	"	Ellen Rose
1172	"	Shirley Louvaine Patricia	1232	"	Frazer Roderick
1173	Lang,	Patrick Andrew	1233	"	Ian Roderick
1174	"	Sandra Shirleen	1234	"	Isabella Alice
1175	"	Velma Emily	1235	"	Josephine Ann

1236	McKay,	Kenneth Andrew	1296	Smith,	George Patterson
1237	"	Richard	1297	"	Gwenifer May
1238	"	Roderick John	1298	"	Heather
1239	McLeod,	Albert John	1299	"	Iola Winifred*
1240	"	Henry Donald Alexander*	1300	"	Jacqueline
1241	"	Isabella Diana Frances	1301	"	Jenny Lorraine
1242	"	Sarah Rose	1302	"	Margaret Mary
1243	McMullen,	June	1303	"	Michael Edmund
1244	"	Tony	1304	"	Osmond Raymond*
1245	McPhee,	Kenneth John*	1305	"	Robert William
1246	"	June Iris*	1306	"	Robin Charles
1247	McRae,	David Michael	1307	"	Roy Alan
1248	"	Gloria Linda	1308	"	Russel James*
1249	"	Robert George Hector*	1309	Stevens,	Richard James
1250	Napier,	Lily	1310	"	Toni Donna
1251	"	Roderick Bertrand*	1311	Summers,	Dennis David
1252	Newman,	Adrian Henry Frederick	1312	Thorsen,	David Moller
1253	"	Clive Alexander	1313	"	Gloria Penelope
1254	"	Dwenda Rose	1314	Turner,	Diana Jane*
1255	"	Rebecca Dickson	1315	"	Ronald
1256	Nightingale,	Charlene	1316	Velasquez,	Arleen*
1257	"	Peter Richard	1317	Wallace,	Michael
1258	Peck,	Christine	1318	"	Una
1259	"	Davina Margaret	1319	Watson,	Glenda Joyce
1260	"	Paul	1320	"	Neil
1261	Phillips,	Albert James	1321	Whitney,	Agnes Kathleen*
1262	"	Carol Joan	1322	"	Daneila Grace
1263	"	Lynda	1323	"	Dennis
1264	"	Terence	1324	"	Henry Leslie*
1265	Pitaluga,	Jene Ellen	1325	"	Keith
1266	"	Nicholas Alexander Robinson	1326	"	Lana Rose
1267	"	Robin Andreas McIntosh*	1327	"	Leona Ann
1268	Pole-Evans,	Anthony Reginald*	1328	"	Patrick George
1269	"	David Llewellyn	1329	"	Robert Michael
1270	"	Shirley Hellen	1330	Wilkinson,	David Clive Walter
1271	"	Suzan	1331	"	Rosemary
1272	"	William Reginald			
1273	Porter,	George*			
1274	"	Joan			
1275	Reeves,	Ronald James			
1276	Reid,	Albert John*			
1277	"	Ann			
1278	Robertson,	Ann			
1279	"	Peter Charles			
1280	"	Sally Jean*			
1281	Ross,	Odette Ellen May			
1282	"	William Henry			
1283	Rozee,	Ronald David			
1284	Shepherd,	Ramsey			
1285	Short,	Arthur Richard*			
1286	"	Derek Patrick*			
1287	"	Isobel Rose			
1288	"	Patrick Warburton			
1289	"	Robert Charles			
1290	"	Robert George			
1291	Sinclair,	Simon Keith			
1292	Smith,	Andrew John			
1293	"	Anthony David			
1294	"	Eric			
1295	"	Francis David			

\* NOT LIABLE TO SERVE AS A JUROR





**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)  
PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*24th AUGUST 1989*

*No. 30*

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**NOTICE**

No. 46

16th August 1989.

**Notice to creditors of final meeting  
(Creditors' voluntary winding-up)**

**Name of Company** - Everards Brewery (Falkland Islands) Limited (in voluntary liquidation).

Notice is hereby given pursuant to section 300 of the Companies Act 1948 that a General Meeting of the Creditors of the above-named Company will be held at 44 John Street, Stanley, Falkland Islands on **Monday, the twenty-fifth day of September 1989**, at 1.50 o'clock in the afternoon precisely, for the purpose of having an Account laid before them, and to receive the Liquidator(s) report, showing how the winding up of the Company has been conducted and its property disposed of, and of hearing any explanation that may be given by the Liquidator(s); and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator(s) thereof, shall be disposed of.

Any Creditor entitled to attend and vote at the above-mentioned Meeting is entitled to appoint a proxy to attend and vote instead of him, and such proxy need not also be a Creditor.

**Dated** - Sixteenth day of August 1989.

**ANDREW DEY,  
Liquidator.**

No. 47

16th August 1989.

**Notice to members of final meeting**  
**(Members' voluntary winding-up)**

**Name of Company** - Everards Brewery (Falkland Islands) Limited (in voluntary liquidation).

Notice is hereby given pursuant to section 300 of the Companies Act 1948 that a General Meeting of the Members of the above-named Company will be held at 44 John Street, Stanley, Falkland Islands on **Monday, the twenty-fifth day of September 1989**, at 2.00 o'clock in the afternoon precisely, for the purpose of having an Account laid before them, and to receive the Liquidator(s) report, showing how the winding up of the Company has been conducted and its property disposed of, and of hearing any explanation that may be given by the Liquidator(s); and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator(s) thereof, shall be disposed of.

Any Member entitled to attend and vote at the above-mentioned Meeting is entitled to appoint a proxy to attend and vote instead of him, and such proxy need not also be a Member.

**Dated** - Sixteenth day of August 1989.

ANDREW DEY,  
Liquidator.



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*Vol. XCVIII*


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*31st AUGUST 1989*


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*No. 31*


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## Appointments

Mrs. Margaret Claxton, Technical Assistant, Public Works Department, 8.8.88.

Mrs. Sheila Summers, Houseparent, Education Department, 15.9.88.

Miss Maria Stevens, Senior Nurse, Medical Department, 16.2.89.

Mrs. Nicola Goldie Summers, Information Officer, Secretariat, 1.5.89.

Douglas Graham Fiddes, Agricultural Assistant, Agricultural Research Centre, 22.5.89.

Mrs. Jane Schofield, Pharmacy Technician, Medical Department, 1.7.89.

David Michael West, Deputy Lands and Agricultural Officer, Agricultural Department, 4.7.89.

Henry Edward Bustin, Environmental Health Officer, Medical Department, 11.7.89.

William Alan Brayshaw, Harbour Control Officer, Fisheries Department, 18.7.89.

Mrs. Fiona Didlick, Senior Clerk, Medical Department, 31.7.89.

Eric Bell, Harbour Control Officer, Fisheries Department, 16.8.89.

Dr. Gail Kathleen Cunningham, Medical Officer, Medical Department, 15.8.89.

Robin Edwins, Harbour Control Officer, Fisheries Department, 16.8.89.

## Acting Appointments

Mrs. Eileen Wynne Davies, Acting Establishments Secretary, Secretariat, 12.7.89. - 24.8.89.

Peter Thomas King, Acting Government Secretary, 16.8.89.

## Transfers

Zane Hirtle, from Clerk, Public Service, to Assistant Computer Co-ordinator, Secretariat, 1.7.89.

Mrs. Frances Joyce Bullock, from Assistant Customs Officer, Customs and Harbour Department, to Licensing Officer, Fisheries Department, 7.8.89.

## Completion of Contract

David Arbuthnott Mann, Hospital Engineer, Medical Department, 24.7.89.

## Resignation

Mrs. Sandra Lydia Goodwin, Senior Clerk, Medical Department, 19.7.89.

## NOTICES

No. 48. 14th August 1989.

**Appointment of Returning Officer**

I, WILLIAM HUGH FULLERTON, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands, IN EXERCISE of my powers under section 47(1) of the Electoral Ordinance 1988 —

**DO APPOINT**

**REX BROWNING**

to be returning Officer in respect of the Camp and Stanley Constituencies, for the election to be held on 11 October 1989.

Given under my hand and the Public Seal this 14th day of August 1989

W. H. FULLERTON,  
*Governor.*

No. 49. 14th August 1989.

**The Public Health Ordinance (Cap. 54 Section 12)**

**Appointment of Board of Health Inspector**

In exercise of my powers under Section 12 of the Public Health Ordinance —

**I APPOINT**

**HENRY EDWARD BUSTIN**

to be an Inspector to carry out the provisions of the said Ordinance in accordance with the instructions of the Board of Health.

Dated the 14th day of August 1989.

W. H. FULLERTON,  
*Governor.*

No. 50. 17th August 1989.

In the absence of Mrs. Sharon Halford, Registrar General, Mr Rex Browning has been appointed Acting Registrar General with effect from 17th August 1989.

W. H. FULLERTON,  
*Governor.*

No. 51 12th July 1989

**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. 52

3rd July 1989.

The findings of the Cost of Living Committee for the quarter ended 31st March 1989 are published for general information —

Quarter Ended	Percentage Increase over 1971 Prices
31st March 1989	510.50%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 1p per hour with effect from 1st April 1989.

Ref: INT/2/2.

**In the Supreme Court of the Falkland Islands**

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF GERARD THOMAS SPENCER JOHNSON, deceased of Stanley, Falkland Islands, who died near Stanley on the 20th day of May 1989, intestate.

WHEREAS Jennifer Ann Johnson 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,  
24th July 1989.

S. HALFORD,  
*Registrar.*

Ref: PRO/11/89.

**Customs Ordinance (Cap. 16)**

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

Sgt. DAVID BRINLEY BOWEN, R.A.F.,

to be a Temporary Customs Officer with effect from 23rd May, 1989 to 23rd September, 1989.

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

**NOTICE**

The following are published in this Gazette —

**The Criminal Justice Ordinance (No. 17 of 1989);**

**The Falklands Interim Port and Storage System Ordinance (No. 18 of 1989).**

# The Criminal Justice Ordinance

(No. 17 of 1989)

## ARRANGEMENT OF PROVISIONS

### PART I

#### INTRODUCTORY

##### Section

1. Short Title and commencement.
2. Interpretation.

### PART II

#### FINES ETCETERA

##### *Abolition of enhanced penalties*

3. Abolition of enhanced penalties on subsequent conviction of summary offences.

##### *Introduction of standard scale of fines*

4. Standard scale for summary offences.
5. Variation of existing fines.

### PART III

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Preliminary*

6. Deferment of sentence.

##### *Probation and discharge*

7. Probation.
8. Appointment of Probation Officer.
9. Probation orders requiring treatment for mental condition.
10. Requirements in probation orders.
11. Discharge and amendment of probation orders.
12. Breach of requirement of probation order.
13. Absolute and conditional discharge.
14. Commission of further offence by probationer or person conditionally discharged.
15. Breach of conditional discharge by young offender.
16. Substitution of conditional discharge for probation.
17. Supplementary provision as to probation and discharge.
18. Effect of probation and discharge.

*Imprisonment; general provisions*

19. General power to impose sentence of imprisonment.
20. Restrictions on imposing sentences of imprisonment on persons who have not previously served prison sentences.
21. Social inquiry report for purposes of section 20.

*Custody and detention of persons under 21*

22. General restriction on custodial sentences.
23. Detention in a young offender institution.
24. Special provision for offenders under 17.
25. Accommodation of offenders sentenced to detention in a young offender institution.
26. Application of sections 20 and 21 in respect of persons under the age of 21 years.
27. Custody for life.
28. Detention of persons aged 17 to 20 for default or contempt.

*Community service orders*

29. Community service orders in respect of convicted persons.
30. Obligation of person subject to community service order.
31. Breach of requirements of community service order.
32. Amendment and revocation of community service order and substitution of other sentences.

*Suspended sentences of imprisonment*

33. Suspended sentences of imprisonment and partly suspended sentences of imprisonment.
34. Power of court on conviction of further offence to deal with suspended sentences.
35. Court by which suspended sentence may be dealt with.
36. Procedure where court convicting of further offence does not deal with suspended sentence.
37. Suspended sentence supervision orders.
38. Breach of requirement of suspended sentence supervision orders.

*Powers relating to persistent offenders*

39. Punishment of persistent offenders.
40. Supplementary provisions as to persistent offenders.

*General power of court to impose fines*

41. General power of court to fine convicted offender.
42. Powers of courts in relation to fines and recognizances.
43. Power of court to allow time for payment, or payment by instalments, of fine costs or compensation.

### *Compensation Orders*

- 44. Compensation orders against convicted persons.
- 45. Enforcement and appeals.
- 46. Review of compensation orders.
- 47. Effect of compensation order on subsequent award of damages in civil proceedings.

### *Recovery of compensation awarded by court*

- 48. Provisions as to enforcement of compensation.

### *Confiscation of the proceeds of an offence*

- 49. Confiscation orders.
- 50. Making of confiscation orders.
- 51. Statement, etc. relevant to making confiscation order.
- 52. Definition of principal terms used.

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ELIZABETH II



Colony of the Falkland Islands

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

An Ordinance to make provision for fines to be imposed by reference to levels on a standard scale of fines; to make provision for amendment of existing fines so that they become fines by reference to a level on the standard scale; to make provision in relation to the powers of courts to deal with offenders, including probation orders and their discharge, absolute and conditional discharge orders, imposition of sentences of imprisonment, suspended and partly suspended sentences of imprisonment, special sentences in relation to young offenders and provisions relative to the sentencing of young offenders, community service orders, provisions in relation to persistent offenders, imposition of fines and taking and forfeiture of recognizances, compensation orders, confiscation of the proceeds of an offence; the powers of the Supreme Court on the committal of a person to it for sentence, deprivation of property orders and disqualifications from driving of an offender where a vehicle is used for the purposes of certain crimes, social inquiry reports and the reports of probation officers; to make provision for the rehabilitation of offenders in respect of certain past offences and the periods relative to such rehabilitation; defamation in respect of spent convictions and unauthorised disclosure of spent convictions, to make provision as to the grant of bail in criminal proceedings, general rights to bail, absconding from bail and sureties

for bail; to make provision as to the circumstances and conditions subject to which persons arrested may be detained by the police, the extension by the order of a court for a limited period of that time and the duties of police officers in relation to detained persons; to make provision as to the questioning and treatment of suspects by the police, searches of such persons, the rights of persons when arrested, the taking of intimate and other samples and fingerprints, the disposal of fingerprints; to make provision as to the police's power to enter and search and seize property to accord special protection to certain material; to provide when a person may be arrested without a warrant, the conditions subject to which a person may be arrested, the information which must be given to a person who is arrested and to provide for matters incidental to or consequent upon any of the foregoing matters.

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

## PART I

### PRELIMINARY

1. This Ordinance may be cited as the Criminal Justice Ordinance 1989 and shall come into force on such date as shall be notified by the Governor by notice published in the Gazette:

Short title and commencement.

Provided that the Governor may so notify by one or more such notices that different provisions of this Ordinance shall come into force on different dates.

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

Interpretation.

“arrestable offence” has the meaning assigned to it by section 129 below;

“bail” and “bail in criminal proceedings” have the respective meanings assigned to them by section 78 below;

“child” has the meaning assigned to it by section 79(2) below;

“community service order” has the meaning assigned to it by section 29 below;

“compensation order” has the meaning assigned to it by section 44 below;

“confiscation order” has the meaning assigned to it by section 49 below;

“convicted” and “conviction” have the respective meanings assigned to them by section 79(1) below;

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film (including any microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom.

“enactment” means any provision of any Act having effect in the Falkland Islands any provision of any Ordinance and any provision of any subsidiary legislation made under any Ordinance or under any provision of any Act and having effect in the Falkland Islands;

"excluded material" has the meaning assigned by section 116 below;

"extended sentence certificate" has the meaning assigned by section 39(4) below;

"intimate search" means a search which consists of the physical examination of a person's body orifices;

"item subject to legal privilege" has the meaning assigned to it by section 115 below;

"journalistic material" has the meaning assigned to it by section 118 below;

"order for conditional discharge" has the meaning assigned to it by section 13(2) below;

"parent or guardian" means —

- (a) in the case of a child or young person in the care of the Government, the Welfare Officer;
- (b) in the case of a child or young person in the care of a voluntary organisation, that organisation;

"personal records" has the meaning assigned to it by section 117 below;

"period of conditional discharge" has the meaning assigned by section 13(2) below;

"probationer" means a person for the time being under supervision by virtue of a probation order;

"probation order" has the meaning assigned by section 7 below;

"probation period" means the period for which a probationer is placed under supervision by a probation order;

"realisable property" has the meaning assigned to it by section 52 below;

"responsible officer" means the chief police officer or such other police officer as is the responsible officer under the provisions of section 88 below;

"suspended sentence" means a sentence to which an order under section 33(1) below relates and "partially suspended sentence" means a sentence to which an order under section 33(7) below relates;

"vessel" includes any ship, boat, raft, or other apparatus constructed or adapted for floating on water.

(2) For the purposes of this Ordinance the age of an offender at a particular time shall be deemed to be or have been that which appears to the court after considering any available evidence to have been his age at that time.

(3) A person is in police detention for the purposes of this Ordinance if —

- (a) he has been taken to a police station after being arrested for an offence; or
- (b) he is arrested at a police station after attending voluntarily at the station or accompanying a police officer to it,

and is detained there or is detained elsewhere in the charge of a police officer, except that a person who is at a court after being charged is not in police detention for those purposes.

## PART II

### FINES ETCETERA

#### *Abolition of enhanced penalties*

3. (1) Subject to subsection (3) below, this section applies where under an enactment a person is convicted of a summary offence —

- (a) is liable to a fine or maximum fine of one amount in the case of a first conviction and of a different amount in the case of a second or subsequent conviction; or
- (b) is liable to imprisonment for a longer term in the case of a second or subsequent conviction; or

Abolition of enhanced penalties on subsequent conviction of summary offences. (1982 c.48 s.35.)

(c) is only liable to imprisonment in the case of a second or subsequent conviction.

(2) Where this section applies, a person convicted of an offence summarily shall be liable —

(a) to a fine or, as the case may be, a maximum fine of an amount not exceeding the greatest amount;

(b) to imprisonment for a term not exceeding the longest or only term,

to which he would have been liable before this section came into force if his conviction had satisfied the conditions required for imposition of a fine or maximum fine of that amount or imprisonment for that term.

(3) This section does not apply to offences under —

(a) sections 33 to 36 of the Sexual Offences Act 1956 in their application to the Falkland Islands (brothel-keeping and prostitution); or

(b) section 1(2) of the Street Offences Act 1959 in its application to the Falkland Islands (loitering and soliciting for the purposes of prostitution); or

(c) the Road Traffic Ordinance.

(c.60.)

#### *Introduction of standard scale of fines*

4. (1) There shall be a standard scale of fines for summary offences which shall be known as the standard scale.

Standard scale of fines for summary offences. (1982 c.48 s.37.)

(2) The scale at the commencement of this section is —

<i>Amount of fine</i>	<i>Level on the scale</i>
£50	1
£100	2
£400	3
£1,000	4
£2,000	5
£6,000	6
£10,000	7
£15,000	8
£25,000	9
£50,000	10
£100,000	11
£250,000	12

(3) Where in any provision of any English enactment which applies in the Falkland Islands by virtue of any provision of any Falkland Islands enactment it is provided —

(a) that a person convicted of a summary offence shall be liable on conviction to a fine or maximum fine by reference to a specified level of the standard scale; or

(b) by Order or other subordinate instrument a person liable on conviction of a summary offence (whether or not created by the Order or other instrument) to a fine or maximum fine by reference to a specified level on the standard scale,

it is to be construed as referring to the standard scale for which this section provides as that standard scale has effect from time to time by virtue of this section and not as a reference to the standard scale which by the provisions of section 37 of the Criminal Justice Act 1982 or of an Order under section 143 of the Magistrates Courts Act 1980 would apply in relation thereto in England.

(4) Where in any provision of any enactment of the Falkland Islands (whether contained in an enactment passed or made before or after this section comes into force) it is provided —

- (a) that a person convicted of a summary offence shall be liable on conviction to a fine or a maximum fine by reference to a specified level on the standard scale; or
- (b) that by an Order or other subordinate instrument a person convicted of a summary offence is liable (whether or not the offence was created by the Order or other instrument) to a fine or maximum fine by reference to a specified level on the standard scale,

that enactment is to be construed as referring to the standard scale for which subsection (2) above provides as that standard scale has effect from time to time by virtue either of subsection (2) or of an Order under subsection (5) below.

(5) If it appears to the Governor that there has been a change in the value of money since the Bill for this Ordinance was passed by the Legislative Council or since the last previous Order was made under the provisions of this subsection, he may by Order substitute for the sum or sums for the time being specified in subsection (2) above such other sum or sums as appear to him justified by the change.

5. (1) The Governor may by Order in Council amend any enactment of the Falkland Islands which provides for a person convicted of an offence triable summarily to be liable to a fine of the amount mentioned in that provision so as to provide that on conviction of that offence that person shall be liable to a fine or maximum fine by reference to a specified level on the standard scale.

Variation of existing fines.

(2) No variation in fine effected by an order under subsection (1) above shall have effect in relation to an offence committed before that Order is first published in the Gazette.

### PART III

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Preliminary*

6. (1) Subject to the provisions of this section, any court may defer passing sentence on an offender for the purpose of enabling the court or any other court to which it falls to deal with him to have regard, in dealing with him, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.

Deferment of sentence. 1973 (c.62 s.1.)

(2) Any deferment under this section shall be until such date as may be specified by the court, not being more than six months after the date on which the deferment is announced by the court; and subject to subsection (11) below, where the passing of sentence has been deferred under this section it shall not be further deferred thereunder.

(3) The power conferred by this section shall be exercisable only if the offender consents and the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

(4) A court which under this section has deferred passing sentence on an offender may deal with him before the expiration of the period of deferment if during that period he is convicted in the Falkland Islands of any offence.

(5) If an offender on whom a court has under this section deferred passing sentence in respect of one or more offences is during the period of deferment convicted in the Falkland Islands of any offence ("the subsequent offence"), then, without prejudice to subsection (4) above, the court which (whether during that period or not) passes sentence on him for the subsequent offence may also, if this has not already been done, deal with him for the first-mentioned offence or offences:

Provided that —

- (a) the power conferred by this subsection shall not be exercised by a court inferior to the court which deferred passing sentence; and
- (b) a court superior to the court which deferred passing sentence shall not pass any sentence which could not have been passed by the court which deferred sentence.

(6) Where a court which under this section has deferred passing sentence on an offender proposes to deal with him, whether on the date originally specified by the court or by virtue of subsection (4) above before that date, or where the offender does not appear on the date specified, the court may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest.

(7) It is hereby declared that in deferring the passing of a sentence under this section a court is to be regarded as exercising any power of adjourning the trial which is conferred upon it by any other enactment and that accordingly any provisions of any other enactment which apply in relation to the non-appearance of the accused apply (without prejudice to subsection (6) above) if the offender does not appear on the date specified in pursuance of subsection (2).

(8) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.

(9) Nothing in this section shall effect any power of any court to bind over an offender to come up for judgment when called upon or the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

(10) The power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred thereunder —

- (a) includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him; and
- (b) without prejudice to the generality of the foregoing, includes the power conferred by any enactment to commit him to a superior court for sentence.

(11) Where, in a case where the passing of sentence on an offender in respect of one or more offences has been deferred under this section, the Summary Court or the Magistrate's Court deals with him by committing him to the Supreme Court for sentence, the power of the Supreme Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the Supreme Court.

#### *Probation and discharge*

7. (1) Where a court by or before which a person of or over seventeen years of age is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion that having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient to do so, the court may, instead of sentencing him, make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer for a period to be specified in the order of not less than six months nor more than three years.

Probation. 1973  
(c.62 s.2.)

(2) A probation order shall name the probation officer under whose supervision the convicted offender is to be, if that probation officer is not to be the probation officer appointed under section 8(1) below.

(3) Subject to the provisions of subsection (4) below and section 9,10 and 12 of this Ordinance, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences.

(4) Without prejudice to the power of the court under section 46 of this Ordinance to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the requirements of a probation order.

(5) Without prejudice to the generality of subsection (3) above, a probation order may include requirements relating to the residence of the offender, but

- (a) before making an order containing any such requirements, the court shall consider the home surroundings of the offender; and



- (b) where the order requires the offender to reside at a particular address, the period for which he is so required to reside shall be specified in the order.

(6) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order (including any additional requirements proposed to be inserted therein) and that if he fails to comply with it or commits another offence he will be liable to be sentenced for the original offence; and the court shall not make the order unless he expresses his willingness to comply with its requirements.

(7) The court by which a probation order is made shall forthwith give copies of the order to the probation officer appointed under section 8 (1) below or the probation officer named in the order and appointed under 8 (2) below, and the probation officer to which such copies are given shall give a copy of the order to the offender.

8. (1) The Governor acting in his discretion, but after consultation with the Chief Justice, shall appoint a person to be the Probation Officer for the Falkland Islands.

Appointment of  
Probation  
Officer.

(2) A Judge of the Supreme Court or the Senior Magistrate may appoint a person to be the Probation Officer for the purposes of any Probation Order if, for any reason, —

- (a) the Probation Officer appointed under subsection (1) above is unwilling or unable to act as probation officer for the purpose of that order; or
- (b) the Judge or Senior Magistrate considers that the interests of the public and of the offender are better served by making such appointment.

(3) There shall be payable to probation officers appointed under this section such sums by way of salary or otherwise as may be prescribed or in the absence of any such prescription as may be approved by the Governor.

9. (1) Where the court is satisfied, on the evidence of a duly qualified medical practitioner, that the mental condition of the offender is such as requires and may be susceptible to treatment but is not such as to warrant his detention in hospital, the court may, if it makes a probation order, include in it a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a duly qualified medical practitioner with a view to the improvement of the offender's mental condition.

Probation orders  
requiring treat-  
ment for mental  
condition. 1973  
(c.62 s.3.)

(2) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say —

- (a) treatment as a resident patient in a hospital;
- (b) treatment as a non-resident patient at such hospital or place as may be specified in the order; or
- (c) treatment by or under the direction of such duly qualified medical practitioner as may be specified in the order; but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

(3) A court shall not by virtue of this section include in a probation order a requirement that an offender shall submit to treatment for his mental condition unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient).

(4) While the probationer is under treatment as a resident patient in pursuance of the requirements of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the discharge or amendment of the order.

10. (1) Without prejudice to the generality of section 8 (3) above, the power conferred by that subsection includes power, subject to the provisions of this section, to require the probationer —

Requirements in  
probation  
orders. 1973  
(c.62 s.34A.)

- (a) to present himself to a person or persons specified in the order at a place or places so specified;

- (b) to participate or refrain from participating in activities specified in the order —
  - (i) on a day or days so specified; or
  - (ii) during the probation period or such portion of it as may be so specified.
- (2) A court shall not include in a probation order a requirement such as is mentioned in subsection (1) above unless it has first consulted a probation officer as to —
  - (a) the offender's circumstances; and
  - (b) the feasibility of securing compliance with the requirements, and is satisfied, having regard to the probation officer's report, that it is feasible to secure compliance with them.
- (3) A court shall not include a requirement such as is mentioned in subsection (1) (a) above or a requirement to participate in activities if it would involve the cooperation of a person other than the probationer and the probation officer responsible for his supervision, unless that other person consents to its inclusion.
- (4) A requirement such as is mentioned in subsection (1) (a) above shall operate to require the probationer —
  - (a) in accordance with instructions given by the probation officer responsible for his supervision, to present himself at a place for not more than sixty days; and
  - (b) while there, to comply with instructions given by, or under the authority of, the person in charge of the place.
- (5) A requirement to participate in activities shall operate to require the probationer;
  - (a) in accordance with instructions given by the probation officer responsible for his supervision, to participate in the activities for not more than sixty days; and
  - (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (7) Instructions given by a probation officer under subsection (4) or (5) above shall, so far as practicable, be such as to avoid any interference with the times, if any, at which the probationer normally works or attends a school or other educational establishment.
- 11. (1)** The provisions of Schedule 1 to this Ordinance shall have effect in relation to the discharge and amendment of probation orders.
- (2) Where, under the following provisions of this part of this Ordinance, a probationer is sentenced for the offence for which he was placed on probation, the probation order shall cease to have effect.
- 12. (1)** If at any time during the probation period it appears on information to the Senior Magistrate or a justice of the peace that the probationer has failed to comply with any requirement of the order, he may issue a summons requiring the probationer to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this section shall, if the summons or warrant was issued by or on the direction of the Senior Magistrate, direct the probationer to appear or be brought before the Magistrate's Court; if the summons or warrant was issued by or under the direction of a justice of the peace it shall direct the probationer to appear or be brought before the Summary Court.
- (3) If it is proved to the satisfaction of the Magistrate's Court or the Summary Court before which a probationer appears or is brought under this section that the probationer has failed to comply with any of the requirements of the probation order, then, subject to the following provisions of this subsection, that court may deal with him in respect of the failure in any one of the following ways, that is to say -
  - (a) it may impose on him a fine not exceeding the maximum of level 3 of the standard scale; or

Discharge and amendment of probation orders. (1973 c.62 s.5.)

Breach of requirement of probation order. (1973 c.62 s.6.)

- (b) it may sentence him to imprisonment for 7 days; or
- (c) if the probation order was made by that court, it may deal with him for the offence in respect of which the probation order was made, in any manner in which he could deal with him if it had just convicted him of that offence; or;
- (d) where the probation order was made by another court, it may commit him to be dealt with by that court.

(4) Where a probationer is committed under subsection (3) (d) above to the court by which the probation order was made, the court committing the probationer may commit him in custody or release him on bail until he can be brought or appear before the court by which the probation order was made.

(5) A court which deals with a probationer's case under paragraph (d) of subsection (3) and subsection (4) above shall send to the court to which the probationer is committed a certificate signed by the Senior Magistrate (in the case of the Magistrate's Court) or a justice of the peace (in the case of the Summary Court), certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the court to which the probationer is committed.

(6) Where by virtue of paragraph (d) of subsection (3) and subsection (4) above, the probationer is brought or appears before the court which made a probation order in respect of him, and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of the probation order, the court may deal with him in respect of the failure in any of the ways mentioned in paragraphs (a), (b) and (c) of subsection (3).

(7) A probationer who is required by the probation order to submit to treatment for his mental condition shall not be treated for the purposes of this section as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court his refusal was reasonable having regard to all the circumstances; and without prejudice to the provisions of section 14 below, a probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be dealt with under this section in respect of a failure to comply with any requirement of the probation order.

(8) Any exercise by a court of any of its powers under subsection (3) or (6) above shall be without prejudice to the continuance of the probation order unless the court has, in exercise of its powers under either of those subsections dealt with the probationer for the offence in respect of which the probation order was made in a manner in which it could have dealt with him if he had just been convicted before that court of that offence.

(9) A fine imposed under subsection (3) or (6) above in respect of a failure to comply with the requirements of a probation order shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

13. (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the court may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified therein.

Absolute and conditional discharge. (1973 c.62 s. 7.)

(2) An order discharging a person subject to such a condition is in this Part referred to as "an order for conditional discharge", and the period specified in any such order (subject to section 14 (1) below) as "the period of conditional discharge".

(3) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) Where, under the following provisions of this Part, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

14. (1) If it appears to a relevant court, where that court has jurisdiction in accordance with subsection (2) below that a person in whose case a probation order or an order for conditional discharge has been made has been convicted by an inferior court of an offence committed during the relevant period and has been dealt with in respect of that offence, the relevant court may, subject to subsection (3) below, issue a summons requiring that person to appear at the place and time specified therein for a warrant for his arrest.

Commission of further offence by probationer or person conditionally discharged. (1973 c.62 s.8.)

(2) In this section —

- (a) “a relevant court” means the Supreme Court or the Magistrate’s Court where the probation order or order for conditional discharge was made by that court and the conviction referred to in subsection (1) above was by a court inferior to the court which made the probation order or the order for conditional discharge;
- (b) “the relevant period” means, in relation to a probation order, the probation period, and in relation to an order for conditional discharge, the period of conditional discharge.

(3) A summons or warrant may be issued under this section on the basis of any information which the authority issuing the summons or warrant believes to be credible.

(4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or be brought before the court by which the probation order or the order for conditional discharge was made.

(5) If a person in whose case a probation order or an order for conditional discharge has been made by the Supreme Court or the Magistrate’s Court is convicted by the Summary Court of an offence committed during the relevant period, the Summary Court may commit him to custody or release him on bail until he can be brought or appear before the court which made the probation order or order for conditional discharge; if a person in whose case a probation order or an order for conditional discharge has been made by the Supreme Court is convicted by the Magistrate’s Court of an offence committed during the relevant period, the Magistrate’s Court may commit him to custody or release him on bail until he can be brought or appear before the Supreme Court.

(7) Where it is proved to the satisfaction of the court by which a probation order or an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the relevant period, the court may deal with him, for the offence for which the order was made, in any manner in which it could deal with him if he had just been convicted by or before that court of that offence.

(8) If a person in whose case a probation order or an order for conditional discharge has been made by the Summary Court or the Magistrate’s Court is convicted before the Supreme Court of an offence committed during the relevant period or is dealt with by the Supreme Court for any such offence in respect of which he was committed for sentence to the Supreme Court, the Supreme Court may deal with him, for any offence for which the order was made, in any manner in which the court which made the probation order or order for conditional discharge could deal with him if it had just convicted him of that offence.

(9) If the person in whose case a probation order or an order for conditional discharge has been made by the Summary Court is convicted by the Magistrate’s Court of any offence committed during the relevant period, the Magistrate’s Court may deal with him for the offence for which the order was made, in any manner in which the Summary Court could deal with him if it had just convicted him of that offence.

15. Where an Order for conditional discharge has been made by a court in the case of an offender under seventeen years of age the powers exercisable by that or any other court after the offender has attained the age of seventeen years in the event of any breach of the order shall be those which would be exercisable if he had attained the age of seventeen years at the time of the commission of the offence in respect of which the order for conditional discharge has been made.

Breach of conditional discharge by young offender. (1973 c.62 s.9.)

16. (1) Where on an application made by the probationer or the probation officer it appears to the court having power to discharge a probation order that the order is no longer appropriate in the case of the probationer, the court may make, in substitution for the probation order, an order discharging him in respect of the original offence, subject to the condition that he commits no offence between the making of the order under this section and expiration of the probation period.

Substitution of conditional discharge for probation. (1973 c.62 s.11.)

(2) No application may be made under subsection (1) above while an appeal against the probation order is pending.

(3) A person in respect of whom an order is made under this section shall so long as the condition mentioned in subsection (1) above continues in force be treated in all respects and in particular for the purposes of section 14 above as if the original order made in his case had been an order for conditional discharge made by the court which made the original order and as if the period of the conditional discharge were the same as the probation period.

(4) Where an application under this section is made by the probation officer, it may be heard in the absence of the probationer if the officer produces to the court a statement by him that he understands the effect of an order made under this section and consents to the application being made.

(5) On the making of an order under this section the appropriate officer of the court shall forthwith give copies of the order to the probation officer, who shall give a copy to the person in respect of whom the order is made and to the person in charge of any institution in which that person was required by the probation order to reside.

17. (1) Any court may, on making a probation order or an order for conditional discharge under this Part if it thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to give security for the good behaviour of the offender.

Supplementary provision as to probation and discharge. (1973 c.62 s. 12.)

(2) For the purposes of this Ordinance, except section 7(7) and paragraph 1 of Schedule 2, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.

(3) In proceedings before the Supreme Court under the preceding provisions of this Ordinance, any question whether a probationer has failed to comply with the requirements of the probation order, and any question whether any person in whose case the probation order or an order for conditional discharge has been made has been convicted of an offence committed during the probation period or, as the case may be, the period of conditional discharge, shall be determined by the court and not by the verdict of a jury.

(4) Nothing in any previous provision of this Part shall be construed as taking away any power of the court, on making a probation order in respect of an offender or discharging an offender absolutely or conditionally, to order him to pay costs or compensation.

18. (1) Subject to subsection (2) and (3) below, a conviction of an offence for which an order is made under this Part placing the offender on probation or discharging him absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the preceding provisions of this Part and the purposes of section 1 (2) (b) of the Children and Young Persons Act 1969 in its application to the Falkland Islands.

Effect of probation and discharge. (1973 c.62 s.13.)

(2) Where the offender was of or over seventeen years of age at the time of his conviction of the offence in question and is subsequently sentenced under this Part for that offence, subsection (1) above shall cease to apply to the conviction.

(3) Nothing in subsection (1) above shall prevent an appeal whether against conviction or otherwise.

(4) Without prejudice to the preceding provisions of this section, the conviction of an offender who is placed on probation or discharged absolutely or conditionally under this Part shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons, or authorises or requires the imposition of any such disqualification or disability.

(5) The preceding provisions of this section shall not affect —

- (a) any right of any offender placed on probation or discharged absolutely or conditionally under this Part to rely on his conviction in bar of any subsequent proceedings for the same offence;
- (b) the restoration of any property in consequence of the conviction of any such offender; or
- (c) the operation, in relation to any such offender of any enactment or instrument in force at the commencement of this Ordinance which is expressed to extend to persons dealt with under section 1 (1) of the Probation Offenders Act 1907 as well as to convicted persons.

#### *Imprisonment: General Provisions*

19. (1) Where a person is convicted of an offence against any enactment and is for that offence liable to be sentenced to imprisonment, but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

General power to impose sentence of imprisonment. (1973 c.62 s.18.)

(2) Where a person is convicted of an offence contrary to common law, the persons so convicted shall be liable to a fine not exceeding the maximum of level 6 or to imprisonment for two years or to both such fine and such imprisonment.

(3) A person shall, for the purposes of this section, be deemed not to have been convicted of an offence contrary to common law unless he was convicted on a charge, summons, information or indictment alleging that he committed that offence contrary to common law.

20. (1) No court shall pass a sentence of imprisonment on a person of or over twenty-one years of age on whom such a sentence has not previously been passed by a court in the Falkland Islands unless the court is of opinion that no other method of dealing with him is appropriate; and for the purpose of determining whether any other method of dealing with any such person is appropriate the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

Restrictions on imposing sentences of imprisonment on persons who have not previously served prison sentences. (1973 c.62 s.20.)

(2) Where the Magistrate's Court or Summary Court passes a sentence of imprisonment on any such person as is mentioned in subsection (1) above, the court shall state the reason for its opinion that no other method of dealing with him is appropriate, and cause that reason to be specified in the warrant of commitment and to be recorded on the court file relating to the proceedings in question

(3) For the purposes of this section -

- (a) a previous sentence of imprisonment which has been suspended and which has not taken effect under section 34 of this Ordinance shall be disregarded; and
- (b) "sentence of imprisonment" does not include a committal or attachment for contempt of court.

(4) Subsection (1) above does not affect the power of the court to pass sentence on any person for an offence the sentence for which is fixed by law.

(5) For the purposes of this section the age of the person shall be deemed to be that which it appears to the court to be after considering any available evidence.

21. (1) Subject to subsection (2) below the court shall wherever reasonably possible obtain a social inquiry report for the purpose of determining under section 20 (1) above whether there is any appropriate method of dealing with an offender other than imprisonment.

Social inquiry report for purposes of section 20. (1973 c.62 s.20A.)

(2) Subsection (1) above does not apply if in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.

(3) Where a court other than the Supreme Court without first obtaining a social inquiry report passes a sentence of imprisonment on a person of or over twenty-one years of age on whom such a sentence has not previously been passed by a court in the Falkland Islands, it shall state in open court the reason why it was not reasonably practicable or it was unnecessary to obtain such a report.

(4) A court which states a reason as required by subsection (3) above shall cause that reason to be specified in the warrant of commitment and in the court file relating to the proceedings.

(5) No sentence shall be invalidated by the failure of a court to comply with subsection (1) above, but any other court on appeal from that court shall obtain a social inquiry report if reasonably practicable so to do and if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.

(6) In determining whether it should deal with the offender otherwise than by passing a sentence of imprisonment on him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.

(7) In this section 'social inquiry report' means a report about a person and his circumstances made by a probation officer or other person whom the court believes to be a suitable person to make such a report.

*Custody and detention of persons under twenty-one*

22. (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under twenty-one years of age or commit such a person to prison for any reason.

General restriction on custodial sentences. (1982 c.48 s.1.)

(2) Nothing in subsection (1) above shall prevent the committal to prison of a person under twenty-one years of age who is remanded in custody or committed in custody for trial or sentence.

(3) Subject to section 53 of the Children and Young Persons' Act 1933 (punishment of certain grave crimes) in its application to the Falkland Islands, the only custodial orders that a court may make where a person under twenty-one years of age is convicted or found guilty of an offence are —

(a) a sentence of detention in a young offender institution under section 23 below; and

(b) a sentence of custody for life under section 27 below.

(4) A court may not —

(a) pass a sentence of detention in a young offender institution; or

(b) pass a sentence of custody for life under section 27 below, unless it is satisfied —

(i) that the circumstances, including the nature and gravity of the offence, are such that if the offender were aged twenty-one or over the court would pass a sentence of imprisonment; and

(ii) that he qualifies for a custodial sentence.

(5) An offender qualifies for a custodial sentence if —

(a) he has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them; or

(b) only a custodial sentence would be adequate to protect the public from serious harm from him; or

(c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence from it cannot be justified.

23. (1) Subject to section 27 below and to section 53 of the Children and Young Persons' Act 1933 in its application to the Falkland Islands, where —

Detention in a young offender institution.

(a) a male offender under twenty-one but not less than fourteen years of age or a female offender under twenty-one but not less than fifteen years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged twenty-one or over; and

(b) the court is satisfied of the matters referred to in section 22(4) above, the sentence that the court is to pass is a sentence of detention in a young offender institution.

(2) Subject to section 24(1) and (2) below, the maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.

(3) Subject to subsection (4) below and section 24(3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than twenty-one days.

(4) A court may pass a sentence of detention in a young offender institution for less than twenty-one days for an offence under section 28 below.

(5) Subject to section 24(4) below, where -

- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution; or
- (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence,

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

(6) Where an offender who —

- (a) is serving a sentence of detention in a young offender institution; and
- (b) is aged over twenty-one years,

is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.

24. (1) In the case of a male offender under fifteen the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of —

Special provision.

- (a) the maximum term of imprisonment the court may impose for the offence; and
- (b) four months.

(2) In the case of an offender aged fifteen or sixteen the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of —

- (a) the maximum term of imprisonment the court may impose for the offence; and
- (b) twelve months.

(3) Where an offender is a female under seventeen a court shall not pass a sentence for her detention in a young offender institution whose effect would be that she would be sentenced to a total term of four months or less.

(4) A court shall not pass a sentence of detention in a young offender institution on an offender whose effect would be that the offender would be sentenced to a total term which exceeds —

- (a) if the offender is male and under fifteen, four months; and
- (b) if the offender is aged fifteen or sixteen, twelve months.

(5) Where the total term of detention in a young offender institution to which an offender is sentenced exceeds —

- (a) in the case of a male offender under fifteen, four months; and
- (b) in the case of an offender aged fifteen or sixteen, twelve months,

so much of the term as exceeds four or twelve months as the case may be, shall be treated as remitted.



(6) In this section "total term" means —

- (a) in the case of an offender sentenced (whether or not on the same occasion) to two or more terms of detention in a young offender institution which are consecutive or wholly or partly concurrent, the aggregate of those terms;
- (b) in the case of any other offender, the sentence of detention in a young offender institution in question.

**25.** The Governor may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison instead of a young offender institution, but if he is under seventeen at the time of the direction, only for a temporary purpose or in the absence of a suitable young offender institution being available to receive him.

Accommodation of offenders sentenced to detention in a young offender institution.

**26 (1)** Subject to subsection (3), the provisions of sections 20 and 21 above shall apply in relation to a person under twenty-one years of age as they do to a person above that age with the modification required by subsection (2) below.

Application of sections 20 and 21 in respect of persons under the age of twenty one years.

(2) The modifications referred to in subsection (1) above are the substitution of a reference to a youth custody sentence or a sentence for custody for life for any reference to a term of imprisonment.

(3) Where —

- (a) the Supreme Court passes a sentence of detention in a young offender institution or a sentence of custody for life under section 27 below, or
- (b) the magistrate's court or the summary court passes a sentence of detention in a young offender institution,

it shall be its duty —

- (i) to state in open court that it is satisfied that he qualifies for a custodial sentence under one or more of the paragraphs of section 22(4) above, the paragraph or paragraphs in question and why it is so satisfied; and
- (ii) to explain it to the offender in open court and in ordinary language why it is passing a custodial sentence on him.

**27. (1)** Where a person under the age of twenty-one is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 53 (1) of the Children and Young Persons Act 1933 (detention of persons under eighteen convicted of murder) in its application to the Falkland Islands.

Custody for life. (1982 c.48 s.8.)

(2) Where a person aged seventeen years or over but under the age of twenty-one is convicted of any other offence for which a person aged twenty-one years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

**28. (1)** In any case where, but for section 22 (1) above, a court would have power —

- (a) to commit a person under twenty-one but not less than seventeen years or age to prison for default in payment of a fine or any other sum of money; or
- (b) to make an order fixing a term of imprisonment in the event of such a default by such a person; or
- (c) to commit such a person to prison for contempt of court or any kindred offence,

Detention of persons aged seventeen to twenty for default or contempt. (1982 c.48 s.9.)

the court shall have power to commit him to be detained under this section or, as the case may be, to make an order for fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.

(2) For the purposes of subsection (1) above, a power of the court to order a person to be imprisoned under legislation relating to the attachment of earnings in default of payment by that person of any sum ordered by a court to be paid shall be taken to be a power to commit him to prison.

### *Community service orders*

29. (1) Where a person of or over sixteen years of age is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may, instead of dealing with him in any other way (but subject to subsection (3)) below make an order (in this Part referred to as "a community service order") requiring him to perform unpaid work in accordance with subsequent provisions of this Part.

Community service orders in respect of convicted persons. (1973 c.62 s.14.)

The reference in this subsection to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this Part or any other enactment on the imprisonment of young offenders.

(2) The number of hours for which a person may be required to work under a community service order shall be specified in the order and shall be in the aggregate —

- (a) not less than forty; and
- (b) not more —
  - (i) in the case of an offender aged sixteen, than one hundred and twenty; and
  - (ii) in other cases, than two hundred and forty.

(3) A court shall not make a community service order in respect of any offender unless the offender consents and after considering a report by a probation officer or by a social worker or welfare officer employed by the Government about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer or such a social worker or welfare officer, the court is satisfied that the offender is a suitable person to perform work under such an order.

(4) A court shall not make a community service order in respect of any offender unless the court is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the part of the Falkland Islands in which the offender resides or will reside.

(5) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent shall not exceed the maximum specified in paragraph (b) (i) or (ii) of subsection (2) above.

(6) Before making a community service order the court shall explain to the offender in ordinary language —

- (a) the purpose and effect of the order (and in particular the requirements of the order as specified in section 30 below);
- (b) the consequences which may follow under section 31 below if he fails to comply with any of those requirements; and
- (c) that the court has under section 32 below the power to review the order on the application either of the offender or of a probation officer.

(7) The court by which a community service order is made shall forthwith give copies of the order to a probation officer assigned by the court to supervise the order (in this Part called "the relevant officer") and he shall give a copy to the offender.

(8) Nothing in subsection (1) above shall be construed as preventing a court which makes a community service order in respect of any offence from making an order for costs against, or imposing a disqualification on, the offender or for making in respect of the offence an order under section 44, 49, 67 or 68 of this Ordinance, or under section 28 of the Theft Act 1968 in its application to the Falkland Islands.

30. (1) An offender in respect of whom a community service order is in force shall —

- (a) report to the relevant officer and subsequently from time to time notify him of any change of address; and
  - (b) perform for the number of hours specified in the order such work at such times as he may be instructed by the relevant officer.
- (2) Subject to section 32(1) below, the work required to be performed under a community service order shall be performed during the period of twelve months beginning with the date of the order; but unless revoked, the order shall remain in force until the offender has worked under it for number of hours specified in it.

Obligation of person subject to community service order. (1973 c.62 s.15.)

(3) Instructions given by the relevant officer under this section shall, so far as practicable, be such as to avoid any conflict with the offender's religious beliefs and any interference with the times if any, at which he normally works or attends a school or other educational establishment.

31. (1) If at any time while a community service order is in force in respect of an offender it appears on information to the Senior Magistrate or to a justice of the peace that the offender has failed to comply with any of the requirements of section 30 above (including any failure satisfactorily to perform the work which he has been instructed to do), the Senior Magistrate or that justice may issue a summons requiring the offender to appear at the place and time specified there in, or may, if the information is in writing and on oath, issue a warrant for his arrest.

Breach of requirements of community service order. (1973 c.62 s.16.)

(2) A summons or warrant issued under this section shall direct the offender —

- (a) in the case of a summons or warrant issued by or by order of the Senior Magistrate to appear or be brought before the Magistrate's Court; and
- (b) in the case of a summons or warrant issued by a justice of the peace shall direct the offender to appear or to be brought before the Summary Court.

(3) If it proved to the satisfaction of the Magistrate's Court that the offender has failed without reasonable excuse to comply with any of the requirements of section 30 above the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 or may —

- (a) if the community service order was made by the Magistrate's Court or the Summary Court, revoke the order and deal with the offender, for an offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
- (b) if the order was made by the Supreme Court, commit him to custody or release him on bail until he can be brought or appear before the Supreme Court.

(4) If it proved to the satisfaction of the Summary Court that an offender has failed without reasonable excuse to comply with any of the requirements of section 30 the Summary Court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 or may —

- (a) if the community service order was made by the Summary Court, revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the Summary Court if the order had not been made;
- (b) if the order was made by the Supreme Court or by the Magistrate's Court, commit him to custody or release him on bail until he can be brought or appear before the court which made the order.

(5) If the Magistrate's Court deals with an offender's case under subsection (3) (b) above it shall send to the Supreme Court a certificate signed by the Senior Magistrate certifying that the offender has failed to comply with the requirements of section 30 above in the respect specified in the certificate, together with such other particulars of the case as may be desirable;

and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Supreme Court. The Summary Court if it deals with an offender's case under subsection (4) (b) above shall send to the court before which the offender is required to appear in accordance with that paragraph of that subsection a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of section 30 in the respect specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the court before which that offender is so required to appear.

(6) Where by virtue of subsection (3) (b) or (4) (b) above the offender is brought or appears before the Supreme Court and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of section 30, the Supreme Court may either —

- (a) without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3; or
- (b) revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by Supreme Court if the order had not been made.

(7) A person sentenced under subsection (3) (a) or (4) (a) above for an offence may appeal to the Supreme Court against the sentence.

(8) In proceedings before the Supreme Court under this section any question whether the offender has failed to comply with the requirements of section 30 shall be determined by the court and not by the verdict of the jury.

(9) A fine imposed under this section shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

32. (1) Where a community service order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to the court which made the order that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may extend, in relation to the order, the period of twelve months specified in section 30 (2) above.

Amendment and revocation of community service order, and substitution of other sentences. (1973 c.62 s.17.)

(2) Where such an order is in force and on any such application it appears to the court that, having regard to such circumstances, it would be in the interests of justice that the order should be revoked or that the offender should be dealt with in some other manner for the offence in respect of which the order was made, the court may —

- (a) if the order was made by it or a court inferior to it, revoke the order or revoke it and deal with the offender for that offence in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
- (b) if the order is made by a court superior to it, commit him to custody or release him on bail until he can be brought or appear before that superior court;

and where the court deals with the case under paragraph (b) it shall send to the superior court such particulars of the case as may be desirable.

(3) Where an offender in respect of whom such an order is in force —

- (a) is convicted of an offence before the Supreme Court; or
- (b) is committed by an inferior court to the Supreme Court for sentence and is brought before or appears before the Supreme Court; or
- (c) by virtue of subsection (2) (b) above is brought or appears before the Supreme Court,

and it appears to the Supreme Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Supreme Court may revoke the order or revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(4) A person sentenced under subsection (2) (a) above for an offence may appeal to the Supreme Court against the sentence.

(5) Where a court proposes to exercise its powers under subsection (1) or (2) above other wise than on the application of the offender it shall summon him to appear before the court and, if he does not appear in answer to the summons, may a issue a warrant for his arrest.

### *Suspended sentences of imprisonment*

33. (1) Subject to subsection (2) below, a court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than two years from the date of the order, the offender commits in the Falkland Islands another offence punishable with imprisonment and thereafter a court having power to do so orders under section 34 below that the original sentence shall take effect; and in this Part "operational period", in relation to a suspended sentence, means the period so specified.

Suspended sentences of imprisonment and partly suspended sentences of imprisonment.  
(1973 c.62 s.22.)

(2) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence by an order under subsection (1) above.

(3) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.

(4) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 34 below if during the operational period he commits an offence punishable with imprisonment.

(5) Where a court has passed a suspended sentence on any person, and that person is subsequently the subject of a youth custody sentence, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent youth custody sentence or any conviction or finding on which it was passed is quashed on appeal.

(6) Subject to any provision to the contrary contained in any enactment —

(a) a suspended sentence which has not taken effect under section 34 below shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture, or persons sentenced to imprisonment; and

(b) where a suspended sentence has taken effect under that section, the offender shall be treated for the purposes of the enactment and instruments excepted by paragraph (a) above as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non- prosecution.

(7) Subject to subsection (8) below, where a court passes on an adult a sentence of imprisonment for a term of not less than three months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.

(8) A court shall not make a order under this section unless the case appears to the court to be one in which a order under the preceding provisions of this section (sentences wholly suspended) would not be appropriate.

(9) Subsection (8) above is without prejudice to section 22 above.

(10) The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall not be less than one quarter of the whole term, and the offender shall not be required to serve the latter part unless it is restored under subsection (11) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.

(11) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then subject to subsections (12) and (13) below a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.

(12) If a court, considering the offender's case with a view to exercising the powers of subsection (11) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.

(13) If an order restoring part of a sentence has been made under subsection (11) above, no order restoring any further part of it may be made.

(14) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.

(15) "Adult" in this section means a person who has attained the age twenty-one and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (7) above and he had no remission of imprisonment under those provisions of the laws relating to prisons which provide for remission of sentence for good conduct in prison.

(16) Schedule 2 to this Ordinance has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section.

34. (1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under section 35 below to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods —

Power of court on conviction of further offence to deal with suspended sentences. (1973 c.62 s.23.)

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
- (b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;
- (c) it may by order vary the original order under section 33 (1) above by substituting for the period specified therein a period expiring not later than two years from the date of the variation; or
- (d) it may make no order with respect to the suspended sentence,

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.

(2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.

(3) In proceedings for dealing with an offender in respect of a suspended sentence which take place before the Supreme Court any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the judge and not by the verdict of a jury.

(4) Where a court deals with an offender under this section in respect of a suspended sentence the appropriate officer of the court shall notify the appropriate officer of the court which passed the sentence of the method adopted.

(5) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the appropriate officer of the court shall record that fact.

(6) For the purposes of any enactment conferring rights of appeal in criminal cases any order made by a court with respect to a suspended sentence shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

**35. (1)** An offender may be dealt with in respect of a suspended sentence or a partly suspended sentence

- (a) by the Supreme Court, irrespective of the court by which the suspended sentence or partly suspended sentence was passed;
- (b) by the Magistrate's Court, if the suspended sentence or partly suspended sentence was passed by the Magistrate's Court or by the Summary Court;
- (c) by the Summary Court if the suspended sentence or partly suspended sentence was passed by that court.

Court by which suspended sentence may be dealt with. (1973 c.62 s.24.)

(2) Where an offender is convicted by the Magistrate's Court or by the Summary Court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence or partly suspended sentence passed by the Supreme Court the court shall commit him in custody or on bail to the Supreme Court.

(3) For the purposes of this section and of section 38 below a suspended sentence or partly suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

**36. (1)** If it appears to the Supreme Court, where that court has jurisdiction in accordance with subsection (2) below or to the Senior Magistrate or justice of the peace having jurisdiction in accordance with that subsection, that an offender has been convicted in the Falkland Islands of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the Supreme Court, the Senior Magistrate or that justice may, subject to the following provisions of this section, issue a summons requiring the offender to appear at the place and time specified there in, or a warrant for his arrest.

Procedure where court convicting of further offence does not deal with suspended sentences. (1973 c.62 s.25.)

(2) Jurisdiction for the purposes of subsection (1) above may be exercised by —

- (a) any court having by virtue of section 35(1) above jurisdiction to deal with the offender; or
- (b) the Senior Magistrate where by virtue of section 35(1) above the Magistrate's Court has jurisdiction to deal with the offender;
- (c) a justice of the peace where or by virtue of section 35(1) above, the Summary Court has jurisdiction to deal with the offender.

(3) A justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(4) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed.

**37. (1)** Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order (in this Part referred to as "supervision order") placing the offender under the supervision of a supervising officer for a period specified in the order, being a period not exceeding the operational period of the suspended sentence.

Suspended sentence supervision orders. (1973 c.62 s.26.)

(2) The supervising officer shall be the probation officer or, if the supervision order is made by the Supreme Court or the Senior Magistrate, such other probation officer appointed pursuant to section 8 (2) above as may be named in the order.

(3) An offender in respect of whom a supervision order is in force shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

(4) The court by which a supervision order is made shall forthwith give copies of the order to the supervising officer who shall give a copy to the offender.

(5) A supervision order shall cease to have effect if before the end of the period specified in it —

- (a) a court orders under section 34 above that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
- (b) the order is discharged or replaced under the subsequent provisions of this section.

(6) A supervision order may be discharged, on the application of the supervising officer or the offender —

- (a) if it was made by the Supreme Court and includes a direction reserving the power of discharging it to that court, by the Supreme Court;
- (b) if it was made by the Supreme Court and does not include a direction of the kind referred to in paragraph (a) above, by the Magistrate's Court;
- (c) if it was made by the Magistrate's Court, by the Magistrate's Court;
- (d) if it was made by the Summary Court, by the Summary Court.

(7) Where under section 34 above a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a supervision order in respect of the offender —

- (a) in place of any such order made when the suspended sentence was passed; or
- (b) if the court which passed the sentence could have made such an order but did not do so.

(8) On making a supervision order the court shall in ordinary language explain its effect to the offender.

38. (1) If at any time while a supervision order is in force in respect of an offender it appears —

- (a) to the Senior Magistrate; or
- (b) to a justice of the peace,

Breach of requirement of suspended sentence supervision order. (1973 c.62 s.27.)

that the offender has failed to comply with any of the requirements of section 37 (3) above, he may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the offender —

- (a) to appear or be brought before the Magistrate's Court, in the case of a summons or warrant issued by the Senior Magistrate; and
- (b) to appear or be brought before the Summary Court in the case of a summons or warrant issued by a justice of the peace.

(3) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that he has failed without reasonable cause to comply with any of the requirements or section 37 (3) above the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding the maximum of level 3 on the standard scale.

(4) A fine imposed under this section shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

#### *Powers relating to persistent offenders*

39. (1) Where an offender is convicted by the Supreme Court or by the Magistrate's Court of an offence punishable with imprisonment for a term of two years or more and the conditions specified in subsection (3) below are satisfied, then, if the court is satisfied, by reason

Punishment of persistent offenders. (1973 c.62 s.28.)



of his previous conduct and the likelihood of his committing further offences, that it is expedient to protect the public from him for a substantial time, the court may impose an extended term of imprisonment under this section.

(2) The extended term which may be imposed under this section for any offence may exceed the maximum term authorised for the offence apart from this section if the maximum so authorised is less than ten years, but shall not exceed ten years if the maximum so authorised is less than ten years or exceed five years if the maximum so authorised is less than five years.

(3) The conditions referred in subsection (1) above are —

- (a) that the offence was committed before the expiration of three years from the previous conviction of an offence punishable with imprisonment for a term of two years or more or from his final release from prison after serving a sentence of imprisonment passed on such a conviction; and
- (b) the offender has been convicted on at least three previous occasions since he attained the age of twenty one of offences punishable with imprisonment for a term of two years or more; and
- (c) the total length of the sentences of imprisonment to which he was sentenced on those occasions was not less than five years.

(4) Where an extended term of imprisonment is imposed on an offender under this section, the court shall issue a certificate (hereafter in this Part referred to as “an extended sentence certificate”) stating that the term was so imposed.

40. (1) For the purposes of section 39(3)(a) above a certificate purporting to be signed by the chief officer of police to the effect —

- (a) that a prisoner was finally released from prison on a date specified in the certificate after serving a sentence so specified; or
- (b) that a prisoner had not been finally released from prison on a date so specified after serving a sentence so specified;

Supplementary provisions as to persistent offenders. (1973 c.62 s.29.)

shall be evidence of the matter so certified.

(2) For the purposes of section 39 (3) (b) above a person who has been convicted by the Magistrate's Court or by the Summary Court of an offence punishable on conviction with imprisonment for two years or more and sentenced for that offence by the Supreme Court, or on appeal from the Supreme Court, to imprisonment shall be treated as if he had been convicted of that offence by the Supreme Court.

(3) For the purpose of determining whether the conditions specified in section 39 (3) above are satisfied in relation to an offender no account shall be taken of any previous conviction or sentence unless notice has been given to the offender at least three days before the later sentence is passed on him that it is intended to prove the previous conviction or sentence to the court.

(4) For the purposes of subsection (3) above a certificate purporting to be signed by a police officer that a copy of a notice annexed to the certificate was given to an offender shall be evidence that it was so given and of the contents of the notice.

(5) In this section and in section 39 above “final release” includes a release pursuant to the provisions of section 65 (1) of the Constitution, but does not include any temporary discharge from prison whether under section 65 (1) of the Constitution or other wise.

#### *General power of court to impose fines*

41. Where a person is convicted of any offence other than an offence for which the sentence is fixed by law, the court if not precluded from sentencing the offender by its exercise of some other power (such as the power to make a probation order), may impose a fine instead of or in addition to dealing with him in any other way (such as imprisoning him) in which the court has power to deal with him, subject however to any enactment requiring the offender to be dealt with in a particular way.

General power of court to fine convicted offender. 1973 c.62 s.30.

42. (1) Subject to the provisions of this section, if a court imposes a fine on any person or forfeits his recognizance, the court may make an order —

- (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
- (b) directing payment of that amount by instalments of such amounts and on such dates respectively as may be specified in the order;
- (c) in the case of recognizance, discharging the recognizance or reducing the amount due thereunder.

Powers of courts  
in relation to  
fines and  
forfeited  
recognizances.  
(1973 c.62 s.31.)

(2) Subject to the provisions of this section, if a court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 28 above (detention of persons aged seventeen to twenty for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.

(3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by a court be committed to prison or detained in pursuance of an order under subsection (2) above unless —

- (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
- (b) it appears to the court that it is unlikely to be possible to enforce payment of the sum by other methods; or
- (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life, youth custody or detention in a detention centre for that or another offence, or sentences him as aforesaid for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term
  - (i) of imprisonment;
  - (ii) of youth custody;
  - (iii) of detention in a detention centre; or
  - (iv) of detention under section 28 above.

(4) Subject to subsections (5) and (6) below, the periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite thereto

T A B L E

An amount not exceeding £50.....	5 days
An amount exceeding £50 but not exceeding £100 .....	7 days
An amount exceeding £100 but not exceeding £400.....	14 days
An amount exceeding £400 but not exceeding £1,000.....	30 days
An amount exceeding £1,000 but not exceeding £2,000.....	45 days
An amount exceeding £2,000 but not exceeding £5,000.....	3 months
An amount exceeding £5,000 but not exceeding £10,000.....	6 months
An amount exceeding £10,000 but not exceeding £20,000.....	12 months
An amount exceeding £20,000 but not exceeding £50,000.....	18 months
An amount exceeding £50,000 but not exceeding £100,000.....	2 years
An amount exceeding £100,000 but not exceeding £250,000.....	3 years
An amount exceeding £250,000 but not exceeding £1,000,000.....	5 years
An amount exceeding £1,000,000.....	10 years

(5) Where the amount due at the time imprisonment or detention is imposed is so much of an fine or forfeited recognizance as remains due after part payment, then, subject to subsection (6) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the total sum.

(6) In calculating the reduction required under subsection (5) above any fraction of a day shall be left out of account and the maximum period shall be not be reduced to less than five days.

(7) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by a court to, or is serving or otherwise liable to serve, a term of imprisonment or youth custody or a term of detention under any provision of this Ordinance, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first - mentioned term.

(8) The power conferred by this section to discharge a recognizance or reduce the amount due thereunder shall be in addition to the powers conferred by any other enactment relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.

(9) Subject to subsection (10) below the powers conferred by this section shall not be taken as restricted by any enactment about committal by any court to another court which authorises the court to which an offender is committed to deal with that offender in any way in which the court from which the offender was committed might have dealt with him.

(10) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the court from which an offender is committed could have imposed, shall not exceed the period applicable to that fine (if imposed by that court) under any provision of the Customs Ordinance.

(11) This section shall not apply to a fine imposed by the Supreme Court on appeal against a decision of the Magistrate's Court or the Summary Court, but subsections (2), (3), (4), (5) and (6) above shall apply in relation to a fine imposed or recognizance forfeited by the Court of Appeal or by the Privy Council on appeal from the Court of Appeal, as they apply in relation to a fine imposed or recognizance forfeited by the Supreme Court, and the references to a court in subsections (2) and (3) above shall be construed accordingly.

43. Where a court makes any order against an offender for the payment of a fine or costs, or compensation a court may —

- (a) allow time for the payment of the sum due under that order;
- (b) direct payment of that sum by instalments of such amounts and on such dates respectively as the court may specify.

Power of court to allow time for payment, or payment by instalments, of fine costs or compensation. (1973 c.62 s.34.)

#### *Compensation Orders*

44. (1) Subject to the provisions of this Part, a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Part referred to as "a compensation order") requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken in consideration by the court in determining sentence or to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road; and a court shall give reasons, on passing sentence, for not making a compensation order if it does not make such an order in a case where this section empowers it to do so.

Compensation orders against convicted persons. (1973 c.62 s.35.)

(2) Compensation to be paid under a compensation order made by any court other than the Supreme Court in respect of any offence of which the court making the order has convicted the offender shall not exceed £2,500; and the compensation or total compensation to be paid under a compensation order or compensation orders made by any court other than the Supreme Court in respect of any offence or offences taken into consideration in

determining sentence shall not exceed the difference (if any) between the amount or total amount which under the preceding provisions of this subsection is the maximum for the offence or offences of which the offender has been convicted and the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

(3) Subject to subsection (2) above, compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.

(4) In the case of an offence under the Theft Act 1968 in its application to the Falkland Islands or under section 9P of the Road Traffic Ordinance, where the property in question is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of subsection (1) above as having resulted from the offence, however and by whomsoever the damage was caused.

(5) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if —

- (a) it is in respect of damage which is treated by subsection (4) above as resulting from an offence under the Theft Act 1968 in its application to the Falkland Islands or from an offence under section 9P of the Road Traffic Ordinance; or
- (b) it is in respect of injury, loss or damage as respects which the offender is uninsured in relation to the use of the vehicle and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.

(6) A vehicle, the use of which by any provision of or of the order or regulations made under the Road Traffic Ordinance, is exempted from insurance is not uninsured for the purposes of subsection (5) above.

(7) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.

(8) A compensation order in respect of bereavement may only be made for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the Fatal Accidents Act 1976 in its application to the Falkland Islands.

(9) The amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of the Fatal Accidents Act 1976.

(10) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.

(11) Where the court considers —

- (a) that it would be appropriate both to impose a fine and to make a compensation order; but
- (b) that the offender has insufficient means to pay both appropriate fine and appropriate compensation, the court shall give preference to compensation (though it may impose a fine as well).

45. (1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

(2) Rules may be made providing how any court which has functions in relation to the enforcement of a compensation order is to deal with the money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.

Enforcement  
and appeals.  
1973 c.62 s.36 as  
substituted by  
(1988 c.33 s.105.)

(3) An appellate court may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order if annulled, shall not take effect and if varied shall take effect as varied.

(4) Where a court of further appeal restores a conviction, it may make any compensation order which the court of trial could have made.

(5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence —

- (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences of which he was convicted in the proceedings in which the order was made;
- (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

46. At any time before the person against whom a compensation order has been made has paid into court the whole of the compensation which the order requires him to pay, but at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside, the Magistrate's Court or, in the case of a compensation order made by the Summary Court, the Summary Court, may, on the application of the person against whom it was made, discharge the order, or reduce the amount which remains to be paid, if it appears to the court —

*Review of compensation orders.*  
1973 c.62 s.37 as substituted by (1988 c.33 s.105.)

- (a) that the injury, loss or damage in respect of which the order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
- (b) in the case of an order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
- (c) that the means of the person against whom the order was made are insufficient to satisfy in full both the order and a confiscation order under this Ordinance made against him in the same proceedings; or
- (d) that the person against whom the order was made has suffered a substantial reduction in his means which was unexpected at the time when the compensation order was made, and that his means seem unlikely to increase for a considerable period;

but where the order was made by the Supreme Court, the Magistrate's Court shall not exercise any power conferred by this section in a case where it is satisfied as mentioned in paragraph (c) or (d) above unless it has first obtained the consent of the Chief Justice.

47. (1) This section shall have effect where a compensation order has been made in favour of any person in respect of any injury, loss or damages and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.

*Effect of compensation order on subsequent award of damages in civil proceedings.*  
1973 c.62 s.38 as substituted by (1988 c.33 s.105.)

(2) The damages in the civil proceedings shall be assessed without regard to the order; but the plaintiff may only recover an amount equal to the aggregate of the following —

- (a) any amount by which they exceed the compensation; and
- (b) a sum equal to any portion of the compensation which he fails to recover,

and may not enforce the judgement, so far as it relates to a sum such as is mentioned in paragraph (b) above, without the leave of the court.

#### *Recovery of compensation awarded by court*

48. (1) Where, in criminal proceedings, a court makes an order against the accused for payment of compensation, any sum required to be paid by such an order shall be treated, for the purposes of collection and enforcement, as if it had been adjudged to be paid on a conviction —

*Provisions as to enforcement of compensation.*

- (a) where the order is made by any court other than the Summary Court, by the Magistrate's Court; and
- (b) if the order is made by the Summary Court, by the Summary Court.

(2) A court making a compensation order may, if it thinks that the period for which the person subject to the order is liable apart from this subsection to be committed to prison for default under the order is insufficient, specify a longer period for that purpose, but not exceeding twelve months; and then, in the case of default —

- (a) the specified period shall be substituted as the maximum for which the person may be imprisoned in the event of default in payment; and
- (b) subsection (3) below shall apply for the reduction of the specified period where, at the time of the person's imprisonment, he has made part payment under the order.

(3) Where the amount due at the time imprisonment is imposed by reason of failure to pay a sum due under a compensation order is so much a sum adjudged to be paid by that order as remains due after part payment, then, subject to subsection (4) below, the maximum period applicable to the amount shall be the period applicable to the whole sum reduced by such number of days as bears to the total number of days therein the same proportion as the part paid bears to the whole sum.

(4) In calculating the reduction required under subsection (3) above any fraction of a day shall be left out of account and the maximum period shall not be reduced to less than five days.

(5) A court may not specify under subsection (2) above a period of imprisonment longer than that which it could order a person to undergo on imposing on him a fine equal in amount to the sum required to be paid by the order.

#### Confiscation of the proceeds of an offence

49. (1) The Supreme Court, the Magistrate's Court and the Summary Court shall each have power, in addition to dealing with an offender in any other way, to make an order under this section requiring him to pay such sum as the court thinks fit.

Confiscation  
orders.(1988 c.33  
s.71.)

(2) The Supreme Court may make such an order against an offender where —

- (a) he is found guilty of any offence to which this Part applies; and
- (b) it is satisfied —
  - (i) that he has benefitted from that offence or from that offence taken together with some other offence of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence, and which is not a drug trafficking offence; and
  - (ii) that his benefit is at least the minimum amount.

(3) The Magistrates Court and the Summary Court may make such an order against an offender where —

- (a) he is convicted of an offence prescribed for the purposes of this section by regulations made under this Ordinance; and
- (b) it is satisfied —
  - (i) that he has benefitted from that offence or from that offence taken together with some other offence prescribed by those regulations of which he is convicted in the same proceedings, or which the court takes into consideration in determining his sentence; and
  - (ii) that his benefit is at least the minimum amount.

(4) For the purposes of this Part, a person benefits from an offence if he obtains property as a result of or in connection with its commission and his benefit is the value of the property so obtained.

(5) Where a person derives a pecuniary advantage as a result of or in connection with the commission of an offence, he is to be treated for the purposes of this Part as if he obtained as a result of or in connection with the commission of the offence a sum of money equal to the value of the pecuniary advantage.

(6) The sum which an order made by a court under this section requires an offender to pay must be at least the minimum amount, but must not exceed —

- (a) the benefit in respect of which it is made; or
- (b) the amount appearing to the court to be the amount that might be realised at the time the order is made,

whichever is the less.

(7) For the purposes of this Part, the minimum amount is £10,000 or such other amount as the Governor may specify by Order in Council.

(8) An Order in Council made by the Governor under subsection (7) shall not come into force until it has been approved by a resolution of the Legislative Council.

(9) In this Part —

- (a) an order made by a court under this section is referred to as a “confiscation order”;
- (b) “drug trafficking offence” has the same meaning as in the Drug Trafficking Offences Act 1986 in its application to the Falkland Islands;
- (c) references to an offence to which this Part applies are references to any offence which —
  - (i) is prescribed by regulations to which subsection (3) relates; or
  - (ii) if not so listed, is an offence, other than a drug trafficking offence, for which the defendant may, on conviction thereof by the Supreme Court or by the Magistrates Court, be sentenced to imprisonment for two years or more or might be so imprisoned if he were, at the time of commission of the offence, of the age of twenty- one years or more; and
- (d) a person against whom proceedings have been instituted for an offence to which this section applies is referred to (whether or not he has been convicted) as “the defendant”.

50. (1) A court shall not make a confiscation order unless the prosecutor has given written notice to the court to the effect that it appears to him that, were the court to consider that it ought to make such an order, it would be able to make an order requiring the offender to pay at least the minimum amount.

Making of confiscation orders.  
(1988 c.33 s.72.)

(2) If the prosecutor gives the court such a notice, the court shall determine whether it ought to make a confiscation order.

(3) When considering whether to make a confiscation order the court may take into account any information that has been placed before it showing that a victim of an offence to which the proceedings relate has instituted, or intends to institute, civil proceedings against the defendant in respect of loss, injury or damage sustained in connection with the offence.

(4) If the court determines that it ought to make such an order, the court shall, before sentencing or otherwise dealing with the offender in respect of the offence or, as the case may be, any of the offences concerned, determine the amount to be recovered in his case by virtue of this section and make a confiscation order for that amount specifying the offence or offences.

(5) Were the court to make a confiscation order against the defendant in any proceedings, it shall be its duty, in respect of any offence of which he is convicted in those proceedings, to take account of the order before

- (a) imposing any fine on him;
- (b) making any order involving any payment by him, other than an order under the foregoing provisions of this Ordinance relating to compensation order; or

(c) making any order under —

- (i) section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders); or
- (ii) section 67 of this Ordinance (deprivation orders),

but subject to that shall leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of a confiscation order, restrict the court from dealing with an offender in any way it considers appropriate in respect of an offence to which this Part applies.

(7) Where —

- (a) a court makes both a confiscation order and an order for the payment of compensation under section 44 above against the same person in the same proceedings; and
- (b) it appears to the court that he will not have sufficient means to satisfy both the orders in full,

it shall direct that so much of the compensation as will not in its opinion be recoverable because of the insufficiency of his means shall be paid out of any sums recovered under the confiscation order.

51. (1) Where —

- (a) a defendant has been convicted of an offence to which this Part applies and the prosecutor tenders to the court a statement as to any matters relevant —
  - (i) to determining whether the defendant has benefitted from the offence or from any other offence to which this Part applies of which he is convicted in the same proceedings of which is taken into consideration in determining his sentence; or
  - (ii) to an assessment of the value of the defendant's benefit from the offence or any other offence to which this Part applies of which he is so convicted or which is so taken into consideration; and
- (b) the defendant accepts to any extent any allegation in the statement;

Statement, etc.  
relevant to mak-  
ing confiscation  
order. (1988 c.33  
s.73.)

the court may, for the purposes of so determining or making such an assessment, treat his acceptance as conclusive of the matters to which it relates.

(2) Where —

- (a) a statement is tendered under subsection (1)(a) above, and
- (b) the court is satisfied that a copy of that statement has been served on the defendant,

the court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with the requirement under subsection (2) above, he may be treated for the purposes of this section as accepting every allegation in the statement apart from —

- (a) any allegation in respect of which he has complied with the requirement; and
- (b) any allegation that he has benefitted from an offence or that any property was obtained by him as a result of or in connection with the commission of an offence.

(4) Where —

- (a) there is tendered to the court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made; and



(b) the prosecutor accepts to any extent any allegation in the statement; the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either —

- (a) orally before the court; or
- (b) in writing in accordance with rules of court.

(6) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by an acceptance under this section or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount of the court assesses to be the value of the defendant's benefit from the offence or, if more than one, all the offences in respect of which the order may be made.

52. (1) In this Part "realisable property" means, subject to subsection (2) below —

- (a) any property held by the defendant; and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Part.

Definition of principal terms used. (1988 c.33 s.74.)

(2) Property is not realisable property if —

- (a) an order under section 67 below (deprivation orders); or
- (b) an order under section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders),

is in force in respect of the property.

(3) For the purposes of this Part the amount that might be realised at the time a confiscation order is made is —

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Part.

(4) Subject to the following provisions of this section, for the purposes of this Part the value of property (other than cash) in relation to any person holding the property —

- (a) where any other person holds an interest in the property, is —
  - (i) the market value of the first mentioned person's beneficial interest in the property, less
  - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest; and (b) in any other case, is its market value.
- (b) in any other case, is its market value.

(5) References in this Part to the value at any time (referred to in subsection (6) below as "the material time") of any property obtained by a person as a result of or in connection with the commission of an offence are references to —

- (a) the value of the property to him when he obtained it adjusted to take account of subsequent charges in the value of money; or
- (b) where subsection (6) below applies, the value there mentioned,

whichever is the greater.

(6) If at the material time he holds —

- (a) the property which he obtained (not being cash); or
- (b) the property which, in whole or in part, directly or indirectly represents in his hands the property which he obtained,

the value referred to in subsection (5)(b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above, so far as it so represents the property which he obtained, but disregarding any charging order.

(7) Subject to subsection (12) below, references in this Part to the value at any time (referred to in subsection (8) below as "the material time") of a gift caught by this Part are references to —

- (a) the value of the gift to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or
- (b) where subsection (8) below applies, the value there mentioned,

whichever is the greater.

(8) Subject to subsection (12) below, if at the material time he holds —

- (a) the property which he received (not being cash) or
- (b) the property which, in whole or in part, directly or indirectly represents in his hands the property which he received;

the value referred to in subsection (7) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding any charging order.

(9) For the purposes of subsection (3) above, an obligation has priority at any time if it is an obligation of the defendant to —

- (a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or
- (b) pay any sum which would be included among the preferential debts (within the meaning given to that term by the Bankruptcy Act 1914 in its application to the Falkland Islands) in the defendant's bankruptcy commencing on the date of the confiscation order or on the defendant's winding-up under an order of the court made on that date.

(10) A gift (including a gift made before the commencement of this Part) is caught by this Part if —

- (a) it was made by the defendant at any time after the commission of the offence or, if more than one, the earliest of the offences to which the proceedings for the time being relate; and
- (b) the court considers it appropriate in all the circumstances to take the gift into account.

(11) The reference in subsection (10) above to an offence to which the proceedings for the time being relate includes, where the proceedings have resulted in the conviction of the defendant, a reference to any offence which the court takes into consideration when determining his sentence.

(12) For the purposes of this Part —

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and
- (b) in those circumstances, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

*Enforcement, etc. of confiscation orders*

53. (1) Where a court orders the defendant to pay an amount under section 49 above, section 42(1) to (6) above shall have effect as if that amount were a fine imposed on him by the court.

Application of procedure for enforcing fines. (1988 c.33 s.75.)

(2) Where —

- (a) a warrant of commitment is issued for a default in payment of an amount ordered to be paid under this Part in respect of an offence; and
- (b) at the time the warrant is issued, the defendant is liable to serve a term of custody in respect of the offence; the term of imprisonment or of detention under section 28 above (detention of persons aged seventeen to twenty for default) to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b) above.

(3) The reference in subsection (2) above to the term of custody which the defendant is liable to serve in respect of the offence, is a reference to the term of imprisonment or detention in a young offender institution which is liable to serve in respect of the offence; and for the purposes of this subsection —

- (a) consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; and
- (b) there shall be disregarded —
  - (i) any sentence suspended under section 28(1) above which has not taken effect at the time the warrant is issued;
  - (ii) in the case of a sentence of imprisonment passed with an order under section 34(7) above, any part of the sentence which the defendant has not at that time been required to serve in prison;
  - (iii) any term of imprisonment or detention fixed under section 42(2) above for which a warrant of commitment has not been issued at that time.

(4) This section applies in relation to confiscation orders made by an appellate court or court of further appeal as it applies in relation to confiscation orders made by the court of trial, and the reference in subsection (1) above to the court shall be construed accordingly.

54. (1) The powers conferred on the Supreme Court in the exercise of its civil jurisdiction by sections 55 (1) and 56(1) below are exercisable where —

Cases in which restraint orders and charging orders may be made. (1988 c.33 s.76.)

- (a) proceedings have been instituted in the Falkland Islands against the defendant for an offence to which this Part applies;
- (b) the proceedings have not been concluded; and
- (c) either a confiscation order has been made or it appears to the court that there are reasonable grounds for thinking that a confiscation order may be made in them.

(2) Those powers are also exercisable where —

- (a) the court is satisfied that, whether by the laying of information or otherwise, a person is to be charged with an offence to which this Part applies; and
- (b) it appears to the court that a confiscation order may be made in proceedings for the offence.

(3) For the purposes of sections 55 and 56 below at any time when the powers are exercisable before the proceedings have been instituted —

- (a) references in this Part to the defendant shall be construed as references to the person referred to in subsection (2)(a) above;
- (b) references in this Part to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) above for an offence to which this Part applies.

(4) Where the court has made an order under section 55(1) or 56(1) below by virtue of subsection (2) above, the court shall discharge the order if proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise) within such time as the court considers reasonable.

55. (1) The Supreme Court may by order (referred to in this Part as a "restraint order") prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

Restraint orders.  
(1988 c.33 s.77.)

(2) Without prejudice to the generality of subsection (1) above, a restraint order may make such provision as the court thinks fit for living expenses and legal expenses.

(3) A restraint order may apply —

- (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
- (b) to realisable property held by a specified person, being property transferred to him after making of the order.

(4) This section shall not have effect in relation to any property for the time being subject to a charge under section 56 below.

(5) A restraint order —

- (a) may be made only on an application by or on behalf of the Attorney General;
- (b) may be made on an *ex parte* application to a judge in chambers; and
- (c) shall provide for notice to be given to persons affected by the order.

(6) A restraint order —

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged when proceedings for the offence are concluded.

(7) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(8) Where the Supreme Court has made a restraint order, the court may at any time appoint a receiver —

- (a) to take possession of any realisable property, and
- (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(9) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression) —

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
- (b) removing the property from the Falkland Islands.

(10) Where the Supreme Court has made a restraint order, a police officer may for the purpose of preventing any realisable property being removed from the Falkland Islands, seize the property.

(11) Property seized under subsection (10) above shall be dealt with in accordance with the court's directions.

56. (1) The Supreme Court may make a charging order on realisable property for securing the payment to the Crown —

- (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged; and
- (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.

Charging orders  
in respect of  
land securities  
etc. (1988 c.33  
s.78.)

(2) For the purposes of this Part, a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(3) A charging order

- (a) may be made only on an application by the Attorney General;
- (b) may be made on an *ex parte* application to a judge in chambers;
- (c) shall provide for notice to be given to persons affected by the order; and
- (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(4) Subject to subsection (6) below, a charge may be imposed by charging order only on —

- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Part —
  - (i) in any asset of a kind mentioned in subsection (5) below; or
  - (ii) under any trust; or
- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge made by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the above-mentioned trust.

(5) The assets referred to in subsection (4) above are —

- (a) land in the Falkland Islands; or
- (b) securities of any of the following kinds -
  - (i) government stock;
  - (ii) stock of any body (other than a building society or co-operative society) incorporated within the Falkland Islands;
  - (iii) stock of any body incorporated outside the Falkland Islands or of any country or territory outside the Falkland Islands, being stock registered in a register kept at any place within the Falkland Islands;
  - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Falkland Islands.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount payment of which is secured by the charge is paid into court.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

57. (1) Where —

- (a) a confiscation order is made;
- (b) the order is not subject to appeal; and
- (c) the proceedings in which it was made have not been concluded,

the Supreme Court may, on an application by the Attorney General, exercise the powers conferred by subsections (2) to (6) below.

(2) The court may appoint a receiver in respect of realisable property.

Realisation of  
property. (1988  
c.33 s.80.)

(3) The court may empower a receiver appointed under subsection (2) above, under section 55 above or in pursuance of a charging order —

- (a) to enforce any charge imposed under section 56 above on realisable property or on interest or dividends payable in respect of such property; and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 56 above, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Part as the court may direct and the court may, on the payment being made, order, transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 56 above.

(8) The court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

58. (1) Subject to subsection (2) below, the following sums in the hands of a receiver appointed under this Part or in pursuance of a charging order, that is —

- (a) the proceeds of the enforcement of any charge imposed under section 56 above;
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 55 or 57 above; and
- (c) any other sums, being property held by the defendant;

Application of  
proceeds of  
realisation and  
other sums.  
(1988 c.33 s.81.)

shall first be applied in payment of such expenses as are payable under section 63(2) below and then shall, after such payments (if any) as the Supreme Court may direct have been made out of the sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any such sums remains in the hands of such a receiver, the receiver shall distribute them —

- (a) among such of those who held property which has been realised under this Part, and
- (b) in such proportions,

as the Supreme Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(3) The receipt of any sum by the responsible officer of any court on account of an amount payable under a confiscation order shall reduce the amount so payable, but the responsible officer shall apply the money received for the purposes specified in this section and in the order so specified.

(4) The appropriate officer shall first pay any expenses incurred by a person and payable under section 63(2) below but not already paid under subsection (1) above.

(5) If the money was paid to the appropriate officer by a receiver appointed under this Part or in pursuance of a charging order, the appropriate officer shall next pay the receiver's remuneration and expenses.

(6) After making —

- (a) any payment required by subsection (4) above; and

- (b) in a case to which subsection (5) above applies, any payment required by that subsection,
- the appropriate officer shall reimburse any amount paid under section 64(2) below.
- (7) The appropriate officer shall finally pay any compensation directed to be paid out of any sums recovered under the confiscation order under section 50(7) above.
  - (8) Any balance in the hands of the appropriate officer after he has made all payments required by the foregoing provisions of this section shall be treated as if it were a fine imposed by the court.
  - (9) Where under subsection (3) above a sum falls to be applied, in payment both of compensation and of other outgoings —
    - (a) the person entitled to the compensation shall be liable to pay to the Crown such an amount as bears to the remuneration or expenses the same proportion as the amount payable in accordance with the direction under section 50(7) above bears to the total amount payable under the confiscation order;
    - (b) the appropriate officer shall deduct from the amount falling to be applied in payment of the compensation an amount equal to the amount of any liability arising by virtue of paragraph (a) above;
    - (c) notwithstanding the deduction under paragraph (b) above, the person entitled to the compensation shall be treated as having received the whole amount which falls to be applied in payment of it; and
    - (d) the amount deducted shall be paid into the Consolidated Fund.

59. (1) This section applies to the powers conferred on the Supreme Court by sections 55 to 58 above or on a receiver appointed under this Part or in pursuance of a charging order.

Exercise of powers by Supreme Court or receiver. (1988 c.33 s.82.)

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available to satisfy the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case, the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Part, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligations to satisfy the confiscation order.

60. (1) If, on an application by the defendant in respect of the confiscation order, the Supreme Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order, the court shall issue a certificate to that effect, giving the court's reasons.

Variation of confiscation orders. (1988 c.33 s.83.)

(2) For the purposes of subsection (1) above —

- (a) in the case of realisable property held by a person who has been adjudged bankrupt or whose state has been sequestrated, the court shall take into account the extent to which any property held by him may be distributed among creditors; and
- (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Part from any realisation under this Part.

(3) Where a certificate has been issued under subsection (1) above, the defendant may apply to the court by which the confiscation order was made for the amount to be recovered under the order to be reduced.

(4) A court shall, on an application under subsection (3) above, substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case and substitute for the term of imprisonment or of detention fixed under section 42(2) above in respect of the amount to be recovered under the order, a shorter term determined in accordance with that section in respect of the lesser amount.

61. (1) Where a person who holds realisable property is adjudged bankrupt —

Bankruptcy of  
defendant etc.  
(1988 c.33 s.84.)

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and
- (b) any proceeds of property realised by virtue of section 55(8) or 57(5) or (6) above for the time being in the hands of the receiver appointed under section 55 or 57 above,

is excluded from the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986 in its application to the Falkland Islands.

(2) Where a person has been adjudged bankrupt, the powers conferred on the Supreme Court by sections 55 to 58 above or on a receiver so appointed shall not be exercised in relation to —

- (a) property for the time being comprised in the bankrupt's estate for the purposes of that Part of that Act;
- (b) property in respect of which his trustee in bankruptcy may (without leave of court) serve a notice under section 307 or 308 of that Act (after-acquired property and tools, clothes, etc. exceeding value of reasonable replacement); and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act.

(3) Nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order

- (a) made before the order adjudging the person bankrupt; or
- (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of that Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being the subject of the restraint order.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Part

- (a) no order shall be made under section 339 or 423 of that Act (avoidance of certain transactions) in respect of the making of the gift at any time when proceedings for an offence to which this Part applies have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Part of property held by the person to whom the gift was made.

(7) In any case in which a petition in bankruptcy was presented, or a receiving order or an adjudication in bankruptcy was made, before 29th December 1986 (the date on which the Insolvency Act 1986 came into force), this section shall have effect with the following modifications —



- (a) for references to the bankrupt's estate for the purposes of Part IX of that Act there shall be substituted references to the property of the bankrupt for the purposes of the Bankruptcy Act 1914 in its application to the Falkland Islands;
- (b) for references to the Act of 1986 and sections 280(2)(c), 286, 339 and 423 of that Act there shall be respectively substituted references to the Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act in their application to the Falkland Islands;
- (c) the reference in subsection (5) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to a receiver constituted by virtue of section 7 of the Act of 1914; and
- (d) subsection (2)(b) shall be omitted.

62. (1) Where realisable property is held by a company and an order for the winding-up of the company has been made or a resolution has been passed by the company for the voluntary winding-up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to —

Winding-up of company. (1988 c.33 s.86.)

- (a) property for the time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 55(8) or 57(5) or (6) above for the time being in the hands of a receiver appointed under section 55 or 57 above.

(2) Where, in the case of the company, such an order has been made or such a resolution has been passed, the powers conferred on the Supreme Court by sections 55 to 57 above or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable —

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors;
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding-up in respect of the property.

(3) Nothing in the Companies Act 1948 in its application to the Falkland Islands shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section —

“company” means any company which may be wound-up under the Companies Act 1948 in its application to the Falkland Islands; and

“the relevant time” means —

- (a) where no order for the winding-up of the company has been made, the time of the passing of the resolution for voluntary winding-up;
- (b) where such an order has been made and before the presentation of the petition for the winding-up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

63. (1) Without prejudice to the generality of any provision of the Insolvency Act 1986 or the Companies Act 1948 or of any other Act in its application to the Falkland Islands and to the provisions of any enactment of the Falkland Islands, where —

Insolvency officers dealing with property subject to restraint orders. (1988 c.33 s.87.)

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an Order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except insofar as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses —

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) for payment of those expenses under section 58(1) or (4) above.

(3) In this Part the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986.

64. (1) Where a receiver appointed under this Part or in pursuance of a charging order takes any action —

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property;
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

Receiver: supplementary provisions. (1988 c.33 s.88.)

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 58(5) above, be paid by the prosecutor or, in a case where proceedings for an offence to which this Part applies are not instituted, by the person on whose application the receiver was appointed.

65. (1) If proceedings are instituted against a person for an offence or offences to which section 49 above applies and either —

Compensation. (1988 c.33 s.89.)

- (a) the proceedings do not result in his conviction for any such offence, or
- (b) where he is convicted of one or more such offences —
  - (i) the conviction or convictions concerned are quashed, or
  - (ii) he is pardoned by the Governor in the name and on behalf of Her Majesty in respect of the conviction or convictions concerned,

the Supreme Court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Supreme Court shall not order compensation to be paid in any case unless the court is satisfied —

- (a) that there has been some serious default on the part of the person concerned in the investigation or prosecution of the offence concerned, being a person mentioned in subsection (5) below; and
- (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order under this Part.

(3) The court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued even if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the Supreme Court thinks just in all the circumstances of the case, and the compensation shall be charged upon and paid out of the Consolidated Fund.

(5) The persons referred to in subsection (2)(a) above are —

- (a) any member of the Falkland Islands Police Force;
- (b) any legal practitioner in the employment of the Crown;
- (c) the Collector of Customs; and
- (d) the Commissioner of Income Tax.

#### *Miscellaneous powers*

66. (1) Where an offender is committed by the Magistrate's Court or by the Summary Court for sentence under the provisions of any law providing for such committal, the Supreme Court shall enquire into the circumstances of the case and shall have power to deal with the offender in any manner in which it could deal with him if he had just been convicted of the offence by the Supreme Court.

Powers of  
Supreme Court  
on committal  
for sentence.  
(1973 c.62 s.42.)

(2) Where an offender aged fifteen or sixteen is committed by the Magistrate's Court or by the Summary Court for sentence the Supreme Court shall enquire into the circumstances of the case and shall have power —

- (a) subject to section 24 above (maximum term of detention in young offender institution of young offender under the age of seventeen), to sentence him to a term of detention in a young offender institution not exceeding the maximum term of imprisonment for the offence; or
- (b) to deal with him in any manner in which the court committing him for sentence might have dealt with him.

67. (1) Where a person is convicted of an offence punishable with imprisonment for a term of two years or more and the court by or before which he is convicted is satisfied that any property which was in his possession or under his control at the time of his apprehension —

Power to deprive  
offender of pro-  
perty used, or  
intended for  
purposes of  
crime.

- (a) has been used for the purpose of committing, or facilitating the commission of, any offence; or
- (b) was intended by him to be used for that purpose;

the court may make a order under this section in respect of that property.

(2) Facilitating the commission of an offence shall be taken for the purposes of this section and section 68 below to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection, and references in this or that section to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of a young offender.

(3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

(4) The Police (Property) Act 1897 in its application to the Falkland Islands shall apply, with the following modifications, to property which is in the possession of the police by virtue of this section —

- (a) no application shall be made under section 1 (1) of that Act by any claimant of the property after the expiration of 6 months from the date on which the order in respect of the property was made under this section; and
- (b) no such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property or that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in subsection (1) above.

(5) In relation to property which is in the possession of the police by virtue of this section, the power to make regulations under section 2 (1) of the Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained

and no order of a competent court has been with respect there to) shall include power to make regulations for disposal in cases where no application by a claimant of the property has been made within the period specified in subsection (4) (a) above or no such application has succeeded.

68. (1) This section applies where a person is convicted before the Supreme Court or the Magistrate's Court of an offence punishable with imprisonment for a term of two years or more or, having been convicted by the Summary Court of such an offence, is committed to the Supreme Court for sentence.

Driving disqualification where vehicle used for purposes of crime. (1973 c.62 s.44.)

(2) If in a case to which this section applies the Supreme Court, or as the case may be the Magistrate's Court, is satisfied that a motor vehicle was used (by the person convicted or by any one else) for the purpose of committing, or facilitating the commission of, the offence in question (within the meaning of section 67 above), the court may order the person convicted to be disqualified, from such period as the court thinks fit, for holding or obtaining a licence to drive a motor vehicle granted under the Road Traffic Ordinance.

(3) A court which makes an order under this section disqualifying a person for holding or obtaining any such licence as is mentioned in subsection (2) above shall require him to produce any such licence held by him; and if he does not produce the licence as required he commits an offence under section 5(10) of the Road Traffic Ordinance (failure to produce licence for endorsement).

### *Supplemental*

69. (1) The Governor may by regulations make provision requiring that in any case to which the regulations apply a court or court of particular description shall before passing on any person a sentence to which the regulations apply consider a social enquiry report, that is to say report about him and his circumstances, made by a probation officer or any other person authorised to do so by the rules.

Social enquiry report before sentence.

(2) Regulations under this section may apply to a sentence of imprisonment or detention of any class prescribed by the regulations and may make different provisions for different cases.

(3) No sentence shall be invalidated by the failure of a court to consider a social enquiry report in accordance with regulations under subsection (1) above, but any other court on appeal from that court shall consider such a report in determining whether a different sentence should be passed on the applicant from the sentence passed on him by the court below.

(4) In this section "sentence of imprisonment or detention" means a sentence of imprisonment, or a sentence of detention passed under section 53 or the Children and Young Persons Act 1933 (young offenders convicted of grave crimes) in its application to the Falkland Islands.

70. (1) Subject to subsection (2) below, where a report by a probation officer is made to any court with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, a copy of the report shall be given by the court to the offender or the legal practitioner representing him (if any).

Reports of probation officers.

(2) If the offender is under seventeen years of age and is not represented by any legal practitioner, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

## PART IV

### REHABILITATION OF OFFENDERS

#### *Preliminary*

71. (1) Subject to subsection (2) below, where an individual has been convicted, whether before or after the commencement of this Part, of any offence or offences, and the following conditions are satisfied, that is to say —

Rehabilitated persons and spent convictions. (1974 c.53 s.1.)

- (a) he did not have imposed on him in respect of that conviction a sentence which is excluded from rehabilitation under this Part; and

- (b) he has not had imposed on him in respect of a subsequent conviction during the rehabilitation period applicable to the first - mentioned conviction in accordance with section 74 below a sentence which is excluded from rehabilitation under this Part;

then after the end of the rehabilitation period so applicable (including, where appropriate any extension under section 74 (4) below of the period originally applicable to the first - mentioned conviction) or, where that rehabilitation period ended before the commencement of this Part, after the commencement of this Part, that individual shall for the purposes of this Part be treated as a rehabilitated person in respect of the first - mentioned conviction and that conviction shall for those purposes be treated as spent.

(2) A person shall not become a rehabilitated person for the purposes of this Part in respect of a conviction unless he has served or otherwise undergone or complied with any sentence imposed on him in respect of that conviction; but the following shall not, by virtue of this subsection, prevent a person from becoming a rehabilitated person for those purposes —

- (a) failure to pay a fine or other sum adjudged to be paid by or imposed on a conviction, or breach of a condition of a recognizance to keep the peace or be of good behaviour;
- (b) breach of any condition or requirement applicable in relation to a sentence which renders the person to whom it applies liable to be dealt with for the offence for which the sentence was imposed, or, where the sentence was a suspended sentence of imprisonment, liable to be dealt with in respect of that sentence (whether or not, in any case, he is in fact so dealt with);
- (c) failure to comply with any requirement of a suspended sentence supervision order.

(3) Where in respect of a conviction a person has been sentenced to imprisonment with an Order under section 34(7) of this Ordinance, he is to be treated for the purposes of subsection (2) above as having served the sentence as soon as he completes service of so much of the sentence as was by that order required to be served in prison.

(4) In this Part "sentence" includes any order made by a court in dealing with a person in respect for his conviction of any offence or offences, other than —

- (a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction, or for want of sufficient distress to satisfy any such fine or other sum;
- (b) an order dealing with a person in respect of a suspended sentence of imprisonment.

(5) In this Part, references to a conviction, however expressed, include references —

- (a) to a conviction by or before a court outside the Falkland Islands; and
- (b) to any finding (other than a finding linked with a finding of insanity) in any criminal proceedings or in care proceedings under section 1 of the Children and Young Persons Act 1969 in its application to the Falkland Islands that a person has committed an offence or done the act or made the admission charge;

and notwithstanding anything in section 18 above (conviction of a person put on probation or discharged to be deemed to not be a conviction) a conviction in respect of which an order is made placing the person convicted on probation or discharging him absolutely or conditionally shall be treated as a conviction for the purposes of this Part and the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction for those purposes accordingly.

72. (1) Subject to sections 75 and 76 below, a person who has become a rehabilitated person for the purposes of this Part in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction; and notwithstanding the provisions of any other enactment or rule of law to the contrary, but subject as aforesaid —

Effect of  
rehabilitation.  
(1974 c.53 s.4.)

- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Falkland Islands to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was a subject of a spent conviction; and
  - (b) a person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.
- (2) Subject to the provisions of any order made under subsection (4) below, where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or any other person otherwise than in proceedings before a judicial authority —
- (a) the question shall be treated as not relating to spent convictions or to any circumstances and ancillary to spent convictions, and the answer thereto may be framed accordingly; and
  - (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstance ancillary to a spent conviction in his answer to the question.
- (3) Subject to the provisions of any order made under subsection (4) below —
- (a) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction or any circumstances ancillary to a spent conviction (whether the conviction is his own or another's); and
  - (b) a conviction which has become spent or any circumstances ancillary thereto, or any failure to disclose a spent conviction or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or prejudice him in any way in any occupation or employment.
- (4) The Governor may by order —
- (a) make such provisions as seem to him appropriate for excluding or modifying the application of either or both of paragraphs (a) and (b) of subsection (2) above in relation to the questions put in such circumstances as may be specified in the order;
  - (b) provide for such exceptions from the provisions of subsection (3) above as seem to him appropriate, in such cases or classes of case, and in relation to convictions of such a description, as may be specified in the order.
- (5) For the purposes of this section and section 75 below any of the following are circumstances ancillary to a conviction, that is to say —
- (a) the offence or offences which were the subject of that conviction;
  - (b) the conduct constituting that offence or those offences; and
  - (c) any process or proceedings preliminary to that conviction any sentence imposed in respect of that conviction, any proceedings (whether by way of appeal or otherwise) for reviewing that conviction or any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.
- (6) For the purposes of this section and section 75 below "proceedings before a judicial authority" includes, in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power —
- (a) by virtue of any enactment, law, custom or practice;

- (b) under the rules governing any association, institution, profession, occupation or employment; or
- (c) under any provision of an agreement providing for arbitration with respect to questions arising thereunder,

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.

#### *Rehabilitation periods*

73. (1) The sentences excluded from rehabilitation under this Part are —

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment or youth custody for a term exceeding thirty months;
- (c) a sentence of detention during Her Majesty's pleasure or for life, or for a term exceeding thirty months passed under section 53 of the Children and Young Persons Act 1933 (young offenders convicted of grave crimes) in its application to the Falkland Islands; and
- (d) a sentence of custody for life,

Rehabilitation  
periods for par-  
ticular sentences.  
(1974 c.53 s.5.)

and any other sentence is a sentence subject to rehabilitation under this Part.

(2) For the purposes of this Part —

- (a) the rehabilitation period applicable to a sentence specified in the first column of Table A below is the period specified in the second column of that Table in relation to that sentence, or, where the sentence was imposed on a person who was under seventeen years of age of the date of his conviction, half that period; and
- (b) the rehabilitation period applicable to a sentence specified in the first column of Table B below is the period specified in the second column of that Table in relation to that sentence,

reckoned in either case from the date of the conviction in respect of which the sentence was imposed.

#### T A B L E   A

Rehabilitation periods subject to reduction by half for persons under seventeen

<u>Sentence</u>	<u>Rehabilitation period</u>
A sentence of imprisonment or youth custody for a term exceeding six months but not exceeding thirty months.	Ten years.
A sentence of imprisonment or youth custody for a term not exceeding six months.	Seven years.
A fine or any other sentence subject to rehabilitation under this Part, not being a sentence to which Table B below or any of subsections (3) or (6) below applies.	Five years.

TABLE B

Rehabilitation periods for certain sentences confined to young offenders

<u>Sentence</u>	<u>Rehabilitation period</u>
A sentence of detention for a term exceeding 6 months but not exceeding 30 months passed under section 53 of the Children and Young Persons Act 1933 in its application to the Falkland Islands.	Five years.
A order for detention in a young offenders institution made under section 23 above.	Three years.

(3) The rehabilitation period applicable to an order discharging a person absolutely for an offence shall be six months from the date of the conviction.

(4) Where in respect of a conviction a person was conditionally discharged, bound over to keep the peace or be of good behaviour, or placed on probation, the rehabilitation period applicable to the sentence shall be one year from the date of the conviction or a period beginning with that date and ending when the order for conditional discharge or probation order or (as the case may be) the recognizance to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

(5) Where in respect of a conviction any of the following sentences was imposed, that is to say —

- (a) an order under section 57 of the Children and Young Persons Act 1933 in its application to the Falkland Islands committing the person convicted to the care of a fit person;
- (b) a supervision order under any provision of the Children and Young Persons Act 1933 or the Children and Young Persons Act 1963 in its application to the Falkland Islands;
- (c) a care order or a supervision order under any provision of the Children and Young Persons Act 1969 in its application to the Falkland Islands,

the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.

(6) Where in respect of the conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.

(7) For the purposes of this section —

- (a) consecutive terms of imprisonment or of detention under section 53 of the Children and Young Persons Act 1933 in its application to the Falkland Islands, and terms which are wholly or partly concurrent (being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
- (b) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed; and
- (c) a sentence imposed by a court outside the Falkland Islands shall be treated as a sentence of that one of the descriptions mentioned in this section which most nearly corresponds to the sentence imposed.



(8) References in this section to the period during which a probation order, or a care order or supervision order under the Children and Young Persons Act 1969 in its application to the Falkland Islands, is or was in force include references to any period to which any order or requirement to which this subsection applies, being an order or requirement made or imposed directly or indirectly in substitution for the first mentioned order or requirement, is or was in force.

74. (1) Where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Part) the rehabilitation period applicable to the conviction is, subject to the following provisions of this section, the period applicable to the sentence in accordance with section 73 above.

The rehabilitation period applicable to a conviction. (1974 c.53 s.6.)

(2) Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Part, then, subject to the following provisions of this section, if the periods applicable to those sentences in accordance with section 73 above differ, the rehabilitation period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.

(3) Without prejudice to subsection (2) above, where in respect of a conviction a person was conditionally discharged or placed on probation and after the end of the rehabilitation period applicable to the conviction in accordance with subsection (1) or (2) above he is dealt with, in consequence of a breach of conditional discharge or probation, for the offence for which the order for conditional discharge or probation order was made, then, if the rehabilitation period applicable to the conviction in accordance with subsection (2) above (taking into account any sentence imposed when he is so dealt with) ends later than the rehabilitation period previously applicable to the conviction, he shall be treated for the purposes of this Part as not having become a rehabilitated person in respect of that conviction, and the conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.

(4) Subject to subsection (5) below, where during the rehabilitation period applicable to a conviction —

- (a) the person convicted is convicted of a further offence; and
- (b) no sentence excluded from rehabilitation under this Part is imposed on him in respect of the later conviction;

if the rehabilitation period applicable in accordance with this section to either of the convictions would end earlier than the period so applicable in relation to the other, the rehabilitation period which would (apart from this subsection) end the earlier shall be extended so as to end at the same time as the other rehabilitation period.

(5) For the purposes of subsection (4)(a) above there shall be disregarded any conviction by or before a court outside the Falkland Islands of an offence in respect of the conduct of which, if it had taken place in the Falkland Islands, would not have constituted an offence in the Falkland Islands.

75. (1) Nothing in section 72 (1) above shall affect —

- (a) the exercise by the Governor of any of his powers under section 65 of Constitution (powers of pardon etc);
- (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
- (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction; or
- (d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond that of the rehabilitation period applicable in accordance with section 74 above to the conviction.

Limitations on rehabilitation under this Part, etc. (1974 c.53 s.7.)

(2) Nothing in section 72 (1) above shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto —

- (a) in any criminal proceedings before a court in the Falkland Islands (including any appeal or reference in a criminal matter);
- (b) in any proceedings relating to adoption or to the guardianship, wardship, marriage, custody, care or control of, or access to, any minor, or to the provision by any person of accommodation, care or schooling for minors;
- (c) in any care proceedings under section 1 of the Children and Young Persons Act 1969 in its application to the Falkland Islands or on appeal from any such proceedings, or in any proceedings relating to the variation or discharge of a care order or supervision order under that Act;
- (d) in any proceedings in which he is a party or a witness, provided that, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding the provisions of section 72 (1) above.

(3) If at any stage in any proceedings before a judicial authority in the Falkland Islands (not being proceedings to which by virtue of any of the paragraphs of subsection (2) above section 72(1) above has no application, or proceedings to which section 76 below applies) the authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding the provisions of section 72 (1) above, and may determine any issue to which the evidence relates in disregard, so far as necessary, of those provisions.

(4) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

76. (1) This section applies to any action for libel or slander begun after the commencement of this Part by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.

Defamation actions. (1974 c.53 s.8.)

(2) Nothing in section 72(1) above shall affect an action to which this section applies where the publication complained of took place before the conviction in question became spent, and the following provisions of this section shall not apply in any such case.

(3) Subject to subsections (5) and (6) below, nothing in section 72(1) above shall prevent the defendant in an action to which this section applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him, or restrict the matters he may have established in support of any such defence.

(4) Without prejudice to the generality of subsection (3) above, where in any such action malice is alleged against the defendant who is relying on a defence of qualified privilege, nothing in section 72(1) above shall restrict the matters he may establish in rebuttal of the allegation.

(5) A defendant in any such action shall not by virtue of subsection (3) above be entitled to rely upon the defence of justification if the publication is proved to have been made with malice.

(6) Subject to subsection (7) below a defendant in any such action shall not, by virtue of subsection (3) above, be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing (whether under section 3 of the Law of Libel Amendment Act 1888 in its application to the Falkland Islands or otherwise) the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled inadmissible in the proceedings by virtue of section 72(1) above.

(7) Subsection (3) above shall apply without the qualifications imposed by section (6) in relation to —

- (a) any report of judicial proceedings contained in any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law; and

- (b) any report or account of judicial proceedings published for *bona fide* educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.

77. (1) In this section —

“official record” means a record kept for the purposes of its functions by any court, police force, Government department or other public authority in the Falkland Islands, or a record kept, in the Falkland Islands or elsewhere, for the purposes of any of Her Majesty’s Forces, being in either case a record containing information about persons convicted of offences; and

“specified information” means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction.

(2) Subject to the provisions of any order made under subsection (5) below, any person who, in the course of his official duties has at any time had custody of or access to any official record or the information contained therein, commits an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained in the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.

(3) In any proceedings for an offence under subsection (2) above it shall be a defence for the accused person to show that the disclosure was made —

- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person; or
- (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(4) A person who obtains any specified information for an official record by means of any fraud, dishonesty or bribe commits an offence.

(5) A person who is convicted of an offence under subsection (2) above shall be liable to a fine not exceeding the maximum of level 4 on the standard scale.

(6) A person who is convicted of an offence under subsection (4) above shall be liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for 6 months or to both.

(7) Proceedings for an offence under subsection (2) or (4) shall not be instituted except by or by the direction of the Attorney General.

## PART V

### BAIL

#### *Preliminary*

78. (1) In this Part “bail in criminal proceedings” means —

- (a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence, or
- (b) bail grantable in connection with an offence to a person who is under arrest for the offence or for whose arrest for the offence a warrant (endorsed for bail) is being issued.

(2) In this Part “bail” means bail grantable under the law (including common law) for the time being in force.

(3) This section does not apply to bail in or in connection with proceedings outside the Falkland Islands.

Unauthorised disclosure of spent convictions. (1974 c.53 s.9.)

Meaning of “bail in criminal proceedings”. (1976 c.63 s.1)

(4) This section does not apply to bail granted before the coming into force of this Ordinance.

(5) This section applies —

- (a) whether the offence was committed in the Falkland Islands or elsewhere,
- (b) whether it is an offence under the law of the Falkland Islands, or of any other country or territory.

(6) Bail in criminal proceedings shall be granted (and in particular shall be granted unconditionally or conditionally) in accordance with this Part.

79. (1) In this Part, unless the context otherwise requires, "conviction" includes —

- (a) a finding of guilt;
- (b) a finding that a person is not guilty by reason of insanity;
- (c) a finding under any provision of law providing for remand for medical examination that the person in question did the act or made the omission charged; and
- (d) a conviction of an offence for which an order is made placing the offender on probation or discharging him absolutely or conditionally,

Other definitions. (1976 c.63 s.2.)

and "convicted" shall be construed accordingly.

(2) In this Part, unless the context otherwise requires —

"child" means a person under the age of fourteen;

"court" includes a judge of a court, including the Senior Magistrate and a Magistrate or a justice of the peace and, in the case of a specified court, includes a judge or (as the case may be) Senior Magistrate or Magistrate or justice having powers to act in connection with proceedings before that court;

"offence" includes an alleged offence;

"proceedings against a fugitive offender" means proceedings under section 9 of the Extradition Act 1870 or section 7 of the Fugitive Offenders Act 1967 in their respective application to the Falkland Islands;

"surrender to custody" means, in relation to a person released on bail, surrendering himself into the custody of the court or of a police officer (according to the requirements of the grant of bail) at the time and place for the time being appointed for him to do so;

"vary", in relation to bail, means imposing further conditions after bail is granted, or varying or rescinding conditions;

"young person" means a person who has attained the age of fourteen and is under the age of seventeen.

(3) Where an enactment (whenever made) which relates to bail in criminal proceedings refers to the person bailed appearing before a court, it is to be construed unless the context otherwise requires as referring to his surrendering himself into the custody of the court.

(4) Any reference in this Part to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Part.

#### *Incidents of bail in criminal proceedings*

80. (1) A person granted bail in criminal proceedings shall be under a duty to surrender to custody, and that duty is enforceable in accordance with section 83 of this Ordinance.

General provisions. (1976 c.63 s.3.)

(2) No recognizance for his surrender to custody shall be taken from him.

(3) Except as provided by this section —

- (a) no security for his surrender to custody shall be taken from him,
- (b) he shall not be required to provide a surety or sureties for his surrender to custody, and
- (c) no other requirement shall be imposed on him as a condition of bail.

(4) He may be required, before release on bail, to provide a surety or sureties to secure his surrender to custody.

(5) If it appears that he is unlikely to remain in the Falkland Islands until the time appointed for him to surrender to custody, he may be required, before release on bail, to give security for his surrender to custody. The security may be given by him or on his behalf.

(6) He may be required (but only by a court) to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that —

- (a) he surrenders to custody,
- (b) he does not commit an offence while on bail,
- (c) he does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person,
- (d) he makes himself available for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence.

(7) If a parent or guardian of a child or young person consents to be surety for the child or young person for the purposes of this subsection, the parent or guardian may be required to secure that the child or young person complies with any requirement imposed on him by the court on granting or varying the conditions of bail but —

- (a) no requirements shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young person will attain the age of seventeen before the time to be appointed for him to surrender to custody; and
- (b) the parent or guardian shall not be required to secure compliance with any requirement to which his consent does not extend and shall not, in respect of those requirements to which his consent does extend, be bound in a sum greater than £200.

(8) Where a court has granted bail in criminal proceedings the court or, where that court has committed a person on bail to the Supreme Court for trial or to be sentenced or otherwise dealt with, that court or the Supreme Court may on application —

- (a) by or on behalf of the person to whom bail was granted, or
- (b) by the prosecutor or a police officer, vary the conditions of bail or impose conditions in respect of bail which has been granted unconditionally.

#### *Bail for accused persons and others*

81. (1) A person to whom this section applies shall be granted bail except as provided in Schedule 3 to this Ordinance.

(2) This section applies to a person who is accused of an offence when —

- (a) he appears or is brought before the Summary Court, the Magistrate's Court or the Supreme Court in the course of or in connection with proceedings for the offence, or
- (b) he applies to a court for bail in connection with the proceedings.

This subsection does not apply, as respects proceedings on or after a person's conviction of the offence or proceedings against a fugitive offender for the offence.

(3) This section also applies to a person who, having been convicted of an offence, appears or is brought before a court to be dealt with the antecedent provisions of this Ordinance relating to breach of a requirement of a probation order or of a community service order.

(4) This section also applies to a person who has been convicted of an offence and whose case is adjourned by the court for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence.

(5) Schedule 3 to this Ordinance also has effect as respects conditions of bail for a person to whom this section applies.

(6) In Schedule 3 to this Ordinance "the defendant" means a person to whom this section applies and any reference to a defendant whose case is adjourned for enquiries or a report is a reference to a person to whom this section applies by virtue of subsection (4) above.

(7) Notwithstanding the foregoing provisions of this section, a person charged with treason shall not be granted bail except by order of a judge of the Supreme Court or of the Governor.

General rights to bail of accused persons and others. (1976 c.63 s.4.)

*Supplementary*

82. (1) Subject to subsection (2) below, where —

- (a) a court or police officer grants bail in criminal proceedings; or
- (b) a court withholds bail in criminal proceedings from a person to whom section 81 above applies, or
- (c) a court, officer of the court or police officer appoints a time or place or a court or officer of the court appoints a different time or place for a person granted bail in criminal proceedings to surrender to custody; or
- (d) a court varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

Supplementary provisions about decisions on bail. (1976 c.63 s.5.)

that court, officer or police officer shall make a record of the decision in the prescribed manner and containing the prescribed particulars and, if requested to do so by the person in relation to whom the decision was taken, shall cause him to be given a copy of the record of the decision as soon as practicable after the record is made.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest for bail the police officer who releases on bail the person arrested shall make the record required by subsection (1) above instead of the judge, Senior Magistrate or justice who issued the warrant.

(3) Where the Summary Court, the Magistrate's Court or the Supreme Court

- (a) withholds bail in criminal proceedings, or
- (b) imposes conditions in granting bail in criminal proceedings, or
- (c) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings, and does so in relation to a person to whom section 81 above applies, then the court shall, with a view to enabling him to consider making an application in the matter to the Supreme Court or another judge of the Supreme Court, give reasons for withholding bail or for imposing or varying the conditions.

(4) A court which is by virtue of subsection (3) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and shall (except in a case where, by virtue of subsection (5) below this need not be done) give a copy of that note to the person in relation to whom the decision was taken.

(5) A court need not give a copy of the note of the reasons for its decision to the person in relation in whom the decision was taken where that person is represented by a legal practitioner unless that legal practitioner requests the court to do so.

(6) Where the Summary Court or the Magistrate's Court withholds bail in criminal proceedings from a person who is not represented by a legal practitioner the court shall inform him that he may apply to the Supreme Court to be granted bail.

(7) Where a person has given security in pursuance of section 80 (5) above, and a court is satisfied that he failed to surrender to custody then, unless it appears that he had reasonable cause for his failure, the court may order the forfeiture of the security.

(8) If a court orders the forfeiture of his security under subsection (7) above, the court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(9) An order under subsection (7) above shall, unless previously revoked, take effect at the end of 21 days beginning with the day on which it was made.

(10) A court which has ordered the forfeiture of a security under subsection (7) above may, if satisfied on an application made by or on behalf of the person who gave it that he did after all have reasonable cause for his failure to surrender to custody, by order remit the forfeiture or declare that it extends to such amount less than the full value of the security as it thinks fit to order.

(11) An application under subsection (9) above may be made before or after the order for forfeiture has taken effect, but shall not be entertained unless the court is satisfied that the prosecution was given reasonable notice of the applicant's intention to make it.

(12) A security which has been ordered to be forfeited by a court under subsection (7) above shall, to the extent of the forfeiture

(a) if it consists of money, be accounted for and paid in the same manner as a fine imposed by that court would be;

(b) if it does not consist of money, be enforced by the Magistrate's Court.

(13) Where an order is made under subsection (9) above after the order for forfeiture of the security in question has taken effect, any money which would have fallen to be repaid or paid over to the person who gave the security if the order under subsection (9) had been made before the order for forfeiture took effect shall be repaid or paid over to him.

(14) In this section "prescribed", in relation to the decision of a court or an officer of the court, means prescribed by rules applying to the court in question or, in relation to a decision of a police officer, prescribed by direction of the Attorney General.

83. (1) A person who has been released on bail in criminal proceedings commits an offence if without reasonable cause he fails to surrender to custody.

Offence of  
absconding by  
person released  
on bail. (1976  
c.63 s.6.)

(2) If a person who has been released on bail in criminal proceedings, and

(a) has been released on bail in criminal proceedings, and

(b) having reasonable cause therefor, has failed to surrender to custody,

fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he commits an offence.

(3) It shall be for the accused to prove that he had reasonable cause for his failure to surrender to custody.

(4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.

(5) Where the Summary Court convicts a person of an offence under subsection (1) or (2) above the court may if it thinks —

(a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than that court has power to inflict; or

(b) in a case where it commits that person for trial to the Supreme Court for another offence, that it would be appropriate for him to be dealt with for the offence under subsection (1) or (2) above by the Supreme Court,

commit him in custody or on bail to the Supreme Court for sentence.

(6) A person who is convicted of an offence under subsection (1) or (2) above and is not committed to the Supreme Court for sentence shall be liable to imprisonment for a term not exceeding three years (if he is so convicted by the Magistrate's Court) or to a term not exceeding 3 months (if he is so convicted by the Summary Court) and, in either case in addition to any such term of imprisonment to a fine not exceeding the maximum of level 5 on the standard scale and a person who is so committed for sentence or is dealt with by the Supreme Court shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding the maximum of level 7 on the standard scale or to both.

(7) In any proceedings for an offence under subsection (1) or (2) above a document purporting to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and to be duly certified to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(8) For the purposes of subsection (7) above —

(a) "the prescribed record" means the record of the decision of the court, officer or police officer made in pursuance of section 82 (1) above;

(b) the copy of the prescribed record is duly certified if it is certified by the appropriate officer of the court or, as the case may be, by the police officer who took the decision or a police officer designated for the purpose by the chief officer of police;

- (c) "the appropriate officer" of the court is,
  - (i) in relation to the Magistrate's Court and the Summary Court the clerk to such court
  - (ii) in the case of the Supreme Court, the Registrar of the Supreme Court;
  - (iii) in the case of the court of appeal, the Registrar of that court or any deputy registrar of that court.

84. (1) If a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of the court fails to surrender to custody at the time appointed for him to do so the court may issue a warrant for his arrest.

Liability to arrest for absconding or breaking conditions of bail. (1976 c.63 s.7.)

(2) If a person who has been released on bail in criminal proceedings absents himself from the court at any time after he has surrendered into the custody of the court and before the court is ready to begin or to resume the hearing of the proceedings, the court may issue a warrant for his arrest; but no warrant shall be issued under this subsection where that person is absent in accordance with leave given to him by or on behalf of the court.

(3) A person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a court may be arrested without warrant by a police officer —

- (a) if the police officer has reasonable grounds for believing that that person is not likely to surrender to custody;
  - (b) if the police officer has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
  - (c) in a case where that person was released on bail with one or more surety or sureties, if a surety notifies a police officer in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.
- (4) A person arrested in pursuance of subsection (3) above —
- (a) shall, except where he was arrested within 24 hours of the time appointed for him to surrender to custody, be brought as soon as practicable and in any event within 24 hours after his arrest before the Senior Magistrate or a justice of the peace; and
  - (b) in the said excepted case shall be brought before the court at which he was to have surrendered to custody.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(5) The Senior Magistrate or a justice of the peace, when a person is brought under subsection (4) above before him, may subject to subsection (6) below, if he is of opinion that that person —

- (a) is not likely to surrender to custody, or
- (b) has broken or is likely to break any condition of his bail, remand him in custody or commit him to custody, as the case may require, or alternatively, grant him bail subject to the same or to different conditions, but if not of that opinion shall grant him bail subject to the same conditions (if any) as were originally imposed.

(6) Where the person so brought before the Senior Magistrate or a justice of the peace is a child or young person and bail is not then granted to that person, subsection (5) above shall have effect subject to the provisions of section 23 of the Children and Young Persons Act 1969 in its application to the Falkland Islands.

85. (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides one or more surety or sureties for the purpose of securing that he surrenders to custody.

Bail with sureties. (1976 c.63 s.8)

(2) In considering the suitability for that purpose of a proposed surety, regard may be had (amongst other things) to —

- (a) the surety's financial resources;
- (b) his character and any previous convictions of his; and
- (c) his proximity (whether in point of kinship, place of residence or otherwise) to the person for whom he is to be surety.



(3) Where a court grants a person bail in criminal proceedings on such a condition but is unable to release him because no surety or no suitable surety is available, the court shall fix the amount in which the surety is to be bound and subsections (4) and (5) below shall apply for the purpose of enabling the recognizance of the surety to be entered into subsequently.

(4) Where this subsection applies the recognizance of the surety may be entered into before such of the following persons or descriptions of persons as the court may by order specify or, if it makes no such order, before any of the following persons, that is to say —

- (a) where the decision is taken by the Magistrate's Court or the Summary Court, before the Senior Magistrate, a justice of the peace, or a police officer who is either of the rank of sergeant or above or is, at the time in question, the senior officer on duty at the Police Station Stanley;
- (b) where the decision is taken by the Supreme Court, before any of the persons specified in paragraph (a) above or before the Registrar of the Supreme Court;
- (c) where the decision is taken by the Court of Appeal, before any of the persons specified in paragraph (a) above, the Registrar of the Supreme Court, the Registrar or any Deputy Registrar of the Court of Appeal or, if the Court of Appeal rules so provide, by a person of such other description as is specified in the rules;

and Supreme Court rules or Summary Court rules may also prescribe the manner in which a recognizance which is to be entered into before such a person is to be entered into and the persons by whom and the manner in which the recognizance may be enforced.

(5) Where a surety seeks to enter into his recognizance before any person in accordance with subsection (4) above but that person declines to take his recognizance because he is not satisfied of the surety's suitability, the surety may apply to the Magistrate's Court or the Summary Court for that court to take his recognizance and that court shall, if satisfied of his suitability, take his recognizance.

(6) Where, in pursuance of subsection (4) above, a recognizance is entered into other wise than before the court that fixed the amount of the recognizance, the same consequences shall follow as if it has been entered into before that court.

#### *Miscellaneous*

86. (1) If a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person shall be guilty of an offence.

Offence of agreeing to indemnify sureties in criminal proceedings. (1976 c.63 s.9)

(2) An offence under subsection (1) above is committed whether the agreement is made before or after the person to be indemnified becomes a surety and whether or not the agreement contemplates compensation in money or in money's worth.

(3) A person who commits an offence under subsection (1) above shall be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding the maximum of level 5.

(4) No proceedings for an offence under subsection (1) above shall be instituted except by or with the consent of the Attorney General.

## PART VI

### DETENTION

#### *Detention-conditions and duration*

87. (1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part.

Limitations on police detention. (1984 c.60 s.34)

(2) Subject to subsection (3) below, if at any time the responsible officer —

- (a) becomes aware, in relation to any person in police detention of that person have ceased to apply;
- (b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part,

it shall be the duty of the responsible officer, subject to subsection (4) below, to order his immediate release from custody.

(3) No person in police detention shall be released except on the authority of the responsible officer.

(4) A person who appears to the responsible officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

(5) A person whose release is ordered under subsection (2) above shall be released without bail unless it appears to the responsible officer —

(a) that there is a need for further investigation of any matter in connection with which he was detained at any time during the period of his detention; or

(b) that proceedings may be taken against him in respect of any such matter, and, if it so appears, he should be released on bail.

(6) For the purposes of this Part a person arrested under section 9H(5) of the Road Traffic Ordinance is arrested for an offence.

88. (1) In this Part “responsible officer” means the chief police officer or such other police officer on duty at the time in question who has been designated by the chief police officer to be the responsible officer in respect of the time in question.

Responsible  
officers.

(2) The chief police officer may designate police officers to be the responsible officer for the purposes of subsection (1) above, but unless he has under the foregoing provisions of the subsection designated another police officer to be the responsible officer for the purposes of subsection (1) above, he shall be deemed to have designated the most senior police officer on duty in Stanley for the time being to be the responsible officer for the purposes of subsection (1) above.

(3) Notwithstanding the foregoing provisions of this section where the police officer who at the time in question would, under the foregoing provisions of this section, be the responsible officer —

(a) is not of the rank of sergeant or above; and

(b) is involved in the investigation of an offence for which a person is in police detention,

he shall not for the purposes of this Part in relation to that person be the responsible officer and the Chief Police Officer shall be the responsible officer in relation to that person.

89. (1) Where —

(a) a person is arrested for an offence —

(i) without a warrant; or

(ii) under a warrant not endorsed for bail, or

(b) a person returns to a police station to answer to bail,

the responsible officer shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such a period as is necessary to enable him to do so.

(2) If the responsible officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail, unless the responsible officer has reasonable grounds for believing that his detention without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him.

(3) If the responsible officer has reasonable grounds for so believing, he may authorise the person arrested to be kept in police detention.

(4) Where a responsible officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the responsible officer of the grounds for his detention.

(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made —

(a) incapable of understanding what is said to him;

(b) violent or likely to become violent; or

(c) in urgent need of medical attention.

Duties of  
responsible of-  
ficer before  
charge. (1984  
c.60 s.37.)

(7) Subject to section 93 (5) below if the responsible officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested —

- (a) shall be charged; or
- (b) shall be released without charge, either on bail or without bail.

(8) Where —

- (a) a person is released under subsection (7) (b) above; and
- (b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,

it shall be the duty of the responsible officer so to inform him.

(9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.

(10) The duty imposed on the responsible officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

(11) Where —

- (a) an arrested juvenile who is arrested without a warrant is not released under subsection (2) above; and
- (b) it appears to the responsible officer that a decision falls to be taken in pursuance of section 5(2) of the Children and Young Persons Act 1969 in its application to the Falkland Islands whether to lay an information in respect of an offence alleged to have been committed by the arrested juvenile, it shall be the duty of the responsible officer to inform him that such a decision falls to be taken and to specify the offence.

(12) It shall also be the duty of the responsible officer —

- (a) to take such steps as are practicable to ascertain the identity of a person responsible for the welfare of the arrested juvenile; and
- (b) if —
  - (i) he ascertains the identity of any such person; and
  - (ii) it is practicable to give that person the information which subsection (11) above requires the custody officer to give to the arrested juvenile,
 to give that person the information as soon as it is practicable to do so.

(13) For the purposes of subsection (12) above the persons who may be responsible for the welfare of an arrested juvenile are —

- (a) his parent or guardian; and
- (b) any other person who has for the time being assumed responsibility for his welfare.

(14) If it appears to the responsible officer that a supervision order, as defined in section 11 of the Children and Young Persons Act 1969 in its application to the Falkland Islands, is in force in respect of the arrested juvenile, the responsible officer shall also give the information to the person responsible for the arrested juvenile's supervision, as soon as it is practicable to do so.

(15) In this Part —

“arrested juvenile” means a person arrested with or without a warrant who appears to be under the age of seventeen and who is not excluded from this Part by section 101 below;

“endorsed for bail” means endorsed with a direction for bail in accordance with any law for the time being in force in the Falkland Islands and relating to endorsements of warrants for bail.

**90. (1)** Where a person arrested for an offence otherwise than under a warrant endorsed for bail is charged with an offence, the responsible officer shall order his release from police detention, either on bail or without bail, unless —

- (a) if the person arrested is not an arrested juvenile —

Duties of responsible officer after charge. (1984 c.60 s.36.)

- (i) his name or address cannot be ascertained or the responsible officer has reasonable grounds for doubting whether a name or address cannot be ascertained or the responsible officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;
  - (ii) the responsible officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection or to prevent him from causing physical injury to any other person or from causing loss of or damage to property; or
  - (iii) the responsible officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer bail or that his detention is necessary to prevent him interfering with the administration of justice or with the investigation of offences or of a particular offence;
- (b) if he is an arrested juvenile —
- (i) any of the requirements of paragraph (a) above is satisfied; or
  - (ii) the responsible officer has reasonable grounds for believing that he ought be detained in his own interest.

(2) If the release of a person arrested is not required by subsection (1) above, the responsible officer may authorise him to be kept in police detention.

(3) Where a responsible officer authorises a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.

(4) Subject to subsection (5) below, the written record shall be made in the presence of the person charged who shall at that time be informed by the responsible officer of the grounds for his detention.

(5) Subsection (4) above shall not apply when the person charged is, at the time when the written record is made —

- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

91. (1) Subject to subsections (2) and (4) below, it shall be the duty of the responsible officer to ensure —

- (a) that all persons in police detention are treated in accordance with this Part and any code of practice issued under it and relating to treatment of persons in police detention; and
- (b) that all matters relating to such persons which are required by this Part or by such code of practice to be recorded are recorded in the custody records relating to such persons.

(2) If the responsible officer, in accordance with any code of practice issued under this Part transfers or permits the transfer of a person in police detention —

- (a) to the custody of a police officer investigating an offence for which that person is in police detention; or
- (b) to the custody of an officer who has charge of that person outside the police station,

the responsible officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1)(a) above; and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Part and of any such code of practice as are mentioned in subsection (1) above.

(3) If the person detained is subsequently returned to the custody of the responsible officer, it shall be the duty of the officer investigating the offence to report to the responsible officer as to the manner in which this section and the code of practice have been complied with while that person was in his custody.

92. (1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this section by the chief police officer or such other police officer as may have been designated by the chief police officer and who is of at least the rank of sergeant.

Responsibilities  
in relation to  
persons detain-  
ed. (1984 c.60  
s.39.)

Review of police  
detention. (1984  
c.60 s.40.)

(2) The officer to whom it falls to carry out a review is referred to in this section as a "review officer".

(3) Subject to subsection (4) below —

- (a) the first review shall be not later than six hours after the detention was first authorised;
- (b) the second review shall be not later than nine hours after the first;
- (c) subsequent reviews shall be at intervals of not more than nine hours.

(4) A review may be postponed —

- (a) if, having regard to all the circumstances prevailing at the latest time for it specified in subsection (3) above, it is not practicable to carry out the review at that time;
- (b) without prejudice to the generality of paragraph (a) above —
  - (i) if at that time the person in detention is being questioned by a police officer and the review officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned; or
  - (ii) if at that time no review officer is readily available.

(5) If the review is postponed under subsection (4) above it should be carried out as soon as practicable after the latest time specified for it in subsection (3) above.

(6) If the review is carried out after postponement under subsection (4) above, the fact that it was so carried out shall not effect any requirement of this section as to the time at which any subsequent review is to be carried out.

(7) The review officer shall record the reasons for any postponement of a review in the custody record.

(8) Subject to subsection (9) below, where the person whose detention is under review has not been charged before the time of the review section 89 (1) to (6) above shall have effect in relation to him, but with the substitution —

- (a) of references to the person whose detention is under review for references to the person arrested; and
- (b) of references to the review officer for references to the responsible officer.

(9) Where a person has been kept in police detention by virtue of section 89 (9) above, section 89 (1) to (6) shall not have effect in relation to him but it shall be the duty of the review officer to determine whether he is yet in a fit state.

(10) Where the person whose detention is under review has been charged before the time of the review, section 90 (1) to (5) above shall have effect in relation to him, with the substitution of references to the person whose detention is under review for references to the person arrested.

(11) Where —

- (a) an officer of higher rank than the review officer gives directions relating to a person in police detention; and
- (b) the directions are at variance —
  - (i) with any decision made or action taken by the review officer in the performance of a duty imposed on him under this Part; or
  - (ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the review officer shall refer the matter at once to the chief police officer.

(12) Before determining whether to authorise a persons continued detention the review officer shall give —

- (a) that person (unless he is asleep); or
- (b) any legal practitioner representing him who is available at the time of the review,

an opportunity to make representations to him about the detention.

(13) Subject to subsection (14) below, the person whose detention is under review or his legal practitioner may make representations under subsection (12) above either orally or in writing.

(14) The review officer may refuse to hear all representations from the person whose detention is under review if he considers that he is unfit to make such representations by reason of his condition or behaviour.

93. (1) Subject to the following provisions of this section and to sections 82 and 83 above, a person shall not be kept in police detention for more than twenty-four hours without being charged.

Limits on period of detention without charge. (1984 c.60 s.41.)

(2) The period of twenty-four hours mentioned in subsection (1) above is to be calculated from the time of the person's arrest and, for the sake of avoidance of doubt, it is hereby declared that in the case of a person who —

(a) attends voluntarily at a police station; or

(b) accompanies a police officer to a police station without having been arrested, and is arrested at the police station, the period of twenty-four hours mentioned in subsection (1) is to be calculated from the time of his arrest at the police station.

(3) Where —

(a) a person —

(i) has been arrested for an offence; and

(ii) is detained at a police station in consequence of that arrest; and

(b) while being detained in respect of the said offence, he is arrested in respect of a further offence;

subsections (1) and (2) above shall have effect as if every reference to a person being arrested were a reference to that person's arrest or being arrested for the offence for which he was originally arrested.

(4) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purposes of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part, but any other time while he is in hospital or on his way there or back shall not be so included.

(5) Where a person is arrested outside Stanley the period of twenty-four hours mentioned in subsection (1) above and in subsections (6), (7) and (8) below is extended by such period of time as is reasonably occupied in bringing him to Stanley.

(6) Subject to subsection (7) below, a person who has been arrested and who at the expiry of twenty-four hours after his arrest is still in police detention and has not been charged shall be released at that time either on bail or without bail.

(7) Subsection (6) above does not apply to a person who is detained for more than twenty-four hours after the relevant time has been authorised or is otherwise permitted in accordance with section 94 or 95 below.

(8) A person released under subsection (6) above shall not be re-arrested without a warrant for the offence for which he was originally arrested unless new evidence justifying a further arrest has come to light since his release.

94. (1) Where the chief police officer has reasonable grounds for believing that —

(a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;

(b) an offence for which he is under arrest is a serious arrestable offence; and

(c) the investigation is being conducted diligently and expeditiously,

Authorisation of continued detention. (1984 c.60 s.42.)

he may authorise the keeping of that person in police detention for a period expiring at or before thirty-six hours after the period of twenty-four hours mentioned in section 93(1) and (2) above.

(2) Where the chief police officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty —

(a) to inform that person of the grounds for his continued detention; and

(b) to record the grounds in that person's custody record.

(3) Before determining whether to authorise the keeping of a person in detention under subsection (1) above, the chief police officer shall give —

(a) that person; or

(b) any legal practitioner representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,

an opportunity to make representations to him about the detention.

(4) Subject to subsection (5) below, the person in detention or his legal practitioner may make representations under subsection (3) above either orally or in writing.

(5) The chief police officer may refuse to hear oral representations from the person in detention if he considers that he is unfit to make representations by reason of his condition or behaviour.

(6) Where —

- (a) the Chief Police Officer authorises the keeping of a person in detention under subsection (1) above; and
- (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 105 or 106 below,

the chief police officer —

- (i) shall inform him of that right;
- (ii) shall permit the person to exercise that right if he wishes to do so;
- (iii) shall record in his custody record the time at which he was informed of the right in accordance with sub-paragraph (i) above, and whether or not he exercised that right, and if he exercised that right, the time at which he exercised it.

(7) Where the Chief Police Officer has authorised the keeping of a person who has not been charged in detention under subsection (1) above, he shall be released from detention, either on bail or without bail not later than thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2) above unless —

- (a) he has been charged with an offence; or
- (b) the continued detention is authorised or otherwise permitted in accordance with section 95 below.

(8) A person released under subsection (7) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release.

95. (1) Where, on an application on oath made by a police officer and supported by an information, the Magistrate's Court or the Summary Court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

Warrants of  
further detention.  
(1984 c.60 s.43.)

(2) A court may not hear an application for a warrant of further detention unless the person to whom the application relates —

- (a) has been furnished with a copy of the information; and
- (b) has been brought before the court for the hearing.

(3) A person's further detention is only justified for the purposes of this section or section 96 below if —

- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is a serious arrestable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(4) Subject to subsection (6) below, an application for a warrant of further detention may be made —

- (a) at any time before the expiry of thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2); or
- (b) in a case where —

- (i) it is not practicable for the court to which the application will be made to sit at the expiry of thirty-six hours after the said period of twenty-four hours; but
- (ii) the court will sit during the six hours following the end of that period, at any time before the expiry of the said six hours.

(5) In a case to which subsection (4)(b) above applies —

- (a) the person to whom the application relates may be kept in police detention until the application is heard; and
- (b) the responsible officer shall make a note in that person's custody record —
  - (i) of the fact that he was kept in police detention for more than thirty-six hours after the relevant time; and
  - (ii) of the reason why he was so kept.

(6) If —

- (a) an application for a warrant of further detention is made after the expiry of thirty-six hours after the period of twenty-four hours referred to in section 93 (1) and (2); and
- (b) it appears to the court that it would have been reasonable for the police to make it before the expiry of that period,

the court shall dismiss the application.

(7) Where on a application such as is mentioned in subsection (1) above the court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it shall be its duty —

- (a) to refuse the application; or
- (b) to adjourn the hearing of it until a time not later than thirty-six hours after the expiry of the period of twenty-four hours mentioned in section 93 (1) and (2).

(8) The person to whom the application relates may be kept in police detention during the adjournment.

(9) A warrant of further detention shall

- (a) state the time at which it is issued;
- (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.

(10) Subject to subsection (11) below, the period stated in a warrant of further detention shall be such a period as the court thinks fit, having regard to the evidence before it.

(11) The period shall not be longer than thirty-six hours.

(12) Any information submitted in support of an application under this section shall state —

- (a) the nature of the offence for which the person to whom the application relates has been arrested;
- (b) the general nature of the evidence on which that person was arrested;
- (c) what enquiries relating to the offence have been made by the police and what further enquiries are proposed by them;
- (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further enquiries.

(13) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or released, either on bail or without bail.



(14) Where a warrant of further detention is issued, the person to whom it relates shall be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.

(15) A person released under subsection (14) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release.

96. (1) On an application on oath made by a police officer and supported by an information the Magistrate's Court or the Summary Court may extend a warrant of further detention issued under section 95 above if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

Extension of warrants of further detention. (1984 c.60 s.44.)

(2) The period for which a warrant of further detention may be extended shall be such period as the court thinks fit, not being longer than a period of forty-eight hours.

(3) A warrant of further detention shall, if extended, under this section, be endorsed with a note of the period of the extension.

(4) Subsections (2) and (12) of section 95 above shall apply to an application made under this section as they apply to an application made under that section.

(5) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or released either on bail or without bail.

97. In sections 95 and 96 above "Magistrate's Court" means the Senior Magistrate sitting otherwise than in open court and the Summary Court means two or more justices of the peace sitting otherwise than in open court.

Detention before charge-supplementary. (1984 c.60 s.45.)

#### *Detention - miscellaneous*

98. (1) Where a person is charged with an offence and after being charged is kept in police detention, he shall be brought before the Magistrate's Court or the Summary Court in accordance with the provisions of this section.

Detention after charge. (1984 c.60 s.46.)

(2) The period within which a person is to be brought before a court in accordance with subsection (1) above is a period expiring not later than twenty-four hours from the time at which he was charged unless that time would expire on a Saturday, Sunday or public holiday in which case the person concerned is to be brought before a court not later than the earliest convenient time at which he can be brought before a court on the first day following the day on which he was charged which is not a Saturday, Sunday or public holiday.

(3) Nothing in this section requires a person who is in hospital to be brought before a court if he is not well enough.

99. (1) Subject to subsection (2) below, a release on bail of a person under this Part shall be a release on bail granted in accordance with Part V above.

Bail after arrest. 1984 c.60 s.4.

(2) Nothing in Part V above shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if new evidence justifying a further arrest has come to light since his release.

(3) Subject to subsection (4) below, in this Part references to "bail" are references to bail subject to a duty —

(a) to appear before the Magistrate's Court or the Summary Court at such time and such place; or

(b) to attend at such a police station at such time,

as the responsible officer may appoint.

(4) Where the responsible officer has granted bail to a person subject to a duty to appear at a police station, the responsible officer may give notice in writing to that person that his attendance at the police station is not required.

(5) Where a person arrested for an offence who was released on bail subject to a duty to attend at a police station so attends, he may be detained without charge in connection with that offence only if the responsible officer has reasonable grounds for believing that his detention is necessary —

(a) to secure or preserve evidence relating to the offence; or

(b) to obtain such evidence by questioning him.

(6) Where a person is detained under subsection (5) above, any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part.

(7) Where a person who is released on bail subject to a duty to attend at a police station is re-arrested, the provisions of this Part shall apply to him as they apply to a person arrested for the first time.

100. Nothing in this Part shall affect —

- (a) any powers conferred by or by virtue of the Immigration Ordinance 1987 upon any police officer or immigration officer to detain any person for purposes connected with the control of immigration; or
- (b) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

Savings. (1984 c.60 s.51.)

101. This Part does not apply to a child (as for the time being defined for the purposes of the Children and Young Persons Act 1969 in its application to the Falkland Islands) who is arrested without a warrant otherwise than for homicide and to whom section 28(4) and (5) of that Act accordingly apply.

Children. (1984 c.60 s.52.)

## PART VII

### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

#### *Powers of search*

102. (1) There shall cease to have effect any enactment passed before this Ordinance in so far as it authorises —

- (a) any search by a police officer of a person in police detention at a police station; or
- (b) an intimate search of a person by a police officer;

Abolition of certain power of police officers to search persons. (1984 c.60 s.53.)

and any rule of common law which authorises a search such as is mentioned in paragraph (a) (b) above is abolished.

103. (1) The responsible officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is —

- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or
- (b) arrested at the station after —
  - (i) having attended voluntarily there; or
  - (ii) having accompanied a police officer there without having been arrested.

Searches of detained persons. (1984 c.60 s.54.)

(2) In the case of an arrested person the record shall be made as part of his custody record.

(3) Subject to subsection (4) below, the responsible officer may seize and retain any such thing or cause any such thing be seized and retained.

(4) Clothes and personal effects may only be seized if the responsible officer —

- (a) believes that the person from whom they are seized may use them —
  - (i) to cause physical injury to himself or any other person;
  - (ii) to damage property;
  - (iii) to interfere with evidence; or
  - (iv) to assist him to escape; or
- (b) has reasonable grounds for believing that they may be evidence relating to an offence.

(5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is —

- (a) violent or likely to become violent; or
- (b) incapable of understanding what is said to him.

(6) Subject to subsection (7) below, a person may be searched if the responsible officer considers it necessary to enable him to carry out his duty under subsection (1) above and to the extent that the responsible officer considers necessary for that purpose.

(7) An intimate search may not be conducted under this section.

(8) A search under this section shall be carried out by a police officer.

(9) The police officer carrying out a search shall be of the same sex as the person searched.

**104.** (1) Subject to the following provisions of this section, if the chief police officer has reasonable grounds for believing —

Intimate searches. (1984 c.60 s.55.)

(a) that a person who has been arrested and is in police detention may have concealed on him any thing which —

(i) he could use to cause physical injury to himself or others; and

(ii) he might so use it while he is in police detention or in the custody of a court; or

(b) that such a person —

(i) may have a Class A Drug concealed on him; and

(ii) was in possession of it with the appropriate criminal intent before his arrest,

he may authorise such a search of that person.

(2) The chief police officer may not authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it cannot be found without his being intimately searched.

(3) The chief police officer may give an authorisation under subsection (1) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(4) An intimate search which is only a drug offence search shall be by way of examination by a suitably qualified person.

(5) Except as provided by subsection (4) above, an intimate search shall be by way of examination by a suitably qualified person unless the chief police officer for some reason which he shall as soon as possible record in writing, considers that this is not practicable.

(6) An intimate search which is not carried out as mentioned in subsection (5) above shall be carried out by a police officer.

(7) A police officer may not carry out an intimate search of a person of the opposite sex.

(8) No intimate search may be carried out except —

(a) at a police station;

(b) at a hospital; or

(c) at some other place used for medical purposes.

(9) An intimate search which is only a drug offence search may not be carried out at a police station.

(10) If an intimate search of a person is carried out, the custody record relating to him shall state —

(a) which parts of his body were searched; and

(b) why they were searched.

(11) The information required to be recorded by subsection (10) above shall be recorded as soon as practicable after the completion of the search.

(12) The responsible officer may seize and retain anything which is found on an intimate search of a person, or cause any such thing to be seized and retained —

(a) if he believes that the person from whom it is seized may use it —

(i) to cause physical injury to himself or any other person;

(ii) to damage property;

(iii) to interfere with evidence; or

(iv) to assist him to escape; or

(b) if he has reasonable grounds for believing that it may be evidence relating to an offence.

(13) Where anything is seized under this section, the person from whom it is seized shall be told the reason for the seizure unless he is —

(a) violent or likely to become violent; or

(b) incapable of understanding what is said to him.

(14) In this section —

“the appropriate criminal intent” means an intent to commit an offence under —

(a) section 5(2) of the Misuse of Drugs Ordinance 1987 (possession of controlled drug with intent to supply to another); or

(b) section 128 of the Customs Ordinance (exportation etc. with intent to evade a prohibition or restriction);

“Class A drug” has the same meaning as it has under the Misuse of Drugs Ordinance 1987;

“drug offence search” means an intimate search for a Class A drug which a police officer has authorised by virtue of subsection (1)(b) above; and

“suitably qualified person” means a government medical officer, or a person who is a nurse whose name is registered in the register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting by virtue of qualifications in nursing.

#### *Other rights when arrested*

105. (1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable, that he has been arrested and is being detained there.

Right to have someone informed when arrested. (1984 c.60 s.56.)

(2) In any case the person in custody must be permitted to exercise the right conferred by subsection (1) above within two hours from the time of his arrest.

106. (1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a legal practitioner privately at any time.

Access to legal advice. (1984 c.60 s.58.)

(2) Subject to subsection (3) below, a request under subsection (1) above and the time at which it was made shall be recorded in the custody record.

(3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at court after being charged with an offence.

(4) If a person makes such a request, he must be permitted to consult a legal practitioner as soon as is practicable except to the extent that delay is permitted by this section.

(5) In any case he must be permitted to consult a legal practitioner within thirty-six hours from the time of his arrest.

(6) Delay in compliance with the request is only permitted —

(a) in the case of a person who is in police detention for a serious arrestable offence; and

(b) if the chief police officer authorises it.

(7) The chief police officer may give an authorisation under subsection (6) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) The chief police officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by subsection (1) above at the time when the person detained desires to exercise it —

(a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or

- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
  - (c) will hinder the recovery of any property obtained as a result of such an offence.
- (9) If delay is authorised —
- (a) the detained person shall be told the reason for it; and
  - (b) the reason shall be noted on his custody record.
- (10) The duties imposed by subsection (9) above shall be performed as soon as is practicable.
- (11) There may be no further delay in permitting the exercise of the right conferred by subsection (1) above once the reason for authorising delay ceases to subsist.

**107.** (1) Except as provided by this section no person's fingerprints may be taken without the appropriate consent.

Fingerprinting.  
(1984 c.60 s.61.)

(2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.

(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if the chief police officer authorises them to be taken.

(4) The chief police officer may only give an authorisation under subsection (3) above if he has reasonable grounds —

- (a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and
- (b) for believing that his fingerprints will tend to confirm or disprove his involvement.

(5) The chief police officer may give an authorisation under subsection (3)(a) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

**108.** (1) An intimate sample may be taken from a person in police detention only —

Intimate  
samples. (1984  
c.60 s.62.)

- (a) if the chief police officer authorises it to be taken; and
- (b) if the appropriate consent is given.

(2) The chief police officer may only give an authorisation if he has reasonable grounds —

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(3) The chief police officer may give an authorisation under subsection (1) above orally or in writing but, if he given it orally, he shall confirm it in writing as soon as is practicable.

(4) The appropriate consent must be given in writing.

(5) Where —

- (a) an authorisation has been given; and
- (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

a police officer shall inform the person from whom the sample is to be taken —

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(6) The duty imposed by subsection (5)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(7) If an intimate sample is taken from a person —

- (a) the authorisation by virtue of which it was taken;
- (b) the grounds for giving the authorisation; and
- (c) the fact that the appropriate consent was given,

shall be recorded as soon as is practicable after the sample is taken.

(8) If an intimate sample is taken from a person detained at a police station, the matter is required to be recorded by subsection (7) above shall be recorded in his custody record.

(9) An intimate sample, other than a sample of urine or saliva, may only be taken from a person by a Government medical officer.

(10) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence —

- (a) the court, in determining —
  - (i) whether to commit that person for trial; or
  - (ii) whether there is a case to answer; and
- (b) the court or jury, in determining whether that person is guilty of the offence charged,

may draw such inference from the refusal as appears proper; and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence against the person in relation to which the refusal is material.

(11) Nothing in this section affects sections 9(H) to 9(M) of the Road Traffic Ordinance.

109. (1) Except as provided by this section, a non-intimate sample may not be taken from a person without the appropriate consent.

Other samples.  
(1984 c.60 s.63.)

(2) Consent to the taking of a non-intimate sample must be given in writing.

(3) A non-intimate sample may be taken from a person without the appropriate consent if —

- (a) he is in police detention or is being held in custody by the police on the authority of a court; and
- (b) the chief police officer authorises it to be taken without the appropriate consent.

(4) The chief police officer may only give an authorisation under subsection (3) above if he has reasonable grounds —

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(5) The chief police officer may give an authorisation under subsection (3) above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Where —

- (a) an authorisation has been given; and
- (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,

a police officer shall inform the person from whom the sample is to be taken —

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(7) The duty imposed by subsection (6)(ii) above includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If a non-intimate sample is taken from a person by virtue of subsection (3) above —

- (a) the authorisation by virtue of which it was taken; and
- (b) the grounds for giving the authorisation,

shall be recorded as soon as is practicable after the sample is taken.

(9) If a non-intimate sample is taken from a person detained at a police station, the matter required to be recorded by subsection (8) above shall be recorded in his custody record.

110. (1) If —

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) he is cleared of that offence,

Destruction of  
finger prints and  
samples. (1984  
c.60 s.64.)

they must be destroyed as soon as is practicable after the conclusion of the proceedings.

(2) If —

- (a) fingerprints or samples are taken from a person in connection with such an investigation; and
- (b) it is decided that he shall not be prosecuted for the offence and he has not admitted it and been dealt with by way of being cautioned by a police officer,

they must be destroyed as soon as is practicable after that decision is taken.

(3) If —

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) that person is not suspected of having committed the offence —

they must be destroyed as soon as they have fulfilled the purpose for which they were taken.

(4) Proceedings which are discontinued are to be treated as concluded for the purposes of this section.

(5) If fingerprints are destroyed, any copies of them shall also be destroyed.

(6) A person who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have the right to witness it.

111. In this Part —

“Appropriate consent” means —

- (a) in relation to a person who has attained the age of seventeen years, the consent of that person;
- (b) in relation to a person who has not attained that age but has attained the age of fourteen years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of fourteen years, the consent of his parent or guardian;

Supplementary  
to this Part.  
1984 c.60 s.65.

“fingerprints” includes palmprints;

“intimate sample” means a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair, or a swab taken from a person’s body orifice;

“non-intimate sample” means —

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or under a nail;
- (c) a swab taken from any part of a person’s body other than a body orifice;
- (d) a footprint or a similar impression of any part of a person’s body other than a part of his hand.

112. (1) This section has effect for determining whether an offence is a serious arrestable offence for the purposes of this Ordinance.

Meaning of  
"serious ar-  
restable offence".  
(1984 c.60 s.116.)

(2) The following offences are always serious —

- (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 4; and
- (b) an offence under an enactment specified in Part II of that Schedule.

(3) Subject to subsections (4) and (5) below, any other arrestable offence is serious only if its commission —

- (a) has led to any of the consequences specified in sub-section (6) below; or
- (b) is intended or is likely to lead to any of those consequences.

(4) An arrestable offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in subsection (5) below.

(5) The consequences mentioned in sub-sections (3) and (4) above are —

- (a) serious harm to the security of the Falkland Islands or of the United Kingdom or to public order;
- (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
- (c) the death of any person;
- (d) serious injury to any person;
- (e) substantial financial gain to any person; and
- (f) serious financial loss to any person.

(6) Loss is serious for the purposes of this section if, having regard to all the circumstances, it is serious for the person who suffers it.

(7) In this section "injury" includes any disease and any impairment of a person's physical or mental condition.

## PART VIII

### POWERS OF ENTRY, SEARCH AND SEIZURE

#### *Search warrants*

113. (1) If on application made by a police officer, the Senior Magistrate or a justice of the peace is satisfied that there are reasonable grounds for believing —

Powers to  
authorise entry  
and search of  
premises. (1984  
c.60 s.8.)

- (a) that a serious arrestable offence has been committed; and
- (b) that there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and
- (c) that the material is likely to be relevant evidence; and
- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and
- (e) that any of the conditions specified in subsection (3) below applies,

he may issue a warrant authorising a police officer to enter and search the premises.

(2) A police officer may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in subsection (1)(e) above are —

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;



- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (c) that the entry to the premises will not be granted unless a warrant is produced;
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can secure immediate entry to them.

(4) In this Ordinance "relevant evidence", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

(5) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

**114. (1)** A police officer may obtain access to excluded material or special procedure material for the purposes of a criminal investigation by making an application under Schedule 5 below and in accordance with that Schedule.

Special provisions as to access. (1984 c.60 s.9.)

(2) Any enactment passed before this Ordinance under which a search of premises for the purposes of a criminal investigation could be authorised by the issue of a warrant to a police officer shall cease to have effect so far as it relates to the authorisation of searches —

- (a) for items subject to legal privilege; or
- (b) for excluded material; or
- (c) for special procedure material consisting of documents or records other than documents.

**115. (1)** Subject to subsection (2) below, in this Ordinance "items subject to legal privilege" means —

Meaning of "items subject to legal privilege". (1984 c.60 s.10.)

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative or any other person made in connection with or in contemplation of legal proceedings and for the purpose of such proceedings; and
- (c) items enclosed with or referred to in such communications and made —
  - (i) in connection with the giving of legal advice; or
  - (ii) in connection with or in contemplation of legal proceedings and for the purpose of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

**116. (1)** Subject to the following provisions of this section, in this Ordinance "excluded material" means —

Meaning of "excluded material". (1984 c.60 s.11.)

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;
- (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;
- (c) journalistic material which a person holds in confidence and which consists —
  - (i) of documents; or
  - (ii) of records other than documents.

(2) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject —

- (a) to an express or implied undertaking to hold it in confidence; or

- (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment passed after this Ordinance.
- (3) A person holds journalistic material in confidence for the purposes of this section if —
  - (a) he holds it subject to such an undertaking, restriction or obligation; and
  - (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

**117.** In this Part “personal records” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating —

Meaning of  
“personal  
records”. (1984  
c.60 s.12.)

- (a) to his physical or mental health;
- (b) to spiritual counselling or assistance given or to be given to him; or
- (c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who —
  - (i) by reason of his office or occupation has responsibilities for his personal welfare; or
  - (ii) by reason of an order of a court has responsibilities for his supervision.

**118.** (1) Subject to subsection (2) below, in this Ordinance “journalistic material” means material acquired or created for the purposes of journalism.

Meaning of  
“journalistic  
material”. (1984  
c.60 s.13.)

(2) Material is only journalistic material for the purposes of this Ordinance if it is in the possession of a person who acquired or created it for the purposes of journalism.

(3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

**119.** (1) In this Ordinance “special procedure material” means —

Meaning of  
“special pro-  
cedure material”.  
(1984 c.60 s.14.)

- (a) material to which subsection (2) below applies; and
- (b) journalistic material, other than excluded material.

(2) Subject to the following provisions of this section, this subsection applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who —

- (a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and
- (b) holds it subject —
  - (i) to an express or implied undertaking to hold it in confidence; or
  - (ii) to a restriction or obligation such as is mentioned in section 116(2)(b) above.

(3) Where material is acquired —

- (a) by an employee from his employer and in the course of his employment; or
- (b) by a company from an associated company —

it is only special procedure material if it was special procedure material immediately before the acquisition.

(4) Where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.

(5) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.

(6) A company is to be treated as another's associated company for the purposes of this section at a given time if, at that time or at any time within one year previously, one of the two has control of the other, or both are under the control of the same person or persons.

(7) For the purposes of subsection (6) a person shall be taken to have control of a company —

- (a) if he exercises, or is able to exercise or is entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses, or is entitled to acquire, the greater part of the share capital or voting power in the company, or
- (b) if he possesses, or is entitled to acquire, either —
  - (i) the greater part of the issued share capital of the company, or
  - (ii) such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed, or
  - (iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding-up, would be available for distribution among members, or
- (c) if in the event of a winding-up he would be entitled to the greater part of the assets available for distribution among members.

(8) For the purposes of subsection (6) above, where two or more persons together satisfy any of the conditions in paragraphs (a) to (c) of subsection (7) above, they shall be taken to have control of the company.

(9) In subsection (7) above "member" includes any person having a share or interest in the capital or income of the company, and, for the purposes of that subsection, a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire; and, for the purposes of paragraphs (b)(iii) and (c) of that subsection, any loan creditor may be treated as a member (and the references to share capital as including loan capital).

(10) For the purposes of subsections (8) and (9) above, there shall be attributed to any person any rights or powers of a nominee for him, that is to say any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(11) For the purposes of subsections (8) and (9) above, there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or any associate of his or any two or more associates of his, including those attributed to a company or associate under subsection (5) above, but not those attributed to an associate under this subsection.

(13) For the purposes of subsection (11) "associate" means in relation to a person —

- (a) any spouse, parent, grandparent, child or grandchild or brother or sister of the person;
- (b) the trustee or trustees of any settlement in relation to which the person is, or any person referred to in (a) above (living or dead) is or was a settlor; and
- (c) where the person is interested in any shares or obligations to the company which are subject to any trust, or are part of the estate of a deceased person, any other person interested therein.

120. (1) This section and section 121 below have effect in relation to the issue to police officers under any enactment, including an enactment passed after this Ordinance, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 121 below.

(2) Where a police officer applies for any such warrant, it shall be his duty

Search Warrants  
Safeguards.  
(1984 c.60 s.15.)

- (a) to state —
    - (i) the ground on which he makes the application; and
    - (ii) the enactment under which the warrant would be issued;
  - (b) to specify the premises which it is desired to enter and search; and
  - (c) to identify, so far as is practicable, the articles or persons to be sought.
- (3) An application for such a warrant shall be made *ex parte* and supported by an information in writing.
- (4) The police officer shall answer on oath any question that the justice of the peace, Senior Magistrate or judge hearing the application asks him.
- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant —
- (a) shall specify —
    - (i) the name of the person who applies for it;
    - (ii) the date on which it is issued;
    - (iii) the enactment under which it is issued; and
    - (iv) the premises to be searched; and
  - (b) shall identify, so far as is practicable, the articles or persons to be sought.
- (7) Two copies shall be made of a warrant, and each of them shall be clearly certified as copies.
- 121.** (1) A warrant to enter and search premises may be executed by any police officer.
- (2) Such a warrant may authorise persons to accompany any police officer who is executing it.
- (3) Entry and search under a warrant must be within one month from the date of its issue.
- (4) Entry and search under a warrant must be at a reasonable hour unless it appears to the police officer executing it that the purpose of the search may be frustrated on an entry at a reasonable hour.
- (5) Where the occupier of premises which are to be entered and searched is present at the time when a police officer seeks to execute a warrant to enter and search them, the police officer —
- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a police officer;
  - (b) shall produce the warrant to him; and
  - (c) shall supply him with a copy of it.
- (6) Where —
- (a) the occupier of such premises is not present at the time when a police officer seeks to execute such a warrant; but
  - (b) some other person who appears to the police officer to be in charge of the premises is present —
- subsection (5) above shall have effect as if any reference to the occupier were a reference to that other person.
- (7) If there is no person present who appears to the police officer to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.
- (8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (9) A police officer executing a warrant shall make an endorsement on it stating —

Execution of  
warrants. (1984  
c.60 s.16.)

- (a) whether the articles or persons sought were found; and
  - (b) whether any articles were seized, other than articles which were sought.
- (10) A warrant which —
- (a) has been executed; or
  - (b) has not been executed within the time authorised for its execution,

shall be returned to the office of the court out of which it was issued.

(11) A warrant which is returned under sub- section (10) above shall be retained for twelve months from its return in the court office.

(12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he should be allowed to do so.

#### *Entry and search without search warrant*

**122.** (1) Subject to the following provisions of this section and without prejudice to any other enactment, a police officer may enter and search any premises for the purpose —

Entry for purpose of arrest etc. (1984 c.60 s.17.)

- (a) of executing —
    - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
    - (ii) a warrant of commitment issued under any provision of any enactment;
  - (b) of arresting a person for an arrestable offence;
  - (c) of recapturing a person who is unlawfully at large and whom he is pursuing; or
  - (d) of saving life or limb or preventing serious damage to property.
- (2) Except for the purpose specified in paragraph (d) of subsection (1) above, the powers of entry and search conferred by this section
- (a) are only exercisable if the police officer has reasonable grounds for believing that the person whom he is seeking is on the premises; and
  - (b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search —
    - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
    - (ii) any such dwelling in which the police officer has reasonable grounds for believing that the person whom he is seeking may be.
- (3) The power of search conferred by this section is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.
- (4) Subject to subsection (5) below, all the rules of common law under which a police officer has power to enter premises without a warrant are hereby abolished.
- (5) Nothing in subsection (4) above affects any power of entry to deal with or prevent a breach of the peace.

**123.** (1) Subject to the following provisions of this section, a police officer may enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates

Entry and search after arrest. (1984 c.60 s.18.)

- (a) to that offence; or
- (b) to some other arrestable offence which is connected or similar to that offence.

(2) A police officer may seize and retain anything for which he may search under subsection (1) above.

(3) The power to search conferred by subsection (1) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence.

(4) Subject to subsection (5) below, the powers conferred by this section may not be exercised unless an officer of the rank of Inspector or above has authorised them in writing.

(5) A police officer may conduct a search under subsection (1) above —

- (a) before taking the person to a police station; and
- (b) without obtaining an authorisation under subsection (4) above,

if the presence of that person at a place other than the police station is necessary for the effective investigation of the offence.

(6) If a police officer conducts a search by virtue of subsection (5) above, he shall inform an officer of the rank of Inspector or above that he has made the search as soon as is practicable after he has made it.

(7) An officer who —

- (a) authorises a search; or
- (b) is informed of a search under subsection (5) above, shall make a record in writing —
  - (i) of the grounds for the search; and
  - (ii) of the nature of the evidence that was sought.

(8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of his custody record.

#### *Seizure etc.*

124. (1) The powers conferred by sub-sections (2), (3) and (4) below are exercisable by a police officer who is lawfully on any premises.

General power  
of seizure etc.  
(1984 c.60 s.19.)

(2) The police officer may seize anything which is on the premises if he has reasonable grounds for believing —

- (a) that it has been obtained in consequence of the commission of an offence; and
- (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) The police officer may seize anything which is on the premises if he has reasonable grounds for believing —

- (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
- (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

(4) The police officer may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reasonable grounds for believing —

- (a) that —
  - (i) it is evidence in relation to an offence which he is investigating or any other offence; or
  - (ii) it has been obtained in consequence of the commission of an offence; and

- (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.

(5) The powers conferred by this section are in addition to any power otherwise conferred.

(6) No power of seizure conferred on a police officer under any enactment (including an enactment passed after this Ordinance) is to be taken to authorise the seizure of an item which the police officer exercising the power has reasonable grounds for believing to be subject to legal privilege.

**125.** (1) Every power of seizure which is conferred by an enactment to which this section applies on a police officer who has entered premises in the exercise of a power conferred by an enactment shall be construed as including a power to require any information contained in a computer and accessible from the premises to be produced in a form in which it can be taken away and which it is visible and legible.

Extension of powers of seizure to computerised information. (1984 c.60 s.20.)

(2) This section applies —

- (a) to any enactment passed before this Ordinance;
- (b) to sections 113 and 123 above;
- (c) To paragraph 13 of Schedule 5 to this Ordinance; and
- (d) To any enactment passed after this Ordinance.

**126.** (1) A police officer who seizes anything in the exercise of a power conferred by any enactment, including an enactment passed after this Ordinance, shall, if so requested by a person showing himself —

Access and copying. (1984 c.60 s.21.)

- (a) to be the occupier of premises on which it was seized; or
- (b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The officer shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to subsection (8) below, if a request for permission to be granted access to anything which —

- (a) has been seized by a police officer; and
- (b) is retained by the police for the purpose of investigating an offence,

is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of a police officer.

(4) Subject to subsection (8) below, if a request for a photograph or copy of any such thing is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall —

- (a) allow the person who made the request access to it under the supervision of a police officer for the purpose of photographing it or copying it; or
- (b) photograph or copy it or cause it to be photographed or copied.

(5) A police officer may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under subsection (4) above.

(6) Where anything is photographed or copied under subsection (4)(b) above, the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice —

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of investigating for which the thing was seized; or
- (c) any criminal proceedings which may be brought as a result of —
  - (i) the investigation of which he is in charge; or
  - (ii) any such investigation as is mentioned in paragraph (b) above.

127. (1) Subject to subsection (4) below, anything which has been seized by a police officer or taken away by a police officer following a requirement made by virtue of sections 124 or 125 above may be retained so long as is necessary in all of the circumstances.

Retention. (1984 c.60 s.22.)

- (2) Without prejudice to the generality of subsection (1) above —
  - (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by subsection (4) below —
    - (i) for use as evidence at a trial for an offence; or
    - (ii) for forensic examination or for investigation in connection with an offence; and
  - (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) Nothing seized on the grounds that it may be used —
  - (a) to cause physical injury to any person;
  - (b) to damage property;
  - (c) to interfere with evidence; or
  - (d) to assist in escape from police detention or lawful custody,

may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.

(4) Nothing may be retained for either of the purposes mentioned in subsection (2)(a) above if a photograph or copy would be sufficient for that purpose.

(5) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897 in its application to the Falkland Islands.

### *Supplementary*

128. In Parts VI to IX of this Ordinance “premises” includes any place and, in particular, includes —

- (a) any vehicle, vessel, aircraft or hovercraft; and
- (b) any tent or moveable structure.

Meaning of “premises” etc. (1984 c.60 s.23.)

## PART IX

### ARREST

129. (1) The powers of summary arrest conferred by the following subsections shall apply —

- (a) to offences for which the sentence is fixed by law;
- (b) to offences for which a person of twenty-one years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years or more (or might be so sentenced by a court) but for a restriction imposed by law on the length of time for which the court sentencing the offender may imprison him, notwithstanding that the offence in question attracts a maximum sentence for imprisonment for a term of five years or more; and
- (c) to the offences to which sub-section (2) below applies,

and in this Ordinance “arrestable offence” means any such offence.

Arrest without warrant for arrestable offences. (1984 c.60 s.24.)



(2) The offences to which this subsection applies are

- (a) offences for which a person may be arrested under the Customs Ordinance;
- (b) offences under the Official Secrets Acts 1911 and 1920 in their application to the Falkland Islands that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them;
- (c) offences under section 14 (indecent assault on a woman), 22 (causing prostitution of women) or 23 (procurement of girl under twenty-one) of the Sexual Offences Act 1956 in its application to the Falkland Islands;
- (d) offences under section 9P(2) of the Road Traffic Ordinance (taking a motor vehicle or other conveyance without authority etc.) or section 25(1) (going equipped for stealing, etc.) of the Theft Act 1968 in its application to the Falkland Islands; and
- (e) offences under Section 1 of the Public Bodies Corrupt Practices Act 1889 (corruption in office) in its application to the Falkland Islands or section 1 of the Prevention of Corruption Act 1906 (corrupt transactions with agents) in its application to the Falkland Islands.

(3) Without prejudice to the provisions of any enactment dealing with an offence of attempting to commit a criminal offence, the powers of summary arrest conferred by the following subsections shall also apply to the offences of

- (a) conspiring to commit any of the offences mentioned in subsection (2) above;
- (b) attempting to commit any such offence;
- (c) inciting, aiding, abetting, counselling or procuring the commission of any such offence;

and such offences are also arrestable offences for the purposes of this Ordinance.

(4) Any person may arrest without a warrant —

- (a) anyone who is in the act of committing an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be committing such an offence.

(5) Where an arrestable offence has been committed, any person may arrest without a warrant —

- (a) anyone who is guilty of the offence;
- (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(6) Where a police officer has reasonable grounds for suspecting that an arrestable offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(7) A police officer may arrest without a warrant —

- (a) anyone who is about to commit an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be about to commit an arrestable offence.

**130.** (1) Where a police officer has reasonable grounds for suspecting that any offence which is not an arrestable offence has been committed or attempted, or is being committed or attempted, he may arrest the relevant person if it appears to him that service of a summons is impracticable or inappropriate because any of the general arrest conditions is satisfied.

General arrest conditions. (1984 c.60 s.25.)

(2) In this section “the relevant person” means any person whom the police officer has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit it.

(3) The general arrest conditions are —

- (a) that the name of the relevant person is unknown to, and cannot be readily ascertained by, the police officer;
- (b) that the police officer has reasonable grounds for doubting whether a name furnished by the relevant person as his name is his real name;
- (c) that —

- (i) the relevant person has failed to furnish a satisfactory address for service; or
- (ii) the police officer has reasonable grounds for doubting whether an address furnished by the relevant person is a satisfactory address for service;
- (d) that the police officer has reasonable grounds for believing that arrest is necessary to prevent the relevant person —
  - (i) causing physical injury to himself or any other person;
  - (ii) suffering physical injury;
  - (iii) causing loss of or damage to property;
  - (iv) committing an offence against public decency; or
  - (v) causing an unlawful obstruction of the highway;
- (e) that the police officer has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the relevant person.

(4) For the purposes of subsection (3) above an address is a satisfactory address for service if it appears to the police officer —

- (a) that the relevant person will be at it for a sufficiently long period for it to be possible to serve him with a summons; or
- (b) that some other person specified by the relevant person will accept service of a summons for the relevant person at it.

(5) Nothing in subsection (3)(d) above authorises the arrest of a person under subparagraph (iv) of that paragraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.

(6) This section shall not prejudice any power of arrest conferred apart from this section.

**131.** (1) Subject to subsection (2) below so much of any enactment passed before this Ordinance as enables a police officer —

- (a) to arrest a person for an offence without a warrant; or
- (b) to arrest a person otherwise than for an offence without a warrant or an order of a court,

shall cease to have effect.

(2) Nothing in subsection (1) above affects the enactments specified in schedule 6 to this Ordinance in their application to the Falkland Islands.

**132.** (1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

(2) Subsection (1) above shall replace the rules of the common law on the question of when force used for a purpose mentioned in the subsection is justified for that purpose.

**133.** (1) Subject to subsection (5) below, where a person is arrested, otherwise than being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his arrest.

(2) Where a person is arrested by a police officer, subsection (1) above applies regardless of whether the fact of the arrest is obvious.

(3) Subject to subsection (5) below, no arrest is lawful unless the person arrested is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.

(4) Where a person is arrested by a police officer, subsection (3) applies regardless of whether the ground for the arrest is obvious.

(5) Nothing in this section is to be taken to require a person to be informed —

- (a) that he is under arrest; or
- (b) of the ground for the arrest,

if it was not reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

**134.** Where for the purpose of assisting with an investigation a person attends voluntarily at a police station or at any other place where a police officer is present or accompanies a police officer to a police station or any such other place without having been arrested —

Repeal of statutory powers of arrest without warrant or order. (1984 c.60 s.26.)

Use of force in making arrest etcetera. (1988.)

Information to be given on arrest. (1984 c.60 s.28.)

Voluntary attendance at police station etc. (1984 c.60 s.29.)

- (a) he shall be entitled to leave at will unless he is placed under arrest;
- (b) he shall be informed at once that he is under arrest if a decision is taken by a police officer to prevent him from leaving at will.

**135. Where —**

- (a) A person —
  - (i) has been arrested for an offence; and
  - (ii) is at a police station in consequence of that arrest; and
- (b) it appears to a police officer that, if he were released from that arrest, he would be liable to arrest for some other offence,

Arrest for further offence.  
(1984 c.60 s.31.)

he shall be arrested for that other offence.

**136. (1)** A police officer may search an arrested person, in any case where the person to be searched has been arrested at a place other than a police station, if the police officer has reasonable grounds for believing that the arrested person may present a danger to himself or others.

Search upon arrest. (1984 c. 60 s. 32.)

(2) Subject to subsections (3) to (5) below, a police officer shall also have power in any such case —

- (a) to search the arrested person for anything —
  - (i) which he might use to assist him to escape from lawful custody; or
  - (ii) which might be evidence relating to an offence; and
- (b) to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he has been arrested.

(3) The power to search conferred by sub-section (2) above is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(4) The powers conferred by this section to search a person are not to be construed as authorising a police officer to require a person to remove any of his clothing in public other than an outer coat, jacket or gloves.

(5) A police officer may not search a person in exercise of the power conferred by subsection (2)(a) above unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that paragraph.

(6) A police officer may not search premises in the exercise of the power conferred by subsection (2)(b) above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that paragraph on the premises.

(7) Insofar as the power of search conferred by subsection (2)(b) above relates to premises consisting of two or more separate dwellings, it is limited to a power to search —

- (a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and
- (b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(8) A police officer searching a person in the exercise of the power conferred by subsection (1) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or any other person.

(9) A police officer searching a person in the exercise of the power conferred by subsection (2)(a) above may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing —

- (a) that he might use it to assist him to escape from lawful custody; or
- (b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.

## PART X

### GENERAL

137. The Governor may make any rules or regulations necessary or convenient for the purpose of giving effect to any provision of this Ordinance.

Power to make  
rules and  
regulations.

138. (1) The enactments mentioned in Schedule 7 to this Ordinance shall have effect with the amendments there specified.

Amendments  
and repeals.

(2) The enactments mentioned in Schedule 8 to this Ordinance (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

### SCHEDULE 1

(section 11(1))

#### *Discharge and amendment of probation orders*

##### *Discharge*

1. (1) A probation order may be discharged, in accordance with the following provisions of this paragraph, on an application made by the probation officer or by the probationer.

(2) No application may be made under subparagraph (1) above while an appeal against the probation order is pending.

(3) The power to discharge the order shall be exercised by the court by which the order was made.

##### *Amendment*

2. (1) Subject to subparagraph (2) below, the court may, on an application made by the probation officer or by the probationer, by order amend a probation order by cancelling any of the requirements of the order or by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include under section 7, 9 or 10 of this Ordinance if it were then making the order.

(2) No application may be made under subparagraph (1) above while an appeal against the probation order is pending.

(3) The power of the court under this paragraph to amend a probation order shall be subject to the following restrictions —

- (a) the court shall not amend the probation order by reducing the probation period, or by extending that period beyond the end of three years from the date of the original order;
- (b) the court shall not amend a probation order by inserting therein a requirement that the probationer shall submit to treatment for his mental condition unless the amendment order is made within three months after the date of the original order.

3. Subject to paragraph 4 below, where the medical practitioner by whom or under whose direction a probationer is being treated for his medical condition in pursuance of any requirement of the probation order is of the opinion —

- (a) that the treatment of the probationer should be continued beyond the period specified in that behalf in the order, or
- (b) that the probationer needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of a probation order, or
- (c) that the probationer is not susceptible to treatment, or
- (d) that the probationer does not require further treatment,

or where the practitioner is for any reason unwilling to continue to treat or direct the treatment of the probationer, he shall make a report in writing to that effect to the probation officer and the probation officer shall apply to the court for the variation or cancellation of the requirement.

4. No application may be made under paragraph 3 above while an appeal against the probation order is pending.

#### *General*

5. (1) Subject to subparagraph (2) below, where the court proposes to amend the probation order under this Schedule, otherwise than on the application of the probationer, it shall summon him to appear before the court; and the court shall not amend a probation order unless the probationer expresses his willingness to comply with the requirements of the order as amended.

(2) This paragraph shall not apply to an order cancelling a requirement of the probation order or reducing the period of any requirement.

6. (1) On the making of an order discharging or amending a probation order, the appropriate officer of the court shall forthwith give copies of the order to the probation officer.

(2) A probation officer to whom in accordance with subparagraph (1) above, copies of an order are given shall give a copy to the probationer and to the person in charge of any institution in which the probationer is or was required by the order to reside.

### SCHEDULE 2

(section 33(16))

#### *Matters ancillary to Section 33*

##### *Probation orders*

1. Where a court makes an order under section 33(7) above with respect to a sentence of imprisonment, it shall not make a probation order in the offender's case in respect of another offence of which he is convicted by or before that court, or for which he is dealt with by that court.

##### *Courts competent to restore sentence held in suspense*

2. (1) In relation to a sentence of imprisonment part of which is held in suspense, the courts competent under section 33(11) above are —

- (a) the Supreme Court; and
- (b) where the sentence was passed by the Magistrate's Court or by the Summary Court, the Magistrate's Court; and
- (c) where the sentence was passed by the Summary Court, the Summary Court.

(2) Where an offender is convicted by the Magistrate's Court or by the Summary Court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the whole period of a sentence passed by the Supreme Court with an order under section 33(1) above —

- (a) it may, if it thinks fit, commit him to custody or on bail to the Supreme Court; and
- (b) if it does not, it shall give written notice of the conviction to the appropriate officer of that court.

(3) For the purposes of this and the next following paragraph, a sentence of imprisonment passed on an offender with an order under section 33(7) above shall be treated as having been passed (with such an order) by the court which originally sentenced him.

##### *Recall of offender on re-conviction*

3. (1) If it appears to the Supreme Court, or to the Senior Magistrate or to a justice of the peace in each case, having jurisdiction under subparagraph (2) below, that an offender has been convicted in the Falkland Islands of an offence punishable with imprisonment committed during the whole period of a sentence passed with an order under section 33(7) above and that he has not been dealt with in respect of the part of the sentence held in suspense, that court or the Senior Magistrate or that justice may, subject to the following provisions of this paragraph, issue a summons requiring the offender to appear at the place and time specified therein, or a warrant for his arrest.

(2) Jurisdiction for the purposes of subparagraph (1) above may be exercised —

- (a) if the sentence was passed by the Supreme Court, by that court or by the Senior Magistrate;

- (b) if it was passed by the Magistrate's Court or by the Summary Court, by the Senior Magistrate or by a justice of the peace.

(3) A summons or warrant issued under this paragraph shall direct the offender to appear or to be brought before the court by which the original sentence of imprisonment was passed.

#### *Consecutive sentences of imprisonment*

4. (1) This paragraph applies where —

- (a) an offender is serving consecutive sentences of imprisonment; and
- (b) at least one of the sentences was passed with an order under section 33(7) of this Ordinance.

(2) Where this paragraph applies the offender shall, so far as the consecutive sentences are concerned, be treated for the purposes —

- (a) of computing the date when he should be released from prison; and
- (b) of calculating the term of imprisonment liable to be restored under section 33(11) of this Ordinance;

as if he had been sentenced to a single term of imprisonment with an order under section 34(1) of this Ordinance of which the part which he is immediately required to serve in prison were the aggregate —

- (i) of the part which he is required to serve in prison of any consecutive sentence passed with an order under section 33(7) of this Ordinance; and
- (ii) of the whole term of any other consecutive sentences,

and of which the part which is held in suspense were the aggregate of all part of the sentences which were ordered to be held in suspense under that section.

(3) Section 33(15) of this Ordinance shall have effect, in relation to any consecutive sentence passed with an order under section 33(7) of this Ordinance, as if for the words following the word "prison" there were substituted the following words "if —

- (a) none of the sentences to which he is subject had been passed with an order under subsection (7) above; and
- (b) he had not had, in respect of any sentence passed with such an order any remission for industry and good conduct in prison."

(4) In this paragraph "a consecutive sentence" means a sentence which is one of two or more sentences of imprisonment the terms of which have been ordered to run consecutively.

#### *Miscellaneous (Procedural)*

5. Where the offender is before the Supreme Court with a view to the exercise by that court of its powers under section 33(11) above, any question whether and, if so, when he has been convicted of an offence shall be determined by the court and not by the verdict of a jury.

6. Where the offender has been before a court with a view to its exercising those powers, the appropriate officer shall —

- (a) if the court decided not to exercise the powers, record that fact; and
- (b) whether or not it exercised them, notify the appropriate officer of the court which passed the original sentence as to the manner in which the offender was dealt with.

7. For the purposes of any enactment conferring rights of appeal in criminal cases, the restoration by a court under section 33(11) above of a part of a sentence held in suspense shall be treated as a sentence passed on the offender by that court for the original offence, that is to say the offence for which the original sentence was passed with an order under section 33(7) above.

#### *Miscellaneous (Consequential)*

8. Where a sentence of imprisonment is passed with an order under section 33(7) above, it is still to be regarded for all purposes as a sentence of imprisonment for the term stated by the court notwithstanding that part of it is held in suspense by virtue of the order;

and, for the avoidance of doubt, a sentence of which part is held in suspense by virtue of such an order is not to be regarded as falling within the expression "suspended sentence" for the purposes of any legislation, instrument or document.

9. Where an offender is sentenced to imprisonment with an order under section 33(7) above, and having served part of the sentence in prison, is discharged by virtue of having received remission for industry and good conduct, the remainder of the sentence being held in suspense, the sentence is not to be regarded as having expired.

### SCHEDULE 3

(section 81)

#### *Persons entitled to bail: Supplementary provisions*

#### PART I

#### *Defendants accused or convicted of imprisonable offences*

##### *Defendants to whom Part I applies*

1. Where the offence or one of the offences of which the Defendant is accused or convicted in the proceedings is punishable with imprisonment the following provisions of this Part of this Schedule apply.

##### *Exceptions to right to bail*

2. The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would —

- (a) fail to surrender to custody, or
- (b) commit an offence while on bail, or
- (c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

3. The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

4. The defendant need not be granted bail if he is in custody in pursuance of a sentence of court or of any authority acting under any of the Services Acts.

5. The defendant need not be granted bail where the court is satisfied that it is not being practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

6. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 84 of this Ordinance.

Exception applicable only to defendant whose case is adjourned for enquiries or a report

7. Where his case is adjourned for inquiries or a report, the defendant need not be granted bail if it appears to the court that it would be impracticable to complete the inquiries or make the report without keeping the defendant in custody.

##### *Restriction of conditions of bail*

8. (1) Subject to subparagraph (3) below, where the defendant is granted bail, no conditions shall be imposed under subsections (4) to (7) of section 80 of this Ordinance unless it appears to the court that it is necessary to do so for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2 of this Part of this Schedule or, in the case of a condition under subsection (6)(d) of section 80, that it is necessary to impose it to enable inquiries or a report to be made into the defendant's physical or mental condition.

(2) Subparagraph (1) above also applies on any application to the court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(3) The restriction imposed by subparagraph (1) above shall not apply in the case of a person accused of murder (where the court if it grants bail shall, unless it considers that satisfactory reports on his mental condition have already been obtained, impose as conditions of bail —

- (a) a requirement that the accused shall undergo examination by two medical practitioners for the purpose of enabling such reports to be prepared; and
- (b) a requirement that he shall for that purpose attend at such institution or place as the court directs and comply with any other directions which may be given to him for that purpose by either of those practitioners).

*Decisions under paragraph 2*

9. In taking the decisions required by paragraph 2 of this Part of this Schedule, the court shall have regard to such of the following considerations as appear to it to be relevant, that is to say —

- (a) the nature and seriousness of the offence or default (and the probable method of dealing with the defendant for it),
- (b) the character, antecedents, associations and community ties of the defendant,
- (c) the defendant's record as respects the fulfilment of his obligations under previous grants of bail in criminal proceedings,
- (d) except in the case of a defendant whose case is adjourned for inquiries or a report, the strength of the evidence of his having committed the offence or having defaulted,

as well as to any others which appear to be relevant.

10. (1) If —

- (a) the defendant is charged with an offence to which this paragraph applies; and
- (b) representations are made as to any of the matters mentioned in paragraph 2 of this Part of this Schedule; and
- (c) the court decides to grant him bail,

the court shall state the reasons for its decision and shall cause those reasons to be included in the record of the proceedings.

(2) The offences to which this paragraph applies are —

- (a) murder;
- (b) manslaughter;
- (c) rape;
- (d) attempted murder; and
- (e) attempted rape.

PART II

*Defendants accused or convicted of non-imprisonable offences*

*Defendants to whom Part II applies*

1. Where the offence or every offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment the following provisions of this Part of this Schedule apply.

*Exceptions to right to bail*

2. The defendant need not be granted bail if —

- (a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and
- (b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.



3. The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.
4. The defendant need not be granted bail if he is in custody in pursuance of a sentence of a court or of any authority acting under any of the Services Acts. The defendant need not be granted bail if, having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 84 of this Ordinance.

### PART III

#### *Decisions where bail refused on previous hearing*

1. If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing whether the defendant is a person to whom section 81 of this Ordinance applies and remains in custody, or whether he ought to be granted bail.
2. At the first hearing after that at which the court decided not to grant the defendant bail, he may support an application for bail with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).
3. At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.

### PART IV

#### INTERPRETATION

1. For the purposes of this Schedule the question of whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.
2. References in this Schedule to previous grants of bail in criminal proceedings include references to bail granted before the coming into force of this Ordinance or the relevant provisions thereof.
3. References in this Schedule to a defendant's being kept in custody or being in custody include (where the defendant is a child or young person) references to his being kept or being in the care of the government in pursuance of a warrant of commitment under section 23(1) of the Children and Young Persons' Act 1969 in its application to the Falkland Islands.
4. In this Schedule —  
 "court", in the expression "sentence of a court", includes a service court and "sentence", in that expression, shall be construed in accordance with that definition;  
 "default", in relation to the defendant, means the default for which he is to be dealt with under section 12 or section 31 of this Ordinance;  
 "the Services Acts" means the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.

### SCHEDULE 4

#### (Section 112)

#### SERIOUS ARRESTABLE OFFENCES

#### PART I

#### *Offences mentioned in Section 112(2)(a)*

1. Treason.
2. Murder.
3. Manslaughter.
4. Rape.
5. Kidnapping.
6. Incest with a girl under the age of 13.
7. Buggery with —
  - (a) a boy under the age of 16; or
  - (b) a person who has not consented.

8. Indecent assault which constitutes an act of gross indecency.

## PART II

### *Offences mentioned in Section 112(2)(b)*

#### *Explosive Substances Act 1883*

1. Section 2 (causing explosion likely to endanger life or property).

#### *Sexual Offences Act 1956*

2. Section 5 (intercourse with a girl under the age of 13).

#### *Taking of Hostages Act 1982*

3. Section 1 (hostage-taking).

#### *Aviation Security Act 1982*

4. Section 1 (hi-jacking).

#### *Road Traffic Ordinance (Cap.60)*

5. Section 9 (causing death by reckless driving).

#### *Firearms Ordinance 1987*

6. Section 23 (possession of firearms with intent to injure).
7. Section 24 (use of firearms or imitation firearm to effect an unlawful purpose).

## SCHEDULE 5

### (section 114)

## SPECIAL PROCEDURE

### *Making of orders*

1. If on application by a police officer, a judge of the Supreme Court or the Senior Magistrate is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 4 below.

2. The first set of access conditions is fulfilled if —

- (a) there are reasonable grounds for believing —
  - (i) that a serious arrestable offence has been committed;
  - (ii) that there is material which consists of special procedure or includes special procedure material and does not also include excluded material on premises specified in the application;
  - (iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and
  - (iv) that the material is likely to be relevant evidence;
- (b) other methods of obtaining the material —
  - (i) have been tried without success; or
  - (ii) have not been tried because it appeared that they were bound to fail; and
- (c) it is in the public interest, having regard —
  - (i) to the benefit likely to accrue to the investigation if the material is obtained; and
  - (ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

3. The second set of access conditions is fulfilled if

- (a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special procedure material on premises specified in the application;
- (b) but for section 114(2) above a search of the premises for that material could have been authorised by the issue of a warrant to a police officer under an enactment other than this Schedule; and
- (c) the issue of such a warrant would have been appropriate.

4. An order under this paragraph is an order that the person who appears to the judge or the Senior Magistrate to be in possession of the material to which the application relates shall —

- (a) produce it to a police officer for him to take away; or
- (b) give a police officer access to it,

not later than the end of the period of seven days from the date of the order or the end of such longer period as the order may specify.

5. Where the material consists of information contained in a computer —

- (a) an order under paragraph 4(a) above shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
- (b) an order under paragraph 4(b) above shall have effect as an order to give a police officer access to the material in a form in which it is visible and legible.

6. For the purposes of sections 126 and 127 above material produced in pursuance of an order under paragraph 4(a) above shall be treated as if it were material seized by a police officer.

#### *Notice of applications for orders*

7. An application for an order under paragraph 4 above shall be made *inter partes*.

8. Notice of an application for such an order may be served on a person either by delivering it to him or by leaving it at his proper address or by sending it by post to him in a registered letter or by the recorded delivery service.

9. Such a notice may be served —

- (a) on a body corporate, by serving it on the body's secretary or clerk or other similar officer; and
- (b) on a partnership, by serving it on one of the partners.

10. For the purposes of this Schedule, the proper address of a person, in the case of secretary or clerk or other similar officer of a body corporate, shall be that of the registered or principal office of that body, in the case of a partner of a firm shall be that of the principal office of the firm, and in any other case shall be the last known address of the person to be served.

11. Where notice of an application for an order under paragraph 4 above has been served on a person, he shall not conceal, destroy, alter or dispose of the material to which the application relates except —

- (a) with the leave of a judge or of the Senior Magistrate; or
- (b) with the written permission of a police officer of the rank of inspector or above,

until —

- (i) the application is dismissed or abandoned; or
- (ii) he has complied with an order under paragraph 4 above made on the application.

#### *Issue of warrants by judge of the Supreme Court or by the Senior Magistrate*

12. If on an application made by a police officer, a judge of the Supreme Court or the Senior Magistrate —

- (a) is satisfied —
  - (i) that either set of access conditions is fulfilled; and
  - (ii) that any of the further conditions set out in paragraph 14 below is also fulfilled; or
- (b) is satisfied —
  - (i) that the second set of access conditions is fulfilled; and
  - (ii) that an order under paragraph 4 above relating to the material has not been complied with,

he may issue a warrant authorising a police officer to enter and search the premises.

13. A police officer may seize and retain anything for which a search has been authorised under paragraph 12 above.

14. The further conditions mentioned in paragraph 12(a)(ii) above are —

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;
- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that the material contains information which —
  - (i) is subject to a restriction or obligation such as is mentioned in section 116(2)(b) above; and
  - (ii) is likely to be disclosed in breach of it if a warrant is not issued;
- (d) that service of notice of an application for an order under paragraph 4 above may seriously prejudice the investigation.

15. (1) If a person fails to comply with an order under paragraph 4 above, a judge or the Senior Magistrate may deal with him as if he had committed a contempt of the Supreme Court.

(2) Any enactment relating to contempt of the Supreme Court shall have effect in relation to such a failure as if it were such a contempt.

## SCHEDULE 6

(section 131(2))

### PRESERVED POWERS OF ARREST

#### PART I

(Powers of arrest under Falkland Islands Ordinances)

Customs Ordinance (Cap. 16)

Dangerous Goods Ordinance 1987

Immigration Ordinance 1987

Misuse of Drugs Ordinance 1987

Road Traffic Ordinance (Cap.60)

Firearms Ordinance 1987

#### PART II

(Powers of arrest under United Kingdom or English provisions applying in the Falkland Islands)

Section 12(1) of the Protection of Animals Act 1911

Section 7(3) of the Public Order Act 1936

Section 1(3) of the Street Offences Act 1959

Sections 28(2) and 32 of the Children and Young Persons Act 1969

Section 16 of the Child Care Act 1980

Sections 60(5) and 61(1) of the Animal Health Act 1981

Section 5(5) of the Repatriation of Prisoners Act 1984

## SCHEDULE 7

(section 138(1))

### MINOR AND CONSEQUENTIAL AMENDMENTS

1. In the Dogs (Protection of Livestock) Act 1953 in its application to the Falkland Islands, the following section shall be inserted after section 2 —

If an application made by a police officer, the Senior Magistrate or a justice of the peace is satisfied that there are reasonable grounds for believing —

- (a) that an offence under this Act has been committed; and
- (b) that the dog in respect of which the offence has been committed is on premises specified in the application,

“Powers of Senior Magistrate and justice of the peace to authorise entry and search.

he may issue a warrant authorising a police officer to enter and search the premises in order to identify the dog”.

2. At the end of section 41 of the Sexual Offences Act 1956 (power to arrest in cases of soliciting by men) in its application to the Falkland Islands there shall be added “but a police officer may only do so in accordance with section 130 of the Criminal Justice Ordinance 1989”

3. In the Children and Young Persons Act 1969 in its application to the Falkland Islands —

- (a) in section 28(4), for the words “a police officer not below the rank of inspector or by the police officer in charge of” there shall be substituted the words “the responsible officer (within the meaning given to that phrase by the Criminal Justice Ordinance 1989)”; and
- (b) the following section shall be substituted for section 29 —

“29. A child or young person arrested in pursuance of a warrant shall not be released unless he or his parent or guardian (with or without sureties) enters into a recognisance for such amount as the responsible officer (within the meaning given to that phrase by the Criminal Justice Ordinance 1989) considers will secure his attendance at the hearing of the charge; and the recognisance entered into in pursuance of this section may, if the responsible officer thinks fit, be conditional upon the attendance of the parent or guardian at the hearing in addition to the child or young person.”

Recognisance or release of arrested child or young person.

## SCHEDULE 8

### REPEALS

#### *Extent of Repeal*

Schedule to the following extent —

- (a) paragraph 4 (which relates to the Probation of Offenders Act 1907)
- (b) paragraph 56 (which relates to the Criminal Justice Act 1948) insofar as it relates to sections 3-8, 11, 12 (probation orders and discharge) 17(2) (restriction on imprisonment) 37(1)(c) and 37(6) (bail) and 43 (reports of probation officers)

Section 9P(4).

Ref: LEG/10/74.

#### *Statute*

1. Application of Enactments Ordinance 1954.

Road Traffic Ordinance (Cap. 60)

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*Acting Clerk of Councils.*

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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.

S. GOSS,  
*Acting Clerk of Councils.*

# The Falklands Interim Port and Storage System Ordinance 1989

(No. 18 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Interpretation.
3. Fipass waters.
4. Rates.
5. Time at which rates are to be paid.
6. Exemption of vessels in Her Majesty's service, from rates.
7. Vessels returning from stress of weather.
8. Fipass manager may enter vessels to ascertain rates payable.
9. Master to produce certificate of registry.
10. Masters of vessels to give names of consignees, and accounts of goods to be unshipped etc.
11. Offence on part of masters giving no account or notice, or a false account or notice.
12. Shippers to give an account of goods intended to be shipped.
13. In case of dispute goods to be weighed or measured.
14. Expenses of weighing or measuring such goods.
15. Penalty for evading payment of rates.
16. Recovery of berthing dues by distraint and sale of ship and tackle.
17. Recovery of stevedoring charges on goods by distraint and sale or by action.
18. Disputes concerning rates or charges occasioned by distress.
19. Collector of Customs may withhold a clearance to any vessel until certificate is produced that the rates are paid, etc.
20. Powers of the Fipass manager.
21. Appointment of deputy Fipass manager.
22. Penalty on shipmasters not complying with directions, of the Fipass manager.
23. Penalty on Fipass manager, etc, for misbehaviour.
24. Penalty on persons offering bribes to officers, and on officers taking bribes.
25. Powers of Fipass manager as to mooring of vessels at Fipass and in Fipass waters.
26. Vessels to have hawsers, etc, fixed to moorings.
27. Penalty for wilfully cutting moorings.
28. Discharge of cargo and removal of vessels.
29. Penalty on wharfingers, giving undue preference in loading or unloading goods.
30. Removal of goods from Fipass.
31. Combustible matter on Fipass or vessel, to be removed.
32. Combustibles to be guarded during the night.

33. Power to enter ship and search for and extinguish fires or lights.
34. Owner and master of vessel answerable for damage to Fipass.
35. Regulations.
36. Offences and penalties.

ELIZABETH II



Colony of the Falkland Islands

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

An Ordinance to provide for the operation and management of the Falklands Interim Port and Storage System and to make provision for the levying of rates in respect of its use by vessels.

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Falklands Interim Port and Storage System Ordinance 1989.

Short title.

2. In this Ordinance

Interpretation.

“berthing dues” means any due, fee or charge payable under this Ordinance in respect of a vessel which berths alongside Fipass or within Fipass waters;

“deputy Fipass manager” means the person appointed pursuant to the provisions of section 21;

“dynamically supported craft” means a craft that is operable on or above water and the weight of which, or a significant part thereof is balanced in one mode of operation by other than hydrostatic forces;

“Fipass” means the Falklands Interim Port and Storage System;

“Fipass manager” means the Chief Executive for the time being of the Falkland Islands Government (including the Chief Executive acting on the direction of the Governor) or any person authorised by the Chief Executive to act or exercise the powers of the Fipass manager;

“Fipass waters” means all those waters immediately surrounding Fipass and within a distance of one nautical mile from Fipass;

“master” in relation to a vessel means the person having for the time being command or charge of the vessel;

“owner” —

(a) in relation to a vessel means



- (i) the person or person registered or licensed as the owner of the vessel or in the absence of registration or licensing, the person or persons owning the vessel, except that in relation to a vessel owned by a state which is operated by a person registered as the vessel's operator, it means the person registered as its operator; or
- (ii) a demise charterer of the vessel; and
- (b) in relation to cargo, includes
  - (i) the consignor, consignee or shipper of the cargo; and
  - (ii) the agent of the owner of the cargo;

"rates" means berthing dues and stevedoring charges;

"ship" means any vessel used in navigation other than a vessel propelled by oars;

"stevedoring charges" means any due, fee or charge payable under this Ordinance in respect of stevedoring services rendered by or on behalf of the Falkland Islands Government at Fipass;

"vessel" includes

- (a) any ship, boat, dynamically supported craft, sea-plane or any other description of vessel used in navigation; and
- (b) any other description of vessel in the Falkland Islands or in the waters of the Falkland Islands not used in navigation or not constructed or adapted for use in navigation.

3. (1) This Ordinance shall, except where otherwise specifically provided, apply to all vessels using Fipass or located within Fipass waters. Fipass waters.

(2) The provisions of this Ordinance and any regulations made hereunder shall take precedence over the provisions of the Harbour Ordinance in the event of any conflict or inconsistency therewith.

4. (1) The Crown may charge rates to be paid as follows — Rates.

- (a) in the case of berthing dues, by the master or owner of the vessel to which they relate; and
- (b) in the case of stevedoring charges, by the owner of the goods to which they relate.

(2) The Governor may

- (a) determine and fix the amount and level of rates to be charged; and
- (b) refund or waive the payment of, in whole or in part, any rates due in respect of any vessel, goods or services.

(3) Where the amount and level of berthing dues are determined and fixed by reference to the tonnage of vessels the tonnage shall be ascertained according to the certified tonnage in the register of such vessels or shall be ascertained according to the rules of admeasurement for the time being established by law for regulating the admeasurement of the tonnage and burthen of the merchant shipping of the United Kingdom.

5. (1) If demanded by or on behalf of the Crown rates shall be paid as follows — Time at which rates are to be paid.

- (a) in the case of berthing dues, before the vessel to which they relate unmoors from Fipass; and
- (b) in the case of stevedoring charges where they relate to goods to be shipped, before the shipment, and, where they relate to goods to be unshipped, before the removal of the goods from Fipass.

(2) If not so demanded as provided for in subsection (1) rates shall be paid upon the date indicated upon any invoice issued by or on behalf of the Crown.

6. (1) Nothing contained in this Ordinance shall extend to charge with rates or to regulate or subject to any control — Exemption of vessels.

- (a) any vessel belonging to or employed in the service of Her Majesty using Fipass and not conveying goods for hire;
- (b) any of the officers or persons employed in the service of Her Majesty's Navy;
- (c) the Collector of Customs;
- (d) any vessel or goods being under seizure by the Collector of Customs;
- (e) any naval, victualling, or ordnance stores, or other stores or goods for the service of or being the property of Her Majesty;

- (f) any troops landed upon or delivered or disembarked from Fipass, or their baggage.
- (2) Any person claiming and taking the benefit of any exemption pursuant to subsection (1) without being entitled thereto shall be guilty of an offence.
7. If any vessel for which berthing dues have been paid is obliged, from stress of weather or other sufficient cause, after leaving Fipass, to return with the same cargo, the berthing dues so paid shall not again be payable in respect of such vessel. Vessels returning from stress of whether.
8. The Fipass manager may, either alone or with any other persons, enter into any vessel lying alongside Fipass or within Fipass waters, in order to ascertain the rates payable in respect of such vessel, or of any goods therein. Fipass manager may enter vessels to ascertain rates payable. Master to produce certificate of registry.
9. (1) The master of every registered vessel situate within Fipass waters shall, on demand, produce the certificate of registry of such vessel to the Fipass manager.
- (2) Any master who refuses or neglects to produce the certificate as provided in subsection (1) shall be guilty of an offence.
10. Where any goods are intended to be unshipped upon Fipass or within Fipass waters, the master of the vessel containing such goods shall — Masters of vessels to give names of consignees, and accounts of goods to be unshipped etc.
- (a) within twelve hours after the arrival of his vessel alongside Fipass or within Fipass waters, deliver to the Fipass manager the name of the consignee of the goods intended to be unshipped or other person to whom the same are to be delivered, and, if the whole cargo is intended to be unshipped, a copy of the bill of lading or manifest of the cargo, or, if part only of the cargo is intended to be unshipped, the best account in writing in his power of the kinds, weights, and quantities of the several goods intended to be unshipped; and
- (b) if required so to do by the Fipass manager, give to him twelve hours notice of the time at which the cargo of his vessel or any part of the same is intended to be unshipped.
11. The master of a vessel of which the cargo or part of the cargo is unshipped upon Fipass or within Fipass waters, who fails to deliver or to give any of the particulars in regard to the cargo or the notice in regard to the shipment thereof required to be delivered or given by him pursuant to section 10, or who delivers or gives any false particulars or notice, shall be guilty of an offence. Offence on part of masters giving no account or notice, or a false account or notice.
12. (1) Prior to the commencement of shipment of any goods on board of any vessel lying alongside Fipass or within Fipass waters, the shipper of such goods shall give to the Fipass manager a true account, of the kinds, quantities and weights of such goods. Shippers to give an account of goods intended to be shipped.
- (2) Any shipper who ships or causes to be shipped any goods in a vessel as provided in subsection (1) without having given such accounts, or who gives or signs a false account of such goods, shall be guilty of an offence.
13. If any difference arises between the Fipass manager and the master of any vessel or the owner of any goods, concerning the weight or quantities of the goods in respect of which any stevedoring charges are payable, the Fipass manager may cause all such goods to be weighed or measured and, if necessary, may detain the vessel containing such goods until they have been weighed or measured. In case of dispute goods to be weighed or measured.
14. If the weight or quantity of any goods caused to be weighed or measured by the Fipass manager pursuant to section 13, is greater than that shown by the manifest, bill of lading, account or statement delivered by the master of the vessel or by the owners of the goods, the expenses of such weighing or measuring shall be paid by such master or owner to the Crown and shall be recoverable by the same means as are herein provided for the recovery of rates. Expenses of weighing or measuring such goods.
15. If the master or owner of any vessel or the owner of any goods evades the payment of rates payable to the Crown in respect of such vessel or goods, or any part thereof, he shall pay to the Crown three times the amount of the rates of which he has so evaded payment and the same shall be recoverable from such master or owners respectively in the manner prescribed in section 36 of this Ordinance. Penalty for evading payment of rates.
16. If the master or owner of any vessel in respect of which any berthing dues are payable to the Crown hereunder refuses or neglects to pay the same, or any part thereof; Recovery of berthing dues by distraint and sale of ship and tackle.

- (a) the Fipass manager may, with such assistance as he may deem necessary, go on board of such vessel and demand such berthing dues, and on non payment thereof, or of any part thereof, take, distrain, or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the matters so distrained or arrested until the berthing dues are paid and in the event that any berthing dues in respect of which any distress or arrestment has been made pursuant hereto remain unpaid upon the expiration of 7 days from the date of such distress or arrestment the Fipass manager may cause the matters so distrained or arrested to be appraised by two or more sworn appraisers, and afterwards cause the matters distrained or arrested, or any part thereof, to be sold, and with the proceeds of such sale may satisfy the berthing dues so unpaid, and the expenses of taking, keeping, appraising, and selling the matters so distrained or arrested, rendering the balance if any to the master of such vessel upon demand; or
    - (b) the Crown may recover such berthing dues by action in any court having competent jurisdiction, as if the amount payable was a civil debt owed to the Crown by the master or the owner of the vessel in respect of which the berthing dues are payable.
17. If the owner of any goods in respect of which any stevedoring charges are payable to the Crown hereunder refuses or neglects to pay the same, or any part thereof
- Recovery of stevedoring charges by distraint and sale or by action.
- (a) the Fipass manager may enter any vessel lying alongside Fipass or within Fipass waters, in which the goods may be, with such assistance as he shall deem necessary and demand such stevedoring charges, and on non payment thereof, take or distrain, of his own authority such goods or, if the goods have been removed without payment of such stevedoring charges, he may distrain or arrest any other goods upon Fipass, belonging to the owner of such goods, and may sell the goods so distrained or arrested, and out of the proceeds of such sale pay the stevedoring charges due to the Crown rendering the balance, if any, to the owner of such goods, on demand; or
    - (b) the Crown may recover such stevedoring charges by action in any court having competent jurisdiction, as if the amount payable was a civil debt owed to the Crown by the owner of such goods.
18. If any dispute arises concerning the amount of any rates due, or the charges occasioned by any distress or arrestment, by virtue of this Ordinance, the person making such distress or using such arrestment may detain the goods or vessel distrained or arrested until the amount of the rates due or the charges of such distress or arrestment, be ascertained by the Senior Magistrate who, upon application made to him for that purpose, shall determine the same, and award such costs to be paid by either of the parties to the other of them as he shall think reasonable, and such costs, if not paid on demand, shall be levied by distress or pounding and sale, and the Senior Magistrate shall issue his warrant accordingly.
- Disputes concerning rates or charges occasioned by distress.
19. The Collector of Customs may, refuse to receive any entry or give any cocquet, discharge, or clearance, or to take any report inwards or outwards of any vessel liable to the payment of any of the rates imposed by this Ordinance, until the master of such vessel produces to him a certificate, under the hand of the Fipass manager, that the rates payable in respect of such vessel, and any goods imported or exported by such vessel, have been paid, or, if there be any dispute as to the rates payable, until he shall be satisfied that sufficient security has been given for the payment of such rates when ascertained, together with the expenses arising from the nonpayment thereof.
- Collector of Customs may withhold a clearance to any vessel until certificate is produced that the rates are paid, etc.
20. The Fipass manager may give directions for all or any of the following purposes; (that is to say)
- Powers of the Fipass manager.
- (a) for regulating the time at which and the manner in which any vessel shall enter into, go out of, or lie in or at Fipass and within Fipass waters, and its position, mooring or unmooring, placing and removing, whilst therein;
    - (b) for regulating the position in which any vessel shall take in or discharge its cargo or any part thereof, or shall take in or land its passengers or shall take in or deliver ballast within or on Fipass and within Fipass waters;

- (c) for regulating the manner in which any vessel coming to Fipass shall be manoeuvred whilst it is within the facility waters, as well for the safety of such vessel as for preventing injury to other vessels, and to Fipass, and the moorings thereof;
- (d) for removing unservicable vessels and other obstructions from Fipass and Fipass waters and keeping the same clear;
- (e) for regulating the quantity of ballast or dead weight in the hold, which each vessel lying alongside Fipass or within Fipass waters shall have during the delivery of her cargo, or after having discharged the same:

provided always, that nothing contained in this Ordinance shall authorise the Fipass manager to do or cause to be done any act in any way repugnant to or inconsistent with any law relating to the customs, or any lawful direction made by the Collector of Customs.

**21. (1)** The Fipass manager may appoint a deputy Fipass manager to assist him to administer and ensure compliance with and with any directions given by him pursuant to the provisions of this Ordinance.

Appointment of deputy Fipass manager.

(2) Any deputy Fipass manager appointed pursuant to subsection (1) may exercise the powers granted to the Fipass manager by the provisions of this Ordinance.

**22. (1)** The master of every vessel lying alongside Fipass or within Fipass waters shall regulate such vessel according to the directions of the Fipass manager made in conformity with this Ordinance.

Penalty on ship-masters not complying with directions, of the Fipass manager.

(2) Any master of a vessel who, after notice of any such direction by the Fipass manager served upon him, shall not forthwith regulate such vessel according to such direction shall be guilty of an offence and liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

**23.** If the Fipass manager (other than the Chief Executive), the deputy Fipass manager or any of his assistants, without reasonable cause, or in an unreasonable or unfair manner, exercise any of the powers or authorities vested in the Fipass manager by this Ordinance, the person so offending shall be guilty of an offence.

Penalty on Fipass manager, etc, for misbehaviour.

**24.** Any person who gives or offers any sum of money, or any thing whatsoever, by way of reward or bribe to the Fipass manager or any person employed in or about Fipass, for the purpose of gaining an undue preference in the execution of his office, or for the purpose of inducing such Fipass manager or other person to do or omit to do anything relating to his office, and any Fipass manager or other person who receives any such reward or bribe as aforesaid, shall be guilty of an offence and liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for 2 years or both such fine and such imprisonment.

Penalty on persons offering bribes to officers, and on officers taking bribes.

**25. (1)** If the master of any vessel lying alongside Fipass or within Fipass waters, shall not moor, unmoor, place or remove such vessel according to the directions of the Fipass manager, or if there be no person on board any such vessel to attend to such direction, the Fipass manager may cause such vessel to be moored, unmoored, placed, or removed as he shall think fit, at Fipass or within Fipass waters and for that purpose the Fipass manager may cast off, unloose, or cut the rope, or unshackle or break the chain, by which any such vessel is moored or fastened; and all expenses attending the mooring, unmooring, placing, or removing of such vessel shall be paid to the Crown by the master of such vessel:

Powers of Fipass manager as to mooring of vessels at Fipass and in Fipass waters.

Provided always, that before the Fipass manager shall unloose or cut any rope, or unshackle or break any chain, by which any vessel without any person on board to protect the same shall be moored or fastened, he shall cause a sufficient number of persons to be put on board of such vessel for the protection of the same.

(2) The master of any vessel lying alongside Fipass or within Fipass waters who does not moor, unmoor, place, or remove the same according to the directions of the Fipass manager shall be guilty of an offence and be liable on conviction, to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for six months or both such fine and such imprisonment.

**26. (1)** Every vessel alongside Fipass or within Fipass waters shall have substantial hawsers, tow lines, and fasts fixed to the dolphins, booms, buoys, or mooring posts located upon Fipass or within Fipass waters, when required by the Fipass manager.

Vessels to have hawsers, etc, fixed to moorings.

(2) The master of any vessel lying alongside Fipass or within Fipass waters, without substantial hawsers, tow-lines, or fasts fixed as aforesaid, after notice has been given to the master of such vessel to furnish or fix the same, shall be guilty of an offence.

27. Any person, other than the Fipass manager, who wilfully cuts, breaks, or destroys the mooring or fastening of any vessel lying alongside Fipass or within Fipass waters shall be guilty of an offence and liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for 2 years or both such fine and such imprisonment.

Penalty for wilfully cutting moorings.

28. (1) The master of every vessel which shall go alongside Fipass for the purpose of being discharged of her cargo shall cause her to be so discharged as soon as conveniently may be after entering therein, and shall cause her, after being so discharged, to be removed without loss of time, to such part of Fipass or into such part of Fipass waters directed by the Fipass manager.

Discharge of cargo.

(2) The master of any vessel who shall not cause her to be so removed as provided in subsection (1) within twenty-four hours after being so required so to do by notice in writing signed by the Fipass manager, commits an offence, and the Fipass manager may cause such vessel to be so removed, and the expenses of such removal shall be paid to the Crown by the master of such vessel.

29. Any wharfinger or other person under the direction of the Fipass manager, or any of their lessees, or the servants of such lessees, who gives any undue preference or shows any partiality in loading or unloading any goods on any part of Fipass shall be guilty of an offence.

Penalty on wharfingers, giving undue preference in loading or unloading goods.

30. The Fipass manager, or any person appointed by the Fipass manager, may remove any goods located upon Fipass without the consent of the Fipass manager and not belonging to the Crown, to any convenient place, and keep the same until payment to the Crown of the expenses of such removal, and of the keeping of the goods; and if such expenses be not paid within seven days, after demand thereof made upon the owner, or if no such owner can be found, the Crown may sell such goods, and out of the proceeds of such sale pay such expenses, rendering the balance, if any, to the owner on demand.

Removal of goods from Fipass.

31. Every person being the owner of or having the charge of any diesel oil, tar, pitch, resin, spirituous liquors, turpentine, oil, or other combustible thing, which shall be upon Fipass, or on the deck of any vessel lying alongside Fipass or within Fipass waters shall cause the same to be removed to a place of safety immediately after being required so to do by notice in writing, signed by the Fipass manager, and if he fails so to do shall be guilty of an offence.

Combustible matter on Fipass or vessel to be removed.

32. If any combustible thing as described in section 31 shall remain on any part of Fipass or on the deck of any vessel lying alongside Fipass or within Fipass waters, after sunset, the owner or person having the charge of the same, or on his default the Fipass manager, at the expense of such owner or person, shall provide a sufficient number of persons to guard the same from half an hour before sunset to half an hour after sunrise; and such expense, if not paid by the said owner or person to the Crown, on demand, shall be ascertained by the Fipass manager and may be recovered by the Crown as if the amount of such ascertained expense was a civil debt owed to the Crown by such owner or person.

Combustibles to be guarded during the night.

33. The Chief Fire Officer may enter into any vessel lying alongside Fipass or within Fipass waters to search for any fire or light in or suspected to be in such vessel, and may extinguish the same; and any person who obstructs or fails without due cause to assist the Chief Fire Officer in the execution of such duty shall be guilty of an offence.

Power of Chief Fire officer to enter ship and search for and extinguish fires or lights.

34. The owner of every vessel shall be answerable to the Crown for any damage done by such vessel or by any person employed about the same, to Fipass and the master or person having the charge of such vessel through whose wilful act or negligence any such damage is done shall also be liable to make good the same; and the Crown may detain any such vessel until sufficient security has been given for the amount of damage done by the same.

Owner and master of vessel answerable for damage to Fipass.

35. (1) The Governor may make Regulations for the better carrying out of the provisions of this Ordinance.

Regulations.

(2) Without derogating from the generality of subsection (1) Regulations made hereunder may be made

- (a) for regulating the use of Fipass;
- (b) for regulating the exercise of the several powers vested in the Fipass manager;
- (c) for regulating the admission of vessels into Fipass waters and their removal out of and from the same, and for the good order and government of such vessels whilst lying alongside Fipass or within Fipass waters;
- (d) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing, and removing of all goods within the limits of Fipass and Fipass waters;
- (e) for regulating the hours during which the entrance to Fipass shall be open;
- (f) for regulating the duties and conduct of all persons, not being customs officers, who shall be employed at or present upon Fipass;
- (g) for regulating the use of fires and lights within Fipass or within Fipass waters and within any vessel lying alongside Fipass or within Fipass waters;
- (h) for preventing damage or injury to any vessel lying alongside Fipass or within Fipass waters and any goods upon Fipass.

36. (1) Any person who commits an offence against this Ordinance or any regulation made hereunder, for which no other penalty is specifically provided, shall be liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale. Offences and penalties.

(2) Any penalty imposed pursuant to section 15 shall be recovered or enforced in the same manner as a penalty or fine imposed by the Senior Magistrate or Court of Summary Jurisdiction in criminal proceedings may be recovered or enforced.

Ref: CUS/13/6.

Passed by the Legislature of the Falkland Islands this 16th day of June 1989.

S. GOSS,  
*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.

S. GOSS,  
*Acting Clerk of Councils.*



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*1st SEPTEMBER 1989*

*No. 32*

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**PROCLAMATION**

No. 3 of 1989

IN THE NAME of Her Majesty **ELIZABETH THE SECOND**, 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 HONOUR **RONALD SAMPSON, ESQUIRE**, Acting Governor of the Falkland Islands.

WHEREAS section 29 (2) of the Constitution provides that the Governor may at any time dissolve the Legislative Council and section 29(3) of the Constitution provides that the Governor must dissolve the Legislative Council at the expiration of four years from the date on which it first met after the preceding general election, unless it has been sooner dissolved,

**NOW THEREFORE I, RONALD SAMPSON** do

**HEREBY DISSOLVE** the Legislative Council and

**HEREBY APPOINT** the Eleventh day of October 1989 as the day on which a General Election shall take place to elect new members of the Legislative Council.

Given under my hand and the Public Seal of the Falkland Islands this First day of September in the year of Our Lord One Thousand Nine Hundred and Eighty Nine.



**R. SAMPSON,**  
*Acting Governor.*

**GOD SAVE THE QUEEN**

**WRIT OF ELECTION**

TO: the Returning Officer for the Camp Constituency.

**IN THE NAME of Her Majesty ELIZABETH THE SECOND** by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith.

**BY HIS HONOUR RONALD SAMPSON** Acting Governor of the Colony of the Falkland Islands to the Returning Officer for the Camp Constituency Greeting.

**WHEREAS** the Legislative Council has been dissolved in accordance with Section 29(3) of Schedule 1 to The Falkland Islands Constitution Order 1985.

**AND WHEREAS** by way of Proclamation the Eleventh day of October 1989 has been appointed as the date on which a general election is to be held with the Falkland Islands.

**NOW THEREFORE I, RONALD SAMPSON do COMMAND THAT** due notice being first given you do cause election to be made according to law of such numbers of members of the Legislative Council as is requisite for the Camp Constituency.

**AND THAT** you return this writ endorsed as provided by law on or before the Sixteenth day of October 1989.

**GIVEN** under my hand and the Public Seal of the Falkland Islands, this First day of September in the year of our Lord One Thousand Nine Hundred and Eighty Nine.

LS

**R. SAMPSON,**  
Acting Governor.

**WRIT OF ELECTION**

TO: the Returning Officer for the Stanley Constituency.

**IN THE NAME of Her Majesty ELIZABETH THE SECOND** by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith.

**BY HIS HONOUR RONALD SAMPSON** Acting Governor of the Colony of the Falkland Islands to the Returning Officer for the Stanley Constituency Greeting.

**WHEREAS** the Legislative Council has been dissolved in accordance with Section 29(3) of Schedule 1 to The Falkland Islands Constitution Order 1985.

**AND WHEREAS** by way of Proclamation the Eleventh day of October 1989 has been appointed as the date on which a general election is to be held with the Falkland Islands.

**NOW THEREFORE I, RONALD SAMPSON do COMMAND THAT** due notice being first given you do cause election to be made according to law of such numbers of members of the Legislative Council as is requisite for the Stanley Constituency.

**AND THAT** you return this writ endorsed as provided by law on or before the Sixteenth day of October 1989

**GIVEN** under my hand and the Public Seal of the Falkland Islands this First day of September in the year of our Lord One Thousand Nine Hundred and Eighty Nine.

LS

**R. SAMPSON,**  
Acting Governor.





**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*5th SEPTEMBER 1989*

*No. 33*

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No. 53

5th September 1989.

THE ELECTORAL ORDINANCE 1988

(No. 21 of 1988)

NOTICE OF ELECTION

Stanley Constituency

It is hereby notified that a General Election will take place on Wednesday 11th October 1989 for the eight seats of elected members of Legislative Council (four for the Stanley Constituency and four for the Camp Constituency).

Nomination papers for both constituencies may be obtained from

me, the Returning Officer at the Registrar General's Office, Town Hall, Stanley

or

from the Attorney General's Office, the Secretariat, Stanley

between the hours of 8 am to 12.00 noon and 1.15 pm to 4.30 pm except Saturdays, Sundays and Public Holidays).

The Returning Officer can be contacted via Civilian 272 and the Attorney General's Office via Civilian 73 (2621 if phoning from overseas).

**The last day for delivery to the Returning Officer of completed Nomination Papers is 22nd September 1989 between the hours of 8am to 12 noon and 1.15 pm to 4.30 pm and I shall be in attendance at the Registrar General's Office between those hours on that day.**

Lists of candidates for each constituency will be published in an Extraordinary Gazette on 26th September 1989 (and will also be announced on FIBS).

Polling Day (if the election is contested) will be

**Wednesday 11th October 1989**

between the hours of 10.00 am and 4.00 pm.

The attention of candidates is particularly drawn to sections 52, 62, 63, 64 and 65 of the Electoral Ordinance 1988 copies of which are attached.

Rex Browning, Returning Officer.

Friday 1st September 1989.

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) it shall 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.

Delivery of nomination papers.

(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.

#### *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.

Nomination of candidates.

(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.

Subscription of nomination paper.

(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 —

Consent to Nomination.

(a) a document appearing him to be a facsimile copy telegraphically transmitted of an original document so signed; or

(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.

Deposit.

(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.

No. 54

5th September 1989.

## THE ELECTORAL ORDINANCE 1988

(No. 21 of 1988)

## NOTICE OF ELECTION

Camp Constituency

It is hereby notified that a General Election will take place on Wednesday 11th October 1989 for the eight seats of elected members of Legislative Council (four for the Stanley Constituency and four for the Camp Constituency).

Nomination papers for both constituencies may be obtained from

me, the Returning Officer at the Registrar General's Office, Town Hall, Stanley

or

from the Attorney General's Office, the Secretariat, Stanley

between the hours of 8am to 12.00 noon and 1.15 pm to 4.30 pm except Saturdays, Sundays and Public Holidays).

Persons in Camp wishing to have nomination papers may arrange for their agents to collect them on their behalf or ask for forms to be sent to them through the post, please allow at least three days for delivery.

The Returning Officer can be contacted via Civilian 272 and the Attorney General's Office via Civilian 73 (2621 if phoning from overseas).

**The last day for delivery to the Returning Officer of completed Nomination Papers is 22nd September 1989 between the hours of 8 am to 12 noon and 1.15 pm to 4.30 pm and I shall be in attendance at the Registrar General's Office between those hours on that day.**

Lists of candidates for each constituency will be published in an Extraordinary Gazette on 26th September 1989 (and will also be announced on FIBS).

Polling Day (if the election is contested) will be

**Wednesday 11th October 1989**

between the hours of **10.00 am and 4.00 pm.**

The attention of candidates is particularly drawn to sections 52, 62, 63, 64 and 65 of the Electoral Ordinance 1988 copies of which are attached.

Rex Browning, Returning Officer.  
Friday 1st September 1989.

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) it shall 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.

Delivery of  
nomination  
papers.

(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.

#### *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.

Nomination of  
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(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.

Subscription of  
nomination  
paper.

(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 —

Consent to  
Nomination.

(a) a document appearing him to be a facsimile copy telegraphically transmitted of an original document so signed; or

(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.

Deposit.

(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.



**THE  
FALKLAND ISLANDS GAZETTE  
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*No. 34*

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**NOTICE**

The following is published in this Gazette —

**S.R. & O. No. 26 of 1989.**

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 SUBSIDIARY LEGISLATION
 

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## FISHERIES

## The Fisheries (Conservation and Management) Ordinance 1986

(No. 11 of 1986)

## The Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1989

(S.R. &amp; O. No. 26 of 1989)

IN EXERCISE of my powers under section 20 of The Fisheries (Conservation and Management) Ordinance 1986 make the following Order —

1. (1) This Order may be cited as the Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1989, and shall come into operation on the date it is first published in the Gazette and cease to have effect on 30th June 1990.

Citation and  
Commencement.

(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.

Limitation of  
application of  
these  
Regulations.  
Interpretation.

3. In these Regulations —

“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 1990 and ending on 30th June 1990;
- (b) in relation to a “B” Licence the period commencing on 1st March 1990 and ending on 31st May 1990;
- (c) in relation to a “C” licence the period commencing on 1st February 1990 and ending on 31st May 1990; and

“the principal Regulations” means the Fishing Regulations Order 1987.

4. For as long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not have effect, 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.

Suspension of  
certain provi-  
sions of the  
principal  
Regulations.

5. (1) For the purpose of these Regulations there shall be the following categories of licence —

Types of  
licences.

- (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.

(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.

Applications for fishing licences.

(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 13 October 1989.

(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 for type "A" licences.

Fees for 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 Table 2 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 31st May 1990 as he thinks fit.

Extension of season.

(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.

## SCHEDULE

Provision as to fishing licences in respect of the fishing season.

TABLE 1

Trawlers: Finfish only, Type "A" licences

In the formula below "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

Trawlers and combination vessels (Finfish only)

Formula

Fee payable per licensed month of fishing is a result of  
 $\text{£}(1.21 \times \text{GT} + 3630)$

TABLE 2

## Jiggers: Squid north, Type "B" 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 licenced for the northern area.

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. The following Formula relates to the number of jigging machines where—

D = Number of double jigging machines.

S = Number of single jigging machines.

C. A licence is not transferable.

## FORMULA

Fee payable is result of

$$.7 \times GT (S + 1.5D) + 120,000$$

TABLE 3

## Trawlers: Squid north type "B" licences

In the formula below "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

Trawlers and combination vessels (squid only north)

## FORMULA

Fee payable is a result of

$$£(6.075) \times GT + 83160$$



## TABLE 4

Trawlers: squid south, type "C" licences

In the formula below "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement rules.

Trawlers and combination vessels (squid only south)

## FORMULA

Fee payable is a result of

$\pounds(45 \text{ GT} + 81787)$

However, if the freezing capacity is in the range 80 to 120 tonnes per day the fee payable is 15% higher than the above formula.

If the freezing capacity is greater than 120 tonnes per day the fee payable is 30% higher than the above formula.

Made this 15th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: FIS/29/16B.



**THE**  
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*No. 35*

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**NOTICES**

No. 55

26th September 1989.

**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 McIlroy** a Registrar for the purpose of the marriage at the Malvina House Hotel, Stanley Falkland Islands, of **Graham Leslie Bound** and **Alva Rana Anderson**.

Given under my hand at Stanley this 15th day of September 1989.

**W. H. Fullerton,**  
*Governor.*

Ref: LEG/19/2.

No. 56

26th September 1989.

**The Electoral Ordinance 1988**  
**Notification of nominations, etc.**  
**Stanley Constituency**

In accordance with Section 69 of the Electoral Ordinance 1988, I give notice that a poll will be taken on Wednesday, 11th October 1989, at the Town Hall, Stanley, for the election of four members to the Legislative Council for the Stanley Constituency.

The Candidates standing nominated for election are as follows —

Candidate : John Edward CHEEK of 25 Ross Road West, Stanley  
 Proposer : Darwin Lewis Clifton  
 Seconder : Charles Desmond Keenleyside (Jnr)  
 Supporters : Richard William Hills  
                   Harold Theodore Rowlands  
                   Rosemarie King  
                   Brian Summers

Candidate : David John EYNON of 8 Villiers Street, Stanley

Proposer : Velma Malcolm

Seconder : Charles Desmond Keenleyside (Jnr)

Supporters : Nicola Luxton  
Trevor Osneth Browning  
Burned Brian Peck  
Paul Watson

Candidate : Rodney John HALFORD of 7 Brandon Road, Stanley

Proposer : Owen Horace McPhee

Seconder : Marjorie May McPhee

Supporters : Natalie Marianne McPhee  
Albert Henry Davis  
Valdamar Lars Berntsen  
Kathleen Mary Laffi

Candidate : Christel MERCER of 5 Hebe Street, Stanley

Proposer : Lillian Rose Orissa Kidd

Seconder : Ronald Peter Buckett

Supporters : Sonia Ellen Felton  
Joseph Orr Newell  
Juan Jose Eleuterio Hobman  
Peter Robert Short

Candidate : Timothy John Durose MILLER of Market Garden House, Airport Road  
near Stanley

Proposer : Michael Ronald Harris

Seconder : Iris Blanche McPhee

Supporters : Althea Maria Browning  
Clara Mary McKay  
Dennis Michael Middleton  
Claudette Ceballos

Candidate : Terence John PECK of 76 Davis Street, Stanley

Proposer : Harold Bennett

Seconder : Hannah Maude Watson

Supporters : Patrick William Peck  
Michael James Murphy  
Martin James Clarke  
Sheena Melanie Newman

Candidate : Michael RENDELL of 10 Brandon Road, Stanley

Proposer : Phyllis Mary Rendell

Seconder : Lawrence Jonathan Butler

Supporters : Nancy Margaret Poole  
Claudette Ceballos  
Timothy John Durose Miller  
Reynold Gus Reid

Candidate : Gerard Michael ROBSON of 1 Philomel Place, Stanley  
 Proposer : Frederick James Ford  
 Seconder : Bruce Raymond May  
 Supporters : Patrick William Peck  
                   Colleen Mary Ford  
                   Keith John Reddick  
                   Paul Roderick Bonner

Candidate : Harold Theodore ROWLANDS of 8 Ross Road East, Stanley  
 Proposer : Velma Malcolm  
 Seconder : Michael Luxton  
 Supporters : Catherine Gladys Bertrand  
                   William Henry Goss (Snr)  
                   Lorraine Iris McGill  
                   Kathleen Gay Clarke

Candidate : Gavin Phillip SHORT of 6 Dairy Paddock Road, Stanley  
 Proposer : Arthur McBain  
 Seconder : John Smith  
 Supporters : Trevor Osneth Browning  
                   Althea Maria Browning  
                   Trudi Butcher  
                   Harold Bennett

Candidate : Carol Wendy TEGGART of 9 Callaghan Road Stanley  
 Proposer : Robert Ford  
 Seconder : Robin Christopher Goodwin  
 Supporters : Una Goodwin  
                   Hilda Blanche Perry  
                   Gloria Anderson  
                   Miranda Gay Robson.

Town Hall  
 Stanley  
 25th September 1989  
 Ref: LEGCO/20/9.

R. Browning  
 Returning Officer

No. 57

26th September 1989.

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The Electoral Ordinance 1988  
 Notification of nominations, etc.  
 Camp Constituency

In accordance with Section 69 of the Electoral Ordinance 1988, I give notice that a poll will be taken on Wednesday, 11th October 1989, at Goose Green and Fox Bay East, for the election of four members to the Legislative Council for the Camp Constituency. Mobile polling teams will visit other areas in the Camp in the five business days ending with Wednesday, 11th October 1989, for the same purpose.

The Candidates standing nominated for election are as follows —

Candidate : Ronald Eric BINNIE of Fitzroy, East Falkland  
 Proposer : Timothy John Dobbys  
 Seconder : Dennis Whitney  
 Supporters : Frederick George Coutts  
                   Lewis Ronald Morrison  
                   Benjamin John Berntsen  
                   Dennis David Summers

Candidate : Frederick Thomas CLARK of the Great Britain Hotel, Mount Pleasant Road, East Falkland  
 Proposer : Henry Leslie Whitney  
 Secunder : Dennis David Summers  
 Supporters : Yona Davis  
               Agnes Kathleen Whitney  
               Kevin Seaton Kilmartin  
               Neil Watson

Candidate : Norma EDWARDS of Lake Sullivan Farm, West Falkland  
 Proposer : June Helen Marsh  
 Secunder : Frank Marsh  
 Supporters : Marklin John Gleadell  
               Roy Peter Buckett  
               Ronald David Rozee  
               Anna Deirdre Marsh

Candidate : Eric Miller GOSS of North Arm, East Falkland  
 Proposer : Tony McMullen  
 Secunder : June McMullen  
 Supporters : Ronald Terence Morrison  
               Violet Sarah Morrison  
               Barry Donald Finlayson  
               Lynda Philips

Candidate : Kevin Seaton KILMARTIN of Bluff Cove, East Falkland  
 Proposer : Frederick Thomas Clark  
 Secunder : Glennis Ashworth  
 Supporters : Shiralee Collins  
               Peter Anthony Collins  
               Ann Robertson  
               Dinah May Kilmartin

Candidate : William Robert LUXTON of Chartres, West Falkland  
 Proposer : Michael Robert Minnell  
 Secunder : David Philip Dunford  
 Supporters : Donna Maria Minnell  
               Anthony Thomas Blake  
               Benjamin James Minnell  
               Hazel Eileen Minnell

Candidate : Ann ROBERTSON of Port Stephens, West Falkland  
 Proposer : David Michael McRae  
 Secunder : Michael Robert Alazia  
 Supporters : Gloria Linda McRae  
               Jacqueline Smith  
               Mandy Gwyneth Alazia  
               John Fairley.

Town Hall  
 Stanley  
 25th September 1989  
 Ref: LEGCO/20/9.

R. Browning  
 Returning Officer

**Ellen Dorothy Eglen (nee Stickney) Deceased**

**Eglen nee Stickney, Ellen Dorothy Eglen nee Stickney, Widow**

**late of Home Leigh, 6-8 Austin Street, Hunstanton, Norfolk**

**died There**

**on 13th December 1988**

**(Estate about £ 1,900)**

The kin of the above-named are requested to apply to the Treasury Solicitor (B.V.), Queen Anne's Chambers, 28 Broadway, London SW1H 9JS, failing which the Treasury Solicitor may take steps to administer the estate.



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVIII

29th SEPTEMBER 1989

No. 36

## Appointments

Miss Pauline Lynx Biggs, Teacher, Education Department, 24.7.89.

Miss Barbara Ingrid Steen, Clerk, Public Service, 9.8.89.

Miss Diane Louise Bond, Teacher, Camp Education, Education Department, 23.8.89.

Mrs. Maria Marta Villanueva Strange, Personal Assistant, Secretariat, 28.8.89.

Kenneth David Greenland, Chief Police Officer, Police and Prisons Department, 23.8.89.

Nigel Keith Dodd, Accounting Officer, Treasury, 11.9.89.

Miss Tracy Kathleen Jones, Assistant Air Traffic Controller, Civil Aviation Department, 11.9.89.

Miss Julie Anne Fisher, Assistant Customs Officer, Customs and Harbour Department, 11.9.89.

## Acting Appointments

Zachary Stephenson, Acting Head Printer, Printing Office, Justice Department, 24.5.89. - 7.8.89.

Simon Peter Miller Goss, Acting Clerk of Councils, Legislature Department, 14.6.89. - 17.7.89.

Mark Timothy Bullock, Acting Chief Police Officer, Falkland Islands Police Force, 1.7.89. - 23.8.89.

Dr. Andrew Hamillton, MB., Ch.B., Acting Chief Medical Officer, Medical Department, 5.7.89. - 15.8.89.

Manfred Michael Ian Keenleyside, Acting Director of Public Works, Public Works Department, 9.8.89.

Derek Frank Howatt, Acting Financial Secretary, 31.8.89.

## Re-appointment

Mrs. Margaret Bell, Senior Nurse, Medical Department, 28.8.89.

## Promotions

Owen William Summers, from Lands and Agricultural Officer, Agricultural Department, to Director of Agriculture, Agricultural Department, 31.8.89.

Arthur John Barton, from Senior Fisheries Scientist, Fisheries Department, to Deputy Director of Fisheries, Fisheries Department, 31.8.89.

Boyd Edward Harold Watson, from Cadet, Customs and Harbour Department, to Junior Assistant Customs Officer, Customs and Harbour Department, 1.9.89.

## Transfer

Mrs. Tracy Porter, from Data Manager, Fisheries Department, to Chief Clerk, Fisheries Department, 1.9.89.

## Completion of Contract

Mrs. Margaret Bell, Senior Nurse, Medical Department, 27.8.89.

Miss Sarah Louise Dixon, Teacher, Camp Education, Education Department, 28.8.89.

## Resignations

Michael Sturdee Goodwin, Pilot, Falkland Islands, Government Air Service, 10.9.89.

Gerald Ian McPhee, Pilot, Falkland Islands Government Air Service, 13.9.89.

Neil Alexander William Goodwin, Agricultural Assistant, Agricultural Department, 19.9.89.

## NOTICES

No. 58

29th September 1989.

**Fisheries (Conservation and Management) Ordinance 1986****(Section 9 (1))****Appointment of Deputy Director of Fisheries**

I, WILLIAM HUGH FULLERTON, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands, IN EXERCISE of my powers under section 9(1) of the Fisheries (Conservation and Management) Ordinance 1986 —

**APPOINT****ARTHUR JOHN BARTON**

to be the Deputy Director of Fisheries.

Given under my hand this 30th day of August 1989

W. H. FULLERTON,  
*Governor.*

**LEGAL NOTICE No. 1 OF 1989****Employment Protection Ordinance 1989****(No. 8 of 1989)**

The Ordinance published on 1st August 1989 bears a head note that the Ordinance commences on publication. This is incorrect. Under section 1 of the Ordinance, it comes into force on such date as a Commencement Order under that Ordinance is published in the Gazette. Such a notice is published in the Gazette of today's date and accordingly the Employment Protection Ordinance comes into force to-day.

**NOTICE**

The following are published in this Gazette —

**The Co-Operative Society Rules (Amendment) Order 1989 (S.R. & O. No. 14 of 1989);**

**The Post Office (Private Letter Boxes) (Amendment) Rules Order 1989 (S.R. & O. No. 15 of 1989);**

**The Dogs Rules (Amendment) Order 1989 (S.R. & O. No. 16 of 1989);**

**The Mount Pleasant and Mare Harbour (Designation and Speed Limits) Order 1989 (S.R. & O. No. 17 of 1989);**

**The Stanley - Darwin Road (Designation and Speed Limits) Order 1989 (S.R. & O. No. 18 of 1989);**

**The Stanley (Various Roads) One Way Street Order 1989 (S.R. & O. No. 19 of 1989);**

**The Employment Protection Ordinance (Commencement) Order 1989 (S.R. & O. No. 20 of 1989);**

**The Criminal Justice Ordinance (Commencement) Order 1989 (S.R. & O. No. 21 of 1989);**

**The Postage Rates Order 1989 (S.R. & O. No. 22 of 1989);**

**The Immigration Forms (Amendment) Order 1989 (S.R. & O. No. 23 of 1989);**

**The Crimes Ordinance (Commencement) Order 1989 (S.R. & O. No. 24 of 1989);**

**The Education Ordinance (Commencement) Order 1989 (S.R. & O. No. 25 of 1989);**

**The Fisheries Licences (Applications and Fees) (Amendment) Regulations Order 1989 (S.R. & O. No. 28 of 1989).**



## The Co-Operative Society Rules (Amendment) Order 1989

(S. R. & O. No. 14 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Citation and commencement.
2. Meaning of the "Rules".
3. Replacement of rule 26(1).

## The Co-Operative Society Rules (Amendment) Order 1989

(S. R. & O. No. 14 of 1989)

IN EXERCISE of my powers under section 51 of the Co-Operative Societies Ordinance 1985 I make the following Order —

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. This Order may be cited as the Co-Operative Society Rules (Amendment) Order 1989 and shall be deemed to have come into force on the 1st of May 1989.</li> <li>2. In this Order "Rules" means the Co-Operative Society Rules Order 1986.</li> <li>3. Rule 26(1) of the Rules is replaced by the following new rule 26(1) —</li> </ol> | <p>Citation and commencement.</p> <p>Meaning of the "Rules".</p> <p>Replacement of rule 26(1).</p> |
|--|--|
- "26. (1) The quorum at general meetings of a registered society whether an annual general meeting or a special general meeting shall be six or more members of whom at least three shall not be persons who are members of the committee of the society".

Made this 19th day of September 1989.

W. H. FULLERTON,  
*Governor.*

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## SUBSIDIARY LEGISLATION

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### POST OFFICE

#### Post Office Ordinance

#### The Post Office (Private Letter Boxes) (Amendment) Rules Order 1989

(S.R. & O. No. 15 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of the powers conferred by section 4(c) of the Post Office Ordinance, the Governor in Council makes the following Order —

- |  |   |
|--|---|
| <p>1. These rules may be cited as the Post Office (Private Letter Boxes) (Amendment) Rules Order 1989 and shall come into operation on the day this Order is first published in the Gazette.</p>   | <p>Citation and Commencement.</p>           |
| <p>2. Rule 8 of the Post Office (Private Letter Boxes) Rules 1973 is revoked and replaced by the following new rule 8 —</p> <p style="padding-left: 40px;">“8. The rental in respect of a private box shall in respect of any calendar year commencing after the making of this rule be payable in advance on the 31st day of December in each year, any portion of a calendar quarter being considered a full quarter, and shall be at the rate of £10.00 per annum.”</p> | <p>Amendment of rule 8. (No. 5 of 1973)</p> |
| <p>3. Notwithstanding paragraph 2 above the previous rule 8 shall, so far as rents payable for any period ending before 1st January 1990, remain in effect.</p>  | <p>Saving.</p>                              |

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: PT/10/2.

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## SUBSIDIARY LEGISLATION

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### DOG RULES

#### Dog Rules Ordinance

#### The Dogs Rules (Amendment) Order 1989

(S.R. & O. No. 16 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of the powers conferred by section 13 of the Dogs Ordinance, the Governor in Council makes the following —

1. These rules may be cited as the Dogs Rules (Amendment) Order 1989 and shall come into force on the day this Order is first published in the Gazette.

Citation and  
Commencement.

2. Rule 3 is amended by the deletion of the words "Annual licence for each dog or bitch, five pounds;" and the substitution therefor of the following words —

Amendment of  
rule 3. (No. 5 of  
1949)

"Annual licence for each dog or bitch, ten pounds."

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: AGR/10/4.

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### Road Traffic Ordinance

(Section 9N)

#### The Mount Pleasant and Mare Harbour (Designation and Speed Limits) Order 1989

(S.R. & O. No. 17 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 9N of the Road Traffic Ordinance, I make the following Order —

1. This Order may cited as the Mount Pleasant (Designation and Speed Limits) Order 1989 and shall come into force on its being published in the Gazette.

Citation and  
Commencement.

2. (1) In this Order —

Interpretation.

“the Mare Harbour road” means the road from the guardroom at the entrance to Mount Pleasant Airport to the entrance gates to the Naval Port at Mare Harbour;

“roads within Mount Pleasant Complex” means all roads which are both —

(a) constructed on land comprised in a lease dated 29th April 1988 made between the Governor, acting in the name and on behalf of Her Majesty and the Secretary of State for Defence; and

(b) on the Darwin side of the guardroom entrance to Mount Pleasant Airport.

(2) The car - park to the south of the Air Terminal at Mount Pleasant Airport is for the purposes of this Order a road within the Mount Pleasant Complex.

3. (1) All roads within Mount Pleasant Complex are restricted roads subject to a prescribed maximum speed limit of thirty miles per hour except that the car park referred to in paragraph 2(2) above is a restricted road subject to a prescribed maximum speed limit of fifteen miles per hour.

Speed Limits.

(2) The Mare Harbour road is a restricted road subject to a prescribed maximum speed limit of forty miles an hour.

(3) All roads within the Naval Port at Mare Harbour are restricted roads with a prescribed maximum speed limit of thirty miles an hour.

4. The Orders mentioned in the Schedule hereto are revoked.

Revocation.

## THE SCHEDULE (paragraph 4)

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

Road Traffic Declaration and Designation of Roads (Mount Pleasant and Mare Harbour) Order 1988.

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: POL/10/5.

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EXPLANATORY NOTE

The principal effect of this Order is to increase the prescribed maximum speed limits at Mount Pleasant Airport and Mare Harbour to thirty miles per hour.

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### Road Traffic Ordinance

(Section 9N)

#### The Stanley - Darwin Road (Designation and Speed Limits) Order 1989

(S.R. & O. No. 18 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 9N of the Road Traffic Ordinance I make the following Order —

- |  |                            |
|--|----------------------------|
| <p>1. This Order may be cited as the Stanley - Darwin Road (Designation and Speed Limits) Order 1989 and comes into force on its being published in the Gazette.</p>   | Citation and Commencement. |
| <p>2. In this Order, "the Stanley - Darwin Road" means the road (including Stanley By-pass from Hillside Camp Stanley to Darwin except insofar as the Mount Pleasant and Mare Harbour (Designation and Speed Limits) Order 1989 applies thereto.</p> | Interpretation.            |
| <p>3. The Stanley - Darwin Road is designated as a restricted road with a prescribed maximum speed limit of forty miles per hour.</p>  | Designation.               |
| <p>4. The Road Traffic Declaration and Designation (Stanley - Darwin) Road Order 1986 is revoked.</p>  | Revocation.                |

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: POL/10/5.

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### EXPLANATORY NOTE

This Order is made consequent upon the Mount Pleasant and Mare Harbour (Designation and Speed Limits Order) 1989 and seeks to clarify the law, without changing it.

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### Road Traffic Ordinance

(Section 18(1))

#### The Stanley (Various Roads) One Way Street Order 1989

(S.R. & O. No. 19 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 18(1) of the Road Traffic Ordinance I make the following Order —

- |  |                            |
|--|----------------------------|
| <p>1. This Order may be cited as the Stanley (Various Roads) One Way Street Order 1989 and comes into operation on its being published in the Gazette.</p>   | Citation and Commencement. |
| <p>2. The roads or lengths of road specified in the first column of the Schedule are one way streets (roads in respect of which traffic may only proceed in the direction specified in the second column of the Schedule).</p>   | One way streets.           |
| <p>3. Any person who drives, propels, pushes, pulls or tows any motor vehicle, bicycle or trailer along a road or length of road in a direction other than that permitted in relation to it by this Order commits an offence and is liable on conviction to a fine not exceeding one hundred pounds.</p> | Offences.                  |

#### SCHEDULE

<u>Road or length of road</u>	<u>Permitted direction</u>
Thatcher Drive, along its whole length (viz; the road running from Ross Road to Reservoir Road and passing the north side of The Secretariat building)	East to West
Drury Street between the east side of its junction with the road known as Hacketts Hill to the eastern boundary of the Rose Hotel where it abuts Drury Street	East to West

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: POL/10/5.

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#### EXPLANATORY NOTE

The above roads have been, informally, one way streets for many years. The Order gives formal effect in law to their status as "one way streets".

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## SUBSIDIARY LEGISLATION

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### EMPLOYMENT

#### The Employment Protection Ordinance 1989

(Section 1)

#### The Employment Protection Ordinance (Commencement) Order 1989

(S.R. & O. No. 20 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 1 of the Employment Protection Ordinance 1989, I make the following Order —

1. This Order may be cited as the Employment Protection Ordinance (Commencement) Order 1989 and comes into operation when first published in the Gazette.
2. All provisions of the Employment Protection Ordinance 1989 come into operation on publication of this Order in the Gazette.

Citation and  
Commencement.

Coming into  
operation of Or-  
dinance.

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/71.

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### EXPLANATORY NOTE

The effect of this Order is to bring into force all provisions of the Employment Protection Ordinance 1989.



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## SUBSIDIARY LEGISLATION

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### CRIMINAL LAW

#### The Criminal Justice Ordinance 1989

(Section )

#### The Criminal Justice Ordinance (Commencement) Order 1989

(S.R. & O. No. 21 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section of the Criminal Justice Ordinance 1989, I make the following Order —

- |    |   |                            |
|----|---|----------------------------|
| 1. | This Order may be cited as the Criminal Justice Ordinance (Commencement) Order 1989 and comes into operation on publication in the Gazette.   | Citation and Commencement. |
| 2. | In this Order —<br><br>“first appointed day” means one month after publication of this Order in the Gazette; and<br>“second appointed day” means 1st January 1990.  | Appointed days.            |
| 3. | (a) Parts I, II, III, IV, V and X of the Criminal Justice Ordinance 1989 shall come into operation on the first appointed day;<br>(b) Parts VI, VII, VIII and IX of the Criminal Justice Ordinance 1989 shall come into operation on the second appointed day;<br>(c) Schedules 1, 2, 3, 7 and 8 to the Criminal Justice Ordinance 1989 shall come into operation on the first appointed day; and<br>(d) Schedules 4, 5 and 6 to the Criminal Justice Ordinance 1989 shall come into operation on the second appointed day. | Commencement of Ordinance. |

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/74.

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### EXPLANATORY NOTE

This Order brings the Criminal Justice Ordinance 1989 into force in two stages.

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## SUBSIDIARY LEGISLATION

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### POST OFFICE

#### Post Office Ordinance

#### The Postage Rates Order 1989

(S.R. & O. No. 22 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: 2nd January 1990

IN EXERCISE of my powers under section 4A(2) of the Post Office Ordinance I make the following Order —

- |   |   |
|---|---|
| <p>1. This Order may be cited as the Postage Rates Order 1989 and comes into operation on 2nd January 1990.</p> <p>2. The postage rates and charges set out in the Schedule hereto shall have effect in place of the postage rates and charges fixed by the Postmaster under section 4A(1) of the Ordinance and having effect from 26th April 1986.</p> | <p>Citation and Commencement.</p> <p>New Postage rates and charges.</p> |
|---|---|

#### SCHEDULE (Paragraph 2)

##### Part I

##### AIRMAIL RATES (to all overseas countries)

Letters	31p per 1/2 oz or part thereof
Postcards	26p
Printed papers	20p per 1/2 oz or part thereof
Small packets	20p per 1/2 oz or part thereof
Aerogrammes:	Large 28p
Aerogrammes:	Small 26p
Aerogrammes:	Illustrated 30p

##### Part II

##### SURFACE MAIL RATES (to all overseas countries)

<u>Not over</u>	<u>Letters</u>	<u>Printed Papers</u>	<u>Small Packets</u>
1 oz	25p	12p	—
4 oz	60p	27p	27p
8 oz	119p	50p	50p
1 lb	228p	89p	89p
2 lb	397p	149p	149p
4 lb	646p	209p	—

Postcards... .. 18p

Literature for the blind ... .. Free

#### PARCELS - to the United Kingdom

Not over 2 lb	... ..	£ 5.95
Not over 7 lb	... ..	£ 9.20
Not over 11 lb	... ..	£11.90
Not over 22 lb	... ..	£16.75
Not over 33 lb	... ..	£22.50
Not over 44 lb	... ..	£28.60

**PART III**  
**INLAND RATES**

<u>Not over</u>	<u>Letters</u>	<u>Printed Papers</u>
1 oz	12p	6p
4 oz	28p	13p
8 oz	57p	24p
1 lb	110p	43p
2 lb	191p	72p
4 lb	310p	100p

Postcards ... .. 8p

Literature for the blind ... .. Free

PARCELS

Not over 2 lb ... .. 55p

Not over 4 lb ... .. 85p

Not over 7 lb ... .. 110p

Not over 11 lb ... .. 150p

Not over 22 lb ... .. 270p

Registration - Section 10(1)

(a) Inland ... .. 30p

(b) Overseas ... .. 60p

Section 10(2) - The fee for requesting advice of delivery of a registered or insured postal packet at the time of posting shall be 18p

Section 10(4)

(a) Inland ... .. £ 7.50

(b) Overseas ... .. £15.00

Cash on Delivery Parcels - Section 11(2) - The trade charge on any one parcel shall not exceed £300

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: PT/10/2.

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## SUBSIDIARY LEGISLATION

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### IMMIGRATION Immigration Ordinance (Section 25)

#### The Immigration Forms (Amendment) Order 1989 (S.R. & O. No. 23 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

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 Forms (Amendment) Order 1989.
2. The Immigration (General) Regulations Order 1987 is amended by the substitution of the form in the Schedule to these Regulations for Form 5 in the Schedule to those Regulations.

Citation and  
Commencement.

New form. S.R.  
& O. No. 25 of  
1987.

**SCHEDULE (Regulation 2)****Form 5  
Entry Form****LANDING CARD**

Please complete clearly in BLOCK CAPITALS

Veuillez remplir lisiblement en LETTRES MAJUSCULES

Por favor completar claramente en MAYUSCULAS

**Family name**

Nom de famille

Apellidos .....

**Forenames**

Prénoms

Nombre(s) de Pila .....

**Date of birth**

Date de naissance

Fecha de nacimiento .....

**Nationality**

Nationalité

Nacionalidad .....

**Place of birth**

Lieu de naissance

Lugar de nacimiento .....

**Sex**

Sexe (M/F)

Sexo .....

**Passport number**

No du passeport

Pasaporte No .....

**Place of issue**

Délivré à

Extendido en .....

**Date of issue**

le (date)

Fecha de extendido .....

**Name of Employer**

Nom d'employeur

Nombre del empleado .....

**Address in Falkland Islands**

Adresse en Falkland Islands

Dirección en el Falkland Islands .....

**Reason for your visit**

Raison de visite

Razon de su visita .....

**Signature**

Signature

Firma .....

**Date**

Date

Fecha .....

Made this 29th day of September 1989.

**W. H. FULLERTON,**  
*Governor.*

Ref: IMM/10/1.

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## SUBSIDIARY LEGISLATION

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### CRIMINAL LAW

#### The Crimes Ordinance 1989

(Section 1(2))

#### The Crimes Ordinance (Commencement) Order 1989

(S.R. & O. No. 24 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 1(2) of the Crimes Ordinance 1989, I make the following Order —

1. This Order may be cited as the Crimes Ordinance (Commencement) Order 1989 and comes into operation on its publication in the Gazette.
2. The Crimes Ordinance 1989 shall come into operation on 1st October 1989.

Citation and  
Commencement.

Commencement  
of Ordinance.

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/72.

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### EXPLANATORY NOTE

This Order brings the Crimes Ordinance 1989 into force on 1st October 1989.

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## SUBSIDIARY LEGISLATION

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### EDUCATION

#### The Education Ordinance 1989

(Section 1)

#### The Education Ordinance (Commencement) Order 1989

(S.R. & O. No. 25 of 1989)

Made: 29th September 1989

Published: 29th September 1989

Coming into operation: on publication in the Gazette

IN EXERCISE of my powers under section 1 of the Education Ordinance 1989, I make the following Order —

1. This Order may be cited as the Education Ordinance (Commencement) Order 1989.
2. The Education Ordinance 1989 shall come into force as follows —
  - (a) Part I, sections 3 and 4, 9, 16, and Part VII and section 79 shall come into operation on publication of this Order in the Gazette;
  - (b) Sections 5 to 8 inclusive and 10 to 15 inclusive shall come into operation on 1st October 1989; and
  - (c) the remaining provisions of the Ordinance shall come into operation on 1st January 1990.

Citation and  
Commencement.  
Commencement  
of Ordinance.

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/75.

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### EXPLANATORY NOTE

This Order brings the Education Ordinance 1989 into force by stages —

- (a) certain (mainly administrative) provisions come into force straight away;
- (b) provisions relative to the Board of Education come into force on 1st October 1989; and
- (c) the remainder of the Ordinance will come into force on 1st January 1990 (in readiness for the 1990 School Year).

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## SUBSIDIARY LEGISLATION

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### FISHERIES

#### The Fisheries (Conservation and Management) Ordinance 1986

(Section 20)

#### The Fisheries Licences (Applications and Fees) (Amendment) Regulations Order 1989

(S.R. & O. No. 28 of 1989)

Made: 27th September 1989

Published: 29th September 1989

Coming into operation: on 25th September 1989

IN EXERCISE of my powers 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) (Amendment) Regulations Order 1989 and shall be deemed to have come into operation on 25th September 1989.

Citation and  
Commencement.

(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 as the regulation in which it appears.

2. In these Regulations the "principal Regulations" means the Fishing Licences (Applications and Fees) Regulations Order 1989.

The "principal  
Regulations".  
(S.R. & O. No. 8  
of 1989).  
Amendment of  
principal  
regulations.

3. The principal Regulations are amended by the insertion therein of the following new Regulation 10 —

"10. (1) Notwithstanding Table 1 in the Schedule below, the Director of Fisheries may extend the season specified in explanatory note 3 to Table 1 so that it shall end on a later date than 30th September 1989 and may offer to some or all licensees under Type "X" licences an extension of their licences.

Extension of  
Season in rela-  
tion to Type  
"X" licences.

(2) Any Type "X" licence may be extended by the Director of Fisheries for such period as he may specify in writing but subject always to the payment of an administration fee of £500 in respect of each vessel whose licence is extended plus such further fee as represents the fee payable under the formula set out in Table 1 of the Schedule below divided by 61 and multiplied by the number of days for which the licence is extended."

Made this 27th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: FIS/29/16B.

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#### EXPLANATORY NOTE

(Not forming part of the Regulations)

This Order makes provision for the extension of all species licences for a period beyond 30th September 1989 (when they would otherwise come to an end) on payment of additional fees as specified in the new Regulation 10(2) of the Principal Regulations (added by the above Order).





**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*11th OCTOBER 1989*

*No. 37*

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**PROCLAMATION**

No. 4 of 1989

IN THE NAME of Her Majesty **ELIZABETH THE SECOND**, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

BY HIS EXCELLENCY **WILLIAM HUGH FULLERTON**, Governor of the Falkland Islands.

WHEREAS the Legislative Council was dissolved on 1st September 1989 in accordance with section 29(2) of the Constitution;

AND WHEREAS it is convenient to convene the Legislative Council following the General Election held on 11th October 1989;

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, **WILLIAM HUGH FULLERTON**, do proclaim 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 2.30pm in the afternoon of Monday the 16th day of October 1989.

Given under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, this Tenth day of October in the year of Our Lord One Thousand Nine Hundred and Eighty Nine.



**W. H. FULLERTON**,  
*Governor.*

GOD SAVE THE QUEEN



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVIII

31st October 1989

No. 38

## Appointments

Mrs. Alison Maureen Fairfield, Senior Pool Attendant, Education Department, 1.10.89.

Donald Ian Gellatly, Hospital Engineer, Medical Department, 6.10.89.

Robert David Doole, Fireman, Fire and Rescue Department, 7.10.89.

Mrs. Glenys Alsop, Senior Clerk, Education Department, 23.10.89.

## Acting Appointments

Manfred Michael Ian Keenleyside, Acting Director of Public Works, Public Works Department 9.8.89. - 2.10.89.

Peter Thomas King, Acting Government Secretary, 16.8.89 - 25.9.89.

Derek Frank Howatt, Acting Financial Secretary, Treasury Department, 31.8.89 - 12.9.89.

Michael Luxton, Acting Deputy Financial Secretary, Treasury Department, 18.9.89.

## Promotion

Jonathan Jeffers Butler, from Cadet, Falkland Islands Police, to Constable, Falkland Islands Police, 13.10.89.

## Retirements

Rex Browning, Establishments Secretary, Secretariat, 11.7.89.

Harold Theodore Rowlands, C.B.E., Financial Secretary, Treasury Department, 17.9.89.

## Resignations

Miss Coral Elizabeth McGill, Clerk, Public Service, 27.10.89.

Mrs. Alison Dodd, Senior Clerk, Education Department, 25.10.89.

## NOTICES

No. 58 6th October 1989

### Marriage Ordinance (Cap. 43) Section 5

The following person is registered as a Minister for celebrating marriage —

The Reverend Nicholas John Rundle, BA, Cert. Theol. SSC.

No. 59 11th October 1989

### LEGISLATIVE COUNCIL

#### Election of Legislative Councillors for the Stanley Constituency

I, the undersigned, Rex Browning being the Returning Officer at this Election of Legislative Councillors for the Stanley Constituency do hereby give notice of the results of the election as follows —

John Edward Cheek	202 Votes
David John Eynon	57 Votes
Rodney John Halford	145 Votes
Christel Mercer	103 Votes
Timothy John Durose Miller	58 Votes
Terence John Peck	381 Votes
Michael Rendell	95 Votes
Gerard Michael Robson	262 Votes
Harold Theodore Rowlands	386 Votes
Gavin Phillip Short	280 Votes
Carol Wendy Teggart	161 Votes

#### I therefore declare

1. Harold Theodore Rowlands
2. Terence John Peck
3. Gavin Phillip Short
4. Gerard Michael Robson

to be duly elected to the Legislative Council to serve for the Stanley Constituency.

Dated this 11th day of October 1989.

R. BROWNING,  
Returning Officer.

No. 60

11th October 1989

**LEGISLATIVE COUNCIL****Election of Legislative Councillors for the Camp Constituency**

**I, the undersigned, Rex Browning** being the Returning Officer at this Election of Legislative Councillors for the Camp Constituency **do hereby give notice** of the results of the election as follows —

Ronald Eric Binnie	169 Votes
Frederick Thomas Clark	17 Votes
Norma Edwards	197 Votes
Eric Miller Goss	143 Votes
Kevin Seaton Kilmartin	151 Votes
William Robert Luxton	239 Votes
Ann Robertson	64 Votes

**I therefore declare**

1. William Robert Luxton
2. Norma Edwards
3. Ronald Eric Binnie
4. Kevin Seaton Kilmartin

to be **duly elected** to the Legislative Council to serve for the Camp Constituency.

R. BROWNING,  
*Returning Officer.*

No. 61

17th October 1989

On the 16th day of October 1989 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 T. J. Peck, M.B.E., C.P.M.,  
The Honourable W. R. Luxton,  
The Honourable Mrs. Norma Edwards.

Ref: EXCO/35/1G.

No. 62

25th October 1989

The findings of the Cost of Living Committee for the quarter ended 30th June 1989 are published for general information —

<u>Quarter Ended</u>	<u>Percentage Increase over 1971 Prices</u>
30th June 1989	511.77%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 1p per hour with effect from 1st July 1989.

Ref INT/2/2.

**Customs Ordinance (Cap. 16)**

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

SERGEANT C.J.M. SPEIGHT, R.A.F.

to be a Temporary Customs Officer with effect from 20th September, 1989 to 20th January, 1990.

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

**NOTICE**

The following are published in this Gazette —

- The Banking Regulations Order 1989 (S.R. & O. No. 13 of 1989);**
- The Litter Ordinance (Fines Increase) Order 1989 (S.R. & O. No. 27 of 1989);**
- The Harbour Regulations (Amendment) Order 1989 (S.R. & O. No. 29 of 1989);**
- The Rehabilitation of Offenders (Exceptions) Order 1989 (S.R. & O. No. 30 of 1989);**
- The Fisheries Penalties (Amendment) Order 1989 (S.R. & O. No. 31 of 1989);**
- The Elected Councillors' Allowances Bill 1989.**

## The Banking Ordinance 1987

(No. 13 of 1987) (Section 27)

## The Banking Regulations Order 1989

(S.R. & O. No. 13 of 1989)

### ARRANGEMENT OF PROVISIONS

#### Paragraph

1. Title.
2. Application for a licence.
3. Form of licence.

First Schedule - Application for licence.

Second Schedule - Licence to carry on Banking Business.

## The Banking Ordinance 1987

(No. 13 of 1987) (Section 27)

## The Banking Regulations Order 1989

(S.R. & O. No. 13 of 1989)

IN EXERCISE of my powers under section 27 of the Banking Ordinance 1987, I make the following Order —

- |  |                            |
|--|----------------------------|
| 1. This Order may be cited as the Banking Regulations Order 1989.  | Title.                     |
| 2. An application made under section 4 of the Ordinance for a licence to carry on banking business in or from within the Islands shall be in the form set out in the First Schedule to this Order. | Application for a Licence. |
| 3. A licence shall be in the form set out in the Second Schedule to this Order.  | Form of licence.           |

### FIRST SCHEDULE

(Regulation 2)

Application for Licence under section 4 of the Banking Ordinance 1987

1. Name of Company.....
2. Place and date of incorporation.....
3. If not incorporated in the Islands, date of registration as a foreign company under Part X of the Companies Act 1948 in its application to the Falkland Islands.....
4. Names and addresses of Directors (or other principal officers by whatever title known).....
5. Address of Head Office.....
6. In a case in which the Head Office is situated outside the Islands
  - (a) address of principal office in the Islands.....
  - (b) name of officer of the company who is to be the company's authorised agent in the Islands.....



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## SUBSIDIARY LEGISLATION

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### ENVIRONMENT

#### The Criminal Justice Ordinance 1989

(Section 5(D))

#### The Litter Ordinance 1986

#### The Litter Ordinance (Fines Increase) Order 1989

(S.R. & O. No. 27 of 1989)

Made: 29th September 1989

Published: 31st October 1989

Coming into operation: on publication

IN EXERCISE of my powers under section 5 of the Criminal Justice Ordinance 1989, I make the following Order —

- |  |   |
|--|---|
| <p>1. This Order may be cited as the Litter Ordinance (Increase of Fines) Order 1989.</p> <p>2. Section 2 of the Litter Ordinance 1986 is amended by deleting the words "a fine not exceeding fifty pounds" and inserting in their place the words "a fine not exceeding the maximum of level 2 on the standard scale"</p> | <p>Citation and<br/>Commencement.</p> <p>Amendment to<br/>No. 14 of 1986.</p> |
|--|---|

Made this 29th day of September 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/61.

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### EXPLANATORY NOTE

Section 5(1) of the Criminal Justice Ordinance enables a fine by reference to a level to be by Order applied in substitution for a fixed monetary fine. The amounts of a level can then be adjusted by Order if necessary because of inflation. The maximum of level 2 on the standard scale is at present £100.

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## SUBSIDIARY LEGISLATION

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### PORTS AND HARBOURS

#### The Harbour Ordinance Cap. 30

#### The Harbour Regulations (Amendment) Order 1989

(S.R. & O. No. 29 of 1989)

Made: 27th October 1989

Published: 31st October 1989

Coming into operation: 1st January 1990

IN EXERCISE of my powers under section 3 of the Harbour Ordinance I make the following Order —

- |   |  |
|---|--|
| <p>1. This Order may be cited as the Harbour Regulations (Amendment) Order 1989 and shall come into force with effect from the 1st of January 1990.</p> <p>2. The Harbour Regulations are amended by revoking paragraph 1(1) of Schedule III and by replacing it with the following subparagraph —</p> <p style="padding-left: 20px;">“(1). The following harbour dues shall be payable on all vessels arriving in the Colony —</p> | <p>Citation and Commencement.</p> <p>Amendment of Regulations.</p> |
|---|--|

	£
Yachts .. .. .	40
Vessels under 15 tons .. .. .	40
Vessels of 15 tons and up to 50 tons .. .. .	150
Vessels of over 50 tons and up to 800 tons .. .. .	190
Vessels of over 800 tons and up to 1000 tons .. .. .	240
Vessels of over 1000 tons and up to 1500 tons .. .. .	280
Vessels of over 1500 tons and up to 2000 tons .. .. .	340
Vessels of over 2000 tons and up to 5000 tons .. .. .	410
Vessels of over 5000 tons and up to 7000 tons .. .. .	510
Vessels of over 7000 tons and up to 10000 tons .. .. .	760
Vessels of over 10000 tons and up to 15000 tons .. .. .	930
Vessels of over 15000 tons and up to 20000 tons .. .. .	1090
Vessels of over 20000 tons .. .. .	1260
Locally registered vessels normally employed in trading .. .. .	“Free”.

Made this 27th day of October 1989.

W. H. FULLERTON,  
*Governor.*

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### EXPLANATORY NOTE

An Order to increase dues payable under the provisions of the Harbour Regulations.

Ref: CUS/10/3.

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## SUBSIDIARY LEGISLATION

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### CRIMINAL JUSTICE

#### The Criminal Justice Ordinance 1989

(section 72(4))

#### The Rehabilitation of Offenders (Exceptions) Order 1989

(S. R. & O. No. 30 of 1989)

Made: 27th October 1989

Published: 31st October 1989

Coming into operation: on publication

IN EXERCISE of my powers under section 72(4) of the Criminal Justice Ordinance 1989, I make the following Order —

1. This Order may be cited as the Rehabilitation of Offenders (Exceptions) Order 1989 and comes into operation on publication in the Gazette.

Citation and  
Commencement.

2. (1) Paragraph (a) and (b) of section 72(3) of the Criminal Justice Ordinance 1989 do not apply in respect of —

Exclusion of section 72(3).

(a) any application for employment or engagement under the Crown in the Falkland Islands (including employment or engagement in the Falkland Islands Police Force or as a reserve police officer);

(b) in relation to any application to enlist in Her Majesty's Armed Forces or to become a member of the Falkland Islands Defence Force.

(2) paragraph (1) above shall apply in respect of all convictions and findings of guilt whatsoever and whatever the age of the person concerned at the date of any such conviction or finding of guilt.

3. (1) Paragraph (a) of section 72(3) of the Criminal Justice Ordinance 1989 does not apply in respect of any conviction or finding of guilt of the person concerned made after he attained the age of sixteen years in relation to any application to which paragraph (2) below relates.

Exclusion of section 72(3)(a).

(2) Paragraph (1) above applies in respect of —

(a) any application for a permit or licence in respect of a firearm under the Firearms Ordinance 1987;

(b) any application for a licence to sell intoxicating liquor; and

(c) any application under the Immigration Ordinance 1987.

Made this 27th day of October 1989.

W. H. FULLERTON,  
*Governor.*

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### EXPLANATORY NOTE

*(not forming part of above Order)*

Section 72(3) of the Criminal Justice Ordinance 1989 provides, subject to any Order under section 72(4), that a person does not have to disclose "spent convictions" other than ones which are excluded from rehabilitation under section 73(1) (which relates to certain very serious crimes). However section 72(4) enables certain exclusions to be made by Order from the operation of the provisions of section 72(3). This Order excludes, in whole or in part, the provisions of section 72(3) (see paragraphs 2 and 3 of this Order).





## The Elected Councillors' Allowances Bill 1989

(No.     of 1989)

### ARRANGEMENT OF PROVISIONS

#### Clause

1. Short Title.
2. Allowances to be paid.
3. Allowances to be free of Income Tax.
4. Apportionment.
5. Amendment of Schedule.
6. Repeals.

Schedule - Allowances payable to elected members of the Legislative Council.

**A Bill for  
An Ordinance  
to make new provision in relation to allowances to be paid to  
elected members of the Legislative Council.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

- |  |                                      |
|--|--------------------------------------|
| 1. This Ordinance may be cited as the Elected Councillors' Allowances Ordinance 1989.  | Short title.                         |
| 2. With effect from the 11th October 1989 persons who are elected members of the Legislative Council shall be paid the several allowances specified in the Schedule below.   | Allowances to be paid.               |
| 3. No allowances payable under this Ordinance shall be chargeable to income tax under the Income Tax Ordinance.(Cap. 32)   | Allowances to be free of Income Tax. |
| 4. Where any allowance specified in the Schedule below is payable at an annual rate there shall be paid in respect of any period less than one year such lesser sum as is the relevant proportion of the allowance specified.  | Apportionment.                       |
| 5. The Schedule may from time to time and as often as may be necessary be amended or replaced by Order made by the Governor after consultation with the elected members of the Legislative Council and every reference in this Ordinance to the Schedule below shall extend to include a reference to that Schedule as so amended or replaced from time to time. | Amendment of Schedule.               |
| 6. The Executive Council (Allowances) Ordinance 1977 and The Legislative Council (Nos. 7 and 8 of 1977) (Allowances) Ordinance 1977 are repealed.  | Repeals.                             |

**SCHEDULE**

(section 2)

**ALLOWANCES PAYABLE TO ELECTED MEMBERS OF  
THE LEGISLATIVE COUNCIL**

1. There shall be paid to elected members of the Legislative Council allowances at the annual rates of £2500.
2. (1) There shall be paid to each Legislative Councillor for every day or part of a day that Councillor attends at a qualifying meeting an attendance allowance of £200, but so that only one such sum shall be payable in respect of any day so expended.

(2) For the purposes of this Schedule "a qualifying meeting" means a meeting of the Executive Council at which a Legislative Councillor attends as an elected member or in place of an elected member pursuant to section 54(1) of the Constitution and a meeting of the Legislative Council or of a committee of the Legislative established pursuant to its Standing Orders.

3. In addition to the allowances payable under paragraph 2 above a member elected as a Legislative Councillor in respect of the Camp Constituency shall be re-imbursed with the reasonable and actual costs of travel from their place of abode in that Constituency to Stanley or the place at which a qualifying meeting is held, if incurred for the purpose of attending a meeting in respect of which that member is paid an allowance under paragraph 2 above.

4. In addition to the allowances payable under paragraph 2 above, a member elected as a Legislative Councillor in respect of the Stanley Constituency shall be re-imbursed with the reasonable and actual costs of travel to the place outside Stanley at which a qualifying meeting is held if incurred for the purpose of attending a meeting in respect of which that member is paid an allowance under paragraph 2 above.

5. An elected member of the Legislative Council shall additionally be re-imbursed with the reasonable and actual costs of travel, accommodation and subsistence overseas, incurred as a representative of the Legislative Council or of the Falkland Islands branch of the Commonwealth Parliamentary Association or as a person selected by the Legislative Council or its members to represent the people of the Falkland Islands.

6. In addition to any sums payable under the foregoing paragraphs --

- (a) all Legislative Councillors shall be reimbursed with the annual cost of rental of a telephone and one third of the total charges incurred for local calls within the Falkland Islands made from such telephone;
- (b) Legislative Councillors resident in the Camp Constituency shall be reimbursed with the annual cost of rental of a facsimile machine from Cable and Wireless plc and one third of the total charges incurred for facsimile transmissions within the Falkland Islands made from such machine.

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#### OBJECTS AND REASONS

To increase the allowances payable to elected members of the Legislative Council and to provide for telephone and facsimile machine allowances.

Ref: LEGCO/10/2 EXCO/10/1.



**THE  
FALKLAND ISLANDS GAZETTE  
(Extraordinary)**

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*14th NOVEMBER 1989*

*No. 39*

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**NOTICE**

The following are published in this Gazette —

**Trade Marks Registered in the Falkland Islands, 1985, 1986 and 1987;**

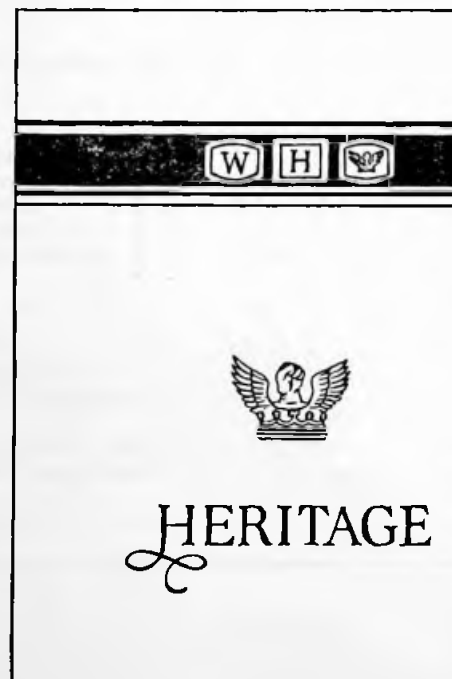
**Trade Marks Renewed in the Falkland Islands, 1985, 1986 and 1987.**

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

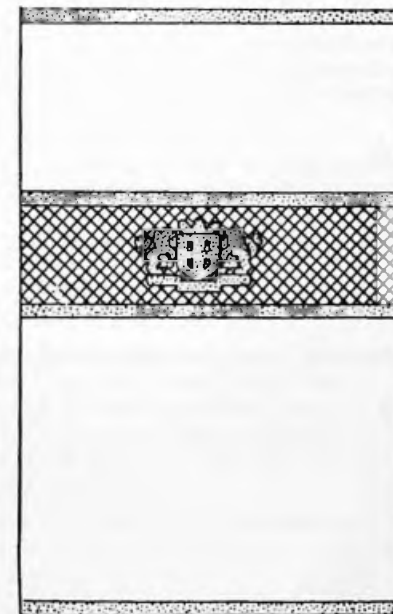
The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1985 to 31st December 1985 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7780	13.2.85	Gallaher Limited ... ..	Tobacco whether manufactured or unmanufactured; substances for smoking sold separately or blended with tobacco, none being for medicinal or curative purposes; matches; all for export from the United Kingdom except to the Republic of Ireland and Isle of Man. (No block supplied)
7782	13.2.85	Societe Des Produits Nestle S.A. ... ..	All goods included in Class 29, none being for export to Aden or Bahrein. "NESTLE"
7783	13.2.85	Societe Des Produits Nestle S.A. ... ..	All goods included in Class 30, none being for export to Aden or Bahrein. "NESTLE"
7810	27.3.85	Westminster Tobacco Company Limited ... ..	Tobacco, whether manufactured or unmanufactured.
7812	1.4.85	Gallaher Limited ... ..	Cigarettes and pipe tobacco. "SOBRANIE"
7830	16.5.85	Brown and Williamson Tobacco Corporation (Export) Limited ... ..	Tobacco, whether manufactured or unmanufactured
7845	12.6.85	Unilever PLC ... ..	All goods included in Class 3. (No block supplied)
7861	30.8.85	Charles Tanqueray & Co Limited ... ..	Wines (alcoholic), spirits (beverages), liqueurs and cocktails. "TANQUERAY"
7862	30.8.85	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Cigarettes and cigars, cigarette papers and filters for all the aforesaid. "ACTRON"



Reg. No. 7810



Reg. No. 7830

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1986 to 31st December 1986 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
7918	21.1.86	Societe Des Produits Nestle S.A. ... ..	Pharmaceutical substances; infants' and invalids' foods; all adapted for use in hydration. "ALHYDRATE"
7919	22.1.86	Cheseborough - Pond's Inc ... ..	Perfumes, non-medicated toilet preparations, cosmetics, dentifrices, depilatory preparations, preparations for the hair, shampoos, soaps and essential oils. "RAVE"
7931	22.1.86	Alfred Dunhill Limited ... ..	Articles of outer-clothing for men and women. "DUNHILL"
7932	22.1.86	Alfred Dunhill Limited ... ..	Cufflinks, buckles (clothing fasteners), tie pins and tie clips, none of precious metals or coated therewith; stiffening supports and studs, alfor collars; buttons included in class 26. "DUNHILL"
7933	23.1.86	Alfred Dunhill Limited ... ..	Hand tools and hand instruments in class 8.
7934	23.1.86	Alfred Dunhill Limited ... ..	Keys included in class 6; keyrings, safes and cashboxes, all of common metal.
7936	23.1.86	The Dow Chemical Company ... ..	Chemical products for use in industry and science; synthetic resins; chemical preparations for use as coolants, anti-freeze preparations, de-icing compositions; brake fluids, surface active agents, chelating agents and flocculating agents, all for use in industry.
7937	23.1.86	R J Reynolds Tobacco Company ... ..	Tobacco and tobacco products included in class 34.
7959	10.2.86	International Business Machines Corporation ... ..	Electronic data processing apparatus; electronic text processing apparatus; electrical communications apparatus; electrical and electronic apparatus for the input, output and storage of data and for use with the aforesaid apparatus; photocopying apparatus; apparatus for recording sound and video; electrical printout apparatus for use with computers; parts and fittings included in class 9 for all the aforesaid goods; magnetic discs and magnetic tapes; spools and cartridges all adapted for use with the aforesaid discs and tapes; computer programs in machine readable form.
7960	10.2.86	International Business Machines Corporation ... ..	Typewriters; copying (reproducing) apparatus for office use; parts and fittings included in class 16 for the aforesaid goods; articles of stationery; inks included in class 16; correcting ribbon for typewriters; carbon papers; printed publications; instructional and teaching materials (other than apparatus); business forms, cards (stationery), all for use in data processing; printed matter for the recordal of computer programme.
8025	22.5.86	Mars Limited ... ..	Food for animals. "BREKKIES"
8026	22.5.86	Mars Limited ... ..	Food for birds. "TRILL"
8027	22.5.86	Mars Limited ... ..	Non-medicated confectionery and biscuits (other than biscuits for animals). "RELAYS"
8028	22.5.86	Mars Limited ... ..	Non-medicated confectionery and biscuits (other than biscuits for animals).
8029	23.5.86	N.V. Master Foods S.A. ... ..	Rice, pasta, cereals and cereal preparations, all for food for human consumption; tea, coffee, cocoa, coffee essences, coffee extracts, mixtures of coffee and chicory; chicory and chicory mixtures, all for use as substitutes for coffee; non-medicated confectionery, bread; prepared meals, constituents for meals, snack foods and fillings, all included in Class 30; chocolate, sauces. "UNCLE BEN'S CONVERTED"
8047	19.6.86	Fisons plc ... ..	All goods included in Class 5. "S A N A T O G E N"
8049	23.6.86	James Borough plc ... ..	Gin.
8054	3.7.86	British Telecommunications ... ..	Telecommunication and telephonic apparatus, instruments and installations, electrical switchboards, and parts and fittings included in class 9 for all the aforesaid goods. "CDSS"
8084	9.9.86	Societe Des Produits Nestle S.A. ... ..	Pharmaceutical preparations; food substances adapted for medical use; food for babies.
8085	9.9.86	Societe Des Produits Nestle S.A. ... ..	Beer, ale and porter; mineral waters, aerated waters, spring waters non-alcoholic beverages and preparations for making such beverages and syrups, all included in Class 32; fruit juices as use for beverages.
8120	11.11.86	Esprit de Corp ... ..	Articles of clothing for men and women.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registered in the Falkland Islands during the period 1st January 1987 to 31st December 1987 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Date of Registration	Proprietor	Description of Goods
8198	30.4.87	Societe Des Produits Nestle S.A. ... ..	Beer, ale and porter; non-alcoholic beverages and preparations for making such beverages, all included in class 32, and fruit juices, but not including any such goods for sale in that part of the People's Democratic Republic of Yemen formerly known as Aden and Bahrain.
8199	30.4.87	Societe Des Produits Nestle S.A. ... ..	Farinaceous products, cereals and preparations made from cereals or from rice, all for food for human consumption, flour, pastry and cakes; puddings and preparations for making puddings, all included in Class 30, cocoa and food preparations having a base of cocoa; chocolate, chocolates, non-medicated confectionery, honey and imitation honey, sugar, coffee, coffee extracts and coffee essences, chicory and chicory mixtures, all for use as substitutes for coffee, tea and tea extracts; ice cream and preparations for making ice cream; vinegar, flavourings (other than essential oils), sauces, condiments, spices (other than poultry spices); prepared meals made from foodstuffs included in Class 30 food preparations included in Class 30 for use as sandwich spreads; none being for export to that part of the People's Republic of Southern Yemen formerly known as Aden, or to Bahrain.
8200	30.4.87	Societe Des Produits Nestle S.A. ... ..	Extracts from vegetables, fruit, meat, poultry, fish and from vegetal sea foods; jellies and dairy products, all for food, fruit preserves, vegetable preserves, milk, protein derived from soya beans for use as substitute for dairy products, edible oils, edible fats, mayonnaise, eggs, jams, marmalades; prepared meals consisting principally of foodstuffs included in Class 29; food preparations having a base of vegetables, milk, meat, fish or of edible fats, all for use as sandwich spreads; soups, preparations included in Class 29, for making soups; and bouillon; none being for export to that part of the People's Republic of Southern Yemen formerly known as Aden, or to Bahrain.
8221	12.5.87	The Coca Cola Company ... ..	Non-alcoholic beverages and preparations for making such beverages, all included in Class 32. "COCOA COLA CLASSIC"
8273	10.8.87	Visa International Service Association ... ..	Travellers' cheques.
8276	12.8.87	Reemtsma Cigarettenfabriken GmbH ... ..	Tobacco, raw or manufactured.

Nestlé

Reg. No. 8198, 8199 & 8200



Reg. No. 8273



Reg. No. 8276



## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1985 to 31st December 1985 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6495	7767	23.10.84	Castrol Limited	Non-metallic hose.
6483	7768	23.10.84	Castrol Limited	Apparatus incorporating compressors (not being parts of vehicles), for inflating vehicle tyres, and parts included in Class 7 of such apparatus.
6484	7769	23.10.84	Castrol Limited	Transportable machines for dispensing oil and grease; pumps included in Class 7 for dispensing oil and grease; compressor (machinery); lifts; and parts included in Class 7 of all the aforesaid goods.
6488	7770	23.10.84	Castrol Limited	Installations for dispensing measured quantities of oil and grease, transportable dispensers for dispensing measured quantities of oil and grease; pumps for dispensing measured quantities of oil and grease; and parts included in Class 9 of all such goods.
2709	7771	16.3.84	Blue Circle Industries Limited	Portland cement.
2710	7772	17.3.84	Blue Circle Industries Limited	Portland cement.
3101	7774	14.6.84	British Tissues Limited	Toilet Paper (non-medicated).
5543	7776	15.11.84	LRC Products	All goods included in Class 10, but not including bandages for ankle joints or any goods of the same description as bandages for ankle joints.
7022	7779	7.11.84	Philip Morris Incorporated	Cigarettes.
5546	7784	9.9.84	Pioneer Kabushiki Kaisha (Pioneer Electronic Corporation)	Electric phonographs, sound-recording and sound-reproducing apparatus, loud-speakers, tape recorders; and parts and fittings included in Class 9 for the aforesaid goods.
4225	7799	8.8.84	Carreras Limited	All goods included in Class 34.
4363	7800	25.8.84	Rembrandt Tobacco Corporation (Overseas) Limited	All goods included in Class 34.
4355	7801	27.8.84	Richelieu et Cie (Exporters) Limited	Brandy.
5723	7802	20.6.84	McIlhenny Company	Sauces.
3648	7803	18.11.84	Standard Oil Company	All goods included in Class 4 but not including materials or preparations for dust laying.
4271	7804	9.9.84	Sullala Aktiengesellschaft	Cigars, cigarettes, tobacco and tobacco pipes.
4739	7805	8.10.84	Murray, Sons and Company Limited	All goods included in Class 34.
7102	7806	7.11.84	Chesebrough-Pond's Inc.	Perfumes, non-medicated toilet preparations, cosmetic preparations, dentifrices, shampoos, soaps and essential oils; anti-perspirants and preparations for the hair.
4283	7814	8.11.84	Rothmans	Cigarettes, Tobacco and Cigars.
7302	7829	12.5.83	Alfred Dunhill Limited	Writing cases, writing instruments and parts thereof included in Class 16.
1580	7831	10.11.84	Wright, Layman & Umney Limited	Perfumed soap.
4309	7838	24.3.85	Carreras Limited	Tobacco whether manufactured or unmanufactured.
7621	7839	25.10.84	Gallaher Limited	Tobacco whether manufactured or unmanufactured.
5138	7840	10.9.84	The Coca-Cola Company	All goods included in Class 30, but not including non-medicated confectionery.
5141	7841	13.8.84	The Coca-Cola Company	All goods included in Class 32, none being in tablet form.
5140	7842	13.8.84	The Coca-Cola Company	Dietetic drinks.
3474	7891	23.8.85	Showerings Limited	Cider and perry.
5356	7892	30.6.85	Societe d'Etudes Scientifiques et Industrielles de l'Ile de France	Pharmaceutical products.
6496	7894	25.11.85	Castrol Limited	Plastics in the form of sheets, blocks, rods, tubes and shaped sections, all for use in manufactures.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1986 to 31st December 1986 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
7329	7908	13.9.85	Richter Gedeon Vegyeszeti Gyar R. T. ... ..	Pharmaceutical preparations for use in human therapy.
6209	7909	4.9.85	Levi Strauss & Co ... ..	Overalls, jeans, jackets, trousers and slacks, all being articles of outer-clothing for men.
4394	7910	11.8.85	American Brands, Inc ... ..	Cigars, Cigarettes and manufactured tobacco.
4395	7911	11.8.85	American Brands, Inc ... ..	Cigars, Cigarettes and manufactured tobacco.
4464	7912	11.8.85	American Brands, Inc ... ..	Cigars, Cigarettes and manufactured tobacco.
7244	7914	11.5.85	J. R. Freeman & Son Limited ... ..	Tobacco, whether manufactured or unmanufactured.
7281	7915	7.4.85	Henri Wintermans' Sigarenfabrieken BV. ... ..	Cigars and cigarillos.
3433	7916	2.7.85	Brown & Williamson Tobacco Corporation (Export) Limited	Manufactured tobacco.
3425	7917	16.6.85	British-American Tobacco Company Limited ... ..	Tobacco whether manufactured or unmanufactured.
2820	7920	5.9.85	J. & P. Coats Limited ... ..	All goods included in Class 23.
2959	7921	21.9.85	J. & P. Coats Limited ... ..	All goods included in Class 23.
3143	7922	18.10.85	Baxter Travenol Laboratories Inc ... ..	Intravenous pharmaceutical solutions for sale in the City and County of London.
1602	7923	15.11.86	The Firestone Tire & Rubber Company ... ..	All goods included in Class 40.
4279	7924	18.9.85	Carreras Limited ... ..	Manufactured tobacco.
3115	7925	20.10.85	Carreras Limited ... ..	Tobacco whether manufactured or unmanufactured.
4469	7926	26.10.85	John Sinclair Limited ... ..	Tobacco, raw or manufactured.
4384	7927	23.12.85	Carreras Limited ... ..	All goods included in Class 34.
7383	7928	30.11.85	Alfred Dunhill Limited ... ..	Preparations for the hair, dentifrices, soap, shaving creams, shaving foams, toilet waters, eau de cologne, anti-perspirants, pre-shaving lotions and after shaving lotions; moisturising lotions and talcum powder, all being non-medicated and for toilet use.
7614	7929	11.7.85	Alfred Dunhill Limited ... ..	Spectacles (anti-dazzle), spectacle frames, spectacle cases and magnifying glasses.
7382	7930	13.7.85	Alfred Dunhill Limited ... ..	Articles of outer-clothing for men.
6454	7935	30.4.82	Texwood Limited ... ..	Articles of under-clothing, shirts, sleeping garments, overcoats, jackets, blazers, skirts, pullovers, sweaters, boots, shoes and slippers.
1656	7947	12.11.85	Imperial Chemical Industries PLC ... ..	Chemical substances used in manufactures, photography or philosophical research, and anti-corrosives.
1655	7948	12.11.85	Imperial Chemical Industries PLC ... ..	Raw, or partly prepared, vegetable, animal and mineral substances used in manufactures, not included in other classes.
1658	7949	12.11.85	Imperial Chemical Industries PLC ... ..	Metal goods, not included in other classes.
1659	7950	12.11.85	Imperial Chemical Industries PLC ... ..	Engineering, architectural and building contrivances.
1660	7951	12.11.85	Imperial Chemical Industries PLC ... ..	Arms, ammunition, and stores, not included in class 20.
1661	7952	12.11.85	Imperial Chemical Industries PLC ... ..	Explosive substances.
1662	7953	12.11.85	Imperial Chemical Industries PLC ... ..	Furniture and upholstery.
1657	7954	12.11.85	Imperial Chemical Industries PLC ... ..	Candles, common soap, detergents, illuminating, heating or lubricating oils, matches, and starch, blue, and other preparations for laundry purposes.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
1654	7955	12.11.85	Imperial Chemical Industries PLC	The registration of this trade mark is renewed in respect of Adhesives for celluloid, for wood, for leather for mending broken articles etc.
3022	7956	12.11.85	Imperial Chemical Industries PLC	Chemical substances used for agricultural, veterinary and sanitary purposes.
3023	7957	12.11.85	Imperial Chemical Industries PLC	Chemical substances prepared for use in medicine and pharmacy.
4372	7958	16.11.85	Imperial Chemical Industries PLC	Insecticides, fungicides, herbicides, weedkilling preparations, and chemical preparations for desiccating or defoliating plants.
3495	7973	28.11.85	Biro Bic Limited	Office requisites (other than furniture), writing implements and parts thereof included in Class 16, and writing inks.
6934	7974	10.11.85	Burberrys Limited	Non-medicated toilet preparations, perfumes, cosmetic preparations, soaps; non-medicated toilet preparations for the teeth and for the hair.
4666	7975	10.12.85	Fabrique de Tabac Reunies S. A.	Cigarettes.
7019	7976	20.1.86	Carling O'Keefe Breweries	Beer and Lager.
4393	7977	9.10.85	Brown & Williamson Tobacco Corporation (Eport) Limited.	Tobacco, whether manufactured or unmanufactured, all being goods for export from the United Kingdom except to the Republic of Ireland and the United States of America.
4468	7978	6.1.86	Carreras Limited	All goods included in Class 34.
2886	7979	24.10.85	EMI Records Limited	Cinematograph apparatus and parts thereof, cinematograph films prepared for exhibition and television apparatus and parts thereof, all being goods included in Class 8.
7297	7996	9.4.86	Jordache Enterprises, Inc	Articles of clothing, but not including boots, shoes or slippers.
3838	7997	8.12.85	Angostura International Limited	Alcoholic bitters.
4479	7998	20.11.85	Senior Service (Overseas) Limited	Cigarettes.
6832	7999	17.3.86	Societe Des Produits Nestle S. A.	Preparations of coffee in powder form, none being for export to Aden or Bahrain.
3050	8000	9.5.86	Tanqueray Gordon & Co. Limited	Gin, whisky, orange bitters, brandy, rum, peppermint spirit and cocktails.
2819	8001	26.4.86	W & H Trade marks (Jersey) Limited	Sherry wine, the produce of Spain.
7364	8004	29.1.86	British Ever Ready Limited	Electrical and electronic apparatus and instruments; luminous signalling apparatus and instruments; electric lighters (Non-pyrophoric) for smokers; electric batteries; sound and video records and tapes; and parts and fittings included in Class 9 for all the aforesaid goods.
7365	8005	29.1.86	British Ever Ready Limited	Lighting apparatus and instruments, electrically operated ignitors for gas; and parts and fittings for all the aforesaid goods; all included in Class 11.
7101	8020	29.1.86	Glaxo Group Limited	All goods except Antibiotics and Antibacterial preparations and substances.
5235	8021	23.4.86	Rothmans	Filter tipped cigarettes for export from the United Kingdom to and sale in all countries of the world except the Channel Islands, Fiji, Malta and the Republic of Ireland.
7305	8044	15.6.86	Alfred Dunhill Limited	All goods included in Class 34.
7306	8045	15.6.86	Alfred Dunhill Limited	Articles included in Class 14 made of precious metal or coated therewith; jewellery; clocks and watches.
7307	8046	15.6.86	Alfred Dunhill Limited	Articles included in Class 18 made wholly or principally of leather and of imitation leather.
2236	8048	4.6.86	Unilever PLC	Perfumery (including toilet articles preparations for the teeth and hair and perfumed soap.)
2818	8059	31.5.86	James and George Stodart Limited	Whisky.
6752	8066	25.6.86	Revlon (Suisse) S. A.	Soaps, essential oils, non-medicated toilet preparations, toilet articles included in Class 3, cosmetic preparations, non-medicated hair lotions, depilatory preparations and dentifrices, but not including perfume oils.
3900	8067	15.6.86	Omega S. A.	All goods included in Class 14.
2883	8083	9.7.86	Rothmans	Cigarettes.
5226	8087	29.12.84	Richardson-Vicks Inc	Salves (Medicated) for human and veterinary use; pharmaceutical preparations for the treatment of colds and respiratory ailments; and medicated lozenges.
7330	8092	19.5.86	Societe Des Produits Nestle S. A.	Sauces, Non-medicated confectionery, food preparations included in class 30 for making puddings, all containing coffee flavoured; coffee, coffee extracts, coffee essences.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
6003	8093	11.3.86	Cussons (International) Limited	Deodorants for personal use, for export.
6735	8094	21.8.86	Exxon Corporation	Liquid fuels for power, heating and illuminating purposes; lubricating oils and greases; and petroleum waxes for use in manufactures.
6736	8095	21.8.86	Exxon Corporation	Liquid fuels for power, heating and illuminating purposes; lubricating oils and greases; and petroleum waxes for use in manufactures.
5345	8121	15.5.86	Chesebrough-Pond's Inc	Swabs consisting of sanitary absorbent cotton, attached to the end of a small piece of wood.
4582	8122	28.9.86	Carreras Limited	Tobacco, whether manufactured or unmanufactured.
7603	8134	14.12.86	Mastercard International Incorporated	Paper board and paper board articles, all included in Class 16; identity cards.

## Registration of United Kingdom Trade Marks Ordinance (Cap. 59)

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1987 to 31st December 1987 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

S. Halford,  
*Registrar General.*

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
3024	8163	7.12.86	Imperial Chemical Industries Limited ... ..	All goods included in Class 23.
4546	8164	14.9.86	Lentheric Limited ... ..	Toilet waters, toilet powders, face powders, bath salts and bath oils, none being Medicated; and perfumes and soaps.
2065	8165	26.11.86	Procter & Gamble Limited ... ..	Common soap.
1708	8166	27.10.86	RHM Foods Limited ... ..	Substances used as food or as ingredients in food.
7466	8169	23.8.86	Lois Trade Mark Company Limited ... ..	Jeans being articles of clothing, jackets, skirts, dresses, shirts, sweaters, knitted articles of clothing and articles of clothing made from knitted materials.
7861	8170	14.2.87	Charles Tanquary & Co Limited ... ..	Wines (alcoholic), spirits (beverages), liquors and cocktails.
5635	8174	11.2.87	Chevron Corporation ... ..	All goods included in Class 19 for export from the United Kingdom to and for sale in any part of the world other than the Irish Republic and the Channel Islands, but not including articles in the form of shaped pieces for building and constructional purposes.
5637	8203	28.1.87	Chevron Corporation ... ..	All goods included in Class 5 for export from the United Kingdom to and/or sale in any part of the world other than the Irish Republic and the Channel Islands.
5638	8204	28.1.87	Chevron Corporation ... ..	All goods included in Class 3 for export from the United Kingdom to and/or sale in any part of the world other than the Irish Republic and the Channel Islands.
4719	8205	2.3.87	Arthur Guinness Son & Company (Dublin) Limited ...	Beer.
4656	8207	15.4.87	Benson & Hedges (Overseas) Limited ... ..	Cigarettes.
4502	8209	9.11.86	Pepsico, Inc ... ..	Non-alcoholic drinks and preparations for making such drinks, all included in Class 32.
4813	8210	13.1.87	Rothmans ... ..	Filter tipped cigarettes, for export from the United Kingdom to and sale in all countries of the world except the Channel Islands, the Republic of Ireland, Fiji and Malta.
7545	8211	17.5.87	St. Paul's Tobacco Company (City of London) Limited Inc	Cigarettes.
6599	8212A	4.12.86	Mars G. B. Limited ... ..	Food for cats.
1714	8214	27.3.87	Gillette U. K. Limited ... ..	Safety razor blades.
6325	8215	28.3.87	Gallaher Limited ... ..	Manufactured tobacco.
7296	8216	11.6.87	Jordache Enterprises, Inc ... ..	Umbrellas, parasols, handbags, travelling bags, travelling cases, pocket wallets, purses (not of precious metals or coated therewith), vanity cases (not fitted), holdalls, articles of luggage, suitcases, shopping bags, brief cases, document cases, attache cases, satchels, beach bags and valises.
7295	8217	11.6.87	Jordache Enterprises, Inc ... ..	Jewellery and imitation jewellery; belt buckles, clasps, fasteners and badges, all made of precious metals or coated therewith.
7294	8218	11.6.87	Jordache Enterprises, Inc ... ..	Optical apparatus and instruments, lenses; spectacles and sunglasses and frames for all the aforesaid goods; opera glasses; eye glasses and binoculars.
7293	8219	11.6.87	Jordache Enterprises, Inc ... ..	Soaps, perfumes, essential oils, cosmetics, preparations for the hair, dentifrices, non-medicated toilet preparations and non-medicated preparations for the care of the skin and the scalp.
6668	8220	8.4.87	Moorgate Tobacco Co. Limited ... ..	Cigarettes.

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
2904	8223	4.1.87	British American Tobacco Company Limited ... ..	Cigarettes for export from the United Kingdom to and sale in countries outside the United Kingdom.
8120	8236	26.1.87	Esprit de Corp ... ..	Articles of clothing for men and woman.
4685	8237	23.4.87	Rothmans ... ..	Tobacco, whether manufactured or unmanufactured, for export from the United Kingdom to and sale in all countries of the world except the Channel Islands, the Republic of Ireland, Fiji and Malta.
1750	8238	4.5.87	John Dewar & Sons Limited ... ..	Scotch whisky.
6853	8241	5.5.86	Mars G. B. Limited ... ..	Foodstuffs for animals but not including bottled foods and not including canned foods other than canned meats.
6591	8242	5.5.86	Mars G. B. Limited ... ..	Food for animals.
3175	8261	17.6.87	British American Tobacco Company Limited ... ..	Manufactured tobacco.
7602	8263	29.4.87	Religious Technology Center ... ..	Printed periodical publications.
7052	8264	17.3.87	Blue Bell Inc. ... ..	Articles of protective clothing (other than clothing for protection against accident or injury); articles of sports clothing; trousers, jeans (being articles of clothing), slacks, jackets, coats and shirts; and articles of underclothing.
4070	8265	2.3.82	The Coca-Cola Company ... ..	Non-alcoholic beverages and preparations for making such beverages, all included in Class 32.
4994	8266	27.4.87	The Coca-Cola Company ... ..	Non-alcoholic drinks and preparations for making such drinks, all included in Class 32; and fruit juices.
6026	8268	18.7.87	B.A.S.F. Aktiengesellschaft ... ..	Chemical products for industrial purposes; plastics in the form of chips, beads, granules, powder, dispersions and solutions, for industrial use; fertilizers.
6028	8269	18.7.87	B.A.S.F. Aktiengesellschaft ... ..	Colouring matters (other than for laundry or toilet use) and dyestuffs (not for toilet purposes).
6030	8270	18.7.87	B.A.S.F. Aktiengesellschaft ... ..	Magnetic recording tapes.
4428	8271	8.4.86	British American Tobacco Company Limited ... ..	Cigars.
6883	8272	10.6.87	Visa International Service Association ... ..	Printed matter, printed cards and publications, all relating to banking and credit services.
5368	8275	28.11.87	Canada Dry Corporation Limited ... ..	Ginger ale.
4707	8278	12.7.87	Lentheric Limited ... ..	Perfumes, non-medicated toilet preparations, cosmetic preparations, dentifrices, depilatory preparations, toilet articles included in Class 3, sachets for use in waving the hair, shampoos, soaps and essential oils.
7458	8316	20.6.87	Alfred Dunhill Limited ... ..	All goods included in Class 34.
7615	8317	15.8.87	Alfred Dunhill Limited ... ..	All goods included in Class 14 but not including raw precious metals.
4979	8319	12.4.87	Chivas Brothers Limited ... ..	Spirits (beverages) for export.
4663	8320	4.8.87	Brown & Williamson Tobacco Corporation (Export) Limited ... ..	Manufactured tobacco for export except to the Republic of Ireland.
4756	8318	25.6.87	Dunhill Pipes Limited ... ..	Tobacco, whether manufactured or unmanufactured.
6421	8321	23.9.87	Nippon Gakki Seizo Kabushiki Kaisha ... ..	Sporting articles (other than clothing).
4727	8322	7.9.87	Peter Jackson (Overseas) Limited ... ..	Cigarettes for export except to the Republic of Ireland, the Commonwealth of Australia, Norfolk Island, Papua New Guinea, New Zealand, Stewart Island, Chatham Islands, Kermadec Islands, Campbell Island, Cook Islands, Tokelau Islands or Niue Island and for sale on ships sailing from ports in the United Kingdom of Great Britain and Northern Ireland to ports in any other countries except on ships sailing only between ports in the United Kingdom of Great Britain and Northern Ireland and ports in the Irish Republic.
5357	8323	15.9.87	Societe d'Etudes Scientifique et Industrielles de l'Ile de France ... ..	Pharmaceutical digestive preparations for use in the treatment of nausea and ulcers.



# THE FALKLAND ISLANDS GAZETTE

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30th NOVEMBER 1989

No. 40

**Appointments**

Colin George MacDonald, Engineman, Public Works Department, 12.5.89.

Miss Maria Joan Sigaton, Clerk, Public Service, 1.8.89.

Miss Diana Marion McIlroy, Clerk, Public Service, 14.8.89.

Mrs. Greta Winnora Skene, Data Manager, Fisheries Department, 24.10.89.

Bruce Raymond May, Engineman, Public Works Department, 26.10.89.

Nigel Peter Morrison, Agricultural Assistant, Department of Agriculture, 30.10.89.

Roy John Barrowdale Carryer, Planning Officer, Secretariat, 31.10.89.

Miss Janice Honeyman, Teacher, Education Department, 15.11.89.

Peter Henry McCabe, Senior Laboratory Technician, Department of Agriculture, 15.11.89.

Miss Sara Louise Dixon, Teacher, Education Department, 17.11.89.

**Promotion**

Miss Diana Christine Roberts, from Agricultural Assistant Department of Agriculture Department, to Laboratory Technician, Department of Agriculture, 26.10.89.

**Completion of Contract**

David Vivian Thomas, Electrician, Public Works Department, 13.9.89.

**Re-appointment**

David Vivian Thomas, Electrician, Public Works Department, 31.10.89.

**Resignations**

Mrs. Mary Ann Helen Jennings, Personal Assistant, Treasury Department, 16.10.89.

Brian Charles Porter, Fireman, Fire and Rescue Service, 12.11.89.

**NOTICES**

No. 63 1st November 1989  
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. 21/88 The Electoral Ordinance 1988.
- No. 1/89 The Supplementary Appropriation (1988–1989) Ordinance 1989.
- No. 2/89 The Legislative Council (Privileges) Ordinance 1989.
- No. 3/89 The Appropriation (1988–1990) Ordinance 1989.
- No. 4/89 The Appropriation (Agricultural Improvements Grants) Ordinance 1989.
- No. 5/89 The Old Age Pensions (Amendment) Ordinance 1989.
- No. 6/89 The Non – Contributory Old Age Pensions (Amendment) Ordinance 1989.
- No. 7/89 The Family Allowances (Amendment) Ordinance 1989.

No. 64 21st November 1989.

The findings of the Cost of Living Committee for the quarter ended 30th September 1989 are published for general information:

Quarter Ended	Percentage Increase over June 1989 Prices
30th September 1989	2.44%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of ½p per hour with effect from 1st October 1989.

Ref: INT/2/2.

No. 65 24th November 1989.

#### Appointment of Acting Judge

In accordance with section 80(1) of the Constitution His Excellency WILLIAM HUGH FULLERTON ESQUIRE, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Falkland Islands,

#### Hereby Appoints

ROBERT MARK TITTERINGTON to act as Judge of the Supreme Court in the matter of the reduction in share capital of the company known as Port Howard Farm Limited.

Given under my hand and the Public Seal this 24th day of November 1989.

W. H. FULLERTON,  
*Governor.*

No. 66 20th November 1989

#### School Terms 1990

##### Stanley Schools

1st Term	8th February to 23rd May
2nd Term	7th June to 29th August
3rd Term	20th September to 19th 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

Camp Sports	26th February – 2nd March inclusive
Good Friday	13th April
Her Majesty the Queen's Birthday	23rd April (deferred)
Liberation Day	14th June
Spring Holiday	1st October
Battle Day	10th December (deferred)

#### Holidays for Travelling Teachers

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

20th December 1989 to 5th January 1990;  
Three additional days (to be taken by arrangement with the Chief Education Officer);  
19th December 1990 to 9th January 1991.

#### In the Supreme Court of the Falkland Islands

##### NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

IN THE MATTER OF EWEN ALASTAIR LINDSAY KEITH CAMERON, deceased of Stanley, Falkland Islands, who died near Bluff Cove, East Falkland on the 7th day of July 1989, intestate.

WHEREAS Jane Diana Mary Keith Cameron 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,  
24th November 1989.

S. HALFORD,  
*Registrar.*

Ref: PRO/16/89.

#### NOTICE

The following are published in this Gazette —

**The Drug Trafficking Offences Bill 1989;**

**The Appointment of Coastguard Officers Bill 1989;**

**A Bill to abolish the Fisheries Development Fund, etc.**



## THE DRUG TRAFFICKING OFFENCES BILL

### EXPLANATORY MEMORANDUM

The Bill would make entirely new provision for the courts to make confiscation orders against persons convicted of drug trafficking offences, and for enforcement of those orders. Clauses 3 to 7 deal with the procedure to be followed when a person is convicted of a drug trafficking offence. The procedure specified in those clauses is mandatory and must be completed before the offender is sentenced for the offence. Clause 8 provides for the enforcement of confiscation orders through the machinery provided for the enforcement of fines. An alternative procedure for the enforcement of confiscation orders through the appointment of a receiver is provided by clause 14. The Bill provides machinery to prevent a person suspected of drug trafficking from disposing of property before it can be dealt with under a confiscation order: the Supreme Court is empowered to make restraint orders and charging orders in cases where proceedings are in process or have not yet been instituted. Provision would be made for the payment of compensation to persons whose property is affected by such orders, and who suffer substantial losses as a result, if the criminal proceedings do not lead to an effective conviction for a drug trafficking offence. Provision is also contained in the Bill for the investigation of drug trafficking, for orders for production for material relevant for investigation for drug trafficking and for search warrants to be issued in certain cases. It also contains a procedure for orders to be made for the production and disclosure of confidential material.

It would create a number of new offences —

making a disclosure likely to prejudice a drug trafficking investigation and assisting a drug trafficker to retain the proceeds of drug trafficking.

Consequential and supplementary provisions would also be made by the Bill if enacted.

# The Drug Trafficking Offences Bill 1989

(No of 1989)

## ARRANGEMENT OF PROVISIONS

### Clause

1. Short Title.
2. Interpretation.
3. Confiscation Orders.
4. Forfeiture for drug offences.
5. Assessing the proceeds of drug trafficking.
6. Statements relating to drug trafficking.
7. Amount to be recovered under confiscation order.
8. Definition of principal terms used.
9. Application of procedure for enforcing fines.
10. Cases in which restraint orders and charging orders may be made.
11. Restraint orders.
12. Charging orders in respect of land securities etc.
13. Charging orders : supplementary provisions.
14. Realisation of property.
15. Application of proceeds of realisation and other sums.
16. Exercise of powers by court or receiver.
17. Variation of confiscation orders.
18. Bankruptcy of defendant etc.
19. Winding up of company holding realisable property.
20. Insolvency officers dealing with property subject to restraint order.
21. Receivers; supplementary provisions.
22. Compensation.
23. Assisting another to retain the benefit of drug trafficking.
24. Enforcement of external orders.
25. Registration of external confiscation orders.
26. Order to make material available.
27. Authority for search.
28. Sections 26 & 27 : supplementary provisions.
29. Disclosure of information held by a Public Officer or by a Government Department.
30. Offence of prejudicing investigation.
31. Authorisation of delay in notifying arrest.
32. Drug trafficking offences to be serious arrestable offences.
33. Minor amendments.

**A Bill for  
An Ordinance**

**to make provision for the recovery of the proceeds of Drug Trafficking and other provision in connection with Drug Trafficking, to make provision about the supply of articles which may be used or adapted for use in the administration of control drugs or use to prepare a control drug for administration and for matters connected with the foregoing purposes.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

*Introductory*

1. This Ordinance may be cited as the Drug Trafficking Offences Ordinance 1989.

Short title.

2. (1) In this Ordinance —

Interpretation.

“controlled drug” has the same meaning as in the 1987 Ordinance;

“court” means the Supreme Court or the Magistrate’s Court;

“corresponding law” has the same meaning as in the 1987 Ordinance;

“drug trafficking” means doing or being concerned in any of the following, whether in the Falkland Islands or elsewhere-

- (a) producing or supplying a controlled drug where the production or supply contravenes section 4 of the 1987 Ordinance or a corresponding law;

- (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of the 1987 Ordinance or a corresponding law;
  - (c) importing or exporting a control drug where the importation or exportation is prohibited by section 3(1) of the 1987 Ordinance or a corresponding law;
- and includes a person doing the following, whether in the Falkland Islands or elsewhere, that is entering into or being otherwise concerned in an arrangement whereby —
- (i) the retention or control by or on behalf of another person or the other person's proceedings of drug trafficking is facilitated, or
  - (ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment;

"drug trafficking offence" means any of the following —

- (a) an offence under section 4(a) or (b) or 5(2) of the 1987 Ordinance (production, supply and possession for supply of controlled drugs);
- (b) an offence under section 18 of the 1987 Ordinance (assisting in or inducing commission outside Falkland Islands of offence punishable under a corresponding law);
- (c) an offence under section 23 of this Ordinance;
- (d) an offence under section 1 of the Criminal Law Act 1977 in its application to the Falkland Islands of conspiracy to commit any of the offences in paragraphs (a) to (d) above; 1977 c. 45.
- (e) an offence under section 1 of the Criminal Attempts Act 1981 in its application to the Falkland Islands of attempting to commit any of those offences; 1981 c. 47.
- (f) an offence of inciting another to commit any of those offences, whether under section 17 of the 1987 Ordinance or at common law; and
- (g) aiding, abetting, counselling or procuring the commission of any of those offences;

"interest", in relation to property, includes right;

"1987 Ordinance" means the Misuse of Drugs Ordinance 1987;

(No. 16 of 1987.)

"property" includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Ordinance listed in the right hand column in relation to those expressions —

Expression	Relevant provision
Benefited from drug trafficking	Section 3(2)
Charging Order	Section 12(2)
Confiscation Order	Section 3(8)
Dealing with property	Section 11(7)
Defendant	Section 3(8)
Gift caught by this Ordinance	Section 8(9)
Making a gift	Section 8(10)
Proceeds of drug trafficking	Section 5(1)(a)
Realisable property	Section 8(1)
Restraint Order	Section 11(1)
Value of gift, payment or reward	Section 8
Value of proceeds of drug trafficking	Section 5(1)(b)
Value of property	Section 8(4)

(3) This Ordinance applies to property whether it is situated in the Falkland Islands or elsewhere.

(4) References in this Ordinance to offences include a reference to offences committed before the commencement of section 3 of this Ordinance; but nothing in this Ordinance imposes any duty or confers any power on any court in or in connection with proceedings against a person for a drug trafficking offence instituted before the commencement of that section.

(5) References in this Ordinance to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection.

(6) The following provisions shall have effect for the interpretation of this Ordinance.

(7) Property is held by any person if he holds any interest in it.

(8) References to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator.

(9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(11) Proceedings for an offence are instituted —

- (a) when a justice of the peace or the Senior Magistrate issues a summons or warrant under section 1 of the Magistrate's Courts Act 1980 in its application to the Falkland Islands in respect of the offence, or
- (b) when a person is charged with the offence after being taken into custody without a warrant,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(12) Proceedings for an offence are concluded on the occurrence of one or more of the following events —

- (a) the discontinuance of the proceedings;
- (b) the acquittal of the defendant;
- (c) the quashing of his conviction for the offence;
- (d) the grant of pardon in respect of his conviction for the offence;
- (e) the court sentencing or otherwise dealing with him in respect of his conviction for the offence without having made a confiscation order; and
- (f) the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the Order or by the defendant serving imprisonment in default).

(13) An order is subject to appeal so long as an appeal or further appeal is pending against the order or (if it was made on a conviction) against the conviction; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

#### *Confiscation of proceeds of drug trafficking and forfeiture for drug offences*

3. (1) Subject to subsection (7) below, where a person appears before a court to be sentenced in respect of one or more drug trafficking offences (and has not previously been sentenced or otherwise dealt with in respect of his conviction for the offence or, as the case may be, any of the offences concerned) the court shall act as follows.

Confiscation  
Orders.

(2) The court shall first determine whether he has benefited from drug trafficking.

(3) For the purposes of this Ordinance, a person who has at any time (whether before or after the commencement of this section) received any payment or other reward in connection with drug trafficking carried on by him or another has benefited from drug trafficking.

(4) If the court determines that he has so benefited, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 7 of this Ordinance the amount to be recovered in his case by virtue of this section.

(5) The court shall then, in respect of the offence or offences concerned —

- (a) order him to pay that amount,
- (b) take account of the order before —
  - (i) imposing any fine on him, or
  - (ii) making any order involving any payment by him, or
  - (iii) making any order under section 24 of the 1987 Ordinance (forfeiture orders) section 49 of the Criminal Justice Ordinance 1989 (confiscation orders) or section 67 of that Ordinance (deprivation orders), and
- (c) subject to paragraph (b) above, leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him in any other way shall by reason only of the making of an order under this section restrict a court from dealing with an offender in any way the court considers appropriate in respect of a drug trafficking offence.

(7) Subsection (1) above does not apply in relation to any offence for which a person appears before a court to be sentenced if —

- (a) he has been committed to the Supreme Court for sentence in respect of that offence under section 37 (1) of the Magistrate's Courts Act 1980 in its application to the Falkland Islands (committal to Supreme Court with a view to sentence of youth custody), or
- (b) the powers of the court (apart from this section) to deal with him in respect of that offence are limited to dealing with him in any way in which the Summary Court might have dealt with him in respect of the offence.

(8) In this Ordinance —

- (a) an order under this section is referred to as a "confiscation order", and
- (b) a person against whom proceedings have been instituted for a drug trafficking offence is referred to (whether or not he has been convicted) as "the defendant".

4. In section 23(1) of the 1987 Ordinance (forfeiture on conviction of an offence under that Ordinance) after the words "under this Ordinance" there shall be inserted the words "or a drug trafficking offence, as defined in section 2(1) of the Drug Trafficking Offences Ordinance 1989".

Forfeiture for  
drug offences.

5. (1) For the purposes of this Ordinance —

- (a) any payments or other rewards received by a person at any time (whether before or after the commencement of section 3 of this Ordinance in connection with drug trafficking carried on by him or another are his proceeds of drug trafficking, and
- (b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

Assessing the  
proceeds of drug  
trafficking.

(2) The court may, for the purpose of determining whether the defendant has benefited from drug trafficking and, if he has, of assessing the value of his proceeds of drug trafficking, make the following assumptions, except to the extent that any of the assumptions are shown to be incorrect in the defendant's case.

(3) Those assumptions are —

- (a) that any property appearing to the court —
  - (i) to have been held by him at any time since his conviction, or

- (ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him,

- (b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with drug trafficking carried on by him, and
- (c) that for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interest in it.

(4) Subsection (2) above does not apply if the only drug trafficking offence in respect of which the defendant appears before the court to be sentenced is an offence under section 23 of this Ordinance.

(5) For the purpose of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the court shall leave out account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

6. (1) Where —

- (a) there is tendered to the court by the prosecutor a statement as to any matters relevant to the determination whether the defendant has benefited from drug trafficking or to the assessment of the value of his proceeds of drug trafficking, and
- (b) defendant accepts to any extent any allegation in the statement,

Statements  
relating to drug  
trafficking.

the court may, for the purposes of that determination and assessment treat his acceptance as conclusive of the matters to which it relates.

(2) Where —

- (a) a statement is tendered under subsection (1) (a) above, and
- (b) the court is satisfied that a copy of that statement has been served on the defendant,

the court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with a requirement under subsection (2) above, he may be treated for the purposes of this section as accepting every allegation in the statement apart from —

- (a) any allegation in respect of which he has complied with the requirement, and
- (b) any allegation that he has benefited from drug trafficking or that any payment or other reward was received by him in connection with drug trafficking carried on by him or another.

(4) Where —

- (a) there is tendered to the court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made, and
- (b) the prosecutor accepts to any extent any allegation in the statement, the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either —

- (a) orally before the court, or

(b) in writing in accordance with rules of the court.

(6) No acceptance by the defendant under this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or another shall be admissible in evidence in any proceedings for an offence.

7. (1) Subject to subsection (3) below, the amount to be recovered in the defendant's case under the confiscation order shall be the amount that the court assesses to be the value of the defendant's proceeds of drug trafficking.

Amount to be recovered under confiscation order.

(2) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by an acceptance under section 6 of this Ordinance or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied as mentioned in subsection (3) below.

(3) If the court is satisfied that the amount that might be realised at the time that the confiscation order is made is less than the amount the court assesses to be the value of his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be the amount appearing to the court to be the amount that might be so realised.

8. (1) In this Ordinance, "realisable property" means, subject to subsection (2) below —

Definition of principal terms used.

- (a) any property held by the defendant, and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance.

(2) Property is not realisable property if —

- (a) an order under section 67 of the Criminal Justice Ordinance 1989 (deprivation orders),
- (b) an order under section 24 of the 1987 Ordinance (forfeiture orders), is in force in respect of the property.

(3) For the purposes of sections 5 and 6 of this Ordinance the amount that might be realised at the time a confiscation order is made against the defendant is —

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations, together with the total of the values at that time of all gifts caught by this Ordinance.

(4) Subject to the following provisions of this section, for the purposes of this Ordinance the value of property (other than cash) in relation to any person holding the property —

- (a) where any other person holds an interest in the property is —
  - (i) the market value of the first mentioned person's beneficial interest in the property,
  - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest, and
- (b) in any other case, is its market value.

(5) Subject to subsection (10) below, references in this Ordinance to the value at any time (referred to in subsection (6) below as "the material time") of a gift caught by this Ordinance or of any payment or reward are references to —

- (a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money or
- (b) where subsection (6) below applies, the value there mentioned, whichever is the greater.



(6) Subject to subsection (10) below, if at the material time the recipient holds —

- (a) the property which he received (not being cash), or
- (b) property which in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (5) (b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding in either case any charging order.

(7) For the purposes of subsection (3) above, an obligation has priority at any time if it is an obligation of the defendant to —

- (a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order, or
- (b) pay any sum which would be included among the preferential debts (within the meaning given by section 386 of the Insolvency Act 1986 in its application to the Falkland Islands) in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.

(8) In the case of a confiscation order made before the coming into force in the Falkland Islands of the Insolvency Act 1986, subsection (7) above shall have effect as if for paragraph (b) there was substituted —

“(b) pay any sum which, if the defendant had been adjudged bankrupt or was being wound up would be among the preferential debts”;

and in that paragraph “the preferential debts” —

- (a) in relation to bankruptcy, means the debts to be paid in priority under section 33 of the Bankruptcy Act 1914 (assuming the date of the confiscation order to be the date of the receiving order) and;
- (b) in relation to winding up, means such debts as under section 319 of the Companies Act 1948 in its application to the Falkland Islands or any other enactment of or having effect in the Falkland Islands are preferential debts of the company in winding up (assuming the date of the confiscation order to be the relevant date for the purposes of any such enactment).

(9) A gift (including a gift made before the commencement of section 3 of this Ordinance) is caught by this Ordinance if —

- (a) it was made by the defendant at any time since the beginning of the period of six years when the proceedings were instituted against him, or
- (b) it was made by the defendant at any time and was a gift of property —
  - (i) received by the defendant in connection with drug trafficking carried on by him or another, or
  - (ii) which in whole or in part directly or indirectly represented in the defendant's hands property received from him in that connection.

(10) For the purposes of this Ordinance —

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant, and
- (b) in those circumstances, the proceedings provisions of this section shall apply as if the defendant had made a give of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

*Enforcement et cetera of confiscation orders*

9. (1) Where the court orders the defendant to pay any amount under section 3 of this Ordinance, section 53 of the Criminal Justice Ordinance 1989 (sections 42 (1) to (6) of that Ordinance to have effect as if that amount were a fine imposed on him by the court) shall have effect as if the order under section 3 of this Ordinance had been made under section 49 of the Criminal Justice Ordinance 1989.

Application of procedure for enforcing fines.

(2) This section applies in relation to confiscation orders made by the Court of Appeal as it applies in relation to confiscation orders made by the Magistrate's Court or the Supreme Court and the reference in subsection (1) above to a court shall be construed accordingly.

10. (1) Powers conferred on a court by sections 11(1) and 12(1) of this Ordinance are exercisable where —

Cases in which restraint orders may be made.

- (a) proceedings have been instituted in the Falkland Islands against the defendant for a drug trafficking offence,
- (b) the proceedings have not been concluded, and
- (c) the court is satisfied that there is reasonable cause to believe that the defendant has benefited from drug trafficking.

(2) Those powers are also exercisable where the court is satisfied —

- (a) whether by the laying of an information or otherwise, a person is to be charged with a drug trafficking offence, and
- (b) that there is reasonable cause to believe that he has benefited from drug trafficking.

(3) For the purposes of sections 11 and 12 of this Ordinance, at any time when those powers are exercisable before proceedings have been instituted —

- (a) references in this Ordinance to the defendant shall be construed as references to the person referred to in subsection (2)(a) above,
- (b) references in this Ordinance to the prosecutor shall be construed as references to the person who the court is satisfied is to have the conduct of the proposed proceedings, and
- (c) references in this Ordinance to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) above for a drug trafficking offence.

(4) Where the court has made an order under section 11(1) or 12(1) of this Ordinance by virtue of subsection (2) above the court shall discharge the order if proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise) within such time as the court considers reasonable.

11. (1) A court may by order (in this Ordinance) referred to as a "restraint order" prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

Restraint orders.

(2) A restraint order may apply —

- (a) to all realisable property held by a specified person, whether the property is described in the order or not, and
- (b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 12 of this Ordinance.

(4) A restraint order —

- (a) may be made only on an application by the prosecutor,

- (b) may be made on an ex parte application in chambers, and
  - (c) shall provide for notice to be given to persons affected by the order.
- (5) A restraint order —
- (a) may be discharged or varied in relation to any property, and
  - (b) shall be discharged when proceedings for the offences are concluded.
- (6) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (7) Where a court has made a restraint order, the court may at any time appoint a receiver —
- (a) to take possession of any realisable property, and
  - (b) in accordance with the court's directions to manage or otherwise deal with any property in respect of which he is appointed. Subject to exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (8) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression) —
- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt, and
  - (b) removing the property from the Falkland Islands.
- (9) Where a court has made a restraint order, a police officer or a customs officer may for the purpose of preventing any realisable property being removed from the Falkland Islands, seize the property.
- (10) Property seized under subsection (9) above shall be dealt with in accordance with the court's directions.
12. (1) A court may make a charging order on realisable property for securing the payment to the Crown —
- (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged, and
  - (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.
- (2) For the purposes of this Ordinance, a charging order is an order made under this section imposing on such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.
- (3) A charging order —
- (a) may be made only on an application by the prosecutor;
  - (b) may be made on an ex parte application in chambers;
  - (c) shall provide for notice to be given to persons affected by the order; and
  - (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.
- (4) Subject to subsection (6) a charge may be imposed by a charging order only on —
- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance —
    - (i) in any asset of the kind mentioned in subsection (5) below, or
    - (ii) under any trust, or

Charging orders  
in respect of  
land, securities  
etc.

- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge made by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) The assets referred to in subsection (4) above are —

- (a) land in the Falkland Islands, or
- (b) securities of any of the following kind —
  - (i) stock issued by the Falkland Islands Government,
  - (ii) stock of any body (other than a building society or co-operative society) incorporated within the Falkland Islands,
  - (iii) stock of any body incorporated outside the Falkland Islands being stock registered in a register kept at any place within the Falkland Islands,
  - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Falkland Islands.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount, payment of which is secured by the charge, is paid into court.

13. (1) A charging order may be made either absolutely or subject to conditions as to notifying any person holding any interest in the property to which the order relates or as to the time when the charge is to become enforceable, or as to other matters.

Charging orders:  
supplementary  
provisions.

(2) A purchaser for value acting in good faith not having actual notice of a charging order made under this Ordinance shall not be prejudicially affected by that charging order in relation to any transaction as to land in the Falkland Islands unless, prior to the time when he entered into that transaction that charging order was registered against that land in the register of deeds maintained by the Registrar-General under the provisions of the Registration Ordinance.

(3) Where a charging order has been protected by an entry in the register of deeds, an order under section 12(7) of this Ordinance discharging the charging order may direct that the entry be cancelled.

(4) A charge imposed by a charging order shall, subject to this Ordinance, have like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the person against whom a charging order is made by writing under his hand.

(5) The Governor may by Order amend section 12 of this Ordinance by adding to or removing from the kinds of asset for the time being referred to there any asset of a kind which in his opinion ought to be added or removed.

14. (1) Where —

- (a) in proceedings instituted for a drug trafficking offence, a confiscation order is made,
- (b) the order is not subject to appeal, and
- (c) the proceedings have not been concluded,

Realisation of  
property.

the Court may, on an application by the prosecutor, exercise the powers conferred by subsections (2) to (6) below.

(2) The Court may appoint a receiver in respect of realisable property.

(3) The Court may empower a receiver appointed under subsection (2) above, under section 11 of this Ordinance or in pursuance of a charging order —

- (a) to enforce any charge imposed under section 12 of this Ordinance on realisable property or on interest or dividends payable in respect of such property, and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 12 of this Ordinance, to take possession of the property subject to such conditions or exceptions as may be specified by the Court.

(4) The Court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The Court may empower any such receiver to realise any realisable property in such manner as the Court may direct.

(6) The Court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance as the court may direct and the court may, on the payment being made, by Order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 12 of this Ordinance.

(8) The Court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court.

15. (1) Subject to subsection (2) below, the following hands in the sums of a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order, that is —

Application of proceeds of realisation and other sums.

- (a) the proceeds of the enforcement of any charge imposed under section 12 of this Ordinance,
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 11 or 14 of this Ordinance, and
- (c) any other sums, being property held by the defendant,

shall first be applied in payment of such expenses incurred by a person acting as a trustee in bankruptcy or liquidator as are payable under section 20(2) of this Ordinance and then shall, after such payments (if any) as the court may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums —

- (a) among such of those who held property which has been realised under this Ordinance, and
- (b) in such proportions, as the court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(3) The receipt of any sum in the office of the court on account of an amount payable under a confiscation order shall reduce the amount so payable and the money received shall be applied for the purposes specified in this section and in the order so specified.

(4) There shall first be paid any expenses incurred by a person acting as a trustee in bankruptcy or liquidator and payable under section 20(2) of this Ordinance but not already paid under subsection (1) above.

(5) If the money was paid to the court office by a receiver appointed under section 11 or 12 of this Ordinance or in pursuance of a charging order there shall next be paid the receiver's remuneration and expenses. (6) After making —

- (a) any payment required by subsection (4) above; and
- (b) in a case to which subsection (5) above applies, any payment required by that subsection,

there shall then be reimbursed any amount paid under section 20(2) of this Ordinance.

(7) Any balance remaining after all payments required by the foregoing provisions of this section have been made shall be treated as if it were a fine imposed by the Court.

16. (1) The following provisions apply to the powers conferred on the court by sections 11 to 15 of this Ordinance, or on a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order.

Exercise of  
powers by court  
or receiver.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be any confiscation order that may be made in the defendant's case the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

17. (1) If, on an application by the defendant in respect of a confiscation order, the court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order the court shall issue a certificate to that effect, giving the court's reasons.

Variation of  
confiscation  
orders.

(2) For the purposes of subsection (1) above —

- (a) in the case of realisable property held by a person who has been adjudged bankrupt the court shall take into account the extent to which any property held by him may be distributed among creditors, and
- (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Ordinance from any risk of realisation under this Ordinance.

(3) Where a certificate has been issued under subsection (1) above, the defendant may apply to the court for the amount to be recovered under the order to be reduced.

(4) The court shall, on an application under subsection (3) above —

- (a) substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case, and
- (b) substitute for the term of imprisonment or of detention fixed under section 28 of the Criminal Justice Ordinance 1989 in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 9 of this Ordinance) in respect of the lesser amount.

18. (1) Where a person who holds a realisable property is adjudged bankrupt —

Bankruptcy of  
defendant etc.

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and
- (b) any proceeds of property realised by virtue of section 11(6) or 14(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 11 or 14 of this Ordinance,

is excluded from the bankrupt's estate for the purposes of Parts I to IV inclusive of the Bankruptcy Act 1914 in its application to the Falkland Islands or, as the case may be, Part IX of the Insolvency Act 1986 in its application to the Falkland Islands.

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 11 to 15 of this Ordinance or on a receiver so appointed shall not be exercised in relation to —

- (a) property for the time being comprised in the bankrupts estate for the purposes of Parts I to IV inclusive of the Bankruptcy Act 1914 or, as the case may be, Part IX of the Insolvency Act 1986 in its application to the Falkland Islands,
- (b) property acquired by the bankrupt after commencement of his bankruptcy and divisible among his creditors pursuant to paragraph (a) of section 39 of the Bankruptcy Act 1914 in its application to the Falkland Islands or property in respect of which his trustee and bankruptcy may (without leave of court) serve a notice under section 307 or 308 of the Insolvency Act 1986 in its application to the Falkland Islands (after-acquired property and tools, clothes et cetera exceeding value of reasonable replacement), and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 26(2)(iv) of the Bankruptcy Act 1914 in its application to the Falkland Islands or under section 280(2)(c) of the Insolvency Act 1986 in its application to the Falkland Islands.

(3) Nothing in the Bankruptcy Act 1914 or in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the court by sections 11 to 15 of this Ordinance or on a receiver appointed under section 11 or 14 of this Ordinance.

(4) Subsection (2) above does not affect the enforcement of a charging order —

- (a) made before the order adjudging the person bankrupt, or
- (b) on property with which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, a receiver stands appointed under section 3, 5(2) or 6(1) of the Bankruptcy Act 1914 in its application to the Falkland Islands or under section 286 of the Insolvency Act 1986 in its application to the Falkland Islands and any property of the debtor is subject to a restraint order —

- (a) the powers conferred on the receiver by virtue of the Bankruptcy Act 1914 or the Insolvency Act 1986 do not apply to property for the time being subject to the restraint order,
- (b) section 287(4) of the Insolvency Act 1986 (receivers immunity), as it applies to the receiver by virtue of section 286(3) of that Act, shall have effect in relation to such property as if references to such property were substituted for references to property which is not comprised in the bankrupts estate and
- (c) any such property in the hands of the receiver shall, subject to a lien for any expenses (including his remuneration) properly incurred in respect of the property, be dealt with in such manner as the court may direct.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Ordinance —

- (a) no order shall be made under section 42 of the Bankruptcy Act 1914 or sections 339 or 423 of the Insolvency Act 1986 (avoidance of certain transactions) in respect of the making of the gift at any time when proceedings for a drug trafficking offence have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order, and

- (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Ordinance of property held by the person to whom the gift was made.

19. (1) Where realisable property is held by a company and a order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to —

Winding up of company holding realisable property.

- (a) property for time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 11(6) or 14(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 11 or 14 of this Ordinance;

but there shall be payable out of such property any expenses (including the remuneration of the liquidator or provisional liquidator) provisionally incurred in the winding up in respect of the property.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the court by sections 11 to 15 of this Ordinance on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable —

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors, or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Companies Act 1948 in its application to the Falkland Islands or in the Insolvency Act 1986 in its application to the Falkland Islands shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section —

“company” means any company which may be wound up under the Companies Act 1948 in its application to the Falkland Islands or the Insolvency Act 1986 in its application to the Falkland Islands; and

“the relevant time” means —

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up,
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution, and
- (c) in any other case where such an order has been made, the time of the making of the order.

20. (1) Without prejudice to the generality of any enactment contained in the Bankruptcy Act 1914 in its application to the Falkland Islands, the Companies Act 1948 in its application to the Falkland Islands or in the Insolvency Act 1986 or any other enactment in force in the Falkland Islands, where —

Insolvency officers dealing with property subject to restraint order.

- (a) any person acting as a receiver, trustee and bankruptcy, liquidator or insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and



- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property;

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or on the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may be reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as receiver, trustee in bankruptcy, liquidator or as an insolvency practitioner, incurs expenses —

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 15(1) or (5) of this Ordinance.

(3) In this Ordinance, the expression “acting an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the Insolvency Act 1986 and the expression shall also comprehend the official receiver acting as receiver or manager of the property.

**21.** (1) Where a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order takes any action —

Receivers; Supplementary provisions.

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property,
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of the receiver so appointed shall, if no sum is available to be applied in payment of it under section 15(5) of this Ordinance, be paid by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted, by the person on whose application the receiver was appointed.

**22.** (1) If proceedings are instituted against a person for a drug trafficking offence or offences and either

Compensation.

- (a) the proceedings do not result in his conviction for any drug trafficking offence, or
- (b) where he is convicted of one or more drug trafficking offences —
  - (i) the conviction or convictions concerned are quashed, or
  - (ii) he is pardoned in respect of the conviction or convictions concerned,

the court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant.

(2) The court shall not order compensation to be paid in any case unless the court is satisfied —

- (a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned, being a person mentioned in subsection (4) below, and
  - (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order of the court under sections 11 to 14 of this Ordinance.
- (3) The court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued if the serious default had not occurred.
- (4) The amount of compensation to be paid under this section shall be such as the court thinks just in all the circumstances of the case.
- (5) Compensation payable under this section shall be paid out of the Consolidated Fund.

*Offence of assisting drug traffickers*

23. (1) Subject to subsection (3) below, if a person enters into or is otherwise concerned in an arrangement whereby —

Assisting  
another to retain  
the benefit of  
drug trafficking.

- (a) the retention or control by or on behalf of another (call him "A") of A's proceeds of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise), or
- (b) A's proceeds of drug trafficking —
  - (i) are used to secure that funds are placed at A's disposal, or
  - (ii) are used for A's benefit to acquire property by way of investment,

knowing or suspecting that A is a person who carries on or has carried on drug trafficking or has benefited from drug trafficking, he commits an offence.

(2) In this section, references to any person's proceeds of drug trafficking include a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of drug trafficking.

(3) Where a person discloses to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which such a suspicion or belief is based —

- (a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract, and
- (b) if he does any acting contravention of subsection (1) above and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if the disclosure is made in accordance with this paragraph, that is —
  - (i) it is made before he does the act concerned, being an act done with the consent of the police officer or
  - (ii) it is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove —

- (a) that he did not know or suspect that the arrangement related to any person's proceeds of drug trafficking, or
- (b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property while facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1) above, or
- (c) that —

- (i) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) above in relation to the arrangement, but
- (ii) there is reasonable excuse for his failure to make disclosure in accordance with subsection (3)(b) above.

(5) A person convicted of an offence under this section shall be liable on conviction to imprisonment for a term not exceeding fourteen years or a fine or to both.

#### *Enforcement of external orders*

24. (1) In this Ordinance —

Enforcement of  
external orders

“designated country” means —

- (a) England, Scotland and Northern Ireland; and
- (b) any country or territory for the time being designated by Her Majesty by Order in Council made under section 26(1) of the Drug Trafficking Offences Act 1986 (“a 1986 Act Order”);

“external confiscation order” means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value; and

“modifications” includes additions, alterations and omissions.

(2) Subject to this section, a 1986 Act Order shall have effect in and in relation to the Falkland Islands as if —

- (a) any reference therein to a Secretary of State were a reference to the Governor acting in his discretion;
- (b) any reference to the High Court were a reference to the Supreme Court and any reference to the Crown Court were a reference to the Magistrate’s Court and any reference to a magistrates’ court or to Justices of the Peace were a reference to the Summary Court;
- (c) any modifications of the Drug Trafficking Offences Act 1986 made by any such 1986 Order were modifications of the corresponding provisions of this Ordinance.

(3) The Governor may, if he considers it necessary so to do so as to give better or clearer effect to a 1986 Act Order in its application to the Falkland Islands by virtue of the foregoing provisions of this section, by Order direct that any 1986 Act Order specified in that Order under this subsection shall have effect in the Falkland Islands subject to such modifications as are specified in that Order made under this subsection and, the foregoing provisions of this section shall, so far as is appropriate, then have effect subject to such Order made under this subsection. An Order under this subsection may make different provision for different cases or classes of case or in relation to different designated countries.

25. (1) On an application made by or on behalf of the Government of a designated country, the Supreme Court may register an external confiscation order made there if —

Registration of  
external con-  
fiscation orders.

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) it is of the opinion that enforcing the order in the Falkland Islands would not be contrary to the interests of justice.

(2) In subsection (1) above “appeal” includes —

- (a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The Supreme Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

*Investigations into drug trafficking*

26. (1) The Attorney General or any person acting by his direction or under his authority may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for an order under subsection (2) below in relation to particular material or material of a particular description.

Order to make material available.

(2) If on such an application the Senior Magistrate is satisfied that the conditions in subsection (4) below are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall —

- (a) produce it to a police officer for him to take away, or
- (b) give a police officer access to it, within such period as the court may specify, but this subsection has effect subject to section 29(11) of this Ordinance.

(3) The period to be specified in an order under subsection (2) shall be seven days unless it appears to the Senior Magistrate that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) above are —

- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking,
- (b) that there are reasonable grounds for suspecting that the material to which the application relates —
  - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and
  - (ii) does not consist of or include items subject to legal privilege or excluded material, and
- (c) that there are reasonable grounds for believing that it is in the public interest, having regard —
  - (i) to be benefit likely to accrue to the investigation if the material is obtained, and
  - (ii) to the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

(5) Where the Senior Magistrate makes an order under subsection (2)(b) above in relation to material on any premises he may, on the application of the Attorney General or of a person acting by the direction or with the authority of the Attorney General, order any person who appears to him to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.

(6) Provision may be made by the Chief Justice by rules made for the purposes of this section as to —

- (a) the discharge and variation of orders under this section, and
- (b) proceedings relating to such orders.

(7) An order of the Senior Magistrate under this section shall have effect as if it were an order of the Magistrate's Court.

(8) Where the material to which an application under this section relates consists of information contained in a computer —

- (a) an order under subsection (2)(a) above shall have effect as an order to produce the material in a form in which it can be taken away and which it is visible and legible, and
  - (b) an order under subsection (2)(b) above shall have effect as an order to give access to the material in a form which it is visible and legible.
- (9) An order under subsection (2) above —
- (a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material,
  - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise, and
  - (c) may be made in relation to material in the possession of a public officer or any department of the Government of the Falkland Islands.
- 27. (1)** A police officer acting by the direction of or by the authority of the Attorney General may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for a warrant under this section in relation to specified premises. Authority for search.
- (2) On such application the Senior Magistrate may issue a warrant authorising a police officer to enter and search the premises if he is satisfied —
- (a) that an order made under section 25 of this Ordinance in relation to material on the premises has not been complied with, or
  - (b) that the conditions in subsection (3) below are fulfilled, or
  - (c) that the conditions in subsection (4) below are fulfilled.
- (3) The conditions referred to in subsection (2)(b) above are —
- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking, and
  - (b) that the conditions in section 26(4)(b) and (c) of this Ordinance are fulfilled in relation to any material on the premises, and
  - (c) that it would not be appropriate to make an order under that section in relation to the material because —
    - (i) it is not practicable to communicate with any person entitled to produce the material, or
    - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or
    - (iii) the investigation for the purposes of which the application is made might be seriously prejudice unless a police officer could secure immediate access to the material.
- (4) The conditions referred to in subsection (2)(c) above are —
- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking, and
  - (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised, and
  - (c) that —
    - (i) it is not practicable to communicate with any person entitled to grant entry to the premises, or
    - (ii) entry to the premises will not be granted unless a warrant is produced, or

- (iii) the investigation for the purpose of which the application is made might be seriously prejudice unless a police officer arriving at the premises could secure immediate entry to them.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

28. (1) For the purposes of sections 126 and 127 of the Criminal Justice Ordinance 1989 (access to, and copying and retention of, seized material) —

Sections 26 & 27: Supplementary provisions.

- (a) an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence, and
- (b) material produced in pursuance of an order under section 26(2)(a) of this Ordinance shall be treated as if it were material seized by a police officer.

(2) Subject to subsection (3) below, in sections 26 and 27 of this Ordinance “items subject to legal privilege”, “excluded material” and “premises” have the same meanings as in the Criminal Justice Ordinance 1989.

29. (1) Subject to subsection (4) below, the Senior Magistrate may on an application by the Attorney General order any material mentioned in subsection (3) below which is in the possession of a public officer or of a department of the Falkland Islands Government to be produced to the court within such period as the court may specify.

Disclosure of information held by a Public Officer or by a Government Department.

(2) The power to make an order under subsection (1) above is exercisable if —

- (a) the powers conferred on the court by sections 11(1) and 12(1) of this Ordinance are exercisable by virtue of subsection (1) of section 10 of this Ordinance, or
- (b) those powers are exercisable by virtue of subsection (2) of that section and the court has made a restraint or charging order which has not been discharged;

but where the power to make an order under subsection (1) above is exercisable by virtue only of paragraph (b) above, subsection (3) of section 10 of this Ordinance shall apply for the purposes of this section as it applies for the purposes of sections 11 and 12 of this Ordinance.

(3) The material referred to in subsection (1) above is any material which —

- (a) has been submitted to a public office or to a department of the Falkland Islands Government by the defendant or by a person who has at any time held property which was realisable property,
- (b) has been made by a public officer in relation to the defendant or such a person, or
- (c) is correspondence which passed between a public officer acting in the course of his duties or on behalf of a department of the Falkland Islands Government and the defendant or such a person,

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the public officer or of the department of the Falkland Islands Government concerned.

(4) An order under subsection (1) above shall not require the production of any material unless it appears to the Senior Magistrate that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by sections 11 to 14 of this Ordinance or on a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order.

(5) The Senior Magistrate may by order authorise the disclosure to such a receiver of any material produced under subsection (1) above or any part of such material; but the Senior Magistrate shall not make an order under this subsection unless a reasonable opportunity has been given to the public officer or the department of the Falkland Islands Government concerned to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) above may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Ordinance or of the receiver or the Supreme court or Magistrate's court.

(7) The Senior Magistrate may by order authorise a disclosure to a person mentioned in subsection (8) below of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless —

- (a) a reasonable opportunity has been given for public officer or the department of the Falkland Islands Government concerned to make representations to him, and
- (b) it appears to the Senior Magistrate that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) above are —

- (a) any member of the Falkland Islands Police Force,
- (b) the Attorney General or any other public officer who is a legal practitioner and in respect of whom the Attorney General is the head of department, and
- (c) a Customs Officer.

(9) Material disclosed in pursuance of an order under subsection (7) above may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under subsection (1) above and, in the case of material in the possession of a public officer or a department of the Falkland Islands Government, an order under section 26(2) of this Ordinance may require any public officer (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served on the Chief Executive.

(12) The Chief Executive on being served with an order under subsection (1) above —

- (a) shall take all reasonable steps to bring it to the attention of the public officer appearing to him to have possession of the material and in any case to the attention of the public officer who is the head of a department of the Falkland Islands Government concerned, and
- (b) if the order is not brought to the attention of the public officer having possession of the material within the period referred to in subsection (1) above, shall report the reasons for the failure to the court;

and it shall also be the duty of the head of department to whom the order has been communicated to take steps to bring the order to the attention of the public officer appearing to him to have possession of the material.

30. (1) Where, in relation to an investigation into drug trafficking, an order under section 26 of this Ordinance has been made or has been applied for and has not been refused or a warrant under section 27 of this Ordinance has been issued, a person who, knowing or suspecting that the investigation is taking place, makes any disclosure which is likely to prejudice the investigation is guilty of an offence.

Offence of prejudicing investigation.

(2) In proceedings against a person for an offence under this section, it is a defence to prove —

- (a) that he did not know or suspect that the disclosure was likely to prejudice the investigation, or
- (b) that he had lawful authority or a reasonable excuse for making the disclosure.

(3) A person convicted of an offence under this section shall be liable to imprisonment for a term not exceeding five years or to a fine or to both.

31. (1) In section 105 of the Criminal Justice Ordinance 1984 (right to have someone informed when arrested), at the beginning of subsection (1) there is inserted the words "subject to the following provisions of this section" and after that subsection there is inserted the following new subsection (1A) —

Authorisation of delay in notifying arrest.

"(1A) delay is permitted where the person has been arrested for a drug trafficking offence and the Chief Police Officer authorises the delay having reasonable grounds for believing —

- (a) that the detained person has benefited from drug trafficking, and
- (b) that the recovery of the value of that persons proceeds of drug trafficking will be hindered by telling any person named by the detained person of the arrest."

(2) Section 105 of the Criminal Justice Ordinance 1989 is further amended by inserting at the beginning of subsection (2) the words "subject to subsection (2A) below" and after that subsection there is inserted the following new subsection - "(2A) in any case to which subsection (1A) applies the person in custody must be permitted to exercise the right conferred by subsection (1) above within 36 hours from the time of his arrival at the police station."

(3) In section 106 of the Criminal Justice Ordinance 1989 (access to legal advice) at the beginning of subsection (8) there is inserted the words "subject to subsection (8A) below" and after that subsection there is inserted the following new subsection —

"8A. The Chief Police Officer may also authorise delay where the person arrested and held in custody has been arrested for a drug trafficking offence and the Chief Police Officer has reasonable grounds for believing —

- (a) that the detained person has benefited from drug trafficking, and
- (b) that the recovery of the value of that person's proceeds of drug trafficking will be hindered by the exercise of the right conferred by subsection (1) above."

#### *Miscellaneous and supplemental*

32. Part II of Schedule 4 to the Criminal Justice Ordinance 1989 is amended by the insertion therein, immediately after paragraph 7 of that Part of the following new cross-heading and paragraph 8 —

Drug trafficking offences to be serious arrestable offences.

#### *"Drug Trafficking Offences Ordinance 1989*

8. Any of the offences mentioned in the definition of "drug trafficking offence" in section 2(1) of the Drug Trafficking Offences Ordinance 1989"

33. (1) Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) in its application to the Falkland Islands shall have effect as if amounts payable under confiscation orders were debts excepted under subsection (1) (a) of that section.

Minor amendments.

(2) In section 71 (2) (a) of the Criminal Justice Ordinance 1989 (failure to pay fines etc not to prevent persons becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

(3) Section 281 (4) of the Insolvency Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc) in its application to the Falkland Islands shall have effect as if the reference to a fine included a reference to a confiscation order.



**A Bill for  
An Ordinance**

**to enable the Governor to appoint Coastguard Officers**

ENACTED by the Legislature of the Falkland Islands as follows —

- |  |                                      |
|--|--------------------------------------|
| <p>1. This Ordinance may be cited as the Coastguard Ordinance 1989 and shall come into force upon its first publication in the Gazette.</p>  | <p>Short title and commencement.</p> |
| <p>2. (1) The Governor may by instrument in writing appoint persons who, in his opinion, have sufficient experience of maritime matters to be Coastguard Officers for the Falkland Islands.</p> <p>(2) Any person appointed by the Governor hereunder shall have and may exercise such powers in the Falkland Islands as are exercised by Her Majesty's Coastguard in the United Kingdom with such modifications as may be necessary to make the same applicable to the circumstances of the Falkland Islands.</p> | <p>Coastguards and powers.</p>       |

**OBJECTS AND REASONS**

To enable persons locally to exercise the powers of coastguards in the United Kingdom, particularly in relation to shipping incidents, including wrecks.

Ref: Leg/10/75.

## A Bill for An Ordinance

**to abolish the Fisheries Development Fund and to transfer the balance standing to the credit of it to the Consolidated Fund, to establish an Insurance Fund and to appropriate the sum of £5 million from the Consolidated Fund, and for connected purposes.**

BE IT ENACTED by the Legislative Council of the Falkland Islands as follows —

- |  |   |
|--|---|
| <p>1. This Ordinance may be cited as the Public Funds Ordinance 1989.</p>  | <p>Short title.</p>                             |
| <p>2. (1) The Fisheries Development Fund is abolished.</p> <p>(2) The Financial Secretary shall forthwith transfer to the Consolidated Fund any sum standing to the credit of the Fisheries Development Fund immediately before the commencement of this Ordinance.</p>  | <p>Abolition of Fisheries Development Fund.</p> |
| <p>3. (1) A fund to be known as the Insurance Fund is established as a Special Fund pursuant to section 11(1) of the Finance and Audit Ordinance 1988.</p> <p>(2) There is appropriated to the Insurance Fund the sum of five million pounds which the Financial Secretary shall forthwith transfer to that fund from the Consolidated Fund, and this Ordinance is, to the necessary extent an appropriation Ordinance.</p> <p>(3) All income accruing to the Insurance Fund by reason of the investment thereof shall accrue to and form part of that fund.</p> <p>(4) There may be paid into the Insurance Fund such further sums as are appropriated by Ordinance for the purpose and any sum so paid shall form part of that fund.</p> | <p>Creation of Insurance Fund.</p>              |

4. (1) There may be paid out of the Insurance Fund from time to time such sums as the Financial Secretary is satisfied are necessary to discharge or repay —

Payments out of  
the Insurance  
Fund.

- (a) any loss of the Crown suffered by reason of fire, flood, storm, tempest or Act of God or princes;
- (b) any liability of the Crown to any person to indemnify that person in respect of or arising out of any damage to or loss of that person's property or the property of another person in his care or control at the time in question;
- (c) any liability of the Crown to any person in respect of death, bodily injury (including mental injury or incapacity) or disease;
- (d) any other loss of the Crown or any person occasioned by the negligence or default of the Crown its agents or servants;
- (e) any other loss or liability of the Crown (whether similar in nature to any of the foregoing or not) in respect of which, but for the existence of the Insurance Fund, the Financial Secretary is satisfied the Crown might have insured.

(2) No sum shall be paid out of the Insurance Fund except by or with the authority of the Financial Secretary.

5. The amount for the time being standing to the credit of the Insurance Fund shall be invested in such investments as moneys in the Consolidated Fund may lawfully be invested.

Investment of  
the Insurance  
Fund.

6. The provisions of the Finance and Audit Ordinance 1988 as to the administration and audit of public funds shall apply in respect of the Insurance Fund.

Insurance Fund  
to be subject to  
audit.

7. (1) If any payments have been made out of the Insurance Fund since the last preceding meeting of the Legislative Council the Financial Secretary shall lay on the table at the following meeting of the Legislative Council a summary of the payments made and of the reasons for them.

Reports to  
Legislative  
Council.

8. If and whenever the balance of the Insurance Fund shall for any reason fall below five million pounds, the Financial Secretary shall, as soon as practicable, introduce in Legislative Council a Bill for appropriation from the Consolidated Fund to the Insurance Fund of such sum as is necessary to restore the balance of the Insurance Fund to five million pounds.

Augmentation of  
the Insurance  
Fund.

### *Objects and Reasons*

This Bill seeks to abolish the Fisheries Department Fund and to establish an Insurance Fund so as to cater for certain liabilities of the Government in respect of which it will, in future, be its own insurers with consequent savings of the profit, commission and management elements of insurance premiums.

Ref: INS/14/3.



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NOTICE

The following are published in this Gazette —

**The Law of Contract (Amendment) Bill 1989;**

**The Public Health (Amendment) Bill 1989;**

**The Currency Laws (Rectification) Bill 1989;**

**The Supplementary Appropriation (1989-1990) Bill 1989;**

**The Supplementary Appropriation (1988-1989) (No. 4) Bill 1989;**

**The Land Aquisition Bill 1989.**

## LAW OF CONTRACT (AMENDMENT) BILL 1989

### EXPLANATORY MEMORANDUM

The Bill seeks to make a number of important amendments to the Law of Contract Ordinance 1988.

The existing section 3 would be repealed and replaced by a new section which would have the following effects —

- (a) The old rules (dating from the 17th century) as to making of contracts for the sale or disposal of interests in land would be abolished;
- (b) New rules would apply;
- (c) Under the new rules *all* the terms would have to be incorporated in one document either by being set out in it or by being incorporated by reference: pre-contract exchanges between legal practitioners and others could not themselves constitute part of the contract and the document forming the contract would have to set out all the terms and a copy of it would have to be signed by (or by an agent of) each party to the contract

A new section 3A would abolish an old common law rule - the rule in *Bain v Fothergill*. This 1874 case (which forms part of the common law applying in the Falkland Islands) has the effect that if A contracts to sell land to B and the sale does not go through because A's title to the land is defective (because, e.g., he never owned the land in the first place) B could only recover as damages the costs of investigating A's title, and not the whole loss he has suffered because of A's not being able to fulfil his bargain. It is high time that rule was abolished. Section 3A, to be inserted by the Bill, would do this.

The amendments to section 5 of the 1988 Ordinance (the new subsections (3) to (11)) would abolish a number of old-fashioned rules as to deeds. In particular a deed by a private individual would not have to be under seal, could be written on any kind of paper and could be handed over without being the subject of authority to hand over itself given by a deed.

The amendments (relating to powers of attorney) to the Agency (Adopted Laws) Ordinance 1987 which would be effected by the Bill are consequential upon the amendments mentioned above.

**The Law of Contract (Amendment) Bill 1989**  
(No. of 1989)

**ARRANGEMENT OF PROVISIONS**

**Clause**

- 1. Short Title.**
- 2. Amendment of the Law of Contract Ordinance 1988.**

**Schedule**

**A Bill for  
An Ordinance  
to amend the Law of Contract Ordinance 1988 so as to make new  
provision with respect to deeds and their execution and  
contracts for sale or other disposition of interests in land, to  
abolish the rule of law known as the rule in *Bain v Fothergill*  
and to make new provision as to contracts by minors, and to  
make minor amendments to the Agency (Adopted Laws)  
Ordinance 1987.**

BE IT ENACTED by the Legislature of the Falkland Islands, as follows —

1. This Ordinance may be cited as the Law of Contract (Amendment) Ordinance 1988.
2. The Law of Contract Ordinance 1988 and the Agency (Adopted Laws) Ordinance 1987 are amended in the manner specified in the Schedule below —

Short title.

Amendment of  
the Law of Con-  
tract Ordinance  
1988. (No. 22 of  
1988) and Agen-  
cy (Adopted  
Laws) Ordinance  
1987 (No. of  
1987).

SCHEDULE

(section 2)

Amendments to Law of Contract Ordinance 1988

1. Section 3 of the Law of Contract Ordinance 1988 is repealed and replaced by the following section —  
“Contracts for sale etc of land to be made by signed writing.
3. (1) A contract for the sale or other disposition of an interest in land can only be made in writing and only by incorporating all the terms which the parties have expressly agreed in one document or, where contracts are exchanged, in each.

(2) The terms may be incorporated in a document either by being set out in it or by reference to some other document.

(3) The document incorporating the terms, or where contracts are exchanged, one of the documents incorporating them (but not necessarily the same one) must be signed by or on behalf of each party to the contract.

(4) Where a contract for the sale or other disposition of an interest in land satisfies the conditions of this section by reason only of the rectification of one or more documents in pursuance of an order of a court, the contract shall come into being, or be deemed to have come into being, at such time as may be specified in the order.

(5) This section does not apply in relation to —

(a) a contract to grant such a lease as is mentioned in section 13(2) below (short leases); or

(b) a contract made in the course of a public auction; or

and nothing in this section affects the creation or operation of resulting, implied or constructive trusts.

(6) In this section —

“disposition” has the same meaning as in the Law of Property Ordinance 1989;

(7) Nothing in this section shall apply in relation to contracts made before this section comes into force.”

2. The Law of Contract Ordinance 1988 is further amended by the insertion of the following new section 3A immediately after section 3 —

3A. The rule of law known as the rule in *Bain v Fothergill* is abolished.”

“Abolition of rule in *Bain v Fothergill*.”

3. Section 5 of the Law of Contract Ordinance 1988 is amended by the addition thereto of the following ten subsections —

“(3) Any rule of law which —

(a) restricts the substances on which a deed may be written;

(b) requires a seal for the valid execution of an instrument as a deed by an individual; or

(c) requires authority by one person to another to deliver an instrument as a deed on his behalf to be given by deed,

is abolished.

(4) An instrument shall not be a deed unless —

(a) it makes clear on its face that it is intended to be a deed by the person making it or, as the case may be, by the parties to it (whether by describing itself as a deed or expressing itself to be executed or signed as a deed or otherwise); and

(b) it is validly executed as a deed by that person or, as the case may be, one or more of those parties.

(5) An instrument is validly executed as a deed by an individual if, and only if —

(a) it is signed —

(i) by him or in the presence of a witness who attests the signature; or

(ii) at his direction and in his presence and the presence of two witnesses who each attest the signature; and

(b) it is delivered as a deed by him or a person authorised to do so on his behalf.

(6) In subsections (4) and (5) above “sign”, in relation to an instrument, includes making one’s mark on the instrument and “signature” is to be construed accordingly.



(7) Where a legal practitioner, or an agent or employee of a legal practitioner, in the course of or in connection with a transaction involving the disposition or creation of an interest in land, purports to deliver an instrument as a deed on behalf of a party to the instrument, it shall be conclusively presumed in favour of a purchaser that he is authorised so to deliver the instrument.

(8) In subsection (7) above —

“disposition” and “purchaser” have the same meanings as in the Law of Property Ordinance 1989; and

“interest in land” means any estate, interest or charge in or over land or in or over the proceeds of sale of land.

(9) Where an instrument under seal that constitutes a deed is required for the purposes of an enactment passed before this section comes into force, this section shall have effect as to signing, sealing or delivery of an instrument by an individual in place of any provision of that enactment as to signing, sealing or delivery.

(10) Nothing in subsection (3)(b) (4), (5) or (9) above applies in relation to deeds required or authorised to be made under the public seal of the Falkland Islands.

(11) The references in this section to the execution of a deed by an individual do not include execution by a corporation sole and the reference in subsection (9) above to signing, sealing or delivery by an individual does not include signing, sealing or delivery by such a corporation.

(12) Nothing in subsections (3) to (11) inclusive above as deeds before those subsections come into force.”

#### *Amendments to Agency (Adopted Laws) Ordinance 1987*

4. Paragraph 3 of the Schedule to the Agency (Adopted Laws) Ordinance 1987 (which relates to the Powers of Attorney Act 1971) is amended by the addition of the following sub paragraphs (h), (i) and (j) to the second column of that paragraph —

“(h) in section 1(i) for the words “signed and sealed by, or by the direction and in the presence of”, there shall be substituted the words “executed as a deed by”;

(i) section 1(2) shall not have effect;

(j) the following words shall be substituted for the words from the beginning of subsection (1) of section 7 to the end of paragraph (a) —

“7(1) If the donee of a power of attorney is an individual, he may, if he thinks fit —

(a) execute any instrument with his own signature, and”

#### OBJECTS AND REASONS

(a) to amend the law as to execution of deeds;

(b) to amend the law as to contracts relating to land and interests in land;

(c) to abolish the rule in *Bain v Forthergill* (which restricts the amount of damages which can be recovered on a breach of contract for sale of land);

(d) to make consequential amendments.

**A Bill for  
An Ordinance  
to amend the Public Health Ordinance.**

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance 1989.

Short title.

2. The Public Health Ordinance is amended by the insertion, immediately after section 55, of the following new section —

Amendment of  
principal  
Ordinance.

“Charges 56. (1) Such charges shall be made in respect of medical services (and such exemptions shall apply in respect of such charges) as are from time to time approved by the Governor and published in the Gazette. (2) In subsection (1), “medical services” includes all services provided at the King Edward VII Memorial Hospital, Stanley and all dental, optical and ophthalmic services, the supply of drugs and medicines the use of an ambulance and the provision or contribution to the cost of transport to patients”.

3. The Medical Fees Regulations 1979 are revoked.

Medical Fees  
Regulations 1979  
revoked.

**OBJECTS AND REASONS**

To enable medical charges to be varied more simply.

Ref: MED/10/2.

The Currency Laws (Rectification) Bill 1989  
(No. of 1989)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.
2. Interpretation.
3. Certain provisions of the Currency Ordinance 1987 to be deemed not to have come into force.
4. Relevant provisions to come into force when revoking Proclamation published.

**A Bill for  
An Ordinance**

**to provide that such of the provisions of the Currency Ordinance 1987 as relate to coinage of the Falkland Islands, so far as they so relate, shall be deemed not to have come into operation and shall come into operation on such date as is provided by this Ordinance and to make provision incidental to, consequent upon or otherwise connected with the foregoing purposes.**

**BE IT ENACTED** by the Legislature of the Falkland Islands as follows —

- |   |  |
|---|--|
| <p><b>1.</b> This Ordinance may be cited as the Currency Laws (Rectification) Ordinance 1989.</p> <p><b>2.</b> In this Ordinance —</p> <p style="padding-left: 40px;">“the 1870 Act” means the Coinage Act 1870;</p> <p style="padding-left: 40px;">“the 1946 Act” means the Coinage Act 1946;</p> <p style="padding-left: 40px;">“the 1967 Act” means the Decimal Currency Act 1967;</p> <p style="padding-left: 40px;">“the 1969 Act” means the Decimal Currency Act 1969;</p> <p style="padding-left: 40px;">“the Currency Proclamations” means —</p> <p style="padding-left: 80px;">(a) the Proclamation of 3rd February 1898 which applied the 1870 Act, as amended by that Proclamation, to the Falkland Islands,</p> | <p>Short title.</p> <p>Interpretation.</p> <p>(33 &amp; 34<br/>Vict.c.40)</p> <p>(9 &amp; 10<br/>Geo.6 c.74)</p> <p>(1967 c.47)</p> <p>(1969 c.19)</p> |
|---|--|

- (b) the Proclamation of 14th October 1947 which applied the 1946 Act to the Falkland Islands,
- (c) the Proclamation of 13th November 1947 which amended the 1870 Act in its application to the Falkland Islands under the Proclamation mentioned at (a) above,
- (d) the Proclamation of 20th December 1968 which applied parts of the 1967 Act to the Falkland Islands,
- (e) the Proclamation of 30th September 1970 which applied parts of the 1969 Act to the Falkland Islands, and
- (f) the Proclamation of 11th April 1979 which amended the 1870 Act in its application to the Falkland Islands;

"the relevant 1987 provisions" means section 2 to 11 inclusive, and 13, 23 and 24 of the Currency Ordinance 1987, so far as those provisions relate to coins;

"the revoking Proclamation" means the Proclamation made by Her Majesty on 1st November 1989 revoking the Currency Proclamations in their application to the Falkland Islands.

3. Notwithstanding the making and publication of The Currency Ordinance 1987 (Commencement Order) 1987 ("the Order") in relation to the whole of The Currency Ordinance 1987, the relevant 1987 provisions shall be deemed never to have come into force, and the Order shall be deemed to have had no effect in relation to the relevant provisions.

Certain provisions of the Currency Ordinance 1987 to be deemed not to have come into force.

4. (1) The relevant 1987 provisions shall come into force on such date as the revoking Proclamation comes into force in the Falkland Islands.

Relevant provisions to come into force when revoking Proclamation published.

(2) Section 1 of the Currency Ordinance is amended by inserting before the words "This Ordinance" the words "Subject to section 4(1) of The Currency Laws (Rectification) Ordinance 1989";

5. No person shall be personally liable in respect of anything done or authorised by him in accordance with the relevant 1987 provisions prior to the coming into operation of this Ordinance if he would have not been so liable —

- (a) had this Ordinance not been enacted; and
- (b) had the relevant 1987 provisions at the time in question in no way been invalid.

#### OBJECTS AND REASONS

It is apprehended that it is possible that the relevant 1987 provisions (as defined by clause 2 of the Bill) may be void because of the provisions of section 2 of the Colonial Laws Validity Act 1865, which provides that any law of the Falkland Islands which is in any respect repugnant to the provisions of any Act of the Parliament extending to the Falkland Islands, or repugnant to any Order or Regulation made under such an Act, or having in the Falkland Islands the force and effect of such an Act, shall be read subject to such Act, Order, or Regulation, and shall to the extent of such repugnancy, but not otherwise, "be and remain absolutely void and inoperative".

The Supplementary Appropriation (1989 - 1990) Bill 1989  
(No. of 1989)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.
2. Appropriation of £3,887,620 for the services of year 1989 - 1990.

Schedule

**A Bill for  
An Ordinance  
to appropriate and authorise the withdrawal from the Consolidated Fund  
of additional sums totalling £3,887,620 for the service of the financial year  
ending on 30th June 1990.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Supplementary Appropriation (1989 - 1990) Ordinance 1989. 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 1st July 1989 and ending on 30th June 1990 ("the financial year") sums not exceeding in aggregate the sum of three million eight hundred and eighty seven thousand six hundred and twenty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Services mentioned in the Schedule hereto and which will come in course of payment during the financial year. Appropriation of £3,887,620 for the year 1989-1990.

**SCHEDULE**

Number	Head of Service	£
200	Medical	221,160
300	Customs and Harbour	175,000
320	Fisheries	125,550
350	Public Works	38,300
400	Agriculture	6,500
550	Police, Fire and Rescue Service	3,510
600	Secretariat, Treasury Central Store and Broadcasting Service	8,335
650	Pensions and Gratuities	20,850
880	Funding Falkland Islands Development Corporation	10,950
<b>TOTAL OPERATING SUPPLEMENTARY EXPENDITURE</b>		<b>610,155</b>
<b>PART B - CAPITAL BUDGET</b>		
951	Expenditure to be met from Local Funds	3,277,465
<b>TOTAL SUPPLEMENTARY EXPENDITURE</b>		<b>3,887,620</b>

**OBJECTS AND REASONS**

To provide for further supplementary expenditure as follows :

Approved by the Standing Finance Committee during the financial year	3,887,620
<b>TOTAL</b>	<b>£3,887,620</b>

Ref: TRE/14/25.

The Supplementary Appropriation (1988 - 1989) (No. 4) Bill 1989  
(No. of 1989)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.
2. Appropriation of £446,830 for the services of the year 1988 - 1989.

Schedule.



**A Bill for  
An Ordinance  
to appropriate and authorise the withdrawal from the Consolidated Fund of additional  
sums totalling £446,830 for the service of the financial year ending on 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.4) Ordinance 1989. 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 1st July 1988 and ending on 30th June 1989 ("the financial year") sums not exceeding in aggregate the sum of four hundred and forty six thousand eight hundred and thirty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Services mentioned in the Schedule hereto and which will come in course of payment during the financial year.

Appropriation  
of £446,830 for  
the year  
1988-1989.

## SCHEDULE

Number	Head of Service	£
300	Customs and Harbour	1,190
320	Fisheries	20,000
350	Public Works	40,000
500	Military	2,500
600	Secretariat, Treasury and Central Store	4,600
800	Legislature	830
TOTAL OPERATING SUPPLEMENTARY EXPENDITURE		69,120
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds	<u>377,710</u>
TOTAL SUPPLEMENTARY EXPENDITURE		446,830

## OBJECTS AND REASONS

To provide for further supplementary expenditure as follows —

Approved by the Standing Finance Committee during the financial year	446,830
TOTAL	446,830

Ref: TRE/14/25.

## THE LAND ACQUISITION BILL 1989

### EXPLANATORY MEMORANDUM

#### Introductory

The Land Acquisition Bill 1989 would repeal and replace Part IV of the Land Ordinance (Cap.36) which was originally enacted in the early years of this century. The Bill seeks to reflect the provisions of section 7 of the Constitution and to provide for powers of compulsory acquisition which are wholly consistent with the Constitution. It seeks to make provision which reflects adequately both the public interest and the interest of a person whose property is the subject of a compulsory purchase order or of a proposed compulsory purchase order. In relation to compulsory purchase there are two fundamental considerations (reflected in section 7 of the Constitution) which the Bill seeks to address —

- (a) the justification for compulsory acquisition; and
- (b) prompt payment of adequate compensation.

#### Part I of the Bill

Part I of the Bill contains a number of introductory provisions.

Clause 1 provides that the Bill, if enacted, would come into operation on 1st January 1990. Clause 2 contains a number of definitions.

A number of important principles would apply by reason of clause 3(1). First of all, land could not be compulsorily acquired under the Ordinance unless the Governor is satisfied as to a number of matters. The first of these is that it is not reasonably possible to acquire the land other than by the exercise of a power of compulsory acquisition conferred by the Bill if enacted. In other words land could not be compulsorily acquired if it could reasonably be obtained by negotiations. Secondly, the compulsory acquisition would have to be "reasonably justifiable in a democratic society". This is intended to make it clear that land could not be compulsorily acquired arbitrarily or capriciously. The third principle is that the Governor would have to be satisfied that it was in the public interest that the land should be acquired by the exercise of the power of compulsory acquisition and the fourth is that arrangements have been or will be made for the prompt payment of fair and adequate compensation in respect of the land compulsorily acquired. Those most important provisions of clause 3(1) would be "fleshed out" by the provisions of clause 3(2). Clause 4 would set out a number of exceptions to the principles reflected in clause 3. Clause 4, in so doing, makes only such exceptions as are in fact also made by section 7 of the Constitution and, if it did not make those exceptions, would be inconsistent with the Constitution.

Clause 5 would give anybody who has power to sell or dispose of land to any person power to sell or dispose of it to the Crown. The object of the provision is so that everybody has power to sell land to the Crown if he has power to sell that land to any person. Otherwise compulsory acquisition might be necessary for that reason only.

Clause 6 would confer a power upon the Governor in the name of the Crown to acquire land compulsorily. It could be acquired for any public purpose and "public purpose" is defined in clause 6(4) in the same terms as is defined in section 7 of the Constitution. Section 7 of the Constitution also enables land to be compulsorily acquired so that for a public purpose it may be disposed of and developed by somebody else. Clause 7 reflects that and would require that, in addition, there was an enforceable agreement between the Crown and that other person that the land would be so developed and, if appropriate, so used, or so used for a public purpose.

#### Part II of the Bill - Compulsory purchase order procedure

Part II of the Bill (clauses 8 to 15) would set out the procedure for making a compulsory purchase order. In the first instance, a compulsory purchase order would be made in draft. The draft order would have to set out the public purpose or public purposes for which the land was proposed to be compulsorily acquired. Under clause 9 the draft compulsory purchase order would have to be advertised in the Gazette by a notice containing the particulars required by clause 9(2) and under clause 10 a notice of draft order would have to be served on every owner, lessee and occupier of the land except tenants for a month or less than a month. Those affected would have a right under clause 11 to object to the draft order and, if they did so, the objections would be referred to the Magistrate's Court. The Magistrate's Court, however, under clause 11(4) would not be able to hear any representations as to the value or amount of compensation to be paid. This is because unless a definitive compulsory purchase order is made, the question of compensation does not arise and, under the Constitution, and under the provisions of the Bill, it would be for the Supreme Court to hear any objections as to compensation. Under clause 12 the procedure of the Magistrate's Court in relation to objections heard by it is set out. The Magistrate's Court having heard the objections in accordance with clause 12 would then, under clause 13, have to submit a report in writing to the Governor which would have to contain a summary of the evidence given and of the representations made by each party but the report would not include any recommendation or view as to whether the order should be made. On receiving the report of the Magistrate's Court this would be for the Governor (in Executive Council) to consider. A decision would then have to be taken as to whether a compulsory purchase order should be made. If a compulsory purchase order was made it would have to be published in the Gazette under clause 15(1). Additionally a notice would have to be served under clause 15(2) on the owners and tenants of the land upon whom notice of the draft order was served.

#### Part 3 of the Bill - Validity and date of operation of compulsory purchase orders

Clause 16(1) would enable a person aggrieved by a compulsory purchase order to make application to the Supreme Court if he desired to question the validity of the order or the validity of any provision on it either on the ground that

the order was not authorised by the provisions of the Bill or is contrary to the Constitution. Such an application under clause 16(2) would have to be made to the Supreme Court within six weeks from the date on which the order was first published in the Gazette or such greater period as the Supreme Court might allow. On such an application being made, the Supreme Court could suspend the operation of the compulsory purchase order or of any provision contained in it. The Supreme Court would have power under clause 17(2), if it were satisfied that the compulsory purchase order is not authorised by the Bill or contrary to the Constitution —

- (a) to quash the compulsory purchase order or any provision contained in it either generally or so far as it affected the property of the applicant;
- (b) to modify the compulsory purchase order in any manner in which the Governor might have modified the draft compulsory purchase order; and
- (c) to make such other order as it thought just.

By clause 18(1) the validity of a compulsory purchase order could not be questioned in any legal proceedings whatsoever except proceedings brought under clause 16. By clause 19 the Supreme Court would have power to award costs. Under clause 20, and subject to the powers of the Supreme Court under section 17, a compulsory purchase order would become operative on the date on which it was first published in the Gazette under clause 15(1).

#### Part IV - Compensation

Clause 21 states the principle that, so far as possible, the compensation payable to anybody affected by a compulsory purchase order should be negotiated and agreed and requires an agreement in writing as to compensation. Clause 22 (1) would enable an owner to cancel an agreement as to the payment of compensation by notice in writing served on the Attorney General if three months after the date of the agreement the compensation agreed had not been paid. By clause 22(3) the Crown could cancel an agreement for payment of compensation in certain limited circumstances. By clause 22(4) the cancellation of an agreement as to compensation would not preclude a fresh agreement being reached under the clause.

Clause 23 (1) would enable an owner who had not entered into an agreement as to compensation at any time after the compulsory purchase order to apply to the Supreme Court to assess the amount of compensation payable to him. He could not do so if he had entered into an agreement as to the amount of that compensation and had not cancelled it. Under clause 23(2) the Crown could refer the question of compensation to the Supreme Court after six weeks from the date on which the compulsory purchase order became operative or if an application had been made to the Supreme Court as to the validity of the compulsory purchase order. Clause 24 provides for an agreement as to compensation also covering reasonable legal and other costs and expenses of an owner whose interest is being acquired. Clause 25 would enable the Supreme Court to make an order for compensation and, additionally, to order the Crown to pay the reasonable legal and other costs and expenses connected with the disposal of the land. Under clause 26, the Supreme Court would have power to award the costs of proceedings questioning the validity of a compulsory purchase order or as to compensation payable under a compulsory purchase order. Clause 27 would deal with the enforcement of orders made by the Supreme Court.

It may sometimes happen that the owner of land cannot be found (perhaps because he has left the Falkland Islands and his address cannot be traced). Clearly in such a case, compensation could not be agreed with such an owner and the clause would enable the Attorney General to apply to the Supreme Court to assess the compensation in such a case. Under clause 29 provision is made for payment into court of the compensation payable to an untraced owner and for the Attorney General then to execute a deed declaring the circumstances in which the payment into court was made. On such payment, under clause 29(3) the Crown would become the owner of the interest of the untraced owner in the land. Clause 29(4) would enable a person claiming an interest in the money paid into court to make application to the court for payment out of the compensation paid into court.

It may sometimes happen that an owner of land the subject of a compulsory purchase order may refuse to accept the compensation awarded by Supreme Court or neglects or fails to make out title to the land. Clause 30(1) would enable the Crown to pay the compensation into the Supreme Court. Similar provision is then made by the subsequent provisions of the clause as is made in respect of untraced owners by clause 29.

Special difficulties arise in relation to mortgages. Clauses 31 to 33 make special provision in relation to them. Clause 31 deals with the ordinary case and clause 32 deals with a case in which the amount outstanding under the mortgage exceeds the value of the land and clause 33 deals with a case where the mortgage sum is to be paid at a future date and the mortgagee is required to accept redemption at an earlier date. Clause 34 deals with the situation in which only part of the land the subject of mortgage is compulsorily acquired and the remaining land is not sufficient security for the amount secured by the mortgage.

Clause 35 deals with rentcharges (a periodic payment reserved out of freehold land). There are believed to be no rent-charges at present in existence in the Falkland Islands.

Clause 36 provides for the apportionment of rent under leases where only part of the land subject to a lease is acquired. Clause 37 deals with tenants at will.

#### Part V of the Bill - Powers of entry

Under clause 38, if the Crown wished to proceed to purchase any land the subject of an operative compulsory purchase order, the Attorney General would have to give notice to the owners of the land. Notice would have to contain particulars

required by clause 38(2) and invite the commencement of negotiations as to compensation. Clause 39 would confer a power of entry on the Crown six weeks after the compulsory purchase order has been published, subject to the condition set out in clause 39(1). The compensation money payable would carry interest from the date of entry and clause 40 would require notice to be given of entry. Clause 41 would give limited powers to enter on land for the purposes of survey et cetera. The Crown would be obliged by clause 41(3) to pay compensation for any damage done to the land on exercising powers under the clause. Clause 42 would merely provide that except as allowed by clause 39 or 41 the Crown could not enter on the land until compensation payable had been agreed and paid.

Clause 43 would deal with the situation in which by mistake or inadvertence the Crown had omitted to purchase or to pay compensation for any right of ownership in land or affecting land and the action to be taken in such a case.

#### **Part VI of the Bill - Supplemental and general**

Under clause 44 a compulsory purchase order would lapse three years after it is made except in respect of an owner who could not be found after inquiries had been made. Clause 45 would require the Crown to pay the conveyancing costs of the owner and clause 46 would prescribe a form of conveyance in the Schedule.

Clause 47 would confer a number of powers on the Supreme Court in relation to payments into court, and for the benefit of the persons entitled to the money paid in. Clause 48 would deal with the costs which might be ordered by the Supreme Court in relation to certain matters arising in respect of money paid into court. Clause 49 would enable the Supreme Court to apply, if it wished, and if to do so would not be contrary to the Constitution, certain provisions of the Ordinance which, for constitutional reasons have had to be expressed so as not to bind the Supreme Court. Clause 50 would provide for appeals to the Court of Appeal and the powers of the Court of Appeal on such an appeal. Clause 51 would deal with the service of notices.

Clause 52 would have the effect that, unless stated to the contrary, minerals would be included in a compulsory purchase order of land so as to be acquired. Clause 53 would enable forms to be prescribed by order for the purposes of the Ordinance and clause 54 would repeal Part IV of the Land Ordinance (which deals with compulsory purchase). Clause 55 would preserve the validity of anything done prior to the enactment of the Bill under Part IV of the Land Ordinance and clause 56 would enable questions as to compensation to be payable under an order made under Part IV of the Land Ordinance to be referred to the Supreme Court for determination under the provisions of the Bill in the same way as if the compulsory purchase order had been made under the provisions of the Bill.

The Schedule would prescribe a simple form of conveyance for use in the case of land acquired under a compulsory purchase order.

LAND AQUISITION BILL 1989  
(No of 1989)

ARRANGEMENT OF PROVISIONS

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*Preliminary*

Clause

1. Short title and Commencement.
2. Interpretation.

*General principals*

3. Restriction on exercise of powers of compulsory acquisition.
4. Exceptions to section 3(1).

*General power for person to sell or dispose of land*

5. Power to sell or dispose of land.

*Power to compulsorily acquire land*

6. Compulsory acquisition of land.
7. Agreements for development and use of land.

PART II

COMPULSORY PURCHASE ORDER PROCEDURE

*Order, notices, objections etc.*

8. Draft compulsory purchase order.
9. Notice in Gazette etc.
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11. Making an order in absence of objections : objections to be referred to Magistrate's Court.

*Hearing of objections to draft Order by Magistrate's Court*

12. Procedure etc of Magistrate's Court on a referral under section 11(2).
13. Report of Magistrate's Court.

*Making of compulsory purchase order after objections*

14. Governor to consider report of Magistrate's Court.
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PART III

VALIDITY AND DATE OF OPERATION OF COMPULSORY PURCHASE ORDER

*Application to Supreme Court*

16. Grounds for application to the Supreme Court.
17. Powers of the Supreme Court.

*Supplementary*

18. Restriction on other court proceedings.
19. Costs of proceedings under this Part.
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*Agreement of compensation*

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22. Delay : withdrawal of agreement.
23. Referral of compensation to Supreme Court.
24. Ancillary expenses.
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26. Costs of proceedings in Supreme Court and order for payment of interest.
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*Untraced owners*

28. Compensation to untraced owner.
29. Supplemental to section 28.

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30. Deposit of compensation and execution of deed.

*Acquisition of special interests*

- 31. Mortgages.
- 32. Mortgage debt exceeding value of mortgaged land.
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- 35. Rentcharges.
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- 38. Notice to treat.
- 39. Entry on land.
- 40. Notice to be given of entry.
- 41. Entry for purpose of survey etc.
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*Supplemental*

- 43. Interests omitted from purchase.

## PART VI

## SUPPLEMENTAL AND GENERAL

*Time limit*

- 44. Time limit.

*Costs of conveyances and forms of conveyances*

- 45. Costs of conveyances etc.
- 46. Form of conveyances.
- 47. Payment into court.
- 48. Costs in respect of money paid into court.
- 49. Supreme Court may apply certain provisions.

*Appeals from Supreme Court*

- 50. Appeals to Court of Appeal.

*Notices*

- 51. Service of notices etc.

*Minerals*

- 52. Minerals included in compulsory purchase orders.

*Regulations*

- 53. Forms may be prescribed by regulations.

*Repeals, transitional provisions etc*

- 54. Repeal of Part IV of the Land Ordinance.
- 55. Transitional.
- 56. Transitional provisions as to compensation.

Schedule



**A Bill for  
An Ordinance  
to make new provision in relation to compulsory acquisition of  
land.**

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

PART I  
INTRODUCTORY

*Preliminary*

- |  |  |
|--|--|
| <p>1. This Ordinance may be cited as the Land Acquisition Ordinance 1989 and shall come into operation on 1st January 1990.</p>  | <p>Short title and<br/>Commencement.</p> |
| <p>2. (1) In this Ordinance, except where the context otherwise requires —</p> <p>“compulsory purchase order” means an order for the compulsory acquisition of land made under section 11(1) or 14(2) below;</p> <p>“draft compulsory purchase order” means a draft compulsory purchase order prepared in accordance with section 8(2) below;</p> <p>“land” includes buildings, structures and erections of any kind, and includes land covered by water and every estate, right, title or interest whatsoever in or relating to land;</p> <p>“lease” includes an agreement for a lease;</p> <p>“notice to treat” has the meaning given by section 38 below;</p> <p>“occupier” means a person in occupation;</p> <p>“operative compulsorily purchase order” means a compulsory purchase order which is operative under section 20 below and which has not been quashed by the Supreme Court under section 17 below, but where a compulsory purchase order has been so quashed in</p> | <p>Interpretation.</p>                   |

relation to some, but not all, of the land comprised therein, means such a compulsory purchase order in relation to the land in respect of which it has not been quashed;

“relevant owner” means an owner of an estate right title or interest in land and an occupier of land except that it does not include any person on whom, under section 10 below, notice of a compulsory purchase order is not required to be given.

(2) Where under this Ordinance any notice is to be given to the owner of any land or where any act is authorised to be done with the consent of any such owner, the word ‘owner’ shall, unless the context otherwise requires, means any person having power to sell and convey the land to the Crown.

#### *General principles*

3. (1) The Governor shall not exercise the power conferred by this Ordinance so as to acquire any land compulsorily unless he is satisfied —

Restriction on exercise of powers of compulsory acquisition.

- (a) that it is not reasonably possible to acquire that land other than by exercise of the power of compulsory acquisition conferred by this Ordinance;
- (b) that the compulsory acquisition of that land is reasonably justifiable in a democratic society;
- (c) that it is in the public interest that the land should be acquired by the exercise of the power of compulsory acquisition conferred by this Ordinance; and
- (d) that arrangements have been or will be made for the prompt payment of fair and adequate compensation in respect of the land compulsorily acquired,

and in considering those matters the Governor shall have regard to the following provisions of this section.

(2) Without prejudice to the generality of subsection (1) above —

- (a) it shall be regarded as reasonably possible to acquire the land in question other than by the exercise of a power of compulsory acquisition conferred by this Ordinance if —
  - (i) every relevant owner of the land in question has indicated his willingness to dispose of the land to the Crown subject to the payment of fair and adequate compensation; and
  - (ii) every relevant owner of the land has, if the amount of the compensation has not been agreed by him, indicated his willingness to have the question of the amount of the compensation to be paid referred to the Supreme Court for determination by that Court in accordance with the provisions of this Ordinance; and
  - (iii) no relevant owner has unreasonably delayed in executing and delivering a conveyance or transfer of the land to the Crown in a form approved on behalf of the Crown (this subparagraph does not apply so as to prevent a power of compulsory acquisition being exercised if the delay in question is attributable wholly or partly to the fact that compensation has not been agreed);
- (b) compulsory acquisition of the land shall not be regarded as being reasonably justifiable in a democratic society if there is not reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the land in question;
- (c) in considering whether it is in the public interest that the land should be compulsorily acquired by the exercise of any power conferred by this Ordinance, the Governor shall consider —
  - (i) whether any other land, in the ownership of the Crown or which might be acquired by the Crown by the exercise of the powers of compulsory acquisition conferred by this Ordinance or otherwise might, having regard to all the circumstances, including the cost, state and condition of, and cost of any works of development and servicing that other land,

be suitably used for the purpose for which the exercise of the powers of compulsory acquisition is contemplated; and

- (ii) the damage loss or nuisance which may be suffered by the owners of affected land if the power of compulsory acquisition is exercised in relation to the land in question or any other land considered in accordance with subparagraph (i) above;
  - (iii) any hardship or inconvenience which may be suffered by the public or any section of the public if the land, the compulsory purchase of which is contemplated, is not acquired for the relevant purposes by the Crown.
- (d) in considering whether arrangements have been or will be made for the prompt payment of fair and adequate compensation, the Governor, if satisfied that the Crown will be able to pay promptly any amount of compensation which might reasonably be ordered by the Supreme Court under this Ordinance may disregard (if that is the case) the fact that the amount of compensation, or the amount of compensation payable to any relevant owner, has not yet been agreed.

4. (1) Nothing in section 3(1) above shall be construed as applying to the taking of possession or acquisition of any land —

Exceptions to section 3(1).

- (a) in satisfaction of any tax, rate, statutory contribution, levy or due;
- (b) by way of penalty for breach of the law or forfeiture in consequence of breach of the law;
- (c) as an incident of a lease, tenancy, mortgage, charge, bill of sale or contract;
- (d) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
- (e) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or likely to be injurious to the health of human beings, animals or plants;
- (f) in consequence of any law with respect to the limitation of actions or acquisitive prescriptions;
- (g) for so long as may be necessary for the purposes or for the purposes of the carrying out thereon of any work of soil conservation or the conservation of other resources or work relating to agricultural development (being work relating to such development or unimprovement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed to carry out);

but the powers of compulsory acquisition conferred by this Ordinance shall extend to any matter with which this subsection deals.

(2) Nothing in section 3(1) extends to the taking of possession or acquisition of any land —

- (a) of an enemy;
- (b) of a deceased person, a person of an unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the person entitled to a beneficial interest therein;
- (c) the property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of a bankrupt or a body corporate and, subject thereto, for the benefit of other persons entitled to a beneficial interest in the property;
- (d) subject to a trust, for the purpose of vesting the land in persons appointed as trustees under the instrument creating the trust or by a court or by order of a court for the purposes of giving effect to the trust.

(3) Nothing in section 3(1) applies in respect of the compulsory acquisition of any land held by a body corporate established by law for public purposes in which no monies have been invested other than monies provided from the public funds of the Falkland Islands.

*General power for person to sell or dispose of land*

5. A person who has power to sell or dispose of land to any person has, notwithstanding any law deed or instrument to the contrary, power to sell it or dispose of it to the Crown.

Power to sell or dispose of land.

*Power to compulsorily acquire land*

6. (1) The Governor may, in the name and on behalf of Her Majesty, and subject to the provisions of this Ordinance compulsorily acquire any land in accordance with the provisions of this Ordinance.

Compulsory acquisition of land.

(2) Land may be compulsorily acquired in accordance with the provisions of this Ordinance for any public purpose.

(3) For the purposes of this Ordinance a purpose is public if it is intended to result in a benefit or advantage to the community.

(4) Without prejudice to the generality of subsection (3) above, land is acquired for a public purpose if it is acquired so that it may be developed used or disposed of for the promotion of the physical, economic, social or aesthetic well-being of the community, and land may be acquired compulsorily so that it may be so developed or used to benefit or advantage the community by a person other than the Crown.

7. Where land is compulsorily acquired so that it may be developed or used for a public purpose other than by the Crown, the Governor shall, before disposing of that land to that person ensure that there is in force an agreement between the Crown and that person and enforceable against that person that the land will be so developed and, if appropriate, so used, or so used, as the case may be.

Agreements for development and use of land.

## PART II

### COMPULSORY PURCHASE ORDER PROCEDURE

*Draft purchase Order, notices, objections etc*

8. (1) Authorisation of compulsory purchase shall be by Order made by the Governor.

Draft compulsory purchase order.

(2) An Order to which subsection (1) above relates shall be prepared in draft and shall describe by reference to a plan or map the land to which it applies, and shall state the public purpose or public purposes for which the land is proposed to be compulsorily acquired.

(3) Except as provided in subsection (2) above the form of the order shall be such as the Governor may determine.

9. (1) The Attorney General shall publish a notice of the draft compulsory purchase order in the Gazette and, where practicable, in a newspaper circulating in the Falkland Islands.

Notice in Gazette, etc.

(2) The notice shall —

- (a) state that the Order has been prepared in draft and is about to be made;
- (b) describe the land and state the public purpose or public purposes for which the land is required;
- (c) state where a copy of the draft Order and plan or map referred to therein may be inspected; and
- (d) specify the time (not being less than twenty-eight days from the first publication of the notice) within which, and the manner in which, objections to the order can be made.

10. (1) The Attorney General shall serve on every owner, lessee and occupier (except tenants under a periodic tenancy a month or less than a month) of any land comprised in the Order a notice in the prescribed form —

Notices to owners, lessees and occupiers.

- (a) stating the effect of the draft Order,
- (b) stating that it is about to be made, and

- (c) specifying the time (not being less than twenty-eight days from service of the notice) within which, and subject to which, and the manner in which, objections to the draft Order can be made.

(2) For the purposes of subsection (1) above an occupier being a lessee or tenant of a dwellinghouse, not being a lessee or tenant for a fixed period under a lease or agreement in writing of which period at least two months remains unexpired and a licensee of land, not being a licensee by a fixed period under a licence in writing of which at least two months remains unexpired shall each be deemed to be a tenant for a period of less than one month.

11. (1) If no objection is duly made to the draft Order by any such owner, lessee or occupier as is mentioned in section 10 above, or if all objections so made are withdrawn, the Governor on being satisfied —

- (a) that the provisions of section 3(1) are complied with in relation to the Order;
- (b) that the proper notices have been published and served,

may make an Order for the compulsory acquisition of the land with or without modifications to the draft Order.

(2) If any such objection as aforesaid is not withdrawn, then the Governor, before he makes the order shall refer to the draft Order and such representations to the Magistrate's Court.

(3) The Magistrate's Court, or a reference to it under subsection (2) above, shall notify the Attorney General and every person who has made any such representations of a day and time on which that person may appear before the court for the purpose of being heard before the court in the matter.

(4) Notwithstanding the previous provisions of this section, representation as to the value or amount of compensation to be paid are not objections to the making of a compulsory purchase order, and accordingly —

- (a) shall not be referred to the Magistrate's Court under subsection (2) above;
- (b) the Magistrate's Court shall not hear any person in relation thereto; and
- (c) the Governor may proceed under subsection (1) above as if they had not been made.

#### *Hearing of objections to draft order by Magistrate's Court*

12. (1) On a hearing of any person pursuant to section 11(3) above, the Magistrate's Court shall —

- (a) first hear the Attorney General or any person appointed by him, and any evidence he may wish to call or present in support of the Order;
- (b) then hear every person who wishes to be heard in relation to his objection to the Order (not being an objection which the court is by section 11(4) above prohibited from hearing) or, if that person so chooses a legal practitioner or other person on his behalf, and any evidence called or presented by or on behalf of such an objector; and
- (c) last hear the Attorney General or a person on his behalf in reply, if any evidence has been called or presented by or on behalf of any objector, but not otherwise.

(2) All evidence at such a hearing shall be unsworn evidence and any evidence tendered in writing may, if the court sees fit, be admitted.

(3) The Attorney General or the person appearing on his behalf shall be permitted to cross-examine any witness giving oral evidence in support of an objection and shall be permitted to call evidence in rebuttal of any evidence (including any written evidence admitted under subsection (2) above).

(4) A hearing under section 11(3) above shall be conducted in public.

(5) The strict rules of evidence shall not apply in respect of any such hearing.

Making of Order in absence of objections: objections to be referred to Magistrate's Court.

Procedure etc of Magistrate's Court or a referral under section 11(2).

(6) The court has no power to award to any person the whole or any part of the costs of any such hearing.

(7) The court has power to adjourn any such hearing from time to time and as often as may be necessary or convenient.

(8) Except as provided by this section or by regulations the Magistrate's Court may determine its own procedure in relation to any such hearing.

13. (1) As soon as possible after a hearing under section 11(3) above has been completed, the Magistrate's Court shall submit to the Governor a report in writing of the hearing and shall send a copy of that report to the Attorney General and to every objection who took part in the hearing.

Report of  
Magistrate's  
Court.

(2) A report under subsection (1) above shall include a summary of the evidence given and of the representations made by each person appearing before the court for or against the making of the Order but shall not include any recommendation or view as to whether the Order should be made.

#### *Making of compulsory purchase order after objections*

14. (1) The Governor on receiving a report made under section 13(1) above shall consider the same and shall at the same time consider whether the provisions of section 13(1) are complied with in relation to the making of a compulsory purchase order in relation to the land.

Governor to  
consider report  
of Magistrate's  
Court.

(2) If he is satisfied, after such consideration, that a compulsory purchase order may properly be made under section 6 above in respect of the land, he may make such an Order.

(3) A compulsory purchase Order made after considering objections in the manner provided for in the preceding provisions of this Part may incorporate such modification to the draft Order as the Governor thinks fit, but shall not, unless all interested persons consent, incorporate any land not included in the draft Order.

15. (1) As soon as possible after a compulsory purchase order has been made, the Attorney General shall cause it to be published in the Gazette.

Notices after  
making of  
Order.

(2) The Attorney General shall as soon as possible after a compulsory purchase order has been made cause a notice —

- (a) describing the land;
- (b) stating that the order has been made;
- (c) naming a place where a copy of the Order and of the map or plan referred to therein may be inspected at all reasonable hours;
- (d) inviting the persons affected thereby to enter into negotiations with the Crown as to the compensation to be paid to them;

to be served on the persons upon whom notice was served under 10(1) above, together with a copy of the Order.

### **PART III**

#### **VALIDITY AND DATE OF OPERATION OF COMPULSORY PURCHASE ORDERS**

##### *Application to Supreme Court*

16. (1) If any person aggrieved by a compulsory purchase order desires to question its validity, or the validity of any provision of it, on the ground that the order is not authorised by this Ordinance or is contrary to the Constitution, he may make an application to the Supreme Court.

Grounds for ap-  
plication to  
Supreme Court.

(2) An application to the Supreme Court under this section shall be made within six weeks from the date on which the order was first published in the Gazette under section 15(1) above or such greater time as the Supreme Court may allow.

(3) The Attorney General shall be the respondent to any application under this section.

17. (1) On an application under section 16(1) above the Supreme Court may by interim order suspend the operation of the compulsory purchase order or any provision contained in it.

Powers of the Supreme Court.

(2) If on determining the application the Supreme Court is satisfied that the compulsory order is not authorised by this Ordinance or is contrary to the Constitution, the court may —

- (a) quash the compulsory purchase order or any provision contained in it either generally or so far as it affects the property of the applicant;
- (b) modify the compulsory purchase order in any manner in which the Governor might have modified the draft compulsory purchase order under section 14(3) above; and
- (c) may make such other order as it thinks just,

and if the court so modifies the compulsory purchase order it shall thereafter have effect as so modified.

#### *Supplementary*

18. (1) Subject to the provisions of this Ordinance, the validity of a compulsory purchase order shall not, either before or after it is made, be questioned in any legal proceedings whatsoever.

Restriction on other Court proceedings.

(2) Nothing in subsection (1) above or in the preceding provisions of this Part applies to proceedings in the Supreme Court under the provisions of Part IV below (determination of compensation by Supreme Court).

19. (1) The Supreme Court may order the costs of any proceedings under this Part to be paid by such person or persons in such amounts or in such proportions as the Supreme Court thinks fit.

Costs of proceedings under this Part.

(2) An order for costs under subsection (1) shall be enforceable in the same way as an order for costs in a civil action.

20. Subject to section 17 above, a compulsory purchase order becomes operative on the date on which the order is first published in the Gazette under section 15(1) above.

Date of operation of compulsory purchase order.

### **PART IV**

#### **COMPENSATION**

##### *Agreement of compensation*

21. (1) The Crown shall negotiate in good faith to attempt to agree the compensation to be paid to all persons having a relevant interest in land acquired by the Crown for a public purpose, whether the land is acquired by agreement or is the subject of a compulsory purchase order which has become operative under section 21 above.

Crown to negotiate in good faith.

(2) Any agreement as to the amount of compensation to be paid by the Crown shall be reduced to writing and signed —

- (a) by the Chief Executive on behalf of the Crown
  - (b) by or on behalf of the person having a relevant interest in respect of which the compensation is to be paid.
- (3) Any agreement not complying with subsection (1) above is not enforceable.
- (4) Any compensation agreed pursuant to this section is not payable until —
- (a) the date on which all persons having a relevant interest in the land have entered into an agreement of the kind required by subsection (2) above;
  - (b) the date on which any relevant compulsory purchase order became operative under the preceding provisions of this Ordinance;
  - (c) the date specified in the Order of the Supreme Court (on an application by any person) under section 17(2) above,

whichever, in the circumstances of the particular case, is the latest but shall then be paid

within six weeks of that time.

(5) Compensation which under subsection (4) above is to be paid is charged on the Consolidated Fund.

22. (1) If a relevant owner has agreed compensation under section 21(2) above, he may cancel that agreement in accordance with this subsection.

Delay:  
withdrawal of  
agreement.

(2) A relevant owner may only cancel an agreement to which subsection (1) above relates —

- (a) after the compensation agreed remains unpaid after the expiration of three months from the date of the agreement; and
  - (b) by notice in writing served on the Attorney General
- (3) The Crown may cancel an agreement to which subsection (1) relates —
- (a) after the expiration of three months from the date of the agreement,
  - (b) by notice in writing served on the relevant owner,

but may not do so —

- (i) if the time for payment of the compensation has arisen; or
- (ii) if a compulsory purchase order affecting the relevant owner's interest is operative.

(4) The cancellation of an agreement to which subsection (1) relates shall not preclude a fresh agreement being reached under section 22.

23. (1) At any time after a compulsory purchase order affecting his interest has been published under section 15(1) above, a relevant owner may apply to the Supreme Court to assess the amount of compensation to be paid to him in respect of that interest, but cannot do so if he has entered into an agreement under section 22 has been made and he has not cancelled it under section 22(2) above.

Referral of com-  
pensation to  
Supreme Court.

(2) At any time after the expiration of six weeks —

- (a) from the date on which the compulsory purchase order has become operative, or
- (b) if an application has been made to the Supreme Court has been made under section 16(1) above has been made by any person, the Attorney General may apply to the Supreme Court for that Court to assess the amount of compensation to be paid by the Crown to any relevant owner but cannot do so —
  - (i) in relation to the compensation payable to any relevant owner where an agreement with that owner under section 22(3) above remains in force
  - (ii) in relation to any interest of any person not affected by the compulsory purchase order.

(3) Subject to this section, where an application has been made to the Supreme Court under section 16(1) above and an application has also been made under subsection (1) or (2) above, those applications shall be consolidated and the Supreme Court shall deal with them in the same proceedings.

(4) The Attorney General shall be the respondent to any application made under subsection (1) above.

24. An agreement under section 21(3) above may include provision for the payment of a relevant owner's reasonable legal and other costs and expenses connected with the disposal of the land.

Ancillary  
expenses.

25. (1) On disposing of an application under section 23 the Supreme Court unless under section 17(2)(a) above quashes the compulsory purchase order in so far as it affects the property of the relevant owner concerned, may order the Crown to pay to that applicant such compensation in relation to the compulsory acquisition of his property as is in the opinion of the Supreme Court adequate compensation.

Power of Court  
to award costs.



(2) The Supreme Court in addition to ordering the Crown to pay compensation, may order the Crown to pay to the relevant owner concerned the relevant owner's reasonable legal and other costs and expenses connected with the disposal of the land, whether or not the court awards to him any or part of the costs of the application under section 23 and may make such other order as it thinks just.

26. (1) The Supreme Court has the same power to order a person to pay the costs or a proportion of the costs of proceedings under this Part as it has in civil proceedings to which the Administration of Justice Ordinance applies.

Costs of proceedings in Supreme Court and order for payment of interest.

(2) Where the Supreme Court has under any provision of this Part ordered any person to pay any sum to another person it may order the person concerned to pay in addition to that sum interest or that sum or on any part thereof from such date until payment and at such rate of interest as the court thinks fit: but the Supreme Court shall not order payment of interest or compensation ordered to be paid by the Crown to a relevant owner in respect of any period during which the relevant owner was in possession of the land or the rents and profits of the land.

27. (1) Every sum under this Part ordered by the Supreme Court to be paid by the Crown is charged upon the Consolidated Fund.

Enforcement of Orders.

(2) Subject to subsection (1) above every order of the Supreme Court under this Part for payment of a sum of money is enforceable against the person ordered to pay it in the same manner as judgment for the payment of a sum of money made in a civil action is enforceable against that person.

#### *Untraced owners*

28. (1) Where, after diligent inquiry by or on behalf of the Crown, a person appearing to the Crown to be a relevant owner of land the subject of a compulsory purchase order made under section 14(2) above cannot be found, the Attorney General shall apply to the Supreme Court to order the Crown to pay such amount of compensation in respect of the interest of that person as the court considers to be adequate compensation.

Compensation to untraced owner.

(2) The court, on an application being made under subsection (1) above shall have the same powers as it has on an application under section 24(1) above, and such additional powers as are conferred by section 29 above.

29. (1) The Crown may pay into court the compensation determined as an application under section 28, and that compensation shall be held in the court trust fund for the credit of the relevant owner concerned.

Supplemental to section 28.

(2) When the Crown has paid any compensation into court under subsection (1) above, the Attorney General on behalf of the Crown may execute a deed poll containing a description of the land in respect of which the payment was made, and declaring the circumstances under which, and the person to whose credit, the payment into court was made.

(3) On the execution of the deed poll all the estate and interest of the person for whose use and in respect of whom the compensation was paid into court shall vest absolutely in the Crown, and as against that person the Crown shall be entitled to immediate possession of the land.

(4) On the application of any person claiming any part of the money paid into court, the Supreme Court may order its distribution according to the respective estates, titles or interests of the claimants, and if, before the money is distributed it is invested or otherwise dealt with by the court in accordance with law, payment likewise of the dividends thereof, and may make such other order as the court thinks fit.

#### *Refusal to convey*

30. (1) If a relevant owner of any of the land the subject of an operative compulsory order on tender of the compensation agreed or awarded to be paid in respect of the land or interest refuses to accept it, or neglects or fails to make out a title to the land or interest to the satisfaction of the Crown, or refuses to convey or release the land as directed by the Crown it shall be lawful for the Crown to pay into the Supreme Court the compensation payable in respect of the land or interest of the relevant owner.

Deposit of compensation and execution of deed.

(2) The compensation so paid into court shall, subject to the provisions of this Ordinance be placed to the credit of the parties interested in the land in the court trust fund and the Crown shall, so far as it can, give their descriptions.

(3) When the Crown has paid into court the compensation, it shall be lawful for the Attorney General to execute a deed poll containing a description of land in respect of which the payment into court was made, and declaring the circumstances under which, and the names of the parties to whose credit, the payment into court was made.

(4) On execution of the deed poll all the estate and interest in the land of the parties for whose use and in respect whereof the compensation was paid into court shall vest absolutely in the Crown and as against those persons the Crown shall be entitled to immediate possession of the land.

(5) On the application of any person claiming all or any part of the money paid into court, or claiming all or any part of the land in respect of which it was paid into court, or any interest in it, the Supreme Court may order its distribution in accordance with the respective estates, titles or interests of the claimants and if, before the money is distributed it is invested or otherwise dealt with by the court in accordance with law, payment likewise of the dividends thereof, and may make such other order as the court thinks fit.

#### *Acquisition of special interests*

31. (1) The following provisions in this section have effect only where no application has been made by the mortgagee in question to the Supreme Court under section 23(1) above. Mortgages.

(2) The Crown may purchase or redeem the interest of the mortgagee of any of the land subject to compulsory purchase in accordance with either of the two following subsections.

(3) The Crown may pay or tender to the mortgagee the principal and interest due on the mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon the mortgagee shall immediately convey or release his interest in the land comprised in the mortgage to the Crown, or as it may direct.

(4) Alternatively, the Crown may give notice in writing to the mortgagee that they will pay all the principal and interest due on the mortgage at the end of six months, computed from the day of giving the notice; and if it has given any such notice, or if the person entitled to the equity of redemption has given six months notice of his intention to redeem, then at the expiration of either of the notices, or at any intermediate period, on payment or tender by the Crown to the mortgagee of the principal money due on the mortgage, and the interest which would become due at the end of six months from the time of giving either of the notices, together with his costs and expenses, if any, the mortgagee shall convey or release his interest in the land comprised in the mortgage to the Crown, or as it may direct.

(5) If, in a case under subsection (2) or subsection (3) of this section, on such payment or tender the mortgagee fails to convey or release his interest in the mortgage as directed by the Crown or fails to make out a good title to that interest to the satisfaction of the Crown, it shall be lawful for the Crown to pay into court the sums payable under subsection (2) or subsection (3) of this section, as the case may be.

(6) When the Crown have paid those sums into court, it shall be lawful for the Attorney General to execute a deed poll in the manner provided by section 30(3) above.

(7) On execution of the deed poll, as well as in the case of a conveyance by the mortgagee, all the estate and interest of the mortgagee (and of all persons in trust for him, or for whom he may be a trustee) in the land shall vest in the Crown and, where the

mortgagee was entitled to possession of the land, the Crown shall be entitled to possession of the land.

This section shall apply —

- (a) whether or not the Crown has previously purchase the equity of redemption;
- (b) whether or not the mortgagee is a trustee;
- (c) whether or not the mortgagee is in possession of the land, and
- (d) whether or not the mortgagee includes other land in addition to the land subject to the compulsory purchase order.

Mortgage debt  
exceeding value  
of mortgaged  
land.

32. (1) If the value of any such mortgaged land is less than the principal, interest and costs secured on the land, the value of the land, or the compensation to be paid by the Crown in respect of the land, shall be settled by agreement between the mortgagee and the person entitled to the equity of redemption on the one part and, the Crown on the other part, or by the Supreme Court under section 24 above.

(2) The amount so agreed or awarded shall be paid by the Crown to the mortgagee in satisfaction or part satisfaction of his mortgage debt.

(3) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the mortgaged land to the Crown or as it directs, and if he fails to do so, or fails to adduce a good title to that interest to the satisfaction of the Crown, it shall be lawful for the Crown to pay into court the amount agreed or awarded.

(4) When the Crown have so paid into court the amount agreed or awarded, it shall be lawful for the Attorney General to execute a deed poll in the manner provided by section 30(3) above.

(5) On execution of the deed poll the land, as to the estate and interest which were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the Crown and, where the mortgagee was entitled to possession of the land, the Crown shall be entitled to possession of the land.

(6) The making of payment to the mortgagee or into court of the amount agreed or awarded shall be accepted by the mortgagee in satisfaction, or part satisfaction, of his mortgage debt, and shall be a full discharge of the mortgaged land from all money due thereon.

(7) All rights and remedies possessed by the mortgagee against the mortgagor by virtue of any bond or covenant or other obligation, other than the right to the land, shall remain in force in respect of so much of the mortgage debt as has not been satisfied by payment to the mortgagee or into court.

33. (1) The following provisions of this section have effect only where an application under section 23 above to the Supreme Court has not been made in respect of the mortgagee's interest in land the subject of an operative compulsory purchase order.

Compensation  
where mortgage  
paid off before  
stipulated time.

(2) If the mortgage deed a time was limited for the payment of the principal secured and under the preceding provisions if this Part of the mortgage has been required to accept payment of the principal at a time earlier than the time so limited, the amounts payable under those sections shall include —

- (a) all such costs and expenses as may be incurred by the mortgagee in respect of, or as incidental to, the re-investment of the sum paid off, and
- (b) if the rate of interest secured by the mortgage is higher than can reasonably be expected to be obtained on re-investment at the time the mortgage is paid off, regard being had to the current rate of interest, compensation in respect of the loss thereby sustained.

(3) The costs under paragraph (a) of the foregoing subsection shall, in case of difference, be taxed and their payment enforced in the manner provided in section 23 of this Act for costs of conveyances.

**34. (1)** The following provisions of this section have effect only where an application under section 23 above to the Supreme Court has not been made in respect of the mortgagee's interest in land the subject of an operative compulsory purchase order.

Acquisition of part of land subject to a mortgage.

(2) If a part only of any mortgaged land is acquired by the Crown, and —

- (a) the part so required is of less value than the principal, interest and costs secured on such land, and
- (b) the mortgagee does not consider the remaining part of the land a sufficient security for the money charged thereon, or is not willing to release the part so required.

then the value of that part, and also compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgage and the party entitled to the equity of redemption of that land on the one part and the Crown on the other.

(3) The amount so agreed or awarded shall be paid by the Crown to the mortgagee in satisfaction or part satisfaction of his mortgage debt.

(4) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the land to be taken to the Crown or as they direct.

(5) A memorandum of what has been so paid shall be registered in the Deeds Register and shall be signed by the mortgagee; and a copy of the memorandum shall at the same time (if required) be furnished by the Crown at its expenses to the person entitled to the equity of redemption of the land comprised in the mortgage.

(6) If, on payment or tender to any such mortgagee of the amount of compensation agreed or awarded, the mortgagee fails to convey or release to the Crown or as it directs his interest in the land in respect of which the compensation has been so paid or tendered, or if he fails to adduce a good title thereto to the satisfaction of the Crown, it shall be lawful for the Crown to pay into court the amount of the compensation; and subsections (4) to (6) of section 32 above shall apply as if references in those subsections to the land were references to the part of the land comprised in the mortgage which is acquired by the Crown.

(7) Notwithstanding the foregoing provisions of this section the mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money or the residue of it (as the case may be), and the interest thereon, as against the remaining land comprised in the mortgage, as he would have had for recovering or compelling payment thereof as against the whole of the land originally comprised in the mortgage.

**35. (1)** The following provisions of this section have effect only where an application under section 23 above has not been made in respect of the rentcharge's interest in land the subject of an operative compulsory purchase order.

Rentcharges.

(2) If part only of the land charged with a rentcharge is comprised in land the subject of an operative compulsory purchase order the apportionment of the rentcharge may be settled by agreement between the person entitled to the rentcharge and the owner of the land on the one part and the Crown on the other part.

(3) If the person entitled to a rentcharge on any of the land subject to compulsory purchase, on payment or tender to him of the compensation agreed or awarded, fails to execute in favour of the Crown a release of the rentcharge, or if he fails to make out a good title to the rentcharge to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to pay into court the amount of the compensation.

When the Crown has paid the compensation into court, it shall be lawful for the Attorney General to execute a deed poll in the manner provided by section 30(3) above, and on execution of the deed poll the rentcharge, or the part of the rentcharge in respect of which the compensation was paid, shall be extinguished.

(4) If any of the land subject to compulsory purchase is so released from a rentcharge, to which it was subject jointly with other land, the last-mentioned land shall alone be charged with the whole of the rentcharge, or, as the case may be, with the remainder of the

rentcharge, and the person entitled to the rentcharge shall have all the same rights and remedies over the last-mentioned land, for the whole, or as the case may be for the remainder, of the rentcharge as he had previously over the whole of the land subject to the rentcharge.

(5) If upon any rentcharge or part of a rentcharge being so released the deed or instrument creating or transferring the charge is tendered to the Attorney General for the purpose, the Governor shall affix the Public seal to a memorandum of the release endorsed on the deed or instrument declaring —

- (a) what part of the land originally subject to the rentcharge has been purchased by virtue of this Ordinance, and
- (b) if the land is released from part of the rentcharge, what part of the rentcharge has been released and how much of it continues payable, and
- (c) if the land has been released from the whole of the rentcharge, then that the remaining land is thenceforward to remain exclusively charged with the rentcharge,

and the memorandum shall be made and executed at the expense of the Crown and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

(6) In this section “rentcharge”, in relation to any land, includes any other payment or incumbrance charged on the land not provided for in the foregoing provisions of this Ordinance.

**36. (1)** If part only of the land comprised in a lease for a term of five years unexpired is the subject of an operative compulsory purchase order, the rent payable in respect of the land comprised in the lease shall be apportioned between the land so required and the residue of the land.

Apportionment  
of rent under  
leases.

(2) The apportionment may be settled by agreement between the lessor and lessee of the land on the one part, and the Crown on the other part.

(3) After the apportionment the lessee shall, as to all future accruing rent, be liable only for so much of the rent as is apportioned in respect of the land not required by the acquiring authority.

(4) As respects the land not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of the apportioned rent as, before the apportionment, he had for the recovery of the whole rent reserved by the lease; and all the covenants, conditions and terms of the lease, except as to the amount of rent to be paid, shall remain in force with regard to the part of the land not so required in the same manner as they would have done if the that part only of the land had been included in the lease.

(5) Every such lessee shall be entitled to receive from the Crown compensation for the damage done to him in his tenancy by reason of the severance of the land required by the Crown from that not required, or otherwise by reason of the execution of the works.

(6) Where an apportionment of rent is not agreed, the matter shall be referred by the Attorney General to the Supreme Court and determined by that Court.

**37. (1)** If any of the land subject to compulsory purchase is in the possession of a person having no greater interest in the land than as tenant for a year or from year to year, and if that person is required to give up possession of any land so occupied by him before the expiration of his term or interest in the land, he shall be entitled to compensation for the value of his unexpired term or interest in the land, and for any just allowance which ought to be made by an incoming tenant, and for any loss or injury he may sustain.

Tenants at will  
etc.

(2) If a part only of such land is required, he shall also be entitled to compensation for the damage done to him in his tenancy by severing the land held by him or otherwise injuriously affecting it.

(3) If the parties differ as to the amount of compensation payable under the foregoing provisions of this section the dispute shall be referred to the Supreme Court under section 23 above and determined by the court.

(4) On payment or tender of the amount of such compensation all such persons shall respectively deliver up to the Crown, or to the person appointed by it to take possession any such land in their possession the subject of an operative compulsory purchase order.

(5) If any person having a greater interest than as tenant at will claims compensation in respect of any unexpired term or interest under any lease or grant of the land subject to compulsory purchase, the acquiring authority may require that person to produce the lease or grant or the best evidence thereof in his power; and if, after demand in writing by the Crown, the lease or grant, or that best evidence, is not produced within twenty-one days, that person shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

## PART V

### POWERS OF ENTRY

#### *Procedure to obtain right of entry*

38. (1) When the Crown wishes to proceed to purchase any land the subject of an operative compulsory purchase order, the Attorney General shall give notice to all the persons known to the Crown after diligent inquiry as being persons interested in, or having power to sell and convey or release the land ("a relevant owner") (such a notice being hereafter in this Ordinance called a "notice to treat").

Notice to treat.

(2) Every notice to treat

- (a) shall give particulars of the land to which the notice relates,
- (b) shall demand particulars of the recipient's estate and interest in the land, and of the claim made by him in respect of the land,
- (c) shall state that the Crown is willing to negotiate for the purchase of the land, and as to compensation to be sustained by reason of the execution of works caused by or connected with the purpose for which the land is to be acquired;
- (d) shall draw the attention of the recipient to his rights under section 23 above to refer the matter of compensation to the Supreme Court for determination if it is not agreed.

(3) Where a relevant owner cannot, after diligent inquiry, be found, the Attorney General shall, in respect of that owner, make an application under section 28(1) above.

39. (1) When a compulsory purchase order is operative and —

Entry on land.

- (a) six weeks have elapsed since it was published in the Gazette under section 15(1) above;
- (b) no application has been made in relation to the land under section 16 above which remains undisposed of;
- (c) if an application under section 16 above which has been disposed of, no appeal in relation to the land (except as to compensation) to the Court of Appeal under section below remains undisposed of,
- (d) a notice to treat has been served on every relevant owner in respect of whose interest on application under section 23 above has not been made,

the Crown may at any time enter on and take possession of the land or on such part as is specified either in the notice to treat or (in respect of a relevant owner who cannot be found) in the application under section 23 above.

(2) Any compensation remaining unpaid at the time of entry in accordance with subsection (1) above shall carry from the date of entry at one or other of the following rates —

- (a) ten per cent per annum; or
- (b) where an application has been made under section 23 above in respect of a relevant owner's interest in the land, at such rate as is ordered by the Supreme Court.

40. Whenever the Crown, in exercise of its powers under section 39 above enters on and takes possession of any land the Attorney General shall not less than three days before such entry give notice of unfounded entry and taking possession to every person on whom notice to treat was served and, where an application under section 23 above has been made and remains undisposed of, also to the Supreme Court.

Notice to be given of entry.

41. (1) For the purpose of surveying and taking levels of any of the land the subject of —

Entry for purpose of survey etc.

- (a) an operative compulsory purchase order; or
- (b) in a draft compulsory purchase order in respect of which the definitive compulsory purchase order has not been quashed by the Supreme Court under section 17(2)(a) above but only if six months has not elapsed since the draft order was notified under section 9(1) above,

the Crown after giving not less than three days' notice to the occupier of that land may enter on that land.

(2) Subsection (1) above shall apply also to entry on land for the purpose of probing or boring to ascertain the nature of the soil or of setting out the time of works.

(3) The Crown shall pay compensation for any damage to the land occasioned to the owners and occupiers of the land and if that compensation is not agreed the question may be referred by any owner or occupier affected, or by the Attorney General, to the Supreme Court.

(4) Section 25 above shall extend, with all necessary modifications, to a reference under subsection (3) of this section, as it applies to a reference under section 23 above.

42. Except as provided by section 39 or 41 above the Crown shall not, except with the consent of the owners and occupiers of the land, enter upon the land the subject of a draft compulsory purchase order until the compensation payable for the respective interests in that land has been agreed or awarded, and has been paid to the persons having those interests or has been paid into court in accordance with this Ordinance.

Prohibited entry.

### *Supplemental*

43. (1) If after the Crown has entered on any land under section 39(1) above it appears that it has by mistake or inadvertence failed or omitted duly to purchase or to pay compensation for any estate, right or interest in or charge affecting that land the Crown shall remain in undisturbed possession of the land provided that within the time limited by this section —

Interests omitted from purchase.

- (a) it purchases or pays compensation for the estate right or interest in or charge affecting the land, and
- (b) also pays to any person who establishes a right to it, full compensation for the mesne profits,

and the compensation shall be agreed or awarded and paid (whether to claimants) or into court) in the manner in which, under this Ordinance, it would have been agreed or awarded and paid if the Crown had purchased the estate, right, interest or charge before entering on the land, or as near to that manner as circumstances admit.

(2) Subsection (1) above shall apply whether or not the period specified in section 44 below has expired.

(3) The time limited by this section shall, subject to subsection (4) below, be six months after the Crown has notice of the estate, right, interest or charge or, if it is disputed by the Crown, six months after the right to the estate right or interest is finally established by law in favour of the claimant.

(4) Where an application has been made to the Supreme Court under section 23 above (as applied by subsection (1) of this section) within such of the periods limited by subsection (3) above as is appropriate that period is in respect of the estate right or interest affected, the time mentioned in subsection (3) above shall be extended to a period expiring three months after the determination of the matter by the Supreme Court or three months after the determination by the Court of Appeal of any appeal from the Supreme Court.

(5) In this section the “mesne profits” —

- (a) excludes any increase in the value of the relevant estate right or interest attributable to works carried out after the entry and taking possession of the land by the Crown;
- (b) subject to paragraph (a) above means the mesne profits or interest which would have accrued to the person concerned during the interval between the entry of the Crown and the time when compensation is paid, so far as the mesne profits or interest may be recoverable in proceedings.

## PART VI

### SUPPLEMENTAL AND GENERAL

#### *Time limit*

44. (1) The powers of the Crown conferred by the antecedent provisions of this Ordinance and dependent on an operative compulsory purchase order having been made shall not, insofar as is consistent with those provisions, be excised after the expiration of three years from the date on which the compulsory purchase order was made. Time limit.

(2) Nothing in subsection (1) extends to the estate right or interest of an owner who is not found after diligent inquiry by the Crown.

#### *Costs of conveyances and form of conveyances*

45. (1) The costs of all conveyances to the Crown of land subject to an operative compulsory purchase order shall be borne by the Crown. Costs of conveyances etc.

(2) The costs shall include all charges and expenses whether incurred on the part of the Crown or on the part of the seller —

- (a) of all conveyances and assurances of any of the land, and of any outstanding terms or interests in the land, and
- (b) of deducing, evidencing and verifying the title to the land, terms or interests,

and all other reasonable expenses incident to the investigation, deduction and verification of the title.

(3) If the Crown and the person entitled to any such costs do not agree as to the amount of the costs, the question shall be referred to the Supreme Court for determination and the Supreme Court shall determine it. The costs of any such reference shall be in the discretion of the Supreme Court.

46. (1) Conveyances of land subject to an operative compulsory purchase order may be according to the form in the Schedule to this Ordinance, or as near thereto as the circumstances of the case will admit, or by deed in any other form as the Attorney General may approve on behalf of the Crown. Form of conveyances.

(2) All conveyances made in accordance with subsection (1) above shall be effectual to vest the land thereby conveyed in the Crown and shall operate to bar and destroy all estates, rights, titles, remainders, reversions, limitations, trusts and interests whatsoever of and in the land comprised in the conveyance which have been purchased or compensated for by the consideration mentioned in the conveyance.

#### *Additional powers of Supreme Court*

47. (1) Where any money paid into court under this Ordinance was paid in respect of any lease, or any estate in land less than the whole fee simple, or of any reversion dependant on any such lease or estate, the Supreme Court on the application of any person interested in the money may order that the money shall be laid out, invested, accumulated and paid in such manner as the court may consider will give to the persons interested in the money the same benefit as they might lawfully have had from the lease, estate or reversion as the case may be. Payment into court.

(2) If any question arises respecting the title to land in respect of which money has been paid into court under this Ordinance, the persons respectively in possession of the land, as being the owners, or in receipt of the rents of the land, as being entitled to the rents



at the time when the land was purchased, shall be deemed to have been lawfully entitled to the land until the contrary is shown to the satisfaction of the court; and unless the contrary is shown to the satisfaction of the court the persons so in possession, and all persons claiming under them, or consistently with their possession, shall be deemed to be entitled to the money so paid into court, and to the interest and dividends of it or of the securities purchased therewith; and the money, dividends, interest and annual proceeds shall be paid and applied accordingly.

48. (1) This section shall apply in relation to any compensation paid into court under this Ordinance except where it was so paid in consequence —

Costs in respect of money paid into court.

- (a) of the wilful refusal of the person entitled to accept it, or
- (b) of the wilful refusal of that person to convey the land in respect of which the compensation was payable, or
- (c) of the wilful neglect of any person to make out a good title to the land.

(2) Where this section applies the Supreme Court may order the Crown to pay —

- (a) the costs of, or incurred in consequence of, the purchase of the land, and
- (b) the cost of the investment of the compensation paid into court, or of its reinvestment in the purchase of other land.

(3) References in this section to costs include references to all reasonable charges and expenses incidental to the matters mentioned in this section and to —

- (a) the costs of obtaining the proper orders for any of the purposes set out above,
- (b) the cost of obtaining the orders for the payment of dividends out of the compensation,
- (c) the cost of obtaining the orders for the payment out of court of the principal amount of the compensation, or of any securities in which it is invested, and
- (d) the cost of all proceedings relating to such orders, except such as are occasioned by litigation between adverse claimants.

(4) The costs of not more than one application for reinvestment in land shall be allowed unless it appears to the Supreme Court that it is for the benefit of the parties interested in the compensation that it should be invested in the purchase of land in different sums and at different times.

49. Where any provision of this Ordinance provides that the provisions mentioned or referred to therein (certain provisions as to compensation) shall not have effect where an application has been made to the Supreme Court under section 23 above, notwithstanding any provision of the kind first mentioned in this section, the Supreme Court if it sees fit to do so, and in its opinion such would not be contrary to the Constitution, may determine the application under section 23 as if the provisions mentioned in that provision did apply.

Supreme Court may apply certain provisions.

#### *Appeals from Supreme Court*

50. (1) Subject to this section, an appeal lies of right to the Court of Appeal at the instance of any person aggrieved thereby from any decision of the Supreme Court other than an interlocutory decision of the Supreme Court, under any provision of this Ordinance.

Appeals to Court of Appeal.

(2) An appeal under subsection (1) lies only on a point of law or on a point of mixed law and fact.

(3) Any person appealing under subsection (1) shall give notice of appeal, incorporating his grounds of appeal, within twenty-one days of the date of the decision appealed against.

(4) On any such appeal the Court of Appeal may do anything or make any order which the Supreme Court might have done in the first instance and may vary, discharge or quash any order made by the Supreme Court and may make any other order (including an order as to the costs of the appeal) as it sees fit to make.

#### *Notices*

51. (1) Any notice or other document or authorised to be served under this Ordinance

Service of notices etc.

may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post.

(2) Any such document required or authorised to be served upon an Incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this section the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served:

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the Attorney General is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

#### *Minerals*

52. (1) Unless it is expressly stated to the contrary in the compulsory purchase order concerned it shall be deemed to extend to all minerals lying in on or under the land the subject of the order, and which is the property of an owner.

Minerals included in compulsory purchase orders.

(2) In subsection (1) above, "mineral" includes every metal, rock, ore, liquid or gas and includes peat.

(3) A conveyance to the Crown of land the subject of a compulsory purchase order, shall unless expressly stated to the contrary in such conveyance, be deemed to include minerals (as defined in subsection (2) above), so far as they are the property of the conveying party, and the right to win, work, gain and take away those minerals.

#### *Regulations*

53. The Governor may by Order prescribe forms for the purposes of this

Forms may be prescribed by regulations.

#### *Repeals, Transitional provisions etc*

54. Part IV (Acquisition of Land) of the Land Ordinance is repealed.

Repeal of Part IV of the Land Ordinance (Cap. 36)).  
Transitional.

55. Notwithstanding section 54 above nothing in section 53 above shall operate so as to render invalid, inoperative or ineffective anything done under Part IV of the Land Ordinance prior to the coming into operation of this Ordinance which was validly done under the provisions of the said Part IV.

56. (1) This section applies where any land was before the coming into operation of this Ordinance appropriated under section 33 of the Land Ordinance but compensation was not agreed and paid in respect of such appropriation before the coming into operation of this Ordinance.

Transitional provisions as to compensation.

(2) If compensation is not agreed and paid within six weeks after the coming into operation of this Ordinance, any owner or occupier of the land immediately prior to such appropriation or his personal representative under probate of his will or letters of administration of his estate or the Attorney General on behalf of the Crown may at any time after the expiry of such period of six weeks refer the question of the compensation to be awarded and paid in respect of such appropriation to the Supreme Court.

(3) On a reference being made to the Supreme Court under subsection (2) of this section, sections 25 to 27 of this Ordinance shall apply as if the reference had been made under section 23 of this Ordinance in respect of a compulsory purchase order validly made under section 11(1) or 14(2) of this Ordinance.

**SCHEDULE**

(section 46(1))

*Form of conveyance*

I ..... of ....., in consideration of the sum of ..... (£ ..... ) paid to me (or, as the case may be to A.B., of ..... and C.D. of ..... ) two trustees appointed to receive the same, pursuant to the (here name the compulsory purchase order) by or on behalf of Her Majesty the Queen, DO HEREBY CONVEY TO HER MAJESTY ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her Other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith, ALL (describing the premises to be conveyed) and all such estate, right title and interest in and to the same or which I am or shall become seised or possessed or am empowered by the said Order to convey TO HOLD the premises hereinbefore described to Her Majesty and Her heirs and successors in accordance with the law, for ever.

IN WITNESS etc.



**THE**  
**FALKLAND ISLANDS GAZETTE**  
**(Extraordinary)**  
**PUBLISHED BY AUTHORITY**

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*Vol. XCVIII*

*19th December 1989*

*No. 42*

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IN THE SUPREME COURT OF THE FALKLAND ISLANDS

**In the matter of Port Howard Farm Limited.  
 And in the matter of the Companies Act 1948**

Notice is hereby given that a petition for confirming the reduction of the capital of the above Company from £1,000,000 divided into 10,000 Ordinary shares of £100 each to £61,000 divided into 6,100 Ordinary shares of £10 each effected by returning to the shareholders of the issued shares, capital to the extent of £90 per share upon each of the 6,100 Ordinary shares which have been issued, reducing the nominal amount of each of the Ordinary shares in the company from £100 to £10 and by cancelling the unissued 3,900 Ordinary shares is directed to be heard before the Supreme Court at 10.00 am on the 4th day of January 1989.

Dated this 15th day of December 1989.

C & P H CHALMERS,  
 44 John Street,  
 Stanley,  
 Solicitors for the Company.



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

*Vol. XCVIII*

*22nd DECEMBER 1989*

*No. 43*

## Appointments

Darren Clifton, Police Constable, Falkland Islands Police Force, 1.10.89.

Miss Emily Margaret Reid, Pool Attendant, Education Department, 16.10.89.

Anthony John Beeching, Scientific Officer, Fisheries Department, 1.12.89.

## Transfer

Mrs. Alison Mary Barton, from Legal Assistant, Justice Department, to Research Assistant, Legislature Department, 1.12.89.

## Retirement on Abolition of Office

Mrs. Camilla Marie Clarke, Telephone Operator, Telecommunications Department, 12.12.89.

Mrs. Alana Marie Morris, Telephone Operator, Telecommunications Department, 12.12.89.

Derek Richard Pettersson, Senior Technician, Telecommunications Department, 14.12.89.

Miss Shelly Jane McKay, Telephone Operator, Telecommunications Department, 19.12.89.

## NOTICE

No. 67 18th December 1989

It is notified for general information that Thursday and Friday the 28th and 29th of December 1989 have been declared Government Holidays.

Government Offices will therefore be closed from 25th December 1989 to 1st January 1990 inclusive.

## NOTICE

The following are published in this Gazette —

**The Coastguard Ordinance (No. 19 of 1989);**

**The Drug Trafficking Offences Ordinance (No. 20 of 1989);**

**The Supplementary Appropriation (No. 4) (1988 - 1989) Ordinance (No. 21 of 1989);**

**The Supplementary Appropriation (1989 - 1990) Ordinance (No. 22 of 1989);**

**The Currency Laws (Rectification) Ordinance (No. 23 of 1989);**

**The Education Regulations 1989 (S.R. & O. No. 32 of 1989);**

**The Fisheries Regulations (Amendment) Order 1989 (S.R. & O. No. 33 of 1989);**

**Resolutions of the Legislative Council.**

ELIZABETH II



Colony of the Falkland Islands

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

## The Coastguard Ordinance 1989

(No. 19 of 1989)

An Ordinance to enable the Governor to appoint Coastguard Officers

*(assented to: 20th December 1989)*

*(commencement: on publication)*

*(published: 22nd December 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Coastguard Ordinance 1989 and shall come into force upon its first publication in the Gazette.

Short title and  
commencement.

2. (1) The Governor may by instrument in writing appoint persons who, in his opinion, have sufficient experience of maritime matters to be Coastguard Officers for the Falkland Islands.

Coastguards and  
powers.

(2) Any person appointed by the Governor hereunder shall have and may exercise such powers in the Falkland Islands as are exercised by Her Majesty's Coastguard in the United Kingdom with such modifications as may be necessary to make the same applicable to the circumstances of the Falkland Islands.

Ref: Leg/10/75.

Passed by the Legislature of the Falkland Islands this 6th day of December 1989.

P. T. KING,  
*Clerk of Councils.*

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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  
20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

# The Drug Trafficking Offences Ordinance 1989

(No. 20 of 1989)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short Title.
2. Interpretation.
3. Confiscation Orders.
4. Forfeiture for drug offences.
5. Assessing the proceeds of drug trafficking.
6. Statements relating to drug trafficking.
7. Amount to be recovered under confiscation order.
8. Definition of principal terms used.
9. Application of procedure for enforcing fines.
10. Cases in which restraint orders and charging orders may be made.
11. Restraint orders.
12. Charging orders in respect of land securities etc.
13. Charging orders : supplementary provisions.
14. Realisation of property.
15. Application of proceeds of realisation and other sums.
16. Exercise of powers by court or receiver.
17. Variation of confiscation orders.
18. Bankruptcy of defendant etc.
19. Winding up of company holding realisable property.
20. Insolvency officers dealing with property subject to restraint order.
21. Receivers; supplementary provisions.
22. Compensation.
23. Assisting another to retain the benefit of drug trafficking.
24. Enforcement of external orders.
25. Registration of external confiscation orders.
26. Order to make material available.
27. Authority for search.
28. Sections 26 & 27 : supplementary provisions.
29. Disclosure of information held by a Public Officer or by a Government Department.
30. Offence of prejudicing investigation.
31. Authorisation of delay in notifying arrest.
32. Drug trafficking offences to be serious arrestable offences.
33. Minor amendments.



ELIZABETH II



Colony of the Falkland Islands

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

## The Drug Trafficking Offences Ordinance 1989

(No. 20 of 1989)

An Ordinance to make provision for the recovery of the proceeds of Drug Trafficking and other provision in connection with Drug Trafficking, to make provision about the supply of articles which may be used or adapted for use in the administration of control drugs or use to prepare a control drug for administration and for matters connected with the foregoing purposes.

*(assented to: 20th December 1989)*  
*(commencement: on publication)*  
*(published: 22nd December 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

### *Introductory*

1. This Ordinance may be cited as the Drug Trafficking Offences Ordinance 1989.

Short title.

2. (1) In this Ordinance —

Interpretation.

“controlled drug” has the same meaning as in the 1987 Ordinance;

“court” means the Supreme Court or the Magistrate’s Court;

“corresponding law” has the same meaning as in the 1987 Ordinance;

“drug trafficking” means doing or being concerned in any of the following, whether in the Falkland Islands or elsewhere—

- (a) producing or supplying a controlled drug where the production or supply contravenes section 4 of the 1987 Ordinance or a corresponding law;

- (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of the 1987 Ordinance or a corresponding law;
- (c) importing or exporting a control drug where the importation or exportation is prohibited by section 3(1) of the 1987 Ordinance or a corresponding law;

and includes a person doing the following, whether in the Falkland Islands or elsewhere, that is entering into or being otherwise concerned in an arrangement whereby —

- (i) the retention or control by or on behalf of another person or the other person's proceedings of drug trafficking is facilitated, or
- (ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment;

"drug trafficking offence" means any of the following —

- (a) an offence under section 4(a) or (b) or 5(2) of the 1987 Ordinance (production, supply and possession for supply of controlled drugs);
- (b) an offence under section 18 of the 1987 Ordinance (assisting in or inducing commission outside Falkland Islands of offence punishable under a corresponding law);
- (c) an offence under section 23 of this Ordinance;
- (d) an offence under section 1 of the Criminal Law Act 1977 in its application to the Falkland Islands of conspiracy to commit any of the offences in paragraphs (a) to (d) above; 1977 c. 45.
- (e) an offence under section 1 of the Criminal Attempts Act 1981 in its application to the Falkland Islands of attempting to commit any of those offences; 1981 c. 47.
- (f) an offence of inciting another to commit any of those offences, whether under section 17 of the 1987 Ordinance or at common law; and
- (g) aiding, abetting, counselling or procuring the commission of any of those offences;

"interest", in relation to property, includes right;

"1987 Ordinance" means the Misuse of Drugs Ordinance 1987;

(No. 16 of 1987.)

"property" includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

(2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Ordinance listed in the right hand column in relation to those expressions —

Expression	Relevant provision
Benefited from drug trafficking	Section 3(2)
Charging Order	Section 12(2)
Confiscation Order	Section 3(8)
Dealing with property	Section 11(7)
Defendant	Section 3(8)
Gift caught by this Ordinance	Section 8(9)
Making a gift	Section 8(10)
Proceeds of drug trafficking	Section 5(1)(a)
Realisable property	Section 8(1)
Restraint Order	Section 11(1)
Value of gift, payment or reward	Section 8
Value of proceeds of drug trafficking	Section 5(1)(b)
Value of property	Section 8(4)

(3) This Ordinance applies to property whether it is situated in the Falkland Islands or elsewhere.

(4) References in this Ordinance to offences include a reference to offences committed before the commencement of section 3 of this Ordinance; but nothing in this Ordinance imposes any duty or confers any power on any court in or in connection with proceedings against a person for a drug trafficking offence instituted before the commencement of that section.

(5) References in this Ordinance to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection.

(6) The following provisions shall have effect for the interpretation of this Ordinance.

(7) Property is held by any person if he holds any interest in it.

(8) References to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator.

(9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(11) Proceedings for an offence are instituted —

- (a) when a justice of the peace or the Senior Magistrate issues a summons or warrant under section 1 of the Magistrate's Courts Act 1980 in its application to the Falkland Islands in respect of the offence, or
- (b) when a person is charged with the offence after being taken into custody without a warrant,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(12) Proceedings for an offence are concluded on the occurrence of one or more of the following events —

- (a) the discontinuance of the proceedings;
- (b) the acquittal of the defendant;
- (c) the quashing of his conviction for the offence;
- (d) the grant of pardon in respect of his conviction for the offence;
- (e) the court sentencing or otherwise dealing with him in respect of his conviction for the offence without having made a confiscation order; and
- (f) the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the Order or by the defendant serving imprisonment in default).

(13) An order is subject to appeal so long as an appeal or further appeal is pending against the order or (if it was made on a conviction) against the conviction; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

#### *Confiscation of proceeds of drug trafficking and forfeiture for drug offences*

3. (1) Subject to subsection (7) below, where a person appears before a court to be sentenced in respect of one or more drug trafficking offences (and has not previously been sentenced or otherwise dealt with in respect of his conviction for the offence or, as the case may be, any of the offences concerned) the court shall act as follows.

Confiscation  
Orders.

(2) The court shall first determine whether he has benefited from drug trafficking.

(3) For the purposes of this Ordinance, a person who has at any time (whether before or after the commencement of this section) received any payment or other reward in connection with drug trafficking carried on by him or another has benefited from drug trafficking.

(4) If the court determines that he has so benefited, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 7 of this Ordinance the amount to be recovered in his case by virtue of this section.

(5) The court shall then, in respect of the offence or offences concerned —

- (a) order him to pay that amount,
- (b) take account of the order before —
  - (i) imposing any fine on him, or
  - (ii) making any order involving any payment by him, or
  - (iii) making any order under section 24 of the 1987 Ordinance (forfeiture orders) section 49 of the Criminal Justice Ordinance 1989 (confiscation orders) or section 67 of that Ordinance (deprivation orders), and
- (c) subject to paragraph (b) above, leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him in any other way shall by reason only of the making of an order under this section restrict a court from dealing with an offender in any way the court considers appropriate in respect of a drug trafficking offence.

(7) Subsection (1) above does not apply in relation to any offence for which a person appears before a court to be sentenced if —

- (a) he has been committed to the Supreme Court for sentence in respect of that offence under section 37 (1) of the Magistrate's Courts Act 1980 in its application to the Falkland Islands (committal to Supreme Court with a view to sentence of youth custody), or
- (b) the powers of the court (apart from this section) to deal with him in respect of that offence are limited to dealing with him in any way in which the Summary Court might have dealt with him in respect of the offence.

(8) In this Ordinance —

- (a) an order under this section is referred to as a "confiscation order", and
- (b) a person against whom proceedings have been instituted for a drug trafficking offence is referred to (whether or not he has been convicted) as "the defendant".

4. In section 23(1) of the 1987 Ordinance (forfeiture on conviction of an offence under that Ordinance) after the words "under this Ordinance" there shall be inserted the words "or a drug trafficking offence, as defined in section 2(1) of the Drug Trafficking Offences Ordinance 1989".

Forfeiture for drug offences.

5. (1) For the purposes of this Ordinance —

- (a) any payments or other rewards received by a person at any time (whether before or after the commencement of section 3 of this Ordinance in connection with drug trafficking carried on by him or another are his proceeds of drug trafficking, and
- (b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

Assessing the proceeds of drug trafficking.

(2) The court may, for the purpose of determining whether the defendant has benefited from drug trafficking and, if he has, of assessing the value of his proceeds of drug trafficking, make the following assumptions, except to the extent that any of the assumptions are shown to be incorrect in the defendant's case.

(3) Those assumptions are —

- (a) that any property appearing to the court —
  - (i) to have been held by him at any time since his conviction, or

- (ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him,

- (b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with drug trafficking carried on by him, and
- (c) that for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interest in it.

(4) Subsection (2) above does not apply if the only drug trafficking offence in respect of which the defendant appears before the court to be sentenced is an offence under section 23 of this Ordinance.

(5) For the purpose of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the court shall leave out account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

6. (1) Where —

- (a) there is tendered to the court by the prosecutor a statement as to any matters relevant to the determination whether the defendant has benefited from drug trafficking or to the assessment of the value of his proceeds of drug trafficking, and
- (b) defendant accepts to any extent any allegation in the statement,

the court may, for the purposes of that determination and assessment treat his acceptance as conclusive of the matters to which it relates.

(2) Where —

- (a) a statement is tendered under subsection (1) (a) above, and
- (b) the court is satisfied that a copy of that statement has been served on the defendant,

the court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with a requirement under subsection (2) above, he may be treated for the purposes of this section as accepting every allegation in the statement apart from —

- (a) any allegation in respect of which he has complied with the requirement, and
- (b) any allegation that he has benefited from drug trafficking or that any payment or other reward was received by him in connection with drug trafficking carried on by him or another.

(4) Where —

- (a) there is tendered to the court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made, and
- (b) the prosecutor accepts to any extent any allegation in the statement, the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either —

- (a) orally before the court, or

Statements  
relating to drug  
trafficking.

(b) in writing in accordance with rules of the court.

(6) No acceptance by the defendant under this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or another shall be admissible in evidence in any proceedings for an offence.

7. (1) Subject to subsection (3) below, the amount to be recovered in the defendant's case under the confiscation order shall be the amount that the court assesses to be the value of the defendant's proceeds of drug trafficking.

Amount to be recovered under confiscation order.

(2) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by an acceptance under section 6 of this Ordinance or otherwise), the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so if satisfied as mentioned in subsection (3) below.

(3) If the court is satisfied that the amount that might be realised at the time that the confiscation order is made is less than the amount the court assesses to be the value of his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be the amount appearing to the court to be the amount that might be so realised.

8. (1) In this Ordinance, "realisable property" means, subject to subsection (2) below —

Definition of principal terms used.

- (a) any property held by the defendant, and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance.

(2) Property is not realisable property if —

- (a) an order under section 67 of the Criminal Justice Ordinance 1989 (deprivation orders),
- (b) an order under section 24 of the 1987 Ordinance (forfeiture orders), is in force in respect of the property.

(3) For the purposes of sections 5 and 6 of this Ordinance the amount that might be realised at the time a confiscation order is made against the defendant is —

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations, together with the total of the values at that time of all gifts caught by this Ordinance.

(4) Subject to the following provisions of this section, for the purposes of this Ordinance the value of property (other than cash) in relation to any person holding the property —

- (a) where any other person holds an interest in the property is —
  - (i) the market value of the first mentioned person's beneficial interest in the property,
  - (ii) the amount required to discharge any incumbrance (other than a charging order) on that interest, and
- (b) in any other case, is its market value.

(5) Subject to subsection (10) below, references in this Ordinance to the value at any time (referred to in subsection (6) below as "the material time") of a gift caught by this Ordinance or of any payment or reward are references to —

- (a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money or
- (b) where subsection (6) below applies, the value there mentioned, whichever is the greater.

(6) Subject to subsection (10) below, if at the material time the recipient holds —

- (a) the property which he received (not being cash), or
- (b) property which in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (5) (b) above is the value to him at the material time of the property mentioned in paragraph (a) above or, as the case may be, of the property mentioned in paragraph (b) above so far as it so represents the property which he received, but disregarding in either case any charging order.

(7) For the purposes of subsection (3) above, an obligation has priority at any time if it is an obligation of the defendant to —

- (a) pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order, or
- (b) pay any sum which would be included among the preferential debts (within the meaning given by section 386 of the Insolvency Act 1986 in its application to the Falkland Islands) in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.

(8) In the case of a confiscation order made before the coming into force in the Falkland Islands of the Insolvency Act 1986, subsection (7) above shall have effect as if for paragraph (b) there was substituted —

“(b) pay any sum which, if the defendant had been adjudged bankrupt or was being wound up would be among the preferential debts”;

and in that paragraph “the preferential debts” —

- (a) in relation to bankruptcy, means the debts to be paid in priority under section 33 of the Bankruptcy Act 1914 (assuming the date of the confiscation order to be the date of the receiving order) and;
- (b) in relation to winding up, means such debts as under section 319 of the Companies Act 1948 in its application to the Falkland Islands or any other enactment of or having effect in the Falkland Islands are preferential debts of the company in winding up (assuming the date of the confiscation order to be the relevant date for the purposes of any such enactment).

(9) A gift (including a gift made before the commencement of section 3 of this Ordinance) is caught by this Ordinance if —

- (a) it was made by the defendant at any time since the beginning of the period of six years when the proceedings were instituted against him, or
- (b) it was made by the defendant at any time and was a gift of property —
  - (i) received by the defendant in connection with drug trafficking carried on by him or another, or
  - (ii) which in whole or in part directly or indirectly represented in the defendant's hands property received from him in that connection.

(10) For the purposes of this Ordinance —

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant, and
- (b) in those circumstances, the proceedings provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) above bears to the value of the consideration provided by the defendant.

*Enforcement et cetera of confiscation orders*

9. (1) Where the court orders the defendant to pay any amount under section 3 of this Ordinance, section 53 of the Criminal Justice Ordinance 1989 (sections 42 (1) to (6) of that Ordinance to have effect as if that amount were a fine imposed on him by the court) shall have effect as if the order under section 3 of this Ordinance had been made under section 49 of the Criminal Justice Ordinance 1989.

Application of procedure for enforcing fines.

(2) This section applies in relation to confiscation orders made by the Court of Appeal as it applies in relation to confiscation orders made by the Magistrate's Court or the Supreme Court and the reference in subsection (1) above to a court shall be construed accordingly.

10. (1) Powers conferred on a court by sections 11(1) and 12(1) of this Ordinance are exercisable where —

Cases in which restraint orders may be made.

- (a) proceedings have been instituted in the Falkland Islands against the defendant for a drug trafficking offence,
- (b) the proceedings have not been concluded, and
- (c) the court is satisfied that there is reasonable cause to believe that the defendant has benefited from drug trafficking.

(2) Those powers are also exercisable where the court is satisfied —

- (a) whether by the laying of an information or otherwise, a person is to be charged with a drug trafficking offence, and
- (b) that there is reasonable cause to believe that he has benefited from drug trafficking.

(3) For the purposes of sections 11 and 12 of this Ordinance, at any time when those powers are exercisable before proceedings have been instituted —

- (a) references in this Ordinance to the defendant shall be construed as references to the person referred to in subsection (2)(a) above,
- (b) references in this Ordinance to the prosecutor shall be construed as references to the person who the court is satisfied is to have the conduct of the proposed proceedings, and
- (c) references in this Ordinance to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) above for a drug trafficking offence.

(4) Where the court has made an order under section 11(1) or 12(1) of this Ordinance by virtue of subsection (2) above the court shall discharge the order if proceedings in respect of the offence are not instituted (whether by the laying of an information or otherwise) within such time as the court considers reasonable.

11. (1) A court may by order (in this Ordinance) referred to as a "restraint order" prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

Restraint orders.

(2) A restraint order may apply —

- (a) to all realisable property held by a specified person, whether the property is described in the order or not, and
- (b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 12 of this Ordinance.

(4) A restraint order —

- (a) may be made only on an application by the prosecutor,



- (b) may be made on an ex parte application in chambers, and
  - (c) shall provide for notice to be given to persons affected by the order.
- (5) A restraint order —
- (a) may be discharged or varied in relation to any property, and
  - (b) shall be discharged when proceedings for the offences are concluded.
- (6) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (7) Where a court has made a restraint order, the court may at any time appoint a receiver —
- (a) to take possession of any realisable property, and
  - (b) in accordance with the court's directions to manage or otherwise deal with any property in respect of which he is appointed. Subject to exceptions and conditions as may be specified by the court; and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (8) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of the expression) —
- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt, and
  - (b) removing the property from the Falkland Islands.
- (9) Where a court has made a restraint order, a police officer or a customs officer may for the purpose of preventing any realisable property being removed from the Falkland Islands, seize the property.
- (10) Property seized under subsection (9) above shall be dealt with in accordance with the court's directions.

12. (1) A court may make a charging order on realisable property for securing the payment to the Crown —

Charging orders  
in respect of  
land, securities  
etc.

- (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged, and
  - (b) in any other case, of an amount not exceeding the amount payable under the confiscation order.
- (2) For the purposes of this Ordinance, a charging order is an order made under this section imposing on such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.
- (3) A charging order —
- (a) may be made only on an application by the prosecutor;
  - (b) may be made on an ex parte application in chambers;
  - (c) shall provide for notice to be given to persons affected by the order; and
  - (d) may be made subject to such conditions as the court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.
- (4) Subject to subsection (6) a charge may be imposed by a charging order only on —
- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance —
    - (i) in any asset of the kind mentioned in subsection (5) below, or
    - (ii) under any trust, or

- (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge made by virtue of paragraph (a) above be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) The assets referred to in subsection (4) above are —

- (a) land in the Falkland Islands, or
- (b) securities of any of the following kind —
  - (i) stock issued by the Falkland Islands Government,
  - (ii) stock of any body (other than a building society or co-operative society) incorporated within the Falkland Islands,
  - (iii) stock of any body incorporated outside the Falkland Islands being stock registered in a register kept at any place within the Falkland Islands,
  - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Falkland Islands.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b) above, the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount, payment of which is secured by the charge, is paid into court.

13. (1) A charging order may be made either absolutely or subject to conditions as to notifying any person holding any interest in the property to which the order relates or as to the time when the charge is to become enforceable, or as to other matters.

Charging orders:  
supplementary  
provisions.

(2) A purchaser for value acting in good faith not having actual notice of a charging order made under this Ordinance shall not be prejudicially affected by that charging order in relation to any transaction as to land in the Falkland Islands unless, prior to the time when he entered into that transaction that charging order was registered against that land in the register of deeds maintained by the Registrar-General under the provisions of the Registration Ordinance.

(3) Where a charging order has been protected by an entry in the register of deeds, an order under section 12(7) of this Ordinance discharging the charging order may direct that the entry be cancelled.

(4) A charge imposed by a charging order shall, subject to this Ordinance, have like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the person against whom a charging order is made by writing under his hand.

(5) The Governor may by Order amend section 12 of this Ordinance by adding to or removing from the kinds of asset for the time being referred to there any asset of a kind which in his opinion ought to be added or removed.

14. (1) Where —

- (a) in proceedings instituted for a drug trafficking offence, a confiscation order is made,
- (b) the order is not subject to appeal, and
- (c) the proceedings have not been concluded,

Realisation of  
property.

the Court may, on an application by the prosecutor, exercise the powers conferred by subsections (2) to (6) below.

(2) The Court may appoint a receiver in respect of realisable property.

(3) The Court may empower a receiver appointed under subsection (2) above, under section 11 of this Ordinance or in pursuance of a charging order —

- (a) to enforce any charge imposed under section 12 of this Ordinance on realisable property or on interest or dividends payable in respect of such property, and
- (b) in relation to any realisable property other than property for the time being subject to a charge under section 12 of this Ordinance, to take possession of the property subject to such conditions or exceptions as may be specified by the Court.

(4) The Court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The Court may empower any such receiver to realise any realisable property in such manner as the Court may direct.

(6) The Court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance as the court may direct and the court may, on the payment being made, by Order transfer, grant or extinguish any interest in the property.

(7) Subsections (4) to (6) above do not apply to property for the time being subject to a charge under section 12 of this Ordinance.

(8) The Court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) above unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court.

15. (1) Subject to subsection (2) below, the following hands in the sums of a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order, that is —

Application of  
proceeds of  
realisation and  
other sums.

- (a) the proceeds of the enforcement of any charge imposed under section 12 of this Ordinance,
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 11 or 14 of this Ordinance, and
- (c) any other sums, being property held by the defendant,

shall first be applied in payment of such expenses incurred by a person acting as a trustee in bankruptcy or liquidator as are payable under section 20(2) of this Ordinance and then shall, after such payments (if any) as the court may direct have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums —

- (a) among such of those who held property which has been realised under this Ordinance, and
- (b) in such proportions, as the court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(3) The receipt of any sum in the office of the court on account of an amount payable under a confiscation order shall reduce the amount so payable and the money received shall be applied for the purposes specified in this section and in the order so specified.

(4) There shall first be paid any expenses incurred by a person acting as a trustee in bankruptcy or liquidator and payable under section 20(2) of this Ordinance but not already paid under subsection (1) above.

(5) If the money was paid to the court office by a receiver appointed under section 11 or 12 of this Ordinance or in pursuance of a charging order there shall next be paid the receiver's remuneration and expenses. (6) After making —

- (a) any payment required by subsection (4) above; and
- (b) in a case to which subsection (5) above applies, any payment required by that subsection,

there shall then be reimbursed any amount paid under section 20(2) of this Ordinance.

(7) Any balance remaining after all payments required by the foregoing provisions of this section have been made shall be treated as if it were a fine imposed by the Court.

**16. (1)** The following provisions apply to the powers conferred on the court by sections 11 to 15 of this Ordinance, or on a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order.

Exercise of powers by court or receiver.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be any confiscation order that may be made in the defendant's case the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt owed by the Crown.

(6) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

**17. (1)** If, on an application by the defendant in respect of a confiscation order, the court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order the court shall issue a certificate to that effect, giving the court's reasons.

Variation of confiscation orders.

(2) For the purposes of subsection (1) above —

- (a) in the case of realisable property held by a person who has been adjudged bankrupt the court shall take into account the extent to which any property held by him may be distributed among creditors, and
- (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Ordinance from any risk of realisation under this Ordinance.

(3) Where a certificate has been issued under subsection (1) above, the defendant may apply to the court for the amount to be recovered under the order to be reduced.

(4) The court shall, on an application under subsection (3) above —

- (a) substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case, and
- (b) substitute for the term of imprisonment or of detention fixed under section 28 of the Criminal Justice Ordinance 1989 in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 9 of this Ordinance) in respect of the lesser amount.

**18. (1)** Where a person who holds a realisable property is adjudged bankrupt —

Bankruptcy of defendant etc.

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and
- (b) any proceeds of property realised by virtue of section 11(6) or 14(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 11 or 14 of this Ordinance,

is excluded from the bankrupt's estate for the purposes of Parts I to IV inclusive of the Bankruptcy Act 1914 in its application to the Falkland Islands or, as the case may be, Part IX of the Insolvency Act 1986 in its application to the Falkland Islands.

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 11 to 15 of this Ordinance or on a receiver so appointed shall not be exercised in relation to —

- (a) property for the time being comprised in the bankrupt's estate for the purposes of Parts I to IV inclusive of the Bankruptcy Act 1914 or, as the case may be, Part IX of the Insolvency Act 1986 in its application to the Falkland Islands,
- (b) property acquired by the bankrupt after commencement of his bankruptcy and divisible among his creditors pursuant to paragraph (a) of section 39 of the Bankruptcy Act 1914 in its application to the Falkland Islands or property in respect of which his trustee and bankruptcy may (without leave of court) serve a notice under section 307 or 308 of the Insolvency Act 1986 in its application to the Falkland Islands (after-acquired property and tools, clothes et cetera exceeding value of reasonable replacement), and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 26(2)(iv) of the Bankruptcy Act 1914 in its application to the Falkland Islands or under section 280(2)(c) of the Insolvency Act 1986 in its application to the Falkland Islands.

(3) Nothing in the Bankruptcy Act 1914 or in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of the powers conferred on the court by sections 11 to 15 of this Ordinance or on a receiver appointed under section 11 or 14 of this Ordinance.

(4) Subsection (2) above does not affect the enforcement of a charging order —

- (a) made before the order adjudging the person bankrupt, or
- (b) on property with which was subject to a restraint order when the order adjudging him bankrupt was made.

(5) Where, in the case of a debtor, a receiver stands appointed under section 3, 5(2) or 6(1) of the Bankruptcy Act 1914 in its application to the Falkland Islands or under section 286 of the Insolvency Act 1986 in its application to the Falkland Islands and any property of the debtor is subject to a restraint order —

- (a) the powers conferred on the receiver by virtue of the Bankruptcy Act 1914 or the Insolvency Act 1986 do not apply to property for the time being subject to the restraint order,
- (b) section 287(4) of the Insolvency Act 1986 (receivers immunity), as it applies to the receiver by virtue of section 286(3) of that Act, shall have effect in relation to such property as if references to such property were substituted for references to property which is not comprised in the bankrupt's estate and
- (c) any such property in the hands of the receiver shall, subject to a lien for any expenses (including his remuneration) properly incurred in respect of the property, be dealt with in such manner as the court may direct.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Ordinance —

- (a) no order shall be made under section 42 of the Bankruptcy Act 1914 or sections 339 or 423 of the Insolvency Act 1986 (avoidance of certain transactions) in respect of the making of the gift at any time when proceedings for a drug trafficking offence have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order or charging order, and

- (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Ordinance of property held by the person to whom the gift was made.

19. (1) Where realisable property is held by a company and a order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to —

Winding up of company holding realisable property.

- (a) property for time being subject to a restraint order made before the relevant time, and
- (b) any proceeds of property realised by virtue of section 11(6) or 14(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 11 or 14 of this Ordinance;

but there shall be payable out of such property any expenses (including the remuneration of the liquidator or provisional liquidator) provisionally incurred in the winding up in respect of the property.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the court by sections 11 to 15 of this Ordinance on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable —

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors, or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.

(3) Nothing in the Companies Act 1948 in its application to the Falkland Islands or in the Insolvency Act 1986 in its application to the Falkland Islands shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(4) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(5) In this section —

“company” means any company which may be wound up under the Companies Act 1948 in its application to the Falkland Islands or the Insolvency Act 1986 in its application to the Falkland Islands; and

“the relevant time” means —

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up,
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution, and
- (c) in any other case where such an order has been made, the time of the making of the order.

20. (1) Without prejudice to the generality of any enactment contained in the Bankruptcy Act 1914 in its application to the Falkland Islands, the Companies Act 1948 in its application to the Falkland Islands or in the Insolvency Act 1986 or any other enactment in force in the Falkland Islands, where —

Insolvency of-ficers dealing with property subject to restraint order.

- (a) any person acting as a receiver, trustee and bankruptcy, liquidator or insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order; and

- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property;

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting; and a person so acting shall have a lien on the property, or on the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may be reasonably be assigned for his acting in connection with those proceedings.

(2) Any person who, acting as receiver, trustee in bankruptcy, liquidator or as an insolvency practitioner, incurs expenses —

- (a) in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under that subsection) to payment of those expenses under section 15(1) or (5) of this Ordinance.

(3) In this Ordinance, the expression “acting an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the Insolvency Act 1986 and the expression shall also comprehend the official receiver acting as receiver or manager of the property.

21. (1) Where a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order takes any action —

Receivers; Supplementary provisions.

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property,
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of the receiver so appointed shall, if no sum is available to be applied in payment of it under section 15(5) of this Ordinance, be paid by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted, by the person on whose application the receiver was appointed.

22. (1) If proceedings are instituted against a person for a drug trafficking offence or offences and either

Compensation.

- (a) the proceedings do not result in his conviction for any drug trafficking offence, or
- (b) where he is convicted of one or more drug trafficking offences —
  - (i) the conviction or convictions concerned are quashed, or
  - (ii) he is pardoned in respect of the conviction or convictions concerned,

the court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant.

(2) The court shall not order compensation to be paid in any case unless the court is satisfied —

- (a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned, being a person mentioned in subsection (4) below, and
- (b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order of the court under sections 11 to 14 of this Ordinance.

(3) The court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the court thinks just in all the circumstances of the case.

(5) Compensation payable under this section shall be paid out of the Consolidated Fund.

#### *Offence of assisting drug traffickers*

23. (1) Subject to subsection (3) below, if a person enters into or is otherwise concerned in an arrangement whereby —

Assisting another to retain the benefit of drug trafficking.

- (a) the retention or control by or on behalf of another (call him "A") of A's proceeds of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise), or
- (b) A's proceeds of drug trafficking —
  - (i) are used to secure that funds are placed at A's disposal, or
  - (ii) are used for A's benefit to acquire property by way of investment,

knowing or suspecting that A is a person who carries on or has carried on drug trafficking or has benefited from drug trafficking, he commits an offence.

(2) In this section, references to any person's proceeds of drug trafficking include a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of drug trafficking.

(3) Where a person discloses to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which such a suspicion or belief is based —

- (a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract, and
- (b) if he does any acting contravention of subsection (1) above and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if the disclosure is made in accordance with this paragraph, that is —
  - (i) it is made before he does the act concerned, being an act done with the consent of the police officer or
  - (ii) it is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove —

- (a) that he did not know or suspect that the arrangement related to any person's proceeds of drug trafficking, or
- (b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property while facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1) above, or
- (c) that —



- (i) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) above in relation to the arrangement, but
- (ii) there is reasonable excuse for his failure to make disclosure in accordance with subsection (3)(b) above.

(5) A person convicted of an offence under this section shall be liable on conviction to imprisonment for a term not exceeding fourteen years or a fine or to both.

#### *Enforcement of external orders*

24. (1) In this Ordinance —

Enforcement of  
external orders

“designated country” means —

- (a) England, Scotland and Northern Ireland; and
- (b) any country or territory for the time being designated by Her Majesty by Order in Council made under section 26(1) of the Drug Trafficking Offences Act 1986 (“a 1986 Act Order”);

“external confiscation order” means an order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value; and

“modifications” includes additions, alterations and omissions.

(2) Subject to this section, a 1986 Act Order shall have effect in and in relation to the Falkland Islands as if —

- (a) any reference therein to a Secretary of State were a reference to the Governor acting in his discretion;
- (b) any reference to the High Court were a reference to the Supreme Court and any reference to the Crown Court were a reference to the Magistrate's Court and any reference to a magistrates' court or to Justices of the Peace were a reference to the Summary Court;
- (c) any modifications of the Drug Trafficking Offences Act 1986 made by any such 1986 Order were modifications of the corresponding provisions of this Ordinance.

(3) The Governor may, if he considers it necessary so to do so as to give better or clearer effect to a 1986 Act Order in its application to the Falkland Islands by virtue of the foregoing provisions of this section, by Order direct that any 1986 Act Order specified in that Order under this subsection shall have effect in the Falkland Islands subject to such modifications as are specified in that Order made under this subsection and, the foregoing provisions of this section shall, so far as is appropriate, then have effect subject to such Order made under this subsection. An Order under this subsection may make different provision for different cases or classes of case or in relation to different designated countries.

25. (1) On an application made by or on behalf of the Government of a designated country, the Supreme Court may register an external confiscation order made there if —

Registration of  
external con-  
fiscation orders.

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) it is of the opinion that enforcing the order in the Falkland Islands would not be contrary to the interests of justice.

(2) In subsection (1) above “appeal” includes —

- (a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The Supreme Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

*Investigations into drug trafficking*

26. (1) The Attorney General or any person acting by his direction or under his authority may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for an order under subsection (2) below in relation to particular material or material of a particular description.

Order to make material available.

(2) If on such an application the Senior Magistrate is satisfied that the conditions in subsection (4) below are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall —

- (a) produce it to a police officer for him to take away, or
- (b) give a police officer access to it, within such period as the court may specify, but this subsection has effect subject to section 29(11) of this Ordinance.

(3) The period to be specified in an order under subsection (2) shall be seven days unless it appears to the Senior Magistrate that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) above are —

- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking,
- (b) that there are reasonable grounds for suspecting that the material to which the application relates —
  - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and
  - (ii) does not consist of or include items subject to legal privilege or excluded material, and
- (c) that there are reasonable grounds for believing that it is in the public interest, having regard —
  - (i) to the benefit likely to accrue to the investigation if the material is obtained, and
  - (ii) to the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.

(5) Where the Senior Magistrate makes an order under subsection (2)(b) above in relation to material on any premises he may, on the application of the Attorney General or of a person acting by the direction or with the authority of the Attorney General, order any person who appears to him to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.

(6) Provision may be made by the Chief Justice by rules made for the purposes of this section as to —

- (a) the discharge and variation of orders under this section, and
- (b) proceedings relating to such orders.

(7) An order of the Senior Magistrate under this section shall have effect as if it were an order of the Magistrate's Court.

(8) Where the material to which an application under this section relates consists of information contained in a computer —

- (a) an order under subsection (2)(a) above shall have effect as an order to produce the material in a form in which it can be taken away and which it is visible and legible, and
    - (b) an order under subsection (2)(b) above shall have effect as an order to give access to the material in a form which it is visible and legible.
  - (9) An order under subsection (2) above —
    - (a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material,
    - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise, and
    - (c) may be made in relation to material in the possession of a public officer or any department of the Government of the Falkland Islands.
27. (1) A police officer acting by the direction of or by the authority of the Attorney General may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for a warrant under this section in relation to specified premises.
- (2) On such application the Senior Magistrate may issue a warrant authorising a police officer to enter and search the premises if he is satisfied —
- (a) that an order made under section 25 of this Ordinance in relation to material on the premises has not been complied with, or
  - (b) that the conditions in subsection (3) below are fulfilled, or
  - (c) that the conditions in subsection (4) below are fulfilled.
- (3) The conditions referred to in subsection (2)(b) above are —
- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking, and
  - (b) that the conditions in section 26(4)(b) and (c) of this Ordinance are fulfilled in relation to any material on the premises, and
  - (c) that it would not be appropriate to make an order under that section in relation to the material because —
    - (i) it is not practicable to communicate with any person entitled to produce the material, or
    - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or
    - (iii) the investigation for the purposes of which the application is made might be seriously prejudice unless a police officer could secure immediate access to the material.
- (4) The conditions referred to in subsection (2)(c) above are —
- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking, and
  - (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised, and
  - (c) that —
    - (i) it is not practicable to communicate with any person entitled to grant entry to the premises, or
    - (ii) entry to the premises will not be granted unless a warrant is produced, or

Authority for  
search.

- (iii) the investigation for the purpose of which the application is made might be seriously prejudice unless a police officer arriving at the premises could secure immediate entry to them.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

28. (1) For the purposes of sections 126 and 127 of the Criminal Justice Ordinance 1989 (access to, and copying and retention of, seized material) —

Sections 26 & 27: Supplementary provisions.

- (a) an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence, and
- (b) material produced in pursuance of an order under section 26(2)(a) of this Ordinance shall be treated as if it were material seized by a police officer.

(2) Subject to subsection (3) below, in sections 26 and 27 of this Ordinance "items subject to legal privilege", "excluded material" and "premises" have the same meanings as in the Criminal Justice Ordinance 1989.

29. (1) Subject to subsection (4) below, the Senior Magistrate may on an application by the Attorney General order any material mentioned in subsection (3) below which is in the possession of a public officer or of a department of the Falkland Islands Government to be produced to the court within such period as the court may specify

Disclosure of information held by a Public Officer or by a Government Department.

(2) The power to make an order under subsection (1) above is exercisable if —

- (a) the powers conferred on the court by sections 11(1) and 12(1) of this Ordinance are exercisable by virtue of subsection (1) of section 10 of this Ordinance, or
- (b) those powers are exercisable by virtue of subsection (2) of that section and the court has made a restraint or charging order which has not been discharged;

but where the power to make an order under subsection (1) above is exercisable by virtue only of paragraph (b) above, subsection (3) of section 10 of this Ordinance shall apply for the purposes of this section as it applies for the purposes of sections 11 and 12 of this Ordinance.

(3) The material referred to in subsection (1) above is any material which —

- (a) has been submitted to a public office or to a department of the Falkland Islands Government by the defendant or by a person who has at any time held property which was realisable property,
- (b) has been made by a public officer in relation to the defendant or such a person, or
- (c) is correspondence which passed between a public officer acting in the course of his duties or on behalf of a department of the Falkland Islands Government and the defendant or such a person,

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the public officer or of the department of the Falkland Islands Government concerned.

(4) An order under subsection (1) above shall not require the production of any material unless it appears to the Senior Magistrate that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by sections 11 to 14 of this Ordinance or on a receiver appointed under section 11 or 14 of this Ordinance or in pursuance of a charging order.

(5) The Senior Magistrate may by order authorise the disclosure to such a receiver of any material produced under subsection (1) above or any part of such material; but the Senior Magistrate shall not make an order under this subsection unless a reasonable opportunity has been given to the public officer or the department of the Falkland Islands Government concerned to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) above may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Ordinance or of the receiver or the Supreme court or Magistrate's court.

(7) The Senior Magistrate may by order authorise a disclosure to a person mentioned in subsection (8) below of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless —

- (a) a reasonable opportunity has been given for public officer or the department of the Falkland Islands Government concerned to make representations to him, and
- (b) it appears to the Senior Magistrate that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) above are —

- (a) any member of the Falkland Islands Police Force,
- (b) the Attorney General or any other public officer who is a legal practitioner and in respect of whom the Attorney General is the head of department, and
- (c) a Customs Officer.

(9) Material disclosed in pursuance of an order under subsection (7) above may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under subsection (1) above and, in the case of material in the possession of a public officer or a department of the Falkland Islands Government, an order under section 26(2) of this Ordinance may require any public officer (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served on the Chief Executive.

(12) The Chief Executive on being served with an order under subsection (1) above —

- (a) shall take all reasonable steps to bring it to the attention of the public officer appearing to him to have possession of the material and in any case to the attention of the public officer who is the head of a department of the Falkland Islands Government concerned, and
- (b) if the order is not brought to the attention of the public officer having possession of the material within the period referred to in subsection (1) above, shall report the reasons for the failure to the court;

and it shall also be the duty of the head of department to whom the order has been communicated to take steps to bring the order to the attention of the public officer appearing to him to have possession of the material.

30. (1) Where, in relation to an investigation into drug trafficking, an order under section 26 of this Ordinance has been made or has been applied for and has not been refused or a warrant under section 27 of this Ordinance has been issued, a person who, knowing or suspecting that the investigation is taking place, makes any disclosure which is likely to prejudice the investigation is guilty of an offence.

Offence of prejudicing investigation.

(2) In proceedings against a person for an offence under this section, it is a defence to prove —

- (a) that he did not know or suspect that the disclosure was likely to prejudice the investigation, or
- (b) that he had lawful authority or a reasonable excuse for making the disclosure.

(3) A person convicted of an offence under this section shall be liable to imprisonment for a term not exceeding five years or to a fine or to both.

31. (1) In section 105 of the Criminal Justice Ordinance 1984 (right to have someone informed when arrested), at the beginning of subsection (1) there is inserted the words "subject to the following provisions of this section" and after that subsection there is inserted the following new subsection (1A) —

Authorisation of delay in notifying arrest.

"(1A) delay is permitted where the person has been arrested for a drug trafficking offence and the Chief Police Officer authorises the delay having reasonable grounds for believing —

- (a) that the detained person has benefited from drug trafficking, and
- (b) that the recovery of the value of that person's proceeds of drug trafficking will be hindered by telling any person named by the detained person of the arrest."

(2) Section 105 of the Criminal Justice Ordinance 1989 is further amended by inserting at the beginning of subsection (2) the words "subject to subsection (2A) below" and after that subsection there is inserted the following new subsection - "(2A) in any case to which subsection (1A) applies the person in custody must be permitted to exercise the right conferred by subsection (1) above within 36 hours from the time of his arrival at the police station."

(3) In section 106 of the Criminal Justice Ordinance 1989 (access to legal advice) at the beginning of subsection (8) there is inserted the words "subject to subsection (8A) below" and after that subsection there is inserted the following new subsection —

"8A. The Chief Police Officer may also authorise delay where the person arrested and held in custody has been arrested for a drug trafficking offence and the Chief Police Officer has reasonable grounds for believing —

- (a) that the detained person has benefited from drug trafficking, and
- (b) that the recovery of the value of that person's proceeds of drug trafficking will be hindered by the exercise of the right conferred by subsection (1) above."

#### *Miscellaneous and supplemental*

32. Part II of Schedule 4 to the Criminal Justice Ordinance 1989 is amended by the insertion therein, immediately after paragraph 7 of that Part of the following new cross-heading and paragraph 8 —

Drug trafficking offences to be serious arrestable offences.

#### *"Drug Trafficking Offences Ordinance 1989*

8. Any of the offences mentioned in the definition of "drug trafficking offence" in section 2(1) of the Drug Trafficking Offences Ordinance 1989"

33. (1) Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) in its application to the Falkland Islands shall have effect as if amounts payable under confiscation orders were debts excepted under subsection (1) (a) of that section.

Minor amendments.

(2) In section 71 (2) (a) of the Criminal Justice Ordinance 1989 (failure to pay fines etc not to prevent persons becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

(3) Section 281 (4) of the Insolvency Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc) in its application to the Falkland Islands shall have effect as if the reference to a fine included a reference to a confiscation order.

Passed by the Legislature of the Falkland Islands this 6th day of December 1989.

P. T. KINCI,  
*Clerk of Councils.*

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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  
20th day of December 1989.

W. H. FULLERTON,  
*Governor*

The Supplementary Appropriation (1988 - 1989) (No. 4) Ordinance 1989  
(No. 21 of 1989)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.
2. Appropriation of £446,830 for the services of the year 1988 - 1989.

Schedule.



ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,

*Governor.*

## The Supplementary Appropriation (1988 - 1989) (No. 4) Ordinance 1989

(No. 21 of 1989)

An Ordinance to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £446,830 for the service of the financial year ending on 30th June 1989.

*(assented to: 20th December 1989)*

*(commencement: on publication)*

*(published: 22nd December 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Supplementary Appropriation (1988 - 1989) (No.4) Ordinance 1989. 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 1st July 1988 and ending on 30th June 1989 ("the financial year") sums not exceeding in aggregate the sum of four hundred and forty six thousand eight hundred and thirty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Services mentioned in the Schedule hereto and which will come in course of payment during the financial year.

Appropriation  
of £446,830 for  
the year  
1988-1989.

## SCHEDULE

Number	Head of Service	£
300	Customs and Harbour	1,190
320	Fisheries	20,000
350	Public Works	40,000
500	Military	2,500
600	Secretariat, Treasury and Central Store	4,600
800	Legislature	830
TOTAL OPERATING SUPPLEMENTARY EXPENDITURE		69,120
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds	<u>377,710</u>
TOTAL SUPPLEMENTARY EXPENDITURE		446,830

Ref: TRE/14/25.

Passed by the Legislature of the Falkland Islands this 6th day of December 1989.

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  
20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

The Supplementary Appropriation (1989 - 1990) Ordinance 1989  
(No. 22 of 1989)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.
2. Appropriation of £3,887,620 for the services of year 1989 - 1990.

Schedule



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,  
Governor.

### The Supplementary Appropriation (1989 - 1990) Ordinance 1989

(No. 22 of 1989)

An Ordinance to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £3,887,620 for the service of the financial year ending on 30th June 1990.

*(assented to: 20th December 1989)*

*(commencement: on publication)*

*(published: 22nd December 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Supplementary Appropriation (1989 - 1990) Ordinance 1989. 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 1st July 1989 and ending on 30th June 1990 ("the financial year") sums not exceeding in aggregate the sum of three million eight hundred and eighty seven thousand six hundred and twenty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Services mentioned in the Schedule hereto and which will come in course of payment during the financial year. Appropriation of £3,887,620 for the year 1989-1990.

#### SCHEDULE

Number	Head of Service	£
200	Medical	221,160
300	Customs and Harbour	175,000
320	Fisheries	125,550
350	Public Works	38,300
400	Agriculture	6,500
550	Police, Fire and Rescue Service	3,510
600	Secretariat, Treasury Central Store and Broadcasting Service	8,335
650	Pensions and Gratuities	20,850
880	Funding Falkland Islands Development Corporation	10,950
TOTAL OPERATING SUPPLEMENTARY EXPENDITURE		610,155
PART B - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds	3,277,465
TOTAL SUPPLEMENTARY EXPENDITURE		3,887,620

Passed by the Legislature of the Falkland Islands this 6th day of December 1989.

P. T. KING,  
*Clerk of Councils.*

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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  
20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

The Currency Laws (Rectification) Ordinance 1989  
(No. 23 of 1989)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.
2. Interpretation.
3. Certain provisions of the Currency Ordinance 1987 to be deemed not to have come into force.
4. Relevant provisions to come into force when revoking Proclamation published.

ELIZABETH II



Colony of the Falkland Islands

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

## The Currency Laws (Rectification) Ordinance 1989

(No. 23 of 1989)

An Ordinance to provide that such of the provisions of the Currency Ordinance 1987 as relate to coinage of the Falkland Islands, so far as they so relate, shall be deemed not to have come into operation and shall come into operation on such date as is provided by this Ordinance and to make provision incidental to, consequent upon or otherwise connected with the foregoing purposes.

*(assented to: 20th December 1989)*

*(commencement: on publication)*

*(published: 22nd December 1989)*

ENACTED by the Legislature of the Falkland Islands as follows —

1. This Ordinance may be cited as the Currency Laws (Rectification) Ordinance 1989.
2. In this Ordinance —

“the 1870 Act” means the Coinage Act 1870;

“the 1946 Act” means the Coinage Act 1946;

“the 1967 Act” means the Decimal Currency Act 1967;

“the 1969 Act” means the Decimal Currency Act 1969;

“the Currency Proclamations” means —

- (a) the Proclamation of 3rd February 1898 which applied the 1870 Act, as amended by that Proclamation, to the Falkland Islands,

Short title.

Interpretation.

(33 & 34  
Vict.c.40)

(9 & 10  
Geo.6 c.74)

(1967 c.47)

(1969 c.19)

- (b) the Proclamation of 14th October 1947 which applied the 1946 Act to the Falkland Islands,
- (c) the Proclamation of 13th November 1947 which amended the 1870 Act in its application to the Falkland Islands under the Proclamation mentioned at (a) above,
- (d) the Proclamation of 20th December 1968 which applied parts of the 1967 Act to the Falkland Islands,
- (e) the Proclamation of 30th September 1970 which applied parts of the 1969 Act to the Falkland Islands, and
- (f) the Proclamation of 11th April 1979 which amended the 1870 Act in its application to the Falkland Islands;

"the relevant 1987 provisions" means section 2 to 11 inclusive, and 13, 23 and 24 of the Currency Ordinance 1987, so far as those provisions relate to coins;

"the revoking Proclamation" means the Proclamation made by Her Majesty on 1st November 1989 revoking the Currency Proclamations in their application to the Falkland Islands.

3. Notwithstanding the making and publication of The Currency Ordinance 1987 (Commencement Order) 1987 ("the Order") in relation to the whole of The Currency Ordinance 1987, the relevant 1987 provisions shall be deemed never to have come into force, and the Order shall be deemed to have had no effect in relation to the relevant provisions.

Certain provisions of the Currency Ordinance 1987 to be deemed not to have come into force.

4. (1) The relevant 1987 provisions shall come into force on such date as the revoking Proclamation comes into force in the Falkland Islands.

Relevant provisions to come into force when revoking Proclamation published.

(2) Section 1 of the Currency Ordinance is amended by inserting before the words "This Ordinance" the words "Subject to section 4(1) of The Currency Laws (Rectification) Ordinance 1989";

5. No person shall be personally liable in respect of anything done or authorised by him in accordance with the relevant 1987 provisions prior to the coming into operation of this Ordinance if he would have not been so liable —

- (a) had this Ordinance not been enacted; and
- (b) had the relevant 1987 provisions at the time in question in no way been invalid.

Ref: TRE/10/11.



Passed by the Legislature of the Falkland Islands this 6th day of December 1989.

P. T. KING,  
*Clerk of Councils.*

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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  
20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

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## SUBSIDIARY LEGISLATION

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### EDUCATION The Education Ordinance 1989 (Section 79)

#### The Education Regulations 1989 (S.R. & O. No. 32 of 1989)

Made: 20th December 1989

Published: 22nd December 1989

Coming into operation: 1st January 1990

IN EXERCISE of my powers under section 79 of the Education Ordinance 1989, I make the following Order —

- |  |   |
|--|---|
| <p>1. This Order may be cited as the Education Regulations 1989 and come into operation on 1st January 1990.</p>   | <p>Citation and Commencement.</p>                       |
| <p>2. The Regulations set out in the Schedule below are made for the purposes of the Education Ordinance 1989.</p> | <p>Regulations.</p>                                     |
| <p>3. The Schools Regulations 1967 are revoked.</p>  | <p>Revocation of 1967 Regulations. (No. 6 of 1987).</p> |

#### SCHEDULE

- |   |  |
|---|--|
| <p>Hours of tuition.</p>                      | <p>1. (1) The hours of tuition at Government schools shall be such as the Director determines.</p> <p>(2) The Director may determine different hours in respect of different classes at Government schools.</p> <p>(3) The hours of tuition at recognised schools shall be such as the Director may approve, and different hours may be approved in respect of different recognised schools and different classes at such schools.</p>   |
| <p>Register of attendance.</p>                | <p>2. (1) The teacher in charge of any class at a Government School shall register the attendance of pupils in accordance with this paragraph.</p> <p>(2) Where there are morning and afternoon sessions of the class on any day, the attendance of pupils shall be separately recorded in respect of each session.</p> <p>(3) Attendances and absences of pupils shall be recorded in a register approved by the Director.</p> <p>(4) A pupil who is not present in class before the expiration of fifteen minutes after the commencement of a session of his class shall be recorded as absent unless he is not present at that time, and attends at a later time in the session, for a reason other than unpunctuality accepted by the teacher in charge of the class as being good and sufficient.</p> <p>(5) Where there is good and sufficient reason for the non-attendance of a pupil in class known to the teacher in charge of that class he shall insert in the register a note of that reason.</p> |
| <p>Production of registers of attendance.</p> | <p>3. The teacher in charge of any class shall produce the register of attendance to the head teacher of the school whenever required so to do, and</p>  |

shall also so produce it to the Director or any person authorised by the Director.

#### Exclusion of pupils.

4. (1) No child shall be excluded from attendance in the class of a Government school in which he is a pupil unless the head teacher has authorised him to be excluded from it.

(2) A pupil may only be excluded from class because —

- (a) of persistent indiscipline or disruptive behaviour in class;
- (b) he is suffering from some communicable disease and it would be prejudicial to the health of the other pupils in that class for him for the time being to attend in that class;
- (c) he is seriously unclean in person or clothing;
- (d) of an assault or other criminal behaviour in class.

(3) Whenever a pupil is, for any reason, excluded from class the head teacher or the Director shall as soon as possible cause the pupils parents or guardian or one of them to be notified of that exclusion, the reason or reasons for his exclusion, and the duration of such exclusion.

#### Non-attendance.

5. (1) Whenever a pupil who is a registered pupil at a Government school —

- (a) fails to attend in class on three consecutive days, and
- (b) the head teacher is not aware of some good and sufficient reason for his non-attendance,

the head teacher shall cause the parents or guardian of the pupil to be notified of the pupil's non-attendance and shall require the parents or guardian to notify him of any reason known to the parents or guardian for that non-attendance.

(2) If a pupil is persistently late in attendance in class, the head teacher shall cause the parents or guardian of that pupil to be notified of that fact.

(3) This paragraph has effect without prejudice to section 22 of the Ordinance.

#### Damage to or loss of property.

6. The parents or guardian of any pupil may be required by the head teacher to pay for the cost of any damage or loss to the school premises books or materials caused by the neglect or wanton behaviour of that pupil. This paragraph extends to any books or materials that the pupil is permitted to borrow or take away from the school.

#### Contribution towards cost of materials.

7. (1) The parents or guardian of any pupil may be required to pay a contribution of up to one half of the cost of materials used in the instruction of subjects of a practical nature beyond those strictly required for the purposes of instruction.

(2) No requirement may be made under sub-paragraph (1) unless the parents or guardian have consented in advance to the provision of the excess materials concerned.

#### Extra-curricular activities.

8. (1) Pupils at any Government school may be permitted to take part in extra-curricular activities (such as hobbies, games, school clubs and the like) organised by or in connection with the school, outside the usual hours of tuition.

(2) No pupil shall be required to take part in activities to which sub-paragraph (1) relates and such participation shall be regarded as a privilege and not as a right.

(3) A pupil shall not be permitted to take part in any extra-curricular activity to which his parents or guardian may have objected.

(4) A pupil may be excluded from an extra-curricular activity on any ground from which he might be excluded from class.

Sport, physical education  
and swimming.

9. (1) There may be provided, during the ordinary hours of tuition, opportunities for pupils to take part in sport, physical education and swimming and all pupils may be permitted to take part in such activities unless, in relation, to a particular activity, and subject to sub-paragraphs (2) and (3) in relation to a particular pupil, his parents or guardian have objected to his taking part.

(2) Participation in an activity to which sub-paragraph (1) relates is subject to the parents or guardian of the pupil having provided him with suitable clothing or costume and, where appropriate, foot gear and other equipment for him to take part.

(3) A pupil may be excluded from an activity to which sub-paragraph (1) relates —

- (a) if he may be a source of danger to himself and others;
- (b) that activity is not provided for pupils of his gender; or
- (c) for any reason in respect of which he may be excluded from class.

School rules.

10. The head teacher of a Government school may make such rules in relation to the conduct of pupils at the school and as to the use of books, material and equipment belonging to the school as are in his opinion, reasonable and pupils at the school shall conform with those rules.

Punishment.

11. (1) A pupil at a Government school may be punished at school —

- (a) for breach of the school rules;
- (b) for misbehaviour or indiscipline at school;
- (c) for inadequate application to school work, having regard to his ability

(2) Punishment may consist of —

- (a) withdrawal of privileges;
- (b) detention; or
- (c) being required to undertake some task, in class or about the school premises during the hours of tuition;
- (d) corporal punishment.

Withdrawal of privileges.

12. A pupil may as a punishment be excluded from participation for a reasonable period from —

- (a) extra-curricular activities;
- (b) activities to which paragraph 9 relates.

Detention.

13. (1) A pupil in a class above the infant classes may be punished by being detained after the end of ordinary school hours —

- (a) in the case of a pupil under the age of eleven years until not later than thirty minutes after the end of those hours; and
- (b) in the case of a pupil over the age of eleven years until not later than one hour after the end of those hours.

(2) Detention shall be supervised by a teacher at the school at which the pupil attends. During a period of detention a pupil may be required to undertake a task in or about the school premises.

Tasks.

14. No pupil shall be required as a punishment to undertake any task which is unsuitable for him by reason of his physique, age or academic aptitude.

Corporal punishment.

15. (1) Section 66 of the Ordinance applies in respect of corporal punishment.

(2) The Director shall cause the effect of section 66 of the Ordinance to be notified in writing to the parents or guardian of every male pupil of or above the age of eleven years --

- (a) immediately before that pupil's entry into the Senior School; or
- (b) as soon as possible after he attains the age of eleven years if the pupil is a pupil at the Junior School.

Made this 20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

Ref: LEG/10/75.

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EXPLANATORY NOTE  
(not part of the above Order)

The Regulations contained in the Order replace from 1st January 1990 the Schools Regulations 1967.

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## SUBSIDIARY LEGISLATION

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### FISHERIES

#### The Fisheries (Conservation and Management) Ordinance 1986

(section 20)

#### The Fishing Regulations (Amendment) Order 1989

(S.R. & O. No. 33 of 1989)

Made: 20th December 1989

Published: 22nd December 1989

Coming into operation: 1st January 1990

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 and of all other powers me enabling in that behalf I make the following Order —

- |  |  |
|--|--|
| <p>1. This Order may be cited as the Fishing Regulations (Amendment) Order 1989.</p>   | <p>Citation and commencement.</p>  |
| <p>2. In this Order —</p> <p style="margin-left: 40px;">(a) “the principal Regulations” means the Fishing Regulations 1987; and</p> <p style="margin-left: 40px;">(b) “the Inshore Fishing Regulations” means the Inshore Fishing Regulations 1988;</p> <p style="margin-left: 40px;">(c) “the Fishing Licences Regulations” means the Fishing Licences (Applications and Fees) Regulations (No.2) Order 1989.</p> | <p>Interpretation.</p> <p style="margin-left: 40px;">(S.R. &amp; O. No.24 of 1987)</p> <p style="margin-left: 40px;">(S.R. &amp; O. No. 16 of 1988)</p> <p style="margin-left: 40px;">(S.R. &amp; O. No. 26 of 1988)</p> |
| <p>3. (1) The principal Regulations are amended in the manner specified in Part I of the Schedule below.</p> <p style="margin-left: 40px;">(2) The Inshore Fishing Regulations are amended in the manner specified in Part II of the Schedule below.</p> <p style="margin-left: 40px;">(3) The Fishing Licences Regulations are amended in the manner specified in Part III of the Schedule below.</p>             | <p>Amendment of Regulations.</p>   |

### SCHEDULE

(paragraph 5)

#### Part I

#### *(Amendment of the principal Regulations)*

1. Paragraph (a)(ii) of Schedule 1 to the principal Regulations (Fishing Licence - General Conditions) is revoked and replaced by the following subparagraph —

“(ii) The licence shall not extend, unless it otherwise states to the internal waters of the Falkland Islands or such parts of the territorial sea of the Falkland Islands as lie within three nautical miles of the baseline from which such territorial sea is measured.”

## Part II

*(Amendment of the Inshore Fishing Regulations)*

Article 2(1) of the Inshore Fishing Regulations (application of Regulations) is revoked and replaced by the following subparagraph —

“(1) Subject to paragraph (3) below, these Regulations apply to all parts of the fishing waters of the Falkland Islands as lie within three nautical miles of the baseline from which the territorial sea of the Falkland Islands is measured and to the internal waters of the Falkland Islands.”

## Part III

*(Amendment to Fishing Licence Regulations)*

The Fishing Licence Regulations are amended

- (a) by deleting the word “and” appearing at the end of the definition of “the fishing season” in regulation 3; and
- (b) by deleting the full stop at the end of the definition of “the principal Regulations” appearing in regulations 3 and replacing that full stop by a semi colon and the word “and”;
- (c) by inserting, immediately at the end of regulation 3 the following new definition —  

“a rotating licence” means a licence granted under provisions of regulation 7A below;
- (d) by inserting therein, immediately after regulation 7 the following regulation 7A —

“Rotating licences.

7A (1) The Director may, if he thinks fit, grant a licence in respect of one or more vessels in rotation for one another.

(2) Where a licence is granted under paragraph (1) the Director shall impose such conditions in the licence as are necessary to make clear and ensure —

- (a) that only one vessel is permitted to fish within the fishing waters at any one time;
- (b) that proper and adequate notice is given to him of the intention to substitute one vessel for another and that any vessel previously permitted to fish in the fishing waters has ceased to do so before another vessel is permitted to commence fishing;
- (c) that all and any other conditions specially necessary to promote the proper conservation and management of fish within the fishing waters appear therein.

(3) The Director may require that an administrative fee of such amount as he may fix in the circumstances of the case shall be paid before one vessel is substituted for another under a rotating licence.

(4) A rotating licence is not transferable except as expressly permitted thereby.”

- (e) The formula appearing in Table 2 to the Schedule is amended by the insertion after the figures “120,000” of the following —

"but where the licence is granted as a rotating licence is the result of —

$(.7 \times GT (S + 1.5D) + 120,000 \times \text{the number of fishing days permitted by the licence} \times 1.1324) \text{ divided by } 92."$

Made this 20th day of December 1989.

W. H. FULLERTON,  
*Governor.*

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

On 1st January 1990 the territorial sea of the Falkland Islands will be twelve nautical miles from the baseline from which the territorial sea is measured. At present fishing licences must exclude the territorial sea from the licence. The effect of the amendments to the principal Regulations and the Inshore Fishing Regulations made by the Order is that, subject to the conditions of the particular licence, the licensee may fish in those parts of the territorial sea which are more than three nautical miles from the baseline.

The amendments to the Licence Regulations enable vessels to be licensed in rotation to fish under Squid North licences. No provision for fees for rotating licences for other types of licences is made by the Order and this would be required before they could be granted.



## RESOLUTION OF THE LEGISLATIVE COUNCIL

RESOLVED by the Legislative Council on the 6th day of December 1989, on a motion proposed by the Honourable the Chief Executive and seconded by the Financial Secretary, as follows —

'That this House notes the contents of the Report by Mr. Stewart Boyd, Q.C., into the affairs of Seamount Ltd'

P. T. KING,  
*Clerk of Councils.*

## RESOLUTION OF THE LEGISLATIVE COUNCIL

RESOLVED by the Legislative Council on the 6th day of December 1989, on a motion proposed by the Honourable T. J. Peck, M.B.E., C.P.M., and seconded by the Honourable R. E. Binnie, as follows —

'That the Standing Rules and Orders of the Legislative Council be amended by deleting Standing Orders 41 and 42 and by replacing them with the following Standing Order —

"Standing Finance  
Committee.

41. (1) There shall be a Standing Finance Committee consisting of the Financial Secretary and all elected members of the Legislative Council.

(2) The Financial Secretary shall be the Chairman of the Committee.

(3) The Chairman and four other members shall constitute a quorum of the Committee. No business, save adjournment of the Committee shall be transacted if a quorum be not present.

(4) The Chairman shall not vote on any matter before the committee save that, if there would otherwise be an equality of votes on any matter he shall have, and shall exercise, a casting vote.

(5) The functions of the Committee are to consider —

- (a) any request for the provision of funds additional to those already appropriated by Ordinance;
- (b) any Financial reports submitted by the Financial Secretary;
- (c) any other financial matters referred to it by the Governor for consideration.

(6) The Committee shall meet when determined by the Chairman, but shall ordinarily meet at a convenient time following every Executive Council meeting; provided that the Chairman shall convene a meeting within seven days of receipt in writing of a request so to do, signed by three elected members of Legislative Council.

(7) The person appointed by the Financial Secretary shall be the Secretary of the Committee and minutes of all meetings of the Committee and of all business transacted by it shall be kept by him and a copy thereof shall be sent to all members of the Committee. The minutes of any meeting shall be approved and confirmed, subject to any amendments then made, at the next succeeding meeting of the Committee.

(8) It shall not be necessary for the Committee to report to the Legislative Council unless any elected member of the Council, by not less than 14 days written notice prior to a meeting of the Council to the Clerk, calls for a report. In any such case a report of the Committee's meetings and transactions shall be laid upon the table in the Legislative Council at its next succeeding meeting and shall be received without debate unless a motion, duly proposed and seconded by an elected member calls for the report to be debated."

P. T. KING,  
*Clerk of Councils.*