

# THE FALKLAND ISLANDS GAZETTE

## (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCIX

11th JANUARY 1990

No. 1

## NOTICE

No. 1

11th January 1990.

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 Thursday, the fifteenth day of February 1990, 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Tenth day of January 1990.

Andrew Dey, Liquidator.





## THE FALKLAND ISLANDS GAZETTE

## PUBLISHED BY AUTHORITY

Vol. XCIX

31st JANUARY 1990

No. 2

## **Appointments**

Mrs. Moira Cameron Eccles, Clerk, Public Service, 14.8.89.

Miss Paula Pole-Evans, Clerk, Public Service, 10.11.89.

David Campbell Graham, Senior Fisheries Officer, Fisheries Department, 1.1.90.

Jonathon Andrew Clark, Senior Fisheries Officer, Fisheries Department, 1.1.90.

Miss Susan Daniella Watson, Clerk, Public Service, 3.1.90.

Miss Sandra Georgine Clark, Teacher, Education Department, 9.1.90.

Graham Brian France, Building Control Officer, Public Works Department, 9.1.90.

Miss Alison Edith Early, Teacher, Education Department, 16.1.90.

Miss Diana Joy Ross Riach, Teacher, Education Department, 18.1.90.

## Acting Appointments

Arthur John Barton, Acting Director of Fisheries, Fisheries Department, 8.7.89-31.12.89.

Mrs. Carol Wendy Teggart, Acting Broadcasting Officer, Broadcasting Department, 14.1.90.

## Promotion

Arthur John Barton, from Deputy Director of Fisheries, Fisheries Department to Director of Fisheries, Fisheries Department, 1.1.90.

Len Stanford McGill, from Constable, Falkland Islands Police Force, to Detective Sergeant, Falkland Islands Police Force, 1.1.90.

## Completion of Contract

Robin William Simpson Bell, Permanent Staff Officer, Falkland Islands Defence Force, 14.1.90.

Miss Lynette Ann Hepworth, Teacher, Education Department, 23.1.90.

## Retirement

George Malcolm, Engineman, Public Works Department, 27.1.90.

## Resignation

Mrs. Patricia Carol Ann Pratlett, Houseparent, Education Department, 2.1.90.

Anthony Thomas Sykes, Senior Plumber, Public Works Department, 12.1.90.

## Termination of Employment

Charles Robert Longley, Police Constable, Falkland Islands Police Force, 15.12.89.

## NOTICES

## Customs Ordinance (Cap. 16)

In excercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby appoint —

Sgt. R.J. STEVENS, R.A.F.

to be a Temporary Customs Officer with effect from 19th January, 1990 to 19th May, 1990.

L. J. HALLIDAY, Collector of Customs.

31st January 1990.

## Road Traffic Ordinance

(Cap. 60)

## Road Traffic (Provisional) Regulations Order 1986

(Regulation 16(2))

IN EXERCISE of my powers under Regulation 16(2) of the Road Traffic (Provisional) Regulations Order 1986 I designate Police Constable Didlick of the Falkland Islands Police Force as the Inspecting Officer for the purposes of the Regulations.

Dated Fifth day of October 1989.

R. SAMPSON, Chief Executive.

## In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

IN THE MATTER OF JAMES SAMUEL BROWNING, deceased, of Stanley, Falkland Islands, who died at Stanley on the 26th day of September 1989, intestate. WHEREAS Roy Clifton has applied for letters of administration with the 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 Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

S. HALFORD, Registrar.

Stanley, Falkland Islands. 14th September 1988 PRO/4/90

No. 3

31st January 1990.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - SNZ 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 Wednesday, the twenty-eighth day of February 1990, 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 January 1990.

Andrew Dey, Liquidator.

## 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 the Order of the Supreme Court of the Falkland Islands dated 4th January 1990 confirming the reduction of the capital of the 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 and the cancellation of the unissued 3,900 Ordinary shares and the minute approved by the Court showing with respect to the share capital of the Company as altered, the several particulars required by the above Act were registered by the Registrar of Companies on 4th January 1990.

Dated this 5th day of January 1990.

C & P H CHALMERS, 44 John Street, Stanley. Solicitors for the Company.



## BY THE QUEEN

## A PROCLAMATION

REVOKING THE APPLICATION OF THE COINAGE ACTS 1870 TO 1946 AND THE DECIMAL CURRENCY ACTS 1967 AND 1969 TO OUR COLONIES OF THE BRITISH ANTARCTIC TERRITORY, THE FALKLAND ISLANDS AND SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS.

## ELIZABETH R.

We, in exercise of the powers conferred by Section 11 of the Coinage Act 1870, section 3(3) of the Decimal Currency Act 1969, and of all other powers enabling us in that behalf, do hereby, by and with the advice of Our Privy Council, proclaim, direct and ordain as follows —

- 1. In this Proclamation, "territory" means, severally, the British Antarctic Territory, the Falkland Islands and South Georgia and the South Sandwich Islands.
- 2. This Proclamation shall be published in the Official Gazette of each territory and shall come into force when it is published in the Official Gazette of that territory.
  - 3. The Proclamations listed in the Schedule hereto are hereby revoked in their application to the territories.

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

## **SCHEDULE**

- 1. Her Majesty Queen Victoria's Proclamation dated the 3rd day of February 1898 applying certain parts of the Coinage Act 1870 to certain British Possessions.
- 2. His Majesty King George the Sixth's Proclamation dated the 13th day of October 1947 applying certain parts of the Coinage Act 1946 to certain British Possessions.
- 3. His Majesty King George the Sixth's Proclamation dated the 13th day of November 1947 amending the Coinage Act 1870 as applied to certain British Possessions.
- 4. Our Proclamation dated the 20th day of December 1968 directing that certain parts of the Decimal Currency Act 1967 be applied to Gibraltar and the Falkland Islands.
- 5. Our Proclamation dated the 30th day of September 1970 directing that certain parts of the Decimal Currency Act 1967 be applied to the Dependencies of the Falkland Islands and the British Antarctic Territory.
- 6. Our Proclamation dated the 30th day of September 1970 directing that certain parts of the Decimal Currency Act 1969 be applied to the Falkland Islands, the Dependencies of the Falkland Islands and the British Antarctic Territory.
- 7. Our Proclamation dated the 11th day of April 1979 modifying the application of the Coinage Act 1870 to the Falkland Islands.

GOD SAVE THE QUEEN



# THE FALKLAND ISLANDS GAZETTE

## **PUBLISHED BY AUTHORITY**

Vol. XCIX

28th FEBRUARY 1990

No. 3

## **Appointments**

Simon Andrew Nicholson, Scientific Officer, Fisheries Department, 27.7.89.

Derek Robert Thomas Rozee, Senior Filtration Plant Operator, Public Works Department, 7.9.89.

William Harvey, Trainee Filtration Plant Operator, Public Works Department, 5.10.89.

Eddie Anderson, Pilot, Falkland Islands Government Air Service, 29.11.89.

Mr Paul Julian Williams, Police Constable, Falkland Islands Police Force, 18.12.89.

Mrs. Mandy Gail Heathman (nee' Harrod), Chief Nursing Officer, Medical Department, 22.12.89.

Mrs. Iris Dwenda Margaret Finlayson, Auxiliary Nurse, Medical Department, 1.1.90.

Miss Elizabeth Alice Marrow, Scientific Officer, Fisheries Department, 1.1.90.

Mrs. Jacqueline Joyce Hemingway, Health Visitor, Medical Department, 19.1.90.

John Rodney Tuckwood, Senior Plumber, Public Works Department, 1.2.90.

Mrs. Marilyn Grimmer, Settlement Teacher, Education Department, 1.2.90.

Gavin John Clifton, Police Constable, Falkland Islands Police Force, 5.2.90.

Rory Dominic Samuel Coward, Assistant Air Traffic Controller, Civil Aviation Department, 5.2.90.

Captain Robert Stanley May, Pilot, Falkland Islands Government Air Service, 6.2.90.

## Acting Appointments

Mrs. Mandy Gail Heathman (nee' Harrod), Acting Chief Nursing Officer, Medical Department, 20.5.89-21.12.89.

Miss Linda Margaret Lyse, Acting Chief Accountant, Treasury Department, 3.6.89-8.2.90.

Michael Luxton, Acting Deputy Financial Secretary, Treasury Department, 18.9.89-8.2.90.

Mrs. Carol Wendy Teggart, Acting Broadcasting Officer, Broadcasting Department, 14.1.90-19.2.90.

## Re-appointments

Miss Jacqueline Elizabeth Earnshaw, Nursing Sister/Midwife, Medical Department, 29.12.89.

Peter William Armitage, Veterinary Officer, 20.1.90.

## Completion of Contract

Mrs. Mandy Gail Heathman (nee' Harrod), Nursing Sister, Medical Department, 21.12.89.

Miss Jacqueline Elizabeth Earnshaw, Nursing Sister/Midwife, Medical Department, 28.12.89.

Peter William Armitage, Veterinary Officer, 19.1.90.

## Resignations

Paul Jonathan Robertson, Pilot, Falkland Islands Government Air Service, 5.2.90.

Miss Susan Daniella Watson, Clerk, Public Service, 12.2.90.

Mrs. Amy Rose Pole-Evans, Clerk, Public Service, 28.2.90.

## Termination of Appointment

Miss Denise Donnelly, Clerk, Public Service, 31.1.90.

## NOTICES

## APPLICATION FOR RESTURANT AND RESIDENTIAL LICENCES

In accordance with Section 7(1) of Licencing Ordinance

## Mrs Ann Reid

has applied for a resturant licence and a residential Licence in respect of the premises known as SPAR-ROWHAWK HOUSE, 7 Drury Street, Stanley.

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

J. BUCKLAND - JAMES, Financial Secretary.

Ref: 33/B/1.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - SJ 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 8.15 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - SJ 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 8.15 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

ANDREW DEY,
Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - Port Services 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 8.30 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

ANDREW DEY, Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - STANCAL 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 8.45 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - STANCO 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 9.00 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - AGS 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 9.15 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - FALKONVIEW 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 9.30 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.

## RESOLUTION OF THE LEGISLATIVE COUNCIL

RESOLVED by the Legislative council on the 15 February 1990, as follows -

'That this house appoints a Committee, with the following membership, to undertake an early revision of the Standing Rules and Orders of the House ---

Honourable H. T. Rowlands, C.B.E. Honourable G. M. Robson Honourable K. S. Kilmartin Attorney General Clerk of Councils'

> P T KING, Clerk of Councils.

## Wages Agreement

The following agreement has been reached between the Government, and the General Employees' Union. The agreement shall be effective for a period of six months from 1st January 1990 and shall apply to the hourly paid Union employees of Government in Stanley.

## 1. Basis of Wage Rates.

Wages shall be adjustable by negotiation except that any changes arising from fluctuations in the cost of living, except as provided below, shall be automatic and date from the first day of the month following the quarter to which a review relates.

In measuring the cost of living for the purpose of wage adjustments an average of the findings of the last four preceding quarters shall be used. If however in any quarter the index should exceed the average figure for the last four quarters by six points then the excess points will be taken into emmediate account for the Cost of Living Award. The award in respect of the excess Pionts will be adjusted as necessary, in future quarterly reviews of the cost of living.

For the period of this agreement adjustments in wages arising from automatic cost of living awards shall be at the rate of 100% under the Cost of Living Award Scheme and shall apply to all employees coming within the scope of the Agreement including apprentices and young labourers.

## (a) Craftsmen-Certificated

All Craftsmen shall be paid at the full basic rate and the following crafts shall be recognised —

Carpenters and joiners Masons
Blacksmiths Plumbers
Painters Electricians

Motor Mechanics Plant Mechanics/Fitters

The normal entry to a craft shall be by a full term of apprenticeship or the recognition of a man's qualifications by the Apprenticeship Board.

### (b) Craftsmen- Uncertificated

This describes a skilled employee who is engaged to undertake a craft but who has not completed a formal Apprenticeship or gained other qualifications recognised by the Apprenticeship Board.

## (c) Handyman

This terms includes those employees doing skilled or semi skilled work in one or more trades, but who have not served an apprenticeship nor have been recognised by the Apprenticeship Board.

## (d) Plant Operator

This term applies to any employee whose primary task is to operate mechanical plant.

Operators must have a valid H.G.V. Licence and be engaged in the proficient operation of one of the following items of plant: Crane; Landtrain or comet or Haulamatic or Foden; Wheeled or Tracked Backactor or F.E. Loader; Grader and Tracked Dozer. They must also be a P.W.D. approved operator of another item in the list.

All operators must be approved by the P.W.D. Mechanical Supervisor to operate plant. Their ability will be assessed by a P.W.D. Superintendent.

Operators who do not possess a valid H.G.V. licence or do not operate one of the listed items of plant cannot receive an hourly rate in the higher range of pay.

Operators who possess a valid H.G.V. licence and can only operate one of the listed items satisfactorily will be paid according to ability within the higher range of pay.

An operator showing proficiency may be given the chance to gain experience on other types of plant when suitable opportunities arise.

## 2. Prevailing Rates

Class	Hourly Rate
1. Certificated Craftsmen	3.81
2. Uncertificated Craftsmen	3.52
3. Apprentices *	
lst year	2.68
2nd year	2.80
3rd year	2.94
4th year	3.08
5th year	3.25

\* An apprenticeship should not commence before the 15th birthday.

4.	Handymen	(according to ability)	2.89-3.20
	•	· · · · · · · · · · · · · · · · · · ·	2.07 5.20

### 5. Labourers

Age	
15-16	2.52
16-17	2.62
17-18	2.72
18 and over	2.82

6. Plant Operators (according to ability) 2.89-3.20 and 3.23-3.52

The above hourly rates are minimum and employers may, if they so wish, offer higher rates, incentive bonuses, etc.

Casual Labour There is now no work which justifies a casual labour rate.

## 3. Extra Payments.

## (a) "Dirt" Money.

As a general guide, "Dirt" money should only be paid when the work in hand is substantially dirtier than the work which an employee is normally called upon to do. The following jobs automatically qualify for 19p per hour with a maximum of 40 hours per weektworking at the crushing plant; handling filtration plant chemicals, gas oil, tar or bitumen. In addition, the following jobs qualify for 32p per hour where it is agreed that the job is substantially dirtier than the employee is normally called upon to do:- handling cement in badly damaged bags; cleaning oil burners and chimney sweeping; cleaning blocked sewers; and such other jobs as may be approved by the Director of Public Works.

## (b) Hazardous Work.

Employees working on isolated structures, such as masts, at heights over 20 feet from the ground or where the structure jions the main roof of a building, shall be paid from 8p to 15p per hour according to the risk involved. This does not apply to work on properly erected scaffolding or on roofs where the work can be carried out from a position where the workman's feet are on a secured ladder.

## (c) Extra Skill or Responsibility.

- (i) Any employee specifically detailed to supervise the work of three or more other employees shall receive 25p per hour extra while taking this responsibility.
- (ii) Any labourer employed on semi skilled work which would normally fall to a Handyman (e.g. painting, fencing, concrete laying) shall receive pay as a Handyman while engaged on this work. The precise rate shall be fixed by the employer according to the nature of the work and the skill of the particular labourer so employed, This will also apply to tallymen.

## (d) Paint Spraying.

Employees engaged on paint spraying shall be paid 5p per hour extra and no other allowance.

### (e) Tool Allowance,

A Tool allowance of £18.00 per annum is payable at the commencement of each year to any craftsman or handyman who is required to provide his own tools and who has completed one years continuous service with his employer. This allowance will not be paid where the necessary tools to carry out the duties are provided by the employer. The tool allowance shall be adjusted annually to take into account cost of living awards made during the course of the last four quarters.

## 4. Working Hours.

The normal working hours shall be 40 hours per week made up as follows, provided that where an employee is absent during any period of a working week, without a medical certificate, or on local leave, and subject to the request of the employer and acceptance of the employee, may be permitted to work at the ordinary hourly rate on the following Saturday, provided that the hours worked on Saturday do not exceed the completion of a 40 hour week, when any balance would be paid at the overtime rate:-

Monday to Friday-07.30 a.m. to 4.30 p.m. with dinner break from noon till 1 p.m. A Refreshment break of fifteen minutes to be taken on site shall be allowed between 08.30 and 09.30 a.m., the precise time being laid down by the employer after consultation with employees.

Other hours of work may be laid down by mutual agreement between employers and employees, provided that the total number of hours does not exceed 40 per week.

### 5. Overtime.

(a) Overtime shall be paid for all hours worked outside normal working hours and overtime rates shall be as follows-

Time and a half.

- (i) Between the end of the normal day and midnight.
- (ii) From 6 a.m. to the start of the normal working day, provided that work did not start before 6 a.m.

## Double time.

- (i) between midnight and 6 a.m.
- (ii) From 6 a.m. to the start of the normal working day, if work commenced before 6 a.m.
- (iii) On Sundays and recognised Public Holidays.
- (iv) For meal Hours or parts thereof, if work continues through the normal working day without a full meal-hour break.
- (v) Double time rates shall also be paid during normal working hours if, exceptionally, an employee starts work before midnight and continues without a break into normal working hours. Double time rates shall then continue to apply until there is an (unpaid) break from work exceeding four hours, after which the normal rates will again apply.

## Stand-by Time

If a person is asked to turn out at week-ends he shall be paid stand-by time between the hours of 7.30 a.m. and 4.30 p.m. Stand-by time will cease as soon as work commences. Stand-by time will be paid at the rate of time and a half for Saturdays and double time for Sundays.

- (b) An unpaid meal hour shall be allowed at a reasonable time if overtime is expected to continue for more than two hours beyond normal finishing time, and a paid refreshment break of not more than fifteen minutes shall be allowed in each subsequent 4-hour period.
- (c) Overtime is voluntary and an employee shall not be dismissed if he objects to working outside normal working hours. However, certain jobs may require attendance at times outside the normal hours and in these cases employees shall be given the option of a 40-hour week by allowing time off during normal working hours, at a time to be agreed with the employer.

## 6. Public Holidays.

In addition to receiving double time for working on a public holiday employees shall be entitled to 8 hours holiday.

### 7. Holidays.

(a) Annual Holidays.

All employees shall be entitled to accumulate holidays at the rates and to the maximum hereinafter set out, namely —

Earning rate per month of continuous service
12 hours

Maximum acccumulation 400 hours

In the event of an employee terminating his service prior to the completion of the first six months of service he shall forfeit any holiday entitlement not taken.

Paid holidays may be taken at a time to be mutually agreed upon.

(b) Public Holidays.

These are days on which Government Offices are closed by notification in the Gazette and the following nine days shall be paid holidays for all employees:-

New Years day, Good Friday, The Queen's Birthday and Commonwealth Day, Liberation Day, October Bank Holiday, Anniversary of Battle of Falkland Islands, Christmas Day, Boxing Day, and one other day to coincide with the Annual Stanley Sports Meeting.

- (c) Any allowance or special rates earned on both the working day preceeding and the working day following the holiday shall be paid for the holiday.
- (d) When a dated holiday falls on a Saturday or a Sunday the next working day shall be the holiday.

## 8. Sick Pay.

- (a) Employees who have not completed three months service with their employer shall not be entitled to sick pay.
- (b) An employee shall be entitled to the following sick pay commencing on the first day of sickness upon the production of a medical certificate which states the sickness is not brought on by any fault of his own, but the periods listed below being limited to the total number of entitled weeks within a 52 week period from the first day of sickness
  - (i) Employees who have completed three month's service with their employer -

Full pay for the first three weeks.

Half pay for the fourth and fifth weeks.

(ii) Employees who have completed two years service with their employer —

Full pay for the first six weeks.

Half pay for the following twelve weeks.

(iii) Employees who have completed three years service with their employer —

Full pay for the first eight weeks.

Half pay for the following sixteen weeks.

- (c) Full pay shall be paid for any Public Holiday which falls during the first six weeks of sickness provided that the employee, when he has recovered, returns to work for the same employer.
- (d) The Workmens Compensation Ordinance shall apply in cases of sickness resulting from accidents at work. The Foreman and the Union Delegate must confirm in writing any accident at work.

## 9. Termination of employment.

Except in the case of misdemeanour, when an employee may be summarily dismissed, the following notice of termination of employment shall be given by both employer and employee —

(i) Employees who have completed ten years service with their employer -

One month's notice.

- (ii) Employees who have completed five years service with their employer —

  Two weeks' notice.
- (iii) All other employees -

### One weeks notice.

If desired employers may pay wages in (i), (ii) or (iii), as appropriate, in lieu of giving notice.

## 10. General.

- (a) When a party of employees is required to carry meals to their work, one employee shall be allowed reasonable time to heat meals for the rest of the party.
- (b) Individual employers may lay down the times when employees shall appear for their wages, provided that the payment is completed within normal working hours.
- (c) An official or delegation of a recognised union may, with the employers consent, attend at a job or shop at any time to interview workmen, but no meeting shall take place in working hours without the express permission of the employer. If a dispute arises, the employer or his nominee shall interview, by appointment, any official representative of his employees.
- (d) All employers shall display for the benefit of their employees copies of regulations and rules pertaining to wages and conditions of service of workers.
- (e) All employers shall ensure that tractors are fitted with safety cabs.

## 11. Redundancy.

In the event of employees becoming redundant through closure of employment or cutbacks in staff, employers should give three months notice of such cut-back or closure of employment. Employers should consult with F.I.G.E.U. in cases of impending redundancy. This clause to be in the agreement only until such time that there is local legislation on the subject of redundancy.

Ref: TRE/2/9.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

Vol. XCIX

6th MARCH 1990

PUBLISHED BY AUTHORITY

No. 4

No. 11

20th February 1990.

8357 number of Company

## The Companies Act 1948 Special Resolution

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

Port Services Limited.

Passed - 20th February 1990.

At an Extraordinary General Meeting of the members of the above-named Company duly convened and held at The Secretariat Stanley on 20th February 1990, the following Special Resolution was duly passed—"That the Company be wound up voluntarily, and that Andrew Dey of Consultancy Services Falklands Limited, 44 John Street, Stanley be and he is hereby appointed Liquidator(s) for the purposes of such winding-un"

Signature - Ronald Sampson.

Description - Chairman.

Presented by - Consultancy Services Falklands Limited, 44 John Street Stanley.

Presenter's Reference - Andrew Dey.

No. 12

22nd February 1990.

## Notice to Creditors to send in claims

Name of Company - Port Services Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the Sixteenth day of March 1990, 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 - 22nd February 1990.

No. 13

## 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 - Port Services Limited.

Nature of Business - Service Company.

Address of Registered Office - Old Transmitting Station, Stanley.

Liquidator(s) Name(s) and Address(es) - Andrew Dey, Consultancy Services Falklands Limited, 44 John Street, Stanley.

Date of Appointment - 20th February 1990.

By Whom Appointed - Special Resolution by Members at Extraordinary General Meeting.

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

Dated - 22nd February 1990.

Attested by - W. Somerville.

Description - Company Secretary.

No. 14

22nd January 1990

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - SDS Fishing 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 the Secretariat on Wednesday, the twenty-eighth day of March 1990, at 8.00 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty-second day of February 1990.

Andrew Dey, Liquidator.



## THE

## FALKLAND ISLANDS GAZETTE

## (Extraordinary)

## PUBLISHED BY AUTHORITY

Vol. XCIX

22nd MARCH 1990

No. 5

## COMMISSIONS OF INQUIRY ORDINANCE

(Cap. 12) (Section 2)

IN THE MATTER of an alleged collision on 20 February 1990 in Berkeley Sound between MV Blakeney and MV Cheog Yang 501 and the sinking on that date of the MV Blakeney

## AND

IN THE MATTER of a Commission of Inquiry into the foregoing matters and matters associated therewith.

## COMMISSION

IN EXERCISE of my powers under section 2 of the Commissions of Inquiry Ordinance, I, RONALD SAMPSON.

Acting Governor of the Falkland Islands, do issue this Commission and DO APPOINT

ROSE MARY MCILROY, DAVID CARDEN and RAYMOND GORBUTT, to be Commissioners to

- 1. Inquire into and report upon the circumstances and events giving rise to the collision between the MV Blakeney and the MV Cheog Yang 501 in Berkeley Sound on 28th February 1990 and the responsibility for that collision;
- 2. To make such recommendations as the Commissioners think fit as to any steps which should be considered with a view to avoiding any further occurrence of a similar nature or the improvement of the safety of navigation generally in local harbours;
- 3. Report further and otherwise as the Commissioners think fit.

## AND I DIRECT

- (a) That the said ROSE MARY MCILROY shall be Chairman of the said Commissioners;
- (b) that the inquiry be made in Port Stanley as soon as conveniently possible after the issuance hereof;
- (c) that the report be tendered in writing so soon as conveniently possible after the inquiry be completed;
- (d) that the inquiry be in public unless the Commissioners for some reason or reasons which they shall specify in their report otherwise determine in accordance with section 2 of the said Ordinance.

GIVEN under my hand and the Public Seal this 22nd day of March 1990.

RONALD SAMPSON, Acting Governor.



## THE

## FALKLAND ISLANDS GAZETTE

## PUBLISHED BY AUTHORITY

Vol. XCIX

30th MARCH 1990

No. 6

## **Appointments**

Mrs. Carol Wendy Teggart, Assistant Producer, Broadcasting Department, 1.11.89.

Mrs. Diana Dawn Growcock, Auxiliary Nurse, Medical Department, 1.2.90.

Raymond Gorbutt, Marine Officer, Fisheries Department, 9.3.90.

## Acting Appointment

Miss Jacqueline Elizabeth Earnshaw, Acting Chief Nursing Officer, Medical Department, 1.3.90.

## Re-Appiontments

Miss Loretta Isobel Thomas, Auxiliary Nurse, Medical Department 30.1.90.

Nigel Arthur Shorrock, Teacher, Education Department, 14.3.90.

## Promotion

Mrs. Moira Cameron Eccles, from Clerk, Public Service, to Senior Clerk, Treasury Department, 12.3.90.

## Transfer

Mrs. Madeline Jean McLeod, from Houseparent, Education Department, to Clerk/Agricultural Assistant, Department of Agriculture, 5.3.90.

## Completion of Contracts

Miss Loretta Isobel Thomas, Auxiliary Nurse, Medical Department, 2.12.89.

Philip Gareth Wooseman Edwards, Assistant Design Engineer, Public Works Department, 27.2.90.

Ronald McAthur, General Foreman, Public Works Department, 6.3.90.

Miss Wanda Anita Margaret Pawan, Teacher, Education Department, 12.3.90.

Nigel Arthur Shorrock, Teacher, Education Department, 13.3.90.

## Resignations

Colin George MacDonald, Engineman, Public Works Department, 2.3.90.

Stephen Leslie Burston, Police Constable, Falkland Islands Police Force, 9.3.90.

No. 15

21st February 1990.

## Prison 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 first day of January 1990

Made this 21st of February 1990.

W. H. FULLERTON,

No. 16

26th February 1990.

## Appointment of Acting Register General.

In the absence of Mrs. Sharon Halford, Registrar General, Mr. Robert Mark Titterington has been appointed Acting Registrar General with effect on and from 26th February 1990.

W. H. FULLERTON,

No. 17

5th March 1990.

The findings of the Cost of Living Committee for the quarter ended 31st December 1989 are published for general information —

Quarter Ended Percentage Increase over June 1989 Prices
31st December 1989 6.37%

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 January 1990.

Ref: INT/2/2

No. 18 29th March 1990.

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - A. L. Lee & Son 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 on Monday, the thirtieth day of April 1990, at 2.00 o'clock in the after 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Fifth day of March 1990.

ANDREW	DEY.
Liquida	tor.

No. 19

29th March 1990

## Notice to members of final meeting

## (members' voluntary winding-up)

Name of Company - A. L. Lee & Son 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 on Monday, the thirtieth day of April 1990, at 2.30pm o'clock in the after 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Fifth day of March 1990.

Andrew Dey, Liquidator. No. 20 29th March 1990.

## Ammendment of Standing Rules and Orders of the Legislative Council.

It is notified for general information that, in accordance with Section 40 of the Constitution, His Honour the Acting Governor has this day formally approved the changes to the Standing Rules and Orders of the Legislative Council held on 6 December 1989, relating to the Standing Finance Committee.

> P. T. KING, Clerk of Councils.

Ref: LEGCO/10/3.

No. 21

22nd March 1990.

Harbour Developments Limited

(Co No: 8284)

s. 353 of the Companies Act 1948 in its application to the Falkland Islands

Take Notice that I am satisfied that Harbour Developments Limited has not traded since its incorporation on 18th September 1987.

Unless any person shows cause to the contrary the said company shall be struck off the Falkland Islands Company Register three months after the date of the publication of this Notice in the Falkland Islands Gazette.

Transmitting Station, Stanley.

R. M. TITTERINGTON, Acting Registrar General.

No. 22

22nd March 1990.

Standal Limited

(Co. No: 8148)

s.353 of the Companies Act 1948 in its application to the Falkland Islands

Take Notice that I am satisfied that Standal Limited has not traded since its incorporation on 15th January 1987.

Unless any person shows cause to the contrary the said company shall be struck off the Falkland Islands Company Register three months after the date of the publication of this Notice in the Falkland Islands Gazette.

R. M. TITTERINGTON, Acting Registrar General.

Transmitting Station, Stanley.

## In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF ETHEL MARY FERGUSON, deceased of Stanley, Falkland Islands, who died at Stanley on the 27th day of December 1989, intestate.

WHEREAS Mary Ann Helen Jennings, daughter of the deceased 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 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.

R. M. TITTERINGTON, Acting Registrar General.

Stanley, Falkland Islands, 9th March 1990. Ref: PRO/5/90.



## THE

## FALKLAND ISLANDS GAZETTE

## (Extraordinary)

## PUBLISHED BY AUTHORITY

Vol. XCIX

16th APRIL 1990

No. 7

No. 23

30th March 1990.

## 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 - Stankor Limited.

Nature of Business - Fishing Company.

Address of Registered Office - Old Transmitting Station, Stanley.

Liquidator(s) Name(s) and Address(es) - Andrew Dey, Consultancy Services Falklands Limited, 44 John Street, Stanley.

Date of Appointment - 30th March 1990.

By Whom Appointed - Special Resolution of Company.

Signature(s) Andrew Dey (Liquidator(s)).

Dated - 5th April 1990.

No. 24

30th March 1990.

8136 number of Company

## The Companies Act 1948 Special Resolution

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

Stankor Limited.

Passed - 30th March 1990.

At an Extraordinary General Meeting of the above-named Company duly convened and held at The Secretariat Stanley on 30th March 1990, the following Special Resolution was duly passed —

"That the Company be wound up voluntarily, and that Andrew Dey of Consultancy Services Falklands Limited, 44 John Street, Stanley 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, 44 John Street, Stanley.

Presenter's Reference - Andrew Dey.

No. 25

5th April 1990.

## Notice to Creditors to send in claims

Name of Company - Stankor Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the Twentieth day of April 1990, 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 - 5th April 1990.



# THE FALKLAND ISLANDS GAZETTE

## PUBLISHED BY AUTHORITY

Vol. XCIX

30th APRIL 1990

No. 8

### Appointments

Miss Carryn Rose Yon, Assistant Teacher, Education Department, 5.3.90.

Robin William Simpson Bell, Police Constable, Falkland Islands Police Force, 12.3.90.

Mrs. Vera Joan Bonner, Clerk, Justice Department, 28.3.90.

## Acting Appointment

Miss Jacqueline Elizabeth Earnshaw, Acting Chief Nursing Officer, Medical Department, 1.3.90. - 9.4.90.

## Promotion

David James Lewis, from Houseparent, Education Department, to Senior Houseparent, Education Department, 1.3.90.

## Renewal of Contracts

Miss Lynnette Ann Hepworth, Travelling Teacher, Education Department, 3.4.90.

Patric Murray Lurcock, Computer Technician, Fisheries Department, 6.4.90.

## Completion of Contracts

Patric Murray Lurcock, Computer Technician, Fisheries Department, 24.2.90.

Miss Sandra Leigh Picone, Travelling Teacher, Education Department, 4.4.90.

Miss Lesley Anne Courtney, Travelling Teacher, Education Department, 4.4.90.

## Resignations

Mrs. Katrina Stephenson, Clerk, Public Service, 31.8.89. Henry Edward Bustin, Environmental Health Officer, Medical Department, 11.10.89.

## NOTICES

No. 26

20th April 1990.

The findings of the Cost of Living Committee for the quarter ended 31st March 1990 are published for general information —

Quarter Ended

Percentage Increase over June 1989 Prices

31st March 1990

7.38%

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 April 1990.

The Notices Listed below which appeared in the Falkland Islands Gazette on 28th February 1990 have been allocated the notice numbers as indicated below —

Port Howard Farm - No. 4

Final Meeting (SJS Fisheries Limited) - No. 5

Final Meeting (Port Services Limited) - No. 6

Final Meeting (Stancal Limited) - No. 7

Final Meeting (Stanco Limited) - No. 8

Final Meeting (AGS Limited) - No. 9

Final Meeting (Falconview Limited) - No. 10

## In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

TAKE NOTICE THAT, Isabella Jane Poole deceased, of Stanley, Falkland Islands, died at Stanley on the 21st day of November 1989, intestate.

WHEREAS I the undersigned Evelyn Edna Halliday, step-daughter of the deceased have 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.

> E. E. HALLIDAY, Applicant.

Stanley, Falkland Islands. 21st March 1990. PRO/5/90.



# THE FALKLAND ISLANDS GAZETTE

## **PUBLISHED BY AUTHORITY**

Vol. XCIX

31st MAY 1990

No. 9

## **Appointments**

Mrs. Jennifer Anne Cox, Legal/Personal Assistant, Attorney General's Chambers, 19.12.89.

Melvyn John Lloyd, Engineman, Power Station, Public Works Department, 7.3.90.

Robert James Hancox, General Foreman/Engineer, Public Works Department, 1.5.90.

Ralph Aaron Harris, Mechanic, Public Works Department, 17.5.90.

## Acting Appointment

Mrs. Eileen Wynne Davies, Acting Establishments Secretary, Secretariat, 7.3.90. - 17.5.90.

## Promotion

Mrs. Julie Courtney, from Houseparent to Senior Houseparent, Education Department, 1.4.90.

## Renewal of Contracts

Peter Burnard, Teacher, Education Department, 13.4.90.

Mrs. Joyce Shorrock, Teacher, Education Department, 4.5.90.

## Completion of Contracts

Peter Burnard, Teacher, Education Department, 12.4.90.

Mrs. Joyce Shorrock, Teacher, Education Department, 3.5.90.

## Resignations

David Slaven Hazell, Police Constable, Falkland Islands Police Force, 30.4.90.

Mrs. Trudi Eileen Felton Hazell, Woman Police Constable, Falkland Islands Police Force, 30.4.90.

## NOTICES

No. 27

1st May 1990.

## Stanley Rates Assessment Committee

NOTICE IS HEREBY GIVEN that, in accordance with Section 18 of the Stanley Rates Ordinance 1973, as amended, His Excellency the Governor has appointed The Honourable G. P. Short, in his capacity as Chairman, General Employees Union, to be a member of the Stanley Rates Assessment Committee to replace Mr. T. S. Betts with effect from 24th April 1990.

The present membership of the Committee is as follows —

Director of Public Works - Chairman

Deputy Financial Secretary - Secretary

Mrs. V. Malcolm, B.E.M. - Member

Mr. W. E. Bowles - Member

The Honourable G. P. Short - Member

Ref: TRE/2/20.

No. 28

14th May 1990.

It is notified for general information that His Excellency the Governor has, under the powers conferred by Section 54(1) of the Public Health Ordinance, been pleased to appoint the following persons to serve as the Hospital Visiting Committee for a period of one year with effect from 1st May 1990 —

The Honourable Mrs. Norma Edwards (Chairperson)

Mr. A. B. Hadden

The Secretariat, Stanley.

Ref: MED/19/2.

No. 29

21st May 1990

## Resolution of the Legislative Council No. 2 of 1990

RESOLVED by the Legislative Council on the 19th day of May 1990, on a motion by the Honourable the Chief Executive, as follows:

That this House notes the Report and Accounts for the period 1st January 1989 to 30th June 1989 of the Falkland Islands Development Corporation:

> P. T. King. Clerk of Councils.

## Appointment of Deputy F.I.P.A.S.S. Manager

In accordance with section 21(1) of the Falklands Interim Port and Storage System Ordinance 1989 I, RONALD SAMPSON, Chief Executive of the Falkland Islands Government

## HEREBY APPOINT -

RAYMOND GORBUTT to be DEPUTY F.I.P.A.S.S. MANAGER for the purposes of the said Ordinance

Given under my hand this 28th day of May 1990.

RONALD SAMPSON. Chief Executive.

## In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF ALBERT CHARLES JONES. deceased, of Stanley, Falkland Islands, who died at Norwich in the United Kingdom on the 21st day of December 1989, intestate.

WHEREAS John Hugh Jones, son of the deceased 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.

> J. Jones, Applicant.

Stanley. Falkland Islands. 9th April 1990 PRO/7/90.

## REGISTER OF ELECTORS - PRELIMINARY LIST

The Registration Officer has prepared the preliminary list of all persons who, on the qualifying date (15 May 1990), appear to be entitled to be registered as electors for the purposes of the Electoral Ordinance 1988. In accordance with Section 12 of the Ordinance, the Registration Officer has caused the preliminary list to be published in this edition of the Gazette.

Any person who claims that the name of a person entitled to be registered as a voter in the Falkland Islands, has been omitted from the preliminary list, should notify the Registration Officer (Justice Department, Town Hall, Stanley) of such claim in writing within 28 days of publication. Additionally, any person who wishes to object to the inclusion of a person whose name appears in the preliminary list, should notify the Registration Officer within 28 days of publication. The Registration Officer shall, upon receipt of any such claim or objection, subsequently determine the same in accordance with the provisions of the Electoral Ordinance 1988.

The preliminary list has been prepared from last years Electoral Register. The following is a summary of the deletions from and additions and alterations to last years list:

## Deceased Electors - Camp

Beattie, Betty

## Deceased Electors - Stanley

Betts, Alan Sturdee
Binnie, Malcolm George
Browning, James Samuel
Cletheroc, Daphne Harriet
Cletheroe, Lily Catherine
Ferguson, Ethel Mary
Kathleen Mary
Heathman

Heathman, Albert Stanley Kenneth

Jones, Albert Charles

Middleton, James
Peart, Rose Louisa
Perry, Christopher
Poole, Isabella Jane
Smith, Violet Catherine

## Electors who have changed Constituency - Camp to Stanley

Collins, Peter Anthony

Collins, Shiralee

Davis, Raymond Andrew Goss. Dorothy Ellen

Reid, Ann
Shepherd, Ramsay
Smith, Gwenifer May
Wallace, Michael
Wallace, Una

## Electors who have changed Constituency - Stanley to Camp

Alazia, Hazel Alazia, Henry John

Findlay, Bruce Murdock Goodwin, Neil Alexander William

MacDonald, Colin Geoge

MacDonald, Irene

Miller, Phillip Charles
Poole, Ella Josephine
Poole, Steven Charles

## Electors who are no longer resident - Camp

Barton, John David Butler, Ian Jeffrey Butler, Marilyn

Harvey, Beatrice Louisa Catherine

## Electors who are no longer resident - Stanley

Allan, Erwin
Armstrong, Jacqueline
Burston, Catherine
Burston, Stephen Leslie

Faria, Paul

Milne, Henry Millar

Milne, Madeline Marie Irma McGillivary, Carole Lynda Jane

McPhee, Gerald Ian Summers, Derek Raymond

Teale, Jeanette

## Electors who have changed name by deed poll or by marriage - Camp

None

## Electors who have changed name by deed poll or by marriage - Stunley

Crowie, Nichola Jane
Buckland, Darlene Joanna
Johnson, Jacqueline
Johnson, Vanda Joan
Luxton, Jennifer Mary
Middleton, Stephanie Anne

McLeod, Janice Pettersson, Trudi Ann

## Electors entitled to vote for the first time - Camp

Alazia, Keith

Blake, Thomas Patrick
Clarke, Shane Adrian
Jaffray, Derek Charles
Jaffray, Gerard Alan

McGhie, James

Newman, Jacqueline Elizabeth Phillips, Lindsay Marie

Short, Michelle Rose

Whitney, Tyrone

## Electors entitled to vote for the first time - Stanley

Anderson, Paul

Anderson, Sophie Marina
Butler, James Donald
Butler, Jonathon Jeffers

Cheek, Miranda

Clausen, Melanie Florence

Ford, Caroline
Ford, Gerard Allan
Jaffray, Janice Vanessa
Jaffray, John Summers
Newman, Andrew Raymond

Newell, Donna Phillips, Paul David

Pole-Evans, John

Watts, Lucinda Vikki

Electors and potential electors are advised that qualification for registration as an elector is governed by the provisions of Section 27 of the Constitution. This Section provides that, subject to certain exceptions, no person shall be qualified to be registered as a an elector unless, on the qualifying date for registration as such an elector —

- (a) he is a Commonwealth citizen;
- (b) he is eighteen years of age or over; and
- (c) he has been resident in the Falkland Islands during the qualifying period.

The "qualifying period" is prescribed at Section 4 of the Electoral Ordinance 1988, where the expression is expressed to mean —

- (a) in relation to a person who was born in the Falkland Islands, that he was resident in the Falkland Islands for a period of at least 12 months immediately preceding the qualifying date; and
- (b) in relation to a person who was not born in the Falkland Islands, that he was resident in the Falkland Islands for a period of at least 5 years immediately preceding the qualifying date.

It should be noted that certain periods of absence from the Islands are permitted when calculating periods of residency. A full definition of the meaning of "resident" is contained at Section 3 of the Electoral Ordinance 1988, which is reproduced for the benefit of electors:

- 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
  - (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 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;
  - subject to subsection (3) below, it was occasioned by an 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 of 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 with 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 Lutkland 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 dependent 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 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 —
  Stanley
  - (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 1 egislative 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.

## STANLEY CONSTITUENCY

## Register of Electors

1	Adams,	Annagret*	55	Bertrand,	Catherine Gladys*
2	**	Carol Margaret*	56	Betts	Donald William
3	**	John Harvey	57	**	Ellen Alma*
4	29.	Marjorie Rose	58	,,	George Winston Charles
5	Alazia,	Albert Faulkner*	59	,,	Lucia Elizabeth
6	**	Anita Jayne*	60	,,	Melody Christine
7	**	Charles*	61	,,	Shirley Rose
8	**	Freda	62	"	Terence Severine
9	,,	Freda Evelyn	63	Biggs,	Alastair Gordon
10	"	George Robert	64	DIKES,	
11	33	James Andrew	65	,,	Betty Josephine
12	,,	Maggie Ann*	66	,,	Edith Joan
13	"	Yvonne	67	,,	Frances
14	Aldridge,	Caroline Mary		**	Hilda Evangeline*
15	"	Kenneth John	68		Irene Mary
16	Almonacid	Gladys Mabel	69	,,	Kathleen Frances*
17	"	Orlando	70	,,	Leslie Frederick
18	Anderson,	Andrew Ronald*	71	,,	Madge Bridget Frances*
19	Anderson,	Eddie Kollaid	72	,,	Michael Elfed
20	"	Edward Bernard*	73	,,	Peter Julian Basil
21	,,	Elizabeth Nellie*	74	,,	Robert William
22	"	Gertrude Maud*	75	Binnie,	Michele Paula
23	**	Gloria	76	,,,	Susan
23	,,	Hector Christian*	77	Birminghar	
25	,,		78	,,	Susan Jane
	,,	Helen*	79	Blackley,	Candy Joy
26	,,	Jenny	80	"	Charles David*
27	,,	Marina Rose	81	,,	Hilda
28	,,	Mildred Nessie*	82	,,	Janet Agnes Mary*
29	,,	Paul*	83	**	John David
30		Richard Louis	84	Blizard,	Lawrence Gordon*
31	"	Ronald	85	**	Malvina Mary
32	**	Sophie Marina*	86	Blyth,	Agnes Ruth*
33	"	Stephen Robert*	87	"	Alfred John*
34	,,	Tony James	88	**	John*
35	Ashley,	Nora Phyllis*	89	Bonner,	Donald William*
36	Barkmen,	Margaret Mary	90	**	Hayley Trina
37	Barnes,	Ernest*	91	**	Linda Jane
38	**	Marie	92	,,	Nicholas
39	"	Molly Stella*	93	**	Paul Roderick
40	"	Sigrid Geraldine Wells*	94	**	Timothy
41	Barton,	Arthur John	95	,,	Vera Ann
42	Bennett,	Harold*	96	,,	Vera Joan
43	**	Lena Grace Gertrude*	97	,,	
44	Berntsen,	Christian Olaf Alexander*			Violet*
45	"	Diana Mary	98	Booth,	Jessie*
46	**	Gina Michelle	99	**	Joseph Bories*
47	,,	John Alexander	100	**	Myriam Margaret Lucia
	,,	Kathleen Gladys*	101	**	Stuart Alfred*
48	>1		102	Bound,	Graham Leslie
49	,,	Lavina Maud*	102	nound,	Joan*
50		Olaf Christian Alexander			
51	,,	Patrick	104	Bowles,	Norma Evangeline
52	27	Raymond	105	**	William Edward*
53	"	William Alexander	106	Bragger,	Edward Laurence
54	**	William Blyth*	107	,,	Olga
			.07		

108	Browning,	Althea Maria	166	Clasen,	Mally
109	,,	Edwina	167	Clausen,	Denzil George Gustavius*
110		Gavin	168	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Melanie Florence*
111	"	Rex	169	Clayton,	Susan
112	,,	Richard William	170	Cletheroe,	Kenneth Stanley
113	,,	Trevor Osneth	171	"	Stanley William*
114	Buckett,	Ronald Peter	172	"	William Harold*
115	Buckland,	Charles Ronald	173	Clifton,	Charles*
116	"	Darlene Joanne	174	,,	Darwin Lewis*
117	Bundes,	Robert John Christian*	175	"	Jessie Emily Jane*
118	Burns,	Mary Anne*	176	**	Neil*
119	Butcher,	Michael George	177	**	Stephen Peter
120	**	Trudi	178	**	Valerie Ann
121	Butler,	Elsie Maud*	179	Collins,	Peter Anthony
122	**	Ernest Joseph*	180	**	Shiralee
123	**	Frederick Lowther Edward Olai*	181	Connolly,	Kevin Barry
124	"	George Joseph	182	Coombe,	Peter
125	19	James Donald*	183	"	Shirley Anne
126	. **	Joan May	184	Coutts,	Carolynne
127	**	Jonathon Jeffers*	185	11	Charles
128	**	Lawrence Jonathan	186	"	Charles Lindsay*
129	**	Margaret Orlanda	187	**	John
130	,,	Orlanda Betty	188	**	Olga
131	,,	Sheila Olga*	189	**	Peter
		Martin Ronald	190	Crowie,	Nicola Jane
132	Cant,	Carol Rosine	191	Curtis,	Alfred William Hamilton
133		Denise	192	Cuitis,	Barbara Joan
134	Card,		193	Davies,	Anthony Warren
135	Сагеу,	Anthony Michael*	193	DEVICS,	Colin George
136	,,	Gladys*	194	,,	Jacqueline Nancy
137	**	Mary Ann Margaret*		Davis	Albert Henry
138		Terence James*	196	Davis,	
139	Cartmell,	Frederick James	197		Elsie Gladys Margaret*
140	Castle	David Peter	198	,,	Raymond Andrew
141	21	Isobel	199		William John*
142	Ceballos,	Claudette	200	Davy,	Patrick Alex Field
143	11	Eulogio Gabriel	201	Dickson,	Caroline Christine Bird*
144	Chater,	Annie	202	Down,	Janet
145	,,	Anthony Richard	203	,,	Robert William Michael
146	Cheek,	Diane*	204	Duncan,	Avis Marion*
147	**	Frederick John*	205	"	Doreen*
148	"	Gerald Winston	206	,,	William*
149	,,	Janet Linda*	207	Etheridge,	Alice Mary
150	**	John Edward*	208	Evans,	Derek Stanley
151	**	Marie	209	37	Gladys Alberta*
152	**	Miranda*	210	**	Michael David
153	Clarke,	Camilla Marie	211	"	Richard Gregory*
153	Claike,	Derek Simon*	212	Eynon,	Carol
	,,		213	"	David John
155		Doreen*	214	**	Leeann Watson*
156	**	Hector	215	Fairfield,	Bonita Doreen
157	**	Jane Lucacia*		rairricia,	James Steven
158	"	Joyce Kathleen	216	Venie	Basil Hary*
159	,,	Kathleen Gay	217	Faria,	
160	**	Martin James	218		Mary Ann
161	***	Marvin Thomas	219	Felton,	Anthony Terence*
162	**	Petula Jane	220	"	Faith Dilys
163	,,	Ronald John*	221	**	Sonia Ellen
164	,,	Rudy Thomas	222	"	Violet Regina Margaret
165	"		223	39	Walter Arthur*
.05		Trudi Ann	223		

224	Findlay,	Carrie Madeline Helen	281	Grocock,	Trevor
225	Finlayson,	Hugh*	282	Hadden,	Alexander Burnett*
226	,,	Iris Dwenda Margaret	283		Sheila Peggy*
227	,,	Peter	284	Halford,	Rodney John
228 229	,,	Phyllis* Teresa Rose	285	77.11	Sharon*
			286	Hall,	Marilyn Joyce
230	Fleuret,	Theodore Clovis* Richard Edwin John	287	Halliday,	Evelyn Edna*
231 232	Fogerty, Ford,		288	,,	Gerald John Arthur Leslie*
232	roiu,	Arthur Henry* Caroline*	289 290	,,	Leslie John*
234	,,	Charles David*	290 291	,,	Mabel*
235	**	Cherry Rose	291	**	Margaret Mary*
236	**	Colin Stewart	292	**	Raynor
237	**	Colleen Mary	294	Hansen,	Douglas John
238	**	David	295	riansen,	Keva Elizabeth
239	**	Dorothy Minnie*	296	**	Terence Darwin
240	**	Elizabeth Harriet*	297	Hardy,	Douglas Morgan
241	**	Fanny Davidson	298	Harris,	Christopher James
242	***	Frederick James	299	**	Heather
243	**	Gerald Allan*	300	**	Jayne Elizabeth*
244	"	Hazel	301	**	Jill Yolanda Miller
245	,,	James Edward*	302		Leslie Sidney
246	"	John	303	**	Michael Ronald
247	91	Leann Caroline*	304	**	Ralph Aaron
248	"	Leonard	305	Harvey,	Muriel Elsie Elizabeth*
249	27	Marilyn Christina	306	Hawksworth,	
250	75	Michael	307	"	Mary Catherine
251	**	Robert	308	**	Pauline May
252	Fullerton,	Mary Ellen*	309	**	Terence
253	Gilbert,	Judith Elizabeth	310	Hayward,	Marjorie
254	"	Robert Ernest	311	**	Peter Dennis
255	Gilding,	Peter Bernard	312	Hazell,	Trudi Eileen Felton
256	Gleadell,	Graham Leslie*	313	Heathman,	Malcolm Keith
257	Gooch,	Cecilia Ines Millard Bennett*	314	,,	Violet*
258	"	Dudley Frederick*	315	Hewitt,	Frances Agnes
259	Goodwin,	Bert Samuel*	316	**	Gary George
260	Goodwin,	Colin Valentine	317	"	Kevin John*
261	"	Hazel Rose	318	**	Margaret Ann
262	,,	June Elizabeth	319	19	Neil George*
263	,,	June Rose Elizabeth	320	11	Rachel Catherine Orissa*
264	91	Kathleen Edith Marguerite*	321	19	Robert John David*
265	91	Laurence Henry	322	Hills,	Heather Margaret*
266	**	Margaret Ann	323	"	Richard William*
267	**	Michael Sturdee*	324	Hirtle,	Christine*
	,,	Robin Christopher	325	"	Debbie Ann
268	,,		326	**	Leonard Lloyd
269	"	Una	327	**	Mary Ann*
270		William Andrew Nutt*	328	,,	Robert Andrew Eric
271	Goss,	Dorothy Ellen	329	,,	Rose Ann Shirley*
272	**	Grace Elizabeth*	329	**	Sandra May Winifred
273	,,	Morgan Edmund		**	Shirley
274		Simon Peter Miller	331	,,	Wallace Carlinden*
275	,,	William Henry (Jnr)	332	**	
276	"	William Henry (Snr)*	333		Zane Eric*
277	Gould,	Arthur William	334	Hobman,	Anilda Marilu
278	Grant,	Leonard John*	335		David Gonsalo
279	"	Mildred*	336	,,	Juan Jose Eleuterio
280	Greenland,	Kenneth David*	337	Howatt,	Derek Frank
200	Oreemand,	Kenneth David	338	Howe,	Alison Delia

339	Howe,	Paul Anthony	396	Lee,	Gladys
340	Huanel,	Jose Raul	397	"	Leslie James
341	Jacobsen,	Alistair	398	**	Owen Henry
342	**	Catherine Joan	399	**	Trudi Dale
343	Jaffray,	Angus	400	Livermore,	Anton*
344	"	Estell Anita	401	"	Darren
345	"	Frank Alexander*	402	**	Marie Ann
346	"	Helen Rose	403	Lloyd,	Melvyn John
347	23	Janice Vanessa*	404	**	Valerie Ann
348	,,	John Summers*	405	toftus,	Anthony
349	"	Kenneth Ian	406		Colleen
350	,,	Robin George	407	Lowe,	Adrian Stewart
351	"	Stephen James	408	Luxton,	Ernest Falkland*
352	,,	Terri Ann*	409		Jennifer Mary
353	11	Tony	410	,,	Michael
354	**	William*	411	**	Nicola
355	Jennings,	Mary Ann Helen	412	"	Sybil Grace*
356	"	Neil	413	"	Winifred Ellen*
357	Johnson,	Howard William*	414	Lyse,	Ethel Malvina
358	**	Jaqueline	415	"	George Walter*
359	**	Kenneth John	416	,,	Linda Margaret
360	"	Lily Ann	417	**	Reginald Sturdee*
361	"	Michael Neil	418	,,	Sydney Russell*
362	13	Stanley Howard*	419	Macaskill,	Angus Lindsey*
363	,,	Vanda Joan	420	"	Jeannette May
364	Jones.	John Hugh	421	,,	John
365	"	Kevin Richard	422	Malcolm,	George*
366	***	Michael David	423	,,	Velma
367	"	Michelle	424	Maitland,	Elizabeth Eve
368	**	Sheila Janice	425	Мау,	Brian Roy
	"	Yvonne Malvina	426	,,	Bruce Raymond
369			427	**	Corenne Norma
370	Keenleyside,	Charles Desmond (Snr)*	428	"	Heather
371		Charles Desmond (Jnr)*	429	"	James John*
372	*1	Dorothy Maud*	430	"	Monica
373	"	Manfred Michael Ian	431	,,	William Albert*
374	,,	Nanette Barbara	432	Мегсег,	Christel
375	**	Susan Noreen	433	Middleton,	
376	Kenny,	Erling	434	21	Caroline Ann
377	Kidd,	Lillian Rose Orissa	435	57	Dennis Michael
378	Kiddle,	Robert Karl	436	"	Ellen*
379	King,	Anna Constance Eve	437	**	Graham Cyril
380	**	Desmond George Buckley*	438	,,	Joan Eliza
381	**	Gladys Evelyn*	439	,,	Leonard
382	"	Nanette	440	,,	Margaret Wilhelmina*
383	"	Peter Thomas*	441		Phillip John
384	,,	Robert John*	442	,,	Sharon Elizabeth
385	**	Rosemarie	443	,,	Shirley
386	,,	Vernon Thomas*	444	,,	Stephanie Ann
387	Laffi,	Atilio Segundo	445	Miller,	Andrew Nigel*
388	"	Kathleen Mary	446	"	Betty Lois*
389	Lang,	James	447	"	Carol
390	"	William Frank	448	,,	Florence Roberta*
391	Larsen,	Ellen	449	"	Sidney*
392	"	Margaret Anne*	450	**	Simon Roy
393	Lee,	Alfred Leslie*	451	**	Timothy John Durose
393 394	,,	Derek William	452	Minto,	Graham Stewart
394 395	**	Elsie Adelaide*	453	77	Patrick Andrew
393		Lidic / Mcidia			

454	Minto,	Timothy Ian	510	МсКау,	Michael John
455	Miranda,	Augusto*	511	"	Neil
456	**	Ramon	512		Paul Anthony
457	"	Winifred Dorothy*	513	,,	Peter John
458	Mitchell,	Leon John	514	"	Rex
459	Moffat,	Angela	515	**	Shelley Jane
460	**	James	516	91	Stephen John
461	Morris,	Alana Marie	517	,,	Williz n Robert*
462	,,	David*	518	McKenzie,	Alice Maude
463	**	Trevor Alan	519	"	Charles Alexander Albert John
464	Morrison,	Donald Ewen*	520	McLaren,	Tony Eugene Terence*
465	,,	Fayan	521	McLeod,	David
466	,,	Graham Stewart	522	,,	Donald Henry
467	"	Herman*	523	**	Ellen May*
468	"	Hyacinth Emily*	524	,,	Janet Wensley
469	"	Muriel Eliza Ivy*	525	**	John (1)
470	"	Nanette Rose	526	,,	John (2)
471	"	Patrick	527	,,	Madeline Jean
472	"	Paul Roderick	528		Margaret Anne
473	,,	Stewart	529	"	Michael William
474	"	Trevor	530		Robert
475	"	Valerie Ann	531	**	Robert John
476	,,	William Roderick Halliday	532	"	Shona Marguerite
477	Murphy,	Ann Susan	533	McPhee,	Gerald Ian*
478	"	Bessie*	534	,,	Grace Darling*
479	**	Michael James*	535	**	Iris Blanche
480	MacDonald,	John Alexander Horne*	536	**	Marjorie May
481	"	Kerena Michelle	537	**	Natalie Marianne
482	McAskill,	Susan Blanche*	538	**	Owen Horace*
483	McBain,	Arthur	539	**	Patrick*
484	>1	Rhoda Margaret	540	McRae,	Marlaine Rose
485	McBeth,	Phyllis Elizabeth Grace	541	**	Richard Winston
486	McCallum,	Bettina Kay	542	Neal,	Richard John
487	,,	Christopher John	543	Neilson,	Barry Marwood
488	**	Elaine Michele	544	**	Margaret
489	**	Ellen*	545	Newman,	Andrew Raymond*
490	,,	Jack*	546	**	Dorothy Elizabeth*
491	**	James*	547	**	Joyce Noreen
492	"	Timothy Andrew	548	**	Marlene
493	McCormick,	Dale Ronald*	549	**	Raymond Winston
494	,,	Wayne Stanley James*	550	,,	Wilfred Lawrence*
495	McEachern,	Gloria Jane	551	Newell,	Donna*
496	McGill,	Darrel Ian*		recwen,	Joseph Orr
497	"	Diane Beverly	552	,,	•
498	"	Doris Mary*	553		Trudi Malvina
499	**	Gary	554		Susan Jane*
500	**	Glenda	555	Nutter,	Arthur Albert
501	**	Ian Peter	556	"	Josephine Lesley
502	***	Len Stanford*	557	Parrin,	Norman George*
503	**	Lorraine Iris	558	Pauloni,	Hilary Maud*
504	**	Roy*	559	"	Romolo Vittorio*
505	МсКау,	Clara Mary*	560	Peake,	Arthur
506	"	Heather Valerie	561	,,	Clair Linda
507	"	James John*	562	Peart,	Robert Ernest
508	,,	Jane Elizabeth*	563	Peck,	Beatrice Ena*
	,,	Jeannie Paulina	564	**	Burned Brian
509		Jeanine Faunna			

565	Peck,	Eleanor Margaret	623	Ross,	Colin*
566	,,	Evelyn Elizabeth	624		Glenn Stephen
567	19	James*	625		Janet
568	"	Kim Brian	626		Lachlan Neil
569		Mary*	627	,	Marie
570	"	Maureen Heather	628	,,	Roy
571	,,	Patrick William	629	**	Sheena Margaret
572	**	Shirley	630	Rowland,	Charlene Rose
573	**	Terence John	631	Rowlands,	Catherine Annie
574	Perkins,	Vivienne Esther Mary	632	,,	Daisy Malvina*
575	Perry,	Augustave Walter*	633	"	Harold Theodore
576	11	Beatrice Annie Jane*	634	,,	John Richard*
577	,,	Hilda Blanche	635	,,	Neil
578	**	Robert Juan Carlos	636	**	Robert John
579	**	Thomas George	637	Rozee,	Betty Ellen
580	**	Thora Virginia*	638	"	Derek Robert Thomas*
581	Pettersson,	Derek Richard	639	Sackett,	Michael John Carlos
582	**	Eileen Heather	640	Sarney,	Нагту*
583	**	Tony	641	Shedden.	James Alexander*
584	**	Trudi Ann	642	Shepherd,	Ramsey
585	Phillips,	David Dawson	643	onephera,	Sylvia Ann*
586	**	Jessie Catherine*	644	Short,	Andrez Peter
587	**	Paul David*	645	Short,	Celia Soledad
588	Platt,	Veronica Shirley		,,	Charles William
589	Pole-Evans,		646	,,	Christina Ethel*
590	"	John*	647	,,	
591	"	Michael Anthony	648	**	Donald Robert Gordon
592	Pollard,	John	649	,,	Emily Christina
593	Poole,	Charles Lawrence*	650		Gavin Phillip
594	,,	Evelyn May*	651	"	Joseph Leslie*
595	***	Nancy Margaret	652	"	Lisa Helen
596	**	Raymond John	653	,,	Montana Tyrone
<b>59</b> 7	,,	William John	654	**	Peter Robert
598	Porter,	Brian Charles	655	,,	Philip Stanley*
599	roitei,	Charles*	656	"	Rose Stella
	**	Jean Lavinia	657	**	Vilma Alicia
600	,,	William Kenneth	658	Simpson,	Bertha Veronica
601		Keith John	659		James Garry
602	Reddick,	Cheryl Rose	660	"	John Frederick
603	Reeves,	<del>-</del>	661	"	Mirabelle Hermione
604		Michael*	662	Smith,	Alexander Gordon
605	Reid,	Ann	663		Ana Bonita
606	"	Colleen Rose	664	**	Anya Evelyn
607		Reynold Gus	665	.,	Bruce Dennis*
608	Reive,	Ernest*		**	Colin David
609	,,	Roma Endora Mary*	666	"	Derek
610	Rendell,	Michael	667	,,	Ellen Mary
611	**	Phyllis Mary*	668		Gerard Alexander
612	Roberts,	Diana Christine*	669		Ileen Rose
613	**	Laura May	670	**	James Stanley*
614	"	Peter James	671	**	
615	**	William Henry*	672	,,	James Terence*
616	Robertson,	Paul Jonathan*	673	,,	Jean Waddell
617	Robson,	Gerard Michael	674		Jennifer Ethel
618	**	Gladys Mary	675		Joan Lucy Ann
619	**	Louis Michael*	676	**	John
<b>62</b> 0	1)	Miranda Gay	677	"	Julia Trinidad
621		Phyllis Ann	678	**	Martyn James
622	**	Raymond Nigel	679	99	Norah Kathleen
022		114/1110114 1 11601			

680	Smith,	Owen Archibald	729	Summers,	Veronica
681	"	Paulette Rose	730	"	William Edward*
682	,,	Rhona	731	Teggart,	Carol Wendy*
683	**	Sidney Frederick	732	Tellez,	Jose Hector
684	"	Terence George	733	Thain,	John
685	Sollis,	Sarah Emma Maude*	734		Julia
686	Sornsen,	James Winston	735	Thain,	Stephanie Ann*
687	Spall,	Christopher Richard	736	Thom,	David Anderson*
688	Spinks,	Alexander	737		Dorothy Irene
689	,,	Malvina Ellen*	738		Norma Ann
690	Spruce,	Helena Joan*	739	Thompson,	
691	"	Terence George*	740		William John*
692	Steen,	Allan Graham*	741	Toase,	Cora Agnes
693	,,	Barbara Ingrid*	742	Towersey,	Diane Katherine
694	"	Emma Jane*	743	Triggs,	Michael David
695	,,	Gail*	744	Turner,	Alva Ynonne
696	"	Vernon Robert	745		Andrea Mary Pitaluga*
697	Stephenson,	James	746	"	Arthur Leonard Pitaluga
698	"	Joan Margaret	747		Melvyn George
699	***	Katrina*	748	Vidal,	Eileen Nora*
700	,,	Zachary	749	Wallace,	Fraser Barrett
701	Stewart,	Aarron Stephen*	750	,,	Maria Lillian
702	99	Ceila Joyce	751	,,	Michael
703	"	David William*	752	,,	Stuart Barrett
704		Duane William*	753		Una
705	"	Hulda Fraser	754	Watson,	Catherine Wilhelmina Jessie*
706	**	John	755	,,	Hannah Maude*
707	**	Kenneth Barry*	756	,,	Harold
708	,,	Phyllis Marjorie	757	,,	Lisa Marie
709	,,	Robert	758		Paul
710	**	Sylvia Rose	759	Watts,	Ada Mabel*
711	Cimpaa	Ian John	760	,,	Amara Theresa*
712	Strange,	Maria Marta	761	"	Lucinda Vikki*
	Cultings	Susan Vera	762		Patrick James
713	Sullivan,	_	763	White,	Kathleen Elizabeth*
714	Summers,	Brian	764	Whitney,	Frederick William
715	**	Edith Catherine	765	,,	Jason*
716	,,	Irvin Gerard	766	"	Kurt lan*
717		Judith Orissa*	767	**	Patricia Denise*
718		Michael Kenneth	768		Susan Joan
719	"	Michael Victor	769	Wilkinson,	Robert John*
720	**	Nigel Clive	770	Williams,	Charlotte Agnes*
721	.,	Owen William	771	,,	Eugene
722	**	Pamela Rosemary Cheek*	772	,,	Marlene Rose Elizabeth
723	**	Rowena Elsie	773	Wylie,	Julian Richard
724	,,	Sheila	774	,,	Wendy Jennifer
725	*	Sybella Catherine Ann	775	Zuvic,	Kuzma Mario
726	**	Sylvia Jean	776	**	Sharon Marie
727	**	Terence			
728	**	Tony	* NC	T LIABLE T	O SERVE AS A JUROR

# **CAMP CONSTITUENCY**

# Register of Electors

0					
1001	Alazia	Hazel	1058	Clarke,	lan
1002	**	Henry John	1059	**	Jeanette
1003	**	Keith*	1060	**	Michael Jan
1004	**	Mandy Gwyneth	1061	**	Shane Adrian*
1005	**	Michael Robert	1062	**	Terence John
1006	**	Stuart John	1063	**	Violet Rose
1007	,,	Thora Lilian*	1064	Clausen,	Denzil
1008	Aldridge,	Brian George	1065	"	Henry Edward
1009	"	Olive Elizabeth	1066	Clifton,	Doreen
1010	Anderson,	Margaret Catherine	1067	"	Leonard
1011	**	Reginald Stanford	1068	**	Terence Charles
1012	Arger,	Trudi Lynette	1069	,,	Thora Janeene
1013	Ashworth,	Glennis	1070	Cockwell,	Grizelda Susan
1014	,,,	Malcolm	1071	COCKWEII,	John Richard*
1015	Barnes,	Deirdre		C	
1016	,,	Marshall	1072	Coutts,	Alexander*
1017	**	Paul*	1073		Frederick George
1018	,,	Trevor Marshall	1074	Davis,	Aase
1019	Beattie,	Thomas George	1075	"	Mandy John
1020	Berntsen,	Arena Janice	1076	,,	Maurice Nigel
1020	bernisen,	Benjamin John	1077		Nicholas
	,,	Ellen Rose	1078		Reginald John
1022 1023	,,	lain Kenneth	1079		Violet
	,,		1080	**	William James
1024	**	Kenneth Frederick	1081	**	Yona
1025	,,	Leon	1082	Dearling,	Leo Alexander*
1026		Pamela Margaret	1083	Dickson,	Doreen
1027	Betts,	Arthur John*	1084	"	Gerald William
1028	,,	Bernard Keith	1085	**	Iris
1029	,,	Cyril Severine*	1086	**	Ronald Edward
1030		Diane Joan	1087	Dobbyns,	Timothy John
1031	**	Hyacinth Emily*	1088	Doonelly,	Daniel
1032	"	Irene Marion	1089	Donnerry,	Joyce Elizabeth
1033	Billett,	Leslie William		D	Peter Ree Howard
1034	Binnie,	Horace James*	1090	Duncan,	
1035	"	Linda Rose	1091	Dunford,	David Philip
1036	"	Ronald Eric	1092	Edwards,	Norma
1037	"	Rose Helen*	1093	Evans,	Olwyn Carol
1038	Blackley,	Maurice	1094		Raymond
1039	Blake,	Anthony Thomas*	1095	Fairley,	John
1040	22	Heidi Jane*	1096	Ferguson,	Finlay James
1041	"	Lionel Geoffrey*	1097	"	John William
1042	**	Lyndsay Rac	1098	**	Robert John
1043	"	Paul Wickham*	1099	**	Rose
1044	**	Sally Gwynfa	1100	11	Thelma
1045	**	Thomas Patrick*	1101	Findlay,	Andrew John*
1046	Bonner,	Avril Margaret Rose	1102	**	Bruce Murdock
1047	Bonner,	Keith James	1103	**	Gerald
	,,	Simon	1104	Finlayson,	
1048	,,	Susan Anne	1105	"	Iris Heather
1049	D 1		1106	39	Neil Roderick
1050	Buckett,	Roy Peter Andrew Nutt	1107	Ford,	Neil Fraser
1051	Cartmell,			roid,	Penelope Rose
1052	Chandler,	Ann Beatrice	1108	-	-
1053	,,	Edward	1109	Forster,	Gwyneth May
1054	Clarke,	David James	1110		James
1055	"	Fiona Alison	1111	Fox,	Eileen Mary
1056	**	Frederick Thomas	1112	Giles,	Gilbert
1057	"	Gwynne Edwina	1113	Gleadell,	Ian Keith

1114	Gleadell,	Marklin John	1175	Larsen,	Josephine Mary
1115	,,	Mavis Marie	1176	"	Ronald Ivan
1116	Goodwin,	Emily Rose	1177 1178	Lee,	Yvonne Carole
1117	,,	Mandy Hazel Robin	1178	i.ee,	Elizabeth
1118 1119	,,	Sarah Margaret Rose*	1180	**	John Alfred
1119	33	Neil Alexander William	1181		Robin Myles*
1121	**	William John Maurice	1182	**	Rodney William*
1122	Goss,	Eric Miller*	1183	Lewis,	Jean*
1123	,,,	lan Ernest Earle	1184	Lloyd,	John Moelwyn
1124	,,	Margaret Rose	1185	Luxton,	Patricia Maureen
1125	,,	Peter	1186	"	William Robert*
1126	"	Roderick Jacob*	1187	Maddocks,	Robert Charles
1127	**	Shirley Ann	1188	Marsh,	Alastair Roy
1128	Gray,	David Edward	1189		Anna Deirdre
1129	**	Patricia May	1190	"	Arlette Sharon
1130	Green,	David William*	1191		Frank
1131	Grocock,	Charles Henry	1192		Gavin Nicholas
1132	Halliday,	Joyce Isabella Patience	1193	,,	June Helen
1133	"	Kenneth William	1194	,,	Leon Peter
1134	Hansen,	Ian	1195	"	Marlane Rose
1135	"	Lionel Raymond	1196	"	Robin Frank
1136	,,	Rose Idina	1197	Мау,	Christopher Raymond
1137	"	Susan Ann	1198	"	Lindsey Olga
1138	Hardcastle,		1199	Miller,	Betty
1139	"	Eileen Beryl*	1200	"	Gail Marie
1140	Harvey,	Jen	1201	,,	James Albert
1141	,,	Valerie Ann	1202	"	Philip Charles
1142	Heathman,		1203	Minnell,	Adrian James*
1143	"	Ewart Tony	1204	,,	Benjamin James
1144	Hewitt,	Brian David	1205	,,	Donna Maria
1145	Hirtle,	Anthony	1206	,,	Hazel Eileen
1146	"	Doris Linda	1207		Michael Robert
1147		Fenton	1208	Minto,	Alistair Daen
1148	,,	Odette Susan*	1209	Morrison,	Doreen
1149	**	Susan Mary	1210	,,	Edgar Ewen
1150	Hutton,	Elizabeth Isabella	1211	,,	Eric George
1151	,,	Phillip	1212	,,	Gerald
1152	Jaffray,	Alexander	1213	,,	Jacqueline Denise Anita
1153	**	Brian	1214	,,	Joan Margaret
1154	,,	Derek Charles*	1215	**	Kathleen Iris
1155	**	Eileen	1216	,,	Kenneth
1156	**	Elliott Jessie	1217	**	Lena Leslie Theodore Norman
1157	"	Gerard Alan*	1218	,,	Lewis Ronald
1158	,,	Ian	1219	,,	John*
1159	**	Janet	1220	**	Michael John
1160	,,	John	1221	**	Nigel Peter
1161	31	John Willie	1222	,,	Ronald Terence
1162	,,	Phyllis	1223	,,	
1163	"	Stephen Andrew*	1224	,,	Susan Margaret
1164	,,	Terence Roy*	1225		Violet Sarah
1165	Johnson,	Michael Neil	1226	MacBeth,	Raymond John
1166	Jones,	Kevin Richard	1227	MacDonaic	I,Colin George
1167	Jonson,	Carl	1228		Irene
1168	Kilmartin,	Dinah May	1229		,Pauline Margaret Ruth
1169	"	Kevin Seaton*	1230	McGhie,	James*
1170	Knight,	Nigel Arthur	1231		Roy
1171	**	Shirley Louvaine Patricia	1232	McGill,	Robin Perry
1172	Lang,	Patrick Andrew	1233	МсКау,	Christine
1173	99	Sandra Shirleen	1234	11	Ellen Rose
1174	**	Velma Emily	1235	,,	Frazer Roderick

1236	McKay	Ian Roderick	1286	Robertson	Sally Jean*
1237	"	Isabella Alice	1287	Russ,	Odette Ellen May
1238	,,	Josephine Ann	1288		William Henry
1239	"	Kenneth Andrew	1289	Rozee,	Ronald David
1240	,,	Richard	1290	Short,	Arthur Richard*
1241	,,	Roderick John	1291		Derek Patrick*
1242	McLeod,	Albert John	1292	**	Isobel Rose
1243	"	Henry Donald Alexander*	1293	11	Michelle Rose*
1244	11	Isabella Diana Frances	1294	11	Patrick Warburton
1245	"	Sarah Rose	1295	**	Robert Charles
1246	McMullen,	June	1296	"	Robert George
1247	**	Tony	1297	Sinclair,	Simon Keith
1248	McPhee,	Kenneth John*	1298	Smith,	Andrew John
1249	,,	June Iris*	1299	"	Anthony David
1250	McRae,	David Michael	1300	**	Eric
1251	"	Gloria Linda	1301	"	Francis David
1252	"	Robert George Hector*	1302	Smith,	George Patterson
1253	Napier,	Lily	1303		Heather
1254	**	Roderick Bertrand*	1304	**	Iola Winifred*
1255	Newman,	Adrian Henry Frederick	1305	**	Jenny Lorraine
1256	"	Clive Alexander	1306	,,	Margaret Mary
1257	"	Dwenda Rose	1307	**	Michael Edmund
1258	**	Jaqueline Elizabeth*	1308	**	Osmond Raymond*
1259	,,	Rebecca Dickson	1309	"	Robert William
1260	Nightingale	, Charlene	1310	**	Robin Charles
1261	"	Peter Richard	1311	**	Russel James*
1262	Peck,	Christine	1312	Stevens,	Richard James
1263	**	Davina Margaret	1313	11	Toni Donna
1264	,,	Paul	1314	Summers,	Dennis David
1265	Phillips,	Albert James	1315	Thorsen,	David Moller
1266	"	Carol Joan	1316	**	Gloria Penelope
1267	**	Lindsay Marie*	1317	Turner,	Diana Jane*
1268	**	Lynda	1318	**	Ronald
1269	**	Terence	1319	Velasquez,	Arleen*
1270	Pitaluga,	Jene Ellen	1320	Watson,	Glenda Joyce
1271	i italuga,	Nicholas Alexander Robinson	1321	**	Neil
1272	,,	Robin Andreas McIntosh*	1322	Whitney,	Agnes Kathleen*
1272	Pole Evans	Anthony Reginald*	1323	**	Daneila Grace
1273	r Oic-Evalis,	David Llewellyn	1324	**	Dennis
	**	Shirley Hellen	1325	**	Henry Leslie*
1275	,,	•	1326	"	Keith
1276	**	Suzan	1327	**	Lana Rose
1277		William Reginald	1328	**	Leona Ann
1278	Poole,	Ella Josephine	1329	**	Patrick George
1279		Steven Charles	1330		Robert Michael
1280	Porter,	George*	1330	,,	Tyrone*
1281		Joan		Wilkinson	
1282	Reeves,	Ronald James	1332	WIIKINSOII	Rosemary
1283	Reid,	Albert John*	1333		NOSCIII ai y
1284	Robertson,		• N1	OT LIABLE	TO SERVE AS A JUROR
1285	59	Peter Charles	- 140	OI LIMBLE	IO SERVE AS A JORON



# THE FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCIX

29th JUNE 1990

No. 10

# **Appointments**

Michael James Green, Building Engineer, Public Works Department, 22.5.90.

Miss Celia Monica Harrington, Teacher, Education Department, 5.6.90.

Roger Neil Rogers, Engineman, Public Works Department, 21.6.90.

Michael John Hanlon, Permanent Staff Instructor, Falkland Islands Defence Force, 26.6.90.

# Acting Appointment

Mrs. Bonita Doreen Fairfield, Acting Registrar General, Justice Department, 1.6.90. - 13.6.90.

Derek Frank Howatt, Acting Financial Secretary, 2.6.90.

Michael Luxton, Acting Deputy Financial Secretary, 2 6 90

Mrs. Carol Wendy Teggart, Acting Broadcasting Officer, Broadcasting Department, 2.6.90.

# **Promotions**

Vernon Robert Steen, from Chief Engineer F.I.G.A.S. to General Manager F.I.G.A.S., 6.6.90.

Peter Thomas King, from Clerk of Councils, Legislature Department, to Senior Assistant Secretary, Secretariat, 9.6.90.

Anton Livermore, from Immigration Officer, Immigration Department, to Clerk of Councils, Legislature Department, 9.6.90.

Mrs. Bonita Doreen Fairfield, from Personal Assistant, Secretariat, to Registrar General, Justice Department, 14.6.90.

Miss Jennifer Ethel Smith, from Assistant Immigration Officer, Immigration Department, to Immigration Officer, Immigration Department, 25.6.90.

# Temporary Transfer

Gerard Michael Robson, from Houseparent, Education Department, to Research Assistant, Legislature Department, 5.6.90.

# **Completion of Contract**

Peter William Milner, General Manager, F. I. G. A. S., 6.6.90.

# Termination of Contract

Miss Susan Beatrice Kesbey, Nursing Sister, Medical Department, 10.6.90.

# **NOTICES**

No. 30

6th June 1990.

# Cost of Living Committee

His Excellency the Governor has approved the revised membership of the Cost of Living Committee as follows with effect from 9 April 1990:

Financial Secretary, (Chairman)

Hon. G. M. Robson, Councillors representative Mr. T. G. Spruce Manager, Falkland Islands Co. Ltd, (major retail outlet representative)

Mr. W. Hirtle, General Employee's Union representative

Mrs. F. Biggs, Female representative

Mr. S. B. Wallace, Association of Business's representative

Mr. G. Gleadell F. I. G. Development Economist Ref: TRE: 31/A.

No. 31

6th June 1990.

# Index of Retail Prices.

With reference to Gazette Notice No. 13 of 1 August 1972 a revised Index of Retail Prices was introduced with effect from 1 July 1989.

The Composition of the (1989) Index is as follows —

The composition of the (1707) mack is as	10110113
Group 1 Food	280
Group 2 Alcoholic Drinks	60
Group 3 Tobacco	30
Group 4 Housing	130
Group 5 Fuel & Light	70
Group 6 Household Goods	80
Group 7 Clothing & Footwear	85
Group 8 Transport & Vehicles	135
Group 9 Miscellaneous	70
Group 10 Services	100
	1000

Ref: TRE: 31/A.

No. 32

6th June 1990.

No. 34

22 June 1990.

# Cost of Living Award Scheme

With reference to Gazette Notice No. 16 of 1 August 1972 the following formula has been approved with regard to the Cost of Living Award Scheme, with effect from 1 July 1990, based on Retail Price Index 1 July 1989, as representing 100.

Retail Price Index	Per Hour
100	Nil
102	5p

and for every 2 point increase thereafter an additional 5p until point 200 is reached.

Increases or decreases in wages will be made automatically in accordance with the above formula in respect of hourly paid employees of Government in Stanley coming under the scope of the Wages Agreement reached between the Government and the General Employee's Union.

Ref: TRE: 31/A.

No. 33

22 June 1990.

# The Currency Ordinance 1987

As a consequence of the abolition of the public office of Government Secretary, His Excellency the Governor has designated the holder of the public office of Senior Assistant Secretary to be a Commissioner of Currency, in accordance with Section 5(1) of the Currency Ordinance 1987, until futher notice.

The Treasury, Stanley.

Rel: TRE/10/11.

# Application for Naturalisation

Notice is hereby given that Miss Juanita Lois Brock of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and that any person who knows why naturalisation should not be granted should send a written and signed statement of the facts to the Immigration Officer at the Police Station, Stanley.

A. Livermore, for Immigration Officer.

# Supreme Court of the Falkland Islands Notice under the Administration of estates Ordinance (Cap. 1)

TAKE NOTICE THAT George James Alazia deceased of Stanley, Falkland Islands died at Abingdon in the United Kingdom in 1976, Intestate.

WHEREAS I, the undersigned James Andrew Alazia, son of the deceased have 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 21 days of the publication hereof.

J. A. Alazia
Applicant.

Stanley Falkland Islands 31st May 1990.

Ref: PRO/9/90.



# THE FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCIX

31st JULY 1990

No. 11

# Appointments

Miss Myra May Pitt, Teacher, Education Department, 29.6.90.

Michael Ian Wallace, Fitter, Falkland Islands Government Air Service, 1.7.90.

Miss Teresa Ann Clifton, Clerk, Public Service, 1.7.90.

Miss Glynis Margaret King, Clerk, Public Service, 1.7.90.

Mrs. Una Wallace, Personal Assistant, Treasury Department, 1.7.90.

Miss Shona Marguerite McLeod, Housing Officer, Public Works Department, 1.7.90.

Derek Simon Clarke, Pilot. Falkland Islands Government Air Service, 4.7.90.

# Acting Appointment

Derek Frank Howatt, Acting Financial Secretary, Treasury Department, 2.6.90. - 25.7.90.

Michael Luxton, Acting Deputy Financial Secretary, Treasury Department 2.6.90. - 25.7.90.

# **Promotions**

Ronald Peter Buckett, from Supervisor, Plant and Vehicle Workshop, Public Works Department to Construction Superintendent, Public Works Department, 17.7.90.

# Transfer

Miss Diane Cheek, from Personal Assistant Falkland Islands Government Office London, to Administrative Assistant (Recruitment), Falkland Islands Government Office London, 28.6.90.

# Completion of Contract

Simon Andrew Nicholson, Scientific Officer, Fisheries Department, 30.6.90.

David Frederick Burgess, Education Officer (Headmaster Senior School) Education Department, 3.7.90. Frederick Martin, Teacher, Education Department, 5.7.90

Colin Frank Redston, Government Secretary, Secretariat, 13.7.90.

# Resignation

Mrs Janet Lynda Cheek, Teacher. Education Department, 10.7.90.

# Renewal of Contract

David Frederick Burgess, Education Officer (Headmaster Senior School), Education Department, 4.7.90.

# Termination of Contract

Mrs. Jacqueline Joyce Hemingway, Health Visitor, Medical Department, 11.7.90.

# Termination of Appointment on Abolition of office

Mrs. Nicola Goldie Summers, Information Officer, Secretariat, 20.7.90.

# **NOTICES**

No. 35

16 July 1990.

# The Electricity Supply Regulations 1969

(Regulation 10)

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

Until further notice consumers who are in receipt of an Old Age Pension under the provisions of the Old Age Pensions Ordinance 1952 or Non-Contributory Old Age Pensions Ordinance 1961 will qualify for a rebate of 2p per unit with effect from quarter ending 30 June 1990 up to the following revised limits —

Married Pensioners 400 units per Quarter Single Pensioners 300 units per quarter (including widows and widowers)

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

Ref: ELE/2/1.

No. 36

16 July 1990.

# Stanley Rates 1990/91

NOTICE IS HEREBY GIVEN that, under Section 5 of the Stanley Rates Ordinance 1973, the Standing Finance Committee has Fixed a rate poundage of £5.06 to be levied on the net annual value of premises in Stanley in respect of the period 1 July 1990 to 30 June 1991.

PLEASE NOTE that any rate not paid by 30 September 1990 is subject to a mandatory 5% penalty.

Ref: TRE/2/20.

# Customs Ordinance (Cap. 16)

In excercise of the powers conferred by section 4 of the Customs Ordinance, I hereby appoint —

Cpl. DAVID EDWARD WILLIAM DONNELLY

to be a temporary Customs Officer with effect from the 17th March, 1990 to 16th July, 1990.

L. J. HALLIDAY, Collector of Customs.

# Customs Ordinance (Cap. 16)

In excercise of the powers conferred in section 4 of the Customs Ordinance, I hereby appoint —

Sgt. ANDREW HUNT, R.A.F.,

to be a temporary Customs Officer with effect from the 14th July 1990 to the 14th September 1990.

L. J. HALLIDAY, Collector of Customs.

# WAGES AGREEMENT

The following agreement has been reached between the Government and the General Employees' Union. The agreement shall be effective for a period of twelve months from 1st July 1990 and shall apply to the hourly paid Union employees of Government in Stanley.

# 1. Basis of Wage Rates

During the course of this agreement wages shall be payable in accordance with the hourly rates set out in paragraph two except that any percentage change in the Retail Prices Index for Stanley shall be automatically applied as a Cost of Living Award adjustment to the hourly rates and date from the first day of the month following the quarter to which a review of the Index relates. Adjustments shall be rounded up or down to the nearest 1p on the following basis:

up to .49 of 1p to be rounded down upwards from .50 of 1p to be rounded up.

# (a) Craftsmen - Certificated

All Craftsmen shall be paid at the full basic rate and the following crafts shall be recognised —

Carpenters and Joiners

Blacksmiths

Painters

Motor Mechanics

Masons Plumbers

Electricians

Plant Mechanics/Fitters

The normal entry to a craft shall be by a full term of apprenticeship or the recognition of a man's qualifications by the Apprenticeship Board.

# (b) Craftsmen - Uncertificated

This describes a skilled employee who is engaged to undertake a craft but who has not completed a formal Apprenticeship or gained other qualifications recognised by the Apprenticeship Board.

# (c) Handyman

This term includes those employees doing skilled or semi-skilled work in one or more trades, but who have not served an apprenticeship nor have been recognised by the Apprenticeship Board.

# (d) Plant Operator

This term applies to any employee whose primary task is to operate mechanical plant.

Operators must have a valid H.V. Licence and be engaged in the proficient operation of one of the following items of plant: Crane; Landtrain or Comet or Haulamatic or Foden; Wheeled or Tracked Backactor or F.E. Loader; Grader and Tracked Dozer. They must also be a P.W.D. approved operator of another item in the list.

All operators must be approved by the P.W.D. Mechanical Supervisor to operate plant. Their ability will be assessed by a P.W.D. Superintendent.

Operators who do not possess a valid H.V. licence or do not operate one of the listed items of plant cannot receive an hourly rate in the higher range of pay.

Operators who possess a valid H.V. licence and can only operate one of the listed items satisfactorily will be paid according to ability within the higher range of pay.

An operator showing proficiency may be given the chance to gain experience on other types of plant when suitable opportunities arise.

### 2. Prevailing Rates Hourly Rate £ I. Certificated Craftsmen 4.05 2. Uncertificated Craftsmen 3.75 3. Apprentices\* 1st year 2.85 2nd year 2.98 3rd year 3.13 4th year 3.28 5th year 3.46

\* An apprenticeship should not commence before the school leaving uge has been attained.

4. Handymen (according to ability)	3.07 - 3.40
5. Labourers	
Age	
15 - 16	2.68
16 - 17	2.79
17 - 18	2.89
18 and over	3.00
6. Plant Operators (according to ability)	3.07 - 3.40
	and 3.43 - 3.75

The above hourly rates are minimum and the Government may, if it so wishes, offer higher rates, incentive bonuses, etc.

Casual Labour There is now no work which justifies a casual labour rate.

# 3. Extra Payments

# (a) "Dirt" Money

As a general guide, "Dirt" money should only be paid when the work is substantially dirtier than the work which an employee is normally called upon to do. The following jobs automatically qualify for 19p per hour with a maximum of 40 hours per week —

working at the crushing plant; handling filtration plant chemicals, gas oil, tar or bitumen.

In addition, the following jobs qualify for 32p per hour where it is agreed that the job is substantially dirtier than the employee is normally called upon to do:- handling cement in badly damaged bags; cleaning oil burners and chimney sweeping; cleaning blocked sewers; and such other jobs as may be approved by the Director of Public Works.

# (b) Hazardous Work

Employees working on isolated structures, such as masts, at heights over 20 feet from the ground or where the structure joins the main roof of a building, shall be paid from 8p to 15p per hour according to the risk involved. This does not apply to work on properly exected scaffolding or on roofs where the work can be carried out from a position where the workman's feet are on a secured ladder.

# (c) Extra Skill or Responsibility

- (i) Any employee specifically detailed to supervise the work of three or more other employees shall receive 25p per hour extra while taking this responsibility.
- (ii) Any labourer employed on semi-skilled work which would normally fall to a Handyman (eg painting, fencing, concrete laying) shall receive pay as a Handyman while engaged on this work. The precise rate shall be fixed by the Government according to the nature of the work and the skill of the particular labourer so employed. This will also apply to tallymen.

# (d) Paint Spraying

Employees engaged on paint spraying shall be paid 5p per hour extra and no other allowance.

# (e) Tool Allowance

A tool allowance of £18.00 per annum is payable at the commencement of each year to any craftsman or handyman who is required to provide his own tools and who has completed one year's continuous service with the Government. This allowance will not be paid where the necessary tools to carry out the duties are provided by the Government. The tool allowance shall be adjusted annually to take into account cost of living awards made during the course of the last four quarters.

# 4. Working Hours

The normal working hours shall be 40 hours per week made up as follows, provided that where an employee is absent during any period of a working week, without a medical certificate, or on local leave, and subject to the request of the Government and acceptance of the employee, may be permitted to work at the ordinary hourly rate on the following Saturday, provided that the hours worked on Saturday do not exceed the completion of a 40 hour week, when any balance would be paid at the overtime rate.

Monday to Friday 07-30am to 4-30pm with dinner break from noon till 1pm. A refreshment break of fifteen minutes to be taken on site shall be allowed between 08-30 and 09-30am, the precise time being laid down by the Government after consultation with employees.

Other hours of work may be laid down by mutual agreement between the Government and employees, provided that the total number of hours does not exceed 40 per week.

# 5. Overtime

(a) Overtime shall be paid for all hours worked outside normal working hours and overtime rates shall be as follows —

# Time and a half

- (i) between the end of the normal day and midnight
- (ii) from 6am to the start of the normal working day, provided that work did not start before 6am.

# Double time

- (i) between midnight and 6am
- (ii) from 6am to the start of the normal working day, if work commenced before 6am
- (iii) on Sundays and recognised Public Holidays
- (iv) for meal hours or parts thereof, if work continues through the normal working day without a full meal-hour break.
- (v) Double time rates shall also be paid during normal working hours if, exceptionally, an employee starts work before midnight and continues without a break into normal working hours. Double time rates shall then continue to apply until there is an (unpaid) break from work exceeding four hours, after which the normal rates will again apply.
- (b) Overtime is voluntary and an employee shall not be dismissed if he objects to working outside normal hours. However, certain jobs may require attendance at times outside the normal hours and in these cases employees shall be given the option of a 40 hour week by allowing time off during normal working hours, at a time to be agreed with the Government.

# 6. Public Holidays

In addition to receiving double time for working a public holiday employees shall be entitled to 8 hours holiday.

# 7. Holidays

(a) Annual Holidays.

All employees shall be entitled to accumulate holidays at the rates and to the maximum hereinafter set out, namely —

Earning Rate per month of continuous service 12 hours Maximum accumulation 400 hours

In the event of an employee terminating his service prior to the completion of the first six months of service he shall forfeit any holiday entitlement not taken.

Paid holidays may be taken at a time to be mutually agreed upon.

(b) Public Holidays.

These are days on which Government offices are closed by notification in the Gazette and the following nine days shall be paid holidays for all employees —

New Year's Day, Good Friday, The Queen's Birthday and Commonwealth Day, Liberation Day, October Bank Holiday, Anniversary of the Battle of the Falkland Islands, Christmas Day, Boxing Day and one other day to coincide with the Annual Stanley Sports Meeting.

- (c) Any allowance or special rates earned on both the working day preceeding and the working day following the holiday shall be paid for the holiday.
- (d) When a dated holiday falls on a Saturday or a Sunday the next working day shall be the holiday.

# 8. Sick Pay

- (a) Employees who have not completed three months' service with the Government shall not be entitled to sick pay.
- (b) An employee shall be entitled to the following sick pay commencing on the first day of sickness upon the production of a medical certificate which states the sickness is not brought on by any fault of his own, but the periods listed below being limited to the total number of entitled weeks within a 52 week period from the first day of sickness
  - (i) Employees who have completed three months' service with the Government —

Full pay for the first three weeks Half pay for the fourth and fifth weeks.

(ii) Employees who have completed two years' service with the Government —

Full pay for the first six weeks Half pay for the following twelve weeks.

(iii) Employees who have completed three years' service with the Government —

Full pay for the first eight weeks Half pay for the following sixteen weeks.

- (c) Full pay should be paid for any Public Holiday which falls during the first six weeks of sickness provided that the employee, when he has recovered, returns to work for the Government.
- (d) The Workmen's Compensation Ordinance shall apply in cases of sickness resulting from accidents at work. The Foreman and the Union Delegate should confirm in writing any accident at work.

# 9. Termination of Employment

The Government may dismiss an employee summarily in any circumstance in which to do so would be fair if the Employment Protection Ordinance 1989 applied. Otherwise the following notice of termination shall be given by the Government —

- (a) Employees who have completed one month's service but less than two years' service — one week's notice.
- (b) Employees who have completed between two years' and twelve years' continuous service one week's notice for each year of continuous employment.
- (c) Employees who have completed more than twelve years' continuous employment not less than twelve weeks' notice.

If desired the Government may pay wages in (a), (b) or (c), as appropriate in lieu of giving notice.

### 10. General

- (a) When a party of employees is required to carry meals to their work, one employee shall be allowed reasonable time to heat meals for the rest of the party.
- (b) The Government may lay down times when employees shall appear for their wages, provided that the payment is completed within normal working hours.
- (c) An official or delegation of a recognised union may, with the Government's consent, attend at a job or shop at any time to interview workmen, but no meeting shall take place in working hours without the express permission of the Government. If a dispute arises, the Government or its nominee shall interview, by appointment, any official representative of its employees.
- (d) The Government shall display for the benefit of its employees copies of regulations and rules pertaining to wages and conditions of service of workers.
- (e) The Government shall ensure that tractors are fitted with safety cabs.

# 11. Redundancy

If the Government wishes to declare any job redundant the Government shall notify the employee at least three months before the redundancy becomes effective unless otherwise agreed with the employee. In the event of an employee being declared redundant he shall be entitled to such payment or payments as, after taking any pension, gratuity or commuted pension payment he receives, he would be entitled to under Part VII of the Employment Protection Ordinance 1989 if it applied to employees of the Government.

# 12. Payment for Public Service Duties

(a) An employee to which this agreement applies shall be entitled to be paid in respect of any period of absence from work occasioned by the need for him to perform public duties. For the purpose of this clause "public duties" means any of the following:

Justices of the Peace

Jurors

Witnesses

Legislative Councillors

Members of any Committee established by the Government or by or under any Ordinance for which no payment is otherwise made, other than under the Legislative Council (Allowances) Ordinance.

Any other duties approved by the Governor for the purpose of this clause.

- (b) Payments under this clause shall be at the basic hourly rate of the employee concerned whether the employee in question would otherwise have been attending for duty of a kind or at a time which qualified for an enhanced payment or not.
- (c) If the employee would ordinarily be working in excess of the normal working hours payments under this clause shall nevertheless be limited to payments due in respect of a basic working day.
- (d) The Government shall be entitled before making a payment under this clause to require satisfactory evidence that the absence in question was an absence qualifying for payment under this clause.

P. T. King

Senior Assistant Secretary, for Falkland Islands Government.

W. Hirtle

Chairman, for General Employees' Union.

17th July 1990.



# FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCIX

14th AUGUST 1990

No. 12

The following is published in this Gazette —

The Electoral Register.

# STANLEY CONSTITUENCY

# Register of Electors

1	Adams,	Appropriet*	58	Betts	Arlette
2	Adams,	Annagret* Carol Margaret*	59	Detta "	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	"	James Andrew	68	**	Edith Joan
12	**	Maggie Ann*	69	**	Frances
13	**	Yvonne	70	**	Hilda Evangeline*
14	Aldridge,	Caroline Mary	71	,,	Irene Mary*
15	,,	Kenneth John	72	**	Kathleen Frances*
16	Almonacid,	Gladys Mabel	73	**	Leslie Frederick
17	**	Orlando	74	**	Madge Bridget Frances*
18	Anderson,	Andrew Ronald*	75	**	Michael Elfed
19	19	Eddie*	76	**	Pauline Lynx
20	"	Edward Bernard*	<b>7</b> 7	**	Peter Julian Basil
21	,,	Elizabeth Nellie*	78	**	Robert William
22	"	Gertrude Maud*	79	Binnie,	Susan
23	,,	Gloria	80	Birminghar	
24	"	Hector Christian*	81	,,	Susan Jane
25	,,	Helen*	82	Blackley,	Candy Joy
26	"	Marina Rose	83	**	Charles David*
27	"	Mildred Nessie*	84	**	Hilda
28	"	Richard Louis	85	**	Janet Agnes Mary*
29	"	Ronald	86	**	John David
30	**	Sophie Marina*	87	Blizard,	Lawrence Gordon*
31	,,	Stephen Robert	88	**	Malvina Mary
32	Ashley,	Nora Phyllis*	89	Blyth,	Agnes Ruth*
33	Barkmen,	Margaret Mary	90	**	Alfred John*
34	Barnes,	Ernest*	91	"	John*
35	,,	Marie	92	Bonner,	Donald William*
36	"	Molly Stella*	93	**	Hayley Trina
37	"	Sigrid Geraldine Wells*	94	,,	Linda Jane
38	,,	Trevor Marshall	95	**	Nicholas
39	Barton,	Arthur John	96	"	Paul Roderick
40	,,	Alison Mary	97	,,	Timothy
41	Bedford,	Kita Muriel	98	,,	Vera Ann
42	Bennett,	Harold*	99	,,	Vera Joan
43	<b>,</b>	Lena Grace Gertrude*	100	**	Violet*
44	Berntsen,	Christian Olaf Alexander*	101	Booth,	Jessie*
45	"	Cecilia del Rosorio	102	**	Joseph Bories*
46	99	Diana Mary		,,	Myriam Margaret Lucia
47	**	Gina Michelle	103		•
48	"	John Alexander	104	,,	Stuart Alfred*
49	,,	Kathleen Gladys*	105	Bound,	Graham Leslie
50	,,	Lavina Maud*	106	,,	Joan*
51	"	Mary Clarissa Elizabeth*	107	Bowles,	Norma Evangeline
52	,,	Olaf Christian Alexander	108	"	William Edward*
53	"	Patrick		D	
54	**	Valdamar Lars	109	Bragger,	Edward Laurence
55	"	William Alexander	110	21	Olga
56	21	William Blyth*	111	Browning,	Althea Maria
57	Bertrand,	Catherine Gladys*	112	,,	Edwina

113	D	C- :	150	CI I	T 7.1
113 114	Browning,	Gavin Rex*	172	Clarke,	Terence John
114	,,	Richard William	173 174	Clasen, Clausen,	Mally Denzil George Gustavius*
116	,,	Trevor Osneth	174	Clausell,	Melanie Florence
117	Buckett,	Ronald Peter	176	Clayton,	Susan
118	Buckland,	Charles Ronald	177	Cletheroe,	Kenneth Stanley
119	**	Darlene Joanne*	178	"	Stanley William*
120	Bundes,	Robert John Christian*	179		William Harold*
121	Burns,	Mary Anne*	180	Clifton,	Charles*
122	Butcher,	Michael George	181	"	Darwin Lewis*
123	**	Trudi	182	"	Jessie Emily Jane*
124	Butler,	Elsie Maud*	183	,,	Neil*
125	**	Ernest Joseph*	184	"	Stephen Peter
126	,,	Frederick Lowther Edward Olai*	185	**	Valerie Ann
127	,,	George Joseph	186	Collins,	Peter Anthony
128	,,	James Donald*	187	**	Shiralee
129	"	Joan May	188	Connolly,	Kevin Barry
130	,,	Jonathon Jeffers*	189	Coombe,	Peter
131	**	Lawrence Jonathan	190	"	Shirley Anne
132	,,	Margaret Orlanda	191	Coutts,	Carolynne
133	,,	Orlanda Betty	192	**	Charles
134	"	Sheila Olga*	193	"	Charles Lindsay*
135	Cameron,	Jane Diana Mary Keith	194	,,	John
136	Cant,	Martin Ronald	195	"	Olga
137		Carol Rosine	196		Peter
138	Card,	Denise	197	Crowie,	Nicola Jane
139	Carey,	Anthony Michael*	198	Curtis,	Alfred William Hamilton
140	,,	Gladys*	199	**	Barbara Joan
141	,,	Mary Ann Margaret* Terence James*	200	Davies,	Anthony Warren
142 143		Frederick James	201	,,	Colin George
143	Cartmell, Castle,	David Peter	202	,,	Eileen Wynne
144	Castle,	Isobel	203		Jacqueline Nancy
146	Ceballos,	Claudette	204	Davis,	Albert Henry
147	Cedanos,	Eulogio Gabriel	205	,,	Elsie Gladys Margaret*
148	Chater,	Annie	206	"	Raymond Andrew William John*
149	Chater,	Anthony Richard	207		Patrick Alex Field
150	Cheek,	Diane Name	208	Davy,	
151	Check,	Frederick John*	209	Dickson,	Caroline Christine Bird*
152	,,	Gerald Winston	210	Down,	Janet Robert William Michael
153	,,	Janet Linda*	211	D	Avis Marion*
154	"	John Edward*	212	Duncan,	Doreen*
155	,,	Marie	213	**	William*
156	,,	Miranda*	214 215	Etheridge,	Alice Mary
157	Clapp,	Kevin Christopher	216	Evans,	Derek Stanley
158	Clarke,	Camilla Marie	217	Evalis,	Gladys Alberta*
159	"	David James	217	,,	Michael David
160	**	Derek Simon*		Ermon	Carol
161	,,	Doreen*	219	Eynon,	David John
162	**	Gwynne Edwina	220	,,	Leeann Watson*
163	>>	Hector*	221 222	Fairfield,	Bonita Doreen*
164	33	Jane Lucacia*	223	raineid,	James Steven
165	"	Joyce Kathleen*	223	Enric	Basil Hary*
166	,,	Kathleen Gay		Faria,	Mary Ann
167	"	Martin James	225 226	Felton,	Anthony Terence*
168	>>	Marvin Thomas	227	renon,	Faith Dilys
169	**	Ronald John*	228	,,	Sonia Ellen
170	**	Rudy Thomas		,,	Violet Regina Margaret
171	**	Trudi Ann	229		VIOLET MEKINA MIAIKATET
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230	Felton,	Walter Arthur*	287	Grocock,	Trevor
231	Findlay,	Carrie Madeline Helen	288	Guthrie,	Hylton Oswald
232	Finlayson,	Hugh*	289	Hadden.	Alexander Burnett*
233	"	Iris Dwenda Margaret*	290	**	Sheila Peggy*
234	,,	Peter	291	Halford,	Rodney John
235	,,	Phyllis*	292	**	Sharon
236	**	Teresa Rose	293	Hall,	Marilyn Joyce
237	Fleuret,	Theodore Clovis*	294	Halliday,	Evelyn Edna*
238	Fogerty,	Richard Edwin John	295	**	Gerald
239	Ford,	Arthur Henry*	296	**	John Arthur Leslie*
240	"	Caroline*	297	**	Leslie John*
241	"	Charles David*	298	**	Margaret Mary*
242	"	Cherry Rose	299	>>	Raynor
243	"	Colin Stewart	300	Hansen,	Douglas John
244	"	Colleen Mary	301	**	Keva Elizabeth
245	"	David	302	**	Terence Darwin
246	,,	Dorothy Minnie*	303	Hardy,	Douglas Morgan
247	**	Elizabeth Harriet*	304	Harris,	Christopher James
248	"	Fanny Davidson	305	,,	Heather
249	31	Frederick James	306	**	Jayne Elizabeth*
250	"	Gerald Allan*	307	37	Jill Yolanda Miller
251	,,	Hazel	308	**	Leslie Sidney
252	,,	James Edward*	309	33	Michael Ronald
253	"	John	310	**	Ralph Aaron
254	**	Leann Caroline*	311	Harvey,	Muriel Elsie Elizabeth*
255	**	Leonard	312	Hawksworth,	David
256	**	Marilyn Christina	313	33	Mary Catherine
257	21	Michael	314	**	Pauline May
258	**	Robert	315	"	Terence
259	Fullerton,	Mary Ellen*	316	Hayward,	Marjorie
260	Gilbert,	Judith Elizabeth	317	37	Peter Dennis
261	"	Robert Ernest	318	Hazell,	Trudi Eileen Felton
262	Gilding,	Peter Bernard	319	Heathman,	Malcolm Keith
263	Gleadell,	Graham Leslie	320	13	Violet*
264	Gooch,	Cecilia Ines Millard Bennett*	321	Hewitt,	Frances Agnes
265	"	Dudley Frederick*	322	**	Gary George
266	Goodwin,	Bert Samuel*	323	**	Kevin John*
267	33	Colin Valentine	324	**	Margaret Ann
268	"	Hazel Rose	325	**	Rachel Catherine Orissa*
269	33	June Elizabeth	326	**	Robert John David*
270	**	June Rose Elizabeth	327	Hills,	Heather Margaret*
271	**	Kathleen Edith Marguerite*	328	**	Richard William*
272	**	Laurence Henry	329	Hirtle,	Christine*
273	"	Margaret Ann	330	**	Debbie Ann
274	27	Robin Christopher	331	**	Leonard Lloyd
275	**	Una	332	**	Mary Ann*
276	,,	William Andrew Nutt*	333	"	Robert Andrew Eric
277	Goss,	Dorothy Ellen	334	**	Rose Ann Shirley*
278	,,	Grace Elizabeth*	335	"	Sandra May Winifred
279	**	Morgan Edmund	336	,,	Shirley
280	**	Simon Peter Miller	337	**	Wallace Carlinden*
281	,,	William Henry (Jnr)	338	,,	Zane Eric
282	"	William Henry (Snr)*	339	Hobman,	Anilda Marilu
283	Gould,	Arthur William	340	"	David Gonsalo
284	Grant,	Leonard John*	341	Howatt,	Derek Frank
	Giaili,	Mildred*	342	Howe,	Alison Delia
285	C1 d		342	11040,	Tillon Dona
286	Greenland,	Kenneth David*			

343	Howe,	Paul Anthony	400	Larsen,	Ellen
344	Huanel,	Jose Raul	400	Laisen,	Margaret Anne*
345	Jacobsen,	Alistair	402	Lee,	Alfred Leslie*
346	,,	Catherine Joan	403	,,	Derek William
347	Jaffray,	Angus	404	,,	Elsie Adelaide*
348	"	Eileen	405	19	Gladys
349		Estell Anita	406	"	Leslie James
350	"	Frank Alexander*	407	,	Owen Henry
351	**	Helen Rose	408	**	Trudi Dale
352	"	Ian	409	Livermore,	Anton*
353	**	Ingrid Joyce	410	"	Darren
354	**	Janice Vanessa*	411	**	Marie Ann
355	**	John Summers*	412	Lloyd,	Melvyn John
356	**	Kenneth Ian	413	"	Valerie Ann
357	"	Robin George	414	Loftus,	Anthony
358	33	Stephen James	415	**	Colleen
359	**	Terri Ann	416	Lowe,	Adrian Stewart
360	**	Tony	417	Luxton,	Ernest Falkland*
361	11	William*	418	**	Jennifer Mary
362	Jennings,	Mary Ann Helen	419	**	Michael
363	"	Neil	420	**	Nicola
364	Johnson,	Howard William*	421	,,	Sybil Grace*
365	**	Jaqueline	422	"	Winifred Ellen*
366	"	Kenneth John	423	Lyse,	Ethel Malvina
367	**	Lily Ann	424	"	George Walter*
368	31	Michael Neil	425	"	Linda Margaret
369	**	Stanley Howard*	426	,,	Reginald Sturdee*
370	**	Vanda Joan	427	**	Sydney Russell*
371	Jones,	John Hugh	428	Macaskill,	Angus Lindsey*
372	"	Kevin Richard	429	,,	Jeannette May
373	,,	Michael David	430		John
374	,,	Michelle	431	Malcolm,	George*
375	,,	Sheila Janice	432	**	Velma*
	,,		433	Maitland,	Elizabeth Eve
376		Yvonne Malvina	434	Мау,	Brian Roy
377	Jordan,	Dilys Margaret	435	,,	Bruce Raymond
378	Keenleyside,		436	**	Corenne Norma
379		Charles Desmond (Jnr)	437	**	Heather
380	"	Dorothy Maud*	438	**	James John*
381	,,	Manfred Michael Ian	439	59	Monica
382	,,	Nanette Barbara	440	**	William Albert*
383	"	Susan Noreen	441	Mercer,	Christel
384	Kenny,	Erling	442	Metcalf,	Rhoda Felton
385	Kidd,	Lillian Rose Orissa	443	Middleton,	
386	**	Nathan John	444	"	Caroline Ann
387	Kiddle,	Robert Karl	445	,,	Dennis Michael
388	King,	Anna Constance Eve	446	,,	Ellen*
389	**	Desmond George Buckley*	447	"	Graham Cyril
390	"	Gladys Evelyn*	448	"	Joan Eliza
391	,,	Nanette*	449	"	Leonard
392	**	Peter Thomas	450	"	Margaret Wilhelmina*
393	**	Robert John*	451	,,	Phillip John
394	"	Rosemarie	452	"	Sharon Elizabeth
395	,,	Vernon Thomas*	453	,,	Shirley
396	Laffi,	Atilio Segundo	454	,,	Stephanie Ann
397	"	Kathleen Mary	455	Miller,	Andrew Nigel*
398	Lang,	James Patrick	456	"	Betty Lois*
399	Dulig,	William Frank	457	19	Carol
377					

458	Miller,	Florence Roberta*	516	McGill,	Gary
459	11	Gail Marie	517	**	Glenda
460	**	Sidney*	518	"	Ian Peter
461	"	Simon Roy	519	"	Len Stanford*
462	"	Timothy John Durose	520	91	Lorraine Iris
463	Minto,	Graham Stewart	521	**	Roy
464	**	Patrick Andrew	522	МсКау,	Clara Mary*
465	11	Timothy Ian	523	**	Heather Valerie
466	Miranda,	Augusto*	524	**	Ian Roderick
467	31	Ramon	525	**	James John*
468	31	Winifred Dorothy*	526	**	Jane Elizabeth*
469	Mitchell,	Leon John	527	"	Jeannie Paulina
470	Moffat,	Angela	528	**	Michael John
471	23	James	529	**	Neil
472	Morris,	Alana Marie	530	**	Paul Anthony
473	**	David*	531	"	Peter John
474	,,	Trevor Alan*	532	**	Rex
475	Morrison,	Donald Ewen*	533	**	Shelley Jane
476	>>	Doreen	534	**	Stephen John*
477	31	Elizabeth Margaret Mary*	535	**	William Robert*
478	19	Fayan	536	McKenzie,	Alice Maude
479	**	Graham Stewart	537	**	Charles Alexander Albert John
480	**	Herman*	538	McLaren,	Tony Eugene Terence*
481	"	Hyacinth Emily*	539	McLeod,	David
482	,,	Joan Margaret	540	"	Donald Henry
483	,,	Lewis Ronald	541	**	Ellen May*
484	,,	Muriel Eliza Ivy*	542	11	Janet Wensley
485	,,	Nanette Rose	543	**	Janice
	,,		544	,,	John (1)
486	,,	Nigel Peter	545	,,	John (2)
487	11	Patrick	546	**	Madeline Jean
488	"	Paul Roderick*	547	**	Margaret Anne
489	"	Stewart		**	Michael William
490	"	Ronald Terence	548	,,	
491		Trevor	549	,,	Robert
492	"	Valerie Ann	550	,,	Robert John
493	,,	Violet Sarah	551		Shona Marguerite
494	"	William Roderick Halliday	552	McPhee,	Grace Darling*
495	Murphy,	Ann Susan	553	"	Iris Blanche*
496	"	Bessie*	554	,,	Marjorie May
497	**	Michael James*	555	,,	Natalie Marianne
498	MacDonald,	John Alexander Horne*	556	**	Owen Horace*
499	**	Kerena Michelle	557	**	Patrick*
500	McAskill,	Susan Blanche*	558	McRae,	Marlaine Rose
501	McBain,	Arthur	559	**	Richard Winston
502	"	Rhoda Margaret	560	Neal,	Richard John
503	McBeth,	Phyllis Elizabeth Grace	561	Neilson,	Barry Marwood
504	McCallum,	Bettina Kay	562	"	Margaret
505	"	Christopher John		Maurian	Andrew Raymond*
506	,,	Elaine Michele	563	Newman,	Dorothy Elizabeth*
507	,,	Ellen*	564		•
508	"	Jack*	565	**	Joyce Noreen
	,,	James*	566	**	Marlene
509	"	Timothy Andrew	567	"	Raymond Winston
510			568	"	Wilfred Lawrence*
511		Wayne Stanley James	569	Newell,	Donna*
512	McEachern,		570	"	Joseph Orr
513	McGill,	Darrel Ian*	571		Trudi Malvina
514	"	Diane Beverly	572	Nightingale	Susan Jane*
515	**	Doris Mary*	573	Nutter,	Arthur Albert
			213	1 de liel,	

574	Nutter,	Josephine Lesley	632	Roberts,	Laura May
575	Parrin,	Norman George*	633	"	Peter James
576	Pauloni,	Hilary Maud*	634	"	William Henry*
577	**	Romolo Vittorio*	635	Robertson,	Paul Jonathan*
578	Peake,	Arthur	636	"	Sally Jean*
579	**	Clair Linda	637	Robson,	Gerard Michael*
580	Peart,	Robert Ernest	638	**	Gladys Mary
581	Peck,	Beatrice Ena*	639	**	Louis Michael*
582	"	Burned Brian	640	**	Miranda Gay
583	**	Eleanor Margaret	641	19	Phyllis Ann
584	,,	Evelyn Elizabeth	642	"	Raymond Nigel
585	**	James*	643	Rogers,	Neil
586	,,	Kim Brian	644	Ross,	Colin*
587	**	Mary*	645	"	Glenn Stephen
588	"	Maureen Heather	646	"	Janet
589	,,	Patrick William*	647	**	Lachlan Neil
590	**	Shirley	648	"	Marie
591	**	Terence John*	649	**	Roy
592	Perkins,	Vivienne Esther Mary	650	,,	Sheena Margaret
593	,		651	Rowland,	Charlene Rose
	Perry,	Augustave Walter*	652	Rowlands,	Catherine Annie*
594	"	Beatrice Annie Jane*	653	**	Daisy Malvina*
595	,,	Hilda Blanche	654	**	Harold Theodore*
596		Robert Juan Carlos	655	,,	John Richard*
597	"	Thomas George*		19	Neil
598	,,	Thora Virginia*	656	,,	
599	Pettersson,	Derek Richard	657		Robert John
600	,,	Eileen Heather	658	Rozee,	Betty Ellen
601	**	Топу	659	"	Derek Robert Thomas*
602	**	Trudi Ann	660	Sackett,	Michael John Carlos
603	Phillips,	David Dawson	661	Sarney,	Harry*
604	"	Jessie Catherine*	662	Shedden,	James Alexander*
605	"	Paul David*	663	Shepherd,	Ramsey
606	Platt,	Veronica Shirley	664	"	Sylvia Ann*
607	Pole-Evans,	Amy Rose	665	Short,	Andrez Peter
608	<b>,</b>	John*	666	11	Celia Soledad
609	"	Michael Anthony	667	**	Charles William
610	Pollard,	John	668	**	Christina Ethel*
611	Poole.	Charles Lawrence*	669	**	Donald Robert Gordon
612	,,	Evelyn May*	670	**	Emily Christina
613	,,	Nancy Margaret		**	Gavin Phillip*
	1)	Raymond John	671	"	
614	,,	William John*	672	**	Joseph Leslie*
615		Brian Charles	673	,,	Lisa Helen
616	Porter,		674		Montana Tyrone
617	,,	Charles*	675	,,	Peter Robert
618	,,	Jean Lavinia	676	"	Philip Stanley*
619	,,	Tracy	677	,,	Rose Stella
620		William Kenneth	678	"	Vilma Alicia
621	Reddick,	Keith John	679	Simpson,	Bertha Veronica
622	Reeves,	Cheryl Rose	680	,,	James Garry
623	,,	Michael*	681	**	John Frederick
624	Reid,	Ann	682	**	Mirabelle Hermione
625	.,,	Colleen Rose	683	Smith,	Alexander Gordon
626	"	Reynold Gus	684	27	Ana Bonita
627	Reive,	Ernest*	685	,,,	Andrew John
628	"	Roma Endora Mary*	686	**	Anthony David
629	Rendell,	Michael	687	,,	Anya Evelyn
630	**	Phyllis Mary*		,,	Bruce Dennis*
631	Roberts,	Diana Christine	688	**	Colin David
031	Roberts,	Dialia Cilifolitic	689		Comi David

			749	Summers,	Sheila
690	Smith,	Derek		juliliters,	Sybella Catherine Ann
691	,,	Ellen Mary	750	**	Sylvia Jean
692	**	Gerard Alexander	751 752	,,	Terence
693	>>	Gwenifer May*	752	**	Tony
694	**	Ileen Rose	753	**	Veronica
695	**	James Stanley*	754	**	William Edward*
696	,,	James Terence*	755	Toggort	Carol Wendy
697	,,	Jean Waddell	756	Teggart,	John Patrick
698	"	Jennifer Ethel	757	Their	John
699	**	Joan Lucy Ann	758	Thain,	Julia
700	"	John	759	,,	Stephanie Ann*
701	"	Julia Trinidad	760		David Anderson*
702	"	Martyn James	761	Thom,	
703	**	Norah Kathleen	762	3)	Dorothy Irene
704	**	Owen Archibald*	763		Norma Ann
705	"	Paulette Rose	764	Thompson,	George Henry*
706	,,	Rhona	765	,,	William John*
707	,,	Russel James	766	Toase,	Cora Agnes
707	,,	Sidney Frederick	767	Towersey,	Diane Katherine
709	,,	Terence George	768	Triggs,	Michael David
710	Sollis,	Sarah Emma Maude*	769	**	Dianne
711	Sornsen,	James Winston	770	Turner,	Alva Ynonne
711	Spall,	Christopher Richard	771	,,	Andrea Mary Pitaluga*
712		Alexander	772	,,	Arthur Leonard Pitaluga
713	Spinks,	Malvina Ellen*	773	**	Melvyn George
	C==100	Helena Joan*	774	Vidal,	Eileen Nora*
715	Spruce,		775	**	Leona Lucila*
716		Terence George*	776	Vincent,	Jannette Mary
717	Steen,	Allan Graham*	777	"	Stephen Lawerence
718	,,	Barbara Ingrid	778	Wallace,	Fraser Barrett
719	,,	Emma Jane*	779	wanacc,	Maria Lillian
720		Gail*	780	,,	Michael Ian
721	,,	Vernon Robert	781	,,	Stuart Barrett*
722	Stephenson,		782	,,	Una
723	"	Joan Margaret	783	Watson,	Boyd Edward Harold*
724	"	Katrina*	784	waison,	Catherine Wilhelmina Jessie*
725	"	Zachary	785	,,	Gwen
726	Stewart,	Aarron Stephen*	786	,,	
727	"	Ceila Joyce		,,	Hannah Maude*
728	,,	David William*	787	,,	Harold
729	**	Duane William*	788	,,	Lisa Marie
730	**	Hulda Fraser	789		Paul
731	"	John	790	Watts,	Ada Mabel*
732	,,,	Kenneth Barry*	791	,,	Amara Theresa*
733	,,	Phyllis Marjorie	792	**	Lucinda Vikki*
	,,	Robert	793	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Patrick James
734	,,	Sylvia Rose	794	White,	Kathleen Elizabeth*
735		•	795	Whitney,	Frederick William
736	Strange,	Ian John	796	,,	Jason
737	~ "	Maria Marta	797	19	Kurt Ian*
738	Sullivan,	Susan Vera	798	,,	Patricia Denise*
739	Summers,	Brian	799	,,	Robert Michael
740	**	Edith Catherine*	800	,,	Susan Joan
741	"	Irvin Gerard	801	Wilkinson,	, Robert John*
742	**	Judith Orissa*	802	Williams,	Charlotte Agnes*
743	"	Michael Kenneth	803	"	Eugene
744	"	Michael Victor	804	39	Marlene Rose Elizabeth
745	"	Nigel Clive	805	Wylie,	Julian Richard
746	"	Owen William	806	"	Wendy Jennifer
747	,,	Pamela Rosemary Cheek	807	Zuvic,	Kuzma Mario
748	**	Rowena Elsie	808	,,	Sharon Marie
			000		GHAICH WIATIC

<sup>\*</sup> NOT LIABLE TO SERVE AS A JUROR

# **CAMP CONSTITUENCY**

# Register of Electors

1001	Alazia	Hazel	1059	Clarke,	Ian
1002	"	Henry John*	1060	**	Jeanette
1003	"	Keith	1061	"	Michael Jan
1004	,,	Mandy Gwyneth	1062	,,	Petula
1005	"	Michael Robert	1063	,,	Shane Adrian*
1006	**	Stuart John	1064	,,	Violet Rose
1007	"	Thora Lilian*	1065	Clausen,	Denzil
1008	Aldridge,	Brian George	1066		Henry Edward
1009	"	Olive Elizabeth	1067	Clifton,	Doreen
1010	Anderson,	Jenny	1068		Leonard
1011	"	Margaret Kathleen	1069	**	Terence Charles
1012	"	Paul James	1070	,,	Thora Janeene
1013	**	Reginald Stanford	1071	Cockwell,	Grizelda Susan
1014	"	Tony James	1072		John Richard*
1015	Arger,	Trudi Lynette	1073		Alexander*
1016	Ashworth,	Glennis	1074	-,	Frederick George
1017	,,	Malcolm	1075		Aase
1018	Barnes,	Deirdre	1076		Mandy John
1019	,,	Marshall	1077		Maurice Nigel
1020	,,	Paul*	1078		Nicholas
1021	Beattie,	Thomas George	1079		Reginald John
1022	Berntsen,	Arena Janice			Violet
1023	17	Benjamin John	1080		
1024	"	Ellen Rose	1081		William James
1025	,,	Iain Kenneth	1082		Yona
1026	,,	Kenneth Frederick	1083	٥,	Leo Alexander*
1027	**	Leon	1084		Doreen
1028	"	Pamela Margaret	1085		Gerald William
1029	Betts,	Arthur John*	1086		Iris
1030	"	Bernard Keith	1087		Ronald Edward
1030	,,	Cyril Severine*	1088		Timothy John
1031	**	Diane Joan	1089	•	Daniel
1032	,,	Hyacinth Emily*	1090	"	Joyce Elizabeth
1033	,,	Irene Marion	1093	l Duncan,	Peter Ree Howard
1034	Billett,	Leslie William	1093	2 Dunford,	David Philip
		Horace James*	109	3 Edwards,	Norma
1036	Binnie,	Linda Rose	109	4 "	Emma Jane*
1037	.,	Michele Paula	109	5 Evans,	Olwyn Carol
1038	,,		109	6 "	Raymond
1039		Ronald Eric	109	7	Richard Gregory*
1040	"	Rose Helen*	109		John
1041	Blackley,	Maurice	109	9 Ferguson,	Finlay James
1042	Blake,	Anthony Thomas	110		John William
1043	"	Heidi Jane*	110		Robert John
1044	"	Lionel Geoffrey*	110		Rose
1045	,,	Lyndsay Rae	110		Thelma
1046	,,	Paul Wickham*	110		Andrew John*
1047	**	Sally Gwynfa	110		Gerald
1048	"	Thomas Patrick*			114
1049	Bonner,	Avril Margaret Rose	110		Iris Heather*
1050	"	Keith James	110	1	Neil Roderick
1051	"	Simon	110		Neil Fraser
1052	,,	Susan Anne	110		Penelope Rose
1053	Buckett,	Roy Peter	111		
1054	Cartmell,	Andrew Nutt	111		Gwyneth May
1055	Chandler,		111		James Many
1056	Chandler,	Edward	111		Eileen Mary
1050		Fredrick Thomas	111	4 Giles,	Gilbert
1057	Clark,	Fiona Alison	111		lan Keith
1079	Clarke,	riona Anson	11.		

1116	Classiall	Marklin John	1174	Larsen,	Josephine Mary
1116 1117	Gleadell,	Markin John Mavis Marie	1175	Laiseii,	Ronald Ivan
	Canduin		1176	,,	Yvonne
1118	Goodwin,	Emily Rose			Carole
1119	,,	Mandy Hazel	1177	Lee,	
1120	,,	Neil Alexander William	1178	**	Elizabeth
1121		Robin	1179	,,	John Alfred
1122	,,	Sarah Margaret Rose*	1180	**	Robin Myles
1123		William John Maurice	1181		Rodney William
1124	Goss,	Eric Miller	1182	Lewis,	Jean*
1125		Ian Ernest Earle	1183	Lloyd,	John Moelwyn
1126	,,	Margaret Rose	1184	Luxton,	Patricia Maureen
1127	"	Peter	1185		William Robert*
1128	**	Roderick Jacob*	1186		Robert Charles
1129	"	Shirley Ann	1187	Marsh,	Alastair Roy
1130	Gray,	David Edward	1188	"	Anna Deirdre
1131	**	Patricia May	1189	,,	Arlette Sharon
1132	Green,	David William*	1190	"	Frank
1133	Grocock,	Charles Henry	1191	"	Gavin Nicholas
1134	Halliday,	Joyce Isabella Patience	1192	**	June Helen
1135	"	Kenneth William	1193	"	Leon Peter
1136	Hansen,	Ian	1194	,,	Marlane Rose
1137	**	Lionel Raymond	1195	**	Robin Frank
1138	"	Rose Idina	1196	Мау,	Christopher Raymond
1139	29	Susan Ann	1197	"	Lindsey Olga
1140	Hardcastle,	Brook*	1198	Miller,	Betty
1141	"	Eileen Beryl*	1199	,,	James Albert
1142	Нагуеу,	Jen	1200	**	Philip Charles
1142	marvey,	Valerie Ann	1201	Minnell,	Adrian James*
	Hanshman		1202	**	Benjamin James
1144	Heathman,		1203	**	Donna Maria
1145		Ewart Tony	1203	,,	Hazel Eileen
1146	Hewitt,	Brian David	1204	**	Michael Robert
1147	Hirtle,	Anthony			Alistair Daen
1148		Doris Linda	1206	Minto,	
1149	**	Fenton	1207	Morrison,	Edgar Ewen
1150	**	Odette Susan*	1208	,,	Eric George
1151	**	Susan Mary	1209		Gerald
1152	Hobbman,	Juan Jose Eleuterio	1210	11	Jacqueline Denise Anita
1153	Hutton,	Elizabeth Isabella	1211	,,	John*
1154	"	Phillip	1212	,,	Kathleen Iris
1155	Jaffray,	Alexander	1213	,,	Kenneth
1156	"	Brian	1214	"	Lena
1157	29	Derek Charles*	1215	**	Leslie Theodore Norman
1158	39	Elliott Jessie	1216	"	Michael John
1159	"	Gerard Alan*	1217	"	Susan Margaret
1160	,,	Janet	1218	MacBeth,	Raymond John
1161	,,	John	1219		Colin George
1162	**	John Willie	1220	99	Irene
	,,	Phyllis	1221	McCormick	,Dale Ronald*
1163	**	-	1222	"	Pauline Margaret Ruth
1164		Stephen Andrew*	1223	MaChia	James*
1165	**	Terence Roy*		McGhie,	
1166	Jonson,	Carl	1224		Roy
1167	Kilmartin,	Dinah May	1225	McGill,	Robin Perry
1168	**	Kevin Seaton*	1226	McKay,	Christine
1169	Knight,	Nigel Arthur	1227	,,	Ellen Rose
1170	**	Shirley Louvaine Patricia	1228	,,	Frazer Roderick
1171	Lang,	Patrick Andrew	1229	,,	Isabella Alice
1172	,,	Sandra Shirleen	1230	**	Josephine Ann
	"	Velma Emily	1231	**	Kenneth Andrew
1173		TOMA LIMITY	1231		

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		<b>D</b> . 1	1000	Desir	Odana Ellas M
1232	МсКау,	Richard	1280		Odette Ellen May
1233		Roderick John	1281		William Henry Ronald David
1234	McLeod,	Albert John	1282 1283	,	
1235	,,	Henry Donald Alexander*		•	Felicity Joan Carlie Arthur Richard*
1236	,,	Isabella Diana Frances	1284	Short,	
1237		Sarah Rose	1285	**	Derek Patrick*
1238	McMullen,		1286	,,	Isobel Rose
1239		Tony	1287	,,	Michelle Rose* Patrick Warburton
1240	McPhee,	Kenneth John*	1288	**	
1241		June Iris*	1289	,,	Robert Charles
1242	McRae,	David Michael	1290		Robert George
1243	"	Gloria Linda	1291	Sinclair,	Simon Keith
1244		Robert George Hector*	1292	Smith,	Eric
1245	Napier,	Lily	1293	11	Francis David
1246	,,	Roderick Bertrand*	1294	11	George Patterson
1247	Newman,	Adrian Henry Frederick	1295	"	Heather
1248	,,	Clive Alexander	1296		Iola Winifred*
1249	11	Dwenda Rose	1297		Jaqueline
1250	"	Jaqueline Elizabeth*	1298	"	Jenny Lorraine
1251	"	Sheena Melaine	1299	,,	Michael Edmund
1252	,,	Rebecca Dickson	1300	**	Osmond Raymond*
1253	Nightingale		1301	"	Robert William
1254	,,	Peter Richard	1302	,,	Robin Charles
1255	Packham,	Derek	1303	**	Roy Alan
1256	Peck,	Christine	1304	Stevens,	Richard James
1257	"	Davina Margaret	1305	**	Toni Donna
1258	31	Paul	1306	Summers,	Dennis David
1259	Phillips,	Albert James	1307	Tellez,	Jeanette Valerie
1260	11	Carol Joan	1308	"	Jose Hector
1261	**	Lindsay Marie*	1309	Thorsen,	David Moller
1262	**	Lynda	1310	"	Gloria Penelope
1263	39	Terence	1311	Turner,	Diana Jane*
1264	Pitaluga,	Jene Ellen	1312	"	Ronald
1265	"	Nicholas Alexander Robinson	1313	Velasquez,	Arleen*
1266	**	Robin Andreas McIntosh	1314	Watson,	Glenda Joyce
1267	Pole-Evans	Anthony Reginald*	1315	**	Neil
1268	"	David Llewellyn	1316	Whitney,	Agnes Kathleen*
1269	>>	Shirley Hellen	1317	**	Daneila Grace
1270	,,	Suzan	1318	, ,,	Dennis
1270	,,	William Reginald	1319	**	Henry Leslie*
	Poole,	Ella Josephine	1320	17	Keith
1272	roole,	Steven Charles	1321	**	Lana Rose
1273			1322	**	Leona Ann
1274	Porter,	George*	1323	93	Patrick George
1275		Joan Bonald James	1324	**	Tyrone*
1276	Reeves,	Ronald James	1325	Wilkinson,	
1277	Reid,	Albert John*	1325	** II KIII 3011,	Rosemary
1278	Robertson,		1320		1.0001114- J
1279	"	Peter Charles	+ N/	YT TIADIE	M SERVE AS A ILIR

<sup>\*</sup> NOT LIABLE TO SERVE AS A JUROR



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# FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCIX

31st AUGUST 1990

No. 12

# Appointments

Michael James Clarke, Senior Foremen, Public Works Department, 1.7.90.

Graham Cyril Middleton, Fireman, Fire and Rescue Service 1.7.90.

Andrew Timothy Henworth, Agricultural Adviser (Economics), Department of Agriculture, 28.7.90.

Angus Lindsay Macaskill, Electrician, Public Works Department, 1.8.90.

Miss Geraldine Sylvia Anthony, Clerk, Public Service, 13.8.90

# **Acting Appointments**

Mrs Carol Wendy Teggart, Acting Broadcasting Officer, Broadcasting Department, 2.6.90 - 6.8.90.

Robert Mark Titterington Acting Attorney General, Justice Department, 18,7.90.

Miss Linda Margaret Lyse, Acting Chief Accountant, Treasury Department 28.7.90.

Michael Luxton, Acting Deputy Financial Secretary, 28.7.90. Dr. Robert James McIlroy M.B. Ch.B., Acting Chief Medical Officer, Medical Department, 10.8.90.

Mrs. Jennifer Jones, Acting Education Officer, Education Department, 15.8.90.

Miss Geraldine Sylvia Anthony, Acting Senior Clerk, Treasury Department, 29.8.90.

Mrs. Moira Cameron Eccles, Acting Chief Clerk, Treasury Department, 29.8.90.

# Promotion

John Coutts, from Engineer, F.I.G.A.S. to Chief Engineer, F.I.G.A.S., 1.7.90.

# Completion of Contracts

Miss Geraldine Sylvia Anthony, Clerk, Public Service, 20,6,90.

Iain Alexander Dickson, Senior Scientist (Sheep), Department of Agriculture, 28.8.90.

Miss Helen Margaret Innes R.G.N., S.C.M., Nursing Sister, Medical Department, 28.8.90.

### Resignations

Mrs. Diana Dawn Grocock, Auxiliary Nurse, Medical Department, 29.8.99.

William Harvey, Trainee Filtration Plant Operator, Public Works Department, 8.8.90.

# Termination of Contract

Dr. Andrew Robert Hamilton M.B., Ch.B., Medical Officer, Medical Department, 7.8.90.

# NOTICES

# Customs Ordinance (Cap. 16)

In excercise of the powers conferred in section 4 of the Customs Ordinance, I hereby appoint —

CPL. Keith Button, R.A.F.,

to be a temporary Customs Officer with effect from the 8th September 1990 to the 17th November 1990.

L. J. HALLIDAY, Collector of Customs.

# APPLICATION FOR A PUBLICAN'S RETAIL AND RESIDENTIAL LICENCE

In accordance with section 7(1) of the Licensing Ordinance

# Mr. William and Mrs. Lynda Anderson

have applied for a publican's retail and residential Licence in respect of the premises to be known as BLUE BEACH LODGE AND FISHING CAMP.

- 2. 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 Gazette.
  - J. BUCKLAND JAMES, Financial Secretary.



# THE FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCIX

28th SEPTEMBER 1990

No. 13

### Appointments

William Rupert Shoobridge, Pilot, Falkland Islands Government Air Service, 14.7.90.

Andrew Raymond Newman, Junior Assistant Customs Officer, Customs Department, 28.8.90.

Frank Alexander Jaffray, Mechanic, Public Works Department, 1.9.90.

Richard Carl Wagner, Agricultural Economist, Department of Agriculture, 11.9.90.

Miss Sally Eden Ward, Teacher, Education Department, 18.9.90.

# Acting Appointments

Miss Elizabeth Alice Marrow, Acting Senior Scientist, Fisheries Department, 1.1.90.

Miss Amara Theresa Watts, Acting Legal Assistant/Secretary, Justice Department, 11.7.90.

Miss Linda Margaret Lyse, Acting Chief Accountant, Treasury Department 28.7.90 - 17.9.90.

Michael Luxton, Acting Deputy Financial Secretary, 28.7.90 - 17.9.90.

Robert Mark Titterington, Acting Attorney General, Justice Department, 18.7.90 - 3.9.90.

# Re - Appointment

David Geoffrey Lang, Attorney General, Justice Department, 4,9.90.

# Transfer

Miss Julie Ann Fisher, from Assistant Customs Officer, Customs and Harbour Depaartment to Assistant Immigration Officer, Immigration Bureau 1.9.90.

# Completion of Contracts

David Geoffrey Lang, Attorney General, Justice Department, 18.7.90.

Miss Diane Louise Bond, Teacher, Education Department, 21.8.90.

### Retirement

Mrs. Sharon Halford, Registrar General, Justice Department, 17.8.90.

# NOTICES

# Appointment of Temporary Registrar

In excercise of the powers conferred upon me by section 4 of the Marriage Ordinance 1, William Hugh Fullerton, Governor of the Falkland Islands —

# Hereby Appoint -

Rose Mary McIlroy a Registrar for the purposes of the marriage at the Court and Council Chamber, Stanley, of George Summers and Carryn Yon.

Given under my hand at Stanley this 19th day of September 1990.

W. H. FULLERTON, Governor.

# APPLICATION FOR A PUBLICAN'S RETAIL LICENCE

In accordance with section 7(1) of the Licensing Ordinance

# Mr. Fredrick Thomas Clark

has applied for a publican's retail Licence in respect of the premises known as The Great Britain Hotel.

- 2. 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 Gazette.
  - J. BUCKLAND JAMES, Financial Secretary.

No. 37

23rd August 1990.

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 excercise Her powers of disallowance in respect of the following Ordinances of the Colony —

No. 4/90 The Appropriation 1990/1991 Ordinance 1990 No. 5/90 The Old Age Pensions (Amendment) Ordinance 1990

No. 6/90 The Non Contributory Old Age Pensions (Amendment) Ordinance 1990

No. 7/90 The Livestock (Amendment) Ordinance 1990 No. 8/90 The Swimming Pool (Trust Fund)(Amendment) Ordinance 1990

No. 9/90 The Census Ordinance 1990

No. 10/90 The Education (Amendment) Ordinance 1990 No. 11/90 The Media Trust (Amendment) Ordinance 1990 No. 12/90 The Road Traffic (Special Provisions) Ordinance

No. 12/90 The Road Traffic (Special Provisions) Ordinance 1990

No. 13/90 The Limited Partnerships Ordinance 1990 No. 14/90 The Highways (Building Lines) Ordinance 1990.

Anton Livermore C.P.M., Clerk of Councils.

Ref: LEG/10/4.

# Supreme Court of the Falkland Islands

Notice under the Administration of estates Ordinance (Cap. 1)

TAKE NOTICE THAT Violet Catherine Smith deceased of Stanley, Falkland Islands, died at Stanley Falkland Islands on 11th May 1990 Intestate.

WHEREAS I, the undersigned James Stanley Smith, husband of the deceased 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 21 days of the publication hereof.

B. Fairfield, Registrar, Supreme Court.

Stanley Falkland Islands 12th September 1990.

Ref: PRO/14/90.



# THE FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCIX

31st OCTOBER 1990

No. 14

# Appointment

Miss Sandra Louise Davies, Fisheries Observer, Fisheries Department, 11.10.90.

# Acting Appointments

Miss Amara Theresa Watts, Acting Legal Assistant/Secretary, Justice Department, 11.7.90. - 9.10.90.

Mrs. Jennifer Jones, Acting Education Officer, Education Department, 15.8.90. - 24.9.90.

Mrs. Moira Cameron Eccles, Acting Chief Clerk, Treasury Department, 29.8.90. - 16.10.90.

Miss Geraldine Sylvia Anthony, Acting Schior Clerk, Treasury Department, 29.8.90. - 16.10.90.

Captain Eddie Anderson, Acting General Manager, F.I.G.A.S., 6.10.90.

# Completion of Contracts

Robert Hugh Bullock Hall, Sheep Husban-dryman/Adviser, Department of Agricultural, 7.10.90. Alan Purvis, Teacher, Education Department 16.10.90.

# Renewal of Contract

Robert Hugh Bullock Hall, Agricultural Adviser (wool), Agricultural Department, 8.10.90.

Alan Purvis, Teacher, Education Department, 17.10.90.

# Resignation

Melvin John Lloyd, Engineman, Power Station, Public Works Department, 25.10.90.

### NOTICES

No. 38

18th October 1990

# Marriage Ordinance (Cap. 43), Section 5

The following are registered as Ministers for celebrating marriages —

The Reverend Canon John Gervase Maurice Walker Murphy, 130. Rector of Christ Church Cathedral.

The Right Reverend Monsignor Antony Agreiter, Prefect Apostolic of the Falkland Islands.

The Reverend Father John Francis, Priest, St. Mary's Church.

P. T. KING, Senior Assistant Secretary.

Ref. INT/19 1

# Cost of Living Award Adjustments

For general information this is to confirm that the method for calculating Cost of Living Award adjustments to wages for the hourly paid employees of Government in Stanley is as shown under Section 1 of the 1990/91 Wages Agreement which was published in Gazette No. 11 of 31 July 1990. This method has therefor superseded that shown by the Cost of Living Award scheme published under Notice 32 in Gazette No. 10 of 29 June 1990.

Ref: TRE: 31/A TRE/2/9. No. 39 31st October 1990.

# Notice to members of final meeting

# (members' voluntary winding-up)

Name of Company - Stancross 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 the Secretariat on Friday, the thirtieth day of November 1990, at 2.30 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty Fourth day of October 1990.

ANDREW DEY, Liquidator.

No. 40 31st October 1990

# Notice to members of final meeting

# (members' voluntary winding-up)

Name of Company - Port Services 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 the Secretariat on Friday, the thirtieth day of November 1990, 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; and also of determining by Extraordinary Resolution the manner in which the books, accounts papers and documents of the Company and of the Liquidator 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 - Twenty Fourth day of October 1990.

Andrew Dey, Liquidator.

# Supreme Court of the Falkland Islands

Notice under the Administration of estates Ordinance (Cap. 1)

TAKE NOTICE THAT Daphne Harriet Cletheroe deceased of Stanley, Falkland Islands, died at Stanley Falkland Islands on 8th May 1990 Intestate.

WHEREAS, Stanley William Cletheroe, husband of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD,

Registrar, Supreme Court.

Stanley Falkland Islands 28th September 1990.

Ref: PRO/16/90.

# Supreme Court of the Falkland Islands

Notice under the Administration of estates Ordinance (Cap. 1)

TAKE NOTICE THAT Jason Roland John Wingate deceased of Stanley, Falkland Islands, died at Stanley Falkland Islands on 11th January 1989 Intestate.

WHEREAS. Sandra Kathleen Goss, mother of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley
Falkland Islands
22nd October 1990.

Ref: PRO/6/89.

# Supreme Court of the Falkland Islands

Notice under the Administration of estates Ordinance (Cap. 1)

TAKE NOTICE THAT Basil William Biggs deceased of Stanley, Falkland Islands, died at Stanley Falkland Islands on 8th May 1987 Intestate.

WHENEAS, Betty Biggs, Widow of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley Falkland Islands 25th October 1990.

Ref: PRO/13/90.

# 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 1988 to 31st December 1988 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

B. Fairfield,
Registrar General.

egistration No.	Date of Registration	Proprietor	Description of Goods
8336	8.1.88	Guess? Inc	Trousers and jump-suits, all for men and women, blouses and skirts, all for women, shorts, vests, jackets and dresses.
8395	17.5.88	Religious Technology Centre	Printed matter, periodical publications, books; instructional and teaching materials (other than apparatus).
8396	17.5.88	Societe Des Produits Nestle S.A	All goods included in Class 32.
8397	17.5.88	Societe Des Produits Nestle S.A	All goods included in Class 29.
8398	17.5.88	Societe Des Produits Nestle S.A	All goods included in Class 30.
8399	17.5.88	Societe Des Produits Nestle S.A	All goods included in Class 5.
8458	19,9.88	Samsung Electronics Company Limited	Wrist watches, electric clocks, stop watches, table clocks and electronic watches.
8459	19.9.88	Samsung Electronics Company Limited	Mixing machines for kitchen use, washing machines and drying machines, electric motors (not for land vehicles).
8465	19.9.88	Rani International Inc	Non-alcholic drinks and preparations for making such drinks, all included in Class 32, fruit juices for use as beverages.
8466	19.9.88	Societe Des Produits Nestle S.A	All goods included in Class 29, but not including any such goods for export to or sale in that part of the People's Democratic Republic of Yemen formerly known as Aden.
8467	19.9.88	Societe Des Produits Nestle S.A	All goods included in Class 30, but not including any such goods for export to or sale in that part of the People's Democratic Republic of Yemen formerly known as Aden.
8486	22.9.88	Hollister Incorporated	Ostomy appliances and parts and fittings therefor included in Class 10.
8487	22.9.88	Hollister Incorporated	Ostomy appliances and part and fittings therefor included in Class 10; umbilical cord clamps and umbilical cord clamp clippers; circumcision devices; containers adapted for use in collecting liquid specimens from the hody; endocervical aspirators; amniotic membrane perforators; post surgical drainage bags.
8495	27.9.88	Reebok International Limited	Shoes for use in athletic sports, but not including shoes made of, or trimmed with anteloge skin.



Reg. No. 8395



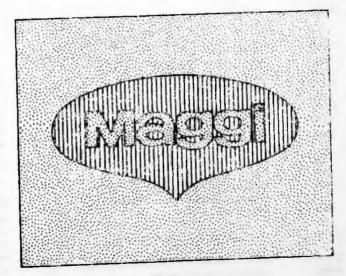
Reg. Nos. 8396, 8397, 8398 and 8399



Reg. Nos. 8458 and 8459



Reg. No. 846



Reg. Nos. 8466 and 8467

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

The following list of Trade Marks Registrations renewed in the Falkland Islands during the period 1st January 1988 to 31st December 1988 is published for general information. The Trade Marks Register may be inspected at the Office of the Registrar General, Stanley.

B. Fairfield,
Registrar General.

Registration No.	Renewal No.	effective date of renewal	Proprietor	Description of goods
6737	8325	5.10.87	Exxon Corporation	Chemical products for use in industry and science; adhesive substances for use in industry and artificial fertilisers; all being petroleum derivatives.
5382A	8328	1.7.87	Bacardi & Company Limited	Rum.
7734	8331	18.8.87	Adidas Sportschusabriken Adi Dassler Stiftung & Co. KG	Trunks, suitcases and travelling bags.
7735	8330	18.8.87	Adidas Sportschutabriken Adi Dassler Stiftung & Co. KG	Articles of outer clothing.
7736	8329	18,8.87	Adidas Sportschutabriken Adi Dassler Stiftung & Co. KG	Sporting articles (other than clothing) and parts and fittings therefor included in Class 28.
6270	8332	17.12.87	Toyota Jidosha Kabushiki Faisha (Toyota Motor Corporation)	Motorcars and forklift trucks, and parts and fittings included in Class 12 for such goods.
8273	8333	15.10.87	Visa International Service Association	Travellers' cheques.
4664	8334	12,12.87	Arthur Guinness Son & Company (Dublin) Limited	Stout, porter, ale and lager beer, all for sale in Northern Ireland and for export from the United Kingdom except to the Channel Islands.
7780	8335	16.12.87	Gallaher Limited	Tobacco whether manufactured or unmanufactured; substances for smoking sold separately or blended with tobac- co, 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.
4850	8400	9.2.88	Carreras Limited	Tobacco, whether manufactured or unmanufactured,
5500	8401	8.9.87	Ralph Martindale & Co Limited	Cutlery, and edge tools.
6698	8402	11.10.87	Joseph E Seagram & Sons Limited	Whisky.
4400	8403	10.7.87	Miles Laboratories, Inc (a Delaware Corp)	Alkaline effervescent pharmaceutical preparations.
7290	8-104	6.2.88	Glaxo Group Limited	Antibiotic and antibacterial preparations and substances, all included in Class 5.
7518	8405	22.3.88	James Burrough Limited	Wines, spirits (beverages), liquers and cocktails.
4958	8406	9.3.88	Reemisma Cigarettenlabriken Gmbh	Tobacco, Cigarettes; cigars and cigarillos, and cigarette paper,
496.5	8407	7.3.88	Reemtsma Cigarettenfabriken Gmbh	Tobacco, cigarettes, cigars and cigarillos all these goods being made wholly or partially of tobacco emanating from Near East countries, and cigarette papers.
4959	8408	4.2.88	Reemtsma Cigarettenfabriken Gmbh	Tobacco, Cigarettes; cigars and cigarillos, and cigarette paper.
4960	8409	4.2.88	Reemtsma Cigarettenfabriken Gmbh	Tobacco, Cigarettes; cigars and cigarillos, and cigarette paper.
4952	8410	4.2,88	Reemtsma Cigarettentabriken Gmbh	Tobacco, Cigarettes; cigars and cigarillos, and cigarette paper.
4757	8411	7.1.88	Rembrant Tobacco Corporation (Overseas) Limited	Tobacco, whether manufactured or unmanufactured,
7932	8412	9.1.88	Alfred Dunhill Limited	Cufflinks, buckles (clothing fasteners), tie pins and tie clips, none of precious metals or coated therewith, stiffer ing supports and studs, all for collars, buttons included in Class 26.
5848	8454	27.7.86	Bata Limited (a Canadian liability company)	Boots, shoes, slippers, sandals, plinisoles, galoshes, boot and shoe socks, cork soles, rubber heels, stockings an socks (for wear).
2851	8455	25.8.88	Eau de Cologne & Parfumerie-Fabrik Glockengase	All goods included in Class 48.
5147	8456	10.10.88	Kristinus Kommanditgesellschaft	Tobacco, whether manufactured or unmanufactured,
3431	8457	30,10,88	Tobacco Products Coporation Limited	Cigarettes and smoking tobacco.
3644	8461	4.2.88	The Christian Science Board	Printed religious publications.
7600	8462	27.6.88	Relgious Technology Center	Paper, paper articles and cardboard articles, all included in Class 16; and cardboard, printed matter, bookbindi materials, protective covers for books stationery and transfers (decalcomanias).
2942	8463	5,11.87	Societe Des Produits Nestle S. A	Foods consisting wholly or principally of milk or composed of milk products,

Registration No.	Renewal No.	Effective date of renewal	Proprietor	Description of goods
1507A	8474	8.3.88	Bass Public Limited Company	Ale, stout and porter.
3314	8475	11,2.88	Pepsico, Inc	Non-alcoholic drinks, and preparations for making such drinks, all containing cola extract and included in Class 32
3797	8477	2.10.87	Scripto-tokai Inc	Fountain pens, ball-pointed writing instruments, stylographic pens, and nibs for fountain pens.
5872	8478	3,2.88	Joseph E Seagram & Sons Inc	Vodka.
7937	8480	2,1.88	R J Reynolds Tobacco Company	Tobacco and tobacco products included in Class 34.
3702	8483	9.8.87	The Timken Company	Anti-friction bearings, Ball bearings, and Roller bearings, and rollers therefor, all being parts of machines.
3714	8484	9.8.87	The Timken Company	Balls for anti-friction bearings.
4683	8485	20.10.86	Shulton, Inc	Non-medicated toilet preparations, and preparations for the hair, all for men; and soaps.
2445	8496	22.11.80	Lipton Limited	All goods included in Class 29.
2444	8497	22.11.80	Lipton Limited	All goods included in Class 30.



# THE FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCIX

29th November 1990

No. 15

#### Appointment

Peter Coombe, Assistant Filtration Plant Operator, Public Works Department, 16.10.90.

Mrs. Judith Anne Shoobridge, Nursing Sister, Medical Department, 12.11.90.

#### Acting Appointments

Eddie Anderson, Acting General Manager, Falkland Islands Government Air Service, 6.10.90. - 17.11.90.

#### Promotion

Miss Barbara Ingrid Steen, from, Clerk, Public Service to, Personal Assistant Falkland Islands Government Office, London, 22.10.90.

#### Completion of Contracts

David Vivian Thomas, Electrician, Power Station, Public Works Department, 31.10.90.

Mrs. Marian Louise Purvis (previously Murdoch), Teacher, Education Department, 13.11.90.

Anthony John Beeching, Scientific Officer, Fisheries Department, 15.11.90.

Miss Janice Edith Frances Honeyman, Teacher, Education Department, 20.11.90.

#### Renewal of Contract

Mrs. Marian Louise Purvis, Teacher, Education Department, 14.11.90.

#### Resignation

Mrs. Carryn Rose Summers (nee' Yon), Assistant Teacher, Education Department, 30.11.90.

#### NOTICES

No. 41

16th November 1990

Application for a Publican's Retail Licence
In accordance with Section 7(1) of the Licensing
Ordinance —

Mr. Kelvin Stewart Green

has applied for a Publican's 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 and the Penguin News.

The Treasury Stanley 16th November 1990.

Ref: 33/B.

J. Buckland-James, Financial Secretary.

#### Supreme Court of the Falkland Islands

Notice under the Administration of estates Ordinance (Cap. 1) TAKE NOTICE THAT Jessic Emily Jane Clifton deceased of Stanley, Falkland Islands, died at Stanley Falkland Islands on 9th October 1990.

WHEREAS, Charles Clifton, Widower of the deceased 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 21 days of the publication hereof.

Stanley Falkland Islands 7th November 1990. B. FAIRFIELD, Registrar, Supreme Court.

Ref: PRO/19, 90.

#### Education Ordinance 1989

#### Term Dates for Schools in 1991

The Board of Education has fixed the following dates for School Terms and holidays in 1991.

#### School Term Stanley Schools

1st Term 7th February to 22nd May 2nd Term 6th June to 28th August 3rd Term 19th September to 18th 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 25th February – 1st March inclusive Good Friday 29th March Her Majesty the Queen's Birthday 22nd April

(deferred)
Liberation Day 14th June

Spring Holiday 7th October

Battle Day 9th December (transferred)

#### Holidays for Travelling Teachers

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

19th December 1990 to 9th January 1990; Three additional days (to be taken by arrangement with the Director of Education);

18th December 1991 to 8th January 1992.

Phyllis M. Rendall, Director of Education.

#### Customs Ordinance (Cap. 16)

In excercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby appoint —

J. C. Jones

#### Major P. Krasinski

to be tempory Customs Officers, South Georgia, during the period 1st November, 1990 - 28th February, 1991.

L. J. HALLIDAY, Collector of Customs.

#### Customs Ordinance (Cap. 16)

In excercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby appoint —

CPL. Maria Roberts, W.R.A.F.

to be tempory Customs Officer with effect from the 18th November, 1990 - 12th January, 1991.

L. J. HALLIDAY, Collector of Customs.

#### **Currency Notes Rules**

In exercise of the powers conferred by Rule 3 of the Currency Notes Rules, His Excellency the Governor has been pleased to approve the appointment of Mr. Nigel Keith Dodd to be a Currency Officer with effect from 1 November 1990. The appointment of Mrs. Kathleen Gay Clarke is hereby cancelled.

The following is a full list of Currency Officers —

Mr. Derek Frank Howatt. Miss. Linda Margaret Lyse.

Mrs. Marie Cheek.

Mr. Peter Julian Basil Biggs.

Mrs. Rose Ann Shirley Hirtle.

Mr. Michael Luxton.

Miss. Geraldine Sylvia Anthony.

Mr. Nigel Keith Dodd.

Commissioners of Currency 8 November 1990.

Ref: TR E/19/1.



## FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCIX

20th DECEMBER 1990

No. 16

#### Appointment

Dr. Barry Elsby, Medical Officer, Medical Department, 28.11.90.

#### Acting Appointments

Ralph Aaron Harris, Acting Foreman, Plant and Vehicle Section, Public Works Department, 3.12.90.

#### Resignation

Mrs. Gail Steen, Police Constable, Police, Fire and Rescue Service, 17.12.90.

#### NOTICES

No. 42

18th December 1990

#### Cost of Living Committee

His Honour The Acting Governor has approved the following change to the membership of the Cost of Living Committee to be effective from 3 December 1990.

Mrs. Mary Jennings to replace

W. C. Hirtle as the General Employee's Union

Representative.

Ref: 31/A.

No. 43

19th December 1990

#### Board of Health

In accordance with Section 2 of the Public Health Ordinance, the Board of Health has been reconstituted with the following membership -

Chairman: The Chief Medical Officer Secretary: The Medical Department Administrator

Members: The Government Veterinary Officer A Representative of the Public Works Department The Hon H. T. Rowlands, C.B.E.

Mrs. V. Malcolm, B.E.M.

Mrs. M. Hall.

The Secretariat, Stanley. 19th December 1990. Ref: MED/19/1.

A. LIVERMORE, Clerk of Councils.

The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990

IN EXCERCISE of my powers under Regulation 2 of The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990 -

I CERTIFY that the hree devices each weighing 5 kilograms manufactured by Alexander Pollock Limited of 21 Bankhead Drive, Sighthill Industrial Estate, Edinburgh in Scotland each of which comprises four metal parts and are cast with the numbers "1" "2" and "4" respectively stamped upon each of the four parts comprised therein and which are now produced and shown to me are suitable for use for the purposes of the aforementioned Regulations.

Made this 5th day of December 1990.

RONALD SAMPSON, Acting Governor.

#### **CURRENCY ORDINANCE 1987**

#### **Currency Notes Rules**

#### Recall of Currency Notes

In accordance with Section 24 of the Currency Notes Rules the Commissioners of Currency hereby give notice that £1 denomination Falkland Islands Government currency notes bearing the date 1 October 1984 and serial numbers A000001 to A200000 shall cease to be legal tender with effect from 1 February 1991. After this date the currency notes may be exchanged at face value on presentation to the Treasury.

The Treasury, Stanley. 11th December 1990. Ref: 20.

Price: Fifty Pence.



# THE FALKLAND ISLANDS GAZETTE

# Supplement

#### PUBLISHED BY AUTHORITY

Vol. 1

FEBRUARY 1990

No. 1

#### SUBSIDIARY LEGISLATION

THE BUILDINGS OF ARCHITECTURAL AND HISTORIC INTEREST ORDINANCE

THE CROZIER PLACE (STANLEY) PROVISIONAL DESIGNATION ORDER 1990 (S R & O No. 1 of 1990)

Made: 26th February 1990

Coming into operation: 26th February 1990

Published: 26th February 1990

IN EXERCISE of my powers under section 6(1) of the Buildings of Architectural and Historic Interest Ordinance 1987, I make the following Order —

1. This Order may be cited as the Crozier Place (Stanley) Provisional Designation Order 1990, and shall come into operation on 26th February 1990 and shall cease to have effect, unless otherwise provided by further Order made by me, on 13th April 1990.

Citation, commencement and duration.

2. The building or buildings known as Falkland Islands Company offices Crozier Place Stanley, having a frontage to the south side of a road known as Crozier Place and being bounded on the west and east sides by private roadways are designated as a building of special architectural interest.

Designation.

Made this 26th day of February 1990.

W. H. FULLERTON, Governor.

#### EXPLANATORY NOTE

(not forming part of Order)

This Order designates the building described in as a building of special architectural interest. It will cease to have effect on 13th April 1990 unless its operation is extended by further Order.



# THE FALKLAND ISLANDS GAZETTE

# Supplement

PUBLISHED BY AUTHORITY

Vol. 1 19th MARCH 1990 No. 2

The following is published in this Supplement —

The Fishing Licences (Applications and Fees) Regulations Order 1990 (S.R. & O. No. 2 of 1990).

#### SUBSIDIARY LEGISLATION

## THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

(No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations Order 1990 (S.R. & O. No. 2 of 1990)

Made: 15th March 1990

Coming into operation: 19th March 1990

Published: 19th March 1990

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) Regulations Order 1990 and shall come into operation on the date it is first published in the Gazette and cease to have effect on the 31st December 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.

3. In these Regulations -

Interpretation.

"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 "X" Licence the period commencing on 1st August 1990 and ending 31st October 1990;
- (b) in relation to a "Y" Licence the period commencing on 1st July 1990 and ending on 31st December 1990;
- (c) in relation to a "Z" Licence the period commencing on 1st July 1990 and ending on 31st December 1990;

"the principal Regulations" means the Fishing Regulations Order 1987.

4. For so long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not be in force, but except as aforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of these Regulations.

Suspension of certain provisions 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 "X" Licence;
- (b) a "Y" Licence; and
- (c) a "Z" Licence.
- (2) An "X" Licence issued under these Regulations shall authorise 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 1990 until and including 31st October 1990.
- (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 include squid of any kind.
- (4) A "Z" Licence issued under these Regulations shall permit the catching or taking of finfish of 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. (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 Fisheries Department P O Box 122, 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 there by Monday 9th April 1990.
- (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 "X" Licences.

Fees for licences.

- (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 this regulation 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 shall not have legislative effect.
- 8 The fees for transhipment or transhipment and export licences for the period 1st July 1990 to 31st December 1990 shall be £150 per transhipment operation.

Transhipment licence fees.

#### **SCHEDULE**

Provision as to fishing licences 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 1st August 1990 and ends on 31st October 1990.
- 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 result of £ (11.25 X GT + 24750)

#### 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 1st July 1990 and ends on 31st December 1990, and will be subject to a closed area and mesh restrictions.)

#### Effective text (of legislative effect)

- A. In the following Formula, "GT" means "Gross Tonnage" as shown in Tonnage Certificates issued in accordance with International Tonnage Measurement Rules.
- B. A licence is not transferable.

#### **FORMULA**

Fee payable per licensed month is result of f (3.0 x GT + 2040)

#### TABLE 3

Finfish Only, Species Specific - Type "Z" licence

#### (Explanatory Notes:

- 1. These notes are not of legislative effect but are for guidance only.
- 2. The fees calculated by the Formula set out in this Table apply to trawlers 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 1st July 1990 and ends on 31st December 1990, and will be subject to a closed area and mesh restrictions.)

#### Effective text (of legislative effect)

- A. In the following Formula "GT" means "Gross Tonnage" as shown in a certificate issued in accordance with the International Tonnage Measurement Rules.
- B. A licence is not transferable.

#### **FORMULA**

Fee payable per licensed month is result of  $\pounds$  (2.5 x GT + 680)

Made this 15th day of March 1990.

RONALD SAMPSON,
Acting Governor.



# THE FALKLAND ISLANDS GAZETTE Supplement

#### PUBLISHED BY AUTHORITY

No. 3

Vol. 1 3rd APRIL 1990

The following are published in this Supplement —

The Public Health (Amendment) Ordinance (No. 1 of 1990);

The Elected Councillors' Allowances Ordinance (No. 2 of 1990);

The Public Funds Ordinance (No. 3 of 1990).

# The Public Health (Amendment) Ordinance 1990 (No. 1 of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2. Amendment of Principal Ordinance.
- 3. Revocation of Medical Fees Regulations 1979.

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Public Health (Amendment) Ordinance 1990

(No. 1 of 1990)

## An Ordinance to amend the Public Health Ordinance.

(assented to: 28th February 1990) (commencement: on publication) (published: 3rd April 1990)

ENACTED by the legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Public Health (Amendment) Ordinance 1990.
- 2. The Public Health Ordinance is amended by the insertion, immediately after section 55, of the following new section —

"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 opthalmic 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.

Rcf: MED/10/2.

Medical Fees Regulations 1979 revoked.

Short title.

Amendment of principal Ordinance. Passed by the Legislature of the Falkland Islands this 15th day of February 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

#### The Elected Councillors' Allowances Ordinance 1990

(No. 2 of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2. Allowance to be paid.
- 3. Allowance to be free of Income Tax.
- 4. Apportionment.
- 5. Amendment of Schedule.
- 6, Repeals.

Schedule - Allowances payable to elected members of the Legislative Council.

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Elected Councillors' Allowances Ordinance 1990

(No. 2 of 1990)

#### An Ordinance

to make new provision in relation to allowances to be paid to elected members of the Legislative Council.

(assented to: 28th February 1990) (commencement: on publication) (published: 3rd April 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Elected Councillors' Allowances Ordinance 1990. Short title.

2 With effect from the 11th October 1989 persons who are elected members of the Allowances to be Legislative Council shall be paid the several allowances specified in the Schedule below.

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

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 (Allowances) Ordinance 1977 are repealed.

Repeals (Nos. 7 & 8 of 1977).

#### **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 qualifying meeting that he attends an attendance allowance of £200, but so that only one such sum shall be payable in respect of any day.
- (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 Council 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.

Ref: LEGCO/10/2 EXCO/10/1.

Passed by the Legislature of the Falkland Islands this 15th day of December 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

#### The Public Funds Ordinance 1990

(No. 3 of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2 Abolition of Fisheries Development Fund.
- 3. Creation of Insurance Fund.
- 4. Payments out of the Insurance Fund.
- 5. Investment of the Insurance Fund.
- 6. Insurance Fund to be subject to audit.
- 7. Reports to Legislative Council.
- 8. Augmentation of the Insurance Fund.

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G.,

GOVERNOR.

#### The Public Funds Ordinance 1990

(No. 3 of 1990)

#### An Ordinance

to abolish the Fisheries Development Fund and to transfer the balance stan ding 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.

(assented to: 28th February 1990) (commencement: on publication) (published: 3rd April 1990)

ENACTED by the Legislative Council of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Public Funds Ordinance 1990.
- 2. (1) The Fisheries Development Fund is abolished.
- (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.
- 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.
- (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.
- (3) All income accruing to the Insurance Fund by reason of the investment thereof shall accrue to and form part of that fund.
- (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.
- 4. No sum shall be paid out of the Insurance Fund except by way of transfer of that sum to the Consolidated Fund effected on the Authority of the Financial Secretary.
- 5 (1) The amount for the time being standing to the credit of the Insurance Fund shall be invested in such investments as the Consolidated Fund may lawfully be invested until the Insurance Fund shall accumulate to the sum of fifteen million pounds.
- (2). Whenever the Insurance Fund would otherwise aggregate to more than fifteen million pounds then, unless otherwise authorised by Ordinance, the excess shall be transferred to and form part of the Consolidated 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.

Short title.

Abolition of Fisheries
Development Fund.

Creation of Insurance Fund.

Payments out of the Insurance Fund. Investment 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.

Ref: INS/14/3.

Passed by the Legislature of the Falkland Islands this 15th day of February 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.



# THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 1 25th APRIL 1990 No. 4

The following is published in this Supplement —

The Law of Property Bill 1990.

#### THE LAW OF PROPERTY BILL 1989

Explanatory Memorandum

#### Introduction

The Law of Property Bill 1989 is a lengthy and extremely technical piece of proposed legislation and because the 'audience' it addresses is the courts and professionals dealing with land transactions it is not readily understood by the ordinary man in the street.

When the British settled the Falkland Islands, they brought the English common law as to land with them. Within a few years of settlement, statute in England began in part to replace the common law as to matters relating to land and by local legislation the Real Property Act 1845 of England was applied to the Falkland Islands and, later, the Conveyancing Act 1881 was similarly applied. In the early years of this century, a number of local laws as to land were enacted and they were replaced in 1949 and 1950 by what is the present Land Ordinance. Meanwhile, in England in 1925 all the previous statutes dealing with land were replaced and the Law of Property Act 1925 has, by the terms of the Interpretation and General Clauses Ordinance, been applied as law of the Falkland Islands in so far as it is consistent with local law. It is not, in fact, very easy to reconcile the Law of Property Act 1925 with the Land Ordinance and in relation to a number of areas the law of the Falkland Islands is, as a result, uncertain and incomplete. It would not be possible to rely on the Land Ordinance as the sole source of statutory land law in the Falkland Islands because it is not comprehensive and in respect of many important areas it makes no provision at all. For that reason, it seems as if the intention was that in those areas English statute law should be relied upon. Until very recent years, the resulting problems were not of great significance because there were few land transactions between private individuals and in particular there was little or no commercial lending on the security of land.

The development of the economy of the Falkland Islands and the emergence of a commercial lending sector now gives rise to a need for an updating of local land law. The rights and obligations of landlord and tenant of mortgagor and mortgagee require clarification and the position as to trusts of land also needs attention. Formidable as it may seem the Law of Property Bill 1989 does not, in fact, seek radically to change the law of the Falkland Islands but rather to express the land law of the Falkland Islands (except as to compulsory purchase) within the compass of one, local, statute and thus to address the problems mentioned above. It is not possible, in relation to many of the provisions of the Bill, to explain them with precision in non-technical language. Had it been possible to do this, the Bill would have been drafted in "plain English". The following explanations are, therefore, rudimentary only and are often of the effect or the intent of the provisions rather than of their exact meaning.

#### The Provisions of the Bill

Part I of the Bill is introductory and clause 2 appearing in this Part contains a number of important definitions. The clause is a highly technical dictionary which explains the meanings of words by reference to other words which themselves are used in a technical sense and, frequently, in a sense different from that in which the same word is used in ordinary speech. Part II of the Bill begins with dealing with general principles as to legal estates, equitable interests and powers. The effect of section 3 is to state what has been the law of the Falkland Islands since 1925 in an accessible form and to resolve any lingering doubts there may be on this subject. Clause 4 merely states that the Crown is the owner of all land in the Falkland Islands of which nobody else is the owner and that the Crown may dispose of that land just as any other owner of land can do so. Clause 5 makes provision in relation to rentcharges where the sum payable under it commences at a future time. A "rentcharge" is a periodic sum payable by the owner of freehold land and is therefore not the same as rent (a periodic sum payable by a lessee or tenant). There are no present known cases of rent charges being payable in respect of any land in the Falkland Islands.

Clause 6 would have the effect that a purchaser or lessee of land need not worry about any interests in that land which exist under a trust. For example, if he buys land from trustees of a trust under which a person has a right to receive the rents and profits of that land for his lifetime, the purchaser does not have to worry about that (the person entitled to the rents from profits from the land for his lifetime then has the right to receive the income earned by the purchase money). The purchaser, therefore, does not have to make sure that a person entitled to the life income of the trust has joined in the sale to him. Again, this reflects the existing law. Clause 7 would give somewhat similar protection to a purchaser of land. Clause 8 would in effect state how interests in land which do not affect a purchaser of the land, or a lessee are to have effect and be enforced. Clause 9 would state how an equitable interest in land may be created and disposed of.

Clause 10(1) would re-enact, in effect section 2 of the Satisfied Terms Act 1845 which has always been part of the law of the Falkland Islands. One example of its operation is that where a term is assigned to a trustee for a mortgage (lender) the term ceases on the mortgage being paid off. Clause 10(2) would have the effect, for example, that where a lessee purchases the freehold the lease term comes to an end and cannot afterwards be transferred. Clause 11 would preserve rights to enforce covenants etc under a lease in the circumstances to which it relates.

The Land Clauses Acts apply in the Falkland Islands, and among other things confer certain rights of compulsory purchase. (They will not apply, as to compulsory purchase, if the Land Acquisition Bill 1989 is enacted). As far as is known

no right of compulsory purchase has ever been exercised under the provisions of the Land Clauses Acts, but if they have been the freehold vested in the purchaser, would revert to the original owner in certain circumstances. Clause 12(2) would make provision as to freeholds owned by corporations (including companies) and clause 12(3) makes provision for where freehold of land is transferred by a special statutory provision (again, such provisions are contained in Land Clauses Acts). Clause 13 makes provision in relation to certain leases or tenancies of "settled land". Again, so far as is known, there is no "settled land" in the Falkland Islands but the provision is necessary in case there is or, at any time in the future, any land becomes "settled land". "Settled land" has a special legal meaning (it does not mean occupied land) and relates to a situation where land (as apart from the income of law under a trust) is, for example, given by Deed or Will to a person for life and then to somebody else after his death.

Clause 15 of the Bill would make the Deeds Register evidence of title. This is a new provision but reflects what appears to be existing practice. Clause 16 would make related provision. However clause 17 would preserve the right of persons in possession of land and claiming possessory title. Clause 18 would make related provision.

Overriding interests are dealt with by clause 19. The effect of this clause is that a person purchasing land will take subject to any obligations affecting the land of the kind mentioned in the clause, even though they are not disclosed by the deeds registered in the Deeds Register. Clause 20 merely states that persons who are party to any conveyance (or transfer of land) shall be presumed to be eighteen years of age or over unless the contrary is proved).

A person under the age of eighteen years cannot in law own land or be a trustee of land and clauses 21 to 23 would make special provision in relation to them. (A "minor" is a person who has not attained his eighteenth birthday). Clause 24 would make special provision in relation to persons suffering from a mental disorder.

Clauses 25 to 41 are concerned with trusts for sale of land. Clause 25 would deem a trust which might have come to an end to continue so as to protect the purchaser of the land until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale of the land (ie the beneficiaries under the trust). Clause 26 deals with who must be appointed trustees of conveyance of land on trust for sale where land is purchased out of money subject to a trust.

Clause 27 would imply in every trust for sale of land a discretion to postpone the sale (eg until a better price could be obtained) in the trust unless the contrary intention appears in the trust itself. The trustees would not be personally liable for postponing the sale for that sort of reason. Sometimes trusts for sale of land contain provisions requiring any sale of the land to have the consent of one or more persons. Clause 28 would provide that where the consent of more than two persons is required then a purchaser is only concerned to see that the consent of two of the persons has been obtained. The consent of a person subject to an incapacity (not sui juris) because, for example, he is suffering from a mental disorder which renders him incapable of dealing with his own affairs, is not required in favour of a purchaser. The trustees would, however, be bound to obtain the separate consent of a person acting for a person under an incapacity. Trustees for sale would by clause 28(3) be obliged to consult all the persons of full age interested in the proceeds of the land and, so far as is consistent with the general interests of the trust, to give effect to their wishes or wishes of the majority according to the value of their interests. Clause 29 would provide that a purchaser is not concerned with the trusts affecting the proceeds of sale if he pays the purchase money to trustees or to a trust corporation.

By clause 30 trustees for sale would be given statutory powers of management and of purchase of land and consequential provision is also made. Under clause 31, trustees would have certain powers to delegate their powers of management. The court would be given certain powers under clause 32 if trustees for sale refuse to sell or to exercise on any of their statutory powers of management given by clauses 30 and 31. Clause 33 contains certain provisions relating to mortgage loans by trustees and the exercise of their powers where the mortgage has been foreclosed. (A mortgage is "foreclosed" when themortgagor's right to redeem is cancelled).

Clause 34 deals with the trusts for sale which contain a power to invest money in the purchase of land and the manner in which the land purchased is to be held by the trustees and what they must do with any rents.

Clause 36 would, in effect, provide that where land is to be held in disposable shares by joint owners it must be held under a trust for sale and clause 37 merely defines what a statutory trust for sale is. Clause 38 provides that where the legal estate is held other than under a settlement of land in trust for persons in "joint tenants" it shall be held upon trust for sale. A "joint tenancy" of land arises where two or more persons own land jointly in equal shares upon trust for sale in circumstances where the share if one of them dies passes to the survivors so that the last survivor ends up owning the land on his own. The most usual example of a "joint tenancy" is when a man and wife purchase a property as joint tenants. Clauses 40 and 41 would make some consequential provisions. Clause 42 and Schedule 1 would make transitional provision. Clause 43 defines what is meant by a trust corporation.

#### Part III of the Bill

Part III of the Bill deals with contracts, conveyances and other instruments and clause 44 states that the Part has effect in addition to certain provisions of the Law of Contract Ordinance 1988 as to the Law of Contract. The following provisions of the Part are, to a large extent, extremely technical provisions and do not readily lend themselves to explanation in plain English. Clause 45 has the effect that a "purchaser" (this is a term defined in clause 2(1) above) of a "legal

estate" (this means the estate in "fee simple absolute in possession" (very roughly indeed, the absolute freehold) or a term of years (very roughly a lease or mortgage) is entitled to acquire the legal estate discharged from an equitable interest (that is to say an interest which could only take effect under the Bill under a trust) he may require the vendor notwithstanding any stipulation in the contract to the contrary to discharge any registration protecting the "equitable interest" or that the person entitled to the equitable interest shall concur in the conveyance without cost to him if this cannot be done that he can rescind the contract. Clause 46 makes a number of provisions as to conditions of contract for the sale of land. In relation to clause 46(7), which refers to compulsory purchase attention is drawn to the provisions of Part IV of the Land Ordinance, if Legislative Council choses to enact it, the provisions of the Land Acquisition Bill 1989, which deals with compulsory acquisition in detail.

Clause 47 deals with the manner in which a vendor is to show title and, in effect, is supplemental to clause 15. Clause 49 deals with the application of money payable under an insurance policy maintained by the vendor in the event of damage to or destruction of the property included in a contract after the date of contract. That money is to be paid to the purchaser unless it is stipulated to the contrary in the contract. This is because the purchaser notwithstanding damage or destruction of the property after the date of the contract will be obliged (unless the contract says otherwise) to complete his purchase and pay the purchase money. For that reason, it is advisable for purchasers to insure the property in their own name from the date of the contract if there is any reason to doubt that the vendors insurance will cover damage or loss to the property in a sufficient amount. Clause 50 would render void any condition of a contract preventing a purchaser from employing his own lawyer on the purchase. Clause 51 would enable the reference of any dispute arising out of or connected with the contract to be referred to the Supreme Court for determination. By clause 52 provision would be made in relation to the discharge of incumbrances by the court. This provision has particular reference to the provisions of clause 86 below (orders for sale made by the court in reference to an equitable mortgage) and to sales where land is subject to a trust for sale.

Clause 53 (lands lie in grant only) means that land can only be transferred by writing and that delivery and possession of the land is insufficient. Clause 54 requires (subject to the exception set out in clause 54(2)) that conveyances of land must be by deed. There are a number of exceptions to the requirement to use a deed which are set out in clause 54(2). Except as provided by the Law of Contract Ordinance 1988, clause 55 would provide that an interest in land (this means any interest other than a legal estate) can only be created or disposed of by a document and cannot be created or disposed of by word of mouth. The exception in section 55(2) is in relation to resulting implied or constructive trusts. Courts find the existence of such trusts whenever the construction of certain acts of the parties warrants it and also whenever a person clothed with character of trustee gains some personal advantage by availing himself of his situation as trustee. For example, a trustee or executor who renews a lease in his own name is deemed to be trustee for those interested in the original lease. This is equally the case where a trustee purchases the freehold reversion to a lease to which he is trustee. The clause reflects certain provisions originally appearing in the Statute of Frauds 1667 (and which have always applied in the Falkland Islands). Similarly clause 56, which reflects certain provisions originally appearing in the Real Property Act, 1845 which was adopted in the Falkland Islands in 1853 (and which was replaced by section 59 of the Law of Property Act 1925 which applies in the Falkland Islands at the current time.) Again it makes no change in the law therefore. A similar situation applies in respect of clause 57 which reflects section 51 of the Conveyancing Act 1881 which was adopted in the Falkland Islands on 22nd May 1900 and which was replaced by section 60 of the Law of Property Act 1925 and which has been the law of the Falkland Islands (but not directly appearing in an Ordinance enacted here) since 1st January 1926. (NB It would have been possible to trace back and demonstrate the application of most previous provisions of the Bill in this way and it is only for the sake of brevity that this has not been done). Clause 58 (implying general words in conveyances) replaces section 6 of the Conveyancing Act 1981 and section 62 of the Law of Property Act 1925 (which latter applies in the Falkland Islands at the present day).

Clause 59 says that a conveyance passes all rights the vendor has to the land unless the contrary is stated in the conveyance. It replaces section 6 of the Conveyancing Act 1881 and section 63 of the Law of Property Act 1925 (which applies in the Falkland Islands at the present day) and merely has the effect of stating the law in a local provision. Clause 60 would merely have the effect that if a vendor reserves out of a conveyance any part of the property he owns (for example a right of way in his own favour) he does not need, merely because of that, to sign the conveyance. This is the case at the present time under the Land Ordinance.

Clause 61 would appear to make new law for the Falkland Islands. A number of deeds executed in the past seemed to have to have assumed that what clause 61 says was the law of the Falkland Islands but it appears that section 66 of the Law of Property Act 1925 which clause 61 reflects has not, in fact, been the law of the Falkland Islands. The clause is necessary to put such deeds beyond doubt and to make adequate provision for the future. Clause 62 (receipts in deeds) has been the law of the Falkland Islands since at least 22nd May 1900 because it reflects section 54 of the Conveyancing Act 1881 (which was adopted on that date) and section 67 of the Law of Property Act 1925 which applies in the Falkland Islands at the present time. The clause would merely take into a locally enacted law that provision. A similar situation exists in relation to clauses 64, 65 (which reflects section 10 of the Law of Property Amendment Act 1859), clause 66 (which reflects section 11 of the Law of Property Amendment Act 1859), clause 67 (which reflects section 21 of the Law of Property Amendment Act 1859) and clause 68.

Clause 69 would appear to make new law in that section 74 of the Law of Property Act 1925, which it reflects, does not appear to apply to the Falkland Islands. In its absence it would be necessary, in the absence of a special condition, to prove execution in accordance with the memorandum and articles of association or charter of the corporation. In

many cases in the past this will not have been done because it would have been assumed that section 74 of the Law of Property Act 1925 applied here. For that reason, clause 69 (7) would deem the clause to have been in force since 1st January 1926 (the date when the Law of Property Act 1925 came into operation).

Clause 76 (covenants for title) would reflect section 76 of the Law of Property Act 1925 which replaced section 7 of the Conveyancing Act 1881 (in force in the Falkland Islands since 22nd May 1900). It takes the provision into a locally made law. Clause 72 would make detailed provision for certain circumstances related to rentcharges (these are periodic payments to the vendor provided for by a conveyance of freehold land). The clause reflects section 77 of the Law of Property Act 1925 which does not apply in the Falkland Islands. There is reason to doubt whether there are in fact any rentcharges in existence in the Falkland Islands at the present time but, in case there are, the provision is necessary and fills in a gap in the present law. Clause 73 reflects section 58 of the Conveyancing Act 1881 (which was applied to the Falkland Islands on 22nd May 1900 but which did not contain a provision corresponding to the second paragraph of clause 73(1)). However, that subclause appears to reflect the common law (which does, of course, apply in the Falkland Islands).

Clause 74 to a large extent reflects the common law but, in one small particular, would change the position at common law. At the present time it appears that the burden of a restrictive covenant ceases to run when the freehold or leasehold comes into the hands of a purchaser of the land who had no notice of the restrictive covenant and ceases to affect even the subsequent purchaser of the land who does know about the covenant. Clause 76 which deals with covenants with the Crown reflects a provision currently appearing in the Land Ordinance. Clause 77 reflects section 60 of the Conveyancing Act 1881 (which was applied to the Falkland Islands on 22nd May 1900) and appearing presently in section 81 of the Law of Property Act 1925 replacing that section, (and section 81 of the Law of Property Act 1925 currently applies in the Falkland Islands). Clause 77(5) however, would reflect the Law of Contract Ordinance 1988. Clause 78, would make new law as section 82 of the Law of Property Act 1925, which it reflects, does not apply here: again, this is a case where lawyers (and others) may have assumed that the law was as reflected in the clause. Clause 78 (1) is necessary to overcome the difficulty which may arise otherwise on transfer of mortgages by trustees to new and continuing trustees. At common law, one cannot covenant with oneself but the clause would not enable a man to enforce contractual obligations against himself (eg so as to defeat his creditors or other persons with whom he has contracted). Clause 79 (construction of implied covenants) is self-explanatory. Similar provision in relation to statutes is contained in the Interpretation and General Clauses Ordinance 1977.

Clause 80 would make important new provision enabling the Supreme Court to modify or discharge restrictive covenants affecting land in the circumstances set out in the section.

#### Part IV of the Bill

Part IV of the Bill deals with mortgages, rentcharges and powers of attorney. Clause 81 would make important changes in the law as in the manner in which freeholds could be mortgaged. At the present time, the way of mortgaging freeholds under the Land Ordinance is for the mortgagor to convey the freehold to the mortgagee, with a provision for re-conveyance to the mortgagor on the mortgage being redeemed. Clause 81(1) would provide that, in future, a mortgage of the freehold shall be by a demise for a term of years absolute (in effect a sort of lease) subject to a provision for redemption, alternatively, or by a charge by deed expressed to be by way of legal mortgage. The mortgagee (lender) would therefore never technically be the owner of the freehold. A mortgage "by demise" is usually, by convention, a mortgage for a period of 3,000 years. A charge by way of legal mortgage would have the advantage that both freehold and leasehold land can be included in the same mortgage. A disadvantage of the present law is that the mortgagor cannot convey the land subject to the mortgage because the mortgagee technically has the freehold.

Clause 82 would, in a similar way, change the way in which leaseholds could be mortgaged. Under the present law a mortgage of a lease is by assignment of the lease to the mortgage with a proviso for re-assignment. Under clause 82(1) in future mortgage of a lease would be by a sub-lease for the term of the lease less one day at least than the term vested in the mortgagor or by a charge by way of legal mortgage. Under the present law, similar difficulties arise in relation to the transfer of the lease by the mortgagor as arise in relation to mortgage by conveyance of the freehold. Clause 83 would make new provision providing for charges by way of legal mortgage. It is anticipated that most mortgages will be by way of legal charge since a legal charge is easier for the mortgagor to understand and, in some respects, is easier to prepare.

Clause 84 deals with the realisation of freehold mortgages and clause 85 deals with the realisation of leasehold mortgages. Clause 86 deals with the realisation of equitable charges by the court. The primary remedies of an "equitable mortgagee" are the appointment of a receiver of the rents and profits of the land and, where appropriate, foreclosure of the mortgage, but where the mortgage is made or accompanied by a deed the mortgage would also have a power of sale under clause 97 and clause 100. An equitable mortgage could be made by writing, not executed as a deed, or by a deed not operating as a legal mortgage or legal charge (for example covenanting to execute a legal mortgage or legal charge if required by the mortgage to do so). Equitable charges or mortgages may well be used by banks and others to secure temporary borrowing or temporarily to secure borrowing by the mortgagor. A mortgage to secure an overdraft at the bank might perhaps be secured by an equitable mortgage or charge. No provision for this is made in the current law of the Falkland Islands and the provisions of clause 86 will fill in a gap in the present law and may well be of assistance to farmers and other businessmen.

Clause 87 would confer greater rights on borrowers by way of mortgage than exist under the Land Ordinance and would enable the court to order a sale of the property instead of the foreclosure of the mortgage. ("foreclosure" is a technical expression: a person is "foreclosed" when his right to redeem the mortgage at a future date is cancelled because he is in breach of his mortgage, either by a default in payment or other breach of the mortgage).

Clause 88 would enable the court to authorise a mortgagee to dispose of the land and mines and minerals separately but would only apply, of course, where the mortgagees power of sale had arisen. (See clause 99 as to when a mortgagees power of sale arises). Under the common law, if a mortgagee has two mortgages from the same mortgagor he can prevent the mortgagor seeking to redeem one of the mortgages without paying off the other. Clause 89, however, would enable a mortgagor to redeem one mortgage, without redeeming the other, unless one of the mortgage deeds preventing him from doing so by its express terms. It reflects section 17 of the Conveyancing Act 1881 (which was applied to the Falkland Islands on 22nd May 1900) and section 93 of the Law of Property Act 1925 which presently applies, and replaces them with the provision in local law to the same effect.

Clause 90 would deal with tacking and further advances. A mortgage might contain a provision enabling a mortgagee to make further advances (loans) secured by his mortgage in priority to subsequent mortagees rights against the same mortgagor (borrower). Special provision would be made by clause 90(2) in relation to mortgages to secure a current account (such as a current account at a bank). The effect of clause 90 is that the right to obtain priority over subsequent mortgagees would be restricted by it. Clause 91 would enable a mortgagor who is entitled to redeem his mortgage instead to require the mortgagee to transfer the mortgage debt to somebody else who paid the mortgagee off. Clause 92 deals with priorities between mortgages and states that their priority shall rank according to date of registration in the deeds register. Clause 93 enables the mortgagor, notwithstanding the mortgage, to sue in his own name. Otherwise, in certain circumstances, he would be obliged to have the mortgagee join in with him in the proceedings as a coplaintiff. Clause 94 would make important provision in cases where the mortgage was a mortgage of dwellinghouse and give special protection to such mortgagors (borrowers). It would enable the court to refuse to give the mortgagee (lender) possession if it thought that the mortgagor was likely within a reasonable time to pay any sums due under the mortgage or to remedy a default consisting of a breach of any other obligation arising under or by virtue of the mortgage. Clause 95 would deal with the leasing powers of a mortgager and of a mortgagee in possession. It would replace, by a local provision, section 99 of the Law of Property Act 1925 which itself replaced section 18 of the Conveyancing Act 1881 (applied to the Falkland Islands on 22nd May 1900). Clause 96 would deal with the powers of a mortgagor and mortgagee in possession to accept surrenders of leases. The clause replaces section 3 of the Conveyancing Act 1911, itself replaced by section 100 of the Law of Property Act 1925 and does not appear to make any new law. It would, however, bring into a locally made law the necessary provision. A similar situation applies in relation to clause 97 (powers incident to an estate or interest of mortgagee). Clause 98 reserves the rights of mortgagees of undivided shares in land but it only applies in respect of mortgages created before 1st January 1926, and it is probable that none of these are still in existence.

Clause 99 would make most important new provision. It would replace section 4(3) of the Land Ordinance which says "the mortgagee shall in default of payment of principal or interest have power to enter into possession of the mortgage land and to receive the rents and profits thereof and to sell such land but until such default the mortgagor shall quietly enjoy such land." That provision means that even if the mortgagor is one day in default with payment of interest them mortgagee could eject him from the land, enter into possession of it or sell it. While no instance is known of a mortgagee acting in such an unreasonable way, technically he would be entirely within his present legal rights to do so. The provisions of clause 99 are self-explanatory and, it is believed, would result in much more satisfactory provision in the interests of mortgagors (borrowers) while still being completely fair to mortgagees (lenders). Clause 100 would make provision supplementary to clause 99 and so does clause 101, 102 and 103. Clause 104 deals with the amount of insurance which may be effected (taken out) by a mortgagee and the mortgagee's powers to insure and the application of monies received under an insurance policy effected in connection with a mortgage. Clause 105 would have the effect that a mortgagee could not appoint a receiver of the rents and profits of land subject to a mortgage until he is entitled under clause 99 to exercise the power of sale. He would then be entitled to appoint a receiver and the receiver's powers and duties would be regulated by clause 105. Clause 106 makes provision in relation to the bankruptcy of the mortgagor. Clause 107 in effect reflects the provisions of section 111 of the Law of Property Act 1925 replacing section 61 of the Conveyancing Act 1881 (which was applied to the Falkland Islands on 22nd May 1900). Clause 108 would alter the law from the common law position which is that a purchaser in good faith is affected by trusts of which he has notice. The whole philosphy of the provisions of the Bill is that a purchase of a value of a legal estate (roughly, freehold or lease) will not be affected by notice of trust which take effect only as equitable interests and that those trusts attach to the purchase money in the hands of trustees (paid to them).

Clause 109 deals with transfers of mortgagees and in effect replaces section 5 of the Land Ordinance which deals with the same subject. It contains amplified provision to that contained in section 5 of the Land Ordinance in that it states what effect a deed of transfer of mortgage will have. Clause 110 would replace section 6 of the Land Ordinance and makes fuller provision and clause 111 would make provision supplementary to clause 110. Clause 112 is the counterpart of section 4(1) and 4(2) of the Land Ordinance. Clause 113 reflects certain provisions of section 5 of the Land Ordinance and makes more express provision as to the effect of a transfer of mortgage. Clause 114 is supplemental to clauses 112 and 113.

Clauses 115 and 116 make technical provision in relation to rentcharges. No rentcharges are known to exist in the Falkland Islands but the provision of the clauses are necessary in case they exist or are hereafter created. Clause 117 would require a power of attorney to be registered in the Deeds Register before any land could be sold under it.

#### Part V

Part V deals with equitable interests. Clause 118 states how entailed interests in real and personal property may be created. An entailed interest is created by a gift to a person and his descendants or the "heirs of his body". Such an interest will, if left to itself, descend on the death of the first owner to his children, grandchildren and more remote descendants, but not to his parents, grandparents et cetera or to his brothers and sisters. The result is that if he dies without children or any of his descendants without children and there is no other descendant of the first owner living, the interest will, if left alone, come to an end and the land will pass to the person entitled to the reversion or remainder (very often the person who gave the land in the first place or his heirs). The owner for the time being of an entailed interest is called a "tenant in tail". An entail may be either general, as where the gift is to a person and the heirs of his hody (without saying any more), in which case it descends to such of his heirs as are descended from him; or special, when it is restricted to certain heirs of his body, as where the gift is to a person and the heirs of his body by a particular wife: here only his children by that particular wife or descended from his children by her can take. Each of these kinds may also be either in "tail male", where the gift is to the heirs male of the donee, so that it cannot descend to any but males who can trace their descent through male desendants from the donee (that is, to sons, sons of sons and so on); or in "tail female" where it can only descend to females and female descendants of females (daughters, daughters of daughters, and so on). Accordingly, the gift may be in "tail male special", that is descendable only to heirs male by a particular wife, or the like, where the gift is to two persons and the heirs of their bodies then if they can by any possibility marry, either immediately or at a future time, they have an interest in special tail, limited to their own issue. If there is no possiblity of their marrying, they have a joint life interest and several inheritances in tail, that is, on the death of the survivor, one half goes to the issue of each tenant for life, and the issue are tenants in common in tail. Clauses 118 and 119, therefore, deal with these rather peculiar disposals of land and make necessary provision in relation to them. No entailed interests are known to exist in the Falkland Islands. Similarly, clause 120 deals with the situation whereby a testator in his will gives property "to his heir" when the heir is said to "take by purchase" and not "by descent". Clause 121 (restriction on executory limitations) reflects section 10 of the Conveyancing Act 1981 applied to the Falkland Islands on 22nd May 1900) and section 134 of the Law of Property Act 1925 which replaced it. It is a kind of "perpetuity rule" and has application to certain kinds of gifts, wills or trusts. Clause 122 deals with "equitable waste". "Equitable waste" is a breach of trust, for which after the death of a tenant for life his estate will be liable. Examples of "equitable waste" are the pulling down of a house, digging and carrying away brick-earth so as to destroy a field and spoil the inheritance, and cutting down timber planted or left standing for shelter or ornament. Again it only applies in relation to certain kinds of disposition by will or by trust. Clause 123 relates to dealings with life interests, reversions and other equitable interests which take effect under a trust. Clause 124 would enable a trust corporation (defined in clause 2(1) above) to be nominated to receive notices of dealings (principally with interests under trusts).

#### Part VI - Leases and tenancies

Clause 125 reflects a provision of section 9 of the Real Property Act 1845 (applying to the Falkland Islands since 1852) and now appearing in section 139 of the Law of Property Act 1925. It would merely bring this provision into a locally made law. Otherwise the common law position is that the surrender of a leasehold reversion where subtenancies have been granted operates as a grant subject to the rights of the subtenants and, but for the provision, a surrender and renewal of lease would not have effect against the subtenants. Clause 126 reflects section 12 of the Conveyancing Act 1881 (applied to the Falkland Islands on 22nd May 1900 and now appearing in section 140 of the Law of Property Act 1925) and would bring the provision into a locally made law. Clause 127 largely reflects the common law and has the effect that where a freehold out of which a lease has been granted is sold the benefit of the rents and covenants under the lease passes to the new owner of the freehold. Clause 128 reflects section 11 of the Conveyancing Act 1881 (applied to the Falkland Islands on 22nd May 1900 and replaced by section 142 of the Law of Property Act 1925) and would merely bring the provision into local law. Clause 129 in effect repeats the provision of the Law of Property Amendment Act 1859 which was applied to the Falkland Islands in the 19th century and which was replaced by section 143 of the Law of Property Act 1925 and, again, would merely bring the provision into a local law.

Clause 130 would provide that if a lease contained a covenant, condition or agreement against assigning, underletting or parting with possession et cetera that provision, unless it stated to the contrary, would be deemed to be subject to a provision to the effect that no money should be paid before the licence or consent to assign, underlet or et cetera but the landlord would be entitled to require payment of a reasonable sum in respect of any legal or other expense incurred in relation to this licence or consent. Clause 131 would require the lessee who received a writ for possession of the premises to give notice of it to his landlord. In default he would be liable to pay an amount equal to three years "improved or rack rent" of the premises. "Improved or rack rent" means the rent at which the premises could fairly be let at the time of the service of the writ or summons.

Clause 132 would make most important new provision in relation to the rights of lessees and which would have the effect of restricting a lessors right to repossess the premises. If the lessee was in breach of his lease the lessor would be obliged to serve a notice containing the information specified in clause 132 (1) before enforcing the right to re-possess. Additionally under clause 132(2) the lessee could apply to the court for "relief against forfeiture" which the court could grant in accordance with that subclause. The lessor would, however, be entitled to recover all reasonable costs

and expenses properly incurred in the employment of a legal practitioner and surveyor or valuer, or otherwise, in relation to the breach, if that breach is waived by the lessor or in respect of which the court granted relief from forfeiture. Further subtenants rights would be protected under clause 132(4). In a somewhat similar vein, clause 133 would protect the rights of lessees in breach of provisions as to internal decoratory repairs to a house or other building. The court could relieve the lessee from that liability if, having regard to all the circumstances of the case (including in particular the length of the lease unexpired) the court was satisfied that the notice to carry out internal repairs was unreasonable. Clause 134 (waiver of covenant in a lease) reflects a provision of the Law of Property Amendment Act 1860 which was applied to the Falkland Islands in the 19th century and is now reflected in section 148 of the Law of Property Act 1925, which applies in the Falkland Islands. It would bring the provision into locally made law. Clause 135 would abolish the doctrine of "interesse termini". At common law, in most instances, a lessee's lease did not become fully effective until or unless he entered into possession, which he could do under "interesse termini". This was an absolute propriety right to take possession either immediately or from the time from which the lease commenced and the owner of an interesse termini might assign it so as to give the assignee the right to enter the land. The owner of an interesse termini could not maintain an action for trespass. A reversionary lease (that is a lease to commence on the expiry of an existing lease) or a future lease only created an interesse termini until entry.

Clause 136 would enable a lease to be surrendered with a view to the grant of a new lease without the surrender of any underlease granted under the lease surrendered so first being surrendered. It would also make further and consequential provision. Clause 137 would replace a statute of Queen Anne as amended by the Distress for Rent Act 1737 and now reflected in section 151 of the Law of Property Act 1925 (all of which have applied to the Falkland Islands). It would not make new law. Clause 138 would protect certain lessees where the lessor had failed to exercise the power of leasing granted by a statute or trust properly.

Clauses 139 to 145 contain a number of provisions protecting tenants of dwelling houses. Clause 139 would require at least one month's notice to quit a dwelling house to be given by landlords and tenants. At present, if the rent is paid weekly and the letting is not for a fixed period, only one week's notice need be given. That does not allow a reasonable time for the tenant to move out his furniture and to find alternative accommodation and, in the case of a landlord, does not give him reasonable time to find a new tenant. Clause 140 would only enable a right of re-entry or forfeiture of dwelling house contained in a lease to be enforced in proceedings in court. Similarly, clause 141 would have the effect that when a fixed period of tenancy had come to an end the landlord could not eject the tenant without an order of court.

Clause 142 would give certain protection to tenants of agricultural tide houses. Clause 142(3) would enable the court to suspend the execution of an order for possession for a period of up to six months and the court would be required to suspend the execution of the order for possession for six months after the end of the employment by clause 142(4) unless it was satisified one or other of the matters referred to in clause 142(4). The remainder of the clause makes further and consequential provision. Clause 143 would provide that subject to the exceptions mentioned in clause 143(4) the landlord would be responsible for ensuring that the dwelling house is fit for human habitation at the commencement of the tenancy and that it would be kept fit for human habitation throughout the tenancy. Clause 144 would make similar provision in relation to agricultural tied houses. Clause 145 would make provision as to what was meant by "fitness for human habitation" and would be supplementary to clauses 143 and 144.

Clause 145 would apply so as to impose statutory obligations upon the landlord of any dwelling house let after commencement of the Ordinance for a period of less than seven years. Subject to the provisions of this clause, the landlord of a dwelling house let for a period of seven years after the commencement of the Ordinance would be obliged to keep the structure and exteria of the dwelling house (including drains, gutters and external pipes) and also to keep in repair and proper working order the installations in the dwelling house for heating and heating water. The landlord would not, however, be obliged to carry out works or repairs which are due to the tenants default or to rebuild or restate the premises in the case of destruction or damage by fire, storm, flood or inevitable accident or to keep in repair anything which is a tenant's property or which he is entitled to remove from the dwelling house. In determining the standard of repair required regard would be required to be had to the age, character and prospective life of the dwelling house and the locality in which it is situated. A provision of the lease contrary to the terms of the section would be void and clause 147 would make supplemental provision. Clause 148 would define terms used in clause 146. The provisions of clauses 145 to 148 would be entirely new law. They would apply to lettings of dwelling houses by the Crown unless the provisions of section 146 are exclused either expressly or by necessary implication. The provisions referred to would apply in addition to the relevant provisions of clause 143.

Clauses 149 to 152 would make new law in respect of repairing covenants in long leases. If a lease has more than three years to run and the landlord serves on the tenant notice of breach of a repairing covenant the tenant could within 28 days from the service of that notice serve on his landlord a counter notice to the effect that he claims the benefit of provisions of the Ordinance. A similar provision is contained in clause 149(2) in respect of a claim for damages for breach of a repairing covenant where three years or more of the lease remains unexpired. Where a counter-notice is served by the tenant in accordance with the clause, the landlord would be barred from taking any proceedings to enforce any right of re-entry on the premises or forfeiture of the lease or for damages unless he obtained leave of the court to do so. A breach of covenant notice served under clause 132(1) would, where clause 149 applied by invalid unless it contains a statement to the effect that the lessee is entitled to serve a counter-notice claiming the benefit of the relevant sections and giving an address for service. By clause 149(5), the court could not give leave to the landlord to bring

proceedings for re-entry, forfeiture of the lease or for damages unless the lessor proves one or more of the matters referred to in clause 149(5). Similarly, clause 150 would prevent a landlord on whom a counter-notice is served under clause 149 (ie where the lease has more than three years to run) from recovering from the tenant under clause 132(3) above the costs and expenses incurred by the lessor in serving the notice of breach of repairing covenant unless he had made an application to the court for leave to enforce the covenants. Additionally the court would be given power to direct whether and to what extent the lessor will be entitled to recover the costs and expenses incurred in serving a notice of breach of covenant. Under clause 151, clauses 149 and 150 would not apply to a breach of covenant to put premises in repair which is to be performed upon the tenant taking possession of the premises or within a reasonable time thereafter. Clauses 149 and 150 would not apply to a dwelling house intended to be used for or let with land intended to be used for agricultural purposes.

#### Part VII of the Bill

This Part deals with compensation for improvement on the termination of tenancies of business premises and contains important new provisions providing for a tenant of business premises being entitled, on the termination of that tenancy, to compensation for improvements to the premises carried on by him. Clause 153 states that, in principle and subject to the provisions of the Part, a tenant of business premises is entitled, if he makes a claim in the prescribed manner and within the time limited by clause 164 to be paid compensation by his landlord on termination of the tenancy in respect of any improvement in the premises made by him or his predecessors. This does not apply to trade or other fixtures which the tenant is at law entitled to remove and compensation is in any event only payable if the improvement adds to the letting value of the holding. The compensation payable could not exceed the net addition to the value of the premises as a whole which directly results from the improvement or the reasonable cost of carrying out the improvement at the termination of the tenancy. By clause 153(2) in determining the amount of compensation to be payable, regard would have to be had for the purposes for which the premises are to be used after the determination of the tenancy and, if they are to be demolished, or structural improvements are to be made to the premises, regard is also to be had to the effect of such demolition, alteration et cetera on the additional value attributable to the improvement and to the length of time likely to elapse between the termination of the tenancy and the demolition, alternation or change of use of the premises. By clause 153(3), in the absence of agreement between the parties, any disputes as to the amount of compensation are to be referred to and determined by the court. By clause 153(4), Part VII will not apply to any land or buildings let for agricultural purposes.

By clause 154(1), the right to compensation would only apply in respect of improvements made after the commencement of the Ordinance and no compensation could be claimed in respect of any improvement made less than three years before the termination of the tenancy. If the tenant claims compensation for an improvement under clause 153 and the landlord serves on the tenant within two months afterwards notice that he is willing and able to grant or obtain the grant of a renewal of the tenancy at a reasonable rent, and a new tenancy is then agreed the rent is not to take into account the value of the improvement made by the tenant. However, under clause 155(1) a tenant could not claim compensation for an improvement unless he has served notice under that clause of his intention to make the improvement. The landlord would then have the right to object to the making of the improvement and the tenant could apply to the court, in the event of such an objection, for permission to carry out the improvement notwithstanding the landlord's objection. Where the landlord proves that he has offered to execute the improvement himself in consideration of a reasonable increase of the rent or of such increase of rent as the court may determine, the court could not give consent to the tenant to carry out the improvement. In any event the court would have to be satisfied that the improvement proposed by the tenant was not likely to injure the amenity or convenience of the neighbourhood. The remainder of clause 155 makes consequential and related provision. Clause 156 would make provision where in respect of any premises there were several persons standing in relation to each other of landlord and tenant. Clause 157 would restrict the right to contract out of the provisions of Part VII. Clause 158 would give a right of entry to a landlord for the purpose of carrying out an improvement he had agreed to carry out. Clause 159 would enable a landlord to deduct from any compensation payable by him under the Part any sum due to him from the tenant under or in respect of the tenancy and give similar rights to the tenant in respect of sums due from him to the landlord to deduct sums due from the landlord to him by way of compensation. Clause 162 contains transitional provision and clause 163 would enable a landlord to recover from the tenant any increased rates or fire policy premium attributable to any improvement carried out by the tenant.

Clause 164 deals with the time limits within which a tenant must make a claim for compensation. Where his tenancy is terminated by notice to quit, the claim for compensation would have to be made within three months after the service of notice to quit but where the tenancy comes to an end by the lapse of time the claim must be made not more than six months nor less than three months before the coming to end of the tenancy. Where the tenancy is terminated by forfeiture or re-entry the claim would have to be made within the period of three months beginning with the effective date of the order for the recovery of possession or of the re-entry. Clause 165 would "define the court" for the purposes of the part as being the Supreme Court but would allow the parties to confer jurisdiction upon the Magistrate's Court to deal with the matter if they wished.

#### Part VIII of the Bill

This Part contains further provisions relative to the law of landlord and tenant. Clause 166 would provide that a party to a lease is not obliged to pay any other party's legal costs unless he has agreed in writing to do so. This would change the common law rule by which a tenant, unless agreed to the contrary, is obliged to pay his landlord's legal costs relating to the lease. Clause 167(1) would enable a landlord only to claim by way of damages for breach of repairing covenant an amount not exceeding the amount (if any) by which the value of the premises is diminished by reason of the breach (and he would not be able to claim any damages if the premises were to be demolished at the end of the tenancy. Under clause 167(2), a landlord would have no right to re-possess premises or obtain an order of the court for possession of premises for breach of a repairing covenant unless he had served notice of breach of covenant under clause 132 and that the fact that it had been served was known and that a time reasonably sufficient to enable the repairs to be carried out had elapsed since the notice had been known.

Clauses 168 to 172 of the Bill contain important new provision in relation to licences to assign (ie permissions to transfer) a lease. Clause 168 (1) would provide that where in any lease there is contained a covenant or condition et cetera preventing assigning, underletting, mortgaging or parting with the possession of the premises leased or any part of it without the permission of the landlord that is to be deemed to contain a provision that the permission will not be unreasonably withheld. The landlord would have the right to require payment of his legal or other expenses incurred in connection with the granting of permission. By clause 168(1) certain leases for more than 40 years made other than by the Crown or a statutory or public utility company would be deemed to contain a provision that if the assignment, underletting, mortgaging or parting with possession was more than seven years before the end of the lease no consent would be required, if the lease had been made to transfer the lease wholly or partly on the basis that the tenant would carry out substantial improvement, addition or alteration of buildings.

Under clause 168(3) all leases which contained a covenant, condition or agreement against the making of improvements to the premises without the licence or permission of the landlord would be deemed to contain a provision that the landlord's licence or consent should not be unreasonably withheld. However, the landlord would be entitled to require payment of a reasonable sum in respect of any damage to or loss in the value of the premises or any neighbouring premises belonging to him and also his legal or other expenses incurred in giving the consent. Moreover, where the improvement would not add to the letting value of the holding, the landlord would be permitted to require as a condition of his licence or consent, if that would be reasonable, an undertaking on the part of the tenant to re-instate the premises to the condition in which they were before improvement was carried out.

Clause 168(3) would preclude a landlord from asking for a premium or increase of rent for or in respect of any licence or consent. He would however, be entitled to require payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or any neighbouring premises belonging to him.

Clause 169 would impose on a landlord a qualified duty to consent to assignments, underlettings, charging with the possession of premises included in the lease. He would be obliged to give consent, except in a case where it is reasonable not to give consent and to inform the tenant within a reasonable time, whether or not he granted consent and any conditions attached to the consent and, if consent was not granted, to tell the tenant within a reasonable time why he would not grant the consent. Clause 170 would impose a statutory duty to pass on an application to the correct person where the consent of another person is required and clause 171 would impose a qualified duty to approve consents by immediate landlords of applications by sub-tenants.

Clause 173 would enable a landlord of derelict land to apply to the Magistrates's Court for an order determining the tenancy in certain circumstances where he could not find the tenant of the land. Clause 174 would enable the court to order compensation in any case where a landlord had obtained an order for possession from the court by misrepresentation or concealment of material facts.

#### Part IX of the Bill - Dispositions of Crown land

The provisions of Part IX of the Bill replace the provisions of sections 18 to 25 and section 28 of the Land Ordinance. They would have effect in addition to the provisions of section 67 of the Constitution. Clause 175(3) would enable the Governor to delegate to any public officer, subject to such conditions and limitations as the Governor may think fit, the power to demise or let or grant a licence to occupy land from week to week or month to month or for a period not exceeding one year. However, the tenancy, lease or licence would not be allowed to contain any provision for renewal or continuation beyond one year or any provision providing for compensation to be paid in the event that the lease or licence is not renewed or continued. By clause 176 a grant or disposition of land made in contravention of clause 175 would be void. Clause 177 would contain provisions relating to the making of contracts by the Crown for the grant or disposition of land. Except as provided by clause 175(3) no contract to dispose of land belonging to the Crown would be valid unless it was signed by the Governor or the person for the time being administering the Government of the Falkland Islands. Clause 178 would deal with the execution of grants of Crown land. Clause 179 in effect repeats section 28 of the Land Ordinance.

#### Part X of the Bill - Offences

Clauses 180 to 189 in effect repeat section 28A and section 29 of the Land Ordinance and divide them into nine shorter clauses.

#### Part XI of the Bill - Powers

Clauses 190 to 195 would make provision in relation to certain powers and the exercise of certain powers. Clause 190 appears to reflect the existing common law. The same applies in relation to clause 191 (disclaimer of power). Clause 192 would make provision to protect purchasers in good faith where he purchases not knowing of a fraudulent exercise of a power of appointment and could not have discovered any fraud if he had made reasonable enquiries. Clause 193 (validation of appointments where objects are excluded or take illusory shares) replaces without alteration section 158 of the Law of Property Act 1925 which applies in the Falkland Islands because it replaces with modifications the Illusory Appointments Act 1830 (sections 1 and 2) and the Powers of Appointment Act 1874, all of which were applied to the Falkland Islands on 22nd May 1900. Similarly, clause 194 reflects section 159 of the Law of Property Act 1925 which applies in the Falkland Islands as it replaces section 12 of the Law of Property Amendment Act 1859 which was applied to the Falkland Islands on 22nd May 1900.

#### Part XII - Perpetuities and accumulations

Clauses 196 and 197 deal with matters known to lawyers as "perpetuity rules" and clause 198 sets out a general restriction on accumulation of income. Under it an accumulation of income under a trust for a period greater than anyone of the four periods set out in clause 198(1) is not permitted and any direction to accumulate for any such greater period is void except as permitted by clause 198(2). Clause 198 reflects section 164 of the Law of Property Act 1925 which applies in the Falkland Islands at the present time because it replaces provisions contained in the Accumulations Act 1800 (which was applied to the Falkland Islands on 22nd May 1900). The clause therefore does not change the law. Clause 199 (qualificatios on restrictions on accumulation) is supplementary to clause 198. Clause 200 reflects and brings into a locally made law section 166 of the Law of Property Act 1925 which applies in the Falkland Islands because it replaces provisions of the Accumulations Act 1892 (which was applied to the Falkland Islands on 22nd May 1900).

#### Part XIII - Avoidable dispostions

Clause 201 (voluntary disposition of land how far voidable against purchaser) reflects section 173 of the Law of Property Act 1925. That section applies to the Falkland Islands at the present time (and would be replaced by the clause) because it itself replaced a provision of a statute of Queen Elizabeth I made in 1584 and a provision of the Voluntary Conveyances Act 1893 (both of which were applied to the Falkland Islands on 22nd May 1900). Clause 202 reflects section 174 of the Law of Property Act 1925 which replaces section I and 2 of the Sale of Reversions Act 1867 (which was applied to the Falkland Islands on 22nd May 1900).

#### Part XIV - Wills

It is not altogether clear whether clause 203 (which reflects section 175 of the Law of Property Act 1925) will change the law or or not. It would change the law if that section does not apply in the Falkland Islands but it is not clear whether that section applies or not. The same applies in respect of clause 204 (power for tenant in tail in possession to dispose of property by specific devise or bequest) which reflects section 176 of the Law of Property Act 1925. Clause 203(1) means that if a testator gives to his son by will his farm subject to his son living to attain the age of 25 years then, unless he has given somebody else the income from the farm until the son attains 25, the son, (or trustees for the son) are entitled to that income.

What clause 204 means is that a tenant in tail can by will dispose of land of which he is the tenant in tail as if he was the absolute owner of it. A "tenant in tail" is a person who is entitled under a trust to land for his lifetime on the basis of his being the descendent of another person and where under the trust concerned land would go to one of his sons or his daughters on his death and stay in the family after that on the same sort of basis. It is believed that there are in fact no "tenancies in tail" in the Falkland Islands.

#### Part XV of the Bill

Part XV of the Bill contains a number of miscellaneous provisions. Clauses 206 and 206 contain necessary provision in relation to land vested in corporations. This appears to be new provision and fills in a gap in the present Land Ordinance. Clause 207 would provide that a legal practitioner and others would not be negligent if in any document he applies the powers given by the Ordinance. Clause 208 creates a criminal offence of fraudulent concealment of documents or falsification of pedigrees and provides for punishment of those offences. Clause 209 would provide that where two or more persons have died in circumstances rendering it uncertain which of them survived the other or others a younger person is deemed to have survived a person older than him. Clause 210 merely reflects the law existing at equity (which takes precedence over the common law). Clause 212 makes provision in relation to easements. It is consequential upon earlier provisions of the Bill.

Clause 213 would make new provision in respect of rights of traverse, which in the Falkland Islands, under the clause, could be created as easements. This provision would appear to be necessary in the circumstances of the Falkland Islands because of difficulties of the common law in relation to easements. At common law, an easement must be annexed for the benefit of one property over another property or properties and must follow a fixed route. The person entitled to the easement (right of way) is not entitled to deviate from the fixed route even though the way has become impassable

from some cause or other. In the Falkland Islands it is often necessary to deviate from rights of way because of bogging and the like. Against that explanation, it is believed that the clause may readily be understood.

Clause 214 enables applications to be made to the court for an order for the division of chattels which are disposed of by will or otherwise to two persons jointly. Clause 215 would make necessary provision in relation to indemnity against rents. Clause 216 makes necessary provision in relation to apportionment for rent charges and rents under a lease where land is divided. Clause 217 puts recognisances to the Crown in the same position as other debts due to other people. Clause 218 would make provision in relation to notices and clause 219 and 220 would deal with registration under the Registration Ordinance.

#### Part XVI - General

Clause 221 would make the provisions of the Ordinance which apply to land itself apply also, subject only to the necessary qualifications, to rights over land or in respect of land. Clause 222 would make provision in relation to payments into court and applications to the court and clause 223 would render orders of the court conclusive. Clause 224 would prescribe forms of instrument set out in Schedule 3. Clause 225 would partially repeal the Land Ordinance and would repeal the effect from 1st January 1926 very old acts repealed by the Law of Property Act 1925 (and which have largely been referred to in proceedings paragraphs of this Explanatory Memorandum). Clause 226 makes it clear that the Ordinance applies to the Crown, subject to its expressed provisions and clause 227 would confer a limited power to make regulations. Clause 228 is an interpretation provision.

#### THE LAW OF PROPERTY BILL 1989

(No. of 1989)

#### ARRANGEMENT OF PROVISIONS

#### Clause

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# A Bill for An Ordinance

to make better provision in relation to the law of property in the Falkland Islands

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

#### PART I

#### Introductory

- 1. (1) This Ordinance may be cited as the Law of Property Ordinance 1989.
- Short title and commencement.
- (2) This Ordinance shall come into force on such day as the Governor may appoint by Order published in the Gazette and the Governor may appoint different days for different provisions and any such order may be revoked by a subsequent Order under this subsection, but only in relation to a provision yet to come into force at the time such subsequent Order is published in the Gazette.
- 2. (1) In this Ordinance, and except insofar as is inconsistent with the context —

Interpretation.

- "bankruptcy" includes liquidation by arrangement; also in relation to a corporation means the winding up thereof;
- "court" means the Supreme Court;
- "conveyance" includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will; and "convey" has a corresponding meaning;
- "disposition" includes a conveyance and also a devise, bequest, or an appointment of property contained in a will; and "dispose of" has a corresponding meaning;

"building purposes" include the erecting and improving of, and the adding to, and the repairing of buildings; and a "building lease" is a lease for building purposes conneced therewith;

"equitable easement" has the meaning assigned by section 6(3)(ii) below;

"equitable powers" has the meaning assigned by section 3(8) below;

"estate contract" has the meaning assigned by section 6(3)(iii) below;

"estate owner" means the owner of a legal estate;

"Gazette" means the Falkland Islands Gazette;

"incumbrance" includes a legal or equitable mortgage and a trust for securing money, and a lien, and a charge of a portion, annuity, or other capital or annual sum;

"incumbrancer" has a meaning corresponding with that of incumbrance, and includes every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof;

"instrument" does not include a statute, unless the statute creates a settlement;

"land" includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments; also a manor, and advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land; but not an undivided share in land; and "mines and minerals" include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same but not an undivided share thereof; and "manor" includes a lordship, and reputed manor or lordship; and "hereditament" means any real property which on an intestacy occurring before the commencement of the Administration of Estates Ordinance might have devolved upon an heir;

"legal estates" means the estates, interests and charges, in or over land (subsisting or created at law) which are by this Ordinance authorised to subsist or to be created as legal estates; "equitable interests" mean all other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest "capable of subsisting as a legal estate" means such as could validly subsist or be created as a legal estate under this Ordinance;

"legal powers" include the powers vested in a chargee by way of legal mortgage or in an estate owner under which a legal estate can be transferred or created; and "equitable powers" means all the powers in or over land under which equitable interests or powers only can be transferred or created:

a "mining lease" means a lease for mining purposes, that is, the searching for, winning, working, getting, making merchantable, carrying away, or disposing of mines and minerals, or purposes connected therewith, and includes a grant or licence for mining purposes;

"mortgage" includes any charge or lien on any property for securing money or money's worth; "legal mortgage" means a mortgage by demise or subdemise or a charge by way of legal mortgage and "legal mortgagee" has a corresponding meaning; "mortgage money" means money or money's worth secured by a mortgage; "mortgagor" includes any person from time to time deriving title under the original mortgaged property; "mortgagee" includes a chargee by way of legal mortgage and any person from time to time deriving title under the original mortgagee; and "mortgagee in possession" is, for the purposes of this Ordinance, a mortgagee who, in right of the mortgage, has entered into and is in possession of the mortgaged property; and "right of redemption" includes an option to repurchase only if the option in effect creates a right of redemption;

"notice" includes constructive notice;

"overriding interest" means an interest mentioned in section 19 below;

"personal representative" means the executor, originalor by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court;

"possession" includes receipt of rents and profits or the right to receive the same, if any, and "income" includes rents and profits;

"property" includes any thing in action, and any interest in real or personal property;

"purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property except that in Part II of this Ordinance and elsewhere where so expressly provided "purchaser" only means a person who acquires an interest in or charge on property for money or money's worth; and in reference to a legal estate includes a chargee by way of legal mortgage; and where the context so requires "purchaser" includes an intending purchaser: "purchase" has a meaning corresponding with that of "purchaser"; and "valuable consideration" includes marriage but does not include a nominal consideration in money;

"rent" includes a rent service or a rentcharge, or other rent, toll, duty, royalty, or annual or periodical payment in money or money's worth, reserved or issuing out of or charged upon land, but does not include mortgage interest; "rentcharge" includes a fee farm rent; "fine" includes a premium or foregift and any payment, consideration, or benefit in the nature of a fine, premium or foregift; "lessor" includes an underlessor and a person deriving title under a lessor or underlessor; and "lessee" includes an underlessee and a person deriving title under a lessee or underlessee, and "lease" includes an underlesse or other tenancy;

"repealed Ordinance" means the Land Ordinance (and notwithstanding that the same is not wholly repealed by this Ordinance);

"securities" include stocks, funds and shares;

"tenant for life", "statutory owner", "settled land", "settlement", "vesting deed", "subsidiary vesting deed", "vesting order, "vesting instrument", "trust instrument", "capital money" and "trustees of the settlement" have the same meaning as in the Settled Land Act 1925 in its application to the Falkland Islands:

"term of years absolute" means a term of years (taking effect either in possession or in reversion whether or not at a rent) with or without impeachment for waste, subject or not to another legal estate, and either certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest); but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by this Ordinance, to take effect within that period; and in this definition the expression "term of years" includes a term for less than a year, or for a year and a fraction of a year or from year to year;

"trust corporation" has the meaning assigned by section 43 below;

"trust for sale", in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without power at discretion to postpone the sale;

"trustees for sale' means the persons (including a personal representative) holding land on trust for sale; and "power to postpone a sale" means power to postpone in the exercise of a discretion;

"will" includes a codicil.

- (2) Any reference in this Ordinance to money being paid into court shall be construed as referring to the money being paid into the Supreme Court or any other court that has jurisdiction, and any reference in this Ordinance to the court, in a context referring to the investment or application of money paid into court.
- (3) Where an equitable interest in or power over property arises by statute or operation of law, references to the creation of an interest or power include references to an interest or power so arising.

#### PART II

General Principles as to Legal Estates, equitable interests and powers

3. (1) The only estates in land which are capable of subsisting or of being conveyed or Legal estates and created at law are -

equitable interests.

- (a) an estate in fee simple absolute in possession; and
- (b) a term of years absolute.
- (2) The only interests or charges in or over land which are capable of subsisting or of being created or conveyed at law are
  - an easement, right or privilege in or over land for an interest equivalent to an estate in fee simple absolute in possession or a term of years absolute;
  - (b) a rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute;
  - (c) a charge by way of legal mortgage;
  - (d) any charge on land created by or under the terms of any statute and otherwise than by deed or other instrument signed by the chargor or any person acting with his authority; and
  - rights of entry exercisable over or in respect of a legal term of years absolute, or annexed, for any purpose, to a legal rentcharge.
  - (3) All other estates, interests and charges in or over land take effect as equitable interests.
- (4) the estates, interests and charges which under this section are authorised to subsist or to be conveyed or created at law are (when subsisting or conveyed or created at law) in this Ordinance referred to as "legal estates", and have the same incidents as legal estates subsisting at the commencement of this Ordinance; and the owner of a legal estate is referred to as an "estate owner" and his legal estate is referred to as his estate.
- (5) A legal estate may subsist concurrently with or subject to any other legal estate in the same land in like manner as it could have done before the commencement of this Ordinance.
- (6) A legal estate is not capable of subsisting or of being created in an undivided share in land or of being held by a minor.
- (7) Every power of appointment over, or power to convey or charge land or any interest therein, whether created by a statute or other instrument or inspired by law, and whether created before or after the commencement of this Ordinance (not being a power vested in a legal mortgagee or an estate owner in right of his estate and exercisable by him or by another person in his name and on his behalf), operates only in equity.
- (8) Estates, interests and charges in or over land which are not legal estates are in this Ordinance referred to as 'equitable interests' and powers which by this Ordinance are to operate in equity only are in this Ordinance referred to as "equitable powers".
- (9) The provisions in any statute or other instrument requiring land to be conveyed to uses shall take take effect as directions that the land shall (subject to creating or reserving thereat any legal estate authorised by this Ordinance which may be required) be conveyed to a person of full age upon the requisite trusts.
- (10) The repeal of the Statute of Uses (as amended) does not affect the operation thereof in relation to dealings taking effect before the commencement of this Ordinance.
- 4. (1) The Crown shall be deemed to be the owner of an estate in fee simple absolute in possession of all land in the Falkland Islands of which no other person is the owner of the estate in fee simple absolute in possession.

Crown to be deemed to be owner of estate in fee simple of certain land.

- (2) The Crown may dispose of any land in which, by subsection (1) above, it is deemed to be the owner of an estate in fee simple absolute in possession, subject to the provisions of this Ordinance, in the same manner as a subject may dispose of land of which he is the owner of such an estate.
- 5. A rentcharge (not being a rentcharge limited to take effect in remainder after or

Definition of rent charge.

expectant on the failure or determination of some other interest) is a rentcharge in possession within the meaning of section 3(2)(b) above notwithstanding that the payments in respect thereof are limited to commence or accrue at some time subsequent to its creation.

22 & 23 Geo. 5 c.27 s.2

6. (1) Subject to section 19 below, a conveyance to a purchaser of a legal estate in land shall overreach any equitable interest or power affecting that estate, whether or not he has notice thereof if —

Conveyances overreaching certain equitable interests and powers.

(i) the power is made under the powers conferred by the Settled Land Act 1925 in its application to the Falkland Islands or any additional powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital are complied with;

15 & 16 Geo. 5 c. 20 s.2

- (ii) the conveyance is made by trustees for sale and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) below or independently of that subsection, and the statutory requirements respecting the payment of capital money arising upon a disposition upon trust for sale are complied with:
- (iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers, and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;
- (iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order, and any capital money arising from the transaction is paid into, or in accordance with the order of, the court
- (2) Where the legal estate affected is subject to a trust for sale, then if at the date of a conveyance made after the commencement of this Ordinance under the trust for sale or the powers conferred on the trustees for sale, the trustees (whether original or substituted) are either
  - (a) two or more individuals approved or appointed by the court or the successors in office of the individuals so approved or appointed; or
  - (b) a trust corporation,

any equitable interest or power having priority to the trust for sale shall, notwithstanding any stipulation to the contrary but subject to section 19 below, be overreached by the conveyance, and shall, according to its priority, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of land until sale.

- (3) Subject to subsection (4) below, the following equitable interests and powers are subject to section 19 below excepted from the operation of subsection (2) above
  - (i) the benefit of any covenant or agreement restrictive of the user of land;
  - (ii) any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Ordinance referred to as an "equitable easement");
  - (iii) the benefit of any contract (in this Ordinance referred to as an "estate contract") to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption or any other like right;
  - (iv) any equitable interest protected by registration with the Registrar-General under the provisions of this Ordinance, other than —
  - (a) an annuity; or
  - (b) a limited owner's charge or general equitable charge.

- (4) Any equitable interest (including an estate contract) created by deed or writing or equitable power so conferred is overridden by the operation of subsection (2) above and notwithstanding subsection (3) above it is not protected by registration prior to the conveyance referred to in subsection (2) above of the deed or writing creating it under the provisions of this Ordinance.
- (5) Subject to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the same.
- (6) Where an equitable interest is created otherwise than by deed or writing a purchaser of a legal estate shall only take subject thereto if he has notice thereof and it is not overreached under the provisions contained or manner referred to in this section.
- 7. (I) No equitable interest capable of affecting a purchaser of a legal estate can be created by a deposit of documents relating to the legal estate affected.
- (2) Subject to the protection afforded by subsection (1) above to the purchaser of a legal estate, nothing in this section shall deprive a person entitled to an equitable interest by a deposit of documents relating to the legal estate affected of any of his rights or remedies for enforcing the same.
- 8. (1) All equitable interests and powers in or over land shall be enforceable against the estate owner of the legal estate affected in the following manner
  - (a) where the legal estate affected is settled land, the tenant for life or statutory owner shall be bound to give effect to the equitable interests and powers in the manner provided in the Settled Land Act 1925 in its application to the Falkland Islands;
  - (b) where the legal estate is vested in trustees for sale -
    - (i) the trustees shall stand possessed of the net proceeds of sale after payment of costs and of the net rents and profits of the land until sale after payment of rates, taxes, costs of insurance, repairs and other outgoings, upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the same respectively, of which they have notice, and whether created before or after the disposition upon trust for sale, according to their respective priorities;
    - (ii) where, by reason of the exercise of any equitable power or under any trust affecting the proceeds of sale, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate to be vested in him in priority to the trust for sale, then, unless the claim is satisfied out of the net proceeds of sale, the trustees for sale shall (if so requested in writing) be bound to transfer or create such legal estates, to take effect in priority to the trust for sale, as may be required for raising the money by way of legal mortgage or for giving legal effect to the rights of the person so entitled:

Provided that, if the proceeds of sale are held in trust for persons of full age in undivided shares, those persons cannot require the land to be conveyed to them in undivided shares, but may (subject to effect being given by way of legal mortgage to incumbrances affecting the entirety) require the same to be vested in any of them (not exceeding four) as joint tenants on trust for sale; and if the conveyance purports to transfer the land to any of them in undivided shares or to more than four such persons, it shall operate only as a transfer to them or (if more than four) to the four first named therein as joint tenants on trust for sale.

(c) where the legal estate effected is neither settled land nor vested in trustees for sale, the estate owner shall be bound to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities, but this paragraph does not affect the priority or powers of a legal mortgagee, or the powers of a personal representative for purposes of administration.

Equitable interests created by deposit of documents.

Manner of giving effect to equitable interests and powers.

15 & 16 Geo. 5 c. 20 s. 3

- (2) Effect may be given by means of a legal mortgage to an agreement for a mortgage, charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought to have priority to the trust for sale.
  - (3) Where by reason of an equitable right of entry taking effect, or for any other reason, a person becomes entitled to require a legal estate to be vested in him, then and in any such case the estate owner whose estate is affected shall be bound to convey or create such legal estate as the case may be require.
- (4) If any question arises whether any and what legal estate ought to be transferred or created as aforesaid, any person may apply for directions in the manner provided by this Ordinance.
- (5) If the trustees for sale or other estate owners refuse or neglect for one month after demand to transfer or create any such legal estate, or if by reason of their being out of the Falkland Islands or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay and expense, the court may, on the application of any person interested, make a vesting order transferring or creating a legal estate in the manner provided by this Ordinance.
- (6) This section does not affect a purchaser of a legal estate taking free from an equitable interest or power.
- (7) The Magistrate's Court has jurisdiction under this section if it would have jurisdiction to entertain an action for possession of that land.
- 9. (1) Interests in land validly created or arising after the commencement of this Ordinance, which are not capable of subsisting as legal estates, shall take effect as equitable interests and, save as expressly provided by statute, interests in land which under the Statute of Uses or otherwise could before the commencement of this Ordinance have been created as legal interest, shall be capable of being created as equitable interest:

Creation and disposition of equitable interests.

Provided that, after the commencement of this Ordinance (and save as hereinafter expressly enacted) an equitable interest in land shall only be capable of being validly created in any case in which an equivalent interest in property real or personal could have been validly created before such commencement.

- (2) All rights and interests in land may be disposed of, including -
  - a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;
  - (b) a right of entry into or upon land whether immediate or future, and whether vested or contingent.
- (3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other reason may after the commencement of this Ordinance be made exercisable by any person and the persons deriving title under him, but in regard to an estate in fee simple (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities.
- 10. (1) Where the purposes of a term of years created or limited at any time out of freehold land became satisfied either before or after the commencement of this Ordinance (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.

Satisfied terms whether created out of freehold or leashold land to cease. 15 & 16 Geo.5 c.20 s.51.

- (2) Where the purposes of a term of years created or limited at any time or out of leasehold land becomes satisfied after the commencement of this Ordinance that term shall merge in the reversion expectant thereon and shall cease accordingly.
- (3) Where the purposes are satisfied only as respects part of the land comprised in a term this section shall have effect as if a separate term had been created in relation to that part of the land.

11. (1) Nothing in this Part affects prejudicially the right to enforce any lessors's or lessee's covenants, agreements or conditions (including a valid option to purchase or right of preemption over the reversion), contained in any such instrument as in this section mentioned, the burden or benefit of which runs with the reversion or the term.

Saving of lessors' and lessees' convenants.
15 &16 Geo. 5 c.20 s.7.

- (2) This section applies where the covenant, agreement or condition is contained in any instrument
  - (a) creating a terms of years absolute, or
  - (b) varying the rights of the lessor or lessee under the instrument creating the term.
- 12. (1) A fee simple, which by virtue of the Land Clauses Acts in their application to the Falkland Islands or any similar statute, is liable to be divested, is for the purposes of this Ordinance a fee simple absolute, and remains liable to be divested as if this Ordinance had not been enacted and a fee simple subject to a legal or equitable right of entry or re-entry is for the purposes of this Ordinance a fee simple absolute.

Saving of certain legal estates and statutory powers.

- (2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Ordinance, a fee simple absolute.
- (3) There shall remain in full force the provisions of any statute conferring special facilities or prescribing special modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the land in trustees or any person, or the holder for the time being of an office or any corporation sole or aggregate (including the Crown), but this subsection does not authorise an entailed interest to take effect otherwise than as an equitable interest.
- (4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner.
- 13. (1) All leases or tenancies at a rent for a term of years absolute authorised to be granted by a mortgagor or mortgagee by the Settled Land Act 1925 in its application to the Falkland Islands or any other statute (whether or not extended by any instrument) may be granted in the name and on behalf of the estate owner by the person empowered to grant the same, whether being an estate owner or not, with the same effect and priority as if this Part had not been passed; but this section does not (except as respects the usual qualified convenant for quiet enjoyment) authorise any person granting a lease in the name of an estate owner to impose any personal liability on him.

Saving of certain legal powers to lease.

15 &16 Geo.5 c.20 s.8.

- (2) Where a rent charge is held for a legal estate, the owner thereof may under the statutory power or under any corresponding power, create a legal term of years absoute for securing or compelling payment of the same; but in other cases terms created under any such power shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only as equitable interests.
- 14. (1) Every such order, declaration, or conveyance as is hereinafter mentioned, namely
  - (a) every vesting order made by any court or other competent authority;
  - (b) every vesting declaration (express or implied) under any statutory power;
  - (c) every vesting instrument made by the trustees of a settlement or other persons under the provisions of the Settled Land Act 1925 in its application to the Falkland Islands;
  - (d) every conveyance by a person appointed for the purpose under an order of the court or authorised under any statutory power to convey in the name or on behalf of an estate owner;
  - (e) every conveyance made under any power reserved or conferred by this Ordinance,

which is made or executed for the purpose of vesting, conveying or creating a legal estate shall operate to convey or create the legal estate disposed of in like manner as if the same had been a conveyance executed by the estate owner of the legal estate to which the order, declaration, vesting instrument or conveyance relates.

Vesting orders and dispositions of legal estates operating as conveyances by an estate owner. 15 & 16 Geo.5 c.20.s.9.

- (2) Where the order, declaration or conveyance is made in favour of a purchaser, the provisions of this Ordinance relating to a conveyance of a legal estate to a purchaser shall apply thereto.
- (3) The provisions of the Trustee Act 1925 in its application to the Falkland Islands shall apply to all vesting orders authorised to be made by this Part.
- 15. (1) Where a person is bound by the provisions of any contract or otherwise to show title to a legal estate in land it shall, subject to this Ordinance, be sufficient for him to show that according to the registers maintained by the Registrar-General under the Registration Ordinance and under this Ordinance and the deeds and other documents recorded therein he is entitled to that legal estate.

Title to be shown to legal estates. 15 & 16 Geo. 5 c.20 s.10

(2) If for any reason there is any reason to doubt the sufficiency of title of a person claiming who is bound to show title to a legal estate he may be required to show title in accordance with the subsequent provisions of this Ordinance:

Provided that a person may not be required to produce any deed or document registered with the Registrar-General or to obtain or furnish an acknowledgement of the right of any person to the production thereof.

16. (1) After the commencement of this Ordinance no person shall acquire any right or interest in land by virtue of the possession of any documents relating to that land.

Possession of documents.

- (2) The fact that a person does not possess any documents relating to the title to land shall not after the commencement of this Ordinance be in any way evidence that he does not have title thereto.
- 17. This Part shall not prejudicially affect the interest of any person in possession or in actual occupation of land to which he may be entitled in right of such occupation.

18. Nothing in this Part affects the operation of any statute, or of the general law for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect of land.

Interests of persons in possession. 15 & 16 Geo. 5 c.20 s.14. Limitation and prescription acts. 15 & 16 Geo. 5

19. All land in the Falkland Islands shall be deemed to be subject to such of the following overriding interests as may be for the time being subsisting in reference thereto —

Liability of land to overriding interests. 15 &16 Geo.5 c.21 s.70.

c.20 s.12.

- drainage rights, rights of traverse, public rights, profits a prendre, rights of sheepwalk, rights of way, watercourses, rights of water;
- (b) liability to repair any highway or road path or way;
- (c) liabilities in respect of embankments and sea and river walls;
- (d) subject to this Ordinance, rights acquired or in the course of being acquired under the Limitation Acts;
- (e) the rights of every person in actual occupation of the land or in receipt of the rents and profits thereof, save where enquiry is made of such person and the rights are not disclosed;
- (f) rights of fishing and sporting;
- (g) leases granted for a term not exceeding three years;
- (h) rights of the Crown to mines and minerals, and rights of entry search and user, and other rights and reservations incidental to or required for the purpose of giving full effect to the enjoyment of rights to mines and minerals or of property in mines or minerals and whether reserved before or after the commencement of this Ordinance.
- 20. The persons expressed to be parties to any conveyance shall, until the contrary be proved, be presumed to be of full age at the date thereof.

Presumption that parties are of full age. 15 & 16 Geo.5 c.20 s.15.

### Minors and persons suffering from mental disorder

21. (1) A conveyance of a legal estate in land to a minor alone or to two or more persons jointly both or all of whom are minors, shall have such operation as is provided for in the Settled Land Act 1925 in its application to the Falkland Islands.

Effect of conveyances to minors. 15 & 16 Geo. 5 c.20 s.19.

- (2) A conveyance of a legal estate in land to a minor jointly with one or more other persons of full age, shall operate to vest the legal estate in the other person or persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the rights of a tenant for life or statutory owner to have settled land vested in him.
- (3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.
- (4) A conveyance of a legal estate to a minor alone or to two or more persons jointly, both or all of whom are minors, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.
- (5) A conveyance of a legal estate in land to a minor jointly with one or moer other persons of full age on any trusts shall operate as if the minor had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the minor.
- (6) A grant or transfer of a legal mortgage of land to a minor shall operate only as an agreement for valuable consideration to execute a proper conveyance when the minor attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made:

Provided that, if the conveyance is made to the minor and another person or other persons of full age, it shall operate as if the minor had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the minor.

- 22. The appointment of a minor to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.
- 23. A married minor shall have power to give valid receipts for all income (including statutory accumulations of income made during the minority) to which the minor may be entitled in like manner as if the minor were of full age.
- 24. (1) Where a legal estate in land (whether settled or not) is vested in a person suffering from mental disorder, either solely or jointly with any other person or persons, (if no receiver is acting for him) any person authorised in that behalf under an order of the Supreme Court, or under any statutory power, shall make or concur in making all requisite dispositions for conveying or creating a legal estate in his name and on his behalf.
- (2) If land held on trust for sale is vested, either solely or jointly with any other person or persons, in a person who is incapable, by reason of mental disorder, of exercising his functions as trustee, a new trustee shall be appointed in the place of that person, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

#### Dispositions on Trust for Sale

25. Where land has, either before or after the commencement of this Ordinance become subject to an express or implied trust for sale, such trust shall, so far as regards the safety and protection of any purchaser thereunder, be deemed to be subsisting until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale.

This section applies to sale whether made before or after the commencement of this Ordinance but operates without prejudice to an order of any court restraining a sale.

- 26. (1) The persons having power to appoint new trustees of a conveyance of land on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of the conveyance of the land.
- (2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Ordinance.
- 27. (1) A power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears.

Minors not to be appionted trustees. 15 & 16 Geo.5 c.20 s.20. Receipts by married minors. 15 & 16 Geo.5 c.20 s.21.

Conveyances on behalf of persons suffering from mental disorder and as to land held by them on trust for sale.

Duration of trusts for sale. 15 & 16 Geo.5 c.20 s.23.

Appointment of trustees of dispositions on trust for sale. 15 & 16 Geo.5 c.20 s.24.

Power to postpone sale 15 & 16 Geo.5 c.20 s.25.

- (2) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of a sale.
- (3) The foregoing provisions of this section apply whether the trust for sale is created before or after the commencement or by virtue of this Ordinance.
- (4) Where a disposition or settlement coming into after the commencement of this Ordinance contains a trust either to retain or sell land the same shall be construed as a trust to sell the land with power to postpone the sale.
- 28. (1) If the consent of more than two persons is by the disposition made requisite to the execution of a trust for sale of land, then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.
- (2) Where the person whose consent to the execution of any such trust or power is expressed to be required in a disposition is not *sui juris* or becomes subject to disability, his consent shall not, in favour of a purchaser, be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the .... receiver (if any) of a person suffering from mental disorder.
- (3) Trustees for sale shall so far as practicable consult the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, and shall, so far as consistent with the general interest of the trust, give effect to the wishes of such persons, or in the case of a dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that the provisions of this subsection have been complied with.

In the case of a trust for sale, not being a trust for sale created by or in pursuance of the powers conferred by this or any other Ordinance, this subsection shall not apply unless the contrary intention appears in the disposition creating the trust.

- (4) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Ordinance.
- 29. (1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Ordinance or otherwise), or affecting the rents and profits of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.
- (2) Notwithstanding anything to the contrary in the instrument (if any) creating a trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money shall not be paid to or applied by the direction of fewer than two persons as trustees for sale, except where the trustee is a trust corporation, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for, or direct the application of, proceeds of sale or other capital money, nor, except where capital money arises on the transaction, render it necessary to have more than one trustee.
- 30. (1) Trustees for sale, shall, in relation to land and to the proceeds of sale, have all the powers of a tenant for life and the trustees of a settlement under the Settled Land Act 1925 in its application to the Falkland Islands including in relation to the land the powers of management conferred by that Act during a minority: and where by statute settled land is or becomes vested in the trustees of the settlement upon the statutory trusts, such trustees and their successors in office shall also have all the additional or larger powers (if any) conferred by the settlement on the tenant for life, statutory owner, or trustees of the settlement, and (subject to any express trust to the contrary) all capital money arising under the said powers shall, unless paid or applied for any purpose authorised by the Settled Land Act 1925 in its application to the Falkland Islands, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

All land acquired under this subsection shall be conveyed to the trustees on trust for sale.

Consents to the execution of a trust for sale. 15 & 16 Geo.5 c.20 s.26.

Purchaser not to be concerned with the trusts of the proceeds of sale which are to be paid to two or more trustees or to a trust corporation. 15 &16 Geo.5 c.20 s.27.

Powers of management etc. conferred on trustees for sale. 15 & 16 Geo.5 c.20 s.28.

The powers conferred by this subsection shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Ordinance or otherwise made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.

- (2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings shall be paid or applied, except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Act 1925 in its application to the Falkland Islands in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.
- (3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may, with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale
  - (a) partition the land remaining unsold or any part thereof; and
  - (b) provide (by way of mortgage or otherwise) for the payment of any equality money; and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any legal mortgage created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part of the land becomes settled land, by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given:

#### Provided that -

- (i) If a share in the net proceeds belongs to a person suffering from mental disorder the consent of his receiver shall be sufficient to protect the trustees for sale:
- (ii) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as they may consider expedient.
- (4) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, but in other respects the foregoing power shall apply as if the infant had been of full age.
- (5) This section applies to dispositions on trust for sale coming into operation either before or after the commencement or by virtue of this Ordinance.
- 31. (1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Ordinance or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially entitled in possession to the net rents and profits of the land during his life or for any less period: and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.

(2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the power.

Delegation of powers of management by trustees for sale. 15 & 16 Geo. 51 c.20 s.29.

- (3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but that person shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.
- 32. (1) If the trustees for sale refuse to sell or to exercise any of the powers conferred by either of sections 30 and 31 above, or any requisite consent cannot be obtained, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto, and the court may make such order as it thinks fit.

Powers of court where trustees refuse to exercise powers. 15 & 16 Geo.5 c.20 s.30.

Trust for sale of

- (2) The Magistrate's Court has jurisdiction under this section where the land which is to be dealt with in the court is land in relation to which it would have jurisdiction to entertain an action for possession.
- 33. (1) Where any property, vested in trustees by way of security, becomes by virtue of the statutes of limitation, or of an order for foreclosure or otherwise, discharged from the right of redemption, it shall be held by them on trust for sale.
  - ne property where right of redemption is barred. in
- (2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this subsection operates without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.
- (3) This section does not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.
- (4) Where the mortgage money is capital money for the purposes of the Settled Land Act 1925 in its application to the Falkland Islands the trustees shall, if the tenant for life or statutory owner so requires, instead of selling any land forming the whole or part of such property, execute such subsidiary vesting deed with respect thereto as would have been required if the land had been acquired on a purchase with capital money.
- (5) This section applies whether the right of redemption was discharged before or after the commencement of this Ordinance.
- 34. (1) Where a settlement of personal property or of land held upon trust for sale contains a power to invest money in the purchase of land, such land shall, unless the settlement otherwise provides, be held by the trustees on trust for sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied in like manner as the income of investments representing the purchasemoney would be payable or applicable if a sale had been made and the net proceeds had been duly invested in personal estate.

Implied trust for sale in personalty Settlements, 15 & 16 Geo.5 c.20 s.32.

- (2) This section applies to settlements (including wills) coming into operation after the thirty-first day of December, nineteen hundred and forty-nine and does not apply to capital money arising under the Settled Land Act 1925 in its application to the Falkland Islands or money liable to be treated as such.
- 35. The provisions of this Part of this Ordinance relating to trustees for sale apply to personal representatives holding a trust for sale, but without prejudice to their rights and powers for purposes of administration.

#### Undivided shares and joint ownership

- 36. (1) An undivided share in land shall not be capable of being created except as provided by the Settled Land Act 1925 in its application to the Falkland Islands or as hereinafter mentioned.
- (2) Where, after the commencement of this Ordinance, land is expressed to be conveyed to any persons in undivided shares and those persons are of full age, the conveyance shall (notwithste ding anything to the contrary in this Ordinance) operate as if the land had been expressed to be conveyed to the grantees, or if there are more than four grantees, to the four first named in the conveyance, as joint tenants upon the statutory trusts hereinafter mentioned and so as a give effect to the rights of the persons who would have been entitled to the shares had the conveyance operated to create those shares:

Application of Part II to personal representatives. 15 & 16 Geo.5 c.20 s.33.

Effect of future dispositions to tenants in common. 15 & 16 Geo. 5 c.20 s.34.

Provided that, where the conveyance is made by way of mortgage the land shall vest in the grantees or such four of them as aforesaid for a term of years absolute (as provided by this Ordinance) as joint tenants subject to cesser on redemption in like manner as if the mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

- (3) A devise bequest or testamentary appointemnt, coming into operation after the commencement of this Ordinance of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to the trustces (if any) of the will for the purposes of the Settled Land Act 1925 in its application to the Falkland Islands or, if there are no such trustees, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts hereinafter mentioned.
- (4) Any disposition purporting to make a settlement of an undivided share in land shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.
- 37. For the purposes of this Ordinance land held upon the "statutory trusts" shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of such persons (including an encumbrance of a former undivided share or whose encumbrance is not secured by legal mortgage) interested in the land and the right of a person who, if the land had not been made subject to a trust for sale by virtue of this Ordinance, would have been entitled to an entailed interest in an undivided share in the land, shall be deemed to be a right to a corresponding entailed interest in the net proceeds of sale attributable to that share.

Meaning of the Statutory trusts. 15 & 16 Geo.5 c.20 s.35.

#### Where -

- (a) an undivided share was subject to a settlement; and
- (b) the settlement subsists in respect of other property; and
- (c) the trustees thereof are not the same persons as the trustees for sale,

then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act 1925 in its application to the Falkland Islands.

38. (1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held on trust for sale, in like manner as if the persons beneficially entitled were tenants in common, but no so as to sever their joint tenancy in equity.

Joint tenancies. 15 & 16 Geo.5 c.20 s.36.

(2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon under the trust for sale affecting the land the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interest if there had been an actual severance.

Nothing in Ordinance affects the right of a survivor of joint tenants, who is solely and beneficially interested, to deal with his legal estate as if it were not held on trust for sale.

- (3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.
- 39. A husband and wife shall for all purposes of acquisition of any interest in property under a disposition made or coming into operation on or after 1st January 1926 be treated as two persons.

Rights of husband and wife, 15 & 16 Geo.5 c.20 s.37.

Party structure:

40. (1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.

c.20 s.37.

Party structures.

15 & 16 Geo.5

c.20 s.38.

- (2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this section of the persons interested in any such party structure, and the court may make such order as it thinks fit.
- 41. (1) For the purposes of section 38(2) above, the survivor of two or more joint tenants shall in favour of a purchaser of a legal estate, be deemed to be solely and beneficially interested if he conveys as beneficial owner or the conveyance contains a statement that he is so interested.

Assumptions on sale of land by survivor of joint tenants. 1964 c.63 s.31.

Provided that the foregoing provisions of this subsection shall not apply if, at any time before the conveyance by the survivor —

- (a) a memorandum of severance (that is to say a note or memorandum signed by the joint tenants or one of them and recording that the joint tenancy was severed in equity on a date therein specified) had been registered in the registers maintained by the Registrar-General under the Registration Ordinance;
- (b) a bankruptcy order made against any of the joint tenants or a petition for such an order has been published in the Gazette and has not subsequently been discharged or dismissed, as the case may be.
- (2) The foregoing provisions of this section shall apply with the necessary modifications in relation to a conveyance by the personal representatives of the survivor of joint tenants as they apply in relation to a conveyance by such a survivor.

#### Transitional Provisions

42. For the purpose of effecting the transition from the law existing prior to the commencement of this Ordinance to the law enacted by this Ordinance (as amended), the provisions set out in Schedule 1 to this Ordinance shall have effect —

Transitional provisions in Schedule 1.

- (1) for converting existing legal estates, interests and charges not capable under this Ordinance of taking effect as legal interests into equitable interests;
  - (2) for discharging, getting in or vesting outstanding legal estates;
  - (3) for making provision with respect to legal estates vested in infants;
  - (4) for subjecting land held in undivided shares to trusts for sale;
  - (5) for dealing with party structures and open spaces held in common;
  - (6) for converting tenancies by entireties into joint tenancies;
  - (7) for converting freehold mortgages into mortgages by demise;
  - (8) for converting existing leasehold mortgages into mortgages by sub-demise.

#### Supplementary provisions

43. For the purposes of this Ordinance and of the Settled Land Act 1925, the Trustee Act 1925, the Administration of Estates Act 1925 in their respective application to the Falkland Islands and for the purposes of the Administration of Justice Ordinance the expression

Meaning of trust corporation, 16 & 17 Geo.5 c.11 s.3.

"Trust Corporation" includes the Attorney General, the Official Administrator and any person holding any official position prescribed by the Chief Justice for the purposes of this section as a trust corporation and, in relation to the property of a bankrupt and property subject to a deed of arrangement, includes the trustee in bankruptcy and the trustee under the deed respectively, and, in relation to charitable ecclesiastical and public trusts, also includes any public authority so prescribed, and any other corporation constituted under the law of the United Kingdom or any part thereof which has, pursuant to section 3 of the Law of Property (Amendment) Act 1926 satisfied the Lord Chancellor that it undertakes the administration of any such trusts without remuneration or that by its constitution it is required to apply the whole of its net income after payment of outgoings for ecclesiastical or public purposes, and is prohibited from distributing, directly or indirectly, any part thereof by way of profits among any of its members, and is authorised by him to act in relation to such trusts in England as a trust corporation.

## PART III CONTRACTS, CONVEYANCES AND OTHER INSTRUMENTS

#### Contracts

44. This Part shall have effect in addition to and without prejudice to the provisions of sections 3 to 7 inclusive, 9 to 11 inclusive and 13 to 16 of the Law of Contract Ordinance 1988.

This Part to have effect in addition to certain provisions of Part II of the Law of Contract Ordinance 1988. Rights protected

by registration.

- 45. (1) Where a purchaser of a legal estate is entitled to acquire the same discharged from an equitable interest which is protected by registration as a pending action, annuity, writ, order, deed of arrangement or land charge, and which will not be overreached by the conveyance to him, he may notwithstanding any stipulation to the contrary, require
  - (a) that the registration shall be cancelled; or
- (b) that the person entitled to the equitable interest shall concur in the conveyance; and either case free of expense to the purchaser.
- (2) Where the registration cannot be cancelled or the person entitled to the equitable interest refuses to concur in the conveyance, this section does not affect the right of any person to rescind the contract.
- 46. (1) A stipulation that a purchaser of a legal estate in land shall accept a title made with concurrence of any person entitled to an equitable interest shall be void, if a title can be made discharged from the equitable interest without such concurrence —

Provisions as to contracts, 15 & 16 Geo. c.20

- (a) under a trust for sale; or
- (b) under this Ordinance or the Settled Land Act 1925 in its application to the Falkland Islands, or any other statute.
- (2) A stipulation that a purchaser of a legal estate in land shall pay or contribute towards the costs of or incidental to
  - (a) obtaining a vesting order, or the appointment of trustees of a settlement, or the appointment of trustees of a conveyance on trust for sale; or
  - (b) the preparation stamping or execution of a conveyance on trust for sale, or of a vesting instrument for bringing into force the provisions of the Settled Land Act 1925 in its application to the Falkland Islands;

shall be void.

- (3) A stipulation contained in any contract for the sale or exchange of land made after the commencement of this Ordinance, to the effect that an outstanding legal estate is to be traced or got in by or at the expense of a purchaser or that no objection is to be taken on account of an outstanding legal estate, shall be void.
  - (4) If the subject matter of any contract for the sale or exchange of land
    - (i) is a mortgage term and the vendor has power to convey the fee simple in the land, or, in the case of a mortgage of a term of years absolute, the leashold reversion affected by the mortgage, the contract shall be deemed to extend to the fee simple in the land or such leasehold reversion;

- (ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate;
- (iii) is an entailed interest in possession and the vendor has power to vest in himself or in the purchaser the fee simple in the land, (or, if the entailed interest is an interest in a term of years absolute, such term,) or to require the same to be so vested, the contract shall be deemed to extend to the fee simple in the land or the term of years absolute.
- (5) This section does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey or vest the leasehold reversion expectant thereon.
- (6) Any contract to convey an undivided share in land made before or after the commencement of this Ordinance, shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of sale of the land in like manner as if the contract had been to convey that corresponding share.
- (7) Where the Crown has power to acquire land compulsorily, and a contract, whether by virtue of a notice to treat or otherwise, is subsisting under which title can be made without payment of the compensation money into court, title shall be made in that way unless the purchaser, to avoid expense or delay or for any special reason, considers it expedient that the money should be paid into court.
- (8) A vendor shall not have any power to rescind a contract by reason only of the enforcement of any right under this section.
  - (9) This section only applies in favour of a purchaser for money or money's worth.
- 47. (1) This section has effect subject to section 15 above.

- Statutory commencement of title.
- (2) If for any reason there is any cause to doubt the title to a legal estate or equitable interest in any land of any person who has contracted to dispose of the same who appears from the registers maintained by the Registrar-General pursuant to the Registration Ordinance to be entitled thereto, subject to this section that person if he has for valuable consideration contracted to dispose of that estate or that interest may, subject to the terms of the contract in question, be required to show title commencing with a good root of title not less than fifteen years old.
- (3) For the purposes of subsection (2) above a good root of title is some document purporting to deal with the entire legal and equitable estate in the property concerned (in the case of a contract to dispose of a legal estate) or the entire equitable interest concerned (in the case of an equitable interest) and which document does not depend for validity upon a previous instrument and is not in itself a source of dubiety of the validity of the title offered.
- (4) Under a contract to grant or assign a term of years, whether derived or to be derived out of freehold or leasehold land, the intended lessee or assign shall not be entitled to call for the title to the freehold.
- (5) Under a contract to sell and assign a term of years derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.
- (6) On a contract to grant a lease for a term of years to be derived out of a leasehold interest in land, the intended assign shall not have the right to call for the title to the leasehold reversion.
- (7) Where by reason of any of the last three preceding subsections, and intending lessee or assign is not entitled to call for the title to the freehold or to a leasehold reversion, as the case may be, he shall not, where the contract is made after the commencement of this Ordinance, be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.
- (8) A purchaser shall not be deemed to be or ever to have been affected with notice of any matter or thing of which, if he had investigated the title or made enquiries in regard to matters prior to the period of commencement of title fixed by this Ordinance, or by

any other statute, or by any rule of law, he might have had notice, unless he actually makes such investigation or enquiries.

- (9) Where a lease whether made before or after the commencement of this Ordinance, is made under a power contained in a settlement, will, Act of Parliament, Ordinance or other instrument, any preliminary contract for or relating to the lease shall not, for the purpose of the deduction of title to an intended assign, form part of the title, or evidence of the title, to the lease.
- (10) This section, save where otherwise expressly provided, applies to contracts for sale whether made before or after the commencement of this Ordinance, and applies to contracts for exchange in like manner as to contracts for sale, save that it applies only to contracts for exchange made after 31st December 1925.
- (11) This section applies only if and so far as a contrary intention is not expressed in the contract.
- (12) Where a purchaser inspects a document, or a copy thereof, where that document is required to be registered with the Registrar General under the Registration Ordinance or any other Ordinance (including this Ordinance) a purchaser shall not be deemed to be or ever to have been fixed with notice of any matter or thing apparent on inspection of that document if it is not so registered before the registration of the disposition to him.
- 48. (1) A purchaser of any property shall not -
  - (a) require the production, or any copy, of any deed, will or other document, dated or made before the time prescribed by law, or stipulated, for the commencement of the title, even though the same creates a power subsequently exercised by an instrument made after that time;
  - (b) require any information, or make any requisition, objection, or inquiry, with respect to any such deed, will, or document, or the title prior to that time, notwithstanding that any such deed, will, or other document, or that prior title, is recited, agreed to be produced, or noticed;

and he shall assume, unles the contrary appears, that the recitals, contained in the instruments copied or produced, of any deed, will or other document, forming part of that prior title, are corect, and give all the material contents of the deed, will, or other document so recited, and that every document so recited was duly executed by all necessay parties, and perfected, if and as required, by fine, recovery, acknowledgment, inrolment, or otherwise:

Provided that this subsection shall not deprive a purchaser of the right to require the production, or a copy of —

- (i) any power of attorney under which any document copied or produced is executed: or
- (ii) any document creating or disposing of an interest, power or obligation
  which is not shown to have ceased or expired, and subject to which any
  part of the property is disposed of by a document copied or produced; or
- (iii) any document creating any limitation or trust by reference to which any part of the property is disposed of by a document copied or produced.
- (2) Where land sold is held by lease (other than an under-lease), the purchaser shall assume, unless the contrary appears, that the lease was duly granted; and, on production of the receipt for the last payment due for rent under the lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the lease have been duly performed and observed up to the date of actual completion of the purchase.
- (3) Where land sold is held by under-lease, the purchaser shall assume, unless the contrary appears, that the under-lease and every superior lease were duly granted; and, on production of the receipt for the last payment due for rent under the under-lease before the date of actual completion of the purchase, he shall assume, unless the contrary appears, that all the covenants and provisions of the under-lease have been duly performed and observed up to the date of actual completion of the purchae, and further that all rent due under

Other statutory conditions of sale.

every superior lease, and all the covenants and provisions of every superior lease, have been paid and duly performed and observed up to that date.

- (4) On a sale of any property, the following expenses shall be borne by the purchaser where he requires them to be incurred for the purpose of verifying the abstract or any other purpose, that is to say
  - (a) the expenses of the production and inspection of all Acts of Parliament, Ordinances, records, proceedings of courts, deeds, will, s probates, letters of administration, and other documents, not in the possession of the vendor or his mortgagee or trustee, and the expenses of all journeys incidental to such productions or inspection; and
  - (b) the expenses of searching for, procuring, making, verifying, and producing all certificates, declarations, evidences, and information not in the possession of the vendor or his mortgagee or trustee, and all attested stamped, office or other copies or abstracts of, or extracts from, any Acts of Parliament, Ordinances or other documents aforesaid, not in the possession of the vendor or his mortgagee or trustee:

and where a document is registered under the Registration Ordinance the expenses of making any copy thereof, attested or unattested, which a purchaser requires to be delivered to him, shall be borne by that purchaser.

- (5) On a sale of any property in lots, a purchaser of two or more lots, held wholly or partly under the same title, shall not have a right to more than one abstract of the common title, except at his own expense.
- (6) Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Parliament, Ordinances, or statutory declarations, twenty years old at the date of the contract, shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions.
- (7) A vendor shall not be required to furnish a purchaser with an acknowledgement of his right to the production of any document which has been registered with the Registrar General.
- (8) This section applies to contracts for sale made before or after the commencement of this Ordinance.
- 49 (1) Where after the date of any contract for sale or exchange of property, money becomes payable under any policy of insurance maintained by the vendor in respect of any damage to or destruction of property included in the contract, the money shall, on completion of the contract, be held or receivable by the vendor on behalf of the purchaser and paid by the vendor to the purchaser on completion of the sale or exchange, or so soon thereafter as the same shall be received by the vendor.

Application of insurances money on completion of a sale or exchange. 15 & 16 Geo.5 c.20 s.47.

- (2) This section applies only to contracts made after the commencement of this Ordinance and has effect subject to
  - (a) any stipulation to the contrary contained in the contract,
  - (b) any requisite consents of the insurers,
  - (c) the payment by the purchaser of the proportionate part of the premium from the date of the contract.
  - (3) This section applies to a sale or exchange by an order of the court, as if -
    - (a) for references to the "vendor" there were substituted references to the "person bound by the order";
    - (b) for the reference to the completion of the contract there were substituted a reference to the payment of the purchase or equality money (if any) into court;
    - (c) for the reference to the date of the contract there were substituted a reference to the time when the contract becomes binding.

50. (1) Any stipulation made on the sale of any interest in land after the commencement of this Ordinance to the effect that the conveyance to, or the registration of the title of, the purchaser shall be prepared or carried out at the expense of the purchaser by a legal practitioner appointed by or acting for the vendor, and any stipulation which might restrict a purchaser in the selection of a legal practitioner to act on his behalf in relation to any interst in land agreed to be purchased, shall be void; and, if a sale is effected by demise or subdemise, then, for the purposes of this subsection, the instrument required for giving effect to the transaction shall be deemed to be a conveyance:

Stipulations preventing a purchaser lessee or underlessee from employing his own legal practitioner to be void. 15 & 16 Geo.5 c.20 s.48.

Provided that nothing in this subsection shall affect any right reserved to a vendor to furnish a form of conveyance to a purchaser from which the draft can be prepared, or to charge a reasonable fee therefor, or, where a perpetual rentcharge is to be reserved as the only consideration in money or money's worth, the right of a vendor to stipulate that the draft conveyance is to be prepared by his legal practitioner at the expense of the purchaser.

- (2) Any covenant or stipulation contained in, or entered into with reference to any lease or underlease made before or after the commencement of this Ordinance
  - (a) whereby the right of preparing, at the expense of a purchaser, any conveyance of the estate or interest of the lessee or underlessee in the demised premises or in any part thereof, or of otherwise carrying out, at the expense of the purchaser, any dealing with such estate or interest, is expressed to be reserved to or vested in the lessor or underlessor or his legal practitioner; or
  - (b) which in any way restricts the right of the purchaser to have such conveyance carried out on his behalf by a legal practitioner appointed by him;

#### shall be void:

Provided that, where any covenant or stipulation is rendered void by this subsection there shall be implied in lieu thereof a covenant or stipulation that the lessee or underlessee shall register with the lessor or his legal practitioner within six months from the date thereof, or as soon after the expiration of that period as may be practicable, all conveyances and devolutions (including probates or letters of administration) affecting the lease or underlease and pay a fee of five pounds in respect of each registration, and the power of entry (if any) on breach of any covenant contained in the lease or underlease shall apply and extend to the breach of any covenant so to be implied.

- (3) Save where a sale is effected by demise or subdemise, this section does not affect the law relating to the preparation of a lease or underlease or the date thereof.
- (4) In this section "lease" and "underlease" include any agreement therefor or other tenancy, and "lessee" and "underlessee" and "lessor" and "underlessor" have corresponding meanings.
- 51. (1) A vendor or purchaser of any interest in land, or their representatives respectively, may apply in a summary way to the Supreme Court, in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract), and the court may make such order upon the application as to the court may appear just, and may order how and by whom all or any of the costs of and incident to the application are to be borne and paid.

Application to court by vendor and purchaser.

- (2) Where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit.
  - (3) This section applies to a contract for sale or exhange of any interest in land.
- 52. (1) Where land subject to any incumbrance, whether immediately realisable or payable or not, is sold or exchanged by the court, or out of court, the court may, if it thinks fit, on the application of any party to the sale or exhange, direct or allow payment into court of such sum as is hereinafter mentioned, that is to say —

Discharge of incumbrance by court on sales or exchanges. 15 & 16 Geo.5 c.20 s.50.

- (a) in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, the sum to be paid into court shall be of such amount as, when invested in Government securities, the court considers will be sufficient, by means of the dividends thereof, to keep down or otherwise provide for that charge; and
- (b) in any other case of capital money charged on the land, the sum to be paid into court shall be of an amount sufficient to meet the incumbrance and any interest due thereon;

but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interests, and other contingency, except depreciatio of investments, not exceeding one-tenth part of the original amount to be paid in, unless the court for special reason thinks fit to require a larger additional amount.

- (2) Thereupon, the court may, if it thinks fit, and either after or without any notice to the incumbrancer, as the court thinks fit, declare the land to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale or exchange, and give directions for the retention and investment of the money in court and for the payment or application of the income thereof.
- (3) The court may declare all other land, if any, affected by the incumbrance (besides the land sold or exchanged) to be freed from the incumbrance, and this power may be exercised either after or without notice to the incumbrancer, and notwithstanding that on a previous occasion an order, relating to the same incumbrance, has been made by the court which was confined to the land then sold or exchanged.
- (4) On any application under this section the court may, if it thinks fit, as respects any vendor or purchaser, dispense with the service of any notice which would otherwise be required to be served on the vendor or purchaser.
- (5) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the person entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.
- (6) This section applies to sales or exchanges whether made before or after the commencement of this Act, and to incumbrances whether created by statute or otherwise.

#### Conveyances and other instruments

53. (!) All lands and interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of an interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.

Lands lie in grant only, 15 & 16 Geo.5 c.20 s.51.

- (2) The use of the word grant is not necessary to convey land or to create any interest therein.
- 54. (1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed.
  - (2) This section does not apply to
    - (a) assents by a personal representative; by
    - (b) disclaimers made in accordance with any provision of the law of the Falkland Islands relating to insolvency permitting a disclaimer of property being administered in the insolvency of a person or of a corporation to be disclaimed other than by deed;
    - (c) surrenders by operation of law, including surrenders which may, by law, be effected without writing;
    - (d) leases or tenancies or other assurances not required by law to be made in writing;

Conveyances to be by deed. 15 & 16 Geo. 5 c.20 s.52.

- (e) receipts other than those falling within section 110 below;
- (f) vesting orders of the court or other competent authority;
- (g) conveyances taking effect by operation of the law; or
- (h) any conveyance made before 1st January 1926.
- 55. (1) Subject to the provisions referred to in section 44 above, with respect to the creation of interests in land by parol

Instruments required to be in writing, 15 & 16 Geo.5 c.20 s.53.

- (a) no interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law;
- (b) a declaration of trust respecting any land or any interest therein must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will;
- (c) a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same, or by his agent thereunto lawfully authorised in writing or by will.
- (2) This section does not affect the creation or operation of resulting, implied or constructive trusts.
- (3) The provisions "referred to" in subsection (1) are the provisions of section 13 of the Law of Contract Ordinance 1988.
- 56. (1) An exchange or other conveyance of land made by deed after the first day of October, eighteen hundred and forty-five, does not imply any condition in law.
- (2) The word "give" or "grant" does not, in a deed made after the date last aforesaid, imply any covenant in law, save where otherwise provided by statute.

Conditions and certain convenants not implied. 15 & 16 Geo.5 c.20 s.59.

- (3) The word "grant" in a deed whereby the Crown transfers any property to a subject implies a covenant by the Crown that it has the right to convey and conveys free from all incumbrances save those mentioned in the deed or implied by statute.
- 57. (1) A conveyance of freehold land to any person without words of limitation, or any equivalent expression, shall pass to the grantee the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.

Abolition of technicalities in regard to conveyances and deeds. 15 & 16 Geo.5 c.20 s.60.

- (2) A conveyance of freehold land to a corporation sole by his corporate designation without the word "successor" shall pass to the corporation the fee simple or other the whole interest which the grantor had power to convey in such land, unless a contrary intention appears in the conveyance.
- (3) In a voluntary conveyance a resulting trust for the grantor shall not be implied merely by reason that the property is not expressed to be conveyed for the use of the benefit of the grantee.
- (4) The foregoing provisions of this section apply only to conveyances and deeds executed after the commencement of this Ordinance:

Provided that in a deed executed after the thirty-first day of December, eighteen hundred and eighty-one, it is sufficient —

- (a) In the limitation of an estate in fee simple, to use the words "in fee simple", without the word "heirs";
- (b) In the limitation of an estate tail, to use the words "in tail" without the words "heirs of the body"; and
- (c) In the limitation of an estate in tail male or in tail female, to use the words "in tail male" or "in tail female", as the case requires, without the words "heirs male of the body", or "heirs female of the body".
- 58. (1) A conveyance of land shall be deemed to include and shall by virtue of this Ordinance operate to convey, with the land, all buildings, erections, fixtures, commons, hedges,

General words implied in conveyances. 15 & 16 Geo.5 c.20 s.62.

ditches, fences, ways, waters, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain to the land, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with or reputed or known as part or parcel of or appurtenant to the land or any part thereof.

- (2) A conveyance of land, having houses or other buildings thereon, shall be deemed to include and shall by virtue of this Ordinance operate to convey, with the land, houses, or other buildings, all outhouses, erections, fixtures, cellars, areas, courts, courtyards, cisterns, sewers, gutters, drains, ways, passages, lights, watercourses, liberties, privileges, easements, rights, and advantages whatsoever, appertaining or reputed to appertain to the land, houses, or other buildings conveyed, or any of them, or any part thereof, or, at the time of conveyance, demised, occupied, or enjoyed with, or reputed or known as part or parcel of or appurtenant to, the land, houses, other buildings conveyed, or any of them, or any part thereof.
- (3) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.
- (4) This section shall not be construed as giving to any person a better title to any property, right, or thing in this section mentioned than the title which the conveyance gives to him to the land or manor expressed to be conveyed, or as conveying to him any property, right, or thing in this section mentioned, further or otherwise than as the same could have been conveyed to him by the conveying parties.
- (5) This section applies to conveyances made after the thirty-first day of December, eighteen hundred and eighty-one.
- 59. (1) Every conveyance is effectual to pass all the estate, right, title, interest claim and demand which the conveying parties respectively have, in, to or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to, or on the same.

All estate clause implied, 15 & 16 Geo.5 c.20 s.63.

- (2) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.
- (3) This section applies to conveyances made after the thirty-first day of December eighteen hundred and eighty-one.
- 60. (1) A reservation of a legal estate shall operate at law without any execution of the conveyance by the grantee of the legal estate out of which the reservation is made, or any regrant by him, so as to create the legal estate reserved, and so as to vest the same in possession in the person (whether being the grantor or not) for whose benefit the reservation is made.

Reservation of legal estates.

- (2) A conveyance of a legal estate expressed to be made subject to another legal estate not in existence immediately before the date of the conveyance, shall operate as a reservation unless a contrary intention appears.
  - (3) This section applies to reservations made after the thirty-first day of December 1925.
- 61. (1) A deed containing a declaration by the estate owner that his estate shall go and devolve in such a manner as may be requisite for confirming any interests intended to affect his estate and capable under this Ordinance of subsisting as legal estates which, at some prior date, were expressed to have been transferred or created, and any dealings therewith which would have been legal if those interests had been legally and validly transferred or created, shall, to the extent of the estate of the estate owner, but without prejudice to the restrictions imposed by this Ordinance in the case of mortgages, operate to give legal effect to the interests so expressed to have been transferred or created and to the subsequent dealings aforesaid.
- (2) The powers conferred by this section may be exercised by a tenant for life or statutory owner, trustee for sale or a personal representative (being in each case an estate owner) as well as by an absolute owner, but if exercised by any person, other than an absolute owner, only with the leave of the court.

Confirmation of past transactions. 15 & 16 Geo.5 c.20 s.66.

- (3) This section applies only to deeds containing such a declaration as aforesaid if executed after 31st December 1925.
- 62. (1) A receipt for consideration money or securities in the body of a deed shall be a sufficient discharge for the same to the person paying or delivering the same, without any further receipt for the same being indorsed on the deed.

Receipt in deed sufficient. 15 & 16 Geo.5 c.20

- (2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.
- 63. (1) A receipt for consideration money or other consideration in the body of a deed or indorsed thereon shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof.

Receipt in deed or indorsed evidence. 15 & 16 Geo. 5 c.20 s.67.

- (2) This section applies to deeds executed after the thirty-first day of December, eighteen hundred and eighty-one.
- 64. (1) Where a legal practitioner produces a deed, having in the body thereof or indorsed thereon a receipt for consideration money or other consideration, the deed being executed, or the indorsed receipt being signed, by the person entitled to give a receipt for that consideration, the deed shall be a sufficient authority to the person liable to pay or give the same for his paying or giving the same to the legal practitioner without the legal practitioner producing any separate or other direction or authority in that behalf from the person who executed or signed the deed or receipt.

Receipt in deed or indorsed authority for payment to legal practitioner. 15 & 16 Geo.5 c.20.

- (2) This section applies whether the consideration was paid or given before or after the commencement of this Ordinance.
- 65. (1) A release from a rentcharge of part of the land charged therewith does not extinguish the whole rentcharge, but operates only to bar the right to recover any part of the rentcharge out of the land released, without prejudice to the rights of any person interested in the land remaining unreleased, and not concurring in or confirming the release.

Partial release of security from rent charge. 15 & 16 Geo.5 c.20 s.70.

- (2) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.
- 66. (1) A release from a judgment (including any writ or order imposing a charge) of part of any land charged therewith does not affect the validity of the judgement as respects any land not specifically released.

Release of part of land affected from a judgment. 15 & 16 c.20 s.71.

- (2) This section operates without prejudice to the rights of any persons interested in the property remaining unreleased and not concurring in or confirming the release.
- (3) This section applies to releases made after the twelfth day of August, eighteen hundred and fifty-nine.
- 67. (1) In conveyances made after the 12th August, 1859, personal property, including chattels real, may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person.

Conveyances by a person to himself etc. 15 & 16 Geo.5 c.20

- (2) In conveyances made after the 31st December, 1881, freehold land, or a thing in action, may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person; and may, in like manner, be conveyed by a husband to his wife, and by a wife to her husband, alone or jointly with another person.
- (3) In conveyances made after 31st December 1925, a person may convey land to or vest land in himself.
- (4) Two or more persons (whether or not being trustees or personal representatives) may convey, and shall be deemed always to have been capable of conveying, any property vested in them to any one or more of themselves in like manner as they could have conveyed such property to a third party; provided that if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance shall be liable to be set aside.

- 68. A deed executed by an individual is validly executed if it is executed in accordance with section 5 of the Law of Contract Ordinance 1988.
- 69. (1) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation, and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.
- Execution of deeds by an individual. Execution of deeds by or on behalf of a corporation. 15 & 16 Geo.5 c.20 s.74.
- (2) The board of directors, council or other governing body of a corporation aggregate may, by resolution or otherwise, appoint an agent either generally or in any particular case, to execute on behalf of the corporation any agreement or other instrument which is not a deed in relation to any matter within the powers of the corporation.
- (3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney execute the conveyance by signing the name of the corporation in the presence of at least one witness, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance.
- (4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of any other person (including another corporation), an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an office duly authorised.
- (5) The foregoing provisions of this section apply to transactions wherever effected, but only to deeds and instruments executed after the commencement of this Ordinance, except that, in the case of powers or appointments of an agent or officer, they apply whether that, in the case of powers or appointments of an agent or officer, they apply whether the power was conferred or the appointment was made before or after the commencement of this Ordinance or by this Ordinance.
- (6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.
  - (7) This section shall be deemed to have been in force since 1st January 1926.
- 70. (1) Subject to section 178 (3) below, on a sale, the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or in that of his legal practitioner, as such; but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him who may, if he thinks fit, be his legal practitioner.

Rights of purchaser as to execution. 15 & 16 Geo.5 c.20 s.75.

(2) This section applies to sales made after 31st December 1925.

#### Covenants

71. (1) In a conveyance there shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases, by virtue of this Ordinance, be implied, a covenant to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is (when the law permits) made as tenants in common, that is to say:

Covenants for title. 15 & 16 Geo.5 c.20 s.76.

- (a) In a conveyance for valuable consideration, other than a mortgage, a covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part I of Schedule 2 to this Ordinance;
- (b) In a conveyance of leasehold property for valuable consideration, other than a mortgage, a further covenant by a person who conveys and is expressed to convey as beneficial owner in the terms set out in Part II of Schedule 2 to this Ordinance;
- (c) In a conveyance by way of mortgage (including a charge) a covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part III of Schedule 2 to this Ordinance:
- (d) In a conveyance by way of mortgage (including a charge) of freehold property subject to a rent or of leasehold property, a further covenant by a person who conveys or charges and is expressed to convey or charge as beneficial owner in the terms set out in Part IV of Schedule 2 to this Ordinance.
- (e) In a conveyance by way of settlement, a covenant by a person who conveys and is expressed to convey as settlor in the terms set out in Part V of Schedule 2 to this Ordinance;
- (f) In any conveyance, a covenant by every person who conveys and is expressed to convey as trustee or mortgagee, or as personal representative of a deceased person, or under an order of the court, in the terms set out in Part VI of Schedule 2 to this Ordinance, which covenant shall be deemed to extend to every such person's own acts only, and may be implied in an assent by a personal representative in like manner as in a conveyance by deed.
- (2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, then, for the purposes of this section, the person giving the direction, whether he conveys and is expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and a covenant on his part shall be implied accordingly.
- (3) Where a wife conveys and is expressed to convey as beneficial owner, and the husband also conveys and is expressed to convey as beneficial owner, then, for the purposes of this section, the wife shall be deemed to convey and to be expressed to convey by direction of the husband, as beneficial owner; and, in addition to the covenant implied on the part of the wife, there shall also be implied, first a covenant on the part of the husband as the person giving that direction, and secondly, a covenant on the part of the husband in the same terms as the covenant implied on the part of the wife.
- (4) Where in a conveyance a person conveying is not expressed to convey as beneficial owner, or as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or under an order of the court, or by the direction of a person as beneficial owner, no covenant on the part of the person conveying shall be, by virtue of this section, implied in the conveyance.
- (5) In this section a conveyance does not include a demise by way of a lease at a rent, but does include a charge and "convey" has a corresponding meaning.
- (6) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof, from time to time vested.
- (7) A covenant implied as aforesaid may be varied or extended by a deed or an assent, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects, and consequences, as if such variations or extensions were directed in this section to be implied.
- (8) This section applies to conveyances made after 31st December 1881, but only to assents by a personal representative made after 31st December 1925.

72. (1) In addition to the covenants implied under the last preceding section, there shall in the several cases in this section mentioned, be deemed to be included and implied, a covenant to the effect in this section stated, by and with such persons as are hereinafter mentioned, that is to say:-

Implied covenants in conveyance subject to rents. 15 & 16 Geo.5 c.20 s.77.

- (a) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land affected by a rentcharge, a covenant by the grantee or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in Part VII of Schedule 2 of this Ordinance. Where a rentcharge has been apportioned in respect of any land, with the consent of the owner of the rentcharge, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rentcharge were the rentcharge referred to, and the document creating the rentcharge related solely to that land:
- (b) In a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part of that rentcharge which has been or is by that conveyance apportioned (but in either case without the consent of the owner of the rentcharge) in respect of the land conveyed:
  - (i) A covenant by the grantee of the land or joint and several covenants by the grantees, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in paragraph (i) of Part VIII of Schedule 2 to this Ordinance.
  - (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land affected by such rentcharge is retained, with the grantees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part VIII of Schedule 2 to this Ordinance:
- (c) In a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease, for the residue of the term or interest created by the lease, a covenant by the assignee or joint and several covenants by the assignees (if more than one) with the conveying parties and with each of them (if more than one) in the terms set out in Part IX of Schedule 2 to this Ordinance. Where a rent has been apportioned in respect of any land, with the consent of the lessor, the covenants in this paragraph shall be implied in the conveyance of that land in like manner as if the apportioned rent were the original rent reserved, and the lease related solely to that land:
- (d) In a conveyance for valuable consideration, other than a mortgage, of part of the land comprised in a lease, for the residue of the term or interest created by the lease, subject to a part of the rent which has been or is by the conveyance apportioned (but in either case without the consent of the lessor) in respect of the land conveyed:-
  - (i) A covenant by the assignce of the land, or joint and several covenants by the assignces, if more than one, with the conveying parties and with each of them, if more than one, in the terms set out in paragraph (i) of Part X of Schedule 2 to this Ordinance;
  - (ii) A covenant by a person who conveys or is expressed to convey as beneficial owner, or joint and several covenants by the persons who so convey or are expressed to so convey, if at the date of the conveyance any part of the land comprised in the lease is retained, with the assignees of the land and with each of them (if more than one) in the terms set out in paragraph (ii) of Part X of Schedule 2 to this Ordinance.

- (2) Where in a conveyance for valuable consideration, other than a mortgage, part of land affected by a rentcharge, or part of land comprised in a lease is, without the consent of the owner of the rentcharge or of the lessor, as the case may be, expressed to be conveyed
  - (i) subject to or charged with the entire rent -

then paragraph (B)(ii) or (D)(i) of the last subsection, as the case may require shall have effect as if the entire rent were the apportioned rent; or

(ii) discharged or exoncrated from the entire rent -

then paragraph (B)(ii) or (D)(ii) of the last subsection, as the case may require, shall have effect as if the entire rent were the balance of the rent, and the words "other than the covenant to pay the entire rent" had been omitted.

- (3) In this section "conveyance" does not include a demise by way of a lease at a rent.
- (4) Any covenant which would be implied under this section by reason of a person conveying or being expressed to convey as beneficial owner may, by express reference to this section, be implied, with or without variation, in a conveyance, whether or not for valuable consideration, by a person who conveys or is expressed to convey as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or under an order of the court.
- (5) The benefit of a covenant implied as aforesaid shall be annexed and incident to, and shall go with, the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is, for the whole or any part thereof from time to time vested.
- (6) A covenant implied as aforesaid may be varied or extended by deed, and, as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied.
- (7) In particular any covenant implied under this section may be extended by providing that
  - (a) the land conveyed; or
  - (b) the part of the land affected by the rentcharge which remains vested in the covenantor; or
  - (c) the part of the land demised which remains vested in the covenantor;

shall, as the case may require, stand charged with the payment of all money which may become payable under the implied covenant.

- (8) This section applies only to conveyances made after 31st December 1925.
- 73. (1) A covenant relating to any land of the convenantee shall be deemed to be made with the covenantee and his successors in title and the person deriving title under him or them, and shall have effect as if such successors and other persons were expressed.

15 & 16 Geo.5 user of c.20 s.78. te time

For the purposes of this subsection in connection with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupiers for the time being of the land of the covenantee intended to be benefited.

- (2) This section applies to covenants made after the commencement of this Ordinance, but the repeal of section 58 of the Conveyancing Act 1881 does not affect the operation of covenants to which that section applied.
- 74. (1) A covenant relating to any land of a covenantor capable of being bound by him, shall, unless a contrary intention is expressed, be deemed to be made by the covenantor on behalf of himself his successors in title and the persons deriving title under him or them, and, subject as aforesaid, shall have effect as if such successors and other persons were expressed.

Burden of covenants relating to land. 15 & 16 Geo.5 c.20 s.79.

Benefit of covenants

relating to land.

This subsection extends to a covenant to do some act relating to the land, notwithstanding that the subject-matter may not be in existence when the covenant is made.

- (2) For the purposes of this section in connection with covenants restrictive of the user of land "successors in title" shall be deemed to include the owners and occupies for the time being of such land.
  - (3) This section applies only to covenants made after the 31st of December 1925.
- 75. (1) A covenant and a bond and an obligation under seal made after the 31st December 1881, but before 1st January 1990 or executed on or after that date as a deed in accordance with section 5 of the Law of Contract Ordinance 1988, binds the real estate as well as the personal estate of the person making the same if and so far as a contrary intention is not expressed in the covenant, bond, obligation or contract.

Covenants binding land. 15 & 16 Geo.5 c.20 s.80.

This subsection extends to a covenant implied by virtue of this Ordinance.

- (2) Every covenant running with the land, whether entered into before or after the commencement of this Ordinance, shall take effect in accordance with any statutory enactment affecting the devolution of the land, and accordingly the benefit or burden of every such covenant shall vest in or bind the persons who by virtue of any such enactment or otherwise succeed to the title of the covenantee or the covenantor, as the case may be.
- (3) The benefit of a covenant relating to land entered into after the commencement of this Ordinance may be made to run with the land without the use of any technical expression if the covenant is of such a nature that the benefit could have been made to run with the land before the commencement of this Ordinance.
- (4) For the purposes of this section, a covenant runs with the land when the benefit or burden of it, whether at law or in equity, passes to the successors in title of the covenantee or the covenantor, as the case may be.
- 76. (1) Subject to subsection (2) below, every covenant restriction or condition contained in any conveyance, lease or grant of land in which the Crown is the transferror, lessor or grantor shall be enforceable by the Crown against the transferee, lessee or grantee and every successor in title of his under that conveyance, lease or grant and whether the covenant 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 restrictive or negative obligation or restrictive or negative covenant) the same having been expressly or impliedly annexed for the benefit of some 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.

Covenants etc. with Crown.

- (2) Subsection (1) above has effect subject to the provisions of this Ordinance or any other statute in force in the Falkland Islands restricting any right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition contained therein.
- (3) For the purposes of this section, a conveyance, lease or grant is made by the Crown if it is made by the Governor or any other person duly authorised in writing by him and is made in pursuance of the powers conferred by section 67 of the Constitution.
- 77. (1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly, to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Ordinance imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond or obligation devolves, and where made after the commencement of this Ordinance shall be construed as being also made with each of them.

Effect of covenant with two or more jointly. 15 & 16 Geo.5 c.20 s.81.

- (2) This section extends to a covenant implied by virtue of this Ordinance.
- (3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond or obligation, and has effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.

- (4) Except as otherwise expressly provided, this section applies to a covenant, contract, bond, or obligation made or implied after 31st December 1881.
- (5) In its application to instruments made on or after 1st January 1990, subsection (1) above shall have effect as if for the words "under seal, and a bond or obligation under seal," there were substituted the words "executed as a deed in accordance with section 5 of the Law of Contract Ordinance 1988."
- 78. (1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone.
- (2) This section applies to covenants or agreements entered into before or after the commencement of this Ordinance, and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before such commencement.
- 79. In the construction of a covenant or proviso, or other provision, implied in a deed or assent by virtue of this Ordinance, words imparting the singular or plural number, or the masculine gender, shall be read as also importing the plural or singular number, or as extending to females, as the case may require.
- 80. (1) The Supreme Court shall (without prejudice to any jursidiction of the court otherwise than under this section) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction on being satisfied
  - (a) that by reason of changes in the character of the property or the neighourhood or other circumstances of the case which the court may deem material, the restriction ought to be deemed obsolete; or
  - (b) that (in a case falling within subsection (2) below) the continued existence thereof would impede some reasonable user of the land for public or private purposes or, as the case may be, would unless modified so impede such user; or
  - (c) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; ro
  - (d) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction;

and an order discharging or modifying a restriction under this subsection may direct the applicant to pay to any person entitled to the benefit of the restriction such sum by way of consideration as the court may think it just to award under one, but not both, of the following heads, that is to say, either —

- (i) a sum to make up for any loss or disadvantage suffered by that person in consequence of the discharge or modification; or
- (ii) a sum to make up for any effect which the restriction had, at the time when it was imposed, in reducing the consideration then received for the land affected by it.
- (2) Subsection 1(b) above authorises the discharge or modification of a restriction by reference to its impeding some reasonable user of land in any case in which the court is satisfied that the restriction, in impeding that user, either
  - (a) does not secure to persons entitled to the benefit of it any practical benefits of substantial value or advantage to them; or
  - (b) is contrary to the public interest;

Covenants and agreements entered into by a person with himself and another or others. 15 & 16 Geo.5 c.20 s.82.

Construction of implied convenants. 15 & 16 Geo.5 c.20 s.83.

Power to discharge or modify restrictive convenants affecting land. 15 & 16 Geo.5 c.20 s.84. and that money will be an adequate compensation for the loss or disadvantage (if any) which any such person will suffer from the discharge or modification.

- (3) In determining whether a case is one falling within subsection (2) above, and in determining whether (in any such case or otherwise) a restriction ought to be discharged or modified, the court shall take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.
- (4) It is hereby declared that the power conferred by this section to modify a restriction includes power to add such further provisions restricting the user of or the building on the land affected as appear to the court to be reasonable in view of the relaxation of the existing provisions, and as may be accepted by the applicant; and the court may accordingly refuse to modify a restriction without some such addition.
  - (5) The court shall have power on the application of any person interested
    - (a) to declare whether or not in any particular case any freehold land is, or would in any given event be, affected by a restriction imposed by any instrument; or
    - (b) to declare what, upon the true consideration of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is, or would in any given event be, enforceable and if so by whom.

Neither subsection (10) of this section nor, unless the contrary is expressed, any later enactment providing for this section not to apply to any restrictions shall affect the operation of this subsection or the operation for purposes of this subsection of any other provisions of this section.

- (6) The court shall, before making any order under this section, direct such enquiries, if any, to be made of any government department or local authority, and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries, notices or other proceedings previously made, given or taken, the court may think fit.
- (7) On an application to the court under this section the court shall give any necessary directions as to the persons who are or are not to be admitted (as appearing to be entitled to the benefit of the restriction) to oppose the application, and no appeal shall lie against any such direction.
- (8) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity ornot, then entitled or thereafter capable of becoming entitled to the benefit of any restriction, which is thereby discharged, modified or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not.
- (9) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court, and the court may act on such evidence of that instrument as it may think sufficient.
- (10) This section applies to restrictions whether subsisting at the commencement of this Ordinance or imposed thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes.
- (11) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply under this section, and staying the proceedings in the meantime.
- (12) This section does not apply to any covenant with the Crown or any restriction or condition to which section 76 above relates.

(13) Where a term of more than forty years is created in land (whether before or after the commencement of this Ordinance) this section shall, after the expiration of twenty-five years of the term, apply to restrictions, affecting such leasehold land in like manner as it would have applied had the land been freehold, but this subsection shall not apply to mining leases.

# PART IV MORTAGES, RENTCHARGES AND POWERS OF ATTORNEY

## Mortgages

- 81. (1) A mortgage of an estate in fee simple shall only be capable of being effected at law either by a demise for a term of years absolute, subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage.
- Mode of mortgaging freeholds 15 & 16 Geo.5 C.20 s.85.
- the commencement of this Ordinance shall (to the extent of the estate of the mortgagor) operate as a demise of the land to the mortgagee for a term of years absolute, without impeachment for waste, but subject to cesser on redemption, in manner following, namely—

(2) Any purported conveyance of an estate in fee simple by way of mortgage made after

- (a) a first or only mortgagee shall take a term of three thousand years from the date of the mortgage:
- (b) a second or subsequent mortgagee shall take a term (commencing from the date of the mortgage) one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee:

and, in this subsection, any such purported conveyance as aforesaid includes an absolute conveyance with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the fee simple in a mortgagee subject to redemption.

- (3) This section applies whether or not the morgage is expressed to be made by way of trust for sale or otherwise.
- (4) Without prejudice to the provisions of this Ordinance respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of an estate in fee simple shall be construed as a power to mortgage the estate for a term of years absolute, without impeachment for waste, or by a charge by way of legal mortgage or to lend on such security.
- 82. (1) A mortgage of a term of years absolute shall only be capable of being effected at law einer by a subdemise for a term of years absolute, less by one day at least than the term vested in the mortgagor, and subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage; and where a licence to subdemise by way of mortgage is required, such licence shall not be unreasonably refused.

Mode of mortgaging leasholds. 15 & 16 Geo.5 c.20 s.86.

- (2) Any purported assignment of a term of years absolute by way of mortgage made after the commencement of this Ordinance shall (to the extent of the estate of the mortgagor) operate as a subdemise of the leasehold land to the mortgagee for a term of years absolute, but subject to cesser on redemption, in manner following, namely
  - (a) the term to be taken by a first or only mortgagee shall be ten days less than the term expressed to be assigned:
  - (b) the term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last mentioned term permits, and in any case for a term less by one day at least than the term expressed to be assigned:

and, in this subsection, any such purported assignment as aforesaid includes an absolute assignment with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the term of the mortgagor in a mortgagee subject to redemption.

(3) This section applies whether or not the mortgage is made by way of sub-mortgage of a term of years absolute, or is expressed to be by way of trust for sale or otherwise.

- (4) Without prejudice to the provisions of this Ordinance respecting legal and equitable powers, every power to mortgage for or to lend money on mortgage of a term of years absolute by way of assignment shall be construct as a power to mortgage the term by subdemise for a term of years absolute or by a charge by way of legal mortgage, or to lend on such security.
- 83. (1) Where a legal mortgage of land is created by a charge by deed expressed to be by way of legal mortgage, the mortgagee shall have the same protection, powers and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits, or of any of them) as if —

Charges by way of legal mortgage. 15 & 16 Geo.5 c.20 s.87.

- (a) where the mortgage is a mortgage of an estate in fee simple, a mortgage term for three thousand years without impeachment of waste had been thereby created in favour of the mortgagee; and
- (b) where the mortgage is a mortgage of a term of years absolute, a sub-term less by one day than the term vested in the mortgagor had been thereby created in favour of the mortgagee.
- (2) Where an estate vested in a mortgagee immediately before the commencement of this Ordinance has by virtue of this Ordinance been converted into a term of years absolute or sub-term, the mortgagee may, by a declaration in writing to that effect signed by him, convert the mortgage into a charge by way of legal mortgage, and in that case the mortgage term shall be extinguished in the inheritance or in the head term as the case may be, and the mortgagee shall have the same protection, powers and remedies (including the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them) as if the mortgage term or sub-term had remained subsisting.

The power conferred by this subsection may be exercised by a mortgagee notwithstanding that he is a trustee or personal representative.

- (3) Such declaration shall not affect the priority of the mortgagee or his right to retain possession of documents, nor affect his title to or right over any fixtures or chattels personal comprised in the mortgage.
- 84. (1) Where an estate in fee simple has been mortgaged by the creation of a term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale —

Realisation of freehold mortgages. 15 & 16 Geo.5 c.20 s. 88.

- (a) the conveyance by him shall operate to vest in the purchaser the fee simple in the land conveyed subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon;
- (b) the mortgage term or the charge by way of legal mortgage and any subsequent mortgage term or charges shall merge or be extinguished as respects thel and conveyed:

and such conveyance may, as respects the fee simple, be made in the name of the estate owner in whom it is vested.

- (2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall operate to vest the fee simple in him (subject to any legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured), and thereupon the mortgage term, if any, shall thereby be merged in the fee simple, and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall thereupon be extinguished.
- (3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may enlarge the mortgage term into a fee simple under the statutory power for that purpose discharged from any legal mortgage affected by the title so acquired, or in the case of a chargee by way of legal mortgage may by deed declare that the fee simple is vested in him discharged as aforesaid, and the same shall vest accordingly.

- (4) Where the mortgage includes fixtures or chattels personal any statutory power of sale and any right to foreclose to take possession shall extend to the absolute or other interest therein affected by the charge.
- (5) In the case of a sub-mortgage by subdemise of a long term (less a nominal period) itself limited out of an estate in fee simple, the foregoing provisions of this section shall operate as if the derivative term, if any, created by the sub-mortgage had been limited out of the fee simple, and so as to enlarge the principal term and extinguish the derivative term created by the sub-mortgage as aforesaid, and to enable the sub-mortgagee to convey the fee simple or acquire it by foreclosure, enlargement, or otherwise as aforesaid.
- (6) This section applies to a mortgage whether created before or after the commencement of this Ordinance, and to a mortgage term created by this Ordinance, but does not operate to confer a better title to the fee simple than would have been acquired if the same had been conveyed by the mortgage (being a valid mortgage) and the restrictions imposed by this Ordinance in regard to the effect and creation of mortgages were not in force, and all prior mortgages (if any) not being merely equitable charges had been created by demise or by charge by way of legal mortgage.
- 85. (1) Where a term of years absolute has been mortgaged by the creation of another term of years absolute limited thereout or by a charge by way of legal mortgage and the mortgagee sells under his statutory or express power of sale, —

Realisation of lease.

- (a) the conveyance by him shall operate to convey to the purchaser not only the mortgage term, if any, but also (unless expressly excepted with the leave of the court) the leasehold reversion affected by the mortgage, subject to any legal mortgage having priority to the mortgage in right of which the sale is made and to any money thereby secured, and thereupon
- (b) the mortgage term, or the charge by way of legal mortgage and any subsequent mortgage term or charge, shall merge in such leasehold reversion or be extinguished unless excepted as aforesaid;

and such conveyance may, as respects the leasehold reversion, be made in the name of the estate owner in whom it is vested.

Where a licence to assign is required on a sale by a mortgagee, such licence shall not be unreasonably refused.

- (2) Where any such mortgagee obtains an order for foreclosure absolute, the order shall, unless it otherwise provides, operate (without giving rise to a forfeiture for want of a licence to assign) to vest the leasehold reversion affected by the mortgage and any subsequent mortgage term in him, subject to any legal mortgage having priority to the mortgage in right of which the foreclosure is obtained and to any money thereby secured, and thereupon the mortgage term and any subsequent mortgage term or charge by way of legal mortgage bound by the order shall, subject to any express provision to the contrary contained in the order, merge in such leasehold reversion or be extinguished.
- (3) Where any such mortgagee acquires a title under the Limitation Acts, he, or the persons deriving title under him, may by deed declare that the leasehold reversion affected by the mortgage and any mortgage term affected by the title so acquired shall vest in him, free from any right of redemption which is barred, and the same shall (without giving rise to a forfeiture for want of a licence to assign) vest accordingly, and thereupon the mortgage term, if any, and any other mortgage term or charge by way of legal mortgage affected by the title so acquired shall, subject to any expres provision to the contrary contained in the deed, merge in such leasehold reversion or be extinguished.
- (4) Where the mortgage includes fixtures or chattels personal, any statutory power of sale and any right to foreclose or take possession shall extend to the absolute or other interest therein affected by the charge.
- (5) In the case of a sub-mortgage by subdemise of a term (less a nominal period) itself limited out of a leasehold reversion, the foregoing provisions of this section shall operate as if the derivative term created by the sub-mortgage had been limited out of the leasehold reversion, and so as (subject as aforesaid) to merge the principal mortgage term therein as well as the derivative term created by the sub-mortgage and to enable the sub-mortgagee to convey the leasehold reversion or acquire it by foreclosure, vesting, or otherwise as aforesaid.

(6) This section takes effect without prejudice to any incumbrance or trust affecting the leasehold reversion which has priority over the mortgage in right of which the sale, foreclosure, or title is made or acquired, and applies to a mortgage whether executed before or after the commencement of this Ordinance, and to a mortgage term created by this Ordinance, but does not apply where the mortgage term does not comprise the whole of the land included in the leasehold reversion unless the rent (if any) payable in respect of that reversion has been apportioned as respects the land affected, or the rent is of no money value or no rent is reserved, and unless the lessee's covenants and conditions (if any) have been apportioned, either expressly or by implication, as respects the land affected.

In this subsection references to an apportionment includean equitable apportionment made without the consent of the lessor.

- (7) The Magistrate's Court has jurisdiction under this section where the amount owing in respect of the mortgage or charge at the commencement of the proceedings does not exceed £10,000 or such greater sum as may be prescribed.
- 86. (1) Where an order for sale is made by the court in reference to an equitable mortgage on land (not secured by a legal term of years absolute or by a charge by way of legal mortgage) the court may, in favour of a purchaser, make a vesting order conveying the land or may appoint a person to convey the land or create and vest in the mortgagee a legal term of years absolute to enable him to carry out the sale, as the case may require, in like manner as if the mortgage had been created by deed by way of legal mortgage pursuant to this Ordinance, but without prejudice to any incumbrance having priority to the equitable mortgage unless the incumbrancer consents to the sale.

Realisation of eqitable charges by the court. 15 & 16 Geo. 5 c.20

- (2) This section applies to equitable mortgages made or arising before or after the commencement of this Ordinance, but not to a mortgage which has been over-reached under the powers conferred by this Ordinance or otherwise.
- (3) The Magistrate's Court has jurisdiction under this section where the amount owing in respect of the mortgage or charge at the commencement of the proceedings does not exceed £10,000 or such greater sum as may be prescribed.
- 87. (1) Any person entitled to redeem mortgaged property may have a judgment or order for sale instead of for redemption in an action brought by him either for redemption alone, or for sale alone, or for sale or redemption in the alternative.
- (2) In any action, whether for foreclosure, or for redemption, or for sale, or for the raising and payment in any manner of mortgage money, the court, on the request of the mortgagee, or of any person interested either in the mortgage money or in the right of redemption, and, notwithstanding that -

any other person dissents; or

(a)

the mortgagee or any person so interested does not appear in the action;

and without allowing any time for redemption or for payment of any mortgage money, may direct a sale of the mortgaged property, on such terms as it thinks fit, including the deposit in court of a reasonable sum fixed by the court to meet the expenses of sale and to secure performance of the terms.

- (3) But, in an action brought by a person interested in the right of redemption and seeking a sale, the court may, in the application of any defendant, direct the plaintiff to give such security for costs as the court thinks fit, and may give the conduct of the sale to any defendant, and may give such directions as it thinks fit respecting the costs of the defendants or any of them.
- (4) In any case within this section the court may, if it thinks fit, direct a sale without previously determining the priorities of incumbrancers.
- (5) This section applies to actions brought either before or after the commencement of this Ordinance.
- (6) In this section 'mortgaged property' includes the estate or interest which a mortgagee would have had power to convey if the statutory power of sale were applicable.

Sale of mortgaged property in action for redemption or foreclosure, 15 & 16 Geo.5, c.20

- (7) For the purposes of this section the court may, in favour of a purchaser, make a vesting order conveying the mortgaged property, or appoint a person to do so, subject or not to any incumbrance, as the court may think fit; or, in the case of an equitable mortgage, may create and vest a mortgage term in the mortgage to enable him to carry out the sale as if the mortgage had been made by deed by way of legal mortgage.
- (8) The Magistrate's Court has jurisdiction under this section where the amount owing in respect of the mortgage or charge at the commencement of the proceedings does not exceed £10,000 or such greater sum as may be prescribed.
- 88. (1) Where a mortgagee's power of sale in regard to land has become exercisable but does not extend to the purposes mentioned in this section, the court may, on his application, authorise him and the person deriving title under him to dispose
  - (a) of the land, with an exception or reservation of all or any mines and minerals, and with or without rights and powers of or incidental to the working, getting or carrying away of mineral; or
  - (b) of all or any mines and minerals, with or without the said rights or powers separately from the land;

and thenceforth the powers so conferred shall have effect as if the same were contained in the mortgage.

- (2) The Magistrate's Court has jurisdiction under this section where the amount owing in respect of the mortgage or charge at the commencement of the proceedings does not exceed £10,000 or such greater sum as may be prescribed.
- 89. (1) A mortgagor seeking to redeem any one mortgage is entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims, solely on property other than that comprised in the mortgage which he seeks to redeem.

Restriction on consolidation of mortgage. 15 & 16 Geo.5 c.20 s.93.

This subsection applies only if an as far as a contrary intention is not expressed in the mortgage deeds or one of them.

- (2) This section does not apply where all the mortgages were made before 1st January 1882.
- (3) Save as aforesaid, nothing in this Ordinance, in reference to mortgages, affects any right of consolidation or renders inoperative a stipulation in relation to any mortgage made before or after the commencement of this Ordinance reserving a right to consolidate.
- 90. (1) After the commencement of this Ordinance, a prior mortgagee shall have a right to make further advances to rank in priority to subsequent mortgages (whether legal or equitable) —

Tacking and further advances. 15 & 16 Geo.5 c.20 s.94.

- (a) if an arrangement has been made to that effect with the subsequent mortgagees; or
- (b) if he had no notice of such subsequent mortgages at the time when the further advance was made by him; or
- (c) whether or not he had such notice as aforesaid, where the mortgage imposes an obligation on him to make such further advances.

This subsection applies whether or not the prior mortgage was made expressly for securing further advances.

(2) In relation to the making of further advances after the commencement of this Ordinance a mortgagee shall not be deemed to have notice of a mortgage merely by reason that it was registered under the Registration Ordinance if it was not so registered at the time when the original mortgage was created or when the last search (if any) by or on behalf of the mortgagee was made, whichever last happened.

This subsection only applies where the prior mortgage was made expressly for securing a current account or other further advances.

(3) Save in regard to the making of further advances as aforesaid, the right to tack is hereby abolished.

seperately, 15 & 16 Geo.5 c.20 s.92.

and minerals to

be dealt with

Power to authorise land

Provided that nothing in this Ordinance shall affect any priority acquired before the commencement of this Ordinance by taking, or in respect of further advances made without notice of a subsequent incumbrance or by arrangement with the subsequent incumbrancer.

- (4) This section applies to mortgages of land made before or after the commencement of this Ordinance.
- 91. (1) Where a mortgagor is entitled to redeem, then subject to compliance with the terms on compliance with which he would be entitled to require a reconveyance or surrender, he shall be entitled to require the mortgagee, instead of reconveying or surrendering, to assign the mortgage debt and convey the mortgaged property to any third person, as the mortgagor directs; and the mortgagee shall be bound to assign and convey accordingly.
- (2) The rights conferred by this section belong to and are capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer prevails over a requisition of the mortgagor, and, as between incumbrancers, a requisition of a prior incumbrancer prevails over a requisition of a subsequent incumbrancer.
- (3) The foregoing provisions of this section do not apply in the case of a mortgagee being or having been in possession.
- (4) Nothing in this Ordinance affects prejudicially the right of a mortgagee of land whether or not his charge is secured by a legal term of years absolute to take possession of the land, but the taking of possession by the mortgagee does not convert any legal estate of the mortgagor into an equitable interest.
- (5) This section applies to mortgages made either before or after the commencement of this Ordinance and takes effect notwithstaning any stipulation to the contrary.
- 92. Every mortgage affecting a legal estate in land made after the commencement of this Ordinance shall rank according to its date of registration under the Registration Ordinance or, if registered pursuant to a priority notice, the date of registration of that priority notice.

Priorities between mortgages.

Obligation to

transfer instead of reconveying,

and as to right

to take posses-

sion, 15 & 16 Geo.5 c.20 s.95.

93. (1) A mortgagor for the time being entitled to the possession or receipt of the rents and profits of any land, as to which the mortgagee has not been given notice of his intention to take possession or to enter into the receipt of the rents and profits thereof, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative therto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

Actions for possession by mortagagors, 15 & 16 Geo.5 c.20

- (2) This section does not prejudice the power of a mortgagor independently of this section to take proceedings in his own name only, either in right of any legal estate vested in him or otherwise.
- (3) This section applies whether the mortgage was made before or after the commencement of this Ordinance.
- 94. (1) Where the mortgagee under a mortgage of land which consists of or includes a dwelling-house brings an action in which he claims possession of the mortgaged property, not being an action for foreclosure in which a claim for possession of the mortgaged property is also made, the court may exercise any of the powers conferred on it by subsection (2) below if it appears to the court that in the event of its exercising the power the mortgager is likely to be able within a reasonable period to pay any sums due under the mortgage or to remedy a default consisting of a breach of any other obligation arising under or by virtue of the mortgage.

Additional powers of court in action for possession of dwelling house. 1970 c.31 s.36.

- (2) The court -
  - (a) may adjourn the proceedings, or
  - (b) on giving judgment, or making an order, for delivery of possession of the mortgaged property, or at any time before the execution of such judgment or order, may —
    - (i) stay or suspend execution of the judgment or order, or
    - (ii) postpone the date for delivery of possession,

for such period or periods as the court thinks reasonable.

- (3) Any such adjournment, stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedying of any default as the court thinks fit.
- (4) The court may from time to time vary or revoke any condition imposed by virtue of this section.
- (5) This section shall have effect in relation to such an action as is referred to in subsection (1) above begun before the date on which this section comes into force unless in that action judgment has been given, or an order made, for delivery of possession of the mortgaged property and that judgment or order was executed before that date.
- (6) In this section "dwelling house" includes any building or part thereof which is used as a dwelling; and

"mortgage" includes a charge; and

"mortgagor" and "mortgagee" shall be construed accordingly and so as to include any person deriving title under the original mortgagor or mortgagee.

- 95. (1) A mortgagor of land while in possession shall, as against every incumbrancer, have power to make from time to time any such lease of the mortgaged land, or any part thereof, as is by this section authorised.
- (2) A mortgagee of land while in possession shall, as against all prior incumbrancers, if any, and as against the mortgagor, have power to make from time to time any such lease as aforesaid.
  - (3) The leases which this section authorises are -
    - (i) agricultural or occupation leases for any term not exceeding twentyone years, or, in the case of a mortgage made after the commencement of this Ordinance fifty years; and
    - (ii) building leases for any term not exceeding ninety-nine years, or, in the case of a mortgage made after the commencement of this Ordinance, nine hundred and ninety-nine years.
- (4) Every person making a lease under this section may execute and do all assurances and things necessary or proper in that behalf.
- (5) Every lease shall be made to take effect in possession not later than twelve months after its date.
- (6) Every lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken.
- (7) Every such lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.
- (8) A counterpart of every such lease shall be executed by the lessee and delivered to the lessor, of which execution and delivery the execution of the lease by the lessor shall, in favour of the lessee and all persons deriving title under him, be sufficient evidence.
- (9) Every such building lease shall be made in consideration of the lessee, or some person by whose direction the lease is granted, having erected, or agreeing to erect within not more than five years from the date of the lease, buildings, new or additional, or having improved or repaired buildings, or agreeing to improve or repair buildings within that time, or having executed, or agreeing to execute within that time, on the land leased, an improvement for or in connection with building purposes.
- (10) In any such building lease a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term.

Leasing powers of mortgagor and morgagee in possession. 15 & 16 Geo.5 c.20 c.99.

- (11) In the case of a lease by the mortgagor, he shall, within one month after making the lease, deliver to the mortgagee, or, where there are more than one, to the mortgagee first in priority, a counterpart of the lease duly executed by the lessee, but the lessee shall not be concerned to see that this provision is complied with.
- (12) A contract to make or accept a lease under this section may be enforced by or against every person on whom the lease if granted would be binding.
- (13) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and has effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.
- (14) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve to or confer on the mortgagor or the mortgagee, or both, any further or other powers of leasing or having reference to leasing; and any further or other powers so reserved or conferred shall be exercisable, as far as may be, as if they were conferred by this Ordinance, and with all the like incidents, effects, and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.

(15) Nothing in this Ordinance shall be construed to enable a mortgagor or mortgagee to make a lease for any longer term or on any other conditions than such as could have been granted or imposed by the mortgagor, with the concurrence of all the incumbrancers, if this Ordinance and section 18 of the Conveyancing Act 1881 (replaced by this section) had not been passed.

Provided that, in the case of a mortgage of leasehold land, a lease granted under this section shall reserve a reversion of not less than one day.

- (16) Subject as aforesaid, this section applies to any mortgage made after 31st December 1881, but the provisions thereof, or any of them, may, by agreement in writing made after that date between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.
- (17) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.
- (18) For the purposes of this section 'mortgagor' does not include an incumbrancer deriving title under the original mortgagor.
- (19) The powers of leasing conferred by this section shall, after a receiver of the income of the mortgage property or any part thereof has been appointed by a mortgagee under his statutory power, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land, and the mortgagee may, by writing, delegate any of such powers to the receiver.
- 96. (1) For the purpose only of enabling a lease authorised under the last preceding section, or under any agreement made pursuant to that section, or by the mortgage deed (in this section referred to as an authorised lease) to be granted, a mortgagor of land while in possession shall, as against every incumbrancer, have, by virtue of this Ordinance, power to accept from time to time a surrender of any lease of the mortgaged land or any part thereof comprised in the lease, with or without an exception of or in respect of all or any of the mines and minerals therein, and, on a surrender of the lease so far as it comprises part only of the land or mines and minerals leased, the rent may be apportioned.

(2) For the same purpose, a mortgagee of land while in possession shall, as against all prior or other incumbrancers, if any, and as against the mortgagor, have, by virtue of this Ordinance, power to accept from time to time any such surrender as aforesaid.

Powers of mortgagor and morgagee in possession to accept surrender of leases. 15 & 16 Geo.5 c.20 s.100.

- (3) On a surrender of part only of the land or mines and minerals leased, the original lease may be varied, provided that the lease when varied would have been valid as an authorised lease if granted by the person accepting the surrender; and, on a surrender and the making of a new or other lease, whether for the same or for any extended or other term, and whether subject or not to the same or to any other covenants, provisions, or conditions, the value of the lessee's interest in the lease surrendered may, subject to the provisions of this section, be taken into account in the determination of the amount of the rent to be reserved, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.
- (4) Where any consideration for the surrender, other than an agreement to accept an authorised lease, is given by or on behalf of the lessee to or on behalf of the person accepting the surrender, nothing in this section authorises a surrender to a mortgagor without the consent of the incumbrancers, or authorises a surrender to a second or subsequent incumbrancer without the consent of every prior incumbrancer.
  - (5) No surrender shall, by virtue of this section, be rendered valid unless -
    - (a) an authorised lease is granted of the whole of the land or mines and minerals comprised in the surrender to take effect in possession immediately or within one month after the date of the surrender; and
    - (b) the term certain or other interest granted by the new lease is not less in duration than the unexpired term or interest which would have been subsisting under the original lease if that lease had not been surrendered; and
    - (c) where the whole of the land mines and minerals originally leased has been surrendered, the rent reserved by the new lease is not less than the rent which would have been payable under the original lease if it had not been surrendered; or where part only of the land or mines and minerals has been surrendered, the aggregate rents respectively remaining payable or reserved under the original lease and new lease are not less than the rent which would have been payable under the original lease if no partial surrender had been accepted.
- (6) A contract to make or accept a surrender under this section may be enforced by or against every person on whom the surrender, if completed, would be binding.
- (7) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and shall have effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.
- (8) This section applies to a mortgage made after 31st December 1911, but the provisions of this section, or any of them, may, by agreement in writing made after that date, between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.
- (9) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.
- (10) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve or confer on the mortgagor or mortgagee, or both, any further or other powers relating to the surrender of leases; and any further or other powers so conferred or reserved shall be exercisable, as far as may be, as if they were conferred by this Ordinance, and with all the like incidents, effects and consequences:

Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgage joins in or adopts the agreement.

(11) Nothing in this section operates to enable a mortgagor or mortgagee to accept a surrender which could not have been accepted by the mortgagor with the concurrence of all the incumbrancers if this Ordinance and the enactments replaced by this section had not been passed.

- (12) For the purposes of this section 'mortgagor' does not include an incumbrancer deriving title under the original mortgagor.
- (13) The powers of accepting surrenders conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by the mortgagee, under the statutory power, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land; and the mortgagee may, by writing, delegate any of such powers to the receiver.
- 97. (1) A mortgagee, where the mortgage is made by deed, shall, by virtue of this Ordinance, have the following powers, to the like extent as if they had been in terms conferred by the mortgage deed, but not further (namely) —
- Powers incident to estate or interest of mortgagee. 15 & 16 Geo.5 c.20 s.101.
- (a) a power, when the mortgage money has become due, to sell, or to concur with any other person in selling, the mortgaged property, or any part thereof, either subject to prior charges or not, and either together or in lots, by public auction or by private contract, subject to such conditions respecting title, or evidence of title, or other matter, as the mortgagee thinks fit, with power to vary any contract for sale, and to buy in at an auction, or to rescind any contract for sale, and to re-sell, without being answerable for any loss occasioned thereby; and
- (b) a power, at any time after the date of the mortgage deed, to insure and keep insured against loss or damage by fire any building, or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the property which or an estate or interest wherein is mortgaged, and the premiums paid for any such insurance shall be a charge on the mortgaged property or estate or interest, in addition to the mortgage money, and with the same priority, and with interest at the same rate, as the mortgage money; and
- (c) a power, when the mortgage money has become due, to appoint a receiver of the income of the mortgaged property, or any part thereof; or, if the mortgaged property consists of an interest in income, or of a rentcharge or an annual or other periodical sum, a receiver of that property or any part thereof; and
- (d) a power, while the mortgagee is in possession, to cut and sell timber and other trees ripe for cutting, and not planted or left standing for shelter or ornament, or to contract for any such cutting and sale, to be completed within any time not exceeding twelve months from the making of the contract.
- (2) Where the mortgage deed is executed after 31st December 1911, the power of sale aforesaid includes the following powers as incident thereto (namely)
  - (a) a power to impose or reserve or make binding, as far as the law permits, by covenant, condition, or otherwise, on the unsold part of the mortgaged property or any part thereof, or on the purchaser and any property sold, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or for the purpose of the more beneficial working thereof, or with respect to any other thing:
  - (b) a power to sell the mortgaged property, or any part thereof, or all or any mines and minerals apart from the surface
    - (i) with or without a grant or reservation of rights of way, rights of water, casements, rights and privileges for or connected with building or other purposes in relation to the property remaining in mortgage or any part thereof, or to any property sold: and
    - (ii) with or without an exception or reservation of all or any of the mines and minerals in or under the mortgaged property, and with or without a grant or reservation of powers of working, wayleaves, or rights of way, rights of water and drainage and other powers, easements, rights, and privileges for or connected with mining purposes in relation to the property remaining unsold or any part thereof, or to any property sold: and

- (iii) with or without covenants by the purchaser to expend money on the land sold.
- (3) The provisions of this Ordinance relating to the foregoing powers, comprised either in this section, or in any other section regulating the exercise of those powers, may be varied or extended by the mortgage deed, and, as so varied or extended, shall, as far as may be, operate in the like manner and with all the like incidents, effects, and consequences, as if such variations or extensions were contained in this Ordinance.
- (4) This section applies only if and as far as a contrary intention is not expressed in the mortgage deed, and has effect subject to the terms of the mortgage deed and to the provisions therein contained.
- (5) Save as otherwise provided, this section applies where the mortgage deed is executed after 31st December 1881.
- (6) The power of sale conferred by this section includes such power of selling the estate in fee simple or any leasehold reversion as is conferred by the provisions of this Ordinance relating to the realisation of mortgages.
- 98. (1) A person who was before the 1st January 1926 a mortgagee of an undivided share in land shall have the same power to sell his share in the proceeds of sale of the land and in the rents and profits thereof until sale, as independently of this Ordinance, he would have had in regard to the share in the land; and shall also have a right to require the trustees for sale in whom the land is vested to account to him for the income attributable to that share or to appoint a receiver to receive the same from such trustees corresponding to the right which, independently of this Ordinance, he would have had to take possession or to appoint a receiver of the rents and profits attributable to the same share.

Provision as to mortgages of undivided shares in land, 15 & 16 Geo.5 c.20 s.102.

Regulation of

- (2) The powers conferred by this section are exercisable by the persons deriving title under such mortgagee.
- 99. A mortgagee shall not exercise the power of sale conferred by this Ordinance unless and until
  - exercise of power of sale. 15 s been served on default has been a.103.
  - (i) notice requiring payment of the mortgage money has been served on the mortgagor or one or two or more mortgagors, and default has been made in payment of the mortgage money, or of part thereof, for three months after such service; or
  - (ii) some interest under the mortgage is in arrear and unpaid for two months after becoming due; or
  - (iii) there has been a breach of some provision contained in the mortgage deed or in this Ordinance, or in an enactment replaced by this Ordinance, and on the part of the mortgagor, or of some person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest thereon.
- 100. (1) A mortgagee exercising the power of sale conferred by this Ordinance shall have power, by deed, to convey the property sold, for such estate and interest therein as he is by this Ordinance authorised to sell or convey or may be the subject of the mortgage, freed from all estates, interest, and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage.

Conveyance on sale. 15 & 16 Geo.5 c.20 s.104.

- (2) Where a conveyance is made in exercise of the power of sale conferred by this Ordinance or any enactment replaced by this Ordinance, the title of the purchaser shall not be impeachable on the ground
  - (a) that no case had arisen to authorise the sale; or
  - (b) that due notice was not given; or
  - (c) where the mortgage is made after the commencement of this Ordinance, that leave of the court, when so required, was not obtained; or
  - (d) whether the mortgage was made before or after such commencement, that the power was otherwise improperly or irregularly exercised;

and a purchaser is not, either before or on conveyance, concerned to see or inquire whether a case has arisen to authorise the sale, or due notice has been given, or the power is otherwise properly and regularly exercised; but any person damnified by an unauthorised, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

- (3) A conveyance on sale by a mortgagee, made after the commencement of this Ordinance, shall be deemed to have been made in exercise of the power of sale conferred by this Ordinance unless a contrary intention appears.
- 101. The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances to which the sale is not made subject, if any, or after payment into court under this Ordinance of a sum to meet any prior incumbrance, shall be held by him in trust to be applied by him, first, in payment of all costs, charges, and expenses properly incurred by him as incident to the sale or any attempted sale, or otherwise; and secondly, in discharge of the mortgage money, interest, and costs, and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property, or authorised to give receipts for the proceeds of the sale thereof.

Application of proceeds of sale. 15 & 16 Geo.5 c.20 s.105.

Provisions as to

& 16 Geo.5 c.20 s.106.

exercise of power of sale, 15

- 102. (1) The power of sale conferred by this Ordinance may be exercised by any person for the time being entitled to receive and give a discharge for the mortgage money.
  - (2) The power of sale conferred by this Ordinance does not affect the right of foreclosure.
- (3) The mortgagee shall not be answerable for any involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Ordinance, or of any trust connected therewith, or, where the mortgage is executed after the 31st December, 1911, of any power or provision contained in the mortgage deed.
  - of any
- (4) At any time after the power of sale conferred by this Ordinance has become exercisable, the person entitled to exercise the power may demand and recover from any person other than a person having in the mortgaged property an estate, interest, or right in priority to the mortgage, all the deeds and documents relating to the property, or to the title thereto, which a purchaser under the power of sale would be entitled to demand and recover from him.
- 103. (1) The receipt in writing of a mortgagee shall be a sufficient discharge for any money arising under the power of sale conferred by this Ordinance, or for any money or securities comprised in his mortgage, or arising thereunder; and a person paying or transferring the same to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage.

Mortgagee's receipts, discharges etc. 15 & 16 Geo.5 c.20 s.107.

- (2) Money received by a mortgagee under his mortgage or from the proceeds of securities comprised in his mortgage shall be applied in like manner as in this Ordinance directed respecting money received by him arising from a sale under the power of sale conferred by this Ordinance, but with this variation, that the costs, charges, and expenses payable shall include the costs, charges, and expenses properly incurred of recovering and receiving the money or securities, and of conversion of securities into money, instead of those incident to sale.
- 104. (1) The amount of an insurance effected by a mortgagee against loss or damage by fire under the power in that behalf conferred by this Ordinance shall not exceed the amount specified in the mortgage deed, or, if no amount is therein specified two third parts of the amount that would be required, in case of total destruction, to restore the property insured.

Amount and application of insurance money. 15 & 16 Geo.5 c.20 s.108.

- (2) An insurance shall not, under the power conferred by this Ordinance, be effected by a mortgagee in any of the following cases (namely)
  - (i) where there is a declaration in the mortgage deed that no insurance is required:
  - (ii) where an insurance is kept up by or on behalf of the mortgagor in accordance with the mortgage deed:

- (iii) where the mortgage deed contains no stipulation respecting insurance, and an insurance is kept up by or on behalf of the mortgagor with the consent of the mortgagee to the amount to which the mortgagee is by this Ordinance authorised to insure.
- (3) All money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Ordinance, or any enactment replaced by this Ordinance, or on an insurance for the maintenance of which the mortgagor is liable under the mortgage deed, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.
- (4) Without prejudice to any obligation to the contrary imposed by law, or by special contract, a mortgagee may require that all money received on an insurance of mortgaged property against loss or damage by fire or otherwise effected under this Ordinance or any enactment replaced by this Ordinance, or on an insurance for the maintenance of which the mortgagor is liable under the mortgage deed, be applied in or towards the discharge of the mortgage money.
- 105. (1) A mortgagee entitled to appoint a receiver under the power in that behalf conferred by this Ordinance shall not appoint a receiver until he has become entitled to exercise the power of sale conferred by this Ordinance, but may then, by writing under his hand, appoint such person as he thinks fit to be receiver.

Appointment powers and duties of receiver. 15 & 16 Geo.5 c.20 s.109.

- (2) A receiver appointed under the powers conferred by this Ordinance, or any enactment replaced by this Ordinance, shall be deemed to be the agent of the mortgagor; and the mortgagor shall be solely responsible for the receiver's acts or defaults unless the mortgage deed otherwise provides.
- (3) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action, distress, or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the estate or interest which the mortgagor could dispose of, and to give effectual receipts accordingly for the same, and to exercise any powers which may have been delegaged to him by the mortgagee pursuant to this Ordinance.
- (4) A person paying money to the receiver shall not be concerned to inquire whether any case has happened to authorise the receiver to act.
- (5) The receiver may be removed, and a new receiver may be appointed, from time to time by the mortgagee by writing under his hand.
- (6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as receiver, a commission at such rate, not exceeding five per centum on the gross amount of all money received, as is specified in his appointment, and if no rate is so specified, then at the rate of five per centum on that gross amount, or at such other rate as the court thinks fit to allow, on application made by him for that purpose.
- (7) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, in any, to which the mortgagee might have insured and keep insured against loss or damage by fire, out of the money received by him, any building, effects, or property comprised in the mortgage, whether affixed to the freehold or not, being of an insurable nature.
- (8) Subject to the provisions of this Ordinance as to the application of insurance money, the receiver shall apply all money received by him as follows, namely
  - (i) in discharge of all rents, taxes, rates, and outgoings whatever affecting the mortgaged property; and
  - (ii) in keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver; and
  - (iii) in payment of his commission, and of the premiums on fire, life, or other insurances, if any, properly payable under the mortgage deed or under this Ordinance, and the cost of executing necessary or proper repairs directed in writing by the mortgagee; and

- (iv) in payment of the interest accuring due in respect of any principal money due under the mortgage; and
- (v) in or towards discharge of the principal money if so directed in writing by the mortgagee;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

106. Where the statutory or express power for a mortgagee either to sell or to appoint a receiver is made exercisable by reason of the mortgagor being adjudged a bankrupt, such power shall not be exercised only on account of the adjudication, without the leave of the court.

Effect of bankruptcy of the mortgagor on the power to appoint a receiver. 15 & 16 Geo.5 c.20 s.110. Effect of advance on joint account.

## 107. (1) Where -

- (a) in a mortgage, or an obligation for payment of money, or a transfer of a mortgage or of such an obligation, the sum, or any part of the sum, advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account; or
- (b) a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly;

the mortgage money, or other money or money's worth, for the time being due to those persons on the mortgage or obligation, shall, as between them and the mortgagor or obligor, be deemed to be and remain money or money's worth belonging to those persons on a joint account; and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

- (2) This section applies if and so far as contray intention is not expressed in the mortgage, obligation, or transfer, and has effect subject to the terms of the mortgage, obligation, or transfer, and to the provisions therein contained.
- (3) This section applies to any mortgage, obligation, or transfer made after 31st December 1881.
- 108. (1) A person dealing in good faith with a mortgagee, or with the mortgager if the mortgage has been discharged released or postponed as to the whole or any part of the mortgaged property, shall not be concerned with any trust at any time affecting the mortgage money or the income thereof, whether or not he has notice of the trust, and may assume unless the contrary is expressly stated in the instruments relating to the mortgage

Notice of trusts affecting mortgage debts. 15 & 16 Geo.5 c.20

- (a) that the mortgagees (if more than one) are or were entitled to the mortgage money on a joint account; and
- (b) that the mortgagee has or had power to give valid receipts for the purchase money or mortgage money and the income thereof (including any arrears of interest) and to release or postpone the priority of the mortgage debt or any part thereof:

without investigating the equitable title to the mortgage debt or the appointment or discharge of trustees in reference thereto.

- (2) This section applies to mortgages made before or after the commencement of this Ordinance, but only as respects dealing effected after such commencement.
- (3) This section does not affect the liability of any person in whom the mortgage debt is vested for the purposes of any trust to give effect to that trust.
- 109. (1) A deed executed by a mortgagee purporting to transfer his mortgage or the benefit thereof shall, unless a contrary intention is therein expressed, and subject to any provisions therein contained, operate to transfer to the transferee —

Transfers of mortgages. 15 & 16 Geo.5 c.20 s.114.

- (a) the right to demand, sue for, recover, and give receipts for, the mortgage money or the unpaid part thereof, and the interest then due, if any, and thenceforth to become due thereon; and
- (b) the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee; and
- (c) all the estate and interest in the mortgaged property then vested in the mortgagee subject to redemption or cesser, but as to such estate and interest subject to the right of redemption then subsisting.
- (2) In this section "transferee" includes his personal representatives and assigns.
- (3) A transfer of mortgage may be made in the form contained in the Third Schedule to this Ordinance with such variations and additions, if any, as the circumstances may require.
- (4) This section applies, whether the mortgage transferred was made before or after the commencement of this Ordinance, but applies only to transfers made after the 31st December 1925.
  - (5) This section does not extend to a transfer of a bill of sale of chattels by way of security.
- 110. (1) A receipt endorsed on, written at the foot of, or annexed to, a mortgage for all money thereby secured, which states the name of the person who pays money and is executed by the chargee by way of legal mortgage or the person in whom the mortgaged property is vested and who is legally entitled to give a receipt for the mortgage money shall operate, without any reconveyance, surrender, or release —

Reconveyance of mortgagee by endorsed receipts. 15 & 16 Geo.5 c.20 s.115.

- (a) where a mortgage takes effect by demise or subdemise, as a surrender of the terms, so as to determine the term or merge the same in the reversion immediately expectant thereon;
- (b) where the mortgage does not take effect by demise or subdemise, as a reconveyance thereof to the extent of the interest which is the subject matter of the mortgage, to the person who immediately before the execution of the receipt was entitled to the equity of redemption;

and in either case, as a discharge of the mortgaged property from all principal money and interest secured by, and from all claims under the mortgage, but without prejudice to any term or other interest which is paramount to the estate or interest of the mortgagee or other person in whom the mortgaged property was vested.

- (2) Provided that, where by the receipt the money appears to have been paid by a person who is not entitled to the immediate equity of redemption, the receipt shall operate as if the benefit of the mortgage had by deed been transferred to him; unless
  - (a) it is otherwise expressly provided; or
  - (b) the mortgage is paid off out of capital money, or other money in the hands of a personal representative or trustee properly applicable for the discharge of the mortgage, and it is not expressly provided that the receipt is to operate as a transfer.
- (3) Nothing in this section confers on a mortgagor a right to keep alive a mortgage paid off by him, so as to affect prejudicially any subsequent incumbrancer; and where there is no right to keep the mortgage alive, the receipt does not operate as a transfer.
- (4) This section does not affect the right of any person to require a reassignment, surrender, release, or transfer to be executed in lieu of a receipt.
- (5) A receipt may be given in the form contained in the Third Schedule to this Ordinance, with such variations and additions, if any, as may be deemed expedient.
- (6) In a receipt given under this section the same covenants shall be implied as if the person who executes the receipt had by deed been expressed to convey the property as mortgagee, subject to any interest which is paramount to the mortgage.

- (7) Where the mortgage consists of a mortgage and a further charge of more than one deed, it shall be sufficient for the purposes of this section, if the receipt refers either to all the deeds whereby the mortgage money is secured or to the aggregate amount of the mortgage money thereby secured and for the time being owing, and is endorsed on, written at the foot of, or annexed to, one of the mortgage deeds.
- (8) This section applies to the discharge of a charge by way of legal mortgage, and to the discharge of a mortgage, whether made by way of statutory mortgage or not, executed before or after the commencement of this Ordinance, but only as respects discharges effected after such commencement.
- (9) In this section 'mortgaged property' means the property remaining subject to the mortgage at the date of the receipt.
- 111. Without prejudice to the right of a tenant for life or other person having only a limited interest in the equity of redemption to require a mortgage to be kept alive by transfer or otherwise, a mortgage term shall, when the money secured by the mortgage has been discharged, become a satisfied term and shall cease.

Cesser of mortgage terms, 15 & 16 Geo. 5 c.20 s.116.

112. (1) As a special form of charge by way of legal mortgage, a mortgage of freehold or leasehold land may be made by a deed expressed to be made by way of statutory mortgage being in one of the forms (Nos 1 or 4) set out in Schedule 4 to this Ordinance with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

Forms of statutory legal charges. 15 & 16 Geo.5 c.20 s.117.

- (2) There shall be deemed to be included, and there shall by virtue of this Ordinance be implied, in such a mortgage deed
  - (a) a covenant with the mortgagee by the person therein expressed to charge as mortgagor to the effect following, namely —

that the mortgagor will, on the stated day, pay to the mortgage the stated mortgage money, with interest thereon in the meantime at the stated rate, and will thereafter, if and as long as the mortgage money or any part thereof remains unpaid, pay to the mortgagee (as well after as before any judgment is obtained under the mortgage) interest thereon, or on the unpaid part thereof, at the stated rate, by equal half-yearly payments the first thereof to be made at the end of six months from the day stated for payment of the mortgage money:

(b) a provision to the following effect (namely) -

that if the mortgagor on the stated day pays to the mortgagee the stated mortgage money, with interest thereon in the meantime at the stated rate, the mortgagee at any time thereafter, at the request and cost of the mortgagor, shall discharge the mortgaged property or transfer the benefit of the mortgage as the mortgagor may direct.

This subsection applies to a mortgage deed made under section 4(1) of the repealed Ordinance with a substitution of a reference to "the person therein expressed to convey as mortgagor" for the reference in this subsection to "the person therein expressed to charge as mortgagor".

113. (1) A transfer of a statutory mortgage may be made by a deed expressed to be made by way of statutory transfer of mortgage, being in such one of the three forms (Nos 2, 3, or 4) set out in Schedule 4 to this Ordinance as may be appropriate to the case with such variations and additions, if any, as circumstances may require, and if so made the provisions of this section shall apply thereto.

Forms of statutory transfers of legal charges. 15 & 16 Geo.5 c.20 s.118.

- (2) In whichever of those three forms the deed of transfer is made, it shall have effect as follows (namely)
  - (a) there shall become vested in the person to whom the benefit of the mortgage is expressed to be transferred (who, with his personal representatives and assigns, is in this section designated the transferee), the right to demand, sue for, recover, and give receipts for the mortgage money, or the unpaid part thereof, and the interest then due, if any, and thenceforth to become due thereon, and the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee:

- (b) all the term and interest, if any, subject to redemption, of the mortgagee in the mortgaged land shall vest in the transferee, subject to redemption.
- (3) If a covenantor joins in the deed of transfer, there shall also be deemed to be included, and there shall by virtue of this Ordinance be implied therein, a covenant with the transferee by the person expressed to join therein as covenantor to the effect following (namely) —

that the covenantor will, on the next of the days by the mortgage deed fixed for payment of interest pay to the transferee the stated mortgage money, or so much thereof as then remains unpaid, with interest thereon, or on the unpaid part thereof, in the meantime, at the rate stated in the mortgage deed; and will thereafter, as long as the mortgage money or any part thereof remains unpaid, pay to the transferee interest on that sum, or the unpaid part thereof, at the same rate, on the successive days by the mortgage deed fixed for payment of interest.

- (4) If the deed of transfer is made in the Form No.4, it shall, by virtue of this Ordinance, operate not only as a statutory transfer of mortgage, but also as a statutory mortgage, and the provisions of this section shall have effect in relation thereto accordingly; but it shall not be liable to any increased stamp duty by reason only of it being designated a mortgage.
- (5) This section applies to the transfer of a statutory mortgage created under section 5 of the repealed Ordinance.
- 114. In a deed of statutory mortgage, or of statutory transfer of mortgage, where more persons than one are expressed to convey or charge as mortgagors, or to join as covenantors, the implied covenant on their part shall be deemed to be a joint and several covenant by them; and where there are more mortgagees or more transferees than one, the implied covenant with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him.

Implied covenants joint and several and discharge of statutory mortgage or charge. 15 & 16 Geo.5 c.20 s.119 & 120.

(2) A statutory mortgage may be surrendered or discharged by a receipt in the form (No. 5) set out in Schedule 4 to this Ordinance with such variations and addition (if any) as circumstances may require.

#### Rentcharges

115. (1) Where a person is entitled to receive out of any land, or out of the income of any land, any annual sum, payable half- yearly or otherwise, whether charged on the land or on the income of the land, and whether by way of rentcharge or otherwise, not being rent incident to a reversion, then, subject and without prejudice to all estates, interests, and rights having priority to the annual sum, the person entitled to receive the annual sum shall have such remedies for recovering and compelling payment thereof as are described in this section, as far as those remedies might have been conferred by the instrument under which the annual sum arises, but not further.

Remedies for the recovery of annual sums charged on land, 15 & 16 Geo.5 c.20 s.

- (2) If at any time the annual sum or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum may enter into and distrain on the land charged or any part thereof, and dispose according to law of any distress found, to the intent that thereby or otherwise the annual sum and all arrears thereof, and all costs and expenses occasioned by non-payment thereof, may be fully paid.
- (3) If at any time the annual sum or any part thereof is unpaid for forty days next after the time appointed for any payment in respect thereof, then, although no legal demand has been made for payment thereof, the person entitled to receive the annual sum may enter into possession of and hold the land charged or any part thereof, and take the income thereof, until thereby or otherwise the annual sum and all arrears thereof due at the time of his entry or afterwards becoming due during his continuance in possession, and all costs and expenses occasioned by nonpayment of the annual sum, are fully paid; and such possession when taken shall be without impeachment of waste.

(4) In the like case the person entitled to the annual sum, whether taking possession or not, may also by deed demise the land charged, or any part thereof, to a trustee for a term of years, with or without impeachment of waste, on trust, by all or any of the means hereinafter mentioned, or by any other reasonable means, to raise and pay the annual sum and all arrears thereof due or to become due, and all costs and expenses occasioned by nonpayment of the annual sum, or incurred in compelling or obtaining payment thereof, or otherwise relating thereto, including the costs of the preparation and execution of the deed of demise, and the costs of the execution of the trusts of that deed:

Provided that this subsection shall not authorise the creation of a legal term of years absolute after the commencement of this Ordinance, save where the annual sum is a rentcharge held for a legal estate.

The surplus, if any, of the money raised, or of the income received, under the trusts of the deed shall be paid to the person for the time being entitled to the land therein comprised in reversion immediately expectant on the term thereby created.

The means by which such annual sum, arrears, costs, and expenses may be raised includes -

- (a) the creation of a legal mortgage or a sale (effected by assignment or subdemise) of the term created in the land charged or any part thereof,
- (b) the receipt of the income of the land comprised in the term.
- (5) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the annual sum arises, and has effect subject to the terms of that instrument and to the provisions therein contained.
- (6) The rule of law relating to perpetuities does not apply to any powers or remedies conferred by this section.
- (7) The powers and remedies conferred by this section apply where the instrument creating the annual sum comes into operation after 31st December, 1881, and whether the instrument conferring the power under which the annual sum was authorised to be created came into operation before or after that date, unless the instrument creating the power or under which the annual sum is created otherwise directs.
- 116. (1) A rentcharge or other annual sum (not being rent incident to a reversion) payable half yearly or otherwise may be granted, reserved, charged or created out of or on another rentcharge or annual sum (not being rent incident to a reversion) charged on or payable out of land or on or out of the income of land, in like manner as the same could have been made to issue out of land.
- (2) If at any time the annual sum so created or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum shall (without prejudice to any prior interest or charge) have power to appoint a receiver of the annual sum charged or any part thereof, and the provisions of this Ordinance relating to the appointment, powers, remuneration and duties of a receiver, shall apply in like manner as if such person were a mortgagee entitled to exercise the power of sale conferred by this Ordiance, and the annual sum charged were the mortgaged property and the person entitled thereto were the mortgagor.
- (3) The power to appoint a receiver conferred by this section shall (where the annual sum is charged on a rentcharge) take effect in substitution for the remedies conferred, in the case of annual sums charged on land, by the last preceding section, but subsection (6) of that section shall apply and have effect as if herein re-enacted and in terms made applicable to the powers conferred by this section.
- (4) This section applies to annual sums expressed to be created before as well as after the commencement of this Ordinance, and, but without prejudice to any order of the court made before the commencement of this Ordinance, operates to confirm any annual sum which would have been validly created if this section had been in force.

### Powers of attorney

117. (1) Notwithstanding any other statutory provision, no power of attorney shall have effect so as to enable the donee thereof to convey, mortgage charge or otherwise deal with any estate or interest whatsoever in any land in the Falkland Islands until it has been registered in the manner required by the Registration Ordinance.

Creation of rent charges charged on another rentcharge and remedies for recovery thereof. 15 & 16 Geo.5 c.20 s.122.

Registration of powers of attorney. (2) This section applies to instruments executed before as well as after the commencement of this Ordinance.

# PART V Equitable Interests

#### Entailed interests

118. (1) An interest in tail or in tail male or in tail female or in tail special (in this Ordinance referred to as "an entailed interest") may be created by way of trust in any property, real or personal, but only by the like expressions as those by which before the commencement of this Ordinance a similar estate tail could have been created by deed (not being an executory instrument) in freehold land, and with the like results, including the right to bar the entail absolutely or so as to create an interest equivalent to a base fee, and accordingly all statutory provisions relating to estates tail in real property shall apply to entailed interests in personal property.

Creation of entailed interests in real and personal property.
15 & 16 Geo.5 c.20 s.130.

Personal estate so entailed (not being chattels settled as heirlooms) may be invested, applied and otherwise dealt with as if the same were capital money or securities representing capital money arising under the Settled Land Act 1925 in its application to the Falkland Islands from land settled on the like trusts.

- (2) Expressions contained in an instrument coming into operation after the commencement of this Ordinance, which, in a will, or executory instrument coming into operation before such commencement, would have created an entailed interest in freehold land, but would not have been effectual for that purpose in a deed not being an executory instrument, shall (save as provided by the next succeeding section) operate in equity, in regard to property real or personal, to create absolute, fee simple or other interests corresponding to those which, if the property affected had been personal estate, would have been created therein by similar expressions before the commencement of this Ordinance.
- (3) Where personal estate (including the proceeds of sale of land directed to be sold and chattels directed to be held as heirlooms) is, after the commencement of this Ordinance, directed to be enjoyed or held with, or upon trusts corresponding to trusts affecting, land in which, either before or after the commencement of this Ordinance an entailed interest has been created, and is subsisting, such direction shall be deemed sufficient to create a corresponding entailed interest in such personal estate.
- (4) In default of and subject to the execution of a disentailing assurance or the exercise of the testamentary power conferred by this Ordinance, an entailed interest (to the extent of the property affected) shall devolve as an equitable interest, from time to time, upon the persons who would have been successively entitled thereto as the heirs of the body (either generally or of a particular class) of the tenant in tail or other person, or as tenant by the curtesy, if the entailed interest had, before the commencement of this Ordinance, been limited in respect of freehold land governed by the general law in force immediately before such commencement, and such law had remained unaffected.
- (5) Where personal chattels are settled without reference to settled land on trusts creating entailed interests therein, the trustees, with the consent of the usufructory for the time being if of full age, may sell the chattels or any of them, and the net proceeds of any such sale shall be held in trust for and shall go to the same person successively, in the same manner and for the same interests, as the chattels sold would have been held and gone if they had not been sold, and the income of investments representing such proceeds of sale shall be applied accordingly.
- (6) An entailed interest shall only be capable of being created by a settlement of real or personal property or the proceeds of sale thereof (including the will of a person dying after the commencement of this Ordinance), or by an agreement for a settlement in which the trusts to affect property are sufficiently declared.
- (7) In this Ordinance, where the context so admits "entailed interest" includes an estate tail (now made to take effect as an equitable interest) created before the commencement of this Ordinance.
- 119. Where by any instrument coming into operation after 31st December 1925 an interest in any property is expressed to be given to the heir or heirs or issue or any particular

Abolition of Rule in Shelley's case.15 & 16 Geo.5 c.20 s.131. heir or class of the heirs or issue of any person in words which, but for this section would, under the rule of law known as the Rule in Shelley's case, have operated to give to that person an interest in fee simple or an entailed interest, such words shall operate in equity as words of purchase and not of limitation, and shall be construed and have effect accordingly, and in the case of an interest in any property expressed to be given to an heir or heirs or any particular heir or class of heirs, the same person or persons shall take as would in the case of freehold land have answered that description under the general law in force on the date above mentioned.

120. (!) A limitation of real or personal property in favour of the heir, either general or special, of a deceased person which, if limited in respect of a freehold land before 1st January 1926, would have conferred on the heir an estate in the land by purchase, shall operate to confer a corresponding equitable interest in the property on the person who would, if the general law in force immediately before such commencement had remained unaffected, have answered the description of the heir, either general or special, of the deceased in respect of his freehold land, either at the death of the deceased or at the time named in the limitation, as the case may require.

As to heirs taking by purchase. 15 & 16 Geo.5 c.20 s.132.

Restriction on executory limita-

tions. 15 & 16

Geo.5 c.20 s.134.

- (2) This section applies whether the deceased person dies before or after the commencement of this Ordinance, but only applies to limitations or trusts created by an instrument coming into operation after 31st December 1925.
- 121. (1) Where there is a person entitled to
  - (a) an equitable interest in land for an estate in fee simple or for any less interest not being an entailed interest, or
  - (b) an interest in other property, not being an entailed interest,

with an executory limitation over on default or failure of all or any of his issue, whether within or at any specified period of time or not, that executory limitation shall be or become void and incapable of taking effect, if and as soon as there is living any issue who has attained the age of eighteen years of the class on default or failure whereof the limitation over was to take effect.

- (2) This section applies where the executory limitation is contained in an instrument coming into operation after the 31st December 1882, save that, as regards instruments coming into operation before the commencement of this Ordinance, it only applies to limitations of land for an estate in fee, or for a term of years absolute or determinable on life, or for a term of life.
- 122. An equitable interest for life without impeachment of waste does not confer upon the tenant for life any right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such equitable interest.

Equitable waste. 15 & 16 Geo.5 c.20 s.135.

123. (1) The law applicable to dealings with equitable things in action which regulates the priority of competing interests therein, shall, as respects dealings with equitable interests in land, capital money, and securities representing capital money effected after the commencement of this Ordinance, apply to and regulate the priority of competing interests therein.

Dealings with life interests, reversions and other eqitable interests. 15 & 16 Geo.5 c.20 s.137.

This subsection applies whether or not the money or securities are in court.

- (2) (i) In the case of a dealing with an equitable interest in settled land, capital money or securities representing capital money, the persons to be served with notice of the dealing shall be the trustees of the settlement; and where the equitable interest is created by a derivative or subsidiary settlement, the persons to be served with notice shall be the trustees of that settlement.
  - (ii) In the case of a dealing with an equitable interest in the proceeds of sale of land or in the rents and profits until sale the persons to be served with notice shall, as heretofore, be the trustees for sale.
  - (iii) In any other case the person to be served with notice of dealing with an equitable interest in land shall be the estate owner of the land affected.

The persons on whom notice is served pursuant to this subsection shall be affected thereby in the same manner as if they had been trustees of personal property out of which the equitable interest in was created or arose.

This subsection does not apply where the money or securities are in court.

- (3) A notice, otherwise than in writing, given to, or received by, a trustee after the commencement of this Ordinance as respects any dealing with an equitable interest in real or personal property, shall not affect the priority of competing claims of purchasers in that equitable interest.
- (4) Where, as respects any dealing with an equitable interest in real or personal property
  - (a) the trustees are not persons to whom a valid notice of the dealing can be given; or
  - (b) there are no trustees to whom a notice can be given; or
  - (c) for any other reason a valid notice cannot be served, or cannot be served without unreasonable cost or delay;

a purchaser may at his own cost require that -

- (i) a memorandum of the dealing be endorsed, written on or permanently annexed to the instrument creating the trust;
- (ii) the instrument produced to him by the person having the possession or custody therof to prove that a sufficient memorandum has been placed thereon or annexed thereto.

Such memorandum shall, as respects priorities, operate in like manner as if notice in writing of the dealing had been given to trustees duly qualified to receive the notice at the time when the memorandum is placed on or annexed to the instrument creating the trust.

(5) Where the property affected is settled land, the memorandum shall be placed on or annexed to the trust instrument and not the vesting instrument.

Where the property affected is land on trust for sale, the memorandum shall be placed on or annexed to the instrument whereby the equitable interest is created.

(6) Where the trust is created by statute or by operation of law, or in any other case where there is no instrument whereby the trusts are declared, the instrument under which the equitable interest is acquired or which is evidence of the devolution thereof shall, for the purposes of this section, be deemed the instrument creating the trust.

In particular, where the trust arises by reason of an intestacy, the letters of administration or probate in force when the dealing was effected shall be deemed such instrument.

- (7) Nothing in this section affects any priority acquired before the commencement of this Ordinance.
- (8) Where a notice in writing of a dealing with an equitable interest in real or personal property has been served on a trustee under this section, the trustees from time to time of the property affected shall be entitled to the custody of the notice, and the notice shall be delivered to them by any person who for the time being may have the custody thereof; and subject to the payment of costs, any person interested in the equitable interest may require production of the notice.
- (9) The liability of the estate owner of the legal estate affected to produce documents and furnish information to persons entitled to equitable interests therein shall correspond to the liability of a trustee for sale to produce documents and furnish information to persons entitled to equitable interests in the proceeds of sale of the land.
- (10) This section does not apply until a trust has been created, and in this section "dealing" includes a disposition by operation of law.

124. (1) By any settlement or other instrument creating a trust, a trust corporation may be nominated to whom notices of dealings affecting real or personal property may be given, whether or not under the foregoing section, and in default of such nomination the trustees (if any) of the instrument, or the court on the application of any person interested, may make the nomination.

Power to nominate a trust corporation to receive notices. 15 & 16 Geo.5 c.20 s.138.

- (2) The person having the possession or custody of any instrument on which notices under that section may be endorsed shall cause the name of the trust corporation to whom notices may be given to be endorsed upon that instrument.
- (3) Notice given to any trust corporation whose name is so endorsed shall operate in the same way as a notice or endorsement under the foregoing section.
- (4) Where a trust corporation is acting for the purposes of this section a notice given to a trustee of the trust instrument of a dealing relating to the trust property shall forthwith be delivered or sent by post by the trustee t the trust corporation, and until received by the corporation shall not affect any priority.
  - (5) A trust corporation shall not be nominated for the purposes of this section -
    - (a) unless that corporation consents to act; or
    - (b) where that corporation has any beneficial interest in or charge upon the trust property; or
    - (c) where a trust corporation is acting as the trustee or one of the trustees of the instrument creating the trust.
- (6) Where a trust corporation acting for the purposes of this section becomes entitled to any beneficial interest in or charge upon the trust property, another trust corporation shall be nominated in its place and all documents relating to notices affecting the trust shall be delivered to the corporation so nominated.
- (7) A trust corporation acting for the purposes of this section shall be bound to keep a separate register of notices dealings in respect of each equitable interest and shall enter therein
  - (a) the date of the notice;
  - (b) the name of the person giving the notice;
  - (c) short particulars of the equitable interest intended to be affected; and
  - (d) short particulars of the effect of the dealing if mentioned in the notice.
- (8) The trust corporation may, before making any entry in the register, require the applicant to pay a fee not exceeding the prescribed fee.
- (9) Subject to the payment of a fee not exceeding the prescribed fee, the trust corporation shall permit any person who would, if the corporation had been the trustee of the trust investment, have been entitled to inspect notices served on the trustee, to inspect and take copies of the register and any notices held by the corporation.
- (10) Subject to the payment by the applicant of a fee not exceeding the prescribed fee, the trust corporation shall reply to all inquiries respecting notices received by the corporation in like manner and in the same circumstances as if the corporation had been the trustee of the trust instrument.
- (11) In this section, "prescribed fee" means the same fee as, having regard to the provisions of section 138(11) of the Law of Property Act 1925, would be receivable under that section 138 by a trust corporation in England receiving notice thereunder in relation to real or personal property in England.

# PART VI Leases and Tenancies

125. (1) Where a reversion expectant on a lease of land is surrendered or merged, the estate or interest which as against the lessee for the time being confers the next vested right to the land, shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion had there been no surrender or merger thereof.

Effect of extinguishment of reversion. 15 & 16 Geo.5 c.20 s.139.

- (2) This section applies to surrenders or mergers effected after 1st October 1845.
- 126. (1) Notwithstanding the severance by conveyance, surrender, or otherwise of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in the part of the land as to which the term has not been surrendered, or has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

Apportionment of conditions of severance, 15 & 16 Geo.5 c.20 s.140.

- (2) In this section "right of re-entry" includes a right to determine the lease by notice to quit or otherwise; but where the notice is served by a person entitled to a severed part of the reversion so that it extends to part only of the land demised, the lessee may within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate therein a counter notice expiring at the same time as original notice.
- (3) This section applies to leases made before or after the commencement of this Ordinance and whether the severance of the reversionary estate or the partial avoidance or cesser of the term was effected before or after such commencement.

Provided that, where the lease was made before 1st January 1882 nothing in this section shall affect the operation of a severance of the reversionary estate or partial avoidance or cesser of the term which was effected before the 1st January 1926.

127. (1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained, shall be annexed and incident to and shall go with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, not-withstanding severance of that reversionary estate, and without prejudice to any liability affecting a covenantor or his estate.

Rent and benefit of lessee's covenants to run with reversion.

15 & 16 Geo 5 e.20 s.141.

- (2) Any such rent, covenant or provision shall be capable of being recovered, received, enforced, and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.
- (3) Where that person becomes entitled by conveyance or otherwise, such rent, covenant or provision may be recovered, received, enforced or taken advantage of by him notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before such person becomes entitled as aforesaid.
- (4) This section applies to leases made before or after the commencement of this Ordinance, but does not affect the operation of
  - (a) any severance of the reversionary estate; or
  - (b) any acquisition by conveyance or otherwise of the right to receive or enforce any rent covenant or provision;

effected before the commencement of this Ordinance.

128. (1) The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if an as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise; and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, the obligation aforesaid may be taken advantage of and entered against any person so entitled.

Obligation of lessors convenants to run with reversion. 15 & 16 Geo.5 c.20 s.142.

(2) This section applies to leases made before or after the commencement of this Ordinance, whether the severance of the reversionary estate was effected before or after such commencement.

Provided that, where the lease was made before 1st January 1882, nothing in this section shall affect the operation of any severance of the reversionary estate effected before such commencement.

This section takes effect without prejudice to any liability affecting a covenantor or his estate.

- 129. (1) Where a licence is granted to a lessee to do any act, the licence, unless otherwise expressed, extends only
  - (a) to the permission actually given; or
  - (b) to the specific breach of any provision or covenant referred to; or
  - (c) to any other matter thereby specifically authorise to be done;

and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

- (2) Notwithstanding any such licence -
  - (a) all rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorised or waived, in the same manner as if no licence had been granted; and
  - (b) the condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorised to be done.
- (3) Where in any lease there is a power or condition of re-entry on the lessee assigning, subletting or doing any other specified act without a licence, and a licence is granted
  - (a) to any one of two or more lessees to do any act, or to deal with his equitable share or interest; or
  - (b) to any lessee, or to any one of two or more lessees to assign or underlet part only of the property, or to do any act in respect of part only of the property;

the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the lessee or lessees of the rest of the property (as the case may be) in respect of such shares or interests or remaining property, but the right of entry remains in force in respect of the shares, interests or property not the subject of the licence.

This subsection does not authorise the grant after the commencement of this Ordinance of a licence to create an undivided share in a legal estate.

- (4) This section applies to licences granted after 13th August, 1859.
- 130. In all leases containing a covenant, condition or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property lease without licence or consent, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent; but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

No fine to be exacted for licence to assign. 15 & 16 Geo.5 c.20 s.144.

Effect of

licences granted to lessees, 15 &

16 Geo.5 c.20

131. Every lessee to whom there is delivered any writ for the recovery of premises demised to or held by him, or to whose knowledge any such writ comes, shall forthwith give notice thereof to his lessor or his bailiff or receiver, and, if he fails to do so, he shall be liable to forfeit to the person of whom he holds the premises an amount equal to the value of three years improved or rack rent of the premises, to be recovered by action in any court having jurisdiction in respect of claims for such an amount.

Lessee to give notice of ejectment to lessor. 15 & 16 Geo.5 c.20 s.145. 132. (!) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice —

- (a) specifying the particular breach complained of; and
- (b) if the breach is capable of remedy, requiring the lessee to remedy the breach;and
- in any case, requiring the lessee to make compensation in money for the breach;

and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor, for the breach.

- (2) Where a lessor is proceeding, by action or otherwise, to enforce such a right of reentry or forfeiture, the lessee may, in the lessor's action, if any, or in any action brought by himself, apply to the court for relief; and the court may grant or refuse relief, as the court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section, and to all other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the court, in the circumstances of each case, thinks fit.
- (3) A lessor shall be entitled to recover as a debt due to him from a lessee, and in addition to damages (if any), all reasonable costs and expenses properly incurred by the lessor in the employment of a legal practitioner and surveyor or valuer, or otherwise, in reference to any breach giving rise to a right of re-entry or forfeiture which, at the request of the lessee, is waived by the lessor, or from which the lessee is relieved, under the provisions of this Ordinance.
- (4) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, or for non-payment of rent, the court may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action (if any) or in any action brought by such person for that purpose, make an order vesting, for the whole term of the lease or any less term, the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise, as the court in the circumstances of each case may think fit, but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease.
  - (5) For the purposes of this section
    - (a) "Lease" includes an original or derivative under-lease; also an agreement for a lease where the lessee has become entitled to have his lease granted; also a grant at a fee farm rent, or securing a rent by condition;
    - (b) "Lessee" includes an original or derivative under-lessee, and the persons deriving title under a lessee; also a grantee under any such grant as aforesaid and the persons deriving title under him;
    - (c) "Lessor" includes an original or derivative under-lessor, and the persons deriving title under a lessor; also a person making such grant as aforesaid and the persons deriving title under him;
    - (d) "Under-lease" includes an agreement for an underlease where the underlessee has become entitled to have his underlease granted;
    - (e) "Underlessee" includes any person deriving title under an underlessee.
- (6) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of any statute of or having effect in the Falkland Islands.

Restriction on and relief against forfeiture of leases and underleases. 15 & 16 Geo.5 c.20 s.146

- (7) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for reentry on such a breach.
- (8) This section has effect subject to sections 149 to 154 (inclusive) below and section 167 below shall be read as one with this section.
  - (9) This section does not extend -
    - (a) to a covenant or condition against assigning, underletting, parting with the possession, or disposing of the land leased where the breach occurred before the commencement of this Ordinance; or
    - (b) in the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.
- (10) This section does not apply to a condition for forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest if contained in a lease of
  - (a) agricultural or pastoral land;
  - (b) mines or minerals;
  - (c) premises used or intended to be used for the sale of intoxicating liquors;
  - (d) a house let as a dwelling-house, with the use of any furniture, books, works of art, or other chattels not being in the nature of fixtures;
  - (e) any property with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the lessor, or to any person holding under him.
- (11) Where a condition of forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest is contained in any lease, other than a lease of any of the classes mentioned in the last subsection, then -
  - (a) if the lessee's interest is sold within one year from the bankruptcy or taking in execution, this section applies to the forfeiture condition aforesaid;
  - (b) if the lessee's interest is not sold before the expiration of that year, this section only applies to the forfeiture condition aforesaid during the first year from the date of the bankruptcy or taking in execution.
- (12) This section does not, save as otherwise mentioned, affect the law relating to reentry or forfeiture or relief in case of non-payment of rent.
- (13) This section has effect notwithstanding any stipulation to the contrary.
- (14) In subsection (9)(c) "premises for the sale of intoxicating liquor" does not include premises to which such sales are ancillary to the principal business carried on upon such premises.
  - (15) The Magistrate's Court has jurisdiction under this section -
    - (a) in any case where the lessor is proceeding by action in that court to enforce the right of entry or forfeiture;
    - (b) where the lessor is proceeding to enforce the said right otherwise than by action, in a case where the Magistrate's Court would have jurisdiction to entertain an action for possession of the premises demised by the lease.
- 133. (1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building, he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired), the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.

Relief against notice to effect decorative repairs. 15 & 16 Geo.5 c.20 s.147.

- (2) This section does not apply -
  - (i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;
  - (ii) to any matter necessary or proper —
  - (a) for putting or keeping the property in a sanitary condition, or
  - (b) for the maintenance or preservation of the structure;
    - (iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;
    - (iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.
- (3) In this section "lease" includes an underlease and an agreement for a lease, and "lessee" has a corresponding meaning and includes any person liable to effect the repairs.
- (4) This section applies whether the notice is served before or after the commencement of this Ordinance, and has effect notwithstanding any stipulation to the contrary.
- (5) The Magistrate's Court has jurisdiction under this section where it would have jurisdiction to entertain an action for possession of the premises demised by the lease.
- 134. (1) Where any actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.

Waiver of covenant in a lease. 15 & 16 Geo.5 c.20 s.148.

- (2) This section applies unless a contrary intention appears and extends to waivers effected after the 23rd July, 1860.
- 135. (1) The doctrine of interesse termini is abolished with effect on and from 1st January 1926.

Abolition of interesse termini. 15 & 16 Geo.5 c.20 s.149.

- (2) As from the effective date all terms of years absolute shall, whether the interest is created before or after such commencement, be capable of taking effect at law or in equity, according to the estate interest or powers of the grantor, from the date fixed for commencement of the term, without actual entry.
- (3) A term at a rent or granted in consideration of a fine, limited on or after the effective date to take effect more than twenty-one years from the date of the instrument purporting to create it, shall be void, and any contract made after such commencement to create such a term shall likewise be void; but this subsection does not apply to any term taking effect in equity under a settlement, or created out of an equitable interest under a settlement, or under an equitable power for mortgage, indemnity or other like purposes.
- (4) Nothing in subsection (1) and (2) of this section prejudicially affects the right of any person to recover any rent or to enforce or take advantage of any covenants or conditions or, as respects terms or interests created before the effective date operates to vary any statutory or other obligations imposed in respect of such terms or interests.
- (5) Nothing in this Ordinance affects the rule of law that a legal term, whether or not being a mortgage term, may be created to take effect in reversion expectant on a longer term, which rule is hereby confirmed.
- (6) Any lease or underlease, at a rent, or in consideration of a fine, for life or lives or for any term of years determinable with life or lives or on the marriage of the lessee, or any contract therefor, made before or after the effective date, shall take effect as a lease, underlease or contact therefor, for a term of ninety years determinable after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees, by at least one month's notice in writing given to determine the same on one of the quarter days applicable to the tenancy, either by the lessor or the person deriving title under him,

to the person entitled to the leasehold interest, or if no such person is in existence by affixing the same to the premises, or by the lessee or other person in whom the leasehold interest is vested to the lessor or the persons deriving title under him:

Provided that -

- this subsection shall not apply to any term taking effect in equity under a settlement or created out of an equitable interest under a settlement for mortgage, indemnity, or other like purposes;
- (b) if the lease, underlease, or contract therefor is made determinable on the dropping of the lives of persons other than or besides the lessees, then the notice shall be capable of being served after the death of any person or of the survivor of any persons (whether or not including the lessees) on the cesser of whose life or lives the lease, underlease, or contract is made determinable, instead of after the death of the original lessees:
- (c) if there are no quarter days specially applicable to the tenancy, notice may be given to determine the tenancy of one of the usual quarter days.
- (7) For the purposes of this section "effective date" means the 1st January 1926.
- 136. (1) A lease may be surrendered with a view to the acceptance of a new lease in place thereof, without a surrender of any under-lease derived thereout.
- (2) A new lease may be granted and accepted, in place of any lease, so surrendered, without any such surrender of an underlease as aforesaid, and the new lease operates as if all under-leases derived out of the surrendered lease had been surrendered before the surrender of that lease was effected.

Surrender of a lease without prejudice to underleases with a veiw to grant of a new lease. 15 & 16 Geo.5 c.20 s.150.

- (3) The lessee under the new lease and any person deriving title under him is entitled to the same rights and remedies in respect of the rent reserved by and the covenants, agreements and conditions contained in any under-lease as if the original lease had not been surrendered but was or remained vested in him.
- (4) Each under-lessee and any person deriving title under him is entitled to hold and enjoy the land comprised in his under-lease (subject to the payment of any rent reserved by and to the observance of the covenants agreements and conditions contained in the under-lease) as if the lease out of which the under-lease was derived had not been surrendered.
- (5) The lessor granting the new lease and any person deriving title under him is entitled to the same remedies, by distress or entry in and upon the land comprised in any such underlease for rent reserved by or for breach of any covenant, agreement or condition contained in the new lease (so far only as the rents reserved by or the covenants, agreements or conditions contained in the new lease do not exceed or impose greater burdens than those reserved by or contained in the original lease out of which the under-lease is derived) as he would have had
  - (a) if the original lease had remained on foot; or
  - (b) if a new under-lease derived out of the new lease had been granted to the under-lessee or a person deriving title under him;

as the case may require.

- (6) This section does not affect the powers of the court to give relief against forfeiture.
- 137. (1) Where land is subject to a lease -
  - (a) the conveyance of a reversion in the land expectant on the determination of the lease; or
  - (b) the creation or conveyance of a rentcharge to issue or issuing out of the land; shall be valid without any attornment of the lessee:

Provision as to attornments by tenants. 15 & 16 Geo.5 c.20 s.151.

Nothing in this subsection —

- (i) affects the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or
- (ii) renders the lessee liable for any breach of covenant to pay rent, on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.
- (2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

This subsection does not apply to an attornment -

- (a) made pursuant to a judgment of a court of competent jurisdiction; or
- (b) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or
- (c) to any other person rightfully deriving title under the lessor.
- 138. (1) Where in the intended exercise of any power of leasing, whether conferred by a statute or any other instrument, a lease (in this section referred to as an invalid lease) is granted, which by reason of any failure to comply with the terms of the power is invalid, then
  - (a) as against the person entitled aftr the determination of the interest of the grantor to the reversion; or
  - (b) as against any other person who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease;

the lease, if it was made in good faith, and the lessee has entered thereunder, shall take effect in equity as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the power:

Provided that a lessee under an invalid lease shall not, by virtue of any such implied contract, be entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

- (2) Where a lease granted in the intended exercise of such a power is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantors interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease shall take effect as a valid lease in like manner as if it had been granted at that time.
- (3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, shall, at the request of the person so able to confirm the release, be bound to accept a confirmation therof, and thereupon the lease shall have effect and be deemed to have had effect as a valid lease from the grant thereof.

Confirmation under this subsection may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

- (4) Where a receipt or a memorandum in writing confirming an invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the person accepting the rent, that acceptance shall, as against that person, be deemed to be a confirmation of the lease.
  - (5) The foregoing provisions of this section do not affect prejudicially -
    - (a) any right of action or other right or remedy to which, but for those provisions, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or

Leases invalidated by reason of non-compliance with terms of powers under which they are granted. 15 & 16 Geo.5 c.20 s.152.

- (b) any right of re-entry or other right or remedy to which, but for those provisions or any enactment replaced thereby, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.
- (6) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease which, by reason of the determination of the interest of the grantor or otherwise, cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.
- (7) This section does not apply to a lease of land held on charitable, ecclesiastical or public trusts.
- (8) This section takes effect without prejudice to the provision in this Ordinance for the grant of leases in the name and on behalf of the estate owner of the land affected.

## Leases and lettings of dwelling houses

- 139. No notice by a landlord or a tenant to quit any premises let (whether before or after the commencement of this Ordinance) as a dwelling shall be valid unless
  - (a) it is in writing and contains such information as may be prescribed;
  - (b) it is given not less than four weeks before the date on which it is to take effect.
- 140. Where any premises have been let as a dwelling on a lease which is subject to a right of re-entry or forfeiture it shall not be lawful to enforce that right otherwise than by proceedings in a court of competent jurisdiction while any person is lawfully residing in the premises or any part of them.
- 141. (1) Where any premises have been let as a dwelling under a tenancy and -
  - (a) the tenancy (in this section referred to as "the former tenancy") has come to an end, but
  - (b) the occupier continues to reside in the premises or part of them,
- it shall not be lawful for the owner to enforce against the occupier, otherwise than by proceedings in the court, his right to recover possession of the premises.
- (2) In this section "the occupier", in relation to any premises means any person lawfully residing in the premises or any part of them.
- 142. (1) This section shall apply where the tenant under the former tenancy (within the meaning of section 141(1)(a) occupied the premises under the terms of his employment as a person employed in agriculture.
  - (2) In this section "the occupier", in relation to any premises, means -
    - (a) the tenant under the former tenancy; or
    - (b) the widow or widower of the tenant uner the former tenancy residing with him at his death or, if the former tenant leaves no such widow or widower, any member of his family residing with him at his death.
- (3) Without prejudice to any power of the court apart from this section to postpone the operation or suspend the execution of an order for possession, if in proceedings by the owner against the occupier the court makes an order for the possession of the premises the court may suspend the execution of the order on such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, mesne profits and otherwise as the court thinks reasonable.
- (4) Where the order for possession is made within the period of six months beginning with the date when the former tenancy came to an end, then without prejudice to any powers of the court under the preceding provisions of this section or apart from this section to postpone the operation or suspend the execution of the order for a longer period, the court shall suspend the execution of the order for the remainder of the said period of six months unless the court —

Validity of notices to quit. 1977 c.43 s.5.

Restriction on re-entry without due process of law. 1977 c.43 s.2.

Prohibition of eviction without due process of law. 1977 c.43 s.3.

Special provision for agricultural employees. 1977 c.43 s.4.

- (a) is satisfied either -
  - that other suitable accommodation is, or will within that period be made, available to the occupier;
  - (ii) that the efficient management of any agricultural land or the efficient carrying on of any agricultural operations would be seriously prejudice unless the premises are available for occupation by a person employed or to be employed by the owner; or
  - (iii) that greater hardship (being hardship in respect of matters other than the carrying on of such a business as aforesaid) would be caused by the suspension of the order until the end of that period than by its execution within that period; or
  - (iv) that the occupier, or any person residing or lodging with the occupier, has been causing damage to the premises or has been guilty of conduct which is a nuisance or annoyance to persons occupying other premises; and
- (b) considers that it would be reasonable not to suspend the execution of the order for the remainder of that period.
- (5) Where the court suspends the execution of an order for possession under subsection (4) above it shall do so on such terms and conditions, including conditions as to the payment by the occupier of arrears of rent, mesne profits and otherwise as the court thinks reasonable.
- (6) A decision of the court not suspend the execution of the order for possession under subsection (4) above it shall not prejudice any other power of the court to postpone the operation or suspend the execution of the order for the whole part of the period of 6 months mentioned in that subsection.
- (7) Where the court has, under the preceding provisions section, suspended the execution of an order for possession, it may from time to time vary the period of suspension or terminate it and may vary any terms or conditions imposed by virtue of this section.
- (8) In considering whether or how to exercise its powers under subsection (3) above, the court shall have regard to all the circumstances and, in particular, to
  - (a) whether other suitable accommodation is or can be made available to the occupier;
  - (b) whether the efficient management of any agricultural land or the efficient carrying on of any agricultural operations would be seriously prejudiced unless the premises were available for occupation by a person employed or to be employed by the owner; and
  - (c) whether greater hardship would be caused by the suspension of the execution of the order than by its execution without suspension or further suspension.
- (9) Where in proceedings for the recovery of possession of the premises the court makes an order for possession but suspends the execution of the order under this section, it shall make no order for costs, unless it appears to the court, having regard to the conduct of the owner or of the occupier, that there are special reasons for making such an order.
- (10) Subject to subsection (11) below where, in the case of an order for possession of the premises to which subsection (4) above applies, the execution of the order is not suspended under that subsection or, the execution of the order having been so suspended, the suspension is terminated, then, if it is subsequently made to appear to the court that the failure to suspend the execution of the order or, as the case may be, the termination of the suspension was
  - (a) attributable to the provisions of paragraph (a)(ii) of subsection (4), and
  - (b) due to misrepresentation or concealment of material facts by the owner of the premises,

the court may order the owner to pay to the occupier such sum as appears sufficient as compensation for damage or loss sustained by the occupier as a result of that failure or termination.

(11) Subsection (10) above does not apply where the owner is the Crown.

1977 c.43 s.10.

- (12) For the purposes of this section, a person is employed in agriculture if he is employed principally for one or more of the following purposes -
  - (a) dairy-farming and livestock keeping and breeding (whether those activities involve the use of land or not);
  - (b) the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not);
  - (c) sheep-farming or sheep-ranching;
  - (d) the use of land as grazing, meadow or pasture land;
  - (e) the use of land for market garden or nursery grounds.
- 143. (1) In a contract to which this section applies for the letting of a dwelling house for human habitation there is implied, notwithstanding any stipulation to the contrary —

Implied conditions in dwelling house lettings. 1985 C.70 s.8.

- (a) a condition that the dwelling house is fit for human habitation at the commencement of the tenancy, and
- (b) an undertaking that the dwelling house will be kept by the landlord fit for human habitation during the tenancy.
- (2) The landlord, or a person authorised by him in writing, may at reasonable times of the day, on giving 24 hours' notice in writing to the tenant or occupier, enter premises to which this section applies for the purpose of viewing their state and condition.
- (3) This section applies to a contract if the letting is not on such terms as to the tenant's responsibility as are mentioned in subsection (4).
  - (4) This section does not apply where a house is let -
    - (a) by the Crown; or
    - (b) by any person for a term of three years or more (the lease not being determined at the option of either party before the expiration of three years)

if, in either case, the dwelling house is let on terms that the tenant will be responsible for putting the premises into condition reasonably fit for human habitation or for keeping the premises in repair.

- (5) In this section "house" includes
  - (a) a part of a house; and
  - (b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.
- 144. (1) Where under the contract of employment of a worker employed in agriculture the provision of a dwelling house for his occupation forms part of his remuneration and the provisions of section 143 above are inapplicable by reason only of the house not being let to him —
- Application of s.143 to certain dwelling houses occupied by agricultural workers. 1985 c.70 a.9.
- (a) there are implied as part of the contract of employment, notwithstanding any stipulation to the contrary, the like condition and undertaking as would be implied under that section if the house were so let, and (b) the provisions of that section apply accordingly, with the substitution of "employer" for "landlord" and such other modifications as may be necessary.
- (2) This section does not affect any obligation of a person other than the employer to repair a house to which this section applies, or any remedy for enforcing such an obligation.

- (3) In this section "house" includes -
  - (a) a part of a house, and
  - (b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it.
- 145. In determining for the purposes of section 143 and 144 above whether a house is unfit for human habitation, regard shall be had to its condition in respect of the following matters —

Fitness for human habitation, 1985 c.70 s.10.

repair, stability, freedom from damp, internal arrangment, natural lighting, ventilation, water supply, drainage and sanitary conveniences, facilities for preparation and cooking of food and for the disposal of waste water;

and the house shall be regarded as unfit for human habitation if, and only if, it is so far defective in one or more of those matters that is not reasonably suitable for occupation in that condition.

- 146. (1) The subsequent provisions of this section do not apply to lease of a dwelling house.
- Repairing obligations in short leases. 1985 c.70.s.11-12.
- (a) granted before the commencement of this Ordinance or granted thereafter for a term of seven years or more;
- (b) to a new lease granted after the commencement of this Ordinance to an existing tenant or to a former tenant still in possession if the previous lease is one to which those provisions do not, by virtue of paragraph (a) above apply;
- (c) to a dwelling house let with land let for the purposes of agriculture (which for the purposes of this paragraph has the same meaning as in paragraphs (a) to (e) inclusive of section 142(12) above);
- (d) to a dwelling house let by the Crown if the subsequent provisions of this section are excluded either expressly or by necessary implication.
- (2) Subject to subsection (1) this section applies to every lease of a dwelling house for term of less than seven years.
  - (3) In a lease to which this section applies there is implied a covenant by the lessor
    - (a) to keep in repair the structure and exterior of the dwelling house (including drains, gutters and external pipes),
    - (b) to keep in repair and proper working order the installations in the dwelling house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and
    - (c) to keep in repair and proper working order the installations in the dwelling house for space heating and heating water.
- (4) The covenant implied by subsection (3) ("the lessor's repairing covenant") shall not be constructed as requiring the lessor
  - (a) to carry out works or repairs for which the lessee is liable by virtue of his duty to use the premises in a tenant-like manner, or would be so liable but for an express covenant on his part,
  - (b) to rebuild or reinstate the premises in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident, or
  - (c) to keep in repair or maintain anything which the lessee is entitled to remove from the dwelling house.
- (5) In determining the standard of repair required by the lessor's repairing covenant, regard shall be had to the age, character and prospective life of the dwelling house and the locality in which it is situated.

- (6) A covenant by the lessee for the repair of the premises is of no effect so far as it relates to the matters mentioned in subsection (3) (a) to (c), except so far as it imposes on the lessee any of the requirements mentioned in subsection (4) (a) or (c).
- (7) The reference is subsection (6) to a covenant by the lessee for the repair of the premises includes a covenant -
  - (a) to put in repair or deliver up in repair,
  - (b) to paint, point or render,
  - (c) to pay money in lieu of repairs by the lessee, or
  - (d) to pay money on account of repairs by the lessor
- (8) In a lease in which the lessor's repairing covenant is implied there is also implied a covenant by the lessee that the lessor, or any person authorised by him in writing, may at reasonable times of the day and on giving twenty-four hours' notice in writing to the occupier, enter the premises comprised in the lease for the purpose of viewing their condition and state of repair.
- 147. (1) A covenant or agreement, whether contained in a lease to which section 146(2) to (6) inclusive applies or in an agreement collateral to such a lease, is void in so far as it purports
  - to exclude or limit the obligations of the lessor or the immunities of the lessee (a) under that section, or
  - to authorise any forfeiture or impose on the lessee any penalty, disability or obligation in the event of his enforcing or relying upon those obligations or immunities,

unless the inclusion of the provision was authorised by the Magistrate's Court.

- (2) The Magistrate's Court may, by order made with the consent of the parties, authorise the inclusion in a lease, or in any agreement collateral to a lease, of provisions excluding or modifying in relation to the lease, the provisions of section 146 with respect to the repairing obligations of the parties if it appears to the court that it is reasonable to do so, having regard to all the circumstances of the case, including the other terms and conditions of the lease.
- (3) The Magistrate's Court has jurisdiction to make an order under subsection (2) above or a declaration as to whether section 146(2) to (6) inclusive applies in respect of any dwellinghouse and notwithstanding that no other relief is sought than a declaration.
- 148. (1) In section 146 -"existing tenant" means a person who is when, or immediately before, the new lease is granted, the lessee under another lease of the dwellinghouse;

"former tenant still in possession" means a person who -

- was the lessee under another lease of the dwellinghouse which terminated at some time before the new lease was granted, and
- between the termination of that other lease and the grant of the new lease was continously in possession of the dwellinghouse or the rents and profits of the dwellinghouse; and

"the previous lease" means the other lease referred to in the above definitions.

(2) In sections 146 and 147 above —

"lease" does not include a mortgage term;

"lease of a dwellinghouse" means a lease by which a building or part of a building is let wholly or mainly as a private residence, and "dwellinghouse" means that building or part of a building:

Definitions for purposes of ss c.70 s.14(2) and

Restriction on

contracting out of s.146, 1985

c.70 ss 12 and

146 & 147, 1985 s.16.

"lessor" and "lessee" mean, respectively, the person for the time being entitled to the term of a lease and to the reversion expectant on it.

## Repairing covenants in long leases

149. (1) Where a lessor serves on a lessee under section 132(1) above a notice that relates to a breach of a covenant or agreement to keep or put in repair during the currency of the lease all or any of the property comprised in the lease and at the date of the service of the notice three years or more of the term of the lease remain unexpired, the lessee may within twenty-eight days from that date serve on the lessor a counter-notice to the effect that he claims the benefit of these relevant sections.

Restriction on enforcement of repairing covenants in long leases. I & 2 Geo.6 c.34 s.1.

- (2) A right to damages for a breach of such covenant as aforesaid shall not be enforceable by action commenced at any time at which (three) years or more of the term of the lease remain unexpired unless the lessor has served on the lessee not less than one month before the commencement of the action such a notice as is specified in section 132(1) above and where a notice is served under this subsection, the lessee may, within twenty- eight days from the date of the service thereof, serve on the lessor a counter-notice to the effect that he claims the benefit of this section and section 150 below, or such of them as are applicable ("the relevant sections").
- (3) Where a counter-notice is served by a lessee under this section, then, notwithstanding anything in any enactment or rule of law, no proceedings, by action or otherwise, shall be taken by the lessor for the enforcement of any right of re-entry or forfeiture under any proviso or stipulation in the lease for breach of the covenant or agreement in question, or for damages for breach thereof, otherwise than with the leave of the court.
- (4) A notice served under section 132(1) above, in the circumstances specified in subsection (1) of this section, and a notice served under subsection (2) of this section shall not be valid unless it contains a statement, in characters not less conspicuous than those used in any other part of the notice, to the effect that the lessee in entitled under the relevant sections to serve on the lessor a counter-notice claiming the benefit of the relevant sections, and a statement in the like characters specifying the time within which, and the manner in which, under the relevant sections a counter-notice may be served and specifying the name and address for service of the lessor.
  - (5) Leave for the purposes of this section shall not be given unless the lessor proves
    - (a) that the immediate remdying of the breach in question is requisite for preventing substantial diminution in the value of this reversion, or that the value thereof has been substantially diminished by the breach:
    - (b) that the immediate remedying of the breach is required for giving effect in relation to the premises to the purposes of any enactment, or of any byelaw or other provision having effect under an enactment or for giving effect to any order of a court or requirement of any authority under any enactment or any such byelaw or other provision as aforesaid;
    - (c) in a case in which the lessee is not in occupation of the whole of the (premises as respects which the covenant or agreement is proposed to be enforced) that the immediate remedying of the breach is required in the interests of the occupier of those premises or of part thereof:
    - (d) that the breach can be immediately remedied at an expense that is relatively small in comparison with the much greater expense that would probably be occasioned by postponement of the necessary work; or
    - (e) special circumstances which in the opinion of the court, render it just and equitable that leave should be given.
- (6) The court may, in granting or in refusing leave for the purposes of this section, impose such terms and conditions on the lessor or on the lessee as it may think fit.
- 150. A lessor on whom a counter-notice is served under the preceding section shall not

be entitled to the benefit of section 132(3) above, (which relates to costs and expenses incurred by a lessor in reference to breaches of covenant), so far as regards any costs or expenses incurred in reference to the breach in question unless he mades an application for leave for the purposes of the section 149 above and on such an application the court shall have power to direct whether and to what extent the lessor is to be entitled to the benefit thereof.

- 151. Sections 149 and 150 above shall not apply to a breach of covenant in so far as it imposes on the lessee as obligation to put premises in repair that is to be performed upon the lessee taking possession of the premises or within a reasonable time thereafter.
- 152. (1) Sections 125 to 142 inclusive and 144, 149, 150 and 151 apply to leases created and to breaches occurring before or after the commencement of this Ordinance.
- (2) Sections 149 and 150 above do not apply to premises intended to be used or a let with land intended to be used for, agricultural purposes.

Saving for obligation to repair on taking possession: 1 & 2 Geo.6 c.34 s.31.
Application of ss 149 to 151. 1 & 2 Geo.6 c.34

# PART VII COMPENSATION FOR IMPROVEMENTS ON THE TERMINATION OF TENANCIES OF BUSINESS PREMISES

153. (1) Subject to the provisions of the Part, a tenant of a holding to which this Part applies shall, if a claim for the purpose is made in the prescribed manner and within the time limited by section 164 be entitled, at the termination of the tenancy, on quitting his holding, to be paid by his landlord compensation in respect of any improvement (including the erection of any building) on his holding made by him or his predecessors in title, not being a trade or other fixture which the tenant is by law entitled to remove, which at the termination of the tenancy adds to the letting value of the holding:

Tenant's right to compensation for improvements, 17 & 18 Geo.5 c.36 s.1.

Provided that the sum to be paid as compensation for any improvement shall not exceed —

- (a) the net addition to the value of the holding as a whole which may be determined to be the direct result of the improvement; or
- (b) the reasonable cost of carrying out the improvement at the termination of the tenancy, subject to a deduction of an amount equal to the cost (if any) of putting the works constituting the improvement into a reasonable state of repair, except so far as such cost is covered by the liability of the tenant under any covenant or agreement as to the repair of the premises.
- (2) In determining the amount of such net addition as aforesaid, regard shall be had to the purposes for which it is intended that the premises shall be used after the termination of the tenancy, and if it is shown that it is intended to demolish or make structural alterations in the premises or any part thereof or to use the premises for a different purposes, regard shall be had to the effect of such demolition, alteration or change of user on the additional value attributable to the improvement, and to the length of time likely to clapse between the termination of the tenancy and the demolition, alteration or change of user.
- (3) In the absence of agreement between the parties, all questions as to the right to compensation under this section, or as to the amount thereof, shall be determined by the court and if the court determines that, on account of the intention to demolish or alter or to change the user of the premises, no compensation or a reduced amount of compensation shall be paid, the court may authorise a further application for compensation to be made by the tenant if effect is not given to the intention within such time as may be fixed by the court.
  - (4) This Part does not apply to any land or buildings let for agricultural purposes.
- 154. (1) A tenant shall not be entitled to compensation under this Part -
  - (a) in respect of any improvement made before the commencement of this Ordinance;
  - (b) in respect of any improvement made less than three years before the termination of the tenancy; or

Limitation on tenant's right to compensation in certain cases. 17 & 18 Geo.5 c.36 s.2.

- (c) if within two months after the making of the claim under section 153(1) above, the landlord serves on the tenant notice that he is willing and able to grant to the tenant, or obtain the grant to him of, a renewal of the tenancy at such rent and for such term as, failing agreement, the court may consider reasonable; and, where such a notice is so served and the tenant does not within one month from the service of the notice send to the landlord an acceptance in writing of the offer, the tenant shall be deemed to have declined the offer.
- (2) Where an offer of the renewal of a tenancy by the landlord under this section is accepted by the tenant the rent fixed by the court shall be the rent which in the opinion of the court a willing lessee other than the tenant would agree to give and a willing lessor would agree to accept for the premises, having regard to the terms of the lease, but irrespective of the value attributable to the improvement in respect of which compensation would have been payable.
- (3) The Court in determining the compensation for an improvement shall in reduction of the tenant's claim take into consideration any benefits which the tenant or his predecessors in title may have received from the landlord or his predecessors in title in consideration expressly or impliedly of the improvement.
- 155. (1) Where a tenant of a holding to which this Part applies proposes to make an improvement on his holding, he shall serve on his landlord notice of his intention to make such improvement, together with a specification and plan showing the proposed improvement and the part of the existing premises affected thereby, and if the landlord, within three months after the service of the notice, serves on the tenant notice of objection, the tenant may, in the prescribed manner, apply to the court and the court, may after ascertaining that notice of such intention has been served upon any superior landlords interested and after giving such persons an opportunity of being heard, if satisfied that the improvement —

Landlord's right to object. 17 & 18 Geo.5 c.36 s.3.

- (a) is of such a nature as to be calculated to add to the letting value of the holding at the termination of the tenancy; and
- (b) is reasonable and suitable tot he character thereof; and
- (c) will not diminish the value of any other property belonging to the same landlord, or to any superior landlord from whom the immediate landlord of the tenant directly or indirectly holds;

and after making such modifications (if any) in the specification or plan as the court thinks fit, or imposing such other conditions as the court may think reasonable certify in the prescribed matter that the improvement is a proper improvement:

Provided that, if the landlord proves that he has offered to execute the improvement himself in consideration of a reasonable increase of rent, or of such increase of rent as the court may determine, the court shall not give a certificate under this section unless it is subsequently shown to the satisfaction of the court that the landlord has failed to carry out his undertaking.

- (2) In considering whether the improvement is reasonable and suitable to the character of the holding, the court shall have regard to any evidence brought before it by the landlord or any superior landlord (but not any other person) that the improvement is calculated to injure the amenity or convenience of the neighbourhood.
- (3) The tenant shall, at the request of any superior landlord or at the request of the court, supply such copies of the plans and specifications of the proposed improvement as may be required.
- (4) Where no such notice of objection as aforesaid to a proposed improvement has been served within the time allowed by this section, or where the court has certified an improvement to be a proper improvement, it shall be lawful for the tenant as against the immediate and any superior landlord to execute the improvement according to the plan and specification served on the landlord, or according to such plan and specification as modified by the court or by agreement between the tenant and the landlord or landlords affected, anything in any lease of the premises to the contrary notwithstanding:

Provided that nothing in this subsection shall authorise a tenant to execute an improvement in contravention of any restriction created or imposed —

- (a) for naval, military or air force purposes;
- (b) for civil aviation purposes under the Civil Aviation Act 1982 in its application to the Falkland Islands:
- (c) for securing any rights of the public over the foreshore or bed of the sea.
- (5) A tenant shall not be entitled to claim compensation under this Part in respect of any improvement unless he has, or his predecessors in title hve, served notice of the proposal to make the improvement under this section, and (in case the landlord has served notice of objection thereto) the improvement has been certified by the court to be a proper improvement and the tenant has complied with the conditions, if any, imposed by the court, nor unless the improvement is completed within such time after the service on the landlord of the notice of the proposed improvement as may be agreed between the tenant and the landlord or may be fixed by the court and where proceedings have been taken before the court, the court may defer making any order as to costs until the expiration of the time so fixed for the completion of the improvement.
- (6) Where a tenant has executed an improvement of which he has served notice in accordance with this section and with respect to which either no notice of objection has been served by the landlord or a certificate that it is a proper improvement has been obtained from the court the tenant may require the landlord to furnish to him a certificate that the improvement has been duly executed; and if the landlord refuses or fails within one month after the service of the requisition to do so, the tenant may apply to the court which, if satisfied that the improvement has been duly executed, shall give a certificate to that effect.

Where the landlord furnishes such a certificate, the tenant shall be liable to pay any reasonable expenses incurred for the purpose by the landlord, and if any question arises as to the reasonableness of such expenses, it shall be determined by the court.

- (7) In respect of an improvement made in pursuance of a statutory obligation only so much of this section shall have effect as
  - (a) requires the tenant to serve on the landlord notice of his intention to make the improvement together with such a plan and specifications as are mentioned in this section and to supply copies of the plan and specification at the request of a superior landlord;
  - (b) enables the tenant to obtain at his expense a certificate from the landlord or the court that the improvement has been duly executed.
- 156. (1) Where, in the case of any holding, there are several persons standing in the relation to each other of lessor and lessee, the following provisions shall apply
  - any mesne landlord who has paid or is liable to pay compensation under this Part shall, at the end of his term, be entitled to compensation from his immediate landlord in like manner and on the same conditions as if he had himself made the improvement in question, except that it shall be sufficient if the claim for compensation is made at least two months before the expiration of his term;
  - (b) a mesne landlord shall not be entitled to make a claim under this section unless he has, within the time and in the manner prescribed, served on his immediate superior landlord claims which have been sent of him in pursuance of this Part;
  - (c) where such copies are so served, the said superior landlord shall have, in addition to the mesne landlord, the powers conferred by or in pursuance of this Part in like manner as if he were the immediate landlord of the occupying tenant, and shall, in the manner and to the extent prescribed, be at liberty to appear before the court and shall be bound by the proceedings.
- (2) In this section, references to a landlord shall include references to his predecessors in title.
- 157. This Part shall apply notwithstanding any contract to the contrary made after the commencement of this Ordinance;

Rights of mesne landlords. 17 & 18 Geo.5 c.36 s.8.

Restriction on contracting out. 17 & 18 Geo.5 c.36 s.9.

Provided that, if on the hearing of a claim or application under this Part appears to the court that a contract made after such commencement as aforesaid, so far as it deprives any person of any right under this Part, was made for adequate consideration, the court shall in determining the matter give effect thereto.

158. The landlord of a holding to which this Part applies, or any person authorised by him may at all reasonable times enter on the holding or any part of it, for the purpose of executing any improvement he has undertaken to execute and of making any inspection of premises which may reasonably be required for the purposes of this Part.

Right of entry. 17 & 18 Geo.5 c.36 s.10.

159. (1) Out of any money payable to a tenant by way of compensation under this Part, the landlord shall be entitled to deduct any sum due to him from the tenant under or in respect of the tenancy.

Right to make deductions, 17 & 18 Geo.5 c.36 s.11

- (2) Out of any money due to the landlord from the tenant under or in respect of the tenancy, the tenant shall be entitled to deduct any sum payable to him by the landlord by way of compensation under the Part.
- 160. (1) Capital money arising under the Settled Land Act 1925 in its application to the Falkland Islands, may be applied -

Power to raise and apply capital money. 17 & 18 Geo.5 c.36 s.13.

- (a) in payment as for an improvement authorised by the Act of any money expended and costs incurred by a landlord under or in pursuance of this Part of this Ordinance in or about the execution of any improvement;
- (b) in payment of any sum due to a tenant under this Part in respect of compensation for an improvement and any costs, charges, and expenses incidental thereto;
- (c) in payment of the costs, charges, and expenses of opposing any proposal by a tenant to execute an improvement.
- (2) The satisfaction of a claim for such compensation as aforesaid shall be included amongst the purposes for which a tenant for life, statutory owner, trustee for sale, or personal representative may raise money under section 71 of the Settled Land Act 1925 in its application to the Falkland Islands.
- (3) Where the landlord liable to pay compensation for an improvement is a tenant for life or in a fiduciary position, he may require the sum payable as compensation and any costs, charges, and expenses incidental thereto, to be paid out of any capital money held on the same trusts as the settled land.

In this subsection "capital money" includes any personal estate held on the same trusts as the land, and "settled land" includes land held on trust for sale or vested in a personal representative.

161. Where the powers of a landlord to sell or grant leases are subject to any statutory or other restrictions, he shall, notwithstanding any such restriction or rule of law to the contrary, be entitled to offer to sell or grant any such reversion or lease as would under this Part relieve him from liability to pay compensation thereunder, and to convey and grant the same, and to execute any lease which he may be ordered to grant under this Part.

Power to sell or grant leases not-withstanding restrictions. 17 & 18 Geo.5 c.36

162. (1) Where the amount which a landlord is liable to pay as compensation for an improvement under this Part has been determined by agreement or by an award of the court and the landlord had before the commencement of this Ordinance granted or agreed to grant a reversionary lease commencing on or after the termination of the then existing tenancy, the rent payable under the reversionary lease shall, if the court so directs, be increased by such amount as, failing agreement, may be determined by the court having regard to the addition to the letting value of the holding attributable to the improvement:

Provisions as to reversionary leases, 17 & 18 Geo.5 c.36 s.15.

Provided that no such increase shall be permissible unless the landlord has served or caused to be served on the reversionary lessee copies of all documents relating to the improvement when proposed which were sent to the landlord in pursuance of this Part.

(2) The reversionary lessee shall have the same right of objection to the proposed improvement and of appearing and being heard at any proceedings before the court relative

to the proposed improvement as if he were a superior landlord, and if the amount of compensation for the improvement is determined by the court any question as to the increase of rent under the reversionary lease shall, where practicable; be settled in the course of the same proceedings.

163. Where the landlord is liable to pay any rates (including water rate) in respect of any premises comprised in a holding, or has undertaken to pay the premiums on any fire insurance policy on any such premises, and in consequence of any improvement executed by the tenant on the premises under this Part the assessment of the premises or the rate of premium on the policy is increased, the tenant shall be liable to pay to the landlord sums equal to the amount by which —

Landlord's right to reimbursment of increased taxes, rates or insurance premiums. 17 & 18 Geo.5 c.36 s.16.

- (a) the rates payable by the landlord are increased by reason of the increase of such assessment;
- (b) the fire premium payable by the landlord is increased by reason of the increase in the rate of premium;

and the sums so payable by the tenant shall be deemed to be in the nature of rent and shall be recoverable as such from the tenant.

164. (1) Where a tenancy is terminated by notice to quit, whether given by the landlord or by the tenant, the time for making a claim for compensation at the termination of the tenancy shall be a time falling within the period of three months beginning on the date on which the notice is given:

Time within which claim for compensation must be made. 2 & 3 Elz.2 c.56 s.47.

- (2) Where a tenancy comes to an end by effluxion of time, the time for making such a claim shall be a time not earlier than six nor later than three months before the coming to an end of the tenancy.
- (3) Where a tenancy is terminated by forfeiture or re-entry, the time for making such a claim shall be a time falling within the period of three months beginning with the effective date of the order of the court for the recovery of possession of the land comprised in the tenancy or, if the tenancy is terminated by re-entry without such an order, the period of three months beginning with the date of re-entry.
- (4) In the last foregoing subsection the reference to the effective date of an order is a reference to the date on which the order is to take effect according to the terms thereof or the date on which it ceases to be subject to appeal, whichever is the later.
- 165. (1) For the purposes of this Part "the court" subject to subsection means the Supreme Court.

The Court.

(2) Any jurisdiction which, by subsection (1) above would otherwise be exercisable by the Supreme Court, may by agreement in writing between the parties be exercised by the Magistrate's Court and, if such agreement is reached after the commencement of proceedings in the Supreme Court, those proceedings shall, on the application of the plaintiff or applicant be transferred to the Magistrate's Court, provided that no such proceedings shall be transferred to the Magistrate's Court after the Supreme Court has entered upon consideration of the merits of the proceedings commenced therein.

## PART VIII FURTHER PROVISIONS RELATING TO THE LAW OF LANDLORD AND TENANT

#### Costs of leases

166. A party to a lease shall under no obligation to pay the whole or any part of the other party's legal practitioner's costs unless he has agreed in writing to do so.

Cosis. 6 & 7 Eliz.2 c.52 s.1.

### Enforcement of covenants to repair

167. (1) Damages for a breach of a covenant or agreement to keep or put premises in repair during the currency of a lease, or to leave or put premises in repair at the termination of a lease, whether such covenant or agreement is expressed or implied, and whether general or specific, shall in no case exceed the amount (if any) by which the value of the reversion

Enforcement by landlord and tenant of repairing covenants. 17 & 18 Geo.5 c.36 s.18.

(whether immediate or not) in the premises is diminished owing to the breach of such covenant or agreement as aforesaid; and in particular no damage shall be recovered for a breach of any such covenant or agreement to leave or put premises in repair at the termination of a lease, it is shown that the premises, in whatever state of repair they might be, would at or shortly after the termination of the tenancy have been or be pulled down, or such structural alterations made therein as would render valueless the repairs covered by the covenant or agreement.

- (2) A right of re-entry or forfeiture for a breach of any such covenant or agreement as aforesaid shall not be enforceable, by action or otherwise, unless the lessor proves that the fact that such a notice as is required by section 152 above had been served on the lessee was known either
  - (a) to the lessee; or
  - (b) to an under-lessee holding under an under-lease which was reserved a nominal reversion only to the lessee; or
  - (c) to the person who last paid the rent due under the lease either on his own behalf or as agent for the lessee or under-lessee;

and that a time reasonably sufficient to enable the repairs to be executed had elapsed since the time when the fact of the service of the notice came to the knowledge of any such person.

(3) In proceedings in which a tenant of a dwelling alleges a breach on the part of his landlord of a repairing covenant relating to any part of the premises in which the dwelling is comprised, the court may order specific performance of the covenant whether or not the breach relates to a part of the premises let to the tenant and notwithstanding any equitable rule restricting the scope of the remedy, whether on the basis of a lack of mutuality or otherwise.

In this section -

- (a) "landlord", in relation to a tenant, includes any person against whom the tenant has a right to enforce a repairing covenant, and
- (b) "repairing covenant" means a covenant to repair, maintain, renew, construct or replace any property.

### Provisions as to licences to assign etc

168. (1) In all leases whether made before or after the commencement of this Ordinance containing a covenant condition or agreement against assigning, underletting, charging or parting with the possession of demised premises or any part thereof without licence or consent, such covenant condition or agreement shall, notwithstanding any express provision to the contrary, be deemed to be subject —

Covenants etc not to assign a lease. 17 & 18 Geo.5 c.36 s.19.

- (a) to a proviso to the effect that such licence or consent is not be unreasonably withheld, but this proviso does not preclude the right of the landlord to require payment of a reasonable sum in respect of any legal or other expenses incurred in connection with such licence or consent; and
- (b) (if the lease is for more than forty years, and is made in consideration wholly or partially of the erection, or the substantial improvement, addition or alteration of buildings, and the lessor is not the Crown, or a statutory or public utility company) to a proviso to the effect that in the case of any assignment, under-letting, charging or parting with the possession (whether by the holders or the lease or any under-tenant whether immediate or not) effected more than seven years before the end of the term no consent or licence shall be required, if notice in writing of the transaction is given to the lessor within six months after the transaction is effected.
- (2) In all lease whether made before or after the commencement of this Ordinance containing a covenant condition or agreement against the making of improvements without licence or consent, such convenant condition or agreement shall be deemed, notwithstanding any express provision to the contrary, to be subject to a proviso that such licence or consent is not to be unreasonably withheld; but this proviso does not preclude the right

to require as a condition of such licence or consent the payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or any neighbouring premises belonging to the landlord, and of any legal or other expenses properly incurred in connection with such licence or consent nor, in the case of an improvement which does not add to the letting value of the holding, does it preclude the right to require as a condition of such licence or consent, where such a requirement would be reasonable, an undertaking on the part of the tenant to reinstate the premises in the condition in which they were before the improvement was executed.

(3) In all leases whether made before or after the commencement of this Ordinance containing a covenant condition or agreement against the alteration of the user of the demised premises, without licence or consent, such convenant condition or agreement shall, if the alteration does not involve any structual alteration of the premises, be deemed, notwithstanding any express provision to the contrary, to be subject to a proviso that no fine or sum of money in the nature of a fine, whether by way of increase or rent or otherwise, shall be payable for or in respect of such licence or consent; but this proviso does not preclude the right of the landlord to require payment of a reasonable sum in respect of any damage to or diminution in the value of the premises or any neighbouring premises belonging to him and of any legal or other expenses incurred in connection with such licence or consent.

Where a dispute as to the reasonableness of any such sum has been determined by a court of competent jurisdiction, the landlord shall be bound to grant the licence or consent on payment of the sum so determined to be reasonable.

- (4) Paragraph (b) of subsection (1) above, and subsections (2) and (3) above do not apply to mining leases.
- 169. (1) This section applies in any case where -
  - (a) a tenancy includes a covenant on the part of the tenant not to enter into one or more of the following transactions, that is
    - (i) assigning,
    - (ii) underletting,
    - (iii) charging or,
    - (iv) parting with the possession of,

the premises comprised in the tenancy or any part of the premises, without the consent of the landlord or some other person, but

- (b) the covenant is subject the the qualification that the consent is not to be unreasonably withheld (whether or not it is also subject to any other qualification).
- (2) In this section and section 170 below -
  - (a) references to a proposed transaction are to any assignment, underletting, charging or parting with possession to which the covenant relates, and
  - (b) references to the person who may consent to such a transaction are to the person who under the covenant may consent to the tenant entering into the proposed transaction.
- (3) Where there is served on the person who may consent to a proposed transaction a written application by the tenant for consent to the transaction, he owes a duty to the tenant within a reasonable time
  - (a) to give consent, except in a case where it is reasonable not to give consent,
  - (b) to serve on the tenant written notice of his decision whether or not to give consent specifying in addition
    - (i) if the consent is given subject to conditions, the conditions,
    - (ii) if the consent is withheld, the reasons for withholding it.

Qualified duty to consent to assigning, underletting etc. 1988 c.26 s.1.

- (4) Giving consent subject to any condition that is not a reasonable condition does not satisfy the duty under subsection (3)(a) above.
- (5) For the purposes of this section and the following three sections it is reasonable for a person not to give consent to a proposed transaction only in a case where, if he withheld consent and the tenant completed the transaction, the tenant would be in a breach of a covenant.
  - (6) It is for the person who owed any duty under subsection (3) above -
    - (a) if he gave consent and the question arises whether he gave it within a reasonable time, to show that he did,
    - (b) if he gave consent subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was,
    - (c) if he did not give consent and the question arises whether it was reasonably for him not to do so, to show that it was reasonable,

and, if the question arises whether he served notice under that subsection within a reasonable time, to show that he did.

170. (1) If, in a case where section 169 above applies, any person receives a written application by the tenant for consent to a proposed transaction and that person —

Duty to pass on applications. 1988 c.26 s.2.

- (a) is a person who may consent to the transaction or (though not such a person) is the landlord, and
- (b) believes that another person, other than a person who he believes has received the application or a copy of it, is a person who may consent to the transaction,

he owes a duty to the tenant (whether or not he owes him any duty under section 169 above) to take such steps as are reasonable to secure the receipt within a reasonable time by the other person of a copy of the application.

- (2) The reference in section 169(3) above to the service of an application on a person who may consent to a proposed transaction includes a reference to the receipt by him of an application or a copy of an application (whether it is for his consent or that of another).
- 171. (1) This section applies in any case where -
  - (a) a tenancy includes a covenant on the part of the tenant not without the approval of the landlord to consent to the sub-tenant
    - (i) assigning,
    - (ii) underletting,
    - (iii) charging, or
    - (iv) parting with the possession of,

the premises comprised in the sub-tenancy or any part of the premises, but

- (b) the covenant is subject to the qualification that the approval is not to be unreasonably withheld (whether or not it is also subject to any other qualification).
- (2) Where there is served on the landlord a written application by the tenant for approval or a copy of a written application to the tenant by the sub-tenant for consent to a transaction to which the covenant relates the landlord owes a duty to the sub-tenant within a reasonable time
  - (a) to give approval, except in a case where it is reasonable not to give approval,
  - (b) to serve on the tenant and the sub-tenant written notice of his decision whether or not to give approval specifying in addition
    - (i) if approval is given subject to conditions, the conditions,

Qualified duty to approve consent by another. 1988 c.26 s.3.

- (ii) if approval is withheld, the reasons for withholding it.
- (3) Giving approval subject to any condition that is not a reasonable condition does not satisfy the duty under subsection (2)(a) above.
- (4) For the purposes of this section it is reasonable for the landlord not to give approval only in a case where, if he withheld approval and the tenant gave his consent, the tenant would be in breach of covenant.
  - (5) It is for a landlord who owed any duty under subsection (2) above -
    - (a) if he gave approval and the question arises whether he gave it within a reasonable time, to who that he did,
    - (b) if he gave approval subject to any condition and the question arises whether the condition was a reasonable condition, to show that it was,
    - (c) if he did not give approval and the question arises whether it was reasonable for him not to do so, to show that it was reasonable,

and, if the question arises whether he served notice under that subsection within a reasonable time, to show that he did.

172. A claim that a person has broken a duty under any of the three preceding sections may be made the subject of civil proceedings in like manner as any other claim in tort for breach of statutory duty.

Breach of duty.

Determination

of tenancy of derelict land. 2

& 3 Eliz 2 c.56

#### Miscellaneous

- 173. Where a landlord having power to serve a notice to quit, on an application to the Magistrate's Court satisfies the court
  - (a) that he has taken all reasonable steps to communicate with the person last known to him to be the tenant, and has failed to do so,
  - (b) that during the period of six months ending with the date of the application neither the tenant nor any person claiming under him has been in occupation of the property comprised in the tenancy or any part thereof, and
  - (c) that during the said period either no rent was payable by the tenant or the rent payable has not been paid,

the court may if it thinks fit by order determine the tenancy as from the date of the order.

174. (1) Where an order is made for possession of the property comprised in a tenancy and it subsequently made to appear to the court which made the order or to the Supreme Court that order was obtained by misrepresentation or the concealment of material facts, the court to which it is so made to appear may order the landlord to pay to the tenant such sum as appears sufficient as compensation too damage or loss sustained by the tenant as the result of the order.

Compensation for possession obtained by misrepresentation. 2 & 3 Eliz 2 c.56 s.55.

- (2) The Magistrate's Court, if it is the court ordering the payment of a sum by way of compensation under subsection (1) is not limited in the amount it may order by reason of any limitation on its pecuniary jurisdiction which would apply but for this subsection.
- (3) In this section the expression "the landlord" means the person applying for possession and the expression "the tenant" means the person against whom the order for possession was made.

### PART IX DISPOSITIONS OF CROWN LAND

- 175. (1) This section and the provisions of sections 176 to 179 (inclusive) below shall have effect for the purposes of section 67 of the Constitution.
- (2) Subject to this section, the Governor and any person for the time being pursuant to section 19 of the Constitution performing the functions of the Office of Governor may, and no other person may, in the name of and on behalf of Her Majesty make and execute under the public seal grants and dispositions of and land and other immoveable property in the Falkland Islands that may be lawfully granted or disposed of by Her Majesty.

Grants and dispositions of land by the Crown.

- (3) The Governor acting in his discretion may by writing under his hand authorise any public officer, subject to such conditions and limitations as the Governor acting in his discretion may think fit, to demise or let any land or grant any licence to occupy land from week to week or month to month or for such period certain not exceeding one year specified in such lease or licence but so that such lease or licence shall contain any provision for renewal or continuation beyond the said period of one year, or any provision providing for any compensation to be paid to the lessee or licensee in the event that the lease or licence is not renewed or continued.
- 176. Any grant or disposition of land made in contravention of section 175 above is void.

Grants and dispositions bearing public seal not to require witnessing. Contracts to dispose of Crown Land.

- 177. (1) No contract to grant or dispose of any land to which section 175 above relates, subject to subsection (2) below is enforceable unless it has been reduced to writing and has been signed by the Governor or such other person who was, at the time of such signature, performing the functions of the office of the Governor purusant to section 19 of the Constitution.
- (2) Subsection (1) above does not apply to a contract which has reduced to writing and has been signed by a public officer authorised as provided by section 175(3) above it
  - (a) that contract is a contract to do a thing which that officer is authorised purusant to section 175(3) above to do; and
  - (b) that thing is, by the terms of the contract, to be done not later than six months after the date of the contract a memorandum, as the case may be.
- (3) Any contract thereof contravening sub-section (1) above is not signed by a person thereunto lawfully authorised so as to bind Her Majesty.
- 178. (1) A grant or other disposition of land or other unmoveable property executed in the name of and on behalf of Her Majesty in accordance with the provisions of section 175(2) above and bearing the public seal shall be deemed to be duly executed and nothwithstanding any other provision of law shall not require to be witnessed.

Grants and dispositions bearing public seal not to require witnessing.

- (2) The certificate in writing of the Attorney General that the deed referred to therein has been properly and effectually executed in accordance with section 175(2) above shall be conclusive evidence of that fact.
- (3) Section 70 above (which enables a purchaser to require a conveyance on sale to be executed in the presence of a person appointed by him shall not apply in relation to the execution of any conveyance on behalf of Her Majesty pursuant to section 175(2) above.
- 179. (1) Subject to subsection (2) below, a grant or disposition of land or other unmoveable property made pursuant to section 175 above may be made subject to such reservations, restrictions and conditions as the Governor or other person executing or making the same on behalf of Her Majesty sees fit to make.

Reservations restrictions and conditions.

- (2) Every grant or disposition of land made pursuant to section 175 above shall be subject to such of the following reservations, restrictions and conditions as are appropriate in the circumstances of the case and whether or nor they are set out or mentioned in the grant or disposition
  - (a) a reservation of all minerals lying in under or upon the land together with full liberty at all times to search for, mine quarry, extract and carry away the same and for that purpose to enter upon the land or any part thereof and together with all other rights (whether or not of a like or similar kind to any of the foregoing) necessary or convenient for the exercise of any of the foregoing rights;
  - (b) a reservation in favour of the Crown and all persons authorised by it of the right to hunt and kill or otherwise take and capture all seals, sealions and penguins and other wild birds found on the land or any part thereof and the right at any time to enter upon the land or any part or parts thereof for any of the foregoing purposes;
  - (c) (in the case of land outside Stanley) a covenant not to use the land or any parts thereof, without the consent of the Governor, for any purpose which is not a pastoral purpose or reasonably ancillary to a pastoral purpose;

- (d) subject to section 186 below, to erect (insofar as they are not already in being) and to maintain (either when erected or fences already existing) within twelve months good and sufficient fences on boundaries of the land not bordering the sea, but where the physical features of the land preclude fences on such then within the boundaries of the land; and
- (e) in the case of a lease letting or licence to occupy land
  - (i) not to assign the same or part with possession of the same or any part thereof without the prior consent of the Governor in writing;
  - (ii) not to charge of mortgage the same or any part thereof without the prior consent of the Governor in writing (except that such consent shall not be required in the case of a charge or mortgage to the Crown, the Government, the Falkland Islands Development Corporation or any bank licensed as such under the Banking Ordinance 1987).
- (3) Any reservation restriction or condition which would otherwise be implied by subsection (2) above may be excluded by a specific provision of the grant or disposition in question.

### PART X FENCES

180. This Part applies to fences and fencing in Camp.

Application of this part.

181. (1) Subject to section 187 below, where there exists no sufficient natural boundary or no sufficient boundary fence, an owner may be notice in writing call on thw owner of the adjoining land to come to an agreement as to the extent or nature of the fence to be erected, or the repairs to be done to the existing fence, and such owners may agree, in writing, that such boundary fence shall not exactly follow the boundary of their lands when the physical features of the ground render a deviation necessary, and the cost of the erection or repair, as the case may be, of the boundary fence shall be divided between them in such manner as they shall agree.

Notice to fence.

- (2) If the owners cannot come to any agreement, or where an agreement has been made but one of the parties fails to complete his part thereof, the owner who gave notice, or the other owner as the case may be, may request the Chief Executive to appoint a person to view the boundaries and to report upon the necessity for a fence, the line of such fence, or what repairs or additions to the existing fence are necessary to make it sufficient.
- (3) The person apointed under subsection (2) above shall thereupon view and inspect the land and report in writing upon the extent of the fence that it is necessary to erect, or the repairs or improvements that are necessary to make the existing fence sufficient, and shall deliver his report as soon as practicable to the owners and to the Clerk to the Magistrate's Court.
- 182. (1) Upon receipt of the report referred to in section 181(3) above the Clerk to the Magistrate's Court shall issue a summons requiring the owners to attend before the Magistrate's Court on the day and at the hour mentioned in the summons. Such summons shall incorporate a notice to the effect that in default of such attendance the court may proceed to make such order as it thinks fit.

Summons to issue composition of Magistrate's Court on hearing.

- (2) For the purpose the exercise of its jurisdiction under this Part the Magistrate's Court shall consist of the Senior Magistrate sitting alone, without a jury or assessors.
- 183. (1) The Magistrate's Court shall proceed to determine any question coming before it under section 182 without pleadings but otherwise and subject to subsections(2) and (3) below as nearly as possible in accordance with its ordinary procedure in civil proceedings.
- (2) For the purposes of subsection (1), the owner who requested the appointment of a person to report pursuant to section 181(2) above shall be treated as if he were the plaintiff and any other owner as if he were the defendant or a defendant.

Procedure of Magistrate's Court in relation to matter under this Part.

- (3) Any of the owners may adduce such evidence and call such witnesses as he wishes and the court may, in addition, call such witnesses of its own motion as it thinks fit, and may proceed to examine those witnesses. Any of the owners may cross-examine any witness called by the court.
- 184. (1) If the Magistrate's Court is satisfied -
  - (a) that an existing fence should be repaired; or
  - (b) that a new fence is necessary.

(as the case may be)

the court shall make such order as it thinks necessary for the proper and sufficient completion of the necessary work.

- (2) An order under subsection (1) abvoe is enforceable in the same way as any order of the Magistrate's Court is enforceable and, in addition, any person who suffers loss by reason of contravention or non-compliance with any such order may bring proceedings for recovery of that loss.
- 185. If it is shown that an owner ("the defaulting owner") has not the means immediately to pay his proportion of the cost of repairing or erecting a boundary fence, the Magistrate's Court may —

Owner without means to meet expenses.

Determination by the

Magistrate's Court.

- (a) upon the application of any other owner, grant him leave to erect or repair the whole of such bounary fence, and, on a certificate from the person appointed under subsection (2) of this section that the work has been properly done, he shall be entitled to recover from the other owner one-half of the cost of the work so done:
- (b) on the hearing of an application under the fore-going paragraph, issue an order granting the defaulting owner time, upon sufficient security being given, for the repayment with interest of his proportion of the cost of the work at such periods and by such instalments as may be ordered;
- (c) where the defaulting owner fails to comply with the terms of the order made under the preceding paragraph, whether by non-payment of an instalment when due or otherwise, if he thinks fit to order the recovery of the amount outstanding by distress and sale of the defaulting owner's property, so, however, that where the sale of the defaulting owner's property is not sufficient to satisfy the claim the other owner shall be entitled to recover any payment of the balance due from any surety who may have entered into bond as security for the payment of the cost of the work and interest of the defaulting owner.
- 186. When a fence forming the boundary between the lands of two adjoining owners is damaged by stock permitted to be upon the land of one of them such last-mentioned owner shall be liable to repair the fence, and if he refuses or neglects to do so the adjoining owner may at once proceed to repair the same and shall be entitled upon completion of the work immediately to recover the cost thereof from him.

Damage to fences.

187. Nothing in the foregoing provisions of this Part shall apply so as to enable any Order to be made by the Magistrate's Court aginst any person contrary to any agreement between that person or any predecessor intitle of his and any other person being the person or a predecessor intitle of the person seeking the order but section 186 above shall apply irrespective of any such agreement.

Saving for contrary agreements.

188. (1) In this Part "owner" includes a person in occupation of land under a lease granted for a term of a year or more.

Meaning of "owner".

- (2) While any land is in the occupation of a lessee who uner subsection (1) above, is regarded of as an owner of it for the purposes of this Part.
- 189. (1) A person who is outside Stanley -

(a) without lawful excuse damages or removes any fence or gate or part of a fence or gate;

Criminal damage to fences.

(b) without lawful excuse leaves open or unfastened any gate,

commits an offence and is liable on conviction thereof to a fine not exceeding the maximum of level 5 on the standard scale.

(2) A person shall not, in respect of the same incident, be convicted both of an offence under this section and of an offence under section 1 of the Criminal Damage Act 1971 in its application to the Falkland Islands.

1971 c.48.

(3) The Summary Court, as well as the Magistrate's Court, has jurisdiction to try offences under this section and to fine a convicted person any amount up to the maximum prescribed by subsection (1) above.

#### PART XI POWERS

190. A person to whom any power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power.

Release of powers simply collateral. 15 & 16 Geo.5 c.20 s.155. Disclaimer of power. 15 & 16 Geo.5 c.20 s.156.

- 191. (1) A person to whom any power, whether coupled with an interest or not, is given may by deed disclaim the power.
- (2) On such disclaimer, the power may be exercised by the other person or persons or the survivor or survivors of the other persons, to whom the power is given, unless the contrary is expressed in the instrument creating the power.
- 192. (1) An instrument purporting to exercise a power of appointment over property, which, in default of and subject to any appointment, is held in trust for a class or number of persons of whom the appointee is one, shall not (save at hereinafter provided) be void on the ground of fraud on the power as against a purchaser in good faith:

Protection of purchasers claiming under void appiontments, 15 & 16 Geo.5 c.20 s.157.

Provided that, if the interest appointed exceeds, in amount or value, the interest in such property to which immediately before the execution of the instrument the appointee was presumptively entitled under the trust in default of appointment, having regard to any advances made in his favour and to any hotchpot provision, the protection afforded by this section to a purchaser shall not extend to such excess.

- (2) In this section "a purchaser in good faith" means a person dealing with an appointee of the age of not less than twenty- five years for valuable consideration in money or money's worth, and without notice of the fraud, or of any circumstances from which, if reasonable inquiries had been made, the fraud might have been discovered.
- (3) Persons deriving title under any purchaser entitled to the benefit of this section shall be entitled to like benefit.
- (4) This section applies only to dealings effected after the commencement of this Ordinance.
- 193. (1) No appointment made in exercise of any power to appoint any property among two or more objects shall be invalid on the ground that
  - (a) an unsubstantial, illusory, or nominal share only is appointed to or left unappointed to devolve upon any one or more of the objects of the power; or
  - (b) any object of the power is thereby altogether excluded;

but every such appointment shall be valid notwithstanding that any one or more of the objects is not thereby, or in default of appointment, to take any share in the property.

- (2) This section does not affect any provision in the instrument creating the power which declares the amount of any share from which any object of the power is not to be excluded.
- (3) This section applies to appointments made before or after the commencement of this Ordinance.
- 194. (1) A deed executed in the presence of and attested by two or more witnesses (in the manner in which deeds are ordinarily executed and attested) is so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed

Validation of appiontments where objects are excluded or take illusory shares. 15 & 16 Geo.5 c.20 s.158.

Execution of powers not testamentary, 15 & 16 Geo.5 Geo.5 c.20 s.159.

or by any instrument in writing, not testamentary, notwithstanding that it is expressly required that a deed or instrument in writing, made in exercise of the power, is to be executed or attested with some additional or other form of execution or attestation or solemnity.

- (2) This section does not operate to defeat any direction in the instrument creating the power that
  - (a) the consent of any particular person is to be necessary to valid execution;
  - (b) in order to give validity to any appointment, any act is to be performed having no relation to the mode of executing and attesting the instrument.
- (3) This section does not prevent the donee of a power from executing it in accordance with the power by writing, or otherwise than by an instrument executed and attested as a deed; and where a power is so executed this section does not apply.
- (4) This section applies to appointments by deed made after the thirteenth day of August, eighteen hundred and fifty-nine.
- 195. This Part applies to powers created before or after the commencement of this Ordinance.

Application of this Part. 15 & 16 Geo.5 c.20 s.160.

### PART XII PERPETUITIES AND ACCUMULATIONS

Perpetuities

196. (1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of an unborn person is hereby abolished, but without prejudice to any other rule relating to perpetuities.

Abolition of the double possibility rule. 15 & 16 Geo.5 c.20 s.161.

- (2) This section only applies to limitations or trusts created by an instrument coming into operation after the commencement of this Ordinance.
- 197. (1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply and shall be deemed never to have applied —

Restrictions on the perpetuity rule. 15 & 16 Geo.5 c.20 s.162.

- (a) to any power to distrain on or to take possession of land or the income thereof given by way of indemnity against a rent, whether charged upon or payable in respect of any part of that land or not; or
- (b) to any rentcharge created only as an indemnity against another rentcharge, although the indemnity rentcharge may only arise or become payable on breach of a condition or stipulation; or
- (c) to any power, whether exercisable on breach of a condition or stipulation or not, to retain or withhold payment of any instalment of a rentcharge as an indemnity against another rentcharge; or
- (d) to any grant, exception, or reservation of any right of entry on, or user of, the surface of land or of any easements, rights, or privileges over or under land for the purpose of —
  - winning, working, inspecting, measuring, convering, manufacturing, carrying away, and disposing of mines and minerals;
  - (ii) inspecting, grubbing up, felling and carrying away timber and other trees, and the tops and lops thereof;
  - (iii) executing repairs, alterations, or additions to any adjoining land, or the buildings and erections thereon;
  - (iv) constructing, laying down, altering, repairing, renewing, cleansing, and maintaining sewers, watercourses, cesspools, gutters, drains, water-pipes, gas-pipes, electric wires or cables or other like works. (2) This section applies to instruments coming into operation before or after the commencement of this Ordinance.

198. (1) No person may by any instrument or otherwise settle or dispose of any property in such manner that the income thereof shall, save as hereinafter mentioned, be wholly or partially accumulated for any longer period than one of the following, namely —

General restriction on accumulation of income.

- (a) the life of the grantor or settlor; or
- (b) a term of twenty-one years from the death of the grantor, settlor or testator; or
- (c) the duration of the minority or respective minorities of any person or persons living or en ventre sa mere at the death of the grantor, settlor or testator; or
- (d) the duration of the minority or respective minorities only of any person or persons who under the limitations of the instrument directing the accumulations would, for the time being, if of full age, be entitled to the income directed to be accumulated.

In every case where any accumulation is directed otherwise than as aforesaid, the direction shall (save as hereinafter mentioned) be void; and the income of the property directed to be accumulated shall, so long as the same is directed to be accumulated contrary to this section, go to and be received by the person or persons who would have been entitled hereto if such accumulation had not been directed.

- (2) This section does not extend to any provision
  - (i) for payment of the debts of any grantor, settlor, testator or other person;
  - (ii) for raising portions for -
  - (a) any child, children or remoter issue of any grantor, settlor or testator; or
  - (b) any child, children or remoter issue of a person taking any interest under any settlement or other disposition directing the accumulations or to whom any interest is thereby limited;
    - (iii) respecting the accumulation of the produce of timber or wood;

and accordingly such provisions may be made as if no statutory restrictions on accumulation of income had been imposed.

- (3) The restrictions imposed by this section apply to instruments made on or after the 28th July 1800, but in the case of wills only where the testator was living and of testamentary capacity after the end of one year from that date.
- 199. Where accumulations of surplus income are made during a minority under any statutory power or under the general law, the period for which such accumulations are made is not (whether the trust was created or the accumulations were made before or after the commencement of this Ordinance) to be taken into account in determining the periods for which accumulations are permitted to be made by the last preceding section, and accordingly an express trust for accumulation for any other permitted period shall not be deemed to have been invalidated or become invalid, by reason of accumulations also having been made as aforesaid during such minority.

Qualifications of restrictions on accumulation. 15 & 16 Geo.5 c.20 s.165

200. (1) No person may settle or dispose of any property in such manner that the income thereof shall be wholly or partially accumulated for the purchase of land only, for any longer period than the duration of the minority or respective minorities of any person or persons who, under the limitations of the instrument directing the accumulation, would for the time being, if of full age, be entitled to the income so directed to be accumulated.

Restriction on accumulation for the purchase of land. 15 & 16 Geo.5 c.20 s.166.

(2) This section does not, nor do the enactments which it replaces, apply to accumulations to be held as capital money for the purposes of the Settled Land Act 1925 in its application to the Falkland Islands or the enactments replaced by that Act, whether or not the accumulations are primarily liable to be laid out in the purchase of land.

(3) This section applies to settlements and dispositions made after the 27th day of June 1892.

### PART XIII VOIDABLE DISPOSITIONS

- 201. (1) Every voluntary disposition of land made with intent to defraud a subsequent purchaser is voidable at the instance of that purchaser.
- (2) For the purposes of this section, no voluntary disposition, whenever made, shall be deemed to have been made with intent to defraud by reason only that a subsequent conveyance for valuable consideration was made, if such subsequent conveyance was made after the 28th of June 1893.
- 202. (1) No acquisition made in good faith, without fraud or unfair dealing, of any reversionary interest in real or personal property, for money or money's worth, shall be liable to be opened or set aside merely on the ground of under value.

In this subsection "reversionary interest" includes an expectancy or possibility.

(2) This section does not affect the jurisdiction of the court to set aside or modify unconscionable bargains.

Voluntary disposition of land how far voidable against purchaser. 15 & 16 Geo.5 c.20 s.173.

Acquisition of reversions at an under value. 15 & 16 Geo. c.20 s.174.

#### PART XIV WILLS

203. (1) A contingent or future specific devise or bequest of property, whether real or personal, and a contingent residuary devise of freehold land, and a specific or residuary devise of freehold land to trustees upon trust for persons whose interests are contingent or executory shall, subject to the statutory provisions relating to accumulations, carry the intermediate income of that property from the death of the testator, except so far as such income, or any part thereof, may be otherwise expressly disposed of.

Contingent and future testamentary gifts to carry the intermediate income.

- (2) This section applies only to wills coming into operation after the commencement of this Ordinance.
- 204. (1) A tenant in tail of full age shall have power to dispose by will, by means of a devise or bequest referring specifically either to the property or to the instrument under which it was acquired or to entailed property generally
  - (a) of all property of which he is tenant in tail in possession at his death; and
  - (b) of money (including the proceeds of property directed to be sold) subject to be invested in the purchase of property, of which if it had been so invested he would have been tenant in tail in possession at his death;

in like manner as if, after barring the entail, he had been tenant in fee simple or absolute owner thereof for an equitable interest at his death, but, subject to and in default of any such disposition by will, such property shall devolve in the same manner as if this section had not been passed.

- (2) This section applies to entailed interests authorised to be created by this Ordinance as well as to estates tail created before the commencement of this Ordinance, but does not extend to a tenant in tail who is by statute restrained from barring or defeating his estate tail, whether the land or property in respect whereof he is so restrained was purchased with money provided by Legislative Council in consideration of public services or not, or to a tenant in tail after possibility of issue extinct, does not render any interest which is not disposed of by the will of the tenant in tail liable for his debts or other liabilities.
- (3) In this section "tenant in tail" includes an owner of a base fee in possession who has power to enlarge the base fee into a fee-simple without the concurrence of any other person.
- (4) This section only applies to wills executed after 31st December 1925 or confirmed or republished by codicil executed after such commencement.

Power for tenant in tail in possession to dispose of property by specific devise or bequest. 15 & 16 Geo.5 c.20 s.176.

#### PART V MISCELLANEOUS

205. (1) Where either after or before the commencement of this Ordinance any property or any interest therein is or has been vested in a corporation sole (including the Crown), the same shall, unless and until otherwise disposed of by the corporation, pass and devolve to and vest in and be deemed always to have passed and devolved to or vested in the successors from time to time of such corporation.

Provisions as to corporations, 15 & 16 Geo.5 c.20 s.180.

- (2) Where either after or before the commencement of this Ordinance there is or has been a vacancy in the office of a corporation sole or in the office of the head of a corporation aggregate (in any case in which the vacancy affects the status or powers of the corporation) at the time when, if there had been no vacancy, any interest in or charge on property would have been acquired by the corporation, such interest shall notwithstanding such vacancy vest and be deemed to have vested in the successor to such office on his appointment as a corporation sole, or in the corporation aggregate (as the case may be), but without prejudice to the right of such successor, or of the corporation aggregate after the appointment of its head officer, to disclaim that interest or charge.
- (3) Any contract or other transaction expressed or purported to be made with a corporation sole, or any appointment of a corporation sole as a custodian or other trustee or as a personal representative, at a time (either after or before the commencement of this Act) when there was a vacancy in the office, shall on the vacancy being filled take effect and be deemed to have taken effect as if the vacancy had been filled before the contract, transaction or appointment was expressed to be made or was capable of taking effect, and on the appointment of a successor shall be capable of taking effect, and on the appointment of a successor shall be capable of being enforced, accepted, disclaimed, or renounced by him.
- 206. Where, by reason of the dissolution of a corporation either before or after the commencement of this Ordinance, a legal estate in any property has determined, the court may by order create a corresponding estate and vest the same in the person who would have been entitled to the estate which determined had it remained a subsisting estate.

Dissolution of a corporation, 15 & 16 Geo.5 c.20 s.181.

207. (1) The powers given by this Ordinance to any person and the covenants, provisions, stipulations, and words which under this Ordinance are to be deemed to be included or implied in any instrument, or are by this Ordinance made applicable to any contract for sale or other transaction, are and shall be deemed in law proper powers, covenants, provisions, stipulations, and words, to be given by or to be contained in any such instrument, or to be adopted in connexion with or applied to, any such contract or transaction a legal practitioner shall not be deemed guilty of neglect or breach of duty, or become in any way liable, by reason of his omitting, in good faith, in any such instrument, or in connexion with any such contract or transaction, to negative the giving, inclusion, implication, or application of any of those powers, covenants, provisions, stipulations, or words, or to insert or apply any others in place thereof, in any case where the provisions of this Ordinance would allow of his doing so.

Protection of legal practitioners and trustees adopting Ordinance. 15 & 16 Geo.5 c.20 s.182.

(2) But, save as expressly provided by this Ordinance, nothing in this Ordinance shall be taken to imply that the insertion in any such instrument, or the adoption in connexion with, or the application to, any contract or transaction, of any further or other powers, covenants, provisions, stipulations, or words is improper.

- 208. (1) Any person disposing of property or any interest therein for money or money's worth to a purchaser, or the legal practitioner or other agent of such person, who
  - (a) conceals from the purchaser any instrument or incumbrance material to the title; or
  - (b) falsifies any pedigree upon which the title may depend in order to induce the purchaser to accept the title offered or produced;

with intent in any such cases to defraud, commits an offence punishable by fine, not exceeding the maximum of level 8 on the standard scale, or by imprisonment for a term not exceeding two years, or by both.

- (2) Any such person or his legal practitioner or agent is also liable to an action for damages by the purchaser or the persons deriving title under him for any loss sustained by reason of
  - (a) the concealment of the instrument or incumbrance; or
  - (b) any claim made a person under such pedigree whose right was concealed by such falsification as aforesaid.
- (3) In estimating damages, where the property or any interest therein is recovered from the purchaser or the person deriving title under him, regard shall be had to any expenditure by him or them in improvements of any land.
- (4) No prosecution for any offence under this section shall be commenced except by or with the leave of the Attorney General.
- (5) Before leave to prosecute is granted there shall be given to the person intended to be prosecuted such notice of the application for leave to prosecute as the Attorney General may direct.
- 209. In all cases where, after the commencement of this Ordinance, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court), for all purposes affecting the title of property, be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

210. There is no merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

- 211. All statutory and other rights of pre-emption affecting a legal estate shall be and be deemed always to have been capable of release, and unless released shall remain in force as equitable interests only.
- 212. (1) Where an easement, right or privilege for a legal estate is created, it shall enure for the benefit of the land to which it is intended to be annexed.
- (2) Nothing in this Ordinance affects the right of a person to acquire, hold or exercise an easement, right or privilege over in relation to land for a legal estate in common with any other person, or the power of creating or conveying such an easement right or privilege.
- 213. (1) There shall be capable of existing and of being created as an easement a right of traverse: that is to say a right to pass across the land of another from a point outside the land (the servient tenement) affected by the right to and from a point outside the servient tenement which latter point may be on the land to which the right is annexed (the dominant tenement) or some other land.

Fraudulent concealment of documents and falsification of pedigrees. 15 & 16 Geo.5 c.20 s.183.

Presumption of survivorship in regard to claims to property. 15 & 16 Geo.5 c.20 s.184.

Merger. 15 & 16 Geo.5 c.20 s.185.

Rights of preemption capable of release. 15 & 16 Geo.5 c.20 s.186. Legal easements. 15 & 16 Geo.5 c.20 s.187.

Rights of traverse.

- (2) A right of traverse to exist as an easement must be annexed to the dominant tenement and is not capable of being created in gross. But a right of traverse is a right to pass and repass across the servient tenement by whatever reasonable route is convenient so as to pass between the points between which it is enjoyed and the route of the traverse is not a fixed route and, without prejudice to any other reason because of which the route may vary, may vary because of
  - (a) the condition of the land;
  - (b) the weather; or
  - (c) the time of year,

except that it must not pass through a building, yard or garden.

- (3) Unless specifically agreed to the contrary a person enjoying a right of traverse must make good any damage caused to the servient tenement by his use of the same.
- (4) A right of traverse is a right for the owner thereof, his agents servants and contractors to pass or repass on foot or with or without vehicles or on horseback and does not, unless specifically agreed to the contary include the right to pass or repass with cattle or sheep.
- (5) This section shall be deemed to have been came into force on the 1st day of January 1882.
- (6) For the sake of avoidance of doubt it is declared that section 58 of this Ordinance applies to rights of traverse appertaining or reputed to appertain to land as it does to all other easements appertaining or reputed to appertain to land.
- 214. (1) Where any chattels belong to any person in undivided shares, the persons interested in a moiety or upwards may apply to the court for an order for division of the chattels or any of them, according to a valuation or otherwise, and the court may make scuh order and give any such consequential directions as it thinks fit.

Power to direct division of chattels. 15 & 16 Geo.5 c.20 s.188.

- (2) the Magistrate's Court has jurisdiction under this section where the amount or value of the property or value of the property which is to be dealt with in the court does not exceed £10,000 or such higher amount as may be prescribed by regulations under this Ordinance.
- 215. (1) A power of distress given by way of indemnity against a rent or any part thereof payable in respect of any land, or against the breach of any covenant or condition in relation to land, is not and shall not be deemed ever to have been a bill of sale, within the meaning of the Bills of Sales Acts 1878 and 1882, in their application to the Falkland Islands as amended by any subsequent enactment.

Indemnities
against rents. 15
& 16 Geo.5 c.20

(2) The benefit of all covenants and powers given by way of indemnity against a rent or any part thereof payable in respect of land, or against the breach of any covenant or condition in relation to land, is and shall be deemed always to have been annexed to the land to which the indemnity is intended to relate, and may be enforced by the estate owner for the time being of the whole or any part of that land, notwithstanding that the benefit may not have been expressly apportioned or assigned to hm or to any of his predecessors in title.

### Redemption and Apportionment of Rents etc.

- 216. (1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentcharge, such rentcharge or a part thereof is, without the consent of the owner thereof, expressed to be
  - (a) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained or other land; or
  - (b) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed or other land; or
  - (c) apportioned between the land conveyed or any part thereof, and the land retained by the grantor or any part thereof;

Equitable apportionment of rents and remidies for non payment or breach of covenant. 15 & 16 Geo.5 c.20 s.190.

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionement shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

#### (2) Where -

- (a) any default is made in payment of the whole or part of a rentcharge by teh person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
- (b) any breach occurs of any of the covenants (other than in the case of an apportionment the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed; as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who -

- (i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or
- (ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until, by menas of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

- (3) Where in a conveyance for valuable consideration, other than a mortgage of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be
  - (a) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained by the assignor or other land; or
  - (b) charged exclusively on the land retained by the assignor or any part thereof in exoneration of the land conveyed or other land; or
  - (c) apportioned between the land conveyed or any part thereof and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignce under the conveyance and their respective successors in title —

#### (4) Where -

- (a) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
- (b) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, who -

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

- (5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has, and shall be deemed always to have had, power to confer the same or like remedies.
- (6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and takes effect subject to the terms of that conveyance and to the provisions therein contained.
- (7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Ordinance, and do not apply where the rent is charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.
- (8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Ordinance, by an instrument.

#### Judgments etc affecting land

217. (1) A recognisance, on behalf of the Crown or otherwise, whether entered into before or after the commencement of this Ordinance, and an inquisition finding a debt due to the Crown, and any obligation or specialty made to or in favour of the Crown, whatever may have been its date, shall not operate as a charge on any interest in land, or on the unpaid purchase money for any land, unless or until a writ or order, for the purpose of enforcing it, is registered under the Registration Ordinance.

Equitable charges in right of judgment etc. 15 & 16 Geo.5 c.20 s.196.

#### Notices

218. (1) Any notice required or authorised to be served or given by this Ordinance shall be in writing.

Regulations respecting notices.15 & 16 Geo.5 c.20 s.196.

- (2) Any notice required or authorised by this Ordinance to be served on a lessee or mortgagor shall be sufficient, although only addressed to the lessee or mortgagor by that designation, without his name, or generally to the persons interested, without any name, and notwithstanding that any person to be affected by the notice is absent, under disability, unborn, or unascertained.
- (3) Any notice required or authorised by this Ordinance to be served shall be sufficiently served if it is let at the last-known place of abode or business in the Falkland Islands of the lessee, lessor, mortgagee, mortgagor, or other person to be served, or, in case of a notice required or authorised to be served on a lessee or mortgagor, is affixed or left for him on the land or any house or building comprised in the lease or mortgage, or, in the case of a mining lease, is left for the lessee at the office or counting-house of the mine.
- (4) Any notice required or authorised by this Ordinance to be served shall also be sufficiently served, if it is sent by post in a registered letter addressed to the lessee, lessor, mortgagee, mortgagor, or other person to be served, by name, at the aforesaid place of abode or business, office, or counting-house, and if that letter is not returned through the post-office undelivered; and that service shall be deemed to be made at the time at which the registered letter would in the ordinary course be delivered.
- (5) The provisions of this section shall extend to notices required to be served by any instrument affecting property executed or coming into operation after the commencement of this Ordinance unless a contrary intention appears.
  - (6) This section does not apply to notices served in proceedings in the court.
- 219. (1) The registration of any instrument or matter in any register kept under the Registration Ordinance shall be deemed to constitute actual notice of such instrument or matter, and the fact of such registration, to all persons and for all purposes connected with the land affected, as from the date of registration or other prescribed date and so long as the registration continues in force.

Registration under Registration Ordinance to be notice. 15 & 16 Geo.5 c.20 s.198.

- (2) This section operates without prejudice to the provisions of this Ordinance respecting the making of further advances by a mortgagee, and applies only to instruments and matters required or authorised to be registered under that Ordinance.
- 220. (1) A purchaser shall not be prejudicially affected by notice of -

Restrictions on constructive notice. 15 & 16 geo.5 c.20 s.199.

- (a) any instrument or matter capable of registration under the provisions of the Registration Ordinance which is void or not enforceable as against him under that Ordinance, by reason of the non-registration thereof;
- (b) any other instrument or matter or any fact or thing unless -
  - (i) it is within his own knowledge, or would have come to his knowledge if such inquiries and inspections had been made as ought reasonably to have been made by him; or
  - (ii) in the same transaction with respect to which a question of notice to the purchaser arises, it has come to the knowledge of his counsel, as such, or of his solicitor or other agent, as such, or would have come to the knowledge of his solicitor or other agent, as such, if such inquiries and inspections had been made as ought reasonably to have been made by the solicitor or other agent.
- (2) Paragraph (a) of subsection (1) above shall not exempt a purchaser from any liability under, or any obligation to perform or observe, any covenant, condition, provision, or restriction contained in any instrument under which his title is derived, mediately or immediately; and such liability or obligation may be enforced in the same manner and to the same extent as if that paragraph had not been enacted.
- (3) A purchaser shall not by reason of anything in this section be affected by notice in any case where he would not have been so affected if this section had not been enacted.
- (4) This section applies to purchases made either before or after the commencement of this Ordinance.

#### Part XV GENERAL

221. (1) The provisions of this Ordinance relating to freehold land apply to perpetual rentcharges and other incorporeal hereditaments subject only to the qualifications necessarily arising by reason of the inherent nature of the hereditaments affected.

Provisions of this Ordinance to apply to incorporeal hereditaments. 15 & 16 Geo.5 c.20 s.201.

- (2) This Ordinance does not affect the limitation of, or authorise any disposition to be made of, a title or dignity of honour which in its nature is inalienable.
- (3) This section takes effect subject to the express provisions of this Ordinance relating to undivided shares.
- 222. (1) Payment of money into court effectually exonerates therefrom the person making the payment.
  - (2) Subject to any rules of court to the contrary -
    - (a) every application to the court under this Ordinance shall, save as otherwise expressly provided, be by summons at chambers;
    - (b) on an application by a purchaser notice shall be served in the first instance on the vendor;
    - (c) on an application by a vender notice shall be served in the first instance on the purchaser;
    - (d) on any application notice shall be served on such person, if any as the court thinks fit.
- (2) The court shall have full power and discretion to make such order as it thinks fit respecting costs, charges and expenses of all or any of the parties to the application.
- 223. (1) An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice, or service, whether the purchaser has notice of any such want or not.

court, jurisdiction and procedure. 15 & 16 Geo.5 c.20 s.203.

Payment into

Orders of court conclusive. 15 & 16 Geo.5 c.20 s.204.

- (2) This section has effect with respect to any lease, sale, or other act under the authority of the court, and purporting to be in pursuance of any statutory power notwithstanding any exception in such state. (3) This section applies to all orders made before or after the commencement of this Ordinance.
- 224. (1) Instruments in the form of, and using the expressions in the forms given in Schedule 3 to this Ordinance, or in the like form or using expressions to the like effect, shall, in regard to form and expression be sufficient.

Forms of instrument. 15 & 16 Geo.5 c.20 s.206.

225. (1) The Land Ordinance is repealed to the extent specified in Schedule 6 to this Ordinance.

Repeals. Cap. 36.

- (2) For the sake of avoidance of doubt it is declared that section 207 of the Law of Property Act 1925 was effective on 1st January 1926 to repeal the application in the Falkland Islands of the provisions of the imperial statutes specified in the Seventh Schedule to that Act to the extent therein mentioned.
- (3) Except as mentioned in subsection (2) above, neither the Law of Property Act 1925 nor any statute amending the same or augmenting its provisions shall have effect in the Falkland Islands after the commencement of this Ordinance.
- 226. (1) Nothing in this Ordinance shall be construed as rendering any property of the Crown subject to distress, or liable to be taken or disposed of by means of any distress.
- (2) Subject to the express provisions of this Ordinance, the provisions of this Ordinance bind the Crown.

Application of this Ordinance to the Crown. 15 & 16 Geo.5 c.20 s.208.

227. (1) The Governor may by Order make regulations prescribing any form, document or other thing which by any provision of this Ordinance is to be prescribed or otherwise prescribing any form, document or thing necessary or convenient for the purposes of this Ordinance.

Regulations.

228. Schedule 7 to this Ordinance shall have effect in relation to the construction in the Falkland Islands of references in deeds and other documents to provisions of certain English statutes.

Construction of references to English statutes.

#### SCHEDULE 1

#### Transitional Provisions

#### PART I

#### Conversion of certain existing legal estates into equitable interests

All estates, interests and charges in or over land, including fees determinable whether by limitation or condition, which immediately before the commencement of this Ordinance were estates, interests or charges, subsisting at law, or capable of taking effect as such, but which by virtue of Part II of this Ordinance are not capable of taking effect as legal estates, shall as from the commencement of this Ordinance be converted into equitable interests, and shall not fail by reason of being so converted into equitable interests either in the land or in the proceeds of sale thereof, nor shall the priority of any such estate, charge or interest over other equitable interests be affected.

#### PART II

#### Vesting of legal estates

1. Where the purposes of a term of years, created or limited out of leasehold land, are satisfied at the commencement of this Ordinance, that term shall merge in the reversion expectant thereon and shall cease accordingly; but where the term was vested in the owner of the reversion, the merger and cesser shall take effect without prejudice to any protection which would have been afforded to the owner for the time being of that reversion had the term remained subsisting.

Where the purposes are satisfied only as respects part of the land comprised in a term, this provision has effect as if a separate term had been created in regard to that part of the land.

- 2. Where immediately after the commencement of this Ordinance any owner of a legal estate is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished, the last-mentioned estate shall by virtue of this Part of this Schedule be extinguished but without prejudice to any protection which would have been afforded to him had that estate remained subsisting.
- 3. Where immediately after the commencement of this Ordinance any person is entitled, subject or not to the payment of the costs of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided.

The divesting of a legal estate by virtue of this paragraph shall not, where the person from whom the estate is so divested was a trustee, operate to prevent the legal estate being conveyed, or a legal estate being created, by him in favour of a purchaser for money or money's worth, if the purchaser has no notice of the trust and if the trustee is at the date of the conveyance or the creation of the legal estate registered under the Registration Ordinance as the holder of such a legal estate as immediately before the commencement of this Ordinance would have enabled him so to do.

This paragraph shall (without prejudice to any claim, in respect of fines, fees, and other customary payments) apply to a person who, under a surrender or any disposition having the effect of a surrender, or under a covenant to surrender or otherwise, was, immediately before the commencement of this Ordinance entitled to require a legal customary estate of inheritance to be vested in him.

4. Any person who, immediately after the commencement of this Ordinance, is entitled to an equitable interest capable of subsisting as a legal estate which has priority over any legal estate in the same land, shall be deemed to be entitled for the foregoing purposes to require a legal estate to be vested in him for an interest of a like nature not exceeding in extent or duration the equitable interest:

Provided that this paragraph shall not -

(a) apply where equitable interest is capable of being overreached by virtue of a subsisting trust for sale or a settlement;

- (b) operate to prevent such person from acquiring any other legal estate under this Part of this Schedule to which he may be entitled.
- 5. For the purposes of this Part of the Schedule, a tenant for life, statutory owner or personal representative, shall be deemed to be entitled to require to be vested in him any legal estate in settled land (whether or not vested in the Crown) which he is, by the Settled Land Act 1925, in its application to the Falkland Islands, given power to convey.
- 6. Under the provisions of this Part of this Schedule, the legal estate affected (namely, any estate which a person is entitled to require to be vested in him aforesaid) shall vest as follows:
  - (a) where at the commencement of this Ordinance land is subject to a mortgage (not being an equitable charge unsecured by any estate), the legal estate affected shall vest in accordance with the provisions relating to mortgages contained in this Schedule;
  - (b) where the land is at the commencement or by virtue of this Ordinance or any relevant enactment subject or is by virtue of any statute made subject to a trust for sale, the legal estate affected shall vest in the trustees for sale (including personal representatives holding land on trust for sale) but subject to any mortgage term subsisting or created by this Ordinance;
  - (c) where at the commencement of this Ordinance or by virtue of any statute coming into operation at the same time the land is settled land, the legal estate affected shall vest in the tenant for life or statutory owner entitled under the Settled Land Act 1925 in its application to the Falkland Islands to require a vesting deed to be executed in his favour or in the personal representative, if any, in whom the land may be vested or the Official Administrator, as the case may require but subject to any mortgage term subsisting or created by this Ordinance;
  - (d) in any case to which the foregoing sub-paragraphs do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Ordinance, is entitled (subject or not to the payment of costs and any customary payments) to require the legal estate to be vested in him, but subject to any mortgage term subsisting or created by this Ordinance.

#### 7. Nothing in this Part of this Schedule shall operate -

- (a) to vest in a mortgage of a term of years absolute any nominal leasehold reversion which is held in trust for him subject to redemption; or
- (b) to vest in a mortgagee any legal estate except a term of years absolute; or
- (c) to vest in a person entitled to a leasehold interest, as respects such interest, any legal estate except a term of years absolute; or
- (d) to vest in a person entitled to a rentcharge (either perpetual or held for a term of years absolute) as respects such rentcharge, any legal estate except a legal estate in the rentcharge; or
- (e) to vest in a person entitled to an easement, right or privilege with reference thereto, any legal estate except a legal estate in the easement, right or privilege; or
- (f) to vest any legal estate in a person for an undivided share; or
- (g) to vest any legal estate in an infant; or
- to affect prejudicially the priority of any mortgage or other incumbrance or interest subsisting at the commencement of this Ordinance; or
- (i) to render invalid any limitation or trust which would have been capable of taking effect as an equitable limitation or trust; or

- (j) to vest in a purchaser or his personal representatives any legal estate which he has contracted to acquire and in regard to which a contract, including an agreement to create a legal mortgage, is pending at the commencement of this Ordinance, although the consideration may have been paid or satisfied and the title accepted, or to render unnecessary the conveyance of such estate; or
- (k) to vest in any person any legal estate which failed to pass to him by reason of his omission to be registered as proprietor under the Registration Ordinance;
- (1) to vest in any person any legal estate affected by any rent covenants or conditions if, before any proceedings are commenced in respect of the rent covenants or conditions, and before any conveyance of the legal estate or dealing therewith *inter vivos* is effected, he or his personal representatives disclaim it in writing signed by him or them.
- 8. Any legal estate acquired by virtue of this Part of this Schedule shall be held upon the trusts and subject to the powers, provisions, rents, covenants, conditions, rights of redemption (as respects terms of years absolute) and other rights, burdens and obligations, if any, upon or subject to which the estate acquired ought to be held.
- 9. No stamp duty shall become payable by reason only of any vesting surrender or release effected by this Schedule.

#### PART III

#### Provisions as to legal estate vested in minor

- 1. Where immediately before the commencement of this Ordinance a legal estate in land is vested in one or more minors beneficially, or where immediately after the commencement of this Ordinance a legal estate in land would by virtue of this Ordinance have become vested in one or more minors beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the Settled Land Act 1925 in its application to the Falkland Islands.
- 2. Where immediately before the commencement of this Ordinance a legal estate in land is vested in a minor jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Ordinance vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale:

Provided that, if by virtue of this paragraph the legal estate becomes vested in one person as trustee, then, if no other person is able and willing to do so, the parents or parent testamentary or other guardian of the minor, if respectively able and willing to act, (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Ordinance the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

- 3. Where, immediately before the commencement of this Ordinance, a legal estate in land is vested solely in a minor as a personal representative, or a trustee of a settlement, or on trust for sale or on any other trust, or by way of mortgage, or where immediately after the commencement of this Ordinance a legal estate in land would by virtue of any provision of this Ordinance or otherwise have been so vested if the minor were of full age the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Ordinance, vest in the Official Administration pending the appointment of trustees as hereinafter provided -
  - (a) as to the land, upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Ordinance); and

(b) as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights (if any) of the minor or other persons beneficially interested therein:

#### Provided that -

- (i) the Official Administrator shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent, or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Official Administrator, and thereupon by virtue of this Ordinance the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid: Provided that the Official Administrator may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled;
- (ii) after the Official Administrator has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;
- (iii) any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at the time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Ordinance, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid;
- (iv) neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon;
- (v) the vesting in the Official Administrator of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.
- 4. The Magistrate's Court has jurisdiction under proviso (iii) to paragraph 3 of this Part where the land which is to be dealt with in the court does not exceed £10,000 in value or such greater value as may be prescribed by regulations under this Ordinance.
- 5. Where, immediately before the commencement of this Ordinance, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Ordinance a legal estate in land would, by virtue of this Ordinance, or otherwise have been so vested if the minor were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall by virtue of this Ordinance, vest in the other person or persons of full age -
  - (a) as to the legal estate, upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid); and
  - (b) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein;

but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon:

Provided that, if, by virtue of this paragraph, the legal estate and mortgage debt, if any, become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint a new trustee in place of the minor and thereupon by virtue of this Ordinance the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

6. This Part of this Schedule does not affect the estate or powers of an administrator durante minore actate, nor, where there is a tenant for life or statutory owner of settled land, operate to vest the legal estate therein in the Official Administrator.

#### PART IV

Provisions subjecting land held in undivided shares to a trust for sale

- 1. Where, immediately before the commencement of this Ordinance, land is held at law orin equity in undivided shares vested in possession, the following provisions shall have effect —
- (1) If the entirety of the land is vested in trustees or personal representatives (whether subject or not to incumbrances affecting the entirety or an undivided share) in trust for persons entitled in undivided shares, then
  - (a) if the land is subject to incumbrances affecting undivided shares or to incumbrances affecting the entirety which under this Ordinance or otherwise are not secured by legal terms of years absolute, the entirety of the land shall vest free from such incumbrances in such trustees or personal representatives and be held by them upon the statutory trusts; and
  - (b) in any other case, the land shall be hel by such trustees or personal representatives upon the statutory trusts;

subject in the case of personal representatives, to their rights and powers for the purposes of administration.

- (2) If the entirety of the land (not being settled land) is vested absolutely and beneficially in not more than four persons of full age entitled thereto in undivided shares free from incumbrances affecting undivided shares, but subject or not to incumbrances affecting the entirety, it shall, by virtue of this Ordinance, vest in them as joint tenants upon the statutory trusts.
- (3) If the entirety of the land is settled land (whether subject or not to incumbrances affecting the entirety or an undivided share) held under one and the same settlement, it shall, by virtue of this Ordinance, vest, free from incumbrances affecting undivided shares, and from incumbrances affecting the entirety, which under this Ordinance or otherwise are not secured by a legal mortgage, and free from any interests, powers and charges subsisting under the settlement, which have priority to the interests of the persons entitled to the undivided shares in the trustees (if any) of the settlement as joint tenants upon the statutory trusts.

Provided that if there are no such trustees, then -

- (i) pending their appointment, the land shall, by virtue of this Ordinance, vest (free as aforesaid) in the Official Administrator upon the statutory trusts;
- (ii) the Official Adminstrator shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of persons interested in more than an undivided half of the land or the income thereof;

- (iii) after the Official Administrator has been so required to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in the place of the Official Administrator without his consent;
- (iv) if, before the Official Administrator has accepted the trust, trustees of the settlement are appointed, the land shall, by virtue of this Ordinance, vest (free as aforesaid) in them as joint tenants upon the statutory trusts;
- (v) if, before the Official Administrator has accepted the trust, the persons having power to appoint new trustees are unable or unwilling to make an appointment, or if the tenant for life having power to apply to the court for the appointment of trustees of the settlement neglects to make the application for at least three months after being requested by any person interested in writing so to do, or if the tenants for life of the undivided shares are unable to agree, any person interested under the settlement may apply to the court for the appointment of such trustees.
- (4) The Magistrate's Court has jurisdiction under proviso (v) to sub-paragraph (3) of this paragraph where the land to be dealt with in the court does not exceed £10,000 in value or such greater value as may be prescribed by regulations under this Ordinance.
- (5) In any case 19 which the foregoing provisions of this Part of this Schedule do not apply, the entirety of the land shall vest (free as aforesaid) in the Official Administrator upon the statutory trusts:

#### Provided that -

- (i) the Official Administrator shall not be entitled to act in the trust, or charge any fee, or be liable in any manner, unless and until requested in writing to act by or on behalf of the persons interested in more than an undivided half of the land or the income thereof;
- (ii) after the Official Administrator has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in the place of the Official Administrator without his consent;
- (iii) subject as aforesaid, any persons interested in more than an undivided half of the land or the income thereof may appoint new trustees in the place of the Official Administrator with the consent of any incumbrancers of undivided shares (but so that a purchaser shall not be concerned to see whether any such consent has been given) and thereupon the land shall by virtue of this Ordinance vest in the persons so appointed (free as aforesaid) upon the statutory trusts; or such persons may (without such consent as aforesaid), at any time, whether or not the Official Administrator has accepted the trust, apply to the court for the appointment of trustees of the land, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed, the same shall by virtue of this Ordinance vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;
- (iv) if the persons interested in more than an undivided half of the land or the income thereof does not either request the Official Administrator to act, or (whether he refuses to act or has not been requested to act) apply to the court for the appointment of trustees in his place, within three months from the time when they have been requested in writing by any person interested so to do, then and in any such case, any person interested may apply to the court for the appointment of trustees in the place of the Official Administrator, and the court may make such order as it thinks fit, and if thereby trustees of the land are appointed the same shall by virtue of this Ordinance vest (free as aforesaid) in the trustees upon the statutory trusts.

- (6) The Magistrate's Court has jurisidiction under provisos (iii) and (iv) to sub-paragraph (4) of this paragraph where the land which is to be dealt with in the court does not exceed £10,000 in value or such greater value as may be prescribed by regulations under this Ordinance
- (7) The vesting in the Official Administrator of land by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.
- (8) The court or the Official Administrator may act on evidence given by affidavit or by statutory declaration as respects the undivided shares without investigating the title to the land.
- (9) Where all the undivided shares in the land are vested in the same mortgagees for securing the same mortgage money and the rights of redemption affecting the land are the same as might have been subsisting if the entirety had been mortgaged by an owner before the undivided shares were created, the land shall, by virtue of this Ordinance, vest in the mortgagees as joint tenants for a legal term of years absolute (in accordance with this Ordinance) subject to cesser on redemption by the trustees for sale in whom the right of redemption if vested by this Ordinance, and for the purposes of this Part of this Schedule the mortgage shall be deemed an incumbrance affecting the entirety.
- (10) This Part of this Schedule does not (except where otherwise expressly provided) prejudice incumbrancers whose incumbrances affect the entirety of the land at the commencement of this Ordinance, but (if the nature of the incumbrance admits) the land shall vest in them for legal terms of years absolute in accordance with this Ordinance but not so as to affect subsisting priorities.
- (11) The trust for sale and powers of management vested in persons who hold the entirety of the land on trust for sale shall, save as hereinafter mentioned, not be exercisable without the consent of any incumbrancer, being of full age, affected whose incumbrance is divested by this Part of this Schedule, but a purchaser shall not be concerned to see or inquire whether any such consent has been given, nor, where the incumbrancer of this Part of this Schedule or any enactment replaced thereby the transaction would have been binding on him, had the same been effected by the mortgagor.
- (12) This Part of this Schedule does not apply to land in respect of which a subsisting contract for sale (whether made under an order in a partition action or by or on behalf of all the tenants in common or coparceners) is in force at the commencement of this Ordinance if the contract is completed in due course (in which case title may be made in like manner as if this Ordinance, and any enactment thereby replaced, had not been passed), nor to the land in respect of which a partition action is pending at such commencement if an order for a partition or sale is subsequently made in such action within eighteen months of the commencement of this Ordinance.
- (13) The repeal of the enactments relating to partition shall operate without prejudice to any proceedings thereunder commenced before the commencement of this Ordinance, and to the jurisdiction of the court to make any orders in reference thereto, and subject to the following provisions, namely:
  - (a) in any such proceedings, and at any stage thereof, any person or persons interested individually or collectively in one half or upwards of the land to which the proceedings may relate, may apply to the court for an order staying such proceedings;
  - the court may upon such application make an order staying the proceedings as regards the whole or any part, not being an undivided share, of the land;
  - (c) as from the date of such order the said enactments shall cease to apply to the land affected by the order and the provisions of this Part of this Schedule shall apply thereto;
  - (d) the court may by such order appoint trustees of the land and the same shall by virtue of this Ordinance vest (free as aforesaid) in the trustees as joint tenants upon the statutory trusts;

- (c) the court may order that the costs of the proceedings and of the application shall be raised by the trustees, by legal mortgage of the land or any part thereof, and paid either wholly or partially into court or to the trustees;
- the court may act on such evidence as appears to be sufficient, without investigating the title to the land.
- (14) In this Part of this Schedule "incumbrance" does not include a legal rentcharge affecting the entirety, or any similar charge on the land not created by an instrument.
- 2. Where undivided shares in land, created before the commencement of this Ordinance, fall into possession after such commencement, and the land is not settled land when the shares fall into possession, the personal representatives (subject to their rights and powers for purposes of administration) or other estate owners in whom the entirety of the land is vested shall, by an assent or a conveyance, give effect to the foregoing provisions of this Part of this Schedule in like manner as if the shares had fallen into possession immediately before the commencement of this Ordinance, and in the meantime the land shall be held on the statutory irusis.
- 3. This Part of this Schedule shall not save as hereinafter mentioned apply to party structures and open spaces within the meaning of the next succeding Part of this Schedule.
- 4. Where, immediately before the commencement of this Ordinance, there are two or more tenants for life of full age entitled under the same settlement in undivided shares, and, after the cesser of all their interests in the income of the settled land, the entirety of the land is limited so as to devolve together (not in undivided shares), their interests shall, but without prejudice to any beneficial interest, be converted into a joint tenancy, and the joint tenants and the survivor of them shall, until the said cesser occurs, constitute the tenant for life for the purposes of the Settled Land Act 1925 (in its application to the Falkland Islands) and this Ordinance

#### PART V

#### Provisions as to party structures and open spaces

- 1. Where, immediately before the commencement of this Ordinance, a party wall or other party structure is held in undivided shares, the ownership thereof shall be deemed to be served vertically as between the respective owners, and the owner of each part shall have such rights to support and of user over the rest of the structure as may be requisite for conferring rights corresponding to those subsisting at the commencement of this Ordinance.
- 2. Where, immediately before the commencement of this Ordinance, an open space of land (with or without any building used in common for the purposes of any adjoining land) is held in undivided shares, in right whereof each owner has rights of access and user over the open space, the owenership thereof shall vest in the Official Adminsitrator on the statutory trusts which shall be executed only with the leave of the court, and, subject to any order of the court to the contrary, each person who would have been a tenant in common shall, until the open space is conveyed to a purchaser, have rights of access and user over the open space corresponding to those which would have subsisted if the tenancy in common had remained subsisting.
- 3. Any person interested may apply to the court for an order declaring the rights and interests under this Part of this Schedule, of the persons interested in any such party structure or open space, or generally may apply in relation to the provisions of this Part of this Schedule, and the court may make such order as it thinks fit.

#### PART VI

## Conversion of tenancies by entireties into joint tenancies

Every tenancy by entireties existing immediately before the commencement of this Ordinance shall, but without prejudice to anyther a contract the converted into a joint tenancy. prejudice to any beneficial interest, as from such commencement be converted into a joint tenancy.

### PART VII

Conversion of existing freehold mortgages into mortgages by demise 1. All land, which immediately before the commencement of this Ordinance, was vested in a first or only mortgagee for an estate in first or only mortgagee for an estate in fee simple in possession, whether legal or equitable, shall, from and after the commencement of this Ordinance, was vested in a differ the mortgagee for an estate in fee simple in possession, whether legal or equitable, shall, from and after the commencement of this Ordinance, was vested in a differ the mortgagee for a term of three thousand years commencement of this Ordinance, vest in the first or only mortgagee for a term of three thousand years from such commencement. from such commencement, without impeachment of waste, but subject to a provision for cesser corresponding to the right of redevant. ding to the right of redemption which, at such commencement, was subsisting with respect to the fee simple.

- 2. All land, which immediately before the commencement of this Ordinance, was vested in a second or subsequent mortgagee for an estate in fee simple in possession, whether legal or equitable, shall, from and after the commencement of this Ordinance, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee, without impeachment of waste, but subject to the term or terms vested in such first or other prior mortgagee and subject to a provision for cesser corresponding to the right of redemption which, at such commencement was subsisting with respect to the fee simple.
- 3. The estate in fee simple which, immediately before the commencement of this Ordinance, was vested in any such mortgagee shall, from and after such commencement vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age who, if all money owing on the security of the mortgage and all other mortgages or charges (if any) had been discharged at the commencement of this Ordinance, would have been entitled to have the fee simple conveyed to him, but subject to any mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.
- 4. If a sub-mortgage by conveyance of the fee simple is subsisting immediately before the commencement of this Ordinance, the principal mortgagee shall take the principal term created by paragraphs 1 or 2 of this Part of this Schedule (as the case may require) and the sub-mortgagee shall take a derivative term less by one day than the term so created, without impeachment of waste, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.
- 5. This Part of this Schedule applies to land enfranchised by statute as well as to land which was freehold before the commencement of this Ordinance, and (save where expressly excepted) whether the mortgage is made by way of trust for sale or otherwise.
- 6. A mortgage affecting a legal estate made before the commencement of this Ordinance which is not protected by registration under the Registration Ordinance shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.
- 7. Nothing in this Part of this Schedule shall affect priorities nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage.
- 8. This Part of this Schedule does not apply unless a right of redemption is subsisting immediately before the commencement of this Ordinance.

#### PART VIII

#### Conversion of existing leasehold mortgages into mortgages by subdemise

- I. All leasehold land, which immediately before the commencement of this Ordinance was vested in a first or only mortgagee by way of assignment of a term of years absolute shall, from and after the commencement of this Ordinance, vest in the first or only mortgagee for a term equal to the term assigned by the mortgage, less the last ten days thereof, but subject to a provision for cesser corresponding to the right of redemption which at such commencement was subsisting with respect to the term assigned.
- 2. All leasehold land, which immediately before the commencement of this Ordinance, was vested in a second or subsequent mortgagee by way of assignment of a term of years absolute (whether legal or equitable) shall, from and after the commencement of this Ordinance, vest in the second or subsequent mortgagee for a term one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term assigned by the mortgage, but subject to the terms or terms vested in such first or other prior mortgagee, and subject to a provision for cesser corresponding to the right of redemption which, at the commencement of this Ordinance, was subsisting with respect to the term assigned by the mortgage.
- 3. The term of years absolute which was assigned by any such mortgage shall, from and after the commencement of this Ordinance, vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age who, if all the money owing on the security of the mortgage and all other mortgages or charges, if any, had been discharged at the commencement of this Ordinance, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative

mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.

- 4. If a sub-mortgage by assignment of a term is subsisting immediately before the commencement of this Ordinance, the principal mortgagee shall take the principal derivative term created by paragraphs 1 or 2 of this Part of this Schedule or the derivative term created by his mortgage (as the case may require), and the sub-mortgagee shall take a derivative term less by one day than the term so vested in the principal mortgagee, subject to a provision for cesser corresponding to the right of redemption subsisting under the sub-mortgage.
- 5. A mortgage affecting a legal estate made before the commencement of this Ordinance which is not protected by registration under the Registration Ordinance shall not, as against a purchaser in good faith without notice thereof, obtain any benefit by reason of being converted into a legal mortgage by this Schedule, but shall, in favour of such purchaser, be deemed to remain an equitable interest.
- 6. This Part of this Schedule applies to perpetualy renewable leaseholds, and to leaseholds for lives, which are by statute converted into long terms, with the following variations, namely
  - (a) the term to be taken by a first or only mortgagee shall be ten days less than the term created by such statute;
  - (b) the term to be taken by a second or subsequent mortgagee shall be one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of the second or subsequent mortgagee, if the length of the last-mentioned term permits, and in any case for a term less by one day at least than the term created by such statute:
  - (c) the term created by such statute shall, from and after the commencement of this Ordinance, vest in the mortgagor or tenant for life, statutory owner, trustee for sale, personal representative, or other person of full age, who if all the money owing on the security of the mortgage and all other mortgages or charges, if any, had been discharged at the commencement of this Ordinance, would have been entitled to have the term assigned or surrendered to him, but subject to any derivative mortgage term created by this Part of this Schedule or otherwise and to the money secured by any such mortgage or charge.
- 7. This Part of this Schedule applies (save where expressly excepted) whether or not the leasehold land is registered under the Registration Ordinance, or the mortgage is made by way of trust for sale or otherwise.
- 8. Nothing in this Part of this Schedule shall affect priorities or the right of any mortgagee to retain possession of documents, nor affect his title to or rights over any fixtures or chattels personal comprised in the mortgage, but this Part of this Schedule does not apply unless a right of redemption is subsisting at the commencement of this Ordinance.

#### **SCHEDULE 2**

### Implied Covenants PART I

Covenants implied in a conveyance for valuable consideration, other than a mortgage by a person who conveys and is expressed to convey as beneficial owner

That not withstanding anything by the person who so conveys or any one through whom he derives title otherwise than by purchase for value, made, done, executed, or omitted, or knowingly suffered, the person who so conveys has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to and be conveyed, subject as, if so expressed, and in the manner in which, it is expressed to be conveyed, and that, notwithstanding anything as aforesaid, that subject-matter shall remain to and be quietly entered upon, received, and held, occupied, enjoyed, and taken by the person to whom the conveyance is expressed to be made, and any person deriving title under him, and the benefit thereof shall be received and taken accordingly, without any lawful interruption or disturbance by the person who so conveys or any person conveying by his direction, or rightfully claiming or to claim by, through, under, or in trust for the person who so conveys or any person conveying by his direction, or by, through, or under any one (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made), through whom the person who so conveys, derives title, otherwise than by purchase for value:

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all such estates, incumbrances, claims, and demands, other than those subject to which the conveyance is expressly made, as, either before or after the date of the conveyance, have been or shall be made, occasioned, or suffered by that person or by any person conveying by his direction, or by any person rightfully claiming by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value:

And further, that the person who so conveys, and any person conveying by his direction, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance other than an estate or interest subject whereto the conveyance is expressly made, by, through, under, or in trust for the person who so conveys, or by, through, or under any person conveying by his direction, or by, through, or under any one through whom the person who so conveys derives title, otherwise than by purchase for value, will, from time to time and at all times after the date of the conveyance, on the request and at the cost of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

In the above covenant a purchase for value shall not be deemed to include a conveyance in consideration of marriage.

#### PART III

Covenant implied in a conveyance by way of mortgage by a person who conveys and is expressed to convey as beneficial owner

That the person who so conveys, has, with the concurrence of every other person, if any, conveying by his direction, full power to convey the subject-matter expressed to be conveyed by him, subject as, if so expressed, and in the manner in which it is expressed to be conveyed.

And also that, if default is made in payment of the money intended to be secured by the conveyance, or any interest thereon, or any part of that money or interest contrary to any provision in the conveyance, it shall be lawful for the person to whom the conveyance is expressed to be made, and the persons deriving title under him, to enter into and upon, or receive, and thenceforth quietly hold, occupy, and enjoy or take and have, the subject-matter expressed to be conveyed, or any part thereof, without any lawful interruption or disturbance by the person who so conveys, or any person conveying by his direction, or any other person (not being a person claiming in respect of an estate or interest subject whereto the conveyance is expressly made):

And that, freed and discharged from, or otherwise by the person who so conveys sufficiently indemnified against, all estates, incumbrances, claims, and demands whatever, other than those subject whereto the conveyance is expressly made:

And further, that the person who so conveys and every person conveying by his direction, and every person deriving title under any of them, and every other person having or rightfully claiming any estate or interest in the subject-matter of conveyance, or any part thereof, other than an estate or interest subject whereto the conveyance is expressly made, will from time to time and at all times, on th request of any person to whom the conveyance is expressed to be made, or of any person deriving title under him, but as long as any right of redemption exists under the conveyance, at the cost of the person so conveying, or of those deriving title under him, and afterwards at the cost of the person making the request, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of conveyance and every part thereof to the person to whom the conveyance is made, and to those deriving title under him, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by him or them or any of them shall be reasonably required.

The above covenant in the case of a charge shall have effect as if for references to "conveys", "conveyed" and "conveyance" there were substituted respectively references to "charges", "charged" and "charge".

#### PART IV

Covenant implied in a conveyance by way of mortgage of freehold property subject to a rent or of leasehold property by a person who conveys and is expressed to convey as beneficial owner

That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance a good, valid, and effectual lease or grant of the land conveyed and is in full force, unforfeited, and unsurrendered and has in nowise become void or voidable, and that all the rents reserved by, and all the covenants, conditions, and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the person deriving title under him to be paid, observed, and performed, have been paid, observed, and performed up to the time of conveyance:

And also that the person so conveying, or the persons deriving title under him, will at all times as long as any money remains owing on the security of the conveyance, pay, observe, and perform, or cause to be paid, observed, and performed all the rents reserved by, and all the covenants conditions and agreements contained in, the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, and will keep the person to whom the conveyance is made, and those deriving title under him, indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of non-payment of such rent or the non-observance or non-performance of such covenants, conditions, and agreements, or any of them.

The above covenant in the case of a charge shall have effect as if for references to "conveys", "conveyed" and "conveyance" there were substituted respectively references to "charges", "charged" and "charge".

#### PART V

Covenant implied in a conveyance by way of settlement, by a person who conveys and is expressed to convey as settlor

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death, will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made and those deriving title under them, as by them or any of them shall be reasonably required, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made.

#### PART VI

Covenant implied in a conveyance by every person who conveys and isexpressed to convey as trustee or mortgagee, or as a personal representative or as a personal representative or under an order of the court

That the person conveying has not executed or done, or knowing suffered, or been party or privy to, any deed or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof, is or may be impeached, charged, affected, or incumbered in title, estate, or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying the subject-matter of the conveyance, or any part thereof, in the manner in which it is expressed to be conveyed.

The foregoing covenant may be implied in an assent in like manner as in a conveyance by deed.

#### PART VII

Covenant implied in a conveyance for valuable consideration, other than a mortgage, of the entirety of land affected by a rentcharge

That the grantees or the persons deriving title under them will at all times, from the date of the conveyance, agreements and conditions contained in the deed or other document creating the rentcharge, and thenceforth on the part of the owner of the land to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said rentcharge or any part thereof, or any breach of any of the said covenants, agreements and conditions.

#### PART VIII

Covenants implied in a conveyance for valuable consideration, other than a mortgage, of part of land affected by a rentcharge, subject to a part (not legally apportioned) of that rentcharge

(i) That the grantees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the apportioned rant and observe and perform all the covenants (other than the covenant to pay the entire rent) and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land conveyed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their respective estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent, or any breach of any of the said covenants and conditions, so far as the same relate as aforesaid:

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, pay the balance of the rentcharge (after deducting the apportioned rent aforesaid, and any other rents similarly apportioned in respect of land not retained), and observe and perform all the covenants, other than the covenant to pay the entire rent, and conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land not included in the conveyance and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the grantees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rentcharge, or any breach of any of the said covenants and conditions so far as they relate aforesaid.

#### PART IX

Covenant in a conveyance for valuable consideration, other than a mortgage, of the entirety of the land comprised in a lease for the residue of the term or interest created by the lease

That the assignees, or the persons deriving title under them, will at all times, from the date of the conveyance or other date therein stated, duly pay all rent becoming due under the lease creating the term or interest for which the land is conveyed, and observe and perform all the covenants, agreements and conditions therein contained and thenceforth on the part of the lessees to be observed and performed:

And also will at all times, from the date aforesaid, save harmless and keep indemnified the conveying parties and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the said apportioned rent or any breach of any of the said covenants, agreements and conditions, so far as the same relate as aforesaid.

(ii) That the conveying parties, or the persons deriving title under them, will at all times, from the date of the conveyance, or other date therein stated, pay the balance of the rent (after deducting the apportioned rent aforesaid and any other rents similarly apportioned in respect of land not retained) and observe and perform all the covenants, other than the covenant to pay the entire rent, agreements and conditions contained in the lease and on the part of the lessees to be observed and performed so far as the same relate to the land demised (other than the land comprised in the conveyance) and remaining vested in the covenantors:

And also will at all times, from the date aforesaid, save harmless and keep indemnified, the assignees and their estates and effects, from and against all proceedings, costs, claims and expenses on account of any omission to pay the aforesaid balance of the rent or any breach of any of the said covenants, agreements and conditions so far as they relate as aforesaid.

### **SCHEDULE 3**

### Forms of transfer and discharge of mortgage

### FORM NO.1

### Form of transfer of mortgage

This Transfer of Mortgage made the ...... day of ....., between M. of (etc) of the one part and T. of (etc) of the other part, supplemental to a Mortgage dated (etc.), and made between (etc.) affecting etc. (here state short particulars of the mortgaged property).

WITNESSETH that in consideration of the sums of £ ..... and £ .... (for interest) now paid by T. to M. being the respective amounts of the mortgage money and interest owing in respect of the said mortgage and further charge (the receipt of which sums M. hereby acknowledges) M., as mortgagee, hereby conveys and transfers to T. the benefit of the said mortgage and further charge.

In witness, etc.

### FORM NO. 2

### Form of receipt on transfer of mortgage

I, A.B., of (ctc.) hereby acknowledge that I have this ...... day of .... 19 .., received the sum of £ ...... representing the (aggregate) (balance remaining owing in respect of the) principal money secured by the within (above) written (annexed) mortgage (and by a further charge dated, etc., or otherwise as required) together with all interests and costs, the payment having been made by C.D of (etc.) and E.F. of (etc.)

As witness, etc.

NOTE. — If the persons paying are not entitled to the equity of redemption state that they are paying the money out of a fund applicable to the discharge of the mortgage.

### **SCHEDULE 4**

Forms relating to statutory charges or mortgages of freehold or leasehold land

### FORM NO.1

(section 112)

### Statutory charge by way of legal mortgage

This Legal Charge made by way of Statutory Mortgage the ..... day of ..... 19..., between A. of (etc.) of the one part and M. of (etc.) of the other part Witnesseth that in consideration of the sum of £ ..... now paid to A. by M. of which sum A. hereby acknowledges the receipt A. As Mortgagor and As Beneficial Owner hereby charges by way of legal mortgage All That (etc.) with the payment to M. on the ...... day of ...... 19..., of the principal sum of £ ....... as the mortgage money with interest thereon at the rate of ..... per centum per annum.

In witness etc.

NOTE. Variations in this and the subsequent forms in this Schedule to be made, if required, for leasehold land or for giving effect to special arrangements. M. will be in the same position as if the Charge had been effected by a demise of freeholds or a subdemise of leseholds.

### FORM NO. 2

(section 113)

### Statutory transfer mortgagor not joining

This Transfer of Mortgage made by way of statutory transfer the .... day of ...... 19.., between M. of (etc.) of the one part and T. of (etc.) of the other part supplemental to a legal charge made by way of statutory mortgage dated (etc.) and made (etc.) Witnesseth that in consideration of the sum of £ ..... now paid to M. by T. (being the aggregate amount of £ ..... mortgage money and £ ..... interest due in respect of the said legal charge of which sum M. hereby acknowledges the receipt) M. as Mortgagee hereby conveys and transfers to T. the benefit of the said legal charge.

In witness, etc.

**NOTE** This and the next two forms also apply to a transfer of a statutory mortgage made before the commencement of this Ordinance, which will then be referred to as a mortgage instead of a legal charge.

### FORM No. 3

(section 113)

### Statutory transfer, a covenantor joining

This Transfer of Mortgage made by way of statutory transfer the ... day of ...... 19.., between A. of (etc.) of the first part B. of (etc.) of the second part and C. of (etc.) of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated (etc.) and made (etc.) Witnesseth that in consideration of the sum of £ ..... now paid by A. to C. (being the mortgage money due in respect of the said Legal Charge no interest being now due or payable thereon of which sum A. hereby acknowledges the receipt) A. as Mortgagee with the concurrence of B. who joins herein as covenantor hereby conveys and transfers to C. the benefit of the said Legal Charge.

In

witness

etc.

### FORM NO. 4

(sections 112 and 113)

### Statutory transfer and mortgage

This Transfer and Legal Charge is made by way of statutory transfer and mortgage the .... day of ..... 19.., between A. of (etc.) of the first part B. of (etc.) of the second part and C. of (etc.) of the third part Supplemental to a Legal Charge made by way of statutory mortgage dated (etc.) and made (etc.) Whereas a principal sum of £ ..... only remains due in respect of the said Legal Charge as the mortgage money and no interest is now due thereon And Whereas B. is seised in fee simple of the land comprised in the said Legal Charge subject to that Charge.

Now this Deed Witnesseth as follows

### FORM NO. 5

(section 114(2))

### Receipt on discharge of statutory legal charge or mortgage

I A.B. of (etc.) hereby acknowledge that I have this ... day of ... 19.. received the sum of £ .... representing the (aggregate) (balance remaining owing in respect of the) mortgage money secured by the (annexed) within (above) written statutory legal charge (or statutory mortgage) (and by the further statutory charge dated etc. or otherwise as required) together with all interest and costs the payment having been made by C.D. of (etc.) and E.F. of (etc.)

As witness etc.

**NOTE** If the persons paying are not entitled to the equity of redemption state that they are paying the money out of a fund applicable to the discharge of the statutory legal charge or mortgage.

### **SCHEDULE 5**

(section 224)

### Forms of Instruments

### FORM NO. 1

### Charge by way of legal mortgage

This Legal Charge is made (etc.) between A. of (etc.) of the one part and B. of (etc.) of the other part.

(Recite the title of A. to the freeholds or leaseholds in the Schedule and agreement for the loan by B.)

Now in consideration of the sum of ..... pounds now paid by B. to A. (the receipt etc.) this Deed witnesseth as follows —

- 1. A. hereby covenants with B. to pay (Add the requisite covenant to pay principal and interest).
- 2. A. as Beneficial Owner hereby charges by way of legal mortgage All and Singular the property mentioned in the Schedule hereto with the payment to B. of the principal money interest, and other money hereby covenanted to be paid by A.

### FORM NO. 2

### Further charge by way of legal mortgage

This Further Charge made (etc.) between (etc.) (same parties as foregoing legal charge) Supplemental to a Legal Charge (hereinafter called the Principal Deed) dated (etc.) and made between the same parties as are parties hereto and in the same order for securing the sum of £ .... and interest at .... per centum per annum on (frechold) (leasehold) land at (etc.)

Witnesseth as follows -

- 1. In consideration of the further sum of £ .... now paid to A. by B. (add receipt and covenant to pay the further advance and interest)
- 2. For the consideration aforesaid A. as Beneficial Owner hereby charges by way of legal mortgage the premises comprised in the Principal Deed with the payment to B. of the principal money and interest hereinbefore covenanted to be paid as well as the principal money, interest, and other money secured by the Principal Deed.

In witness (etc.)

### FORM NO. 3

### Conveyance on sale, legal chargees or mortgagees concurring

This Conveyance is made (etc.) between A. of (etc.) (hereinafter called the Vendor) of the first part B. of (etc.) and C. of (etc.) (hereinafter called the Mortgagees) of the second part and D. of (etc.) (hereinafter called the Purchaser) fo the third part (Recite the Charge by way of legal mortgage, the state of the debt, the agreement for sale and for the mortgagees to concur).

Now in the consideration of the sum of  $\mathfrak{t}$  ... paid by the Purchaser by the direction of the Vendor to the Mortgagees (the receipt etc.) and of the sum of  $\mathfrak{t}$  ... paid by the Purchaser to the Vendor (the receipt etc.) this Deed witnesseth as follows —

1. The Vendor As Beneficial Owner hereby conveys and the Mortgagees As Mortgagees hereby (surrender and) release unto the Purchaser All That etc.

To Hold unto the Purchaser (in fee simple) discharged from all claims under the recited Legal Charge (Mortgage and to the intent that the term subsisting thereunder shall as respects the premises conveyed merge and be extinguished).

2. (Add any necessary special provisions.)

In witness etc.

### FORM NO. 4

### Conveyance on sale by legal chargee or mortgagees

This Conveyance is made (etc.) between A. of (etc.) and B. of (etc.) (hereinafter called the Vendors) of the one part and C. of (etc.) (hereinafter called the Purchaser) of the other part (Recite the Legal Charge or the Mortgage, with or without a deed converting the Mortgage into a legal charge and the agreement for sale).

Now in consideration of the sum of £ .... paid by the Purchaser to the Vendors (the receipt etc.) this Deed witnesseth as follows —

1. The Vendors as Mortgagees in exercise of the power for this purpose conferred on them by the Law of Property Ordinance 1989 and of all other powers hereby convey unto the Purchaser All Those etc.

To Hold unto the Purchaser (in fee simple discharged from all right of redemption and claims under the recited Legal Charge (Mortgage).

2. (Add any necessary special provisions.)

In witness etc.

### FORM NO. 5

Conveyance by personal representatives of a fee simple reserving thereout a term of years absolute for giving legal effect to mortgage

This Conveyance is made (etc.) between James Cook of (etc.) and Harry Cook of (etc.) of the first part, L. of (etc.) and M. of (etc.) of the second part, and Thomas Wilson of (etc.) of the third part.

Whereas on the first day of October 1927 Letters of Administration to the real and personal estate of Henry Wilson, late of (etc.), who died (etc.), were granted by the supreme probate court to James Cook and Harry Cook.

And whereas Henry Wilson was at his death solely entitled to the hereditaments hereinafter conveyed for an estate in fee simple.

Now this Deed witnesseth that James Cook and Harry Cook, as Personal Representatives of the said Henry Wilson deceased, hereby convey unto the said Thomas Wilson.

All that (etc.)

Reserving out of the premises nevertheless unto L. and M. a term of eight hundred years, without impeachment of waste, to commence from the date hereof but subject to cesser on redemption by Thomas Wilson under a Mortgage dated (etc.) and made between (etc.) on payment of the sum of five thousand pounds, and interest thereon at the rate of five pounds per centum per annum.

To hold the premises subject to the said term unto Thomas Wilson (in fee simple).

In witness etc.

NOTE —The reservation will be valid at law, though the deed may not be executed by Thomas Wilson.

### FORM NO. 6

Conveyance on sale reserving minerals and right to work and a perpetual rentcharge

This Conveyance made (etc.) between A. of (etc.) of the one part and B. of (etc.) of the other part.

Witnesseth that in consideration of the sum of ... pounds now paid by B. to A. (the receipt, etc.) and of the rentcharge hereinafter reserved A. as Beneficial Owner hereby conveys unto B.

All those (etc.) except and reserving unto A. in fee simple all mines and minerals Together with full power to work (etc.)

To hold (except and reserving as aforesaid) unto B. in fee simple reserving out of the premises to A. in fee simple a perpetual yearly rentcharge of ... pounds, to be for ever charged upon and issuing out of the premises hereby conveyed clear of all deductions, and payable by equal half-yearly payments on (etc.), the first payment to be made on (etc.)

And B. hereby covenants with A., and the persons deriving title under him to pay (etc.)

In witness (etc.)

NOTE The reservations will be valid at law even if the deed is not executed by B.

### FORM NO. 7

Deed for confirming legal estates which have not been validly created

To All to whom this Further Assurance shall come A.B. of etc. sends greetings this .... day of ...... 19...

(Recite the invalid dealings, giving short particulars in schedules of the Conveyances, Grants and Leases which purport to transfer or create legal estates, that A.B. is entitled in fee simple or for a term of years absolute in the land affected and desires to confirm the dealings.)

Now these presents witness and the said A.B. hereby declares that his legal estate in the premises affected to which he is entitled as aforesaid shall go and devolve in such manner as may be requisite for legally confirming the interests capable of subsisting as legal estates expressed to have been transferred or created by the documents mentioned in the schedules hereto or any of those documents and any dealings with the interests so confirmed which would have been legal if those interests had in the first instance been validly transferred or created:

Provided always that subject to such confirmation of interests and dealings nothing herein contained shall affect the legal estate of the said A.B. in the premises.

In witness, etc. (Add Schedules.)

NOTE: This form takes the place of a conveyance to uses for confirming past transactions and is applicable to a term of years absolute as well as a fee simple.

### FORM NO. 8

Assent by personal representative in favour of a person absolutely entitled free from incumbrances

I, A.B., of (ctc) as the personal representative of X.Y., late of (etc.) deceased, do this ...... day of ...... 19.. hereby, As Personal Representative, assent to the vesting in C.D. of (etc.) of (All that farm, etc.) or (All the property described in the Schedule hereto) for all the estate or interest of the said X.Y. at the time of his death (or, for an estate in fee simple).

As witness, etc.

NOTE. —The expression "conveyance" includes an assent, but an assent will relate back to the death unless a contrary intention appears. An assent may be properly given though duties remain to be paid if the personal representative is satisfied in regard to the arrangements made for payment.

### FORM NO. 9

Assent by personal representatives in favour of trustees for sale

We, A.B., of (etc.) and C.D., of (etc.) as the Personal Representatives of X.Y., late of (etc.) deceased do this ... day of ... 19.. hereby —

- 1. As Personal Representatives assent to the vesting in (ourselves or) T.A. of (etc.) and T.B. of (etc.) of All Those etc. To Hold unto (ourselves or) the said T.A. and T.B. in fee simple Upon trust to sell the same or any part thereof with full power to postpone the sale and to stand possessed of the net proceeds of sale and other money applicable as capital and the net rents and profits until sale upon the trusts respectively declared concerning the same (or the proceeds of sale and the rents and profits of certain property at ....) by the Will declared (etc.) of (etc.) (or by the Settlement dated etc. or otherwise as the case may require).
- 2. And declare that F. of (etc.) and M. of (etc.) during their joint lives and the survivor of them during his or her life have or has power to appoint new trustees of this Assent (or "that the statutory power to appoint new trustees applies to this Assent" or otherwise as the case requires to correspond with the power applicable to the Will or Settlement).

### SCHEDULE 6

(section 225)

### Repeal of provisions of Land Ordinance

(Cap. 36)

The following provisions of the Land Ordinance are repealed -

sections 2 to 8 (inclusive), Part III (sections 18 to 28 inclusive), Part IIIA (sections 28A to 29 inclusive) and the First Schedule.

### SCHEDULE 7

(section 228)

### Construction of references to provisions of English statutes

- 1. Every reference in a deed or document dealing with or purporting to deal with any real property or immoveable property in the Falkland Islands to a provision of an English statute mentioned in column 1 below shall, if that deed or document was made after the commencement of this Ordinance, in its application to that property and any matter, proceeding or other thing arising in relation to that property in the Falkland Islands be construed as a reference to that provision of the law of the Falkland Islands mentioned in Column 2 below.
- 2. Except as specifically stated to the contrary a reference in Column 2 is a reference to a provision of this Ordinance.

Column 1	Column 2
A	A
Law of Property Act 1925	Corresponding provision
(15 & 16 Geo. 5 c.20)	of Falkland Islands Law
(a) section 1	(a) section 3
(b) section 2	(b) section 6
(c) section 3	(c) section 8
(d) section 4	(d) section 9
(e) section 5	(e) section 10
(f) section 6	(f) section 11
(g) section 7	(g) section 12
(h) section 8	(h) section 13
(i) section 9	(i) section 14
(j) section 10	(j) section 15
(k) section 12	(k) section 18
(1) section 14	(1) section 17
(m) section 15	(m) section 20
(n) section 19	(n) section 21
(o) section 20	(o) section 22
(p) section 21	(p) section 23
(q) section 22	(q) section 24
(r) section 23	(r) section 25
(s) section 24	(s) section 26
(t) section 25	(t) section 27
(u) section 26	(u) section 28
(v) section 27	(v) section 29
(w) section 28	(w) section 30
(x) section 29	(x) section 31
(y) section 30	(y) section 32
(z) section 31	(z) section 33
(aa) section 32	(aa) section 34
(ab) section 33	(ab) section 35
(ac) section 34	(ac) section 36
(ad) section 35	(ad) section 37
(ae) section 36	(ae) section 38
(uc) sociion so	· ·

(af) section 37	(af) section 39
(ag) section 38	(ag) section 40
(ah) section 39	(ah) section 42
(ai) section 40	(ai) Law of Contract Or-
	dinance 1988 section 3
(aj) section 41	(aj) Law of Contract Or-
	dinance 1988 section 4
(ak) section 42	(ak) section 46
(al) section 43	(al) section 45
(am) section 44	(am) section 47
(an) section 45	(an) section 48
(ao) section 47	(ao) section 49
(ap) section 48	(ap) section 50
(aq) section 49	(aq) section 51
(ar) section 50	(ar) section 52
(as) section 51	(as) section 53
(at) section 52	(at) section 54
(au) section 53	(au) section 55
(av) section 54	(av) Law of Contract Or-
	dinance 1988, section 13
(aw) section 55	(1) and (2)
(aw) section 33	(aw) Law of Contract Or- dinance 1988, section 13(4)
(ax) section 56	(ax) Law of Contract Or-
(ax) section 50	dinance 1988, section 14
(ay) section 58	(ay) Law of Contract Or-
(4), 1001101111	dinance 1988, section 15
(az) section 59	(az) section 56
(ba) section 60	(ba) section 57
(bb) section 61	(bb) Law of Contract Or-
	dinance 1988, section 16
(bc) section 62	(bc) section 58
(bd) section 63	(bd) section 59
(be) section 65	(be) section 60
(bf) section 66	(bf) section 61
(bg) section 67	(bg) section 62
(bh) section 68	(bh) section 63
(bi) section 69	(bi) section 64
(bj) section 70	(bj) section 65
(bk) section 71	(bk) section 66
(bl) section 72	(bl) section 67
(bm) section 73	(bm) section 68
(bn) section 74	(bn) section 69 (bo) section 70
(bo) section 75	(bp) section 71
(bp) section 76 (bg) section 77	(bg) section 72
(br) section 78	(br) section 73
(bs) section 79	(bs) section 74
(bt) section 80	(bt) section 75
(bu) section 81	(bu) section 77
(by) section 82	(bv) section 78
(bw) section 83	(bw) section 79
(bx) section 84	(bx) section 80
(by) section 85	(by) section 81
(bz) section 86	(bz) section 82
(ca) section 87	(ca) section 83
(cb) section 88	(cb) section 84
(cc) section 89	(cc) section 85
(cd) section 90	(cd) section 86
(ce) section 91	(ce) section 87
(cf) section 9?	(cf) section 88

(cf) section 92

(cf) section 88

			(>
(cg)	section	89	(cg) section
(08)			(ch) section
(ch)	section	90	94
(ci)	section	91	(ci) section 95
(CI)	Section	71	(cj) section
(cj)	section	93	98
(ck)	section	95	(ck) section 99
(CK)	Section	70	(cl) section
(cl)	section	96	100
(	section	97	(cm) section 101
(cm)	Section	91	(cn) section
(cn)	section	98	102
			(co) section
(co)	section	99	103 (cp) section
(cp)	section	100	104
			(cq) section
(cq)	section	101	105 (cr) section
(cr)	section	102	106
(4.)			(cs) section
(cs)	section	103	107
(ct)	section	104	(ct) section 108
(61)	section	101	(cu) section
(cu)	section	105	109
()	section	106	(cv) section 110
(cv)	Section	100	(cw) section
(cw)	section	107	111
			(cx) section
(cx)	section	108	113 (cy) section
(cy)	section	109	114
			(cz) section
(cz)	section	110	115
(da)	section	111	(da) section 116
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(1.)		113	(dc) section
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(dm)	section	122	(dm) section
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			section 12 (do) section
(do)	section	123	137
(dp)	section	104	(dp) section
(	Section	124	138 (dg) section
(dq)	section	125	139
(dr)	section	126	(dr) section
(31)	section	126	140 (ds) section
(ds)	section	127	141
(dt)	section	120	(dt) section
(ut)	section	128	142 (du) section
(du)	section	129	143
(dv)			(dv) section
(uv)	section	130	144 (dw) section
(dw)	section	131	145
(4)			(dx) section
(dx)	section	132	146 (dy) section
(dy)	section	133	147
41.5			(dz) section
(dz)	section	134	148 (ea) section
(ea)	section	135	149
			(eb) section
(eb)	section	136	150 (ec) section
(ec)	section	137	151
			(ed) section
(ed)	section	138	152 (ee) section
(ee)	section	190	155
(,			(ef) section
(ef)	section	191	156
(cg)	section	192	(eg) section 157
(68)	section	.,_	(eh) section
(eh)	section	193	158
(ai)	section	194	(ei) section 159
(ei)	section	174	(ej) section
(ej)	section	195	160
(-1)		196	(ek) section 161
(ek)	section	190	(el) section
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		100	(em) section 164
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-		201
(eq)	section	(eq) section 201 174
		(er) section
(er)	section	203 175 (es) section
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(ex)	section	209 184 (ey) section
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(ez)	section	211 186 (fa) section
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(10)		(fc) section
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(fe)	Section	(fg) section
(fg)	section	218 196 (fh) section
(fh)	section	219 198
		(fi) section 220 199
(fi)	section	220 199 (fj) section
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(f1)	section	223 204 (fm) section
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(fn)	section	225(2) 207 (fo) section
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В		Land
		Registration Act 1925 (15
		& 16 Geo.
		c.21)
		(fp) section 19 70
(fn)	section	

_			
С			С
			Law of Pro-
			perty
			(Amendment)
			Act 1926 (15
			& 16 Geo. 5.
(fq)	section		c.11)
(-4)	section	43	(fq) section 3
D			-
			D
			Landlord and Tenant Act
			1927 (17 & 18
			Geo. 5 c.36)
(fr)	section	153	(fr) section 1
(fs)	section	154	(fs) section 2
(f1)	section	155	(ft) section 3
(fu)	section	156	(fu) section 5
(fv)	section	157	(fv) section 9
/C \			(fw) section
(fw)	section	158	10
(6)			(fx) section
(fx)	section	159	11
(fy)			(fy) section
(1 y)	section	160	13
(fz)			(fz) section
(12)	section	161	14
(ga)	section	1.00	(ga) section
(6-7	zection	162	15
(gb)	section	163	(gb) section 16
(C - 7	section	103	
(gc)	section	167	(gc) section 18
	30011011	107	(gd) section
(gd)	section	168	19
		100	
E			Е
			Leasehold
			Property
			(Repairs) Act
			1938 (1 & 2 Geo. 6 c.34)
(ge)	section	149	(ge) section 1
(gf)	section	150	(gf) section 2
(gg)	section	151	(gg) section 3
(gh)	section	152	(gh) section 5
			(8.1) 10011011 3
F			F
			Costs of
			Leases Act
			1958 (6 & 7
			Eliz.2 c.52)
			(gi) section 1
			(gi) section
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			Protection
			from Evic-
			tion Act 1977
			(1077 - 43)

(1977 c.43)

(ai)	section	140	(gj) section 2
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(gk)	section	142	(gl) section 4
(gl)	section		(1) - (10)
			(gm) section
	section	142	10
(gm)	Section		(1)
			Н
Н			
			Landlord and
			Tenant Act 1985
		143	(gn) section 8
(gn)	section	144	(go) section 9
(go)	section	144	(gp) section
		145	10
(gp)	section	143	
1		146	(gq) section
(pg)	sections	146	11 -13
			and 147
			(gr) sections
		1	14(2) and
(gr)	section	148	(16)
			1
I			Landlord and
			Tenant Act
			1988 (1988
			c.26)
(gs)	section	169	
(gt)	section	170	
(gu)	section	171	(gu) section 3
(gv)	section	172	(gv) section 4
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Ref:



# THE FALKLAND ISLANDS GAZETTE Supplement

### **PUBLISHED BY AUTHORITY**

Vol. 1

8th MAY 1990

No. 5

The Following are Published in this Supplement —

The Swimming Pool (Trust Fund) (Amendment) Bill 1990

The Media Trust (Amendment) Bill 1990

The Census Bill 1990

The Livestock (Amendment) Bill 1990

The Road Traffic (Special Provisions) Bill 1990

The Education (Amendment) Bill 1990

The Limited Partnerships Bill 1990.

### The Swimming Pool (Trust Fund) (Amendment) Bill 1990 (No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Clause

- 1. Short Title.
- 2 Amendment of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987.

# A Bill for An Ordinance to amend The Swimming Pool (Trust Fund) Ordinance 1987

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

1. This Ordinance may be cited as the Swimming Pool (Trust Fund) (Amendment) Ordinance 1990

Short title.

2. Subsection (1) of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987 is repealed and replaced by the following new subsection (1)

Amendment of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987.

- "(1) The Trust Fund may be expended subject to Subsection (3), for the following purposes
  - (a) upon the cost of obtaining a feasibility study or studies as to the siting, construction, design and operation of a swimming pool;
  - (b) the cost of acquiring, levelling or otherwise preparing land in Stanley for the construction or building of a swimming pool, including the cost of obtaining any necessary easements, wayleaves or other rights necessary to enable the swimming pool to be constructed or built and when constructed or built to be operated as a public swimming pool;
  - (c) the cost of constructing or building a swimming pool, including labour costs, the cost of construction and building materials and architect's engineering design and any other consultancy or professional fees incurred in connection with the construction and building of a swimming pool;
  - (d) the cost of obtaining or providing electricity, water or other services to the land to be used for construction of a swimming pool, the provision of boundary walls or fences for or in respect of that land, the construction of any necessary or convenient roads, footpaths and parking areas within the land and the cost of land-scaping the land (including if appropriate the planting of trees and shrubs or other plants); and
  - (e) the cost of operating a swimming pool when constructed."

OBJECTS AND REASONS

As stated in the long title.

### The Media Trust (Amendment) Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Clause

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Amendment of Schedule 1 to the principal Ordinance.

# A Bill for An Ordinance to amend the Media Trust Ordinance 1989

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

1. This Ordinance may be cited as the Media Trust (Amendment) Ordinance 1990.

2. In this Ordinance "the principal Ordinance" means the Media Trust Ordinance 1989.

3. Paragraph 6 of Schedule 1 the principal Ordinance is repealed and replaced by the following new paragraph 6 —

"6. (1) With the consent of the Governor, to open and operate bank accounts for any of the above purposes: provided that all cheques and other bills of exchange shall be signed —

- (a) by two trustees; or
- (b) in the case of a cheque or other bill of exchange in an amount of £500 or less, by one trustee and the editor of the newspaper.
- (2) Not more than one cheque or other bill of exchange in respect of the same debt or obligation may be signed under the power conferred by subparagraph (1)(b) above".

### **OBJECTS AND REASONS**

For administrative convenience, to allow one trustee and the editor to sign cheques and other bills of exchange, if for £500 or less and provided that not more than one cheque or bill of exchange is drawn in respect of the same debt or obligation.

Short title

The principal Ordinance.

Amendment of Schedule 1 to the principal Ordinance.

### The Census Bill 1990

### EXPLANATORY MEMORANDUM

### Introductory

The Government has in mind the possibility of conducting a national census of the Falkland Islands in October or November 1990. The existing Census Ordinance (Cap. 8 of 1950 Edition of the Laws of the Falkland Islands) is not now entirely suitable for the holding of a national census. In particular sections 5 and 8 of the existing Ordinance reflect a situation in Camp which does not now obtain, following subdivision of many of the large farms. Further, the Ordinance does not contain provisions sufficient to secure confidentiality of the information supplied in the course of the census.

### The Attached Bill

The sort of amendments which appear to be necessary to the existing Ordinance would result in a Bill difficult to understand without reference to the existing Ordinance and would be longer than it. In those circumstances it appears sensible entirely to replace the existing Ordinance and the Census Bill 1990 has therefore been prepared. It is considerably shorter, in fact, than the existing Census Ordinance. Clause 2 of the Bill would enable the Governor on the advice of the Executive Council to direct that a Census be taken and the date on which it should be taken, the persons obliged to make returns and the particulars to be stated in the returns. Under Clause 3, the Registrar General would be responsible for making arrangements in relation to the Census. Regulations would need to be made as to a number of matters of detail and Clause 4 of the Bill provides for them. Under Clause 5 the Attorney General would be obliged to prepare reports on the census returns and the reports would be printed and published and laid before the Legislative Council. Clause 6 of the Bill makes provision as to offences. It would be a criminal offence (as it is under the existing Ordinance) to fail to make, or to make accurate, census returns. A person in breach of those provisions would be liable to a fine not exceeding £100. Further it would be an offence under the section for anybody to breach the confidentiality of information supplied in connection with the census. Such an offence would attract a fine not exceeding £1000 or imprisonment for a period not exceeding 2 years or both such fine and such imprisonment.

### The Census Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Clause

- 1. Short Title.
- 2. Power to direct taking of a Census.
- 3. Duty of Registrar General to carry out Census.
- 4. Regulations.
- 5. Preparation of reports.
- 6. Criminal offences.
- 7. Repeal (Cap. 8).

### A Bill for An Ordinance

## to make new provision for the taking from time to time of a Census in the Falkland Islands and for purposes connected therewith.

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

1. This Ordinance may be cited as the Census Ordinance 1990.

Short title.

2. The Governor may from time to time by Order direct that a Census shall be taken for the Falkland Islands or any part of the Falkland Islands and any Order under this section may prescribe —

Power to direct taking of a Census

- (a) the date on which the Census is to be taken;
- (b) the persons by whom and with respect to whom the returns for the purpose of the Census are to be made; and
- (c) the particulars to be stated in the returns.
- 3. (1) It shall be the duty of the Registrar General to make such arrangements and do all such things as are necessary for the taking of a census in accordance with the provisions of this Ordinance and for that purpose to make arrangements for the preparation and issue of the necessary forms and instructions and for the collection of the forms when filled up.

Duty of Registrar General to carry out Census.

- (2) The Registrar General in the exercise of his powers and in the performance of his duties under this Ordinance shall be subject to the control of, and comply with any directions given by the Governor.
- 4. For the purposes of enabling any Order under section 2 above directing a Census to be taken to be carried into effect, the Governor may make regulations —

Regulations.

- (a) requiring public officers and such other persons as may be employed for the purpose of the Census to do such things and perform such duties in connection with the taking of the Census as may be prescribed;
- (b) requiring persons employed for the purpose of the Census to make a statutory declaration as to performance of their duties;
- (c) requiring any person in charge of any boarding-house, hospital, hotel, prison, ship or any other institution prescribed by the regulations to make returns as to the persons living therein or staying thereat;
- (d) requiring information to be given to the persons liable to make returns by the persons with respect to whom the returns are to be made;
- (e) with respect to the forms to be used in the taking of a Census;

- (f) making provision with respect to any other matter in relation to which it is necessary to make provision for the purpose of carrying into effect the provisions of the Order.
- 5. The Attorney General shall, as soon as may be after the taking of a Census prepare reports on the Census patterns and every such report shall be printed and laid before the Legislative Council.

Preparation of reports.

6. (1) A person commits an offence who -

Criminal of-

- (a) refuses or neglects to do anything he is required by this Ordinance to do;
- (b) being a person required under this Ordinance to make a statutory declaration with respect to the performance of his duties, makes a false declaration;
- being required under this ordinance to make, sign or deliver any document, makes, signs or delivers or causes to be made, signed or delivered a false document;
- (d) being a person required under this Ordinance to answer any question, refuses to answer any question, refuses to answer or gives a false answer;

and he is liable on conviction of that offence to a fine not exceeding £100.

- (2) A person commits an offence who -
  - (a) being a public officer or a person who is, or has been, employed in taking a census, without lawful authority publishes or communicates to any person any information acquired by him in the course of taking or preparing a report of, that Census;
  - (b) having possession of any information which he knows or believes or ought reasonably to know has been disclosed in contravention of this Ordinance, without lawful authority publishes or communicates that information to any other person,

and he is liable on conviction of that offence to a fine not exceeding £1000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

7. The Census Ordinance is repealed.

Repeal (Cap. 8.

### **OBJECTS AND REASONS**

To replace the Census Ordinance (Cap. 8), which was enacted in 1901 and amended in 1950 with more suitable legislation.

### The Livestock (Amendment) Bill 1990

(Cap 40)

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Clause

- 1. Short Title.
- 2. Amendment of Ordinance.

# A Bill for An Ordinance to amend the Livestock Ordinance

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

- 1. This Ordinance may be cited as the Livestock (Amendment) Ordinance 1990 and shall Short title come into force on the date of its first publication in the Gazette.
- 2. The Livestock Ordinance is amended by replacing Form 4 in the first schedule with the new Form 4 set out in the schedule to this Ordinance.

  Amendment of Ordinance.

Ref: AGR/10/2.

### **OBJECTS AND REASONS**

To substitute a more up to date form of return for Form 4.

### LIVE STOCK ORDINANCE

	Form 4	(Section	40)			
Annual return	n for the	year end	ing 31s	st May 19.		
Farm Name		Ow	ner			
Brand for horses and cattle	·	Ea	rmark f	or sheep		
	S	HEKP				
Number	r of shee	p on 31st	May 19	9		
RAMS RAM EWES HOGGS Maiden Breeding	WETHERS			WETH.		TOTAL
	г	AMBS		•		·
Total ewes mated	RAM		ETHER	TOTAL		
Number at first marking Number marked during year Total marked at 31st May	Ξ	= =			% LA	EDING EWES
STOCK DISE	POSED OF			STO	OCK ACQU	IRED
TYPE	DE	STINATION	TOTAL	AL TYPE ORIG		TOTAL
SHEEP-BREEDING/WOOL - SHEEP-BREEDING/WOOL - WE SHEEP-BREEDING/WOOL - SHEEP-EXPORTED SHEEP-MUTTON/STANLEY SHEEP-KILLED ON FARM SHEEP-KILLED ON FARM FOR MOTHER STOCK	RAMS					
		SHEARING				
Number of sheep sh	orn betwe	een 1st J	une 19.	. and 31s	st May 1	9
Hoggets	Other	r sheep	Тс	otal		
	W	OOL CLIP				
Total wool sh Total camp/ot Total wool ba	her wool			nett	kg .	
GROSS WOOI	SALES FO	OR LAST C	ALENDAF	R YRAR		
Total weight of wool sold 1 Total value of wool sold 1						

### TOTAL POPULATION ON 31st MAY

MALE	FEMALE	TOTAL	TOTAL	LABOUR	BOYS	UNDER 1	.8 (	INCLUDE	D IN	TOTA	AL LAI	BOUR)	
		<u> </u>			н	DRSKS							
STALI	LIONS	BROOD 1	1ARES	FOALS	YI	EARLINGS	& &	2 YR.OL	DS	ALL (	OTHER	TOTAL	
					C	ATTLE			1				
BULLS	5	COWS	-	CALVES	YI	EARLINGS	S &	2 YR.OI	DS	ALL (	OTHER	TOTAL	
						DOGS							
BITCH	ies			DOGS				PUPS(Ur	der	6 mo	nths)	TOTAL	
						SMINK	1						
BOARS	ARS BREEDING SOWS & GILTS ALL UNDER				R 6	6 MONTHS TOTAL			L				
					P	OULTRY							
HENS			C	COCKS			PU	JLLETS				TOTAL	
		<u></u>									1+1		
	GEESE				UND	KR CULT	[VA]		RKEY	5		•••	
AREA	SOWN: C	ATS ARI	EA SOV	N:GRASS	AREA	SOWN: O'	THE	R CROPS	ARE	A MOW	N FOR	GRASS	HA

I solemnly declare that the foregoing is to the best of my knowledge and belief a correct and accurate statement.

### Signature

NOTE: This return must be made to The Department of Agriculture on or before 30th June in each year.

### The Road Traffic (Special Provisions) Bill 1990

### **EXPLANATORY MEMORANDUM**

### Introductory

The Road Traffic Ordinance effectively prevents the holding of motor rallies and the like in the vicinity of Stanley. This is because the definition of "road" in that Ordinance. "Racing" is prohibited under that Ordinance if it takes place on a road. "Racing" would probably include time trials.

Additionally people who do not hold a driving licence and motor vehicle insurance cannot drive on a "road". This has the effect that young people in Stanley cannot practice driving a motor vehicle of any kind before they are old enough to obtain a driving licence.

### The Bill

The Bill seeks to make special provision enabling these problems to be overcome. It has four comparatively short clauses all of which are self-explanatory. The Bill does not amend the Road Traffic Ordinance but would confer exemptions, in the circumstances specified in and subject to the provisions of the Bill, from the provisions of that Ordinance.

### The Road Traffic (Special Provisions) Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Clause

- 1. Short Title.
- 2. Interpretation.
- 3. Exemptions from provisions of principal Ordinance.
- 4. Saving.

### A Bill for An Ordinance

to make provision so as to enable motor vehicles in special circumstances to be driven without insurance or without a policy of insurance, or both, on roads where it would otherwise be unlawful to do so; and to exclude the provisions of the Road Traffic Ordinance in specified circumstances

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

1. This Ordinance may be cited as the Road Traffic (Special Provisions) Ordinance 1990.

Short title.

2. In this Ordinance -

Interpretation.

"Driver's Licence", "Motor Vehicle" and "Road" all have the same meaning as they have under the principal Ordinance;

"the principal Ordinance" means the Road Traffic Ordinance;

(Cap 60)

"without insurance" means without compliance with the provisions of section 6 of the principal Ordinance.

3. (1) Subject to subsection (2) below, the Governor may, if he considers it desirable to enable a motor vehicle to be driven on a road —
 (a) by a person who does not hold a driver's licence of a class enabling him to

Exemptions from provisions of principal Ordinance.

- drive that vehicle;
- (b) without supervision by a person who does hold such a licence;
- (c) without insurance,

or any one or more of the foregoing, by notice complying with subsection (3) below permit a motor vehicle so to be driven.

- (2) A notice under this section shall not be promulgated
  - (a) in respect of any paved road;
  - (b) in respect of any road within the boundaries of Stanley which is a street, thoroughfare, highway, lane, court, alley or passage; or
  - (c) any road outside Stanley which by Order under the principal Ordinance has been declared to be a public road,

but may, except as provided above, be prolongated in respect of any land which would otherwise be a road.

- (3) A notice under this section shall be published in the Gazette and shall specify -
  - (a) the road or roads to which it relates;
  - (b) the period of its validity;
  - (c) the occasions or purposes or both to which it relates; and
  - (d) the person or persons to which the notice relates;
  - (e) the class or classes or motor vehicles to which it relates.
- (4) In addition to the matters required by subsection (3) above to be specified in a notice under this section, such a notice may specify conditions subject to which the exemption conferred by subsection (5) below shall have effect. Such conditions, without prejudice to the generality of the foregoing may require
  - (a) the provision of marshals or other supervisors;
  - (b) the provision of safety barriers fences or ropes or other equipment intended to protect members of the public present as spectators or otherwise; and
  - (c) the taking, out by any club or association whose members have the benefit of any such exemption, of a policy or policies of insurance in such amounts, and against such risks as may be specified in respect of any liability at law to any third party.
- (5) A person to whom a notice under this section relates who drives a motor vehicle to which it relates, on a road to which it relates, and in accordance with such terms and conditions of the notice as relate to him, does not commit an offence under the provisions of the principal Ordinance and to that extent (but to that extent only) from the provisions of that Ordinance do not apply.
- 4. Nothing in the provisions of this Ordinance or any notice under section 3 above shall saving.
  - (a) exempt any person from any liability at law to any other person;
  - (b) render it lawful for any person to use any land owned by any person (including the Crown) except with the permission of that person and that of any other person in lawful occupation of the land;
  - (c) exclude the operation of any law as to nuisance public or private.

### **OBJECTS AND REASONS**

The purposes of this Bill are to enable "roads" (within the meaning of that word under the Road Traffic Ordinance), subject to the provisions of this Bill, to be used for such purposes as motor rallies, "auto-cross", "motor cycle cross" or as training areas in which young persons and others may practice their driving skills, and without compliance with the provisions of the Road Traffic Ordinance.

### The Education (Amendment) Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. The principal Ordinance. (No. 9 of 1989).
- 3. Amendment of the principal Ordinance.

## A Bill for An Ordinance to amend the Education Ordinance 1989

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

- 1. This Ordinance may be cited as the Education (Amendment) Ordinance 1990.
- 2. In this Ordinance "the principal Ordinance" means the Education Ordinance 1989.
- 3. The principal Ordinance is amended -
  - (a) in section 12(1) by the deletion of the words "Scholarships and Awards Committee" and the substitution in their place of the words "Scholarships and Training Awards Committee".
  - (b) in section 77(2) by the deletion of the words "Scholarships Committee" and the substitution in their place of the words "Scholarships and Training Awards Committee".

Short title.

The principal Ordinance. (No. 9 of 1989).
Amendment of

Amendment of the principal Ordinance.

### **OBJECTS AND REASONS**

To change the title of a particular Committee of the Board of Education.

### The Limited Partnerships Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

### Section

- 1. Short Title and commencement.
- 2. Adoption of Limited Partnership Act 1907.

### A Bill for

### An Ordinance

### to adopt, subject to modifications and adaptations the Limited Partnerships Act 1907 as law of the Falkland Islands

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

1. This Ordinance may be cited as the Limited Partnerships Ordinance 1990 and shall come into operation on 1st July 1990.

Short title and

2. The Limited Partnerships Act 1907 is adopted as law of the Falkland Islands subject

(7. Edw 7c.24) to the modifications and exceptions set out in the Schedule below.

Adoption of Limited Partnership Act 1907. (7. Edw 7c.24)

### SCHEDULE

(section 2)

Modifications and adaptations of Limited Partnerships Act 1907 in it application to the Falkland Islands

- 1. In section 7 of the Act the words "the Companies and Private Partnerships Ordinance" shall be inserted immediately after the words "Partnership Act 1890" and the words "and Ordinance" shall be inserted after the words "last-mentioned Act".
- 2. (a) Section 8 of the Act shall become subsection (1) of that section;
  - (b) after the words "delivering to" in subsection (1) there shall be inserted the words "the Registrar General" and all words thereafter to the end of the subsection shall be omitted;
  - (c) there shall be added a new subsection (2) -
  - "(2) The Registrar General shall keep an index of the names of limited partnerships registered under this Act in it application to the Falkland Islands".
- 3. Section 10(2) is replaced by the following -
  - "(2) For the purposes of this section, "the Gazette" means the Falkland Islands Gazette.
- 4. Section 14 is replaced by the following —

"The Registrar General shall keep a register of all limited partnerships registered and of all statements registered in relation to such partnerships".

- 5. Section 15 is omitted.
- 6. In section 16(1)
  - (a) the words "Registrar General" shall be substituted by the words "Registrar";
  - (b) the words "the Governor" shall be substituted for the words "the Board of Trade" wherever appearing;
  - (c) the words "£1" shall be substituted for the words "5p" and the words "£2" shall be substituted for the words "10p" and the words "40p" shall be substituted for the words "2p";
  - (d) the words "or in Scotland" onwards to the end of the subsection shall be omitted.
- 7. Section 17 shall be omitted.

### **OBJECTS AND REASONS**

To adopt, subject to modifications, the Limited Partnership Act 1907 as law of the Falkland Islands.



# THE FALKLAND ISLANDS GAZETTE Supplement

### PUBLISHED BY AUTHORITY

Vol. 1 15th MAY 1990 No. 6

The following is published in this Supplement —

The Highways (Building Lines) Bill 1990.

### The Highways (Building Lines) Bill 1990

### ARRANGEMENT OF PROVISIONS

### Clause

- I. Short title.
- 2. Interpretation.
- 3. Building line.

### A Bill for An Ordinance

to provide for building lines in respect of buildings in proximity to roads and streets.

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

1. This Ordinance may be cited as the Highways (Building Lines) Ordinance 1990.

Short title.

2. In this Ordinance -

Interpretation.

"building" includes any erection other than a fence or boundary wall not forming part of any other erection, however, and with whatever material, the building is constructed;

"new building" means any building construction of which is begun after the commencement of this Ordinance and includes any addition to a building which existed at the commencement of this Ordinance.

3. (1) There is hereby prescribed a building line of five metres from any boundary of any piece of land measured from the nearest adjoining foothpath, road or street.

Building line.

- (2) No new building shall be erected nearer to a footpath, road or street than the building line unless the Building Committee have consented in writing to that erection, with or without conditions, and any such conditions have been and continue to be complied with.
- (3) A condition to which subsection (2) above refers is binding on the successor in title to every owner, and on every lessee and every occupier of any land to which it relates.
- (4) A person who contravenes subsection (2) commits an offence and is liable to a fine not exceeding £500; and if the offence is continued after conviction to a further fine of £20 for each day on which the offence is continued.
- (5) The Building Committee shall not unreasonably refuse consent under subsection (2) above or impose any unreasonable condition on the grant of any such consent. A person aggrieved by such a decision may appeal in writing within six weeks of the decision to the Governor who, on the advice of the Executive Council may quash or vary that decision in such manner as he may be so advised. If he does so the decision of the Governor on such an appeal shall have effect, to the relevant extent, as if it were the decision of the Building Committee under subsection (2) above.

### **OBJECTS AND REASONS**

To impose a building line in the interests of the safety of the public.



# THE FALKLAND ISLANDS GAZETTE

### Supplement

### PUBLISHED BY AUTHORITY

Vol. 1

MAY 1990

No. 7

### LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

Customs Ordinance (Cap. 16) (Section 5)

### RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 3 of 1990

BE IT RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Cap. 16), on the 28th day of May 1990, as follows —

- 1. That the Customs Order No. 6 of 1948 be amended by the substitution for paragraph 2 thereof of the following
  - '2. The following import duties of customs shall be payable -

Item	Article	Rate of Duty
1.	Beer, ale, perry, porter, spruce, cider and stouts of all kinds (per litre)	£0.16
2.	SPIRITS - Whisky, Gin, Rum, Brandy, Vodka and other spirituous liquors and liquers (per litre)	£6.22
3.	WINES - Still wines, sparkling wines and champagne (per litre)	£0.41
4.	Vermouth, sherry and port (per litre)	£0.50
5.	TOBACCO —  (a) Cigars (per kilo)  (b) Cigarettes (per kilo)  (c) Tobacco (per kilo)	f43.26 £31.28 f28.43

2. This Resolution may be cited as the Customs (Amendment of Import Duties) Resolution 1990 and shall come into force on the 28th day of May 1990.

P. T. KING, Clerk of Councils.

Ref: CUS/10/2.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 1 1st JUNE 1990 No. 8

The following are published in this Supplement —

Proclamation No. 1 of 1990;

The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990, (S. R. & O. No. 3 of 1990).

# **PROCLAMATION**

No. 1 of 1990

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, Companion of the Most Distinguished Order of Saint Michael and Saint George, 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 that any such Proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such period as may be specified therein, and that any such Proclamation either absolutely prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in that Proclamation, or importation or exportation to any particular place named in the Proclamation;

AND WHEREAS the Convention on International Trade in Endangered Species applies in relation to the Falkland Islands;

AND WHEREAS the said Convention obliges the Falkland Islands to take measures to prevent or restrict international trade in endangered species or parts thereof in accordance with the decisions of the States Parties to the said Convention and such states Parties have agreed in accordance therewith that such measures should be taken in respect of the tusks of the African Elephant (Loxodonta Africana) and ivory and objects made from a containing ivory derived from such tusks (hereafter in this Proclamation all called "ivory");

NOW THEREFORE I, WILLIAM HUGH FULLERTON do PROCLAIM that with effect from the date of the first publication of this Proclamation in the Falkland Islands Gazette —

FIRSTLY: That the importation from any place of ivory in all forms is prohibited EXCEPT where shown to form part of the personal or household effects of the person importing the same and that person has prior to the time of importation obtained a licence granted by or with the authority of the Governor to import the said ivory; AND EXCEPT objects of art manufactured from ivory where the ivory is shown to have been acquired before the date of such publication of this Proclamation and otherwise than in contravention of the said Convention and in so far as this exception applies only if the importation takes place in accordance with a licence granted by or with the authority of the Governor it being my intention, however, that no such licence shall be granted for the importation of hunting trophies containing ivory whether acquired before or after such publication of this Proclamation;

SECONDLY: That the exportation to any place of ivory in all forms is prohibited EXCEPT where it is shown to have been imported prior to such publication of this Proclamation or to have been imported under a licence granted as aforesaid;

THIRDLY: That this Proclamation shall remain in effect until the revocation hereof;

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, this 20th day of April in the year of Our Lord One thousand Nine hundred and Ninety and the thirty-ninth year of Her Majesty's Reign.

W. H. FULLERTON, Governor.



GOD SAVE THE QUEEN

# The Fisheries (Conservation and Management) Ordinance 1986

(Section 20)

# The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990 (S. R. & O. No. 3 of 1990)

## ARRANGEMENT OF PROVISIONS

#### Part I

## Introductory

#### Clause

- 1. Citation and Commencement.
- 2. Interpretation.

#### PART II

#### Measurement of Net Meshes

- 3. Net Meshes and their measurement : introductory.
- 4. Use of Guages.
- 5. Determination of mesh size.
- 6. Measurement procedure.

#### PART III

## Use of Supplementary Trawl Net Equipment

- 7. Use of strengthening bags.
- 8. Use of belly chafters.
- 9. Use of top chafers.
- 10. Use of chafing pieces.
- 11. Use of codlines.
- 12. Use of lifting straps.
- 13. Use of round straps.
- 14. Use of strengthening ropes.
- 15. Use of flappers.
- 16. Use of torquettes.
- 17. Use of trouser codends.
- 18. Offences and defences.
- 19. Application.
- 20. Exemption.

#### SUBSIDIARY LEGISLATION

# The Fisheries (Conservation and Management) Ordinance 1986 (Section 20)

# The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990

(S. R. & O. No. 3 of 1990)

Made: 29th May 1990

Coming into operation: on publication

Published: 1st June 1990

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 I make the following Order —

#### PART I

#### Introductory

1. (1) This Order may be cited as the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990 and shall come into force on the date 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 (and is hereinafter described as) the 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.

"trawl net" means any netting howsoever designed, made-up or conformed which may be used for the purpose of catching, entrapping or trawling for fish;

"permitted trawl net" means a trawl net which has a minimum mesh size as prescribed in writing by the Director of Fisheries in the conditions applicable to fishing licences and determined in accordance with the provisions of Part II of these Regulations;

"authorised gauge" means a measuring instrument which shall be two millimetres thick, flat, of durable material and capable of retaining its shape. It shall have either a series of parallel-edged sides connected by intermediate tapering edges with a taper of one to eight on each side, or only of tapering edges with the taper defined above. It shall have a hole at the narrowest extremity and shall be inscribed on its face with the width in millimetres both on the parallel-sided section, if any, and on the tapering section and in the case of the latter the width shall be inscribed at every one millimetre interval and the indication of the width shall appear at regular intervals;

"weight" means any weight or weights certified by the Governor as being suitable for use for the purposes of these Regulations;

"top chafer" means any device the purpose of which is to protect the top or side panels of the codend from wear and tear during fishing;

"belly chafer" means any device the purpose of which is to protect the under-side of the net from wear and tear during fishing;

"codend" means the rearmost part of the trawl net having either a cylindrical shape (ie the same circumference throughout) or a tapering shape;

"strengthening bag" means any device which is used to strengthen the codend and to prevent it from bursting when filled with fish and when the trawl net is hauled on board;

"chafing piece" means any device the purpose of which is to prevent the lifting strap from cutting the mesh of the codend or a strengthening bag;

"codline" means any device the purpose of which is to close the codend;

"lifting strap" means any device the purpose of which is to make it possible to close off the rear section of the codend in order to facilitate its loading aboard a fishing boat;

"round strap" means any device the purpose of which is to limit the extension of the diameter of the codend;

"flapper" means any device which when used with a trawl net has the effect of allowing fish to pass from the front to the back of the trawl net but to limit their possibility of return;

"strengthening rope" means any device the purpose of which is to strengthen the trawl net or to prevent stone and debris from reaching the codend;

"torquette" means any device the purpose of which is to improve the closing of the codend by the codline;

"trouser codend" means any device the purpose of which is to reduce the risk of a total loss of catches of fish when fishing on rough ground; and

"the Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986;

"fish", "fishing waters", "fishing", "Fisheries Protection Officer" and "fishing boat" all have the same meaning as they have under the Ordinance;

"supplementary trawl net equipment" means any belly chafer, top chafer, codend, strengthening bag, chafing piece, codline, lifting strap, round strap, flapper, strengthening rope, torquette, trouser codend or any other device which, when used for the purpose of fishing with a trawl net, is designed to enhance the efficiency of the trawl net.

#### PART II

#### Measurement of Net Meshes

- 3. The mesh size of a trawl net carried upon or deployed on board or from a fishing boat within the fishing waters shall be measured in the following manner
  - (1) The trawl net shall be stretched in the direction of the long diagonal of the meshes.
- (2) An authorised gauge shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the trawl net.
- (3) The authorised gauge shall be inserted into the mesh opening either with a manual force or using a weight, until it is stopped at the tapering edges by the resistance of the mesh.
- (4) Meshes to be measured shall form a series of twenty consecutive meshes chosen in the direction of the long axis of the trawl net provided that the meshes to be measured need not be consecutive if the application of paragraph (5) below prevents it.
- (5) Meshes less than fifty centimetres from lacings, ropes or codline (measured perpendicular to the lacings, ropes or codline with the net stretched in the direction of the measurement) shall not be measured nor shall any mesh be measured which has been mended broken or has attachments to the trawl net fixed at that mesh.
  - (6) Trawl nets shall only be measured when wet and unfrozen.
- 4. The size of each mesh shall be the width of the authorised gauge at the point where the authorised gauge is stopped, when using the authorised gauge in accordance with regulation 3 above.

5. (1) The mesh size of a trawl net shall be the arithmetical mean (rounded up to the nearest millimetre) in millimetres of the measurements of the total number of meshes selected and measured as provided for in regulations 3 and 4 above.

- (2) For the purposes of this regulation the "total number of meshes" shall mean the total number as provided for in regulation 6 below.
- 6. (1) A Fisheries Protection Officer shall measure one series of twenty meshes selected in accordance with the provisions of regulation 3 above by inserting an authorised gauge manually without using a weight and the mesh size of the trawl net shall then be determined in accordance with the provisions of regulation 5 above.

Net meshes and their measurement: introductory.

Use of guages.

Determination of mesh size.

Measurement procedure.

- (2) If, following the procedure stipulated in paragraph (1) above, the calculation of the mesh size shows that the mesh size is less than that of a permitted trawl net, two additional series of twenty meshes selected in accordance with the provisions of regulation 3 above shall be measured as provided for in paragraph (1) above and the mesh size shall be determined in accordance with the provisions of regulation 5 above, taking into account the sixty meshes that have been measured.
- (3) Subject to the provisions of paragraph (4) below, the result of the calculation obtained from following the procedure stipulated in paragraph (2) above shall be the mesh size of the trawl net.
- (4) If the master of the fishing boat upon which the trawl net is carried or on board or from which the trawl net is deployed, as the case may be, does not accept the mesh size of the trawl net as determined pursuant to paragraph (3) above, a Fisheries Protection Officer shall measure one series of twenty meshes selected in accordance with the provisions of regulation 3 above by inserting an authorised gauge with a weight fixed to the hole in the narrowest extremity of the authorised gauge using a hook or other suitable device so as to produce a force of 49.03 newtons (equivalent to a mass of five kilograms) and the mesh size shall be determined in accordance with the provisions of regulation 5 above, taking into account only the twenty meshes that have been measured and the result of the calculation obtained from following the procedure stipulated in this paragraph shall be the mesh size of the trawl net.

#### PART III

#### Use of Supplementary Trawl Net Equipment

7. Subject to these Regulations a strengthening bag may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of strengthening bags.

- (a) no more than one strengthening bag may be used;
- (b) the mesh size of a strengthening bag must be equal to at least one and a half times that of a permitted trawl net determined in accordance with the provisions of Part II of these Regulations;
- (c) if a strengthening bag is constructed of sections of cylindrical netting, the sections may not overlap by more than four meshes at the points of attachment;
- (d) a strengthening bag which is attached to a trawl net shall not extend more than two metres in front of the forward round strap where used;
- (e) in circumstances in which a round strap is not used a strengthening bag must not extend forward of the codend.
- 8. Subject to these Regulations a belly chafer may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of belly chafers.

- (a) a belly chafer may only be used if a strengthening bag is not used;
- (b) where a belly chafter constructed of netting is used and is attached by both its front and side edges, only one such belly chafer may be used provided that it shall be attached only to the outside and to the lower half of the trawl net and its mesh size must be equal to at least one and a half times that of a permitted trawl net determined in accordance with the provisions of Part II of these Regulations;
- (c) more than one belly chafer may be used at the same time provided that
  - (i) they are attached by their forward edges only to either the outside of the codend or, where a belly chafer constructed of netting is used and attached as permitted in paragraph (b) above, to the outside of such belly chafer; and
  - (ii) they do not overlap by more than four hundred and fifty millimetres.
- 9. Subject to these Regulations a top chafer may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of top chafers.

- (a) a top chafer may only be used if a strengthening bag is not used;
- (b) a top chafer shall be formed of any rectangular piece of netting which must be made of twine which has the same diameter as that of which the codend is made and have a mesh size equal to one and a half times that of a permitted trawl net determined in accordance with the provisions of Part II of these Regulations;
- a top chafer may completely cover the upper half of the codend provided that it is attached only by its front and side edges;
- (d) a top chaser which is attached as permitted by paragraph (c) above to a codend shall not extend more than two metres in front of the forward round strap where used;
- in circumstances in which a round strap is not used a top chafer must not extend forward of the codend;
- it is not permitted to use more than one top chafer at any time.
- 10. Subject to these Regulations a chafing piece may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of chafing piece.

- a chafing piece may not be used if a lifting strap is not attached to the codend;
- (b) it is not permitted to use a chafing piece which is more than one metre long;
- a chafing piece may be attached only in front of and behind each lifting strap;
- (d) the mesh size of a chafing piece shall be at least equal to that of a permitted trawl net;
- the circumference of a chafing piece shall not be greater than the circumference of the codend or strengthening bag in connection with which it is used. The circumference of the chafing piece shall be compared to that of the codend or the strengthening bag in connection with which it is used by strengthening them with the same force.
- 11. Subject to these Regulations a codline may be used for fishing within the fishing waters Use of codline. provided that it complies with the following conditions —

- the codline shall be attached at a distance which is not more than one metre from the rear meshes of the codend which may be folded back into the codend provided that if a torquette complying with the provisions of regulation 16 below is attached, the codline shall be passed through the rear most meshes of the codend;
- (b) more than one codline may be used per trawl net;
- a cod line may not enclose a belly chafer or top chafer.
- 12. Subject to these Regulations a lifting strap may be used for fishing within the fishing waters provided that the minimum length of a lifting strap shall conform to the same rules as those governing a round strap as provided in regulation 13 below provided that the lifting strap nearest to the codline may be shorter.

Use of lifting

13. Subject to these Regulations a round strap may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of round straps.

- the length of a round strap shall be no smaller than the circumference of the codend measured with meshes stretched;
- the distance separating two successive round straps shall be not less than one
- a round strap may encircle the strengthening bag or a top chafer or belly chafer.
- 14. Subject to these Regulations a strengthening rope may be used for fishing within the fishing waters provided that it is not attached inside a codend.

Use of strengthening ropes. Use of flappers.

- 15. Subject to these Regulations a flapper may not be used for fishing within the fishing waters.
- 16. Subject to these Regulations a torquette may be used for fishing within the fishing waters provided that it complies with the following conditions —

Use of torquettes.

- (a) the mesh size shall not be less than that of a permitted trawl net;
- (b) a torquette shall be attached at its forward edge only and no further forward than the last five meshes of the codend and shall not extend backwards more than one metre from the rear of the last meshes of the codend.
- 17. Subject to these Regulations a trouser codend may not be used for fishing within the fishing waters

Use of trouser codends.

18. The master owner and charterer of any fishing boat on board or from which -

Offences and

defences.

- (a) any trawl net, other than a permitted trawl net;
- (b) any supplementary trawl net equipment, other than supplementary trawl net equipment permitted by the provisions of these Regulations; or
- (c) any codend lining, other than a lining permitted by the provisions of these Regulations,

is deployed each commits an offence.

- (2) The master owner and charterer of any fishing boat upon which
  - (a) any trawl net, other than a permitted trawl net;
  - (b) any supplementary trawl net equipment, other than supplementary trawl net equipment permitted by the provisions of these Regulations; or
  - (c) any codend lining, other than a lining permitted by the provisions of these Regulations,

is carried each commits an offence provided that it shall be a defence in any prosecution of an offence under this paragraph for the master owner or charterer, as the case may be, to prove that any trawl net supplementary trawl net equipment or codend lining in respect of which the charge is brought was, at the material time or times, permanently stowed on board ship and, in the case of a codend, was, at the material time or times detached from any trawl net.

19. These Regulations shall only apply to fishing boats holding licences to fish within the Falkland Islands Interim Conservation and Management Zone.

Application.

20. Notwithstanding any other provision of these Regulations the Director of Fisheries may in his discretion exempt any fishing boat from the provisions of these Regulations in whole or in part and for such period or periods as he may prescribe in writing.

Exemptions.

Made this 29th day of May 1990.

W. H. FULLERTON,

Governor.



# THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 1

15th JUNE 1990

No. 9

The following are published in this Supplement —

The Appropriation Ordinance 1990 (No. 4 of 1990);

The Old Age Pensions (Amendment) Ordinance 1990 (No. 5 of 1990);

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1990 (No. 6 of 1990);

The Livestock (Amendment) Ordinance 1990 (No. 7 of 1990);

The Swimming Pool (Trust Fund) (Amendment) Ordinance 1990 (No. 8 of 1990);

The Census Ordinance 1990 (No. 9 of 1990);

The Education (Amendment) Ordinance 1990 (No. 10 of 1990);

The Media Trust (Amendment) Ordinance 1990 (No. 11 of 1990);

The Road Traffic (Special Provisions) Ordinance 1990 (No. 12 of 1990);

The Limited Partnerships Ordinance 1990 (No. 13 of 1990);

The Highways (Building Lines) Ordinance 1990 (No. 14 of 1990);

The Merchant Shipping Act 1979 (Overseas Territories) Order 1989 (S.I. 1989 No. 2400).

# The Appropriation Ordinance 1990

(No. 4 of 1990)

## ARRANGEMENT OF PROVISIONS

- 1. Short title.
- 2. Appropriation of £40,556,950 for the service of the year 1990 1991.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Appropriation Ordinance 1990

(No. 4 of 1990)

#### An Ordinance

to provide for the Service of the Financial Year commencing on 1st July 1990 and ending on 30th June 1991.

(assented to: 8th June 1990) (commencement: 1st July 1990) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Appropriation Ordinance 1990.
- 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 1990 and ending on 30th June 1991 ("the financial year"), sums not exceeding in aggregate the sum of forty million, five hundred and fifty six thousand, nine hundred and fifty 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 £40,556,950 for the service of the year 1990-1991.

#### **SCHEDULE**

Number			Head	l of Serv	£				
PART I	OPERATING BU	DGET							
100	Aviation	***		***		•••	•••		1,379,770
150	Posts and Teleco	mmunic	ations	***			•••		408,140
200	Medical	•••		***				***	1,643,110
250	Education and T	raining						***	1,542,780
300	Customs and Ha	rbour	***				*14	444	274,390
320	Fisheries					***	***	***	6,219,020
350	Public Works	•••		***	•••		100		5,070,890
390	Fox Bay Village		***	***		***	•••	•••	7 <b>9,2</b> 10
400	Agriculture	***	***				***	***	690,400
450	Justice	***	***	***	***	***	***		261,740
500	Military	***		***	***		***	***	152,790
550	Police, Fire and	Rescue S	Service		***	•••	***	***	518,170
600	Secretariat, Treas	ury and	Central	Store			•••		2,735,670
650	Pensions and Gra	atuities	***			•••	***		270,400
700	Social Welfare					•••	•••		473,500
750	The Governor	***	***	***		•••	***		137,710
800	Legislature					•••	•••	***	185,130
850	Falkland Islands	Govern	ment Of	fice	***			***	274,960
880	F.I.D.C. Funding				•••		•••	•••	92,000
900	Income Tax Refu	ınds				•••			160,000
AL OPER	ATING EXPENDI	TURE							22,569,780
T 2 - CA	PITAL BUDGET								
951	Expenditure	***	***	***		***		***	17,987,170
AL EXPE	NDITURE								40,556,950

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Old Age Pensions (Amendment) Ordinance 1990

(No. 5 of 1990)

# ARRANGEMENT OF PROVISIONS

- 1. Short Title and Commencement.
- 2. The principal Ordinance.
- 3. Repeal and replacement of section 6 (2) of the Principal Ordinance.
- 4. Repeal and replacement of section 6B 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 1990

(No. 5 of 1990)

An Ordinance to amend the Old Age Pensions Ordinance 1952.

(assented to: 8th June 1990) (commencement: 2nd July 1990) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) Ordinance 1990 and shall come into force on 2nd July 1990.

Short title and Commencement.

- 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.

Repeal and replacement of

- "(2) Subject to the provisions of this Ordinance
  - (a) Every employed male person and every employed female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £4.20 per week if between the ages of 17 and 64 years;
  - (b) every employer of an employed person or a female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £6.30 per week if the employed male person or female contributor is between the ages of 17 and 64 years;
  - (c) every self-employed male person and every self-employed female contributor shall be liable to pay weekly contributions at the rate of £10.50 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 —

section 6B of nent of the principal Orfemale dinance.

"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 £3,600 or more per annum together with an additional sum of £900 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 £3,600 per annum together with an additional £900 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 .. .. .. .. .. .. .. £73 per week.

Unmarried man, or widower, or man whose marriage has been dissolved by decree of a competent court, or man separate or living apart from his wife who cannot prove that he is contributing to her support . .. .. .. £47 per week.

Widow of pensioner during widowhood . .. .. .. .. £47 per week.

Unmarried female contributor or a married female contributor not living with or being maintained by her husband ... .. £47 per week.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Non-Contributory Old Age Pensions (Amendment) Ordinance 1990

(No. 6 of 1990)

## ARRANGEMENT OF PROVISIONS

- 1. Short Title and Commencement.
- 2. The principal Ordinance.
- 3. Replacement of Schedule.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Non-Contributory Old Age Pensions (Amendment) Ordinance 1990

(No. 6 of 1990)

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

(assented to: 8th June 1990) (commencement: 2nd July 1990) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Non-Contributory Old Age Pensions Ordinance 1990 and shall come into force on the 2nd July 1990.

Short title and

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 £63	
Unmarried person	
Man or woman separated or living apart from his or her spouse . £45	

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Livestock (Amendment) Ordinance 1990

(Cap 40)

(No. 7 of 1990)

## ARRANGEMENT OF PROVISIONS

- 1. Short Title.
- 2. Amendment of Ordinance.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Livestock (Amendment) Ordinance 1990

(Cap 40)

(No. 7 of 1990)

# An Ordinance to amend the Livestock Ordinance.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Livestock (Amendment) Ordinance 1990 and shall Short title. come into force on the date of its first publication in the Gazette.
- 2. The Livestock Ordinance is amended by replacing Form 4 in the first schedule with the new Form 4 set out in the schedule to this Ordinance.

  Amendment of Ordinance.

Ref: AGR/10/2.

## FALKLAND ISLANDS LIVE STOCK ORDINANCE

# Form 4 (Section40)

Annual return for the year ending 31st May 19...

Farm Name								Owner						
Brand	for h	orses a	nd cattle				Ear	mark	for	sheep.			_	
					S	HERP								
			Number	of sl	hee	p on 3	1st	May	19					
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BULLS	S	COWS		CALVES	YE	ARLING	S &	2 YR_OL	DS	ALL OT	HKR	TOTAL	
				<u> </u>	D	ogs		<u> </u>					
BITCHES				DOGS				PUPS(Under 6 months			hs)	TOTAL	
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								Signa	ture				

NOTE: This return must be made to The Department of Agriculture on or before 30th June in each year.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Swimming Pool (Trust Fund) (Amendment) Ordinance 1990 (No. 8 1990)

## ARRANGEMENT OF PROVISIONS

- 1. Short Title.
- 2. Amendment of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., GOVERNOR.

The Swimming Pool (Trust Fund) (Amendment) Ordinance 1990.
(No. 8 of 1990)

An Ordinance to amend The Swimming Pool (Trust Fund) Ordinance 1987.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Swimming Pool (Trust Fund) (Amendment) Ordinance 1990

Short title.

- 2. Subsection (1) of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987 is repealed and replaced by the following new subsection (1)
- Amendment of section 5 of the Swimming Pool (Trust Fund) Ordinance 1987.
- "(1) The Trust Fund may be expended subject to Subsection (3), for the following purposes
  - (a) upon the cost of obtaining a feasibility study or studies as to the siting, construction, design and operation of a swimming pool;
  - (b) the cost of acquiring, levelling or otherwise preparing land in Stanley for the construction or building of a swimming pool, including the cost of obtaining any necessary easements, wayleaves or other rights necessary to enable the swimming pool to be constructed or built and when constructed or built to be operated as a public swimming pool;
  - (c) the cost of constructing or building a swimming pool, including labour costs, the cost of construction and building materials and architect's engineering design and any other consultancy or professional fees incurred in connection with the construction and building of a swimming pool;
  - (d) the cost of obtaining or providing electricity, water or other services to the land to be used for construction of a swimming pool, the provision of boundary walls or fences for or in respect of that land, the construction of any necessary or convenient roads, footpaths and parking areas within the land and the cost of land-scaping the land (including if appropriate the planting of trees and shrubs or other plants); and
- (e) the cost of operating a swimming pool when constructed." Ref: Leg/10/65.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Census Ordinance 1990

(No. 9 of 1990)

# ARRANGEMENT OF PROVISIONS

- L Short Title.
- 2. Power to direct taking of a Census.
- 3. Duty of Registrar General to carry out Census.
- 4. Regulations.
- 5. Preparation of reports.
- 6. Criminal offences.
- 7. Repeal (Cap. 8).



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Census Ordinance 1990

(No. 9 of 1990)

#### An Ordinance

to make new provision for the taking from time to time of a Census in the Falkland Islands and for purposes connected therewith.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows —

- 1. This Ordinance may be cited as the Census Ordinance 1990.
- 2. The Governor may from time to time by Order direct that a Census shall be taken for the Falkland Islands or any part of the Falkland Islands and any Order under this section may prescribe —

Short title

Power to direct taking of a Census.

- (a) the date on which the Census is to be taken;
- (b) the persons by whom and with respect to whom the returns for the purpose of the Census are to be made; and
- (c) the particulars to be stated in the returns.
- 3. (1) It shall be the duty of the Registrar General to make such arrangements and do all such things as are necessary for the taking of a census in accordance with the provisions of this Ordinance and for that purpose to make arrangements for the preparation and issue of the necessary forms and instructions and for the collection of the forms when filled up.

Duty of Registrar General to carry out Census.

- (2) The Registrar General in the exercise of his powers and in the performance of his duties under this Ordinance shall be subject to the control of, and comply with any directions given by the Governor.
- 4. For the purposes of enabling any Order under section 2 above directing a Census to be taken to be carried into effect, the Governor may make regulations —

Regulations.

- (a) requiring public officers and such other persons as may be employed for the purpose of the Census to do such things and perform such duties in connection with the taking of the Census as may be prescribed;
- (b) requiring persons employed for the purpose of the Census to make a statutory declaration as to performance of their duties;
- (c) requiring any person in charge of any boarding-house, hospital, hotel, prison, ship or any other institution prescribed by the regulations to make returns as to the persons living therein or staying thereat;
- (d) requiring information to be given to the persons liable to make returns by the persons with respect to whom the returns are to be made;
- (e) with respect to the forms to be used in the taking of a Census;

- (f) making provision with respect to any other matter in relation to which it is necessary to make provision for the purpose of carrying into effect the provisions of the Order.
- 5. The Attorney General shall, as soon as may be after the taking of a Census prepare reports on the Census patterns and every such report shall be printed and laid before the Legislative Council.

Preparation of reports.

6. (1) A person commits an offence who -

Criminal offences.

- (a) refuses or neglects to do anything he is required by this Ordinance to do;
- (b) being a person required under this Ordinance to make a statutory declaration with respect to the performance of his duties, makes a false declaration;
- (c) being required under this ordinance to make, sign or deliver any document, makes, signs or delivers or causes to be made, signed or delivered a false document;
- (d) being a person required under this Ordinance to answer any question, refuses to answer any question, refuses to answer or gives a false answer;

and he is liable on conviction of that offence to a fine not exceeding £100.

- (2) A person commits an offence who -
  - (a) being a public officer or a person who is, or has been, employed in taking a census, without lawful authority publishes or communicates to any person any information acquired by him in the course of taking or preparing a report of, that Census;
  - (b) having possession of any information which he knows or believes or ought reasonably to know has been disclosed in contravention of this Ordinance, without lawful authority publishes or communicates that information to any other person,

and he is liable on conviction of that offence to a fine not exceeding £1000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

7. The Census Ordinance is repealed. Ref: Leg/7/3B.

Repeal (Cap. 8.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils,

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

P. T. KING, Clerk of Councils.

# The Education (Amendment) Ordinance 1990

(No. 10 of 1990)

## ARRANGEMENT OF PROVISIONS

- 1. Short Title.
- 2. The principal Ordinance. (No. 9 of 1989).
- 3. Amendment of the principal Ordinance.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Education (Amendment) Ordinance 1990

(No. 10 of 1990)

# An Ordinance to amend the Education Ordinance 1989.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows —

- 1. This Ordinance may be cited as the Education (Amendment) Ordinance 1990.
- Short title.
- 2. In this Ordinance "the principal Ordinance" means the Education Ordinance 1989.

The principal Ordinance. (No. 9 of 1989).

3. The principal Ordinance is amended -

- Amendment of the principal Or-
- (a) in section 12(1) by the deletion of the words "Scholarships and Awards Committee" and the substitution in their place of the words "Scholarships and Training Awards Committee".
- (b) in section 77(2) by the deletion of the words "Scholarships Committee" and the substitution in their place of the words "Scholarships and Training Awards Committee".

Ref: EDU/10/1.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Media Trust (Amendment) Ordinance 1990 (No. 11 of 1990)

# ARRANGEMENT OF PROVISIONS

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Amendment of Schedule 1 to the principal Ordinance.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Media Trust (Amendment) Ordinance 1990

(No. 11 of 1990)

# An Ordinance to amend the Media Trust Ordinance 1989.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Media Trust (Amendment) Ordinance 1990.
- 2. In this Ordinance "the principal Ordinance" means the Media Trust Ordinance 1989.
- 3. Paragraph 6 of Schedule 1 of the principal Ordinance is repealed and replaced by the following new paragraph 6 —
- "6. (1) With the consent of the Governor, to open and operate bank accounts for any of the above purposes: provided that all cheques and other bills of exchange shall be signed
  - (a) by two trustees; or
  - (b) in the case of a cheque or other bill of exchange in an amount of £500 or less, by one trustee and the editor of the newspaper.
- (2) Not more than one cheque or other bill of exchange in respect of the same debt or obligation may be signed under the power conferred by subparagraph (1)(b) above". Ref: Leg/10/73.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

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.

Short title.

The principal Ordinance.

Amendment of Schedule 1 to the principal Ordinance.

# The Road Traffic (Special Provisions) Ordinance 1990 (No. 12 of 1990)

# ARRANGEMENT OF PROVISIONS

- 1. Short Title.
- 2. Interpretation.
- 3. Exemptions from provisions of principal Ordinance.
- 4. Saving.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Road Traffic (Special Provisions) Ordinance 1990

(No. 12 of 1990)

#### An Ordinance

to make provision so as to enable motor vehicles in special circumstances to be driven without insurance or without a policy of insurance, or both, on roads where it would otherwise be unlawful to do so; and to exclude the provisions of the Road Traffic Ordinance in specified circumstances.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Special Provisions) Ordinance 1990.

Short title.

2. In this Ordinance —

Interpretation.

"Driver's Licence", "Motor Vehicle" and "Road" all have the same meaning as they have under the principal Ordinance;

"the principal Ordinance" means the Road Traffic Ordinance;

(Cap 60)

- "without insurance" means without compliance with the provisions of section 6 of the principal Ordinance.
- 3. (1) Subject to subsection (2) below, the Governor may, if he considers it desirable to enable a motor vehicle to be driven on a road -

Exemptions from provisions of principal Ordinance.

- (a) by a person who does not hold a driver's licence of a class enabling him to drive that vehicle;
- (b) without supervision by a person who does hold such a licence;
- (c) without insurance,

or any one or more of the foregoing, by notice complying with subsection (3) below permit a motor vehicle so to be driven.

- (2) A notice under this section shall not be promulgated -
  - (a) in respect of any paved road;
  - (b) in respect of any road within the boundaries of Stanley which is a street, thoroughfare, highway, lane, court, alley or passage; or
  - (c) any road outside Stanley which by Order under the principal Ordinance has been declared to be a public road,

but may, except as provided above, be prolongated in respect of any land which would otherwise be a road.

- (3) A notice under this section shall be published in the Gazette and shall specify -
  - (a) the road or roads to which it relates;
  - (b) the period of its validity;
  - (c) the occasions or purposes or both to which it relates; and
  - (d) the person or persons to which the notice relates;
  - (e) the class or classes or motor vehicles to which it relates.
- (4) In addition to the matters required by subsection (3) above to be specified in a notice under this section, such a notice may specify conditions subject to which the exemption conferred by subsection (5) below shall have effect. Such conditions, without prejudice to the generality of the foregoing may require
  - (a) the provision of marshals or other supervisors;
  - (b) the provision of safety barriers fences or ropes or other equipment intended to protect members of the public present as spectators or otherwise; and
  - (c) the taking, out by any club or association whose members have the benefit of any such exemption, of a policy or policies of insurance in such amounts, and against such risks as may be specified in respect of any liability at law to any third party.
- (5) A person to whom a notice under this section relates who drives a motor vehicle to which it relates, on a road to which it relates, and in accordance with such terms and conditions of the notice as relate to him, does not commit an offence under the provisions of the principal Ordinance and to that extent (but to that extent only) the provisions of that Ordinance do not apply.
- 4. Nothing in the provisions of this Ordinance or any notice under section 3 above shall saving. have effect so as to
  - (a) exempt any person from any liability at law to any other person;
  - (b) render it lawful for any person to use any land owned by any person (including the Crown) except with the permission of that person and that of any other person in lawful occupation of the land;
- (c) exclude the operation of any law as to nuisance public or private. Ref: POL/10/5.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

P. T. KING, Clerk of Councils.

# The Limited Partnerships Ordinance 1990

(No. 13 of 1990)

# ARRANGEMENT OF PROVISIONS

- 1. Short Title and commencement.
- 2. Adoption of Limited Partnership Act 1907.



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Limited Partnerships Ordinance 1990

(No. 13 of 1990)

#### An Ordinance

to adopt, subject to modifications and adaptations the Limited Partnerships Act 1907 as law of the Falkland Islands.

(assented to: 8th June 1990) (commencement: on publication) (published: 1st July 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Limited Partnerships Ordinance 1990 and shall come into operation on 1st July 1990.

Short title and commencement.

2. The Limited Partnerships Act 1907 is adopted as law of the Falkland Islands subject (7. Edw 7c.24) to the modifications and exceptions set out in the Schedule below.

Adoption of Limited Partnership Act 1907. (7. Edw 7c.24)

#### **SCHEDULE**

(section 2)

Modifications and adaptations of Limited Partnerships Act 1907 in its application to the Falkland Islands

- 1. In section 7 of the Act the words "the Companies and Private Partnerships Ordinance" shall be inserted immediately after the words "Partnership Act 1890" and the words "and Ordinance" shall be inserted after the words "last-mentioned Act".
- 2. (a) Section 8 of the Act shall become subsection (1) of that section;
  - (b) after the words "delivering to" in subsection (1) there shall be inserted the words "the Registrar General" and all words thereafter to the end of the subsection shall be omitted;
  - (c) there shall be added a new subsection (2) —
  - "(2) The Registrar General shall keep an index of the names of limited partnerships registered under this Act in its application to the Falkland Islands".
- 3. Section 10(2) is replaced by the following -
  - "(2) For the purposes of this section, "the Gazette" means the Falkland Islands Gazette.
- 4. Section 14 is replaced by the following -
  - "The Registrar General shall keep a register of all limited partnerships registered and of all statements registered in relation to such partnerships".
- 5. Section 15 is omitted.
- 6. In section 16(1)
  - (a) the words "Registrar General" shall be substituted by the words "Registrar";

- (b) the words "the Governor" shall be substituted for the words "the Board of Trade" wherever appearing;
- (c) the words "£1" shall be substituted for the words "5p" and the words "£2" shall be substituted for the words "10p" and the words "40p" shall be substituted for the words "2p";
- (d) the words "or in Scotland" onwards to the end of the subsection shall be omitted.
- 7. Section 17 shall be omitted.

Ref: LEG/10/63.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

P. T. KING, Clerk of Councils.

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

> P. T. KING, Clerk of Councils.

# The Highways (Building Lines) Ordinance 1990

(No. 14 of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title.
- 2. Interpretation.
- 3. Building line.

#### ELIZABETH II



# Colony of the Falkland Islands

# WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Highways (Building Lines) Ordinance 1990

(No. 14 of 1990)

#### An Ordinance

to provide for building lines in respect of buildings in proximity to roads and streets.

(assented to: 8th June 1990) (commencement: on publication) (published: 15th June 1990)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Highways (Building Lines) Ordinance 1990.

Short title.

2. In this Ordinance —

Interpretation.

"building" includes any erection other than a fence or boundary wall not forming part of any other erection, however, and with whatever material, the building is constructed;

"new building" means any building construction of which is begun after the commencement of this Ordinance and includes any addition to a building which existed at the commencement of this Ordinance.

3. (1) There is hereby prescribed a building line of five metres from any boundary of any piece of land measured from the nearest adjoining foothpath, road or street.

Building line.

- (2) No new building shall be erected nearer to a footpath, road or street than the building line unless the Building Committee have consented in writing to that erection, with or without conditions, and any such conditions have been and continue to be complied with.
- (3) A condition to which subsection (2) above refers is binding on the successor in title to every owner, and on every lessee and every occupier of any land to which it relates.
- (4) A person who contravenes subsection (2) commits an offence and is liable to a fine not exceeding £500; and if the offence is continued after conviction to a further fine of £20 for each day on which the offence is continued.
- (5) The Building Committee shall not unreasonably refuse consent under subsection (2) above or impose any unreasonable condition on the grant of any such consent. A person aggrieved by such a decision may appeal in writing within six weeks of the decision to the Governor who, on the advice of the Executive Council may quash or vary that decision in such manner as he may be so advised. If he does so the decision of the Governor on such an appeal shall have effect, to the relevant extent, as if it were the decision of the Building Committee under subsection (2) above.

  Ref: LEG/10/82.

Passed by the Legislature of the Falkland Islands this 28th day of May 1990.

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.

#### STATUTORY INSTRUMENTS

# 1989 No. 2400 MERCHANT SHIPPING

# The Merchant Shipping Act 1979 (Overseas Territories) Order 1989

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 47(1) of the Merchant Shipping Act 1979(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

- 1. This Order may be cited as the Merchant Shipping Act 1979 (Overseas Territories) Order 1989 and shall come into force on 30th January 1990.
- 2. Sections 21 and 22 of the Merchant Shipping Act 1979 and the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989(b) in force thereunder are hereby extended to the territories specified in Schedule 1 to this Order (any one of which is in this Order referred to as "the Territory"), as part of the law thereof, subject to the modifications specified in Schedules 2 and 3 to this Order.
- 3. Save as may be expressly provided otherwise therein, any reference in Schedules 2 and 3 to this Order to any enactment of the United Kingdom shall be construed as a reference to that enactment as applying or extended to the Territory.
- 4. The Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) Order 1983(c) and the Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) (Amendment) Order 1984(d) are hereby revoked save that regulations 1(3) and 4(b) of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1983(e) as extended to the Territory by those Orders shall continue to apply to the Territory.

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

Bermuda
Falkland Islands
Montserrat
St Helena and Dependencies
Turks and Caicos Islands

#### **SCHEDULE 2**

Article 2

# MODIFICATIONS TO SECTIONS 21 AND 22 OF THE MERCHANT SHIPPING ACT 1979

- 1. Section 21 shall have effect with the substitution for the words "United Kingdom" or "United Kingdom ship" (wherever they appear) of the words "Territory" or "ship registered in the Territory" as the case may be.
  - 2. Section 22 shall have effect with the omission of subsections (1), (2) and (3) thereof.

#### SCHEDULE 3

Article 2

# MODIFICATIONS TO THE MERCHANT SHIPPING (DISTRESS SIGNALS AND PREVENTION OF COLLISIONS) REGULATIONS 1989

- 1. Regulation 1(1) shall have effect subject to the substitution therein of the date of 30th January 1990 for the date 19th November 1989.
  - 2. Regulation 1(2) shall have effect
    - (a) subject to the omission of the definitions of "air cushion vehicle" and "United Kingdom vessel";
    - (b) with the insertion after "Admiralty Board" and "Department of Transport" of the words "of the United Kingdom";
    - (c) with the substitution of the following for the definition of "appropriate authority":
      - ""appropriate authority" means in relation to the Territory the authority responsible under the law of the Territory, or in relation to any other country the authority responsible under the law of that country, for promoting the safety of life at sea and the avoidance of collisions";
    - (d) with the substitution for the words "United Kingdom" or "United Kingdom vessels" of the words "Territory" or "vessels registered in the Territory" as the case may be.
  - 3. Regulation 1(3) shall be omitted.
  - 4. Regulation 2 shall have effect
    - (a) subject to the omission of paragraph (2) thereof;
    - (b) with the substitution, for the words "United Kingdom" or "United Kingdom vessels" in paragraph (1) thereof, the words "Territory" or "vessels registered in the Territory" as the case may be;
    - (c) with the addition, before the word "seaplanes" in paragraph (1) thereof, the words "hovercraft or".
- 5. Regulation 5 shall have effect subject, in the case of the territories mentioned, to the following —

- (a) in the case of the Falkland Islands and St Helena and Dependencies, the substitution for the words "the statutory maximum" in paragraph (1)(b) thereof, the sum of "£2,000";
- (b) in the case of Bermuda, the substitution for the sum "£50,000" in paragraph (1)(a) thereof, the sum "100,000 Bermuda dollars", and for the words "the statutory maximum" in paragraph (1)(b) thereof, of the sum "4,000 Bermuda dollars";
- (c) in the case of Montserrat, the substitution, for the sum "£50,000" in paragraph (1)(a) thereof, of the sum "212,000 Eastern Caribbean dollars", and for the words "the statutory maximum" in paragraph (1)(b) thereof, the sum "8,000 Eastern Caribbean dollars";
- (d) in the case of the Turks and Caicos Islands, the substitution, for the sum "£50,000" in paragraph (1)(a) thereof, of the sum "50,000 United States dollars" and for the words "the statutory maximum" in paragraph (1)(b) thereof, of the sum "2,000 United States dollars".

#### EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the territories specified in Schedule 1, subject to the modifications specified in Schedules 2 and 3, sections 21 and 22 of the Merchant Shipping Act 1979 and the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989. It revokes the Statutory Instruments specified in article 4 to the extent therein stated.



# THE FALKLAND ISLANDS GAZETTE Supplement

# PUBLISHED BY AUTHORITY

4th JULY 1990

No. 10

The following are published in this Supplement —

Vol. 1

The Racecourse Road (One Way Traffic) Order 1990 (S. R. & O. No. 4 of 1990);

The Stanley Services Limited (Tax Exemptions) Order 1990 (S. R. & O. No. 5 of 1990);

The Deductions (Employees) (Amendment) Regulations 1990 (S. R. & O. No. 6 of 1990).

#### SUBSIDIARY LEGISLATION

#### THE ROAD TRAFFIC ORDINANCE

(Section 18)

# THE RACECOURSE ROAD (ONE WAY TRAFFIC) ORDER 1990 (S. R. & O. No. 4 of 1990)

IN EXERCISE of my powers under section 18 of the Road Traffic Ordinance I make the following Order -

1. (1) This Order may be cited as the Racecourse Road (One Way Traffic) Order 1990.

990. Citation and

(2) This Order shall come into operation on 1st August 1990.

commencement.

2. (1) The road known as Racecourse Road Stanley shall from its junction with on the southern side of Ross Road West Stanley in proximity to the Battle of the Falklands Memorial along its entire length to its further junction with Ross Road West immediately to the east of Sulivan House, be a one way street that is to say vehicles shall only proceed along it or any part of it in a clockwise direction.

Racecourse Road to be one way street.

- (2) In subparagraph (1) above, "vehicle" means a motor vehicle of any description and any bicycle.
- 3. (1) A person commits an offence who drives, pushes or propels any vehicle for any distance along Racecourse Road in any direction other than the direction required by paragraph 2(1) above of this Order.

Offences

(2) A person convicted of an offence under subparagraph (1) above is liable to a fine not exceeding £100.

Made this 22nd day of June 1990.

W. H. FULLERTON, Governor.

#### SUBSIDIARY LEGISLATION

# THE TAXES AND DUTIES (SPECIAL EXEMPTIONS) ORDINANCE 1987

(Section 3(1))

# THE STANLEY SERVICES LIMITED (TAX EXEMPTIONS) ORDER 1990 (S. R. & O. No. 5 of 1990)

IN EXERCISE of my powers under section 3(1) of the Taxes and Duties (Special Exemptions) Ordinance 1987, I make the following Order --

- 1. This Order may be cited as the Stanley Services Limited (Taxes Exemption) Order 1990.
- 2. This Order shall have effect for a period of five years from the 18th August 1987 and shall be deemed to have come into effect on 18th August 1987.
- 3. In this Order —

Interpretation. (Cap. 32)

Exemption.

Commencement

and duration

Citation.

"depreciation allowances" means such deductions from profits liable to tax as are from time to time available under the provisions of the Income Tax Ordinance;

"tax year" means a year commencing on 1st January and expiring on the following 31st December.

- 4. (1) Stanley Services Limited is exempted from liability to pay income tax referable to the profits of that company earned by it in respect of the prescribed activities during the period this Order has effect by virtue of paragraph 2 above.
- (2) Subparagraph (1) above shall not have effect so as to extend any exemption from any tax to dividends or other distributions of profits to shareholders of Stanley Services Limited.
  - (3) For the purpose of subparagraph (1) above -
    - (a) the exemption thereby conferred is subject to compliance with the conditions set out in paragraph 5 below;
    - (b) the prescribed activities are -
      - (i) the supply of fuel to the civilian population of the Falkland Islands;
      - (ii) the supply of fuel by it or its sub-contractors to vessels in the territorial sea of the Falkland Islands or the Falklands Interim Conservation and Management Zone.
- 5. The conditions referred to in paragraph 4(3)(a) above are —

Conditions

- (a) subject to this subparagraph, Stanley Services Limited shall in respect of each trading year depreciate in its accounts to the full extent and otherwise allowable as depreciation allowances against profits so as to show as deductions therefrom the amounts which would be permissible as deductions from its profits before tax as if it were liable to tax on its profits in respect of prescribed activities, but so that
  - (i) an amount claimable as an initial allowance may be deducted or not as the company chooses, but so that

- (ii) an election in this respect is irreversible; and
- (b) a copy of audited accounts of the company in respect of any trading year shall be submitted immediately following the approval of those accounts by the company in general meeting.

Made this 22nd day of June 1990.

W. H. FULLERTON, Governor.

#### SUBSIDIARY LEGISLATION

#### THE INCOME TAX ORDINANCE

(Cap. 32)

THE DEDUCTIONS (EMPLOYEES) (AMENDMENT) REGULATIONS 1990 (S. R. & O. No. 6 of 1990)

IN EXERCISE of my powers under section 32E of the Income Tax Ordinance (a) I make the following Regulations —

1. These Regulations may be cited as the Deductions (Employees) (Amendment) Regulations 1990 and shall come into force on 1st August 1990.

2. The Deductions (Employees) Regulations 1990 (b) are amended by revoking Tables A and B in the Schedule thereto and by replacing them with the following Tables A and B —

Citation and Commencement.

Amendment of the principal Regulations.

<sup>(</sup>a) Laws of the Falkland Islands 1950 Edition Cap. 32

<sup>(</sup>b) SR and O No. 23 of 1987, 1987 Gazette p. 309

### TABLE A

Column	1	Column 2
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Made this 22nd day of June 1990.

W. H. FULLERTON, Governor.



# THE FALKLAND ISLANDS GAZETTE Supplement

# **PUBLISHED BY AUTHORITY**

Vol. 1

3rd AUGUST 1990

No. 11

The following are published in this Supplement —

The Highways (Camp Tracks) Bill 1990;

Statutory Instruments 1987 No. 940 Copyright;

Statutory Instruments 1988 No. 2243 Fugitive Criminal;

Statutory Instruments 1988 No. 2244 Fugitive Criminal;

Statutory Instruments 1988 No. 2245 Fugitive Criminal;

Statutory Instruments 1988 No. 2246 Fugitive Criminal;

Statutory Instruments 1989 No. 673 Trusts.

#### EXPLANATORY MEMORANDUM

THE HIGHWAYS (CAMP TRACKS) BILL 1990

#### Introductory

The question of the existence of public rights over Camp Tracks has recently come into focus. In this connection "public rights" means the rights of the public at large: that is to say all the public, not just a section of the public or the rights of adjoining or neighbouring landowners over them. The rights of a limited sector of the populace are not public rights. A road or track over which only a section of the population has the right to travel is not a highway. That is not to say that no Camp Track is already a highway. The Bill does not say that. On the other hand, it does not seek to say that all existing Camp Tracks are highways or even that they should be. What the Bill seeks to do is to enable Camp Tracks which should be highways to be declared as such: conversely it contemplates that there may be existing Camp Tracks which the public should not have the right to use and which should not, therefore, be declared as highways.

The prime purpose of the Bill, therefore, is to enable the position as to the rights of the public to use any particular Camp Track to be clearly stated and for everybody to know what his position is in relation to it (including, in particular, the landowners over whose land the Camp Track passes).

#### The provisions of the Bill

The Crown has no present power effectively to declare any road, track or way passing over a person's land to be a highway. Either the road, track or way is already a highway at Common Law or it is not. In the absence of a statutory power enabling such a declaration, the declaration would be of no effect at all. There is no existing statutory power to make such a declaration which is why Clause 4(2) of the Bill would confer one.

However, it is thought that such a power should not be exercised without the landowner being notified in advance of the intention to do so or without the Governor (effectively on the advice of the Executive Council) considering any representations the landowner might wish to make. Clause 3(1) of the Bill accordingly would require a notice to be served on the landowner. That notice may (Clause 3(2)) specify limitations the Governor proposes to place on the use of the highway if and when declared. If it does not, or the landowner wishes different limitations, he could by notice in reply say so. (Clause 3(3)(b) and (c)). If he believes that the track is not already a highway, he is to say so and why. He may, in that event, be entitled to compensation (see Clause 5).

The Governor (effectively, on the advice of Executive Council) must before declaring a highway consider any notice in reply received from the owner in due time (Clause 4(1)), but if the owner fails to reply in due time he may proceed without it. In any case, the Governor declares a Camp Track to be a highway, notice to that effect must be given to the landowners affected and published in the Gazette (Clause 4(2). The Gazette will afford a permanent of the tracks declared to be highways. Bridges over and fords across which the track passes will form part of the highway. The Government will not be liable to maintain a highway declared (Clause 5(4): nor will the landowner, but he must not obstruct it). Limitations on the use of a highway (eg: by relation to the weight of vehicles, or not in the lambing season) may be imposed.

As stated above, if a landowners property is taken by the declaration of a highway which did not previously exist he may be entitled to compensation. Clause 5(1) reflects section 7 of the Constitution in that respect. However, the Crown may, if the original Crown Grant contained a reservation of the right to resume land for public purposes effect to resume the land forming part of the highway (Clause 5(3)). Compensation is to be agreed if possible (Clause 5(4)) but if not agreed, the landowner may apply to the Supreme Court to fix the amount and order it to be paid. Other laws as to compulsory purchase will not apply (Clause 5(5)). This is because the Bill sets out a special, and different procedure. Lastly, the Schedule contains a form of notice of intention. This is intended to explain to any landowner on whom such a notice is served what his rights are and what he should do. It includes an encouragement to obtain independant advice if necessary.

# The Highways (Camp Tracks) Bill 1990

(No. of 1990)

### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. Interpretation.
- 3. Notice of intention.
- 4. Declaration of highways.
- 5. Compensation.

SCHEDULE (section 3(1))

# A Bill for An Ordinance

## to enable Camp Tracks to be declared to be highways

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

1. This Ordinance may be cited as the Highways (Camp Tracks) Bill 1990.

Short title.

2. In this Ordinance -

Interpretation.

"notice of intention" has the meaning given in section 3(1) below;

"notice in reply" has the meaning given in section 3(3) below;

"owner" includes a lessee and all other owners of the land in question whatever their interest or estate in it;

"track or way" includes every kind of track or way and every bridge across which or for or through which it passes.

3. (1) The Governor may by notice in writing (a "notice of intention") served on the owner of any land in the form specified in the Schedule below indicate his intention to declare that such tracks or ways on the land described in that notice as are specified or described in that notice are highways.

Notice of intention.

- (2) A notice of intention may indicate that the Governor intends to limit the use of all or some of the tracks or ways
  - (a) to vehicles not above the total laden weight specified in the notice;
  - (b) to vehicles which are not tracked vehicles;
  - (c) to specified periods of the year; or
- (d) otherwise in any manner (whether or not similar to the any of the foregoing), or any one or more of such things.
- (3) A notice of intention shall require the owner to state by reply in writing (a "notice in reply")
  - (a) if he believes that all or some of the tracks or ways specified in accordance with subsection (1) above are not already highways
    - that he believes that they are not highways, and where he considers that only some of them are not highways, which he considers are not already highways;

- (ii) the reasons or facts he relies upon;
- (b) if he believes that the existing limitations on the public use of any track or way as a highway are greater than those (if any) specified in relation to that track or way in the notice of intention —
  - (i) the nature and extent of the existing limitations,
  - (ii) the reasons or facts for the owner's belief;
- (c) if he wishes limitations or limitations greater than those (if any) specified in the notice of intention to be imposed on the future public use of any track or way the subject of the notice of intention to be placed on the public use of it as a highway.
- (4) A notice of reply shall ordinarily be sent or delivered so as to reach the Governor not later than twenty-eight days of the receipt by the owner of the notice of intention.
- (5) Unless the contrary is proved in any particular case, a notice of intention shall be deemed to have been received by an owner not later than fourteen days after the date on which it is proved to have been posted addressed to him at the Post Office Stanley, and such a notice is sufficiently addressed to the owner of any land if it is addressed "To the owner" and is followed immediately thereafter by the usual description of the farm or other land to which the notice relates, and a notice so addressed and sent shall be deemed to have been received as aforesaid by all owners of the land in question.
- (6) If no notice in reply is received by the Governor from an owner to whom a notice of intention is sent within three months thereafter the owner shall be deemed to have no objection to the proposals set out in the notice, but without prejudice to any right of compensation for acquisition of his property, the right to which he may thereafter be able to substantiate: provided that unless the owner shows good cause for failure to reply to the notice of intention within three months he shall not be entitled to such compensation, unless the Supreme Court orders to the contrary.
- 4. (1) The Governor shall consider any notice in reply received by him within twenty-eight days of the time specified in section 3(3) above and, if he has not already served a notice of declaration under subsection (2) below, shall consider any notice in reply received by him after the expiration of that period of twenty-eight days.

Declaration of highways.

- (2) After such consideration as is required by subsection (1) above the Governor may
  - (a) by notice served on the owner and published in the Gazette, declare all or some of the tracks or ways specified in the relevant notice of intention to be highways, subject if he sees fit to limitations of their use but no less than those (if any) specified in the notice of intention (and whether or not identical in those (if any) specified in the notice in reply); or
  - (b) by notice in writing served upon the owner concerned, indicate that he intends to take no action in relation to the tracks or ways specified in the notice of intention.
- (3) On the publication of a notice under subsection (2)(a) above the tracks and ways the subject of that notice shall thereafter be (if they were not so already) highways and the public shall be entitled to use them as such, subject only to such limitation on use (if any) as are set out in that notice.
  - (4) The declaration of a track or way as a highway under this section
    - (a) does not thereby render the Crown liable to repair or maintain the highway at public expense;
    - (b) does not render the owner of the land liable in law to any person using the highway in any manner or respect in which he would not have been liable if it was not a highway save that he shall not obstruct the use of the highway or otherwise interfere with its use in accordance with this Ordinance.

- (5) Where a highway has been declared under this section, the public has a right to deviate from it so far as it is necessary by reasons of unlawful obstruction or the condition of the highway and to use the land on to which deviation is made as if it were a highway. Deviation from a highway not authorised by this subsection or by the owner of the land concerned constitutes a trespass.
- 5. (1) Under section 7 of the Constitution it is provided, in effect, that no property may be compulsorily acquired from any person, except as provided by that section, namely —

Compensation.

- (a) except for a public purpose; and
- (b) upon payment of adequate compensation,

and that any law providing for such acquisition must provide a right for any person aggrieved to have access to the Supreme Court to determine any issue on either of those matters. Nothing in this Ordinance shall have effect so as to derogate from that provision of the Constitution, but subject to that and other relevant provisions of the Constitution, the following provisions of this section have effect.

- (2) No property shall be deemed to have been acquired from any person by declaration of a highway under section 4 when an owner of land, by notice in reply has agreed that the track or way concerned is a public highway and no greater use of it is permitted by that declaration than that owner has shown to be the limitations on its use prior to that declaration.
- (3) Except where subsection (2) applies the owner is entitled to adequate compensation unless the Crown, in pursuance of any right to resume land for a public purpose under a provision of a relevant Crown Grant elects to resume the land concerned.
- (4) Where an owner is under subsection (3) entitled to compensation, and the Crown has not agreed the amount of the compensation payable and paid the same, that owner may petition the Supreme Court to fix the amount of compensation and order the Crown to pay that amount to that owner and the Supreme Court has jurisdiction accordingly.
- (5) Nothing in any other law of the Falkland Islands relating to compulsory acquisition of property shall apply in relation to any declaration of any highway under section 4(2) above.

**SCHEDULE** 

(section 3(1))

#### NOTICE OF INTENTION TO DECLARE TRACKS OR WAYS AS HIGHWAYS

To:

IMPORTANT - THIS NOTICE AFFECTS YOUR PROPERTY. READ IT CAREFULLY. YOU MAY BE PREJUDICED IF YOU DO NOT REPLY. IF IN DOUBT, TAKE ADVICE FROM ANY APPROPRIATE ASSOCIATION OR FROM A LAWYER.

1. TAKE NOTICE that it is at present my intention to declare tracks or ways, which appear to run over land belonging to you to be highways. These tracks or ways are -

(Insert adequate description of tracks or ways: this may be by reference to a map or plan).

- 2. Section 3 of the Highways (Camp Tracks) Ordinance 1990 is in the following terms —
- "3. (1) The Governor may by notice in writing (a "notice of intention") served on the Notice of inowner of any land in the form specified in Schedule below indicate his intention to declare that such tracks or ways on the land described in that notice as are specified or described in that notice are highways.

- (2) A notice of intention may indicate that the Governor intends to limit the use of all or some of the tracks or ways -
  - (a) to vehicles not above the total laden weight specified in the notice;
  - (b) to vehicles which are not tracked vehicles;
  - (c) to specified periods of the year; or
  - (d) otherwise in any manner (whether or not similar to the any of the foregoing),

or any one or more of such things.

- (3) A notice of intention shall require the owner to state by reply in writing (a "notice in reply") -
  - (a) if he believes that all or some of the tracks or ways specified in accordance with subsection (1) above are not already highways
    - that he believes that they are not highways, and where he considers that only some of them are not highways, which he considers are not already highways;
    - (ii) the reasons or facts he relies upon;
  - (b) if he believes that the existing limitations on the public use of any track or way as a highway are greater than those (if any) specified in relation to that track or way in the notice of intention
    - (i) the nature and extent of the existing limitations,
    - (ii) the reasons or facts for the owner's belief;
  - (c) if he wishes limitations or limitations greater than those (if any) specified in the notice of intention to be imposed on the future public use of any track or way the subject of the notice of intention to be placed on the public use of it as a highway.
- (4) A notice of reply shall ordinarily be sent or delivered so as to reach the Governor not later than twenty-eight days of the receipt by the owner of the notice of intention.
- (5) Unless the contrary is proved in any particular case, a notice of intention shall be deemed to have been received by an owner not later than fourteen days after the date on which it is proved to have been posted addressed to him at the Post Office Stanley, and such a notice is sufficiently addressed to the owner of any land if it is addressed "To the owner" and is followed immediately thereafter by the usual description of the farm or other land to which the notice relates.
- (6) If no notice in reply is received by the Governor from an owner to whom a notice of intention is sent within three months thereafter the owner shall be deemed to have no objection to the proposals set out in the notice, but without prejudice to any right of compensation for acquisition of his property, the right to which he may thereafter be able to substantiate: provided that unless the owner shows good cause for failure to reply to the notice of intention within three months he shall not be entitled to such compensation, unless the Supreme Court orders to the contrary."
- 3. I do not intend to limit the use of any of the tracks or ways mentioned in exercise of my powers under the Ordinance so as to limit their use of any as highways / I propose that the tracks or ways, if declared to be highways shall be subject to the following limitations on their use by the public —

(here, specify the limitations, if any)

(delete one of the above alternatives)

- 4. Please note carefully that if I decided to declare any tracks or ways mentioned in paragraph 1 of this notice as highways, it will mean that the public has rights to use them and will not need your permission to do so. These tracks and ways may already be highways and in that case a declaration under the Ordinance that they are, will not alter the position from what it is now. Do you regard any of the tracks or ways as highways already? If you do not it will be in your interests to tell me so by notice in reply now (see section 3 of the Ordinance, copied above in paragraph 2 of this notice). You should also tell me why you consider them not to be highways (for example, because nobody has ever used them without the owner's permission).
- 5. Even if you do agree that the tracks or ways referred to above are highways already, do you want any restrictions placed on their use by the public different from those I have stated in paragraph 3? If you do, you should tell me in this your notice in reply. It may assist me in considering your reply on this point if you tell me why you want restrictions. A reason for imposing weight restrictions might be that a heavy vehicle would ruin the track or way. There might be similar reasons for imposing a restriction prohibiting tracked vehicles. If for example, a track or way runs through a lambing paddock, there might be reasons for prohibiting use of that section of it during the lambing season. In that case, an alternative route (even if longer) might be necessary during that period: have you any proposals as to to the alternative route? If so, it is in your interests to set these out in your reply.

- 6. If a track or way is already a highway, and in future no different kinds of vehicles are allowed to use it as a highway than is the case now, you will not be entitled to compensation. If a track or way is not already a highway or present (existing) restrictions on its use are removed or altered to your disadvantage you may be entitled to compensation from the Crown. It is not likely to exceed the value of the land occupied by the highway. In any case, if the Crown has a right under the deeds of your land to resume part of your land for public purposes it may choose to exercise that right rather than pay compensation. Compensation could only be payable in any case if by later notice to you I declare a track or way on your land to be a highway. If compensation is then claimed by you, and the Crown agrees that it is payable, every attempt will be made to agree the amount with you. If agreement cannot be reached, you will have the right to have the Supreme Court deal with this. The Supreme Court is independent.
- 7. Neither you or the Crown will be liable to maintain or repair a track or way declared to be a highway under the Ordinance. This does not mean that the Crown will not, if appropriate, consider contributing to the cost of repair. You would not be under any greater obligation than you are now except that it would be unlawful to interfere with or obstruct the lawful use of it as a highway. An unlocked gate will not be an obstruction or interference.
- 8. You will see from section 3 of the Ordinance that you should send a notice in reply so as to reach me within twenty-eight days of the receipt by you of this notice. If you do not, I may proceed without further reference to you, although I will consider any notice in reply, however late, received from you before declaring any track or way on your land to be a highway. Please note that 'track or way' includes bridges and fords over which a track or way passes.

It could be in your interests to send me a notice in reply, so that I can consider what you say. You are under no legal obligation to send me a notice in reply. Please consider the matter carefully. Any notice in reply may be sent to me c/o The Attorney General, Secretariat, Stanley. A letter setting out all the points you wish to make is sufficient. You do not have to use any set form. The Attorney General's Office will answer any queries you may have, but do not hesitate to take independent advice if you think you need it.

# 1987 No. 940

## **COPYRIGHT**

# The Copyright (Singapore) Order 1987

Made - - - 18th May 1987

Laid before Parliament 17th June 1987

Coming into force 18th June 1987

At the Court at Buckingham Palace, the 18th day of May 1987 Present,

The Queen's Most Excellent Majesty in Council

Whereas Her Majesty is satisfied that, in respect of the matters provided for in this Order, provision has been made under the laws of Singapore whereby adequate protection will be given to owners of copyright under the Copyright Act 1956(a):

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority conferred on Her by sections 31, 32 and 47 of the said Act. is pleased to order, and it is hereby ordered, as follows:

- 1.—(1) This Order may be cited as the Copyright (Singapore) Order 1987 and shall come into force on 18th June 1987.
  - (2) In this Order-
    - "the Act" means the Copyright Act 1956; and
    - "material time" means-
      - (i) in relation to an unpublished work or subject-matter, the time at which such work or subject-matter was made or, if the making thereof extended over a period, a substantial part of that period; and
      - (ii) in relation to a published work or subject-matter, the time of first publication.
- 2. Subject to the following provisions of this Order, the provisions of Parts I and II of the Act and all the other provisions of the Act relevant to those Parts shall apply—
  - (a) in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or published editions first published in Singapore as they apply to such works, recordings, films or editions first published in the United Kingdom;
  - (b) in relation to persons who at any material time are resident in Singapore as they apply to persons who at such time are resident in the United Kingdom: and
  - (c) in relation to bodies incorporated under the laws of Singapore as they apply to bodies incorporated under the laws of any part of the United Kingdom.
- 3. The acts restricted by section 12 of the Act as applied by this Order shall not include causing the recording to be heard in public, broadcasting the recording or including it in a cable programme.

- 4. Where any person has before the commencement of this Order incurred any expenditure or liability in connection with the reproduction or performance of any work or other subject matter in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Order shall diminish or prejudice any right or interest arising from or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who by virtue of this Order becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.
- 5. This Order shall extend to the countries mentioned in the Schedule hereto, subject to the modification that article 2 above shall have effect as part of the law of any of those countries as if for references to the United Kingdom there were substituted references to the country in question.

G. I. de Deney Clerk of the Privy Council

#### **SCHEDULE**

Article 5

#### COUNTRIES TO WHICH THIS ORDER EXTENDS.

British Indian Ocean Territory
British Virgin Islands
Cayman Islands
Falkland Islands
Falkland Islands Dependencies
Hong Kong
Isle of Man
Montserrat
St Helena
St Helena Dependencies (Ascension, Tristan da Cunha)

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order provides for the copyright protection in the United Kingdom of works and other subject-matter originating in Singapore. No provision is made in respect of citizens of Singapore because they are already qualified persons under the Copyright Act 1956 by reason of being British subjects (that is, Commonwealth citizens) within the meaning of that Act. The Order extends to the dependent countries of the Commonwealth to which the 1956 Act has been extended, with the exception of Bermuda and Gibraltar.

# 1988 No. 2243

## **FUGITIVE CRIMINAL**

# The Extradition (Hijacking) (Amendment) Order 1988

Made -

21st December 1988

Laid before Parliament

6th January 1989

Coming into force

1st February 1989

At the Court at Buckingham Palace, the 21st day of December 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 2, 17 and 21 of the Extradition Act 1870(a) and sections 9(2) and 39(1) of the Aviation Security Act 1982(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

- 1. This Order may be cited as the Extradition (Hijacking) (Amendment) Order 1988 and shall come into force on 1st February 1989.
- 2. The Extradition (Hijacking) Order 1971(c) shall be amended by adding to Part I of Schedule 3 (which names the foreign States with which the United Kingdom has no extradition treaties in force and which are parties to the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16th December 1970(d)) the following entry –

State	Date of Entry into force of Convention
Congo	10th September 1987

G. 1. de Deney Clerk of the Privy Council

#### **EXPLANATORY-NOTE**

(This note is not part of the Order)

This Order amends the Extradition (Hijacking) Order 1971 (which among its provisions names States party to the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16th December 1970) by adding an entry for Congo.

# 1988 No. 2244

## **FUGITIVE CRIMINAL**

# The Extradition (Internationally Protected Persons) (Amendment) Order 1988

Made -

21st December 1988

Laid before Parliament

6th January 1989

Coming into force

1st February 1989

At the Court at Buckingham Palace, the 21st day of December 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 2, 17 and 21 of the Extradition Act 1870(a) and sections 3(2) and 4(1) of the Internationally Protected Persons Act 1978(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

- 1. This Order may be cited as the Extradition (Internationally Protected Persons) (Amendment) Order 1988 and shall come into force on 1st February 1989.
- 2. The Extradition (Internationally Protected Persons) Order 1979(c) shall be amended by adding to Part I of Schedule 3 (which names the foreign States with which the United Kingdom has no extradition treaties in force and which are parties to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14th December 1973(d)) the following entries —

Date of Entry into Force of Convention	
21st April 1988 25th May 1988	

G. I. de Deney Clerk of the Privy Council

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order amends the Extradition (Internationally Protected Persons) Order 1979 (which among its provisions names States party to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14th December 1973) by adding entries for Oman and Syria.

## 1988 No. 2245

## **FUGITIVE CRIMINAL**

# The Extradition (Protection of Aircraft) (Amendment) Order 1988

21st December 1988 Made

Laid before Parliament 6th January 1989

Coming into force 1st February 1989

At the Court at Buckingham Palace, the 21st day of December 1988 Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 2, 17 and 21 of the Extradition Act 1870(a) and sections 9(2) and 39(1) of the Aviation Security Act 1982(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

- 1. This Order may be cited as the Extradition (Protection of Aircraft) (Amendment) Order 1988 and shall come into force on 1st February 1989.
- 2. The Extradition (Protection of Aircraft) Order 1973(c) shall be amended by adding to Part I of Schedule 3 (which names the foreign States with which the United Kingdom has no extradition treaties in force and which are parties to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September 1971(d)) the following entry-

State	Date of Entry into Force of Conve	Date of Entry into Force of Convention	
Congo	18th April 1987		

G. I. de Denev Clerk of the Privy Council

<sup>(</sup>a) 1870 c.52.

<sup>(</sup>b) 1982 c.36.

<sup>(</sup>c) S.I. 1973/1756, as amended by S.I. 1982/148, 1985/1991, 1986/2014, 1987/2043.

<sup>(</sup>d) Cmnd. 5524.

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order amends the Extradition (Protection of Aircraft) Order 1973 (which among its provisions names States party to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23rd September 1971) by adding an entry for Congo.

#### STATUTORY INSTRUMENTS

# 1988 No. 2246 FUGITIVE CRIMINAL

The Extradition (Taking of Hostages) (Amendment) Order 1988

At the Court at Buckingham Palace, the 21st day of December 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in excercise of the powers conferred upon Her by sections 2, 17 and 21 of the Extradition Act 1870(a) and sections 3(3) and 5(1) of the Taking of Hostages Act 1982(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

- 1. This Order may be cited as the Extradition (Taking of Hostages) (Amendment) Order 1988 and shall come into force on 1st February 1989.
- 2. The Extradition (Taking of Hostages) Order 1985(c) shall be amended by adding to Schedule 2 (which names the foreign States with which the United Kingdom has extradition treaties in force and which are parties to the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979(d) the following entries —

State	Date of Extradition treaty	Date of Entry into Force of convention
 Czechoslovakia	11th November 1924	26th February 1988
Ecuador	20th September 1980	1st June 1988

3. The Extradition (Taking of Hostages) Order 1985 shall be amended by adding to Part I of Schedule 3 (which names the foreign States with which the United Kingdom has no extradition treaties in force and which are parties to the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979) the following entries —

<sup>(</sup>a) 1870 c.52.

<sup>(</sup>b) 1982 c.28.

<sup>(</sup>c) S.I. 1985/751, as amended by S.I. 1985/1992, 1986/2015, 1987/2044.

<sup>(</sup>d) Cmnd. 9100.

State	Date of Entry into Force of Convention
Bulgaria	9th April 1988
Cameroon	8th April 1988
German Democratic Republic	1st June 1988

G. I. de Deney Clerk of the Privy Council

#### EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Extradition (Taking of Hostages) Order 1985 by adding to Schedule 2 (which names the foreign states with which the United Kingdom has extradition treaties in force and which are parties to the International Convention against the Taking of Hostages opened for signature at New York on 18th December 1979) entries for Czechoslovakia and Ecuador, and by adding to Part I of Schedule 3 (which names the foreign states with which the United Kingdom has no extradition treaties in force and which are parties to the Convention) entries for Bulgaria, Cameroon and the German Democratic Republic.

# 1989 No. 673

# **TRUSTS**

# The Recognition of Trusts Act 1987 (Overseas Territories) Order 1989

Made - - -

18th April 1989

Laid before Parliament

26th April 1989

Coming into force

1st June 1989

At the Court at Windsor Castle, the 18th day of April 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority conferred upon Her by sections 2(2) and 2(3) of the Recognition of Trusts Act 1987(a) and of all other powers enabling Her in that behalf, is pleased to direct, and it is hereby directed, as follows:

- 1. This Order may be cited as the Recognition of Trusts Act 1987 (Overseas Territories) Order 1989 and shall come into force on 1st June 1989.
- 2.—(1) The Recognition of Trusts Act 1987 and the Schedule thereto, modified as in Schedule 1 hereto, shall form part of the law of the Territories specified in Schedule 2 hereto.
- (2) For the purpose of construing the said Act as part of the law of any Territory to which it extends "the Territory" means that Territory.

G. I. de Deney Clerk of the Privy Council

# THE RECOGNITION OF TRUSTS ACT 1987 AND THE SCHEDULE THERETO AS MODIFIED AND EXTENDED TO THE TERRITORIES SPECIFIED IN SCHEDULE 2 TO THE ORDER

- 1.—(1) The provisions of the Convention set out in the Schedule to this Act shall have the force of law in the Territory.
- (2) Those provisions shall, so far as applicable, have effect not only in relation to the trusts described in Articles 2 and 3 of the Convention but also in relation to any other trusts of property arising under the law of the Territory or by virtue of a judicial decision whether in the Territory or elsewhere
- (3) In accordance with Articles 15 and 16 such provisions of the law as are there mentioned shall, to the extent there specified, apply to the exclusion of the other provisions of the Convention.
- (4) In Article 17 the reference to a State includes a reference to any country or territory (whether or not a party to the Convention) which has its own system of law.
- (5) Article 22 shall not be construed as affecting the law to be applied in relation to anything done or omitted before the coming into force of this Act.
  - 3.—(1) This Act may be cited as the Recognition of Trusts Act 1987.
  - (3) This Act binds the Crown.

# SCHEDULE TO THE ACT

Section 1

# CONVENTION ON THE LAW APPLICABLE TO TRUSTS AND ON THEIR RECOGNITION

#### CHAPTER I - SCOPE

#### ARTICLE 1

This Convention specifies the law applicable to trusts and governs their recognition.

#### ARTICLE 2

For the purposes of this Convention, the term "trust" refers to the legal relationship created – inter vivos or on death – by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose.

A trust has the following characteristics —

- (a) the assets constitute a separate fund and are not a part of the trustee's own estate;
- (b) title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee;
- (c) the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed upon him by law.

The reservation by the settlor of certain rights and powers, and the fact that the trustee may himself have rights as a beneficiary, are not necessarily inconsistent with the existence of a trust.

#### ARTICLE 3

The Convention applies only to trusts created voluntarily and evidenced in writing.

#### **ARTICLE 4**

The Convention does not apply to preliminary issues relating to the validity of wills or of other acts by virtue of which assets are transferred to the trustee.

#### ARTICLE 5

The Convention does not apply to the extent that the law specified by Chapter II does not provide for trusts or the category of trusts involved.

#### CHAPTER II - APPLICABLE LAW

#### ARTICLE 6

A trust shall be governed by the law chosen by the settlor. The choice must be express or be implied in the terms of the instrument creating or the writing evidencing the trust, interpreted, if necessary, in the light of the circumstances of the case.

Where the law chosen under the previous paragraph does not provide for trusts or the category of trust involved, the choice shall not be effective and the law specified in Article 7 shall apply.

#### ARTICLE 7

Where no applicable law has been chosen, a trust shall be governed by the law with which it is most closely connected.

In ascertaining the law with which a trust is most closely connected reference shall be made in particular to —

- (a) the place of administration of the trust designated by the settlor;
- (b) the situs of the assets of the trust;
- (c) the place of residence or business of the trustee;
- (d) the objects of the trust and the places where they are to be fulfilled.

#### ARTICLE 8

The law specified by Article 6 or 7 shall govern the validity of the trust, its construction, its effects and the administration of the trust.

In particular that law shall govern -

- (a) the appointment, resignation and removal of trustees, the capacity to act as a trustee, and the devolution of the office of trustee;
- (b) the rights and duties of trustees among themselves;
- (c) the right of trustees to delegate in whole or in part the discharge of their duties or the exercise of their powers;
- (d) the power of trustees to administer or to dispose of trust assets, to create security interests in the trust assets, or to acquire new assets;
- (e) the powers of investment of trustees;
- (f) restrictions upon the duration of the trust, and upon the power to accumulate the income of the trust;
- (g) the relationships between the trustees and the beneficiaries including the personal liability of the trustees to the beneficiaries;
- (h) the variation or termination of the trust;
- (i) the distribution of the trust assets;
- (j) the duty of trustees to account for their administration.

#### ARTICLE 9

In applying this Chapter a severable aspect of the trust, particularly matters of administration, may be governed by a different law.

The law applicable to the validity of the trust shall determine whether that law or the law governing a severable aspect of the trust may be replaced by another law.

#### CHAPTER III - RECOGNITION

#### ARTICLE 11

A trust created in accordance with the law specified by the preceding Chapter shall be recognised as a trust.

Such recognition shall imply, as a minimum, that the trust property constitutes a separate fund, that the trustee may sue and be sued in his capacity as trustee, and that he may appear or act in this capacity before a notary or any person acting in an official capacity.

In so far as the law applicable to the trust requires or provides, such recognition shall imply in particular —

- (a) that personal creditors of the trustee shall have no recourse against the trust assets;
- (b) that the trust assets shall not form part of the trustee's estate upon his insolvency or bankruptcy;
- (c) that the trust assets shall not form part of the matrimonial property of the trustee or his spouse nor part of the trustee's estate upon his death;
- (d) that the trust assets may be recovered when the trustee, in breach of trust, has mingled trust assets with his own property or has alienated trust assets. However, the rights and obligations of any third party holder of the assets shall remain subject to the law determined by the choice of law rules of the forum.

#### ARTICLE 12

Where the trustee desires to register assets, movable or immovable, or documents of title to them, he shall be entitled, in so far as this is not prohibited by or inconsistent with the law of the State where registration is sought, to do so in his capacity as trustee or in such other way that the existence of the trust is disclosed.

#### ARTICLE 14

The Convention shall not prevent the application of rules of law more favourable to the recognition of trusts.

#### CHAPTER IV - GENERAL CLAUSES

#### **ARTICLE 15**

The Convention does not prevent the application of provisions of the law designated by the conflicts rules of the forum, in so far as those provisions cannot be derogated from by voluntary act, relating in particular to the following matters —

- (a) the protection of minors and incapable parties;
- (b) the personal and proprietary effects of marriage;
- (c) succession rights, testate and intestate, especially the indefeasible shares of spouses and relatives;
- (d) the transfer of title to property and security interests in property;
- (e) the protection of creditors in matters of insolvency;
- (f) the protection, in other respects, of third parties acting in good faith.

If recognition of a trust is prevented by application of the preceding paragraph, the court shall try to give effect to the objects of the trust by other means.

#### ARTICLE 16

The Convention does not prevent the application of those provisions of the law of the forum which must be applied even to international situations, irrespective of rules of conflict of laws.

#### **ARTICLE 17**

In the convention the word 'Law' means the rules of law in force in a State other than its rules of conflict of laws.

#### ARTICLE 18

The provisions of the Convention may be disregarded when their application would be manifestly incompatible with public policy.

#### ARTICLE 22

The Convention applies to trusts regardless of the date on which they were created.

# SCHEDULE 2 TO THE ORDER

Article 2(1)

Bermuda
British Antarctic Territory
Falkland Islands
St Helena and Dependencies
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri and Dhekelia
Virgin Islands

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order directs that the Recognition of Trusts Act 1987 and the Schedule thereto, subject to modifications, shall form part of the law of the Territories specified in Schedule 2 hereto.



# THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 1 AUGUST 1990 No. 12

The following is published in this Supplement —

The Planning Bill 1990.

#### THE PLANNING BILL 1990

#### EXPLANATORY MEMORANDUM

#### Introductory

The Planning Bill 1990 would introduce into the Falkland Islands a comprehensive system of land use planning to replace the informal and largely unenforceable system previously operated by the Building Committee. The purpose of the Bill is to introduce powers which would allow the development and use of land to be controlled in the public interest. It is important to emphasise that the Bill is concerned exclusively with "planning" and that nothing in the Bill relates to the introduction or enforcement of Building Regulations which will be the subject of a separate Bill to be introduced in due course. It is equally important to stress that the Bill does not, in itself, introduce any standards, regulations or polices against which applications for planning permission would be judged. It does, however, allow for the preparation of Development Plans which, after full public consultation, would establish policies to promote and control development.

#### Part I of the Bill

Part I of the Bill contains a number of introductory provisions.

Clause 2 provides that the Bill, if enacted, would come into operation on a date to be specified. Clause 3 contains a number of definitions of terms used in the Bill.

#### Part II of the Bill

#### Administration

Part II deals with the administration of the powers contained in the Bill. Clause 4 would establish a Planning and Building Committee to replace the existing Building Committee and would require the Committee to seek and consider the advice of the Planning Officer before exercising its functions under the Bill. Under clause 5, the Committee would comprise not fewer than five and not more than seven members. Two members would be elected by Legislative Councillors from among their number and the remainder would be appointed by the Governor. No public officer could be a member of the Committee unless he is also an elected Legislative Councillor. The Planning Officer would be entitled to attend and take part in Committee meetings but would have no vote. A member of the Committee would be required to declare an interest in any matter under consideration in which he has a direct or indirect or other personal interest and the Chairman may require him to absent himself from the meeting while this matter is being considered. A member would not be obliged to specify the nature or extent of his interest, and any decision by the Committee would remain valid even if reached in the presence of a member who has declared or failed to declare an interest in the matter. With the consent of the Attorney General, proceedings could be instituted against a member of the Committee who ought to have declared an interest but failed to do so.

Clause 6 provides that the Chairman and Vice-Chairman of the Committee shall be the two elected members of the Legislative Council and contains provisions for the election of a committee member to serve as Chairman at meetings or during consideration of matters from which both the Chairman and Vice-Chairman are absent or in which both have declared an interest. Clause 7 deals with the procedure for calling meetings of the Committee, and clause 8 imposes a quorum of three members for dealing with any matter other than the adjournment of business. Under clause 9 the Chairman could invite or permit any public officer or other person to attend meetings of the Committee but such persons could not vote on any matter. Clauses 10 and 11 deal with the appointment of a Planning Officer and a Secretary to the Committee, and clause 12 requires the circulation of minutes of meetings to the Governor and Chief Executive.

#### Part III of the Bill

# Development Plans

Part III of the Bill (clauses 13-25) makes provision for the preparation of plans to guide and control development in the Falkland Islands. The procedures for preparing three types of plan are included: a structure plan (clauses 13-18), local plans (clauses 19-23), and subject plans (clause 24). Clause 25 contains supplementary provisions relating to all development plans.

Dealing first with the structure plan, Clause 13 would require the Planning Officer to prepare and keep under review a survey of all matters expected to affect the development of the Falkland Islands or the planning of development. Among the matters to be included in such a survey and kept under review would be the balance of development between Stanley and Camp, broad policies for controlling major new industrial, mineral or other developments, proposals for improving infrastructure in so far as these have land use

implications, and policies relating to nature conservation, environmental and landscape protection and related matters. Under clause 14, the Planning Officer, when preparing the preliminary draft structure plan, would have to consult with other public officers and other persons with an interest in the matter, and have regard to the current economic planning and development policies of the Government, the manpower and financial resources likely to be available, the economic and social justification for the Plan's proposals and such other matters as the Governor directs him to take into account. The preliminary draft Structure Plan would be a written statement formulating the Government's policy and general proposals for the development and other use of land in the Falkland Islands. It could be illustrated by maps, plans and diagrams and would be accompanied by an explanatory memorandum justifying each and every policy and general proposal contained in the Plan.

Under clause 15, the preliminary draft Structure Plan would be considered firstly by the Planning and Building Committee and then submitted, together with the Committee's comments and observations, to the Governor for consideration by Executive Council. Any amendments or additions required by the Governor after consideration by Executive Council would be incorporated in the Draft Plan prior to its publication. The Planning Officer, under clause 16, would then publish the Draft Structure Plan for public comment. A period of not less than two months would be allowed for written representations or comments to be made to the Planning Officer on the contents of the Draft Structure Plan. All written comments would be forwarded to the Governor, and the Planning Officer would also send to the Governor his own observations on the comments received. Clause 17 would allow the Governor, having considered the Draft Plan, the written comments received on the Plan and the observations of the Planning Officer on these comments, and after consulting Executive Council, to reject the Draft Plan or to approve it with or without modifications. If the Draft Plan is approved, the Planning Officer would make any modifications to the Plan required by the Governor and would then publish it as the approved Structure Plan.

Clause 18 makes provision for the Planning Officer to propose alterations to the approved Structure Plan or for the Governor to direct him to bring forward alterations. Any such proposed alterations would be subject to the same degree of public consultation as the original Structure Plan.

Clauses 19-23 deal with local plans (such as the Stanley Town Plan) prepared for specific areas of the Falkland Islands. Under clause 19, such plans would be prepared following a direction by the Governor or on the initiative of the Planning Officer who would also be required to keep under review the desirability of preparing a local plan for any part of the Islands. A preliminary draft local plan would comprise a written statement accompanied by maps and diagrams and would contain policies and proposals for the development and other use of land, including measures for the improvement of the physical environment. Policies and proposals in the Plan would be required to conform generally with the Structure Plan. Under clause 20, the Planning and Building Committee would consider the preliminary draft local plan and would recommend its approval (subject to such modifications as it thought fit) or its rejection to the Governor. The Governor may then accept the Plan with or without modifications or reject it, and may instruct the Planning Officer to prepare a new preliminary draft local plan. Clause 21 sets out the procedure for public consultation on the Draft Plan and allows a period of not less then two months for comments or objections to be submitted. The Draft Plan would then be referred to the Planning and Building Committee together with objections received and the Planning Officer's observations on these comments. The Committee would make its own comments on the objections, and under clause 22, all of these documents would then be referred to the Governor who, in consultation with Executive Council, would approve the local plan (with or without amendments) or reject it. Clause 22 also contains provision for a draft local plan to be taken into consideration when planning applications are being considered by the Committee. Clause 23 would allow local plans to be altered, but only if the proposed alterations are subject to the same degree of public involvement as the original plan.

The third type of Development Plan proposed in Part III of the Bill is a subject plan. Clause 24 sets out the procedures for preparing a subject plan and the circumstances likely to lead to such a plan being required. Such circumstances would include the submission of a planning application for a development which was likely to have a major effect on the environment or which would constitute a major departure from a Structure Plan or local plan. The procedure would make provision for public participation on the subject plan if this were possible, but there would be no statutory requirement for public consultation in this case. This is designed to recognise the fact that a subject plan may have to be prepared as a matter of urgency in response to a major development proposal. In other respects the procedure for considering and approving a subject plan is the same as for a local plan. A subject plan could be inconsistent with the structure plan or a local plan. If this were the case, the subject plan would effectively override the provisions of the structure or local plan in so far as it is inconsistent.

Clause 25 relates to all three types of Development Plan, and allows the Governor to make regulations on the form and content of plans, and on the procedure to be followed in their preparation, alteration, repeal and replacement.

#### Part IV of the Bill

## General Planning Control

Part IV deals with planning applications and planning permission. Its main provisions relate to the requirement for planning permission, the form in which applications would be made, the manner in which applications would be considered and determined, the procedure for appealing against planning decisions, and the powers available for revoking planning permissions and for the discontinuance of uses of land.

Very broadly, planning permission would be required for "development". Development is defined in clause 26(1) as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

Except in relation to buildings of architectural or historic interest, clause 26(2) excludes certain classes of work from the definition of "development", and hence from the need to obtain planning permission. Such works include works only affecting the interior of a building; improvements to existing roads; works on sewers, mains, pipes, cables etc; the use of any building or land within the curtilage of a house for domestic purposes; the use of land for agriculture; and any changes of use between uses within the same "use class" to be defined in an order made by the Governor. Clause 26(3), for the avoidance of doubt, includes certain classes of use within the definition of "development". These include subdivision of houses into two or more units; the deposit of refuse or waste on land, even though the land may be an existing refuse deposal site, if the area of the deposit is extended or its height exceeds the level of adjoining land; the siting of caravans, mobile homes, containers and portable buildings; the use of a dwelling or its curtilage for trade or business purposes (other than agriculture); and storage in the open air of derelict vehicles, parts of vehicles and plant and machinery not required in connection with a permitted use of the land. Clause 26(4) brings the display of advertisements into planning control, though exceptions are made in clause 82 and further exceptions may be made by regulations. Clause 26(5) excludes the farming of fish and shellfish and the breeding or rearing of predatory animals from the definition of agriculture and thereby subjects them to planning control.

Clause 27 contains a number of complex provisions relating to operations on and uses of land existing before the Bill is enacted. All permissions granted by the existing Building Committee would remain valid. Clause 27(2) would allow a use of land which existed before a date four years before the publication of the Bill, but which has since been changed to another use, to be resumed without the need for planning permission provided that the former use was resumed before the date of the publication of the Bill. Clause 27(3) deals with occasional uses of land and states that such occasional uses, if they existed on a date four years before the publication of the Bill, would not need planning permission to continue provided that the land was used for this occasional purpose on at least one occasion in the four years before the publication of the Bill. Clause 27(4) would allow the resumption of uses of land without planning permission before the publication of the Bill if the use had been in existence before 2nd April 1982 but had ceased before a date four years before the publication of the Bill.

Clauses 27(5) and (6) would allow earlier uses of land to be resumed without planning permission when a temporary permission expires, provided that the earlier use was authorised. Clause 27(7) makes special provision for caravan sites by stating that use of land as a caravan site would require permission unless the land had been used for this purpose on at least one occasion in the period of two years before the publication of the Bill. Clause27(8) would allow former uses of land to be resumed after permission had been granted by a development order (see below) if the normal use was itself authorised. Under clause 27(9), if an enforcement notice were served to stop an unauthorised development (see Part VII below), permission would not be required to resume the lawful use of the land. Clause 27(10) deals with contraventions of planning control under the former system operated by the Building Committee. A contravention would have occurred if the development took place since a date four years before the publication of the Bill without planning permission granted by the former Committee or in contravention of any conditions attached to a planning permission granted by the former Committee.

Clause 28 would allow the Governor to make "development orders" which could grant a general planning permission for certain classes of development, thereby removing the need for planning applications to be submitted. A development order could also provide for the granting of planning permission by the Planning

and Building Committee. An order could apply to all land or to specific areas and, in granting permission, a development order could include conditions and limitations on any such permission, including conditions requiring approval of design or external materials. Specific areas or types of development could be excluded from the planning permissions granted by the development order. An order could permit the use of land for any purpose on a limited number of days is a specified period, and could direct that any earlier enactment, regulations, orders or byelaws shall or shall not apply to any specified development, with or without modifications.

Clauses 29-35 of the Bill deal with the procedure for handling and considering planning applications. The form and content of an application, under clause 29, could be prescribed by regulations. Clause 30 would require that applications may not be considered by the Committee until adequate publicity had been given to them. The Planning Officer would be required to notify the occupiers of land whom he considered to be within reasonable proximity of the application site and likely to be substantially affected by the proposed development. In no case would this obligation to notify such occupiers extend to land more than 100 metres from the application site (in Stanley) or more than 1 kilometre (in Camp). In addition, publicity would have to be given to all planning applications on the public notice board with at least ten days allowed for objections to be received. Other requirements for publicity could be contained in regulations. No court or other authority would have jurisdiction to enquire as to whether the provisions of clause 30 had been complied with in any particular case.

Clause 31 would enable any person to make representations on any planning application to the Planning Officer who would be required to bring any such representations to the attention of the Committee or to the Governor if he determined the application. The Committee or the Governor would be required to take any representations into account before determining the application, but they could not take into account matters which were not "material considerations" under clause 34 of the Bill (see below).

Clause 32 would require every planning application to be accompanied by a certificate stating either that the applicant is the owner of all of application site or, if he is not the owner of the whole site, that he has given notice to all owners of the site. Special provision would be made for cases in which the applicant was unable to trace all owners of the site. There would also be a requirement to declare either that none of the land forms part of an agricultural holding or that notice has been given to any agricultural tenants of the land. No application may be determined within a period of 21 days from the date on which such notices were served. Clause 32(5) would make it an offence for a person to issue a certificate which he knows to be false or misleading in a material particular, or if he does so recklessly. Clauses 32(6) makes provision for such a notice to be in a form prescribed by a development order, and clauses 32(7) (8) and (9) respectively provide definitions for the terms "owner", "agricultural holding" and "agricultural land".

Clause 33 would allow the Planning Officer to require the submission of an environmental impact statement after receiving a planning application which he considered likely to have a substantial impact on the environment. The Planning Officer would specify the matters with which the statement must deal, and these may include measures for protecting the environment and the likely impact, in the applicant's view, on the environment if the development were carried out. Until the statement had been received, the planning application could not be determined either by the Committee or by the Governor. If an applicant failed to submit a statement within two months (or a longer period allowed by the Planning Officer), or if the statement was not considered satisfactory, the planning application would be deemed to be refused and there would be no recourse to appeal.

Clauses 34 and 35 set out the "material considerations" to be taken into account in the determination of a planning application. Clause 34(1) identifies the following as material considerations:

- (a) the provisions of a development plan prepared under Part III of the Bill;
- (b) any matter of public amenity;
- (c) any other consideration relating to the development and use of land which is relevant to the application site or other land affected by the proposed development;
  - (d) an environmental impact statement received under Clause 33.

Clause 34(2) states that the personal circumstances of an applicant would not ordinarily be a material consideration. Clause 35 would allow, where appropriate, circulars, notes and guidance issued by other national authorities with planning responsibilities to be taken into account, and would also authorise the Governor to issue circulars, notes or guidance relating to the determination of planning applications. The Committee

would be required to take these into account when determining planning applications.

Clause 36 would provide the power for the Committee or the Governor to determine planning applications as they think fit, having had regard to the material considerations. Every person who made representations on the application would receive notification of the decision made. If the Committee wished to approve an application which conflicted with the development plan, it would refer the application to the Governor for determination under clause 37, and would give the Governor its own views and those of the Planning Officer on the application, including recommended conditions of consent. The Governor's decision on such applications would not be subject to appeal. Under Clause 38, the Governor would also be responsible for determining applications by the Crown if the Committee recommends that application be refused, and under clause 39 applications for the winning and working of minerals (other than peat) would also be determined by the Governor.

Clause 40 deals with conditions on planning permissions, and would allow conditions to be imposed for regulating the development or use of land under the applicant's control and for requiring the carrying out of works on such land. Such conditions would have to relate to the development authorised by the permission. Conditions could also be imposed which would grant permission for a limited period and which would require the removal of any buildings or works or the discontinuance of any use at the end of that period. Conditions dealing with matters of detail, such as design or external appearance, could be imposed in a manner which would require approval of these details by the Planning Officer. It would also be possible to impose conditions requiring developments to be commenced within a specified time. Any development commenced after that time had expired would be unauthorised.

Clause 41 contains special provisions relating to conditions on planning permissions for the winning and working of minerals. It would enable the Governor to impose restoration conditions requiring sites of mineral workings to be restored, and aftercare conditions requiring steps to be taken to bring the land up to the required standard for a specified use. In the case of restoration to agricultural use, consultation with the Director of Agriculture would be a requirement in the preparation and implementation of an aftercare condition.

Clause 42 would allow a development order to include provisions regulating the manner in which planning applications are dealt with by the Committee. This would allow the Governor to give directions restricting the grant of planning permission by the Committee, either indefinitely or for a specified period, for a particular development or for a specified class of development. An order could also require the Committee to consult other authorities or persons on any development, to notify an applicant as to the manner in which his application had been dealt with, to give notice of its decision on any application for consent, agreement or approval required by a condition of a planning permission, and to provide information to the Governor or other specified persons on details of applications submitted and the manner in which applications had been dealt with.

Under clause 43, applications could be made to waive conditions imposed on previous planning permissions. The form and content of such applications could be specified by regulations, and a development order could specify the procedure to be followed in handling such applications. In dealing with an application to waive conditions, the Committee could only consider the merits of the conditions and could not reconsider the whole planning application previously approved. No conditions requiring development to be commenced within a specified period could be reconsidered in this way if the period had expired, and applications of this type submitted by the Crown would be referred to the Governor for decision with the advice of the Committee and the Planning Officer.

Clause 44 would allow applications to be submitted after the development had been carried out, whether the development had been carried out without planning permission or in accordance with a temporary permission which had expired. Such an application could also be submitted for a development which had been carried out in breach of a condition on an earlier planning permission. Such permissions could be granted so as to take effect from the date on which the buildings or works were constructed or the use commenced or, in the case of renewals of expired permissions, from the date on which the previous permission expired.

Clause 45(1) states that planning permissions would be granted for the benefit of the land regardless of who may, in future, acquire an interest in the land. Individual permissions could, however, be made personal to an applicant if this was specified on the permission. No person obtaining an interest in the land could benefit from a permission which had expired or been revoked. Clause 45(2) would allow permission for

the erection of buildings to specify the purposes for which the building may be used. If no purpose was specified, the permission would be construed to permit the use for which the building is designed.

Clause 46 would require the Planning Officer to keep a register of planning applications, including a record of how each application had been dealt with. The form of such a register could be prescribed by a development order, and it would have to be available for public inspection at all reasonable hours.

Under clause 47, applicants who were refused planning permission, or whose applications for any approval required by a condition or by a development order were refused, could appeal to the Governor against such a decision reached by the Committee. Conditions imposed by the Committee could also be appealed against. Applications originally determined by the Governor would not be subject to appeal. An applicant would be allowed a period of 28 days from the date of notification of the decision on his application in which to submit an appeal. When considering an appeal, the Governor would reconsider the entire application and could reverse or vary any part of the Committee's decision. An appeal would be in the form of written submissions to the Governor whose decision on any such appeal would be final.

A right of appeal, under clause 48, would also exist if the Committee failed to determine an application within a period of two months from the date on which the application was submitted. A longer period would only be allowed if this were agreed in writing between the applicant and the Planning Officer. An exception is made in the case of applications referred to the Governor for decision, in which case a further period of two months would be allowed from the date on which the applicant was notified that the application had been referred to the Governor.

Under clause 49, planning permission would last for a period of five years unless a longer or shorter period was specified in the permission. This would not apply to permissions granted by a development order, permissions granted for a limited period (i.e. temporary permissions), permissions granted for minerals extraction which require works to be carried out after completion of extraction works already being carried out, permissions for works already completed or uses already commenced under clause 44, and outline permissions.

Outline planning permissions are dealt with in clause 50. Such permissions could be granted with the reservation for subsequent approval by the Committee or the Governor of "reserved matters" not included in the outline application. A period of three years would be allowed for the submission of the reserved matters, and any development granted outline permission must be begun within five years of the grant of outline permission and within two years of the approval of the last reserved matter to be approved. Each of the periods could be varied if the Committee or the Governor considered this appropriate, having had regard to the development plan and any other material considerations.

Clause 51 is a supplementary clause to clauses 49 and 50, and defines when, in the context of those clauses, a development could be said to have been approved. It would also allow appeals against conditions imposing the standard time limits on planning permissions, and states that developments carried out after the date when a condition required it to be carried out would not be authorised by the permission. Similarly, an application made for approval of a reserved matter would not be a valid application if it were made after the date required by conditions on the outline permission.

Once development had begun under a planning permission, that permission would be given an indefinite life, subject, however, to the provisions of clause 52 which would allow the Committee to authorise the service of a "completion notice". Such a notice could be served where a planning permission had been granted subject to a condition that development must be begun within a specified period, and where the development had started within that period but the period has elapsed without the development being completed. If this were the case and the Committee believed that the development would not be completed within a reasonable period, a completion notice could be served. A notice would state that the planning permission would cease to have effect at the end of a period specified in the notice, being a period of at least twelve months after the notice takes effect. A completion notice would have to be served on the owner and occupier of the land and on any person whom the Committee considered would be affected by the notice, and it could not take effect until it was confirmed by the Governor who could, in confirming it, substitute a longer period at the end of which the planning permission would no longer have effect. Before confirming a notice the Governor would give an opportunity to any recipient of a notice and to the Planning Officer to make written representations to him. A completion notice could be withdrawn by the Committee at any time before the date on which the planning permission ceased to have effect. The purpose of a completion notice is to prevent half-finished (and possibly abandoned) developments from continuing to benefit from planning permission indefinitely. A notice would require a developer eitper to forgo his planning permission or to complete the development within a specified period.

Clause 53 would make special provisions for the duration of planning permissions for mineral extraction. All such permissions would be subject to a condition restricting the duration of the development - normally to sixty years but a longer or shorter period could be specified by the Governor.

Powers to revoke or modify planning permissions would be given to the Governor under Clause 54. Having had regard to the development plan and to any other material considerations, the Governor could by order revoke or modify planning permissions. This power would only exist in relation to building or other operations which were not completed or to permissions for changes of use which had not yet taken place. In certain cases relating to the extraction of minerals, a revocation or modification order could include an aftercare condition. Schedule 1 to the Bill sets out the circumstances leading to the payment of compensation for the revocation or modification of a permission. Compensation could be payable when expenditure has been incurred which is rendered abortive by the revocation or modification of a permission, including expenditure on preparatory work such as the preparation of plans. The depreciation in the value of land resulting from the revocation or modification order may also be taken into account. A different method of calculating compensation is provided in Schedule 1 for the revocation or modification of planning permissions for the winning and working of minerals.

A similar power would be provided by Clause 55 which would enable the Committee, in the interests of proper planning and having had regard to the development plan and other material considerations, to require by order the discontinuance of any existing uses of land or the removal of any buildings or works. The Committee could also impose conditions on the continuance of an existing use of land. In the case of the use of land for mineral extraction, the power to serve such an order would be vested in the Governor rather than the Committee, and the order in this case could also include a requirement to remove or alter plant and machinery used for mineral extraction. An order served requiring the discontinuance of a use of land for mineral extraction could include a restoration condition and an aftercare condition. An order issued for any purpose could itself grant planning permission for any development of the land in question, and conditions could be imposed on such a planning permission. An order made by the Committee could not take effect unless it was confirmed by the Governor who could modify the order if he wished. Before an order was confirmed by the Governor, the owner, occupier and other persons affected by the order would be given an opportunity to make written representations to the Governor, and the Planning Officer could also submit representations on behalf of the Committee. Orders issued under clause 55 would be subject to compensation payments in certain cases, as detailed in Schedule 2 to the Bill.

Clauses 56-59 contain a number of special provisions relating to mineral extraction. Clause 56 would allow the Governor to prohibit the resumption of mineral extraction on land where extraction had permanently ceased and would enable him to require the removal of plant and machinery, require steps to be taken to alleviate any injury to amenity, and requires compliance with conditions imposed on the planning permission for the development. Such an order could also impose a restoration condition and an aftercare condition on the site. Before making an order under clause 56, the Governor would be required to give the owner, occupier and any other person affected by the order an opportunity to make written representations to him. If such an order were made, any planning permission for the development would cease to have effect. The Governor could revoke an order and, in doing so, could also grant planning permission for further mineral extraction. Under clause 57, the Governor could require steps to be taken for the protection of the environment during periods when mineral operations on a site had been suspended for a period of at least one year. An order under this clause would be known as a "suspension order", and it would be possible also for the Governor to issue "supplementary suspension orders" the terms of which could add to or substitute for the requirements in a suspension order. Clause 58 would require such orders to be kept under review by the Governor, and clause 59 require the Governor to revoke such orders if mineral extraction had recommened to a substantial extent.

Clause 60 would allow the Crown to enter into agreements with any person with an interest in land for the purpose of restricting or regulating the development of the land. Such an agreement could include provisions of a financial nature and could be enforced against persons who subsequently derived title to the land.

Clause 61 would allow any person proposing to carry out development to apply to the Planning Officer for a determination as to whether the development required planning permission. Any such determination would be subject to an appeal to the Governor.

#### Part V of the Bill

#### Buildings of Architectural or Historic Interest

Part V of the Bill would provide additional controls over the demolition of, and alterations to, buildings of architectural and historic interest. Many of the provisions of this part of the Bill have previously been enacted under the Buildings of Architectural and Historic Interest Ordinance 1987 which would be repealed by clause 129 of the Bill.

Clause 62 provides definitions of the special terms used in this part of the Bill. When dealing with the provisions of this part of the Bill, the Planning and Building Committee would be enlarged, under clause 63, by the appointment by the Governor of not fewer than three and not more than five persons who appeared to him to have a special knowledge of or interest in buildings of architectural or historic interest. In addition to the normal quorum of the Committee, at least two of these persons would have to be present at meetings of the Committee when matters under Part V of the Bill were being dealt with. It would be possible for a public officer to be among these additional Committee members.

Under clause 64, the Committee could recommend to the Governor that a building be designated as being of architectural or historic interest. Before doing so, the Committee would consult with persons or bodies having a special interest in the subject. Clause 65 would allow the Governor to make orders designating buildings as being of special architectural or historic interest. An order could not be made unless the Governor had first allowed the owner and any occupier of the building to make representations to him. He would also have to consult the Committee unless acting on their recommendation. Once an order had been made, any planning permissions previously granted for the demolition, alteration or extension of the building would be revoked. Compensation could be payable for the revocation of permissions in accordance with Schedule 3 to the Bill. Following designation of a building, or following the service of a prohibition notice under clause 66 (see below), none of the provisions of a development order which itself granted planning permission for works of any kind would have effect. A specific grant of planning permission would be needed for all such works.

Clause 66 would enable the Governor to serve a "prohibition notice" to prohibit works of demolition, alteration, repair or maintenance to a building which he believed to be of architectural or historic interest but which had not been designated as such. A notice under this clause would normally be served on the owners and occupiers of the building but could be affixed to the building itself. A prohibition notice would suspend any planning permission previously granted or deemed to have been granted under a development order, although the Governor could permit works to be carried out to make the building safe or wind and water tight. A notice would cease to have effect when revoked, or when a designation order was served, or on a date six months after the notice was served, whichever occurred first.

In deciding whether to designate a building or whether to serve a prohibition notice, the Governor would take into account, under clause 67, not only the building itself but also whether its exterior contributed to the architectural or historic interest of a group of buildings, and whether it was desirable to preserve a particular feature of the building or an object or structure within the curtilage of the building.

Under Clause 68 it would be an offence to demolish a "relevant building" (i.e. one which had been designated or one which was the subject of a prohibition order) or to alter or extend it in a way which affected is historic or architectural character, without first obtaining planning permission and without carrying out the works in accordance with all conditions, restrictions and limitations included in the permission. It would be possible for a person with an interest in a "relevant building" to apply to the Planning Officer to carry out minor works to the building, and for the Planning Officer himself to grant consent for works which do not affect either the exterior of the building or any feature of architectural or historic interest. Conditions could be imposed on such a consent. In proceedings for an offence under this clause it would be a defence to prove that the works were urgently necessary in the interests of safety or health or for the preservation of the building; that safety, health or the preservation of the building could not be secured by works affording temporary support or shelter; that the works carried out were the minimum measures immediately necessary; and that notice in writing justifying the works was given to the Committee as soon as reasonably practicable. Any application for the demolition of a "relevant building" would have to be determined by the Governor rather than the Committee, though the Committee would offer its advice to the Governor on how the application should be determined.

Under clause 69, conditions imposed on a grant of planning permission affecting a "relevant building" could

include conditions requiring the preservation of particular features of the building, the making good of damage caused to the building by the permitted works, the reconstruction of the building or any part of it (with the use of original materials if practicable), and the reservation for subsequent approval by the Committee or the Governor of specified details of the works.

Under clause 70, in the case of a relevant building which is also judged to be a dangerous structure, the Committee would be required, before making a dangerous structure order under any enactment (which might require its demolition), to consider whether it should instead recommend to the Governor that he exercise his powers under clause 103. These powers would allow the Crown to carry out works to a relevant building at the owner's expense which would afford temporary support or shelter for the building. The powers could only be used in respect of unoccupied buildings or parts of occupied buildings which are not in use.

By the provisions of clause 71, it would be an offence for a person to damage a relevant building if the damage was caused intentionally. A person convicted of this offence who failed to prevent further damage resulting from the offence would be guilty of a further offence.

Clause 72 would enable a person with an interest in a relevant building which had been the subject of a planning permission to apply for a variation or discharge of conditions included on the planning permission. In considering such an application, the Committee or Governor could vary or discharge the conditions and could add new conditions if necessary. Clause 72 also includes provisions for appeals to the Governor against refusals of planning permission by the Committee of applications affecting relevant buildings, and against conditions imposed on planning permissions.

#### Part VI of the Bill

#### Trees and Landscaping, Advertisements and Amenity

Part VI deals with the protection and planting of trees, the landscaping of sites, the control of advertisements and powers to require the tidying up of derelict sites and buildings.

Clause 73 would put a duty as the Committee and the Governor, when granting planning permission for any development, to make any appropriate provision by means of conditions for the preservation and planting of trees, and to consider whether it is necessary to serve tree preservation orders to protect trees. Under clause 74, a tree preservation order, which would be imposed by the Governor, could prohibit the cutting down, topping, lopping, uprooting or wilful destruction of trees except with the consent of the Committee. Such a consent could be subject to conditions. An order could also require the replanting of woodlands felled with consent granted by the order. An order could be applied to trees planted in fulfilment of a condition of a planning permission and, in such cases, the order could apply from the time when those trees were planted. Regulations could be introduced to specify the form of tree preservation orders, and to require that owners and occupiers of the land affected are notified before a tree preservation order is made and given an opportunity to object to or make representations on the order. They would also receive copies of the order when it was made. No order could apply to trees which are dying, dead or dangerous, or which require to be cut down, uprooted, topped or lopped as a result of obligations imposed by an Ordinance requiring the prevention or abatement of a nuisance. Clause 75 would allow "provisional tree preservation orders" to be served by the Committee in cases of urgency. No such order could be served unless the Committee also proposed to recommend to the Governor that a full tree preservation order be made. A provisional tree preservation order would cease to have effect after six months, or when a full tree preservation order was made by the Governor, or when it was revoked by the Governor, whichever occurred first.

If any tree protected by a tree preservation order or a provisional tree preservation order was removed, uprooted or destroyed in contravention of the order, it would be the duty of the landowner (unless on application the Committee dispensed with this requirement) to plant another tree of appropriate size and species at the same place as soon as he reasonably could. These replacement trees would remain protected by the order; and the obligation to replace trees protected by the order would attach to subsequent owners of the land.

Clause 77 would put a duty on the Committee and the Governor to ensure, whenever it was appropriate, that conditions were imposed on planning permissions requiring the landscaping of any land forming part of the development. Such works could include the grading, levelling and contouring of land; the application of top soil and fertiliser; the sowing of grass and planting of plants or shrubs; and the maintenance and replacement of grass, plants or shrubs in an aftercare period. They could also include other works on a development site likely to improve the environment of the development concerned. Clause 78 would allow

the Committee or Governor, when granting planning permission, to impose a condition requiring the submission of a "landscaping scheme" before the development was carried out. A landscaping scheme would set out the applicant's proposals for the landscaping of the site and could be approved (with or without modifications) or rejected with a requirement for the submission of a fresh landscaping scheme. The same provisions for appeals against a decision made by the Committee would apply as in the case of a refusal of planning permission, and appeals could be submitted against both the rejection of a landscaping scheme by the Committee and the modification of schemes submitted by the applicant.

Clause 79 would introduce an important power which could be exercised to abate the nuisance and the injury to amenity caused by the ruinous or dilapidated condition of a building or the derelict, waste or neglected condition of any land. The Committee would be given the power to serve a "waste land notice" requiring steps to be taken to abate the nuisance. A notice could not take effect within 28 days of its service and could not relate to a building which was protected under Part V of the Ordinance as being of architectural or historic interest. The Committee would also have powers to withdraw a waste land notice at any time. Under clause 80, a waste land notice could not be served in respect of land owned by the Crown which was not occupied by a tenant or licensee. However, if the Committee considered that, but for this restriction, a notice should have been served in respect of Crown land, it would notify the Governor who, if he considered the Committee's view to be justified and reasonable, would require steps to be taken to abate the nuisance. Clause 81 would give a right of appeal to the Governor against waste land notices. Appeals could be submitted on any of the following grounds: that there is no serious injury to amenity; that the steps required to be taken exceed what is necessary; that the period for compliance with the notice is unreasonably short; that the condition of the land results from lawful uses or operations on the land; or that the notice had been incorrectly served. The Governor, in considering an appeal, could correct any error in the notice that is not material, and may disregard the failure of the Committee to serve the notice upon a person on whom it should have been served if neither that person nor the appellant had been substantially prejudiced by that failure. The waste land notice would have no effect before the determination or withdrawal of the appeal. The Governor, on appeal, could quash a notice served by the Committee or vary its terms in favour of the appellant.

Clauses 82 and 83 deal with the control of advertisements. Clause 82 would allow the Governor to make regulations requiring applications for planning permission to be submitted for the display of advertisements in such circumstances and in such a manner as prescribed in the regulations. Subject to these regulations, planning permission would not be required for the display of advertisements on land owned or occupied by the person displaying the advertisement unless the advertisement was illuminated and visible from a road, street or public place, or unless it exceeded one and a half square metres in area and did not consist solely of an announcement of the profession, trade or business being carried out on the site on which it was displayed. The term 'advertisement' is also defined in this clause and is defined so as to exclude a traffic or road direction sign erected or provided by the Crown. It would be an offence, under clause 83, to display an advertisement on land belonging to another person without that person's consent.

#### Part VII of the Bill

#### Enforcement of Control under Parts IV, V and VI

Part VII of the Bill deals with the enforcement of planning control. If the powers contained in Parts IV, V and VI are to have any effect, it is necessary for there also to be means by which these powers can be enforced. Clauses 84 - 95 deal with the enforcement of control in respect of developments requiring planning permission under Part IV; clauses 96 - 105 deal with buildings protected by orders under Part V; clauses 106 and 107 deal with the enforcement of tree preservation orders; and clause 108 deals with compliance with waste land notices.

Clause 84 sets out the powers which the Committee would have to serve enforcement notices when it appeared that there had been a breach of planning control. The breach would have to have occurred after the 'first appointed day' (a date four years before the publication of the Bill) and the Committee would be required to have regard to the development plan and to any other material considerations before deciding to serve an enforcement notice. A breach of planning control would occur if development had been carried out either before or after the commencement of the Ordinance without the grant of planning permission under the Ordinance or by the former Building Committee, or if any conditions or limitations on a planning permission had not been complied with.

An enforcement notice could only be issued within a period of four years from the date of the breach of

control except in the cases of caravans, mobile homes, containers and other portable buildings, and the storage in the open air of derelict vehicles, parts of vehicles, and plant and machinery not reasonably incidental to an authorised use of the land. In these cases, enforcement notices could continue to be served for developments which took place since the "first appointed day". Copies of any enforcement notice would have to be served on the owner and occupier of the land and on any other parties with an interest in the land which is materially affected by the notice.

An enforcement notice would have to specify the matters alleged to constitute a breach of planning control and the steps to be taken to remedy the breach. Such steps could include requirements to restore the land back to its condition before the development took place, or requirements to comply with the conditions or limitations attached to a planning permission. This could involve the demolition or alteration of any buildings or works, the discontinuance of any use of land, and the carrying out of building or other operations on land. Other steps specified in an enforcement notice could be included to require a development to comply with the terms of any planning permission previously granted for the land, or to require the removal or alleviation of any injury to amenity caused by the development. In all cases, the notice would have to specify the period within which each step has to be taken. If an enforcement notice was served alleging unauthorised disposal of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified in such a manner as may be specified in the notice.

The Governor could require, by regulations, additional matters to be specified in enforcement notices, and could also require every copy of a notice to be accompanied by a note explaining the right of appeal against the notice under Clause 85. The Committee could withdraw an enforcement notice at any time before it takes effect and would have to give notice of this withdrawal to every person who had been served with a copy of this notice. If an enforcement notice was served relating to the erection of a building or the carrying out of works, and the steps required by the notice had been carried out, planning permission would be deemed to have been granted for the works.

Under clause 85, a person with an interest in land to which an enforcement notice relates could appeal to the Governor against the notice. An appeal would have to be submitted within the period before which the notice takes effect (i.e. a minimum of 28 days after its service). An appeal could be submitted on any of the following grounds: that planning permission ought to be granted for the development or a condition alleged to have been breached ought to be discharged; that the matters alleged in the notice do not constitute a breach of planning control; that no breach of planning control has taken place; that the breach of control took place more than four years before the notice was served (in cases where this applies) or before the "first appointed day" (in other cases); that copies of the notice were not served as required by the Bill; that the steps required to be taken exceed what is necessary to remedy the breach of control or to achieve the purpose specified; or that the period allowed for the taking of any step falls short of what should reasonably be allowed.

An appeal would be made in writing to the Governor, and an appellant would have to specify the grounds on which he was appealing and give such further information as the Governor may prescribe by regulations. Such regulations may also deal with the procedure to be followed on appeals, including time limits for the submission of statements by the appellant and the Committee, the matters to be included in such statements and the publicity to be given to appeals. The Governor may dismiss an appeal if the appellant fails to comply with the regulations, and may allow an appeal and quash a notice if the Committee or Planning Officer fail to comply with the regulations. The Planning Officer would be able to make written representations to the Governor on behalf of the Committee, and, if the appellant failed to provide the information required on every ground on which he was appealing, the Governor could determine the appeal without considering those grounds on which the information had not been provided. An enforcement notice would have no effect until the appeal had been either determined or withdrawn.

Clause 86 would allow the Governor to give directions for giving effect to his determination of an appeal including, where appropriate, directions for quashing the enforcement notice or varying its terms. He could also correct any defects in the notice and could disregard a failure to serve the notice on a person who should have been served, if he is satisfied that no party had been substantially prejudiced by such errors. Under clause 87, the Governor, when determining an appeal against an enforcement notice, could grant planning permission for the development in whole or in part; discharge any conditions or limitations subject to which planning permission was granted and substitute another condition or limitation for it; and determine the lawful use of the land in question. In deciding whether to grant planning permission, the Governor would have to have regard to the development plan and to any other material considerations. A planning

permission granted by him could include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission. The Governor could impose any conditions he thinks fit on a grant of permission. The appellant would be deemed to have made an application for planning permission when submitting his appeal.

Clause 88 deals with the penalties for non-compliance with enforcement notices. An owner of land who failed to take the steps set out in the notice within the time specified would commit an offence. If, however, he could show that he was no longer the owner of the land and that failure to comply with the notice was attributable, in whole or in part, to the default of the subsequent owner, the subsequent owner could be convicted of the offence and the original owner acquitted. If, following conviction, a person failed as soon as practicable to do everything in his power to secure compliance with the enforcement notice, he would commit a further offence.

Clause 89 would allow the Committee, when serving an enforcement notice, also to serve a "stop notice". There may be occasions when the Committee wishes to stop an authorised development before the minimum 28 day period for compliance with an enforcement notice has expired. A stop notice could not take effect less than three days or more than 28 days after it was served, and would cease to have effect when the enforcement notice which it accompanied was withdrawn or quashed, or when the period allowed for compliance with the enforcement notice expired, or when the stop notice was itself withdrawn. A stop notice could not prohibit the use of any building as a dwelling house, the use of land as the site for a caravan or any portable building occupied by a person as his only or main residence, or the taking of steps to secure compliance with the enforcement notice. It could also not stop a use of land which had existed for more than twelve months unless that use included building, engineering or mining works or the deposit of refuse or waste materials. A stop notice could served by the Committee on any person with an interest in the land or engaged in any activity prohibited by the notice, and the Committee could also display a site notice on the land. Contravention of a stop notice would be an offence.

If, following the service of an enforcement notice, any steps required by the notice had not been taken within the period allowed for compliance, clause 90 would allow the Crown to enter the land and take those steps. The Crown could recover the cost of these works from the landowner. Under clause 91 an enforcement notice would cease to have effect if planning permission were granted for the development to which it relates, in so far as the permission affects the steps required by the enforcement notice. A person would remain liable for an offence for the period before the new planning permission was granted. Clause 92 would require the Planning Officer to keep a register of enforcement notices and stop notices which would be available for inspection by the public at all reasonable hours. Under clause 93, an enforcement notice would remain in force even after it had been complied with. The carrying out of works or use of land in contravention of the notice would remain an offence.

Clause 94 would allow a person with interest in land to apply for an "established use certificate" from the Committee. This would be a means of proving that planning permission was not required for an existing use of land. A use of land would be an established use if it had begun before a date four years before the publication of the Bill without planning permission or in breach of a condition on a planning permission. A use started after that date could also be an established use if the change from the previous use would not have needed permission under the new Bill. A certificate could be granted for the whole or part of the land applied for and could specify more than one established use. The Committee would have to grant a certificate if the applicant's claim was proven, and would have to approve or refuse the application within a specified time. If no decision was given within that time, the application would be deemed to be refused. An established use certificate would be conclusive in an appeal to the Governor against an enforcement notice if it were relevant and if the enforcement notice had been served after the established use certificate had been applied for. If a person, when applying for an established use certificate knowingly or recklessly made a false statement, submitted a false document or withheld material information with intent to deceive, he would commit an offence.

Under clause 95, the Governor could direct that application for established use certificates be referred to him for decision. If a certificate were refused by the Committee, in whole or in part, the applicant could appeal the decision to the Governor. The Governor could then grant a certificate, or amend the certificate granted by the Committee, or he could dismiss the appeal. He could also grant planning permission for uses which were not proven to be established. Before determining an application or appeal, the Governor could give an opportunity to the applicant or appellant, and the Committee, to make written representations to him. The Governor's decision on an application or an appeal would be final.

Clauses 96-105 would make special provisions for enforcement notices served in respect of "relevant buildings" (i.e. those protected under Part V of the Bill as being of special architectural or historic interest). The provisions of these clauses are similar, and in many cases almost identical, to clauses 84-93 which are summarised above. Under clause 96, a "relevant building enforcement notice" could be served when it appeared to the Committee that unauthorised works had been carried out to a relevant building which had affected its character as a building of special architectural or historic interest. The steps specified in the notice could require the building to be restored to its former state, or, when this is not practicable or desirable, could require works to be carried out to alleviate the effects of the unauthorised works. Steps might also be required to be taken to secure compliance with the terms and conditions of a planning permission previously granted.

Under clause 97, an appeal could be made to the Governor against a relevant building enforcement notice served by the Committee. The grounds on which an appeal could be submitted are broadly similar to those contained in clause 85, but additional grounds of appeal would include the following: that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building; and that the steps required by the notice for restoring the character of the building would not serve that purpose. The provisions of clauses 98 and 99, relating to the determination of appeals by the Governor and penalties for non-compliance with a notice, do not differ to any significant extent from the provisions of clauses 86 - 88. Similarly, clause 100, relating to the execution by the Crown of works required by a relevant building enforcement notice is almost identical to clause 90; and clause 101, dealing with the effect of the grant of planning permission on a relevant building enforcement notice, corresponds to clause 91. Clause 102 would enable the Governor to serve relevant building enforcement notices after consultation with the Committee.

Clause 103 would give power to the Crown, following authorisation by the Governor, to carry out urgent works for the preservation of a relevant building, including works affording temporary support or shelter for the building. If the building were occupied, such works could only be carried out to those parts not is use. The owner of the building would be given at least seven days' notice in writing of the intention to carry out the works, and the notice would have to describe the works proposed to be carried out. Clause 104 would enable the cost of such works to be recovered by the Crown from the owner of the building by the service of a notice to this effect on the owner. Within 28 days of the service of such a notice, the owner could make representations to the Governor on the grounds that some or all of the works were unnecessary for the preservation of the building, that the temporary arrangements for affording support or shelter to the building had continued for an unreasonable length of time, or that the amount specified in the notice was unreasonable and would cause hardship. The Governor would determine to what extent these representations were justified and give notice of his determination to the owner, giving reasons for his decision and the amount recoverable. Under clause 105, all of the Committee's functions relating to relevant building enforcement notices would be carried out by the Committee as enlarged by the same additional members specified in clause 63.

Clause 106 deals with contraventions of tree preservation orders and provisional tree preservation orders. If any person contravened a tree preservation order by causing wilful destruction or damage to a tree, this would be an offence. In determining the amount of a fine, the court would have particular regard to the financial benefit accruing to the person as a result of the offence. A further offence would be committed if the person continued to contravene the order after being convicted. Under clause 107, if a person failed to comply with a requirement to replace trees (under clause 76 or as a requirement of a consent granted under a tree preservation order), the Committee could within four years of this failure serve a notice on the landowner requiring a tree or trees to be planted of such size and species as may be specified. Such a notice could not take effect for a minimum of 28 days after its service, and a person receiving such a notice could appeal in writing to the Governor before the notice took effect. An appeal could be on any of four grounds: that the notice to replace trees or conditions of a tree preservation order were not applicable or had been complied with; that the requirements of the notice were unreasonable; that the work required was not required either in the interests of amenity or good forestry; and that the place in which the tree or trees are required to be planted is unsuitable for that purpose. Either the appellant or the Committee could make written representation to the Governor on the appeal, and the notice would have no effect before the appeal had been determined or withdrawn. It would be possible for the Crown to undertake the work itself if it had not been carried out within the period allowed for compliance with the notice, and to charge the cost of this work to the land owner.

Clause 108 would make it an offence to fail to comply with a waste land notice served under Clause 79.

The provisions of clause 108 are again very similar to those relating to enforcement notices under clause 88.

#### Part VIII of the Bill

# Validity of Planning Instruments and Decisions and Proceedings relating thereto

This Part of the Bill (clauses 109 - 114) deals with the validity in law of the various plans, orders, decisions, directions and notices introduced in the Bill. Under clause 109 the validity of development plans, orders by the Governor, action by the Governor, Committee or Planning Officer under the Bill could not be questioned in legal proceedings except as provided in later clauses of this Part of the Bill. Similarly, under Clause 110, the validity of waste land notices, enforcement notices and relevant building enforcement notices could only be questioned in defined circumstances.

Clause 111 sets out the means by which a person aggrieved by a development plan could question its validity on the ground that it was not within the powers conferred by Part III of the Ordinance. An application could be made to the Supreme Court which could suspend the operation of the Plan in whole or in part or quash the Plan, again either in whole or in part. A period of six weeks from the publication of the Plan would be allowed for such an application to be made to the Supreme Court. Clause 112 would introduce a similar procedure for questioning the validity of any order, direction or decision made by the Governor, the Committee or the Planning Officer under the Bill; and clause 113 would allow a person aggrieved by the Governor's decision on an appeal against an enforcement notice or a relevant building enforcement notice to appeal to the Supreme Court on a point of law. The same would apply in respect of appeals against notices to replace trees under clause 107. Clause 114 would allow an appeal to the Supreme Court on a point of law by an applicant who is aggrieved by a decision of the Governor on a determination as to whether planning permission is required for a particular development:

#### Part IX of the Bill

## Supplemental to Parts II to VIII

This Part contains a number of supplementary provisions mainly affecting procedure. Clause 115(1) would require the Governor and the Committee to consider any written representations made by any person entitled to make representations under the Bill before reaching a decision on the matter. Clause 115(2) would allow an applicant for planning permission or his agent to inspect or take copies of the written representations made by third parties and to respond in writing to the Committee before the commencement of the meeting at which the application was considered. Clause 115(3) would apply the same requirement to applications determined by the Governor. On any type of appeal to the Governor under the Bill, clause 115(4) would require a copy of the written representations by the Committee or the Planning Officer to be sent to the appellant, and copies of the appellant's representations to be sent to the Planning Officer. A copy of any representation from third parties would be sent both to the Planning Officer and the appellant. Before determining an appeal, the Governor would (under clause 115(5)) give an opportunity to each party to respond to the written representations or the other party. No action or proceedings could be founded upon the publication of a document resulting from its inspection or the supply of a copy in accordance with this clause.

Clause 116 would prevent the Governor and the Committee from allowing any oral representation from any party entitled to make written representation on any matter contained in the Bill. It would, however, be possible for oral information to be provided to the Governor or the Committee during a site visit, provided that this information was restricted to information about the site, its surroundings or any thing on the site. If this information were required on a site visit relating to an appeal, both the appellant and the Planning Officer would be entitled to be present during the site visit.

Clause 117 is designed to ensure that no party to an original decision on any matter under the Bill is also a party to the appeal against that decision. During consideration of an appeal by Executive Council (when offering advice to the Governor), a member of Executive Council who, as a member of the Committee, participated in the meeting of the Committee at which the original decision was made, must absent himself from the proceedings of Executive Council when the appeal is being considered. The Planning Officer would under no circumstances be allowed to be present when an appeal was being considered, and no other person who attended the Committee meeting would be entitled to be present at the Executive Council meeting while it considers the appeal. This restriction would apply only in relation to appeals and would not apply to applications or other matters referred to the Governor for decision.

Clause 118 would give the Planning Officer and any other person authorised in writing by the Chief Executive rights to enter land at any reasonable time for the purpose of surveying it for purposes connected with the provisions of the Bill. This would be extended to include powers of entry by the Committee or Executive Council in connection with a planning application or appeal which remains undeterminded. Clause 119 would require any person authorised to enter land to produce evidence of his authority if so required. Admission to land which is occupied could not be demanded without giving at least twenty-four hours' notice of the intended entry to the occupier. Any person wilfully obstructing a person exercising these powers would commit an offence. Also, any person who entered a factory, workshop or workplace in the exercise of his powers of entry, and disclosed any information obtained by him relating to a manufacturing process or trade secret, would commit an offence. Any damage caused to land in the exercise of a right of entry or in surveying the land could be the subject of a claim for compensation from the Crown. If any person with a right of entry intended to survey the land and this survey included searching and boring to ascertain the nature of the subsoil or the presence of minerals in the subsoil, he would have to give notice of this intention to the occupier.

Clause 120 deals with the service of notices and the means by which a notice could be said to have been correctly delivered. Clause 121 would enable the Governor, the Committee or the Planning Officer to obtain information from the owner and occupier of premises before making any order or serving any notice or other document which they have power to make or serve under the Bill. This information could be any of the following: the nature of the interest in the premises of the person from whom the information was sought; details of other persons whom he knows to have an interest in the premises; the current use of the premises and the time when that use began; details of persons who had previously used the premises for that purpose; and the time when any activities being carried out on the premises began. It would be an offence to fail to supply this information without reasonable cause or to give information which the person supplying it knows to be incorrect.

Under clause 122 the Governor could prescribe by regulations the form of any notice, order or other document required by the Bill, and he could also make regulations for any other purpose required under the Bill. Regulations could also be introduced relating to claims for compensation from the Crown under the Bill. Clause 123 deals with offences under the Bill committed by corporations. In the event of such offences, if it is proved that an officer of the body corporate consented to or connived in the offence, or if the offence was attributable to any neglect by such an officer, that officer as well as the body corporate would be held to have committed the offence.

Clause 123 would allow regulations to be introduced permitting combined applications for planning permission and other licences, permissions or consents. It would be possible for this clause to be used to permit combined applications for planning permission and approval under the Building Regulations. Clause 125 states that the provisions of the Bill would apply in relation to land notwithstanding any other Ordinances which may also exist to authorise or regulate the development of land. Clause 126 states that the Bill would be binding on the Crown.

Clause 127 deals with the signing of documents on behalf of the Governor and the Committee, and clause 128 states that any person entitled to compensation from the Crown under any provision of the Bill could refer his claim to the Supreme court if the Crown does not admit the claim within six weeks of the claim being made or if the amount of compensation had not been agreed within three months of the claim being made. The Supreme Court could admit or refuse the claim and fix the amount of compensation to be paid. Clause 129 would repeal the Buildings of Architectural and Historic Interest Ordinance, but the Governor may by regulations give continuing effect to any notice, order, consent, permission or document made under the repealed Ordinance.

As previously stated, Schedules 1, 2 and 3 to the Bill set out the factors to be taken into account in assessing the amount of compensation payable under the Bill for the revocation or modification of planning permission and for orders requiring the discontinuance of uses or the removal of buildings or works.

# The Planning Bill 1990

(No. of 1990)

#### ARRANGEMENT OF PROVISIONS

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# A Bill for An Ordinance

to make new provision as to the control of development and the use of land and development in the territorial sea of the Falkland Islands; and for purposes connected with the foregoing purposes.

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

## PART I INTRODUCTORY

- 1. This Ordinance may be cited as the Planning Ordinance 1990.
- 2. (1) This Ordinance shall come into operation on
- (2) Subsection (1) above has effect without prejudice to any provision of this Ordinance expressed to have effect from the first appointed day or the second appointed day (as the case may be).
- 3. (1) In this Ordinance, unless the context otherwise requires —

"advertisement" has the meaning assigned to it by section 82(4) below;

"aftercare condition" has the meaning assigned to it by section 41(2) below;

"building" includes any structure or erection but does not include plant or machinery comprised in a building;

"buildings or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" include rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder:

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;

"Committee" means the Planning and Building Committee established under section 4 below:

"development" has the same meaning assigned to it by section 26 below;

Short title

Commencement.

Interpretation.

"designated building" means a building the subject of a designation order under section 65 below and 'designation order' means an order under that section;

"development plan" means -

- (a) the provisions of the structure plan for the time being in force;
- (b) any alterations to that plan approved by the Governor;
- (c) any provisions of a local plan for the time being in force;
- (d) any alterations to that local plan approved by the Governor;
- (e) any provisions of a subject plan for the time being applicable; and
- (f) any alterations to a subject plan approved by the Governor,

and references in the foregoing provisions of this definition -

- (i) to the provisions of any plan shall, in relation to a part of the Falkland Islands to which they are applicable, be construed as references to so much of those provisions as are applicable to that part, and
- (ii) to the alterations to a plan being approved by the Governor shall be construed as meaning approved by him and notified in the Gazette;

"disposal" means disposal by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and "dispose of" shall be construed accordingly;

"enactment" includes an enactment in any Ordinance, and an order, rule, regulation, byelaw or scheme made under an Ordinance;

"enforcement notice" means a notice under section 84 below;

"engineering operations" includes the formation or laying out of means of access to highways;

"erection", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

"established use certificate" has the meaning assigned to it by section 94 below;

"first appointed day" means (this is intended to be the date preceding by four years the publication of the policy paper leading to this Bill);

"former Committee" means the Building Committee established by by-laws under the Public Health Ordinance:

"functions" includes powers and duties;

"land" includes land covered by water (including the sea) and the bed of any river or of the sea or other body of water;

"lease" includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and 'leasehold interest' means the interest of the tenant under a lease as so defined;

"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

"minerals" includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;

"mortgage" includes any charge or lien on any property for securing money or money's worth;

"owner", in relation to any land, means (except in section 32 below) a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

"planning decision" means a decision made on an application under Part IV below;

"planning permission" means permission under Part IV below, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to section 44(2) below;

"planning permission granted for a limited period" has the meaning assigned to it by section 40(2) below;

"prescribed" (except in relation to matters expressly required or authorised by this Ordinance to be prescribed in some other way) means prescribed by regulations under this Ordinance;

"prohibition notice" means a notice under section 66 below;

"relevant building" has the meaning assigned by section 69(4) below;

"restoration condition" has the meaning assigned to it by section 41(2) below;

"second appointed day" means (this is intended to be date of publication of the policy paper leading to this Bill);

"steps for the protection of the environment" and "proposals for the protection of the environment" mean steps or proposals, as the case may be —

- (a) for preventing or ameliorating any damage or danger of damage to or loss of the amenities of the area in which the land is, on or under which land development has been, is being or is proposed to be carried out, and for the purposes of this subparagraph "amenities", without prejudice to the generality of that expression include any plant, tree, shrub, fish, bird, mammal or other living creature or thing, whether naturally occurring or not and any view or outlook from any part of that area;
- (b) without prejudice to the generality of paragraph (a) include
  - (i) the prevention or reduction of the emission or discharge of any ionising radiation, furnes, smell, gas, liquid or solid substance and the prevention or reduction of noise or vibration,
  - (ii) the exterior treatment of any building or structure whether by the materials of which it is constructed or by external decoration or otherwise,
  - (iii) the screening of the land affected whether by fences, walls or other structures or by the planting, maintenance, aftercare and replacement of trees and shrubs or otherwise,
  - (iv) measures to deal with any danger or nuisance caused the discharge by accident or misadventure of any thing referred to in subparagraph (i) above, and
  - (v) the storage, treatment or removal of any deposit or waste material and any measures incidental thereto;

"stop notice" has the meaning assigned to it by section 89 below;

"suspension order" and "supplementary suspension order" have the meanings assigned to them by section 57 below;

"tenancy" has the same meaning as in the Law of Property Ordinance 1990;

"tree preservation order" has the same meaning assigned to it by section 74 below; and "use", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

- (2) With respect to references in this Ordinance to planning decisions
  - (a) in relation to a decision altered on appeal by the reversal or variation of the whole or part thereof, such references shall be construed as references to the decision as so altered;
  - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the Committee and not to the decision of the Governor on the appeal;

- (c) in relation to a decision given on an appeal in the circumstances mentioned in section 48 below, such references shall be construed as references to the decision so given; and
- (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the Committee (whether or not that decision is or was altered on that appeal), or, in the case of a decision given on an appeal in the circumstances mentioned in section 48 below, the time when in accordance with that section notification of a decision of the Committee is deemed to have been received.
- (3) Subject to section 51(1) below, for the purposes of this Ordinance development of land shall be taken to be initiated
  - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
  - (b) if the development consists of a change in use, at the time when the new use is instituted; and
  - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (4) In relation to the sale or acquisition of an interest in land, references in this Ordinance to a contract are references to a contract in writing, enforceable in accordance with law and, where the interest is or was conveyed or assigned without a preliminary contract, are references to the conveyance or assignment; and references to the making of a contract are references to the execution thereof.
  - (5) In this Ordinance -
    - (a) references to a person whom title is derived by another person include references to any predecessor in title of that person;
    - (b) references to a person deriving title from another person include references to any successor in title of that other person;
    - (c) references to deriving title are references to deriving title either directly or indirectly.
- (6) References in this Ordinance to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Ordinance.

# PART II ADMINISTRATION

4. (1) There shall be a Planning and Building Committee and, subject to this Ordinance, that Committee is the authority responsible for the administration of this Ordinance.

Planning and Building Committee.

- (2) The Committee shall, before exercising any function under this Ordinance, seek and consider the advice of the Planning Officer.
- (3) The question of whether the Committee has exercised any function after seeking and considering advice in accordance with subsection (2) above shall not be enquired into in any court of law.
- 5. (1) The Planning and Building Committee shall consist of not fewer than five and not more than seven persons but may exercise its functions under this Ordinance notwithstanding any vacancy in its membership, provided that no business shall be transacted by the Committee if its membership is reduced to less than three persons.

Composition of Planning and Building Committee etc.

- (2) Two of the members of the committee shall be elected by the elected members of Legislative Council from among their number and all other members of the Committee shall be appointed by the Governor.
- (3) Unless he is an elected member of the Legislative Council a public officer shall not be capable of being a member of the Committee, and a public officer who is a member

of the Legislative Council shall cease to be a member of the Committee immediately he becomes a member of the Legislative Council, but unless he is elected as a member of the Committee under subsection (2) above.

- (4) The Planning Officer shall be entitled to attend at all meetings of the Committee and to take part in its proceedings, except that if a matter is put to the vote, he shall not vote.
- (5) A member of the Committee who has a direct or indirect financial or other personal interest in any matter being considered by the Committee shall not take part in the consideration by the Committee of that matter and shall declare his interest in it. If so required by the Chairman he shall absent himself from the meeting of the Committee during such time as a matter in which he has declared his interest is under consideration by the Committee.
- (6) A member of the Committee declaring an interest in any matter is not obliged to specify the nature or extent of his interest.
- (7) A decision of the Committee on any matter is not invalidated by the presence during the consideration of a matter of a member who has declared his interest in that matter or who has failed to declare his interest in that matter when he ought reasonably to have done so.
- (8) A member of the Committee who is present during consideration by the Committee of any matter in which he ought reasonably to have declared his interest and who has failed to declare that interest commits an offence and on conviction of that offence is liable to a fine not exceeding the maximum of level 5 on the standard scale.
- (9) Proceedings for an offence under subsection (6) above may only be instituted by or with the consent of the Attorney General.
- 6. (1) The Chairman of the Committee shall be such one of the two members of the Committee elected from among their number by the elected members of the Legislative Council as they shall designate and the Vice-Chairman of the Committee shall be the other of such two members.

Chairman of the Committee.

- (2) The Chairman shall preside at all meetings of the Committee at which he is present, save that he shall not preside during consideration of any matter in which he has declared an interest.
- (3) The Vice-Chairman of the Committee shall preside at all meetings of the Committee at which he is present and at which the Chairman is not present, and during consideration of all matters considered at a meeting of the Committee in which the Chairman has declared an interest, save that he shall not preside during consideration of any matter by the Committee by which he himself has declared an interest.
- (4) If it should happen that both the Chairman and Vice-Chairman have declared an interest in a matter to be considered at a meeting of the Committee, or that neither of them is present at that meeting the remaining members of the Committee present at that meeting shall select from among their number a member who has not declared an interest in that matter to preside over the proceedings of the Committee during consideration of that matter, or at that meeting of the Committee, as the case may be.
- 7. (1) Subject to subsections (2) and (3) below, the Committee shall meet when called upon so do to by the Chairman.

Meetings of the Committee

- (2) The Chairman shall convene a meeting of the Committee to take place within fourteen days of receipt by him of request in writing signed by not less than three members of the Committee requesting him to do so.
- (3) If the Chairman is outside the Falkland Islands or is for any reason unable or unavailable to perform his functions under subsection (1) and (2) above, the Vice-Chairman shall perform those functions in place of the Chairman.
- (4) Subject to this subsection, every member of the Committee and the Planning Officer shall be given by the Secretary at least five days notice of any meeting of the Committee. A majority of the members present at any meeting of the Committee called on shorter notice may, however, resolve to accept shorter notice of that meeting.

- (5) The question as to whether due notice has been given of any meeting of the Committee shall not be enquired into in any court of law.
- 8. (1) Subject to subsection (3) below no business shall be transacted at any meeting of the Committee when there are not three members of the Committee present.

Quorum.

- (2) Any member who has declared an interest in any matter shall not be counted amongst the members present for the purpose of determining whether there is a sufficient number of members personally present.
- (3) Notwithstanding subsection (1), above a meeting of the Committee may adjourn to a further meeting of the Committee the business of the meeting or such part of it in respect of which a sufficient number of members is not present.
- 9. (1) Any public officer or other person may, by the invitation or with the permission of the Chairman or other person presiding at the meeting of the Committee or (as the case may be) during consideration of any matter by the Committee, attend at the Committee.

Attendance of public officers and other persons at meetings of the Committee.

- (2) A person attending under subsection (1) above may take part in the Committee's proceedings except that if a matter is put to the vote, he shall not vote.
- 10. (1) There shall be a Planning Officer who shall be appointed by the Governor acting in his discretion and who shall have, without prejudice to any other functions he may have, the functions conferred on him by this Ordinance.
- Appointment of the Planning Officer.
- 11. (1) A public officer shall be appointed by the Chief Executive to be the secretary to the Committee.

Secretary of the Committee.

- (2) It shall be the duty of the secretary -
  - (a) to attend at all meetings of the Committee;
  - (b) to prepare minutes of all meetings of the Committee; and
  - (c) save as is provided by this Ordinance to have custody of the Committee's records.
- 12. A copy of the minutes of every meeting of the Committee shall be sent, as soon as they are prepared, to the Governor and to the Chief Executive.

Copies of minutes to be sent.

# PART III DEVELOPMENT PLANS

Survey and Structure Plan

13. (1) The Planning Officer shall institute a survey of the Falkland Islands, in so far as this has not already been done, examining the matters which may be expected to affect the development of the Falkland Islands or the planning of their development and, in any event, shall keep all such matters under review.

Survey of Falkland Islands.

- (2) Notwithstanding that the Planning Officer may have carried out in his duty under subsection (1) above, the Planning Officer may if he thinks fit, and shall if so directed by the Governor, institute a fresh survey of the Falkland Islands examining the matters mentioned in that subsection.
- (3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review shall include
  - (a) the proposed balance of future development between Stanley and Camp;
  - (b) broad policies for controlling major new industrial mineral and other development anywhere in the Falkland Islands;
  - (c) proposals for the improvement of infrastructure in so far as these have land use implications; and
  - (d) policies to be followed in relation to the conservation of flora and fauna, protection of the environment generally, the prevention or reduction of pollution and the protection of the landscape.
- 14. (1) In the preparation of the preliminary draft structure plan the Planning Officer

Preparation of preliminary draft structure plan.

shall consult with such other public officers as the Governor may direct and, in the absence of any such direction, such other public officers as he shall think fit. In addition, the Planning Officer may consult such persons appearing to him to have a interest in the matter as he thinks fit.

- (2) The preliminary draft structure plan shall be a written statement
  - (a) formulating the Government's policy and general proposals in respect of the development and other use of land in the Falkland Islands and
  - (b) containing such other matters as may be prescribed or as the Governor may direct.
- (3) The written statement may be illustrated by maps, plans and diagrams.
- (4) In preparing the written statement referred to in subsection (2) above, the Planning Officer shall have regard
  - (a) to the current policies of the Government with respect to the economic planning and development of the Falkland Islands;
  - (b) to the manpower and financial resources likely to be available for carrying the proposals embodied in the structure plan;
  - to the economic and social justification for the proposals set out in the structure plan; and
  - (d) to such other matters as the Governor may direct him to take into account.
- (5) The preliminary draft structure plan shall contain or be accompanied by an explanatory memorandum summarising the reasons which in the opinion of the Planning Officer justify each and every policy and general proposal formulated in the plan.
- 15. (1) As soon as possible after he has completed the preparation of the preliminary draft structure plan, the Planning Officer shall submit the preliminary draft structure plan to the Planning and Building Committee.

Approval in principle of draft structure

- (2) On submission of the preliminary draft structure plan under subsection (1) above, the Planning and Building Committee shall consider it and shall within a period not greater than two months forward it together with its comments and observations thereon to the Governor.
- (3) On receipt of the preliminary draft structure plan from the Planning and Building Committee and that Committee's comments and observations on the preliminary draft structure plan, the Governor shall cause all the same to be considered by the Executive Council.
- (4) On consideration of the preliminary draft structure plan prior to publication under the provisions of this section, the Executive Council shall advise the Governor whether any amendments alterations or additions need, in its opinion, to be made to the draft structure plan before it is published in draft and, subject thereto, whether it approves the draft structure plan in principle.
  - (5) The draft structure plan shall not be published -
    - (a) until all amendments modifications or alterations required by the Governor have been made to the preliminary draft structure plan and
    - (b) unless the preliminary draft structure plan has been approved in principle (subject, as the case may be, to amendments modifications and alterations) by the Governor.
- 16. (1) The Planning Officer shall, as soon as the draft structure plan has been approved by the Governor (and after, if appropriate, all amendments modifications and alterations required by the Governor have been incorporated therein) —

Publication of draft structure plan.

- (a) publish the draft structure plan in such manner as the Governor may direct
- (b) publish it in any case in such a manner that adequate publicity is given to the contents of the draft structure plan and the right of all the persons interested to make comments and representations in relations thereto under subsection (2) below; and

- (c) shall notify its publication by notice in the Gazette.
- (2) Any person may, within a period of two months from the publication in the Gazette of the notice required by subsection (1)(c) above of the publication of the draft structure plan, or such greater period as the Governor may have directed prior to the publication of the draft structure plan, make written representation or comments upon the draft structure plan. All such written representations or comments shall be sent to the Planning Officer who shall forthwith send a copy of them to the Governor.
- (3) As soon as may be after the expiration of the period during which written representations or comments may be made in relation to the draft structure plan under subsection (2) above, the Planning Officer shall, after he has consulted the Committee thereon, send to the Governor his written observations (if any) in relation to the written representations and comments received by him.
- (4) The Governor shall, as soon as conveniently possible after the expiration of the period referred to in subsection (2) above, submit to the Executive Council all written representations and comments received in relation to the draft structure plan together with the Planning Officer's written observations in relation thereto.
- 17. (1) The Governor may, after consulting the Executive Council on the documents required to be submitted to the Executive Council under section 16(4) above and, after considering the draft structure plan, either approve it (in whole or in part and with or without modifications or reservations) or reject it.
- (2) In considering the draft structure plan under subsection (1) above, the Governor may take into account any matters which he thinks are relevant, whether or not they were taken into account in the draft structure plan as submitted to him under section 16 above, and notwithstanding the earlier approval of the preliminary draft structure plan in principle by the Governor.
- (3) Where on considering the draft structure plan under subsection (1) above, the Governor does not determine then to reject it, he shall, before determining whether or not to approve it, consider any written representations or comments upon the draft structure plan and the Planning Officer's observations (if any) in relation to such written representations or comments.
- (4) On considering the draft structure plan under subsection (1) above, the Governor may consult with, or consider the views of, any persons or body or association of persons as he thinks fit but he shall not be, other than provided by subsection (3) above, be under any obligation to do so.
- (5) If the Governor in exercise of his powers under subsection (1) above has approved the draft structure plan, the Planning Officer shall after making any modifications the Governor may then have required to be made in the draft structure plan
  - (a) notify the approval of the structure plan by notice published in the Gazette;
  - (b) publish the approved structure plan in such manner as may be prescribed or as the Governor may direct.
- 18. (1) At any time after the approval of the structure plan, the Planning Officer may submit to the Governor and shall, if so directed by the Governor, submit to him within a period specified in the direction, proposals for such alterations to the structure plan as it appears to the Planning Officer after consultation with the Committee that it would be expedient to make or as the Governor may direct, as the case may be, and any such proposals may relate to the whole or part of the Falkland Islands.
- (2) Any proposal under subsection (1) above shall be accompanied by an explanatory memorandum summarising the reasons which, the opinion of the Planning Officer, justify the alterations which he is proposing. The explanatory memorandum shall also state the relationship of the proposals to general proposals for the development and other use of land in the Falkland Islands and
  - shall also contain or refer to any information on which the proposals are based;
     and
  - (b) may contain such illustrative material as the Planning Officer thinks appropriate.
- (3) The provisions of section 16 above shall apply with all necessary modifications in relation to draft alterations to the structure plan as they apply in relation to a draft structure plan and section 17 above shall apply, with all necessary modifications, to the approval of draft alterations to the structure plan.

Substantive an-

proval or rejec-

plan by Governor.

tion of structure

Alteration of structure plan.

## Local Plans

of the Falkland Islands, as soon as practicable prepare for that part a preliminary draft local plan of such nature as may be specified in the direction.

- (2) Without predudice to any direction under subsection (1) above, the Planning Officer may, if he thinks it desirable, prepare a preliminary draft local plan for any part of the Falkland Islands and, when the structure plan has been approved by the Governor shall, in any case, as soon as practicable consider, and thereafter keep under review, the desirability of preparing a local plan for any part of the Falkland Islands.
- (3) A preliminary draft local plan shall consist a written statement illustrated by such maps plans diagrams as may be necessary or convenient and shall
  - (a) formulate in such detail as the Planning Officer thinks appropriate the Planning Officer's proposals for the development and other use of land in that part of the Falkland Islands or for any description of development or other use of such land (including in either case such measures as the Planning Officer thinks fit for the improvement of the physical environment) and;
  - (b) contain such matters as may be prescribed or as the Governor may in any particular case direct;

and in this subsection 'proposals' includes proposed policies.

- (4) Different preliminary local plans may be prepared for different purposes for the same part of the Falkland Islands.
- (5) A preliminary draft local plan for any area shall contain, or shall be accompanied by, such diagrams, illustrations and descriptive matter as the Planning Officer shall think appropriate for the purpose of explaining or illustrating the proposals in the preliminary draft plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Governor; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the preliminary draft plan.
- (6) In formulating his proposals in a preliminary draft local plan the Planning Officer shall secure that the proposals conform generally with the structure plan (or, as the case may be, the draft structure plan) as it stands for the time being and shall have regard to any information and other considerations which appears to him to be relevant, or which may be prescribed, or which the Governor may in any particular case direct him to take into account.
- 20. (1) As soon as possible after he has completed the preparation of the preliminary draft local plan, the Planning Officer shall submit it to the Committee for its consideration.
  - cal plan, the Planning Officer shall submit it to the Committee for its consideration

    (2) The Committee on considering a preliminary draft local plan may
    - (a) recommend that it be approved or that it be approved subject to such modifications or reservations as it may recommend; or
    - (b) recommend that it be rejected.
- (3) The preliminary draft local plan shall as soon as possible as the Committee has completed its consideration of it be submitted by the Planning Officer to the Governor together with the Committee's recommendations in relation to it.
- (4) The Governor on receiving a preliminary draft local plan together with the Committee's recommendations in relation to it may
  - (a) approve the preliminary draft local plan with or without modifications or reservations (and whether or not the modifications and reservations are the same as those of the Committee) or;
  - (b) reject the preliminary draft local plan.
- (5) If the Governor under subsection (2) above rejects the preliminary draft local plan he may either at the same time or at any future time direct the Planning Officer to prepare a new preliminary draft local plan in accordance with such directions as the Governor may give him at the time of such requirement.
- (6) When a preliminary draft local plan has been approved by the Governor under subsection (4) above (and after any modifications required by the Governor have been made thereto) the preliminary draft local plan shall constitute a draft local plan.
- 21. (1) As soon as possible after a preliminary draft local plan has become a draft local plan under section 20(4) above, the Planning Officer shall take such steps as will in his opinion secure
  - (a) that adequate publicity is given to the draft local plan and to the matters included in it;

Approval of preliminary draft local plan.

Publication of draft local plan.

- (b) that persons who may be expected to desire an opportunity of making representations with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
- (c) that such persons are given an adequate opportunity of making such represen-
- (2) Notification of the draft local plan shall be published in the Gazette. For a period of at least two months following such publication, a copy of the draft local plan shall be available for inspection at the office of the Planning Officer and at such other places as he thinks fit or as may be directed by the Governor. The notification in the Gazette shall include a statement of the time within which objections to the draft local plan may be made.
- (3) The time limited by a notification under subsection (2) above shall not be less than two months from the date of that notification and the notification shall require that all objections to the draft local plan shall be in writing and shall be delivered to the Planning Officer.
- (4) As soon as possible after the expiration of the time within which objections to the draft local plan may be made, the Committee shall consider those objections together with the observations of the Planning Officer thereon. The Committee shall then make its own comments and observations on those objections and shall forward the same, together with the objections and the Planning Officer's observations and comments on the objections to the Governor.
- (5) The Governor shall, as soon as possible after receiving the documents referred to in subsection (4) above, consult the Executive Council in relation thereto.
- (6) In the event that no objections are made to a draft local plan in accordance with this section, the Committee shall notify the Governor of that fact.
- 22. (1) On receiving the documents submitted to him by the Planning Officer under section 21(5) above or, as the case may be, on receiving a report from the Committee under section 21(6) above, the Governor may adopt the draft local plan, either as originally published or as modified to take account of any objections or matters arising out of objections or as otherwise modified as the Governor determines. The draft local plan shall then constitute a local plan.

Adoption and approval of local plan.

- (2) Until a draft local plan has been approved by the Governor under this section, it shall not have effect but, without prejudice to the foregoing, and pending such approval, the Committee may, if it thinks fit, take the proposals and matters embodied in the draft local plan into consideration when determining or considering any application for planning permission or any other permission or consent required under the provisions of this Ordinance.
- (3) Notification of the approval of the local plan shall be published as soon as possible in the Gazette.
- 23. (1) The Planning Officer may at any time with the consent of the Governor make proposals for the alteration, repeal or replacement of a local plan.

(2) Without prejudice to subsection (1) above, the Planning Officer shall, if the Governor so directs him in that behalf, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of a local plan. Such provisions of the antecedent sections of this Ordinance as relate to the preparation of a preliminary draft local plan, the publication of the draft local plan and consideration of objections thereto, as apply in relation to the preparation of a preliminary draft local plan and the approval of a draft local plan shall also apply (with all necessary modifications) in relation to the alteration, repeal or replacement of a local plan.

Alteration of local plans.

### Subject Plans

24. (1) The Planning Officer may, if he thinks fit, and shall if the Governor so directs him, prepare a draft subject plan.

Subject plans.

- (2) Without prejudice to any other circumstances in which a draft subject plan may be prepared by the Planning Officer, or directed by the Governor to be prepared by the Planning Officer, a draft subject plan may be prepared or directed to be prepared if
  - (a) an application for planning consent has been received in relation to any proposed development which, if it were implemented, would be likely to have a major impact upon the environment; or

- (b) any application for planning consent has been received which, if it were granted, would constitute a major departure from the provisions of the structure plan or local plan.
- (2) A preliminary draft subject plan, when prepared, shall be submitted by the Planning Officer as soon as possible to the Committee for its comments and observations upon it.
- (3) As soon as a preliminary draft subject plan has been considered by the Committee the Committee shall submit the same, together with the Committee's observations and comments thereon, to the Governor who shall consult the Executive Council thereon, after, if he shall think fit, an opportunity has been offered to the public to make written representations to him in relation to it.
- (4) The Governor may approve a draft subject plan, with or without modifications or reservations, or reject it. If the subject plan is approved by the Governor it shall have effect notwithstanding any inconsistency between it and the structure plan or any local plan and the structure plan or local plan shall then have effect subject, so far as may be necessary, to the subject plan.
  - (5) Approval of a subject plan shall be notified by the Planning Officer in the Gazette.
- (6) Section 23 above applies, with all necessary modifications, in relation to subject plans as it does in relation to local plans.

# Supplementary Provisions

25. (1) Without prejudice to the preceding provisions of this Part, the Governor may make regulations with respect to the form and contents of structure plans, local plans and subject plans and with respect to the procedure to be followed in connection with their preparation, alteration, repeal and replacement.

Supplementary provisions as to structure local and subject plans.

(2) Regulations under subsection (1) may make different provisions for different parts of the Falkland Islands.

# PART IV GENERAL PLANNING CONTROL

### Meaning of development and requirement for planning permission

26. (1) In this Ordinance, except where the context otherwise requires, "development", subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Meaning of "development".

- (2) Subject to the provisions of this Ordinance in relation to relevant buildings, the following operations or use of land shall not be taken for the purposes of this Ordinance to involve development of the land, that is to say
  - (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
  - (b) the carrying out by the Government of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
  - (c) the carrying out by the Government of any works for the purposes of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purposes;
  - (d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
  - (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
  - (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Governor under this section, the use thereof for any other purposes of the same class.
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section —

- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;
- (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site;
- (c) the siting on any land for any purposes of any caravan, mobile home, container or any other building or structure of a kind originally designed and constructed so as to be readily movable from site to site constitutes development of the land;
- (d) the use of the curtilage of or any building or structure within the curtilage of a dwellinghouse for any trade or business purpose other than agriculture constitutes a material change in the use of the land;
- (e) the storage in the open air on any land (including any road) for a period exceeding one month of any of the following
  - any motor vehicle not reasonably capable of being driven under its own power (and whether registered for the time being under the Road Traffic Ordinance or not);
  - (ii) any parts of a motor vehicle or former motor vehicle;
  - (iii) any plant, machinery or materials whatsoever not reasonably incidental to the use of the land for a purpose for which planning permission has been granted or for which planning permission is not required,

each constitute a material change in the use of the land.

- (4) Subject to section 82 below and without prejudice to any regulations made under that section relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purposes shall be treated for the purposes of this section as involving a material change in the use of that part of the building.
- (5) For the purposes of this section, and without prejudice to any other situation in which any of the same constitute development, development of land for the purposes of breeding or rearing fish shellfish or molluscs and development of land for the purposes of breeding or rearing animals or birds (not being cats or dogs), which in their wild state are predators is not development for the purposes of agriculture.
- 27. (1) Subject to the provisions of this section, planning permission is required for the carrying out of any development of land.

Development requiring planning permission.

- (2) Where on the first appointed day land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose before the second appointed day.
- (3) Where on the first appointed day land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required
  - (a) in respect of the use of the land for that other purpose on similar occasions before the second appointed day; or
  - (b) in respect of the use of the land for that other purpose on similar occasions on or after that date if the land has been used for that other purpose on at least one similar occasion since the first appointed day and before the second appointed day.
- (4) Where land was unoccupied on the first appointed day, but had before that day been occupied at some time on or before 2nd April 1982, planning permission is not required in respect of any use of the land begun before the second appointed day for the purpose for which the land was last used before 2nd April 1982.

- (5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.
- (6) In determining, for the purposes of subsection (5) of this section, what were the purposes for which land was normally used before the grant of planning permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Ordinance or in contravention of previous planning control.
- (7) Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with the second appointed day.
- (8) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Ordinance or in contravention of previous planning control.
- (9) Where an enforcement notice has been served in respect of any development of land, planning permission is not required for the use of that land for the purpose for which (in accordance with the provisions of this Part of this Ordinance) it could lawfully have been used if that development had not been carried out.
- (10) For the purposes of this section, a use of land shall be taken to have been begun in contravention of previous planning control if it was begun
  - (a) on or after the first appointed day; and
  - (b) without planning permission granted by the former Committee; or
  - (c) if it was begun on or after the first appointed day, it has been carried out in contravention of any conditions attached to or imposed on any planning permission granted by the former Committee.

### Development orders

28. (1) The Governor shall by order (in this Ordinance referred to as a "development order") provide for the granting of planning permission.

Development orders.

- (2) A development order may either -
  - (a) itself grant planning permission for development specified in the order, or for development of any class so specified; or
  - (b) in respect of development for which planning permission is not granted by the order itself provide for the granting of planning permission by the Committee (or, in the cases hereafter provided, by the Governor on an application in that behalf made to the Committee in accordance with the provisions of the order).
- (3) A development order may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified.
- (4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.
  - (5) Without prejudice to the generality of subsection (4) of this section
    - (a) where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the Committee or of the Planning Office to be obtained with respect to the design or external appearance of the buildings;
    - (b) where planning permission is granted by a development order for development of a specified class, the order may enable the Governor or the Committee to direct that the permission shall not apply either in relation to the development in a particular area or in relation to any particular development.
- (6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision

shall (without prejudice to the generality of references in this Ordinance to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

- (7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment to which this subsection applies, or any regulations, orders or byelaws made at any time under such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.
- (8) Subsection (7) above applies to any enactment passed before the commencement of this Ordinance.

### Applications for planning permission

29. Every application for planning permission shall be made in such manner as may be prescribed by regulations under this Ordinance, and shall include such particulars, and be verified by such evidence, as may be required by the regulations or by directions given by the Committee or by the Governor thereunder.

Form and content of applications.

Publicity for

planning applications.

- 30. (1) An application for planning permission shall not be considered by the Committee until it has been notified in accordance with the subsequent provisions of this section.
- (2) The Planning Officer shall not less than two weeks before an application for planning permission is first considered by the Committee notify the occupiers of any land which, in his opinion is
  - (a) in the circumstances of the case, within reasonable proximity of the land the subject of the application; and
- (b) likely to be substantially affected by the proposed development, if carried out, but in no case shall be Planning Officer be obliged by this subsection to notify (although he may do so) the occupier of any land no part of which lies
  - (i) in the case of an application relating to land in Stanley, within one hundred metres of that land; or
  - (ii) in the case of an application relating to land in Camp, within one kilometre of that land;

and it is sufficient notification for the purposes of this section if the notice is left upon some part of the premises on which the occupier is likely to find it.

- (3) Regulations under this Ordinance may prescribe the form and contents of a notification under subsection (2).
- (4) In addition to any notification under subsection (2) above, the Planning Officer shall at least ten days before any meeting of the Committee, cause notification of all applications for planning permission to be first considered at that meeting to be published on the public notice board or in such other manner as may be prescribed by regulations.
- (5) No court or other authority shall have jurisdiction to enquire as to whether the provisions of this section have been complied with in any particular case.
- 31. (1) Any person may make representations in writing to the Planning Officer in relation to any application for planning permission.
- (2) When any representations in writing to relation to any application for planning permission are received by the Planning Officer before that application has been determined, he shall bring those representations to the attention of the Committee and if, pursuant to this Ordinance, the application is to be determined by the Governor, to the attention also of the Governor.
- (3) The Committee, and where appropriate, the Governor shall, before determining any application for planning permission, take into account any representations brought to its or his attention under subsection (2) above, but nothing in this subsection permits the determination of any application by relation to considerations which are not material considerations under section 34 below.
- 32. (1) Without prejudice to section 30 above the Committee or, as the case may be, the

Representations and duty to take into account representations.

Notification of applications to owners and agricultural tenants.

Governor, shall not entertain any application for planning permission unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say —

- (a) a certificate stating that, in respect of every part of the land to which the application relates, the applicant is either the estate owner in respect of the fee simple or is entitled to a tenancy thereof;
- (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;
- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of the service of each such notice), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;
- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) of this subsection, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so.
- (2) Any such certificate as is mentioned in paragraph (c) or paragraph (d) of subsection (1) above shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (b) of that subsection) been published in the Gazette.
- (3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say
  - (a) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding;
  - (b) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.
- (4) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) above or by a certificate containing a statement in accordance with subsection (3)(b) above, the application shall not be determined before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later.
- (5) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall commit an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

- (6) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.
- (7) In this section "owner", in relation to any land, means a person who is for the time being the estate owner in respect of the fee simple thereof or is entitled to a tenancy thereof granted or extended for a term of years certain of which not less than ten years remain unexpired.
- (8) In this section "agricultural holding" means the aggregate of the land (whether agricultural land or not) comprised in a contract of tenancy which is a contract for an agricultural tenancy, not being a contract under which that land is let to the tenant during his continuance in any office, appointment or employment held under the landlord and for the purposes of this subsection, a contract of tenancy relating to any land is a contract for an agricultural tenancy if, having regard to
  - (a) the terms of the tenancy;
  - (b) the actual or contemplated use of the land at the time of conclusion of the contract and subsequently;
  - (c) any other relevant circumstances,

the whole of the land comprised in the contract, subject to such exceptions only as do not substantially affect the character of the tenancy, is let for use as agricultural land.

- (9) For the purposes of subsection (8) above, "agricultural land" means land used for agriculture if by way of trade or business it is used for any one or more of the following purposes
  - (a) horticulture;
  - (b) fruit growing;
  - (c) seed growing;
  - (d) dairy farming;
  - (e) livestock breeding;
  - (f) livestock keeping;
  - (g) grazing land;
  - (h) meadow land:
  - (i) osier land;
  - (j) market gardens;
  - (k) nursery grounds; or
  - (l) woodlands where that use is ancillary to the farming of land for other agricultural purposes,

but land enjoyed and used as part of the curtilage of one or more dwellinghouses is not agricultural land unless that dwellinghouse or at least one of those dwellinghouses is used for the purposes of the trade or business for agriculture of a person engaged in agriculture who uses other land by way of trade or business for agriculture and that dwellinghouse is occupied (but not necessarily by the owner of that trade or business) for the purposes of that trade or business.

- 33. (1) If, on receiving any application for planning permission, the Planning Officer considers having regard to
  - (a) the scale and nature of the proposed development, or
  - (b) the operations proposed by the applicant, or
  - (c) the nature of the site or of the environment of the site,

that the proposed development, if carried out, might have a substantial impact on the surrounding area, whether to public amenity or other environmental factors (including wildlife), he may by notice in writing require the applicant to furnish him with an environmental impact statement.

(2) A requirement under subsection (1) shall specify the matters with which the environmental impact statement shall deal and these may include the applicant's intentions

Environmental impact statements.

as to protection of the environment, the likely impact, in the applicant's view on the environment if the proposed development were carried out, and any proposals of the applicant as to measures to be taken by him on his behalf to prevent or lessen any adverse impact on the environment.

- (3) Where a requirement has been made under subsection (1) above in relation to an application for planning permission, the application shall not, unless the Planning Officer withdraws that requirement, be considered by the Committee or, as the case may be, the Governor, until the environmental impact statement has been received.
  - (4) If
    - (a) a requirement has been made under subsection (1) above, and
    - (b) the environmental impact statement to which the requirement relates is not submitted within two months of the requirement or such greater time as the Planning Officer may allow; or
    - (c) the Planning Officer notifies the applicant that he is not satisfied with the environmental impact statement,

the application for planning permission to which it relates shall be deemed to have been refused at the expiration or at the time of such notification of that time as the case may be, and no appeal shall lie against such deemed refusal to any court or authority.

- (5) The Planning Officer shall lay before the Committee or the Governor, as the case may be any environmental impact statement received by him under this section, and not rejected by him.
- 34. (1) The following matters are material considerations (but are not determinative factors, contrary to the public interest) for the purposes of determination of any application for planning permission —

Material considerations.

- (a) the provisions of the structure plan, any local plan and any subject plan so far as material to the application;
- (b) any matter of public amenity;
- (c) any other consideration, whether public or private in nature which relates to the development and use of land and is relevant
  - (i) in relation to the land the subject of the application; or
  - (ii) any other land which might be affected either by the carrying out of the development proposed in the application or by the development proposed in the application not being carried out;
- (d) any environmental impact statement received under section 33 above.
- (2) Any consideration related solely to the circumstances of the applicant is not ordinarily a material consideration.
- 35. (1) For the purposes of section 34(1)(c) circulars, notes and guidance issued by any authority having under any corresponding law responsibility for national policy or national administration in relation to functions similar to those of the Committee or those of the Governor under this Ordinance are matters which may properly be taken into account on the determination of any application for planning permission, including the duration of and conditions of any planning permission and reasons for refusal of planning permission.

Supplementary to section 34.

(2) The Governor may issue or authorise the issue of circulars notes or guidance in relation to the determination of applications for planning permission, including the duration of and conditions of any planning permission, and the Committee shall on determining any application for planning permission take into account any relevant circular notes or guidance to which this subsection relates.

# Determination of planning applications

36. (1) Where an application is made to the Committee for planning permission, the Committee or the Governor, in dealing with the application, shall have regard to any material consideration, and subject thereto shall determine the application in such manner as it or he thinks fit.

Determination of applications.

(2) The Planning Officer shall give notice of the decision of the Committee or the Governor on the application to every person who made representations under section 30(1) above in relation to it.

37. (1) Where an application for planning permission, if granted, would in the opinion of the Committee, conflict with the development plan, the Committee shall not grant the application but shall refer it to the Governor for determination.

Applications conflicting with development plan.

- (2) On referring an application under subsection (1) above, the Committee shall at the same time transmit to the Governor the views of the Committee and of the Planning Officer on the application and such views shall include views as to any conditions subject to which the application should be granted, if the Governor determines to grant it.
- (3) The Governor shall have, in relation to any application referred to him under subsection (1) of this section the powers of the Committee under section 36(1) above and section 40 below.
- (4) No appeal otherwise than as provided by Part VIII of this Ordinance, shall lie to any court or authority in respect of the decision of the Governor on any application for planning permission referred to him under this section.
- 38. (1) An application by the Crown for planning permission shall not be refused by the Committee and if the Committee would, if it had power to do so, refuse it, the Committee shall refer it to the Governor for determination.

Applications by the Crown.

- (2) The Committee shall, on referring on application to the Governor pursuant to subsection (1) above, inform the Governor of the reasons for which it believes the application should be refused, and the views of the Planning Officer in relation to the application.
- (3) Section 43 below applies if the Committee grants an application by the Crown for planning permission subject to conditions.
- (4) The Governor, on a referral under subsection (1) of this section has the same powers as he has under section 37(3) above in relation to a referral under section 37(1) above.
- 39. (1) Any application for planning permission for exploration for or winning and working of minerals shall, subject to subsection (3) below, not be determined by the Committee but shall be referred to the Governor for determination.

Applications for planning permission in respect of minerals.

- (2) Subsections (2) and (3) of section 38 above shall apply in respect of an application referred under subsection (1) above as they do in respect of an application referred under section 37(1) above.
- (3) This section does not apply in respect of an application relating to winning and working peat or to the winning of working of peat granted planning permission by a development order or exempted by a development order from any need to obtain planning permission.
- 40. (1) Without prejudice to the generality of section 36(1) above, conditions may be imposed on the grant of planning permission thereunder —

Conditional grant of planning of permission.

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Committee to be expedient for the purpose of or in connection with the development authorised by the permission;
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period;
- (c) requiring the design of external appearance of the building or any matter of detail to be approved by the Planning Officer.
- (2) Subject to section 53(5) below any planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Ordinance referred to as "planning permission granted for a limited period".
  - (3) Where -
    - (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 49 or 50 below); and
    - (b) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

- 41. (1) Where planning permission for development consisting of the winning and working of minerals is granted subject to a restoration condition, it may be granted subject also to any such aftercare condition as the Governor thinks fit.
  - (2) In this Ordinance -

"restoration condition" means a condition requiring that after operations for the winning and working of minerals have been completed, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and

"aftercare condition" means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely —

- (a) use for agriculture;
- (b) use for forestry; or
- (c) use for amenity.
- (3) An aftercare condition may either -
  - (a) specify the steps to be taken; or
  - (b) require that the steps be taken in accordance with a scheme (in this section referred to as an "aftercare scheme") approved by the Governor.
- (4) The Governor may approve an aftercare scheme in the form in which it is submitted to him or may modify it and approve it as modified.
- (5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.
- (6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.
- (7) In subsection (6) of this section "the aftercare period" means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.
- (8) The power to prescribe maximum periods conferred by subsection (7) of this section includes power to prescribe maximum periods differing according to the use specified.
  - (9) In a case where --
    - (a) the use specified is a use for agriculture; and
    - (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased; and
    - (c) the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (10) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (11) Where the use specified is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.
- (12) Where the use specified is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or plants or for such other purpose as is specified in the aftercare condition.
- (13) Before imposing an aftercare condition, the Governor shall consult -
  - (a) the Director of Agriculture, where the Governor proposes that the use specified in the condition shall be a use for agriculture; and
  - (b) shall also consult the Director of Agriculture where the Governor proposes that the use so specified shall be use for a forestry,

Aftercare conditions on permissions for working and winning minerals. as to whether it is appropriate to specify that use.

- (14) The Governor shall also consult the Director of Agriculture -
  - (a) as to the steps to be specified in an aftercare condition which specifies a use for agriculture or for forestry; and
  - (b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.
- (15) The Governor shall also from time to time as he considers expedient, consult the Director of Agriculture as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.
- (16) On the application of any person with an interest in land in respect of which an aftercare condition has been imposed the Governor, if he is satisfied that the condition has been complied with, shall issue a certificate to that effect.
- (17) A person who has complied with an aftercare condition but who has not himself carried out any operations for the winning and working of minerals in, on or under the land shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred in complying with the aftercare condition.
  - (18) In this section -

"authorised" means authorised by planning permission; and

"forestry" means the growing of a utilisable crop of timber.

**42.** Subject to the provisions of sections 34 to 40 above, provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by the Committee and in particular —

Directions etc as to method of dealing with applications.

- (a) for enabling the Governor to give directions restricting the grant of planning permission by the Committee either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for requiring that, before planning permission for any development is granted or refused, the Committee shall consult with such authorities or persons as may be so prescribed;
- (c) for requiring the Committee to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (d) for requiring the Committee to give any applicant for consent, agreement or approval required by a condition imposed on a grant of planning permission notice of its decision on his application, within such time as may be so prescribed:
- (e) for requiring the Committee to give to the Governor and such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the Committee, including information as to the manner in which any such application has been dealt with.
- 43. (1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - (2) Special provision may be made with respect to such applications
    - (a) by regulations above as regards the form and content of the application; and
    - (b) by a development order as regards the procedure to be followed in connection with the application.
- (3) On such an application the Committee shall consider only the question of the conditions subject to which planning permission should be granted, and
  - (a) if it decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, it shall grant planning permission accordingly; and

Permission to develop land without compliance with conditions previously attached.

- (b) if it decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, it shall refuse the application.
- (4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to time within which the development to which it related was to be begun, that time has expired without the development having been begun.
- (5) If an application to which subsection (1) above applies is made by the Crown, it shall not be determined by the Committee but shall be referred to the Governor, with the advice of the Committee and of the Planning Officer in relation to it.
- (6) In respect of an application referred to him under subsection (5) above the Governor shall have in relation to it all the powers of the Committee under subsection (3) above.
- 44. (1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether
  - (a) the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period; or
  - (b) the application is for permission to retain the buildings or works, or continue the use of the land, without complying with some condition subject to which a previous planning permission was granted.
- (2) Any power to grant planning permission to develop land under this Ordinance shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in subsection (1) of this section; and references in this Ordinance to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly;

Provided that this subsection shall not affect the construction of sections 30, 31(2) or (3) above or section 73 below.

- (3) Any planning permission granted in accordance with subsection (2) above may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.
- 45. (1) Without prejudice to the provisions of this Part of this Ordinance as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.
- (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purposes is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
- 46. (1) The Planning Officer shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to the Committee including information as to the manner in which such applications have been dealt with.
- (2) A development order may make provision for the register to be kept in two or more parts, each containing such information relating to applications for planning permission made to the Committee as may be prescribed by the order, and may also make provision
  - (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
  - (b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.
- (3) The register kept under this section shall be available for inspection by the public at all reasonable hours.

Permission to retain buildings or works or continue use of land.

Provisions as to effect of planning permission.

Planning register.

### Appeals

- (a) for planning permission to develop land;
- (b) for any consent, agreement or approval of the Committee required by a condition imposed on a grant of planning permission granted by the Committee: or
- (c) for any approval of the Committee required under a development order,

and that permission, consent agreement or approval is refused by the Committee or granted by it subject to conditions, the applicant (if other than the Crown) if he is aggrieved by its decision may by notice under this section appeal to the Governor.

- (2) Where any matter referred to in paragraphs (a) to (c) above is under any preceding provision of this Ordinance referred to and determined by the Governor no appeal lies against the decision of the Governor in relation to any such matter nor except as provided by this Ordinance may that decision be called into question in any manner in any proceedings whatsoever before any court.
- (3) A notice under this section shall be served within twenty-eight days from the date of notification of the decision to which it relates and in such manner as may be prescribed by a development order.
- (4) Where an appeal is brought under this section, the Governor may allow or dismiss the appeal, or may reverse or vary any part of the decision of the Committee, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.
- (5) Sections 36, 40, 43, 44 and 45 above shall apply, with any necessary modifications, in relation to an appeal to the Governor under this section as they apply in relation to an application for planning permission.
- (6) An appeal under this section shall be by way of written representations and in accordance with Part VIII of this Ordinance and any applicable regulations.
  - (7) The decision of the Governor on any appeal under this section is final.
- 48. (1) Where any such application as is mentioned in section 47(1) of this Ordinance is made to the Committee then unless subject to subsection (2) below, within two months of the submission of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Planning Officer the Committee either —

Appeal in default of planning decision.

- (a) gives notice to the applicant of its decision on the application; or
- (b) gives notice to him that the application has been referred to the Governor in accordance with the preceding provisions of this Ordinance,

the provisions of section 47 above shall apply in relation to the application as if the permission or approval to which it relates had been refused by the Committee, and as if notification of its decision has been received by the applicant at the end of the period of two months, or at the end of the said extended period, as the case may be.

(2) Where an applicant has, within the period of two months or such extended period as is referred to in subsection (1) above been notified that the application has been referred to the Governor, that period shall thereby be extended for a further period of two months from the date of the notification and, if the Governor does not within that extended period or such greater period as may be agreed in writing between the applicant and the Planning Officer, notify his decision on the application, that application shall be deemed to have been refused by the Committee, notwithstanding any lack of power on its part to refuse the application, and subsection (1) above shall then apply with all necessary modifications.

# Duration of planning permission

49. (1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of —

Limit of duration of planning permission.

- (a) five years beginning with the date on which the permission is granted, or as the case may be, deemed to be granted; or
- (b) such other period (whether longer or shorter) beginning with the said date as the Governor may direct, being a period which the Governor considers

appropriate having regard to the provisions of the development plan and to any other material considerations.

- (2) If planning permission is granted without the condition required by subsection (1) of this section, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
  - (3) Nothing in this section applies -
    - (a) to any planning permission granted by a development order;
    - (b) to any planning permission for a limited period;
    - (c) to any planning permission for development consisting of the winning and working of minerals which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after the completion of other development consisting of the winning and working of minerals which is already being carried out by the applicant for the planning permission;
    - (d) to any planning permission granted under section 44 above on an application relating to buildings or works completed, or a use of land instituted, before the date of the application; or
    - (e) to any outline planning permission, as defined by section 50 below.
- 50. (1) In this section and section 49 of this Ordinance "outline planning permission" means planning permission granted, in accordance with the provisions of a development order with the reservation for subsequent approval by the Committee or by the Governor of matters (referred to in this section as "reserved matters") not particularised in the application.

Outline planning permission.

- (2) Subject to the provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the following effect
  - (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
  - (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates
    - the expiration of five years from the date of the grant of outline planning permission; or
    - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (3) If outline planning permission is granted without the conditions required by subsection (2) of this section, it shall be deemed to have been granted subject to those conditions.
- (4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2) of this section, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as it considers appropriate.
- (5) The said authority may, in applying in the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if it does so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.
- (6) In considering whether to exercise their powers under subsections (4) and (5) of this section, the said authority shall have regard to the provisions of the development plan and to any other material considerations.
- 51. (1) For the purposes of sections 49 and 50 above, development shall be taken to be begun on the earliest date on which any specified operation comprised in the development begins to be carried out.

Provisions supplementary to sections 49 and 50.

- (2) In subsection (1) above "specified operation" means any of the following, that is to say
  - (a) any work of construction in the course of the erection of a building;
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
  - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;
  - (d) any operation in the course of laying out or constructing a road or part of a road:
  - (e) any change in the use of any land, where that change constitutes material development.
- (3) In subsection (2)(e) above "material development" means any development other than
  - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; and
- (b) development of any class prescribed for the purposes of this subsection; and in this subsection "general development order" means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in the Falkland Islands.
- (4) The authority referred to in section 50 above is the Committee or the Governor, in the case of planning permission granted by either of them.
- (5) For the purposes of section 50 above, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the Committee and there is an appeal to the Governor against the Committee's decision on the application and the Governor grants the approval, on the date of the determination of the appeal.
- (6) Where the Committee grants planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 49 or 50 above to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 47 above against the decision of the Committee.
- (7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 49 or 50 above
  - (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and
  - (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.
- 52. (1) The following provisions of this section shall have effect where, by virtue of section 49 and 50 above, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.

Termination of planning permission by reference to a time limit.

- (2) If the Committee are of opinion that the development will not be completed within a reasonable period, the Planning Officer may serve a notice (in this section referred to as a 'completion notice') stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.
  - (3) A completion notice -
    - (a) shall be served on the owner and on the occupier of the land and on any

other person who in the opinion of the Committee will be affected by the notice; and

- (b) shall take effect only if and when it is confirmed by the Governor, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect
- (4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Governor, before confirming the notice, shall afford to that person and to the Planning Officer an opportunity of making written representations to him.
- (5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) of this section or a longer period substituted by the Governor under subsection (3) of this section, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.
- (6) The Committee may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if it does so it shall forthwith give notice of the withdrawal to every person who was served with the completion notice.
- 53. (1) Every planning permission for development consisting of the winning and working of minerals shall be subject to a condition as to the duration of the development.
- (2) Except where a condition is specified under subsection (3) of this section the condition is that the development must cease not later than the expiration of the period of sixty years beginning with the date of the permission.
- (3) The Governor may specify a longer or shorter period than sixty years, and if he does so, the condition is that the development must cease not later than the expiration of a period of the specified length beginning with the date of the permission.
- (4) A longer or shorter period than sixty years may be prescribed for the purposes of subsections (2) and (3) of this section.
- (5) A condition to which planning permission for development consisting of the winning and working of minerals is subject by virtue of this section is not to be regarded for the purposes of this Ordinance as a condition such as is mentioned in section 40(1)(b) above.

### Revocation or modification of planning permission

54. (1) If it appears to the Governor, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part of this Ordinance, the Governor, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) he considers expedient.

(2) The power conferred by this section to revoke or modify permission to develop land may be exercised —

- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;
- (b) where the permission relates to a change of the use of any land, at any time before the change has taken place,

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

- (3) Where the permission relates to the winning or working of minerals an order under this section may contain any such aftercare condition as the Governor thinks fit if
  - (a) the permission also includes a restoration condition; or
  - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Ordinance.
- (4) Subsections (3) to (18) of section 41 above shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under that section.
- (5) Schedule 1 below shall apply to compensation in respect of revocation or modification of planning permission.

Limit of duration of planning permission for winning and working of minerals.

Power to revoke or modify planning permission. 55. (1) Subject to subsection (3) below, if it appears to the Committee that it is expedient in the interests of proper planning (including the interests of amenity), regard being had to the development plan and to any other material considerations —

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or
- (b) that any buildings or works should be altered or removed,

the Committee may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the building or works, as the case may be.

- (2) For the purposes of this section development consisting of the winning and working of minerals in, or under any land is to be treated as a use of that land.
- (3) Where the use of the land in question is, or includes, the winning or working of minerals
  - (a) the Committee shall have no powers under subsection (1) above and the Governor shall have those powers and the subsection shall have effect as if the words "the Governor" appeared therein wherever the words "the Committee" appear therein;
  - (b) subject to paragraph (a) above subsection (1) shall have effect as if -
    - (i) the words "or (c) that any plant or machinery used for the winning or working of minerals should be altered or removed,"

were added at the end of paragraph (b) of that subsection;

- (ii) the words "or plant and machinery" were inserted after the words "buildings or works" in the second place where those words occur.
- (4) Where development consisting of the winning and working of minerals is being carried out in, on or under any land, the conditions which an order under this section may impose include a restoration condition.
- (5) An order under this section may include any such aftercare condition as the Governor thinks fit if
  - (a) it also includes a restoration condition; or
  - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Ordinance.
- (6) Subsections (3) to (8) and (11) to (18) of section 41 above shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.
  - (7) In a case where -
    - (a) the use specified is a use for agriculture; and
    - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
    - (c) the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (8) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (9) Any order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and the provisions of section 54 above shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted on an application made under this Part of this Ordinance.
- (10) The power conferred by subsection (9) of this section shall include power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order
  - (a) for the retention, on the land to which the order relates, of buildings or works

Orders requiring discontinuance of use or alteration or removal of buildings or works. constructed or carried out before the date on which the order was made:

- (b) for the continuance of a use of that land instituted before that date; and section 44(3) above shall apply to planning permission granted by virtue of this subsection as it applies to planning permission granted in accordance with section 44(2) above.
- (11) An order under this section made by the Committee shall not take effect unless it is confirmed by the Governor, either without modification or subject to such modifications as he considers expedient.
- (12) The power of the Governor under this section to confirm an order subject to modifications shall include power
  - (a) to modify any provision of the order granting planning permission, as mentioned in subsection (9) or subsection (10) above;
  - (b) to include in the order any grant of planning permission which might have been included in the order as submitted to the Governor.
- (13) Where the Committee submit an order to the Governor for his confirmation under this section, the Planning Officer shall serve notice on the owner and on the occupier of the land affected, and on any other person who in his opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Governor before confirming the order, shall afford to that person and to the Planning Officer an opportunity of making written representations to the Governor.
- (14) Where the Governor himself proposes to make an order under this section, other than in relation to an order made by the Committee, subsection (13) shall apply with such modifications as are necessary.
- (15) Where an order under this section made by the Committee has been confirmed by the Governor or an order has been made under this section by the Governor other than by way of confirmation of an order made by the Committee, the Planning Officer shall serve a copy of the order on the owner and occupier of the land to which the order relates.
- (16) Schedule 2 below shall apply to compensation in respect of orders under this section.
- 56. (1) Where it appears to the Governor
  - (a) that development consisting of the winning and working of minerals has been carried out, on or under any land; but
  - (b) that it has permanently ceased,

the Governor may by order -

- (i) prohibit the resumption of such development; and
- (ii) impose, in relation to the site, any such requirement as is specified in subsection (3) of this section.
- (2) The Governor may assume that development consisting of the winning and working of minerals has permanently ceased only when
  - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least two years; and
  - (b) it appears to the Governor, on the evidence available to him at the time when he makes the order, that resumption of such development in, on or under the land is unlikely.
  - (3) The requirements mentioned in subsection (1) above are -
    - (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working of minerals or for any purpose ancillary to that purpose;
    - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working of minerals, other than injury due to subsidence caused by underground mining operations;
    - (c) a requirement that any condition subject to which planning permission for development consisting of the winning and working of minerals was granted

Prohibition of resumption of winning and working of minerals. or which has been imposed by virtue of any provision of this Ordinance shall be complied with; and

- (d) a restoration condition.
- (4) An order under this section may include any such aftercare condition as the Governor thinks fit if
  - (a) it also includes a restoration condition; or
  - (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Ordinance.
- (5) Subsections (3) to (8) and (11) to (18) of section 41 above shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.
  - (6) In a case where -
    - (a) the use specified is a use for agriculture; and
    - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
    - (c) the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (7) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (8) Before making an order under this section the Governor shall give to any person who is the owner or occupier of any land to which the order (if made) may relate to an opportunity of making written representations to him about the proposed order and shall also afford such an opportunity to any person who, in his opinion, may be affected by the order.
- (9) A copy of any order made under this section shall be served by the Planning Officer on every person who was given the opportunity of making written representations under subsection (8) above.
- (10) On an order under this section taking effect any planning permission for the development to which the order relates shall cease to have effect but without prejudice to the power of the Governor, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals.
- 57. (1) Where it appears to the Governor
  - (a) that development consisting of the winning and working of minerals has been carried out in, or on under any land; but
  - (b) that it has been temporarily suspended,

the Governor may by order (in this Ordinance referred to as a "suspension order") require that steps shall be taken for the protection of the environment.

- (2) The Governor may assume that development consisting of the winning and working of minerals has been temporarily suspended only when
  - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least twelve months; but
  - (b) it appears to the Governor, on the evidence available to him at the time when he makes the order, that a resumption of such development in, on or under the land is likely.
- (3) In this Ordinance "steps for the protection of the environment" means steps for the purpose —

Orders after suspension of winning and working of materials.

- (a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while operations for the winning and working of minerals in, on or under it are suspended;
- (b) of protecting that area from damage during that period; or
- (c) or preventing any deterioration in the condition of the land during that period.
- (4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any required step for the protection of the environment is to be taken and may specify different periods for the taking of different steps.
- (5) At any time when a suspension order is in operation the mineral planning authority may by order (in this Ordinance referred to as a "supplementary suspension order") direct
  - (a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous supplementary suspension order specified as required to be taken; or
  - (b) that the suspension order or any supplementary suspension order shall cease to have effect.
- 58. (1) It shall be the duty of the Governor
  - to undertake in accordance with the following provisions of this section reviews
    of suspension orders and supplementary suspension orders which are in operation; and
  - (b) to determine whether he should make, in relation to any land to which a suspension order or supplementary suspension order applies,
    - (i) an order under section 56 above; or
    - (ii) a supplementary suspension order.
- (2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect and each subsequent review shall be undertaken not more than five years after the previous review.
- (3) If a supplementary suspension order is in operation in relation to any land for which a suspension order is in operation, they shall be reviewed together.
- (4) If the Governor has made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous order under section 57 above, the Governor shall undertake reviews of the supplementary suspension order in accordance with subsection (5) of this section.
- (5) The first review shall be undertaken not more than five years from the date on which the order takes effect and each subsequent review shall be undertaken not more than five years after the previous review.
- 59. (1) Nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals in, on, or under the land in relation to which the order is in effect; but no person shall recommence such development without first giving the Governor notice of his intention to do so.

(2) A notice under subsection (1) above shall specify the date on which the person giving the notice intends to recommence development consisting of the winning and working of minerals.

- (3) The Governor shall revoke the order if development consisting of the winning and working of minerals has recommenced to a substantial extent in, on or under the land in relation to which the order is in effect.
- (4) If the Governor does not revoke the order before the end of the period of two months from the date specified in the notice under subsection (1) above, the person who gave that notice may apply to him for the revocation of the order.
- (5) Notice of an application under subsection (4) above shall be given by the applicant to the Planning Officer.
- (6) If he is required to do so by the person who gave the notice or by the Planning Officer, the Governor before deciding whether to revoke the order, shall afford to that person and to the Planning Officer an opportunity of making written representations to him.
- (7) If the Governor is satisfied that development consisting of the winning and working of minerals in, on or under the land has recommenced to a substantial extent, he shall revoke the order.

Resumption of winning and working of minerals after

suspension order.

Reviews of suspension orders.

- (8) If the Governor revokes an order by virtue of subsection (7) above, he shall give notice of its revocation to the person who applied to him for the revocation and to the Planning Officer.
- 60. The Crown may enter into an agreement with any person interested in land in the Falkland Islands for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement; and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the Governor to be necessary or expedient for the purposes of the agreement.

Agreements regulating development or use of land.

- (2) An agreement made under this section with any person interested in land may be enforced by the Crown against persons deriving title under that person in respect of that land, as if the Crown were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.
  - (3) Nothing in this section or in any agreement made thereunder shall be construed
    - (a) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Governor or the Committee under or other authority under this Ordinance so long as those powers are exercised in accordance with the provisions of the development plan; or
    - (b) as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a) of this subsection.

# Determination whether planning permission required

61. (1) If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of the land, and, if so, whether an application for planning permission in respect thereof is required under this Part of this Ordinance, having regard to the provisions of the development order, he may, either as part of an application for planning permission, or without any such application, apply to the Planning Officer to determine that question.

Applications to determine whether planning permission required.

(2) An appeal lies to the Governor against any determination by the Planning Officer that planning permission is required and the foregoing provisions of this Part relating to appeals against refusal of planning permission apply with any necessary modifications to such appeals.

# PART V ADDITIONAL CONTROL IN RESPECT OF BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

### Introductory

62. Unless the context otherwise requires, for the purposes of this Part -

Interpretation of this part.

Composition

and quorum of Committee for

the purposes of

this part.

"building" includes any structure or erection and includes plant or machinery whether within a building or not and includes a group of buildings and where a building (as previously defined) is a relevant building includes the curtilage of that building if and to the extent that curtilage is included in an order under section 65 below or in a prohibition notice under section 66 below;

"Committee" in sections 64 to 72 below means the Committee composed as required by section 63(2) below;

"designated building" means a building designed by the Governor by order under section 65 below; and

"relevant building" has the meaning assigned by section 69(4) below.

- 63. (1) The functions of the Committee under sections 64 to 72 below shall be exercisable only if the Committee, at any time it decides to exercise that function, is composed of
  - (a) such persons as constitute the Committee for the purposes of the antecedent provisions of this Ordinance; and
- (b) at least three persons appointed under subsection (2) below and there are present during consideration of the matter by the Committee
  - (i) those persons as apart from this section would under section 8 above be sufficient to constitute a quorum of the Committee; and
  - (ii) at least two of the persons appointed under subsection (2) below.
- (2) The Governor may appoint not fewer than three and not more than five persons appearing to him to have a special knowledge of or interest in buildings of architectural

or historic interest to be additional members of the Committee for the purposes of its functions under sections 64 to 72 below and of sections 96, 97, 100(1) and 102 below. A public officer is not disqualified from appointment under this subsection.

(3) This provisions of sections 5(5) to 5(9), 6, 7, 8, 9, 11 and 12 above shall apply with all necessary modifications to the Committee composed as required by this section, to the members of the Committee and to its procedure.

### Building designation

- 64. (1) The Committee may recommend to the Governor that a building be designated under section 65(1) below and may do so
  - (a) of its own motion; or
  - (b) on referral by the Governor to it of the question for its consideration.
- (2) The Committee may, before making any recommendation under subsection (1), consult with such other persons or bodies of persons as appear to it to be appropriate as having a special interest in buildings of architectural or historic interest.
- 65. (1) Subject to subsection (2) below, the Governor may by Order made under this subsection designate any building as being of special architectural or historic interest.
  - (2) The Governor shall not make an Order under subsection (1) unless
    - (a) he has first given an opportunity to the owner and any occupier of the building to make written representations to him in the matter; and
    - (b) he acts on the recommendation of or after consultation with the Committee.
- (3) Subsection (2) of section 64 above applies with all necessary modifications, in respect of the Governor's exercise of his powers under subsection (1) of this section as it does in respect of the Committee's exercise of its functions under subsection (1) of that section.
- (4) When an order is made in respect of a building under subsection (1) above any planning permission previously granted for the demolition alteration of extension of or execution of works to the building is thereby revoked and Schedule 3 below shall apply to compensation in respect of such revocation.
- (5) Subject to section 66(3) below, when a designation order under this section applies, or a prohibition notice is in force under section 66 below, in respect of a building, no provision of any development order shall have effect so far as concerns that building, which would otherwise permit works of any kind to be carried out without the specific grant of planning permission in respect of those works.
- 66. (1) The Governor may, if he believes that a building may be of special architectural or historic interest and that it may be appropriate for that building to be designated by Order under section 65(1) above, but it has not already been designated under that provision, by notice ("a prohibition notice") to the owners and occupiers of that building prohibit the carrying out of any works of demolition, alteration, repair or maintenance to that building without the consent in writing of the Governor.
- (2) A prohibition notice shall ordinarily be served upon the owners and occupiers of the building but is sufficiently served upon them if it is affixed to a prominent part of the building the subject of the notice.
- (3) A prohibition notice shall have the effect of suspending while it continues in force any planning permission previously granted under any preceding provision of this Ordinance or deemed to be granted under a development order save insofar as the Governor, pursuant to subsection (4), below permits to be carried out any works or operations permitted thereby which are necessary to render the building safe or wind and water tight.
- (4) The Governor by writing under his hand may permit to be carried out any works or operations reasonably necessary to render the building safe or wind and water tight but any such consent shall not operate so as to render unnecessary any planning permission which would otherwise be required under any Part IV of this Ordinance.
  - (5) A prohibition notice ceases to have effect
    - (a) when it is revoked by notice by the Governor served upon the persons on whom the prohibition notice was served; or
    - (b) if a designation order is made in respect of the building; or
- (c) on the expiration of six months from the date on which it was made,

whichever shall first occur.

(6) In this section "owner" and "occupier" have the same meaning as it has under section 32 above.

Recommendation to the Governor to designate a building under section 65,

Designation of buildings of architectural or historic interest.

Prohibition notice.

67. (1) In considering whether to exercise any power he has under section 65(1) above or section 66(1) above, the Governor may take into account not only the building itself but also —

Supplementary to sections 65 and 66.

- any way in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part;
- (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure or forming part of the land comprised within the curtilage of the building.
- (2) In considering any recommendation to the Governor under section 64(1) the Committee shall have regard to the same matters as are mentioned in paragraphs (a) and (b) of subsection (1) above.

### Consents for works

68. (1) Subject to this Part of this Ordinance, if a person executes or causes to be executed any works for the demolition of a designated building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised in accordance with section 66(4) above or subsection (2) or (4) of this section, he commits an offence.

Consent for works to relevant buildings.

- (2) Works for demolition of a designated building or for its alteration or extension (including alteration or extension of its curtilage insofar as that curtilage is included in an order under section 65 above) are authorised if they are permitted under the terms of a planning permission granted under this Ordinance after the designation of the building and are carried out in accordance with all conditions restrictions and limitations subject to which that permission was granted.
- (3) Subsections (1) and (2) above apply to a building the subject of a prohibition order and its curtilage with the substitution of the words "building the subject of a prohibition order" for the words "designated building" and of the words "after the making of the prohibition order" for the works "after the designation of the building" wherever occurring in those subsections.
- (4) The Planning Officer may, on the application of any person appearing to him to have a sufficient interest in the building to which subsection (1) or (3) above applies, grant consent for the carrying out of any works not likely, in his opinion
  - (a) to affect the exterior of the building; or
  - (b) to affect any man-made feature of the building having architectural or historic interest,

and may impose such conditions on the grant of any such consent as appear to him to be necessary and works carried out under and in accordance with the conditions of any such consent are authorised for the purposes of subsection (1) above.

- (5) Notwithstanding the terms of any development order nothing in any such order authorises the carrying out of any works to or demolition of a building to which this section relates contrary to the provisions of subsection (1) above.
- (6) Without prejudice to subsection (1) above and subject to subsection (8) below, a person commits an offence who carries out or causes to be carried works to a building the subject of a designation order or prohibition notice
  - (a) without planning permission in that behalf granted after the date of the designation order or prohibition notice or consent granted under section 66(4) above or under subsection (2) or (4) of this section; or
  - (b) otherwise than in compliance with any conditions imposed on the grant of any such permission or consent.
- (7) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for twelve months or both such fine and imprisonment.
- (8) In proceedings for an offence under this section it is a defence to prove the following matters
  - (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building; and
  - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
  - (c) that the works carried out were limited to the minimum measures immediately necessary; and

- (d) that notice in writing justifying in detail the carrying out of works was given to the Committee as soon as reasonably practicable.
- (9) Demolition of a relevant building shall be deemed for the purposes of Part IV of this Ordinance to constitute development conflicting with the development plan and section 37 above (planning permission only to be granted by the Governor) shall apply accordingly to an application for planning permission for such demolition and without prejudice to the foregoing the Governor shall and may exercise in relation to such an application all the powers of the Committee under section 69 below
- 69. (1) In relation to a relevant building the conditions subject to which planning permission or consent may be granted under section 66(4) or section 68(2) or (4) above (for the purposes of this section called, in every case, "consent") include conditions with respect to —

Conditions which may be attached to consents.

- (a) the preservation of particular features of the building, either as part of it or after severance therefrom;
- (b) the making good, after the works are completed, of any damage caused to the building by the works;
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.
- (2) Consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the Committee or, in the case of consent granted by the Governor, specifying whether the reserved details are to be approved by the Committee or by him.
  - (3) Consent for the demolition of a relevant building may be granted.
  - (4) In this section -

"relevant building" means a building which is a designated building or the subject of a prohibition order.

### Miscellaneous

70. Before taking any steps under any applicable enactment with a view to the making of a dangerous structure order in respect of a relevant building, under any statute the Committee shall consider whether they should instead recommend the Governor to exercise his powers under section 103 below (power to carry out urgent works for preservation of building).

Dangerous structure orders in respect of relevant buildings.

71. (1) If any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to a relevant building or building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Damage to relevant buildings.

- (2) In subsection (1) of this section "excepted works" means works authorised pursuant by a consent.
- (3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the failure continues.
  - (4) In this section "consent" has the same meaning as it has under section 69(4) above.
- 72. (1) Any person interested in a relevant building in respect of which a consent (within the meaning given by section 69(4) above) has been granted subject to conditions may apply to the Committee for variation or discharge of those conditions, where the consent was granted by the Committee or by the Planning Officer, or to the Governor, where the consent was granted by him. (2) On such an application the Committee or, as the case may be, the Governor (in the case of a consent granted by him) may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon such variation or discharge, as it or he thinks fit.

Application for variation or discharge of conditions and appeals.

(3) The provisions of Part IV above relating to appeals from decisions of the Committee to grant planning permission subject to conditions or subject to a limitation of time and to refusals of planning permission apply in respect of any such decisions of the Committee in relation to a relevant building but no appeal, except as provided by Part VII below, lies from any decision of the Governor.

# PART VI TREES AND LANDSCAPING ADVERTISEMENTS AND AMENITY

- 73. It shall be the duty of the Committee and of the Governor
  - (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
  - in the case of the Committee to recommend the making of, and in the case of the Governor to make, such orders under section 74 below as appear to it or him to be necessary in connection with the grant of such permission, whether to give effect to such conditions or otherwise.
- 74. (1) If it appears to the Governor that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands he may for that purpose make an order (in this Ordinance referred to as a "tree preservation order") with respect to such trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order -

Tree preservation

Duties: Trees.

- for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the Committee, and for enabling the Committee to give consent to the same or any of the same subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
- for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Ordinance falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.
- (2) References in this Ordinance to provisions thereof falling with this subsection are references to
  - such provisions of Part IV of this Ordinance relating to planning permission and to applications for planning permission as the Governor thinks fit;
  - such other provisions of this Ordinance as may otherwise be appropriate in the circumstances of the case.
- (3) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 73(a) above, as from the time when those trees are planted.
- (4) Provision may be made by regulations under this Ordinance with respect to the form of tree preservation orders, and the regulations may (without prejudice to the generality of this subsection) make provision as follows
  - that, before a tree preservation order is made, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;
  - that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is made; and

- (c) that copies of the order, when made, shall be served on such persons as may be specified in the regulations.
- (5) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, uprooting topping or lopping of trees which are dying or dead or have become dangerous or the cutting down uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Ordinance so far as may be necessary for the prevention or abatement of a nuisance.
- 75. (1) If it appears to the Committee that it is urgently necessary for the preservation of any trees or woodland so to do, subject to subsection (2) below it may make a provisional tree preservation order in relation to those trees or that woodland and section 74(1) to (3) and (5) above shall apply to such an order, subject to all necessary modifications, as they do to an order made by the Governor under section 74(1) above.

Provisional tree preservation orders.

- (2) The Committee shall not make an order under subsection (1) of this section unless it has recommended, or proposes to recommend, that the Governor should make an order under section 74(1) above in respect of the same trees or woodland.
  - (3) An order under subsection (1) above shall cease to have effect -
    - (a) on the expiration of six months from the date on which it was made; or
    - (b) on the making of an order by the Governor on the recommendation referred to in subsection (2) above; or
- (c) on being revoked by the Governor under subsection (4) below, whichever shall first occur.
- (4) The Governor may revoke an order made by the Committee under subsection (1) above.
- 76. (1) If any tree in respect of which a tree preservation order or provisional tree preservation order is for the time being in force is removed uprooted or destroyed in contravention of the order or, except in the case of a tree to which the order applies as part of a woodland is removed uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by virtue of the provisions of section 74(5) above relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the Committee dispenses with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

Replacement of

- (2) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees removed, uprooted or destroyed stood or on such other land as may be agreed between the Committee and the owner of the land, and (in either case) in such places as may be designated by the Committee.
- (3) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.
- (4) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 107 below and not otherwise.

### Landscaping

77. (1) It shall be the duty of the Committee and of the Governor to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the landscaping of any land comprised in the development.

Duties: Landscaping.

- (2) In subsection (1) "landscaping" includes -
  - (a) carrying out works so as improve the appearance of land by grading, levelling, or contouring, application of top soil, application of fertiliser, the sowing of grass, application of turf, the planting of plants or shrubs and the

aftercare for a reasonable period of any grass, shrubs or plants the subject of a condition imposed in accordance with section (1) and the replacement of any grass plants or shrubs seriously damaged diseased or dead and initially provided under such a condition;

- (b) the treatment of the curtilage of the development in any other way not provided for in paragraph (a) above in such manner as to be likely to improve the environment of the development concerned.
- 78. (1) The Committee or Governor, in granting planning permission may as a condition of that permission prohibit the carrying out of the development permitted thereby until such time as the applicant has furnished to it or him, and if or he has approved, a land-scaping scheme in relation to the land comprised in the development.

Landscaping schemes.

- (2) A landscaping scheme submitted in compliance with a requirement imposed under subsection (1) shall set out the applicant's proposals as to the landscaping (within the meaning given by section 77(2) above) of the land affected by the requirement.
- (3) On submission to him or it of a landscaping scheme the Planning Officer, the Committee or the Governor, as the case may be, may
  - (a) approve it with or without modifications (when the landscaping scheme shall constitute "an approved landscaping scheme"); or
  - (b) reject it and require the applicant to submit a fresh landscaping scheme to it or him for approval (when the provisions of subsection (2) above and of this subsection shall apply in respect of any fresh landscaping scheme submitted in response to that requirement as if the requirement had been made under subsection (1) above).

This subsection also applies in respect of a landscaping scheme submitted voluntarily (that is to say, without a requirement under subsection (1) having been made).

- (3) The provisions of Part IV of this Ordinance as to appeals to the Governor against refusal of planning permission by the Committee, save such of those provisions as require the giving of notice to any other person, apply with all necessary modifications to
  - (a) the modification by the Committee of a landscaping scheme submitted by the applicant; and
  - (b) the rejection of such a scheme and a requirement to submit a fresh such scheme for approval.

### Waste land

79. (1) Subject to subsection (3) of this and to section 80 below if it appears to the Committee that the amenity of any part of the Falkland Islands is seriously injured by reason of -

Waste land notices

- (a) the ruinous or dilapidated condition of any building; or
- (b) the derelict, waste or neglected condition of any land,

the Committee may serve on the owner and occupier of the land a notice (in this section and in section 80 and 81 below called "a waste land notice") requiring such steps for abating the nuisance as may be specified in the notice to be taken within such period as may be so specified.

- (2) Subject to section 80 below, a waste land notice shall take effect on such date as is specified in the notice, being a date not less than 28 days after the service of the notice.
- (3) No notice may be served under subsection (1) above in relation to a building which is a designated building or the subject of a prohibition order.
- (4) The Committee may withdraw a waste land notice (without prejudice to its powers to serve another) at any time before it takes effect; and if it so withdraws it, it shall forthwith give notice of the withdrawal to every person on whom the notice was served.
- 80. (1) No notice may be served under section 79(1) above in respect of any land which is in the ownership of the Crown and not in the occupation of any tenant or licensee.

Crown land.

- (2) Where, but for subsection (1) above, the Committee would have had power to serve a waste land notice, the Committee shall notify the Governor in writing of that fact setting out the circumstances which would, in its opinion, have justified the service of such a notice and the Governor shall, if he considers that the Committee is justified and reasonable in its view, cause such steps to be taken as will abate the nuisance.
- 81. (1) A person on whom a waste land notice is served, or any other person having an interest in the land to which the notice relates, may at any time within the period specified in the notice at the end on which it is to take effect appeal to the Governor against the notice, on any of the following grounds —

Appeals against waste land notices.

- (a) that there is no serious injury to the amenity; or
- (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such injury; or
- (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed; or
- (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
- (e) that the notice was served other than in accordance with section 79 above.
- (2) An appeal under this section shall be made by notice in writing to the Governor.
- (3) The provisions of subsections (3) to (5) of sections 85 and 86 below shall apply to appeals under this section as they apply to appeals under section 85 below.
  - (4) On an appeal under this section the Governor -
    - (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material; and
    - (b) may disregard the failure of the Committee to serve the notice upon a person whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section the waste land notice shall be of no effect pending the final determination, or the withdrawal of the appeal.
- (6) On determining an appeal under this section the Governor shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.

# Advertisements

82. (1) The Governor may, by regulations made under this subsection, provide that the display of advertisements in such circumstances or manner as is prescribed in those regulations shall constitute development requiring planning permission.

Control of advertisments.

- (2) Subject to any regulations for the time being in force made under subsection (1) above, the display of any advertisement on any land owned by or in the occupation of the person displaying the advertisement, and notwithstanding section 26 above (definition of "development") does not require planning permission unless
  - (a) the advertisement is -
    - (i) designed and constructed so as to be illuminated, either internally or externally; and
    - (ii) is so positioned as to be visible from any road, street or other public place; or
  - (b) the advertisement -
    - (i) exceeds one and one half square metres in area; and
    - (ii) does not consist solely of an announcement of the name or nature of a profession business or trade being carried on in the building or land which the advertisement is displayed.

- (3) Regulations made under subsection (1) above may amend subsection (2) so as to extend the advertisements in respect of which planning permission is not required.
- (4) For the purposes of this section and section 83 below "advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, or adapted for use for the display of advertisements. Notwithstanding the foregoing provisions of this definition, a traffic sign or road direction sign erected or provided by the Crown is not an advertisement.
- 83. (1) Any person who places or erects or causes to be placed or erected any advertisement on land belonging to another person without that other person's consent commits an offence.

Advertisements on land belonging to another.

(2) A person convicted of an offence under subsection (1) above is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and to a further fine not exceeding that maximum in respect of every day on which the offence continues after the date of conviction of the offence under subsection (1).

# PART VII ENFORCEMENT OF CONTROL UNDER PARTS IV V AND VI

Development requiring planning permission

84. (1) Where it appears to the Committee that there has been a breach of planning control after the first appointed day, then subject to the following provisions of this section, the Committee, if it considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

Power to issue enforcement notice.

- (2) A notice under this section is referred to in this Ordinance as an "enforcement notice".
- (3) There is a breach of planning control
  - (a) if development has been carried out, whether before or after the commencement of this Ordinance, without the grant of the planning permission by the former Committee or under Part IV of this Ordinance; or
  - (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.
- (4) An enforcement notice may be issued only within the period of four years from the date of the breach unless the breach alleged consists of breach of a condition or limitation on limiting the duration of a planning permission or relates to development without planning permission to which paragraph (c) or (e) of section 26 above relates.
- (5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect
  - (a) on the owner and on the occupier of the land to which it relates; and
  - (b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.
- (6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.
  - (7) An enforcement notice shall also specify
    - (a) any steps which are required by the Committee to be taken in order to remedy the breach;
    - (b) any such steps as are referred to in subsection (10) of this section and are required by the Committee to be taken.

- (8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.
- (9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose
  - (a) of restoring the land to its condition before the development took place; or
  - (b) of securing compliance with the conditions or limitations subject to which planning permission was granted,

### including -

- (i) the demolition or alteration of any buildings or works;
- (ii) the discontinuance of any use of land; and
- (iii) the carrying out on land of any building or other operations.
- (10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose
  - (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
  - (b) of removing or alleviating any injury to amenity which as been caused by the development.
- (11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.
- (12) The Governor may by regulations direct -
  - (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
  - (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 85 below.
- (13) Subject to section 85(9) below an enforcement notice shall take effect on the date specified in it.
- (14) The Committee may withdraw an enforcement notice (without prejudice to its power to issue another) at any time before it takes effect.
- (15) If it does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (16) Where
  - (a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and
  - (b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and
  - (c) the steps have been taken,

for the purposes of this Ordinance planning permission for the retention of the building or works as they are a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the Committee.

85. (1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Governor against the notice, whether or not a copy of it has been served on him.

Appeals against enforcement notices.

- (2) An appeal may be brought on any of the following grounds -
  - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
  - (b) that the matters alleged in the notice do not constitute a breach of planning control;
  - (c) that the breach of planning control alleged in the notice has not taken place;
  - (d) in the case of a notice which, by virtue of section 84(4) above, may be issued only within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;
  - (e) in case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the first appointed day;
  - (f) that copies of the enforcement notice were not served as required by section 84(5) above;
  - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 84(10) above;
  - (h) that the period specified in the notice as the period which any step is to be taken falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made by notice in writing to the Governor.
- (4) A person who gives notice under subsection (3) of this section shall submit to the Governor, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section, a statement in writing
  - (a) specifying the grounds on which he is appealing against the enforcement notice; and
  - (b) giving such further information as the regulations may prescribe.
- (5) The Governor may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection
  - (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;
  - (b) may require the Committee to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the Planning Officer or the appellant to give such notice of an appeal under this section as may be prescribed, being notice which in the opinion of the Governor is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the Planning Officer to send to the Governor, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

- (a) may dismiss an appeal if the appellant fails to comply with subsection (4)
  of this section within the time prescribed by regulations under subsection (5);
   and
- (b) may allow an appeal and quash the enforcement notice if the Committee or Planning Officer fails to comply with any requirement of regulations made by virtue of paragraph (b), (c) (d) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) The Governor shall permit the Committee the appellant and any other person wishing to do so or the Planning Officer on behalf of the Committee (and without prejudice to subsections (4) and (5) above) to make written representations to him in relation to the appeal and, if notice has been given under subsection (5)(d) above, shall not determine the appeal, except in accordance with subsection (6) above, until at least 28 days have expired from the date on which that notice was given.
  - (8) If
    - (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
    - (b) the appellant does not give information required under paragraph (b) of that subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,

the Governor may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

- (9) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- 86. (1) On the determination of an appeal under section 85 above, the Governor shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

Appeals against enforcement notices: general supplementary provisions.

- (2) On such an appeal the Governor may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the Committee.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Governor may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 87. (1) On the determination of an appeal under section 85 above, the Governor may
  - (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) above, the Governor shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may
  - include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Governor thinks fit;

Appeals against enforcement notices: supplementary provisions relating to planning permission. and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

- (3) Where an appeal against an enforcement notice is brought under section 85 above, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Governor of his powers under subsection (1) of this section
  - (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Governor's decision shall be final; and
  - (c) for the purposes of this Ordinance the decision shall be treated as having been given by the Governor in dealing with an application for planning permission made to the Committee required by this Ordinance to be referred to him for determination.
- 88. (1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person commits an offence under this subsection and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale.

Penalties for non-compliance with enforcement notices.

- (2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner
  - (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall commit a further offence and is liable on conviction to a fine not exceeding £250 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall commit an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale; and if the use is continued after the conviction he commits a further offence and is liable on conviction to a fine not exceeding £500 for each day on which the use is so continued.
- (6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or such extended period as the Committee may allow for compliance with the notice.

- (a) has served a copy of an enforcement notice requiring a breach of planning control to be remedied; but
- (b) considers it expedient to prevent, before the expiry of the period allowed for compliance with the notice, the carrying out of any activity which is, or is included in, a matter alleged by the notice to constitute the breach,

then, subject to the following provisions of this section, it may at any time before the notice takes effect serve a notice (in this Ordinance referred to as a "stop notice") referring to, and having annexed to it a copy of, the enforcement notice and prohibiting the carrying out of that activity on the land, or on any part of it specified in the stop notice.

- (2) A stop notice shall not prohibit -
  - (a) the use of any building as a dwellinghouse, or
  - (b) the use of land as the site for a caravan or any portable building or structure occupied by any person as his only or main residence, or
  - (c) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control;

and where the period during which an activity has been carried out on land (whether continuously or otherwise) began more than twelve months earlier, a stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building, engineering, mining, or other operations or the deposit of refuse or waste materials.

- (3) A stop notice shall not take effect (and so cannot be contravened) until such date as it may specify, being a date not earlier than three nor later than twenty-eight days from the day on which it is first served on any person.
  - (4) A stop notice shall cease to have effect when -
    - (a) the enforcement notice is withdrawn or quashed, or
    - (b) the period allowed for compliance with the enforcement notice expires, or
    - (c) notice of the withdrawal of the stop notice is first served under subsection (6) of this section;

and a stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.

- (5) A stop notice may be served by the Committee on any person who appears to it to have an interest in the land or to be engaged in any activity prohibited by the notice; and where a stop notice has been served in respect of any land, the Committee may display there a notice (in this section referred to as a "site notice") stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under this section, giving the date when the stop notice takes effect and indicating its requirements.
- (6) The Committee may at any time withdraw a stop notice (without prejudice to its power to serve another) by serving notice to that effect on persons served with the stop notice and, if a site notice was displayed in respect of the stop notice displaying a notice of the withdrawal in place of the site notice.
  - (7) If any person contravenes, or causes or permits the contravention of, a stop notice
    - (a) after a site notice has been displayed, or
    - (b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,

then, subject to subsection (8) of this section, he commits an offence and is liable on summary conviction to a fine not exceeding the maximum of level 7 on the standard scale, or on conviction on indictment to a fine; and if the offence is continued after conviction he commits a further offence and is liable on conviction to a fine not exceeding £500 for each day on which the offence is continued.

90. (1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the Committee may allow, any steps which by virtue of

Execution and cost of works required by enforcement notice.

section 84(7)(a) above are required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the Crown may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

- (2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice a copy of which has been served in respect of any breach of planning control (as defined in section 84(3) above) and any sums paid by the owner of any land under subsection (1) of this section in respect of expenses incurred by the Crown in taking steps required by such notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.
- (3) Regulations made under this Ordinance may provide that in relation to any steps required to be taken by an enforcement notice, such enactments as are specified therein shall apply, subject to such adaptations and modifications as may be specified in the regulations, including adaptations and modifications for the purpose of affording to the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (4) Any regulations made in accordance with subsection (3) of this section may provide for the charging on the land of any expenses recoverable by the Crown under subsection (1) of this section.
- 91. (1) If, after the service of a copy of an enforcement notice, planning permission is granted for the retention on land of buildings or works, or for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works, or the discontinuance of that use, as the case may be.

Effect of planning permission on enforcement notice.

- (2) If the planning permission granted as mentioned in subsection (1) of this section is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.
- 92. (1) The Planning Officer shall keep, in such manner as may be prescribed by a development order or by regulations, a register containing such information as may be so prescribed with respect —

Register of enforcement notices and stop notices.

- (a) to enforcement notices; and
- (b) to stop notices.
- (2) A development order may make provision for the entry relating to any enforcement notice or stop notice, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- 93. (1) Compliance with an enforcement notice, whether in respect of
  - (a) the completion, demolition or alteration of any buildings or works; or
  - (b) the discontinuance of any use of land,

or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to subsection (1) above, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part IV of this Ordinance; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention

Enforcement notice to have effect against subsequent development. of the enforcement notice.

- (3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to subsection (4) below the provisions of section 90(1) and (2) above shall apply accordingly.
  - (4) Where, at any time after an enforcement notice takes effect
    - (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice; and
    - (b) the Crown proposes, under section 90(1) above to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

the Crown shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of its intention to do so.

- (5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice commits an offence, and shall be liable on conviction of it to a fine not exceeding the maximum of level 7 on the standard scale; and no person shall be liable under any of the provisions of section 88 above for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.
- 94. (1) For the purposes of this Part of this Ordinance, a use of land is established if —

Certification as to established use.

- (a) it was begun before the first appointed day without planning permission in that behalf and has continued since the first appointed day;
- (b) it was begun before the first appointed day under a planning permission in that behalf granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the first appointed day;
- (c) it was begun after the first appointed day as the result of a change of use which if it took place after the Commencement of this Ordinance did not require or would not have required planning permission and there has been, since the first appointed day, no change of use planning permission.
- (2) Where a person having an interest in land claims that a particular use of it has become established, he may apply to the Committee for a certificate (in this Ordinance referred to as an "established use certificate") to that effect:

Provided that no such application may be made in respect of the use of land as a single dwellinghouse, or of any use not subsisting at the time of the application.

- (3) An established use certificate may be granted (either by the Committee or, under section 95 below, by the Governor)
  - (a) either for the whole of the land specified in the application, or for part of it;
  - (b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.
- (4) On an application to it under this section, the Committee shall, if and so far as it is satisfied that the applicant's claim is made out, grant to him an established use certificate accordingly; and if and so far as it is not so satisfied, it shall refuse the application.
- (5) Where an application is made to the Committee for an established use certificate, then unless within such period as may be prescribed by a development order, or within such extended period as may at any time be agreed upon in writing between the applicant and

the Planning Officer, the Committee gives notice to the applicant of its decision on the application, then, for the purposes of section 95(2) below the application shall be deemed to be refused.

- (6) An established use certificate shall, as respects any matters stated therein, be conclusive for the purposes of an appeal to the Governor against an enforcement notice a copy of which has been served in respect of any land to which the certificate relates, but only where the copy of the notice is served after the date of the application on which the certificate was granted.
- (7) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate or on an appeal arising out of such an application
  - knowingly or recklessly makes a statement which is false in a material particular; or
  - (b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or
  - (c) with intent to deceive, withholds any material information,

he 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 period not exceeding two years or both such fine and such imprisonment.

- (8) For the purposes of subsection (1) above a change of use begun after the first appointed day and before the commencement of this Ordinance shall be deemed to have required planning permission if, had it taken place on the day after this Ordinance comes into force, it would have required planning permission under Part IV of this Ordinance and shall be deemed not to have required planning permission if it would not have required planning permission under Part IV of this Ordinance if it had taken place on the day after this Ordinance comes into force.
- 95. (1) The Governor may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by the Committee; and, on any such application being referred to him in accordance with such directions, section 94(4) above shall apply in relation to the Governor as it applies in relation to the Committee in the case of an application determined by it.

Grant of certificate by Governor on referred application or appeal against refusal.

- (2) Where an application is made to the Committee for an established use certificate and is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Governor; and on any such appeal the Governor shall
  - (a) if and so far as he is satisfied that the Committee's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the Committee on the application; and
  - (b) if and so far as he is satisfied that the Committee's refusal is well founded, dismiss the appeal.
- (3) On an application referred to him under subsection (1) of this section or on an appeal to him under subsection (2) of this section, the Governor may, in respect of any use of land for which an established use certificate is not granted (either by him or by the Committee), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.
- (4) Before determining an application or appeal under this section the Governor shall, if either the applicant or appellant (as the case may be) or the Committee so desire, afford to each of them an opportunity of making written representations to him in relation to the application or appeal.
- (5) The decision of the Governor on an application referred to him, or on an appeal, under this section shall be final.

(6) In the case of any use of land for which the Governor has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.

Designated buildings and buildings the subject of a prohibition order

96. (1) Where it appears to the Committee that any works have been or are being executed to a relevant building and are such as to involve a contravention of section 68(1) or (3) above, it may if it considers expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice —

Power to issue relevant building enforcement notice.

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice to be taken within such period as may be so specified
  - (i) for restoring the building to its former state; or
  - (ii) where the Committee considers that such restoration would not be reasonably practicable, or would it be undesirable, for executing such further works specified in the notice as it considers necessary to alleviate the effect of the works which were carried out without consent as defined by section 69(4) above; or
  - (iii) for bringing the building to the state in which it would have been if the terms and conditions of any such consent which has been granted for the works had been complied with.
- (2) A notice under this section is referred to in this Ordinance as a "relevant building enforcement notice".
- (3) A copy of a relevant building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect
  - (a) on the owner and on the occupier of the building to which it relates; and
  - (b) on any other person having an interest in that building, being an interest which in the opinion of the Committee is materially affected by the notice.
- (4) Subject to section 97 below, a relevant building enforcement notice shall take effect on the date specified in it.
- (5) The Committee may withdraw a relevant building enforcement notice (without prejudice to its power to issue another) at any time before it takes effect.
- (6) If it does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (7) Where a relevant building enforcement notice imposes any such requirement as is mentioned in subsection (1)(b)(ii) of this section, planning permission shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.
- (8) In this section "relevant building" has the same meaning as it has under section 69(4) above.
- 97. (1) A person having an interest in the building to which a relevant building enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Governor against the notice on any of the following grounds —

Appeal against relevant building enforcement notice.

- (a) that the matters alleged to constitute a contravention of section 68(1) or (3) above do not involve such a contravention;
- (b) that the contravention of that section alleged in the notice has not taken place;
- (c) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the

- building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (d) that planning permission ought to be granted for the works, that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (e) that copies of the notice were not served as required by section 96(3) above;
- (f) except in relation to such a requirement as is mentioned in section 96(1)(b)(ii) or (iii) above, the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (g) that the period in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
- (h) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (i) that steps required to be taken by virtue of section 96(1)(b)(ii) above exceed what is necessary to alleviate the effect of the works executed to the building;
- (j) that steps required to be taken by virtue of section 96(1)(b)(iii) above exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the consent under section 66(4) or 68(2) or (4) (as the case may be) had been complied with.
- (2) An appeal under this section shall be made by notice in writing to the Governor.
- (3) A person who gives notice under subsection (2) of this section shall submit to the Governor, either when giving the notice or within such time as may be prescribed under subsection (4) of this section, a statement in writing
  - (a) specifying the grounds on which he is appealing against the relevant building enforcement notice; and
  - (b) giving such further information as the regulations may prescribe.
- (4) The Governor may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection, may make any such provision in relation to appeals under this section as may be made in relation to appeals under section 85 above by regulations under subsection (5) of that section.
  - (5) The Governor
    - (a) may dismiss an appeal if the appellant fails to comply with subsection (3) above within the time prescribed by regulations under subsection (4); and
    - (b) may allow an appeal and quash the relevant building enforcement notice if the Committee or, as the case may be, the Planning Officer fails to comply with any requirement of regulations under this section corresponding to regulations made by virtue of subsection (5)(b), (c) or (e) of section 85 above within the period prescribed by the regulations.
- (6) Subject to subsection (7) of this section, the Governor shall, if either the appellant or the Committee so desire, afford to each of them an opportunity of making written representations to him in relation to the matter.
- (7) The Governor shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (5) of this section or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection.
  - (8) If
    - (a) a statement under subsection (3) of this section specifies more than one ground on which the appellant is appealing against a listed building enforcement notice; but
    - (b) the appellant does not give information required under paragraph (b) of that

subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (4) of this section, the Governor may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

- (9) Where an appeal is brought under this section, the relevant building enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- 98. (1) On the determination of an appeal under section 97 above, the Governor shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the relevant building enforcement notice or for varying its terms.
- (2) On such an appeal the Governor may correct any informality, defect or error in the relevant building enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the Committee.
- Relevant building enforcement notice appeals supplementary provision.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the relevant building enforcement notice was not served, the Governor may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
  - (4) On the determination of such an appeal the Governor may -
    - (a) grant planning permission for the works to which the relevant building enforcement notice relates or for part only of those works;
    - (b) discharge any condition or limitation subject to which planning permission was granted and substitute any other condition, whether more or less onerous;
    - (c) revoke the designation order or prohibition order relating to the building in question.
- (5) Any planning permission granted by the Governor under subsection (4) above shall be treated as granted on an application for planning permission, and the Governor's decision in relation to the grant shall be final.
- 99. (1) Subject to the provisions of this section, where a relevant building enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the building to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, that person commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale.

Penalties for non-compliance with a relevant building enforcement notice.

- (2) If a person against whom proceedings have been brought under subsection (1) above has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the building, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the building (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner
  - (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall commit a further offence and be liable on conviction to a fine not exceeding £500 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

- (5) Any reference in this section to the period allowed for compliance with a relevant building enforcement notice is a reference to the period specified in the notice as that within which steps specified in the notice are required thereby to be taken, or such extended period as the Committee may allow for taking them.
- 100. (1) If, within the period specified in a relevant building enforcement notice as that within which the steps specified in the notice are required thereby to be taken, or within such extended period as the Committee may allow, any steps required by the notice to be taken have not been taken, the Crown may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by it in doing so.

Execution and cost of works required by relevant building enforcement notices.

- (2) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a relevant building enforcement notice, and any sums paid by the owner of a building under subsection (1) above in respect of expenses incurred by the Crown in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) The provisions of section 90(3) above shall apply in relation to a relevant building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by the Crown under subsection (1) above.
- 101. (1) If, after the issue of a relevant building enforcement notice, planning permission is granted under section 44 above for the retention of any work to which the relevant building enforcement notice relates, the relevant building enforcement notice shall cease to have effect in so far as it requires steps to be taken which would involve the works not being retained in accordance with the planning permission.

Effect of planning permission on relevant building enforcement notice.

- (2) If the planning permission is granted so as to permit the retention of works without complying with some condition subject to which a previous planning permission was granted, the relevant building enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the relevant enforcement notice before the relevant provisions of that notice ceased to have effect.
- 102. (1) If it appears to the Governor, after consultation with the Committee, to be expedient that a relevant building enforcement notice should be issued in respect of any land, he may issue such a notice; and any notice so issued by the Governor shall have the like effect as a notice issued by the Committee.

Enforcement by the Governor.

- (2) In relation to a relevant building enforcement notice issued by the Governor the provisions of section 99 above shall apply as if for any reference in that section to the Committee there were substituted a reference to the Governor.
- 103. (1) Where it appears to the Governor that works are urgently necessary for preservation of a relevant building, the Crown may, subject to the following provisions of this section, execute the works, which may consist of or include works for affording temporary support or shelter for the building.

Execution of works by the Crown.

- (2) If the building is occupied works may be carried out only to those parts which are not in use.
- (3) The owner of the building shall be given not less than seven days' notice in writing of the intention to carry out the works and the notice shall describe the works proposed to be carried out.
- 104. (1) This section has effect for enabling the expenses of works executed under section 103 above to be recovered by the Crown.
- (2) The Governor may give notice to the owner of the building requiring him to pay the expenses of the works.

Recovery of expenses of works under section 103.

- (3) Where the works consist of or include works for affording temporary support or shelter for the building
  - (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used, and
  - (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.
- (4) The owner may within 28 days of the service of the notice represent to the Governor
  - (a) that some or all of the works were unnecessary for the preservation of the building;
  - (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
  - (c) that the amount specified in the notice is unreasonable or that the recovery of it would cause him hardship,

and the Governor shall determine to what extent the representations are justified.

- (5) The Governor shall give notice of his determination, the reasons for it and the amount recoverable to the owner of the building.
- 105. (1) For the purposes of exercising or considering the exercise of any of its functions under the provisions of this Part mentioned in subsection (2) below, section 63 above shall apply as it does for the purposes of the exercise by the Committee of its functions under sections 64 to 72 above.

Composition of committee for purposes of certain functions.

(2) The provisions referred to in subsection(1) above are sections 96, 97 and 100(1) and 102.

#### Trees

106. (1) If any person, in contravention of a tree preservation order or a provisional tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, he commits an offence and shall be liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale or twice the sum which appears to the court to be the value of the tree, whichever is the greater and, in determining the amount of the fine, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

Penalties for non-compliance with tree preservation order.

- (2) A person who contravenes a provision of a tree preservation order other than as mentioned in subsection (1) above commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.
- (3) If, in the case of a continuing offence under this section, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding £25 for each day on which the contravention is so continued.
- 107. (1) If it appears to the Committee that the provisions of section 76 above or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, the Committee may, at any time within four years from the date of the alleged failure to comply with the said provisions or conditions, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

Notice to replace

- (2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period, not being less than 28 days after the service of the notice, as may be specified in the notice.
- (3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect,

appeal to the Governor against the notice on any of the following grounds -

- (a) that the provisions of the said section 76 or the conditions aforesaid are not applicable or have been complied with;
- (b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;
- (c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;
- (d) that the place on which the tree or trees are required to be planted is unsuitable for that purpose;
- (4) An appeal under this section shall be made by notice in writing to the Governor.
- (5) The notice shall indicate the grounds of the appeal and state the facts on which it is based.
- (6) On any such appeal the Governor shall, if either the appellant or the Committee so desires, afford to each of them an opportunity of making written representations to him in the matter.
- (7) Where an appeal is brought under this section, the notice under subsection (1) of this section shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) On the determination of an appeal under this section, the Governor shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the notice under subsection (1) of this section or for varying its terms.
- (9) On such an appeal the Governor may correct any informality, defect or error in the notice under subsection (1) of this section, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or the Committee.
- (10) In section 90 above, and in regulations in force under that section, references to an enforcement notice and an enforcement notice a copy of which has been served in respect of any breach of planning control shall include references to a notice under this section; and in relation to such a notice the reference in subsection (2) of that section to the person by whom the breach of planning control was committed shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

#### Waste land

108. (1) The provisions of this section shall have effect where a notice has been served under section 79 above.

Penalties for non-compliance with notice as to waste land.

- (2) Subject to the following provisions of this section, if any owner or occupier of the land on whom the notice was served fails to take any steps required by the notice within the period specified in it for compliance with it, he shall commit an offence and liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale.
- (3) If a person against whom proceedings are brought under subsection (2) above as the owner of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner brought before the court in the proceedings.
- (4) If a person against whom proceedings are brought under subsection (2) above as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the occupier, he shall, upon information duly laid

by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person who then became the occupier brought before the court in the proceedings.

- (5) If
  - (a) a person against whom proceedings are brought under subsection (2) above as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice ceased to be the occupier; and
  - (b) nobody then became the occupier,

he shall, upon information duly laid by him, and giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who is the owner at the date of the notice brought before the court in the proceedings.

- (6) If, after it has been proved that any steps required by the notice under section 79 above, have not been taken within the period allowed for compliance with that notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a persons specified in a notice under this section
  - (a) that person may be convicted of the offence; and
  - (b) the original defendant shall be acquitted of the offence if he further proves that he took all reasonable steps to ensure compliance with the notice.
- (7) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.
- (8) Any reference in this section to the period allowed for compliance with a notice is a reference to the period specified in the notice for compliance with it or to such extended period as the Committee may allow for compliance with it.

# PART VIII VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

109. (1) Except as provided by the following provisions of this Part of this Ordinance, the validity of —

- (a) a structure plan, a local plan, a subject plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted; or
- (b) any such Order as is mentioned in subsection (2) below; or
- (c) any such action on the part of the Governor the Committee or the Planning Officer mentioned in subsections (3) (4) and (5) of this section,

shall not be questioned in any legal proceedings whatsoever.

- (2) The orders of the Governor referred to in subsection 1(b) above are orders by the Governor of any of the following descriptions, that is to say
  - (a) any order under section 54 above (revocation or modification of planning permission) or under the provisions of that section as applied by or under any other provision of this Ordinance;
  - (b) any order under section 55 above (requirement to discontinue use or of alteration or removal of buildings or works);
  - (c) any order under section 56 above (prohibition of resumption of winning and working of minerals);
  - (d) any order under section 57 above (order after suspension of winning and working of minerals);

Validity of development plans and certain orders decisions and directions.

- (e) any order under section 65(1) above (designation of buildings of architectural or historic interest);
- (f) any tree preservation order.
- (3) The action by the Governor referred to in subsection (1)(c) of this section is action on the part of the Governor of any of the following descriptions
  - any decision of the Governor on any application for planning permission referred to him, made to him or deemed to be made to him under any provision of this Ordinance;
  - (b) any decision by the Governor on any appeal made to him under any provision of this Ordinance;
  - (c) the giving by the Governor of any direction under any provision of this Ordinance;
  - (d) any decision by the Governor to confirm a completion notice under section 52 above;
  - (e) any decision of the Governor relating to any application for consent under a tree preservation order or relating to any application for consent or planning permission under any regulations as to control of advertisements, or relating to any certificate or direction under any such order or regulations and whether it is a decision of the Governor on appeal or an application referred to him for determination in the first instance;
  - (f) any decision of the Governor to designate any building as a building of architectural or historic interest or not to revoke a prohibition notice;
  - (g) any decision of the Governor to attach, or not to attach, any condition, limitation or restriction under any provision of this Ordinance on the granting of any planning permission, or consent granted by him under any provision of this Ordinance, including any reason given for the attachment or non-attachment of any such condition, limitation or restriction;
  - (h) any decision of the Governor not to grant or to refuse any planning permission, consent or certificate he has power to grant any provision of this Ordinance;
  - (i) any decision of the Governor to make or not to make any order he has power to make under any provision of this Ordinance;
  - (j) any decision of the Governor to confirm or act upon or not to confirm or act upon any recommendation of the Committee or of the Planning Officer made to him under any provision of this Ordinance; and
  - (k) any decision of the Governor under any provision of this Ordinance enabling him so to do, to vary, waive, alter or modify any condition limitation or restriction imposed by the Committee and whether or not any new substituted or different condition limitation or restriction is then imposed by the Governor.
- (4) The action of the Committee referred to in subsection (1)(c) above is action on the part of the Committee of any of the following descriptions
  - (a) a decision on any application for planning permission, whether to refuse or grant it, and if to grant it subject to any conditions limitation or restriction or any decision to impose a condition limitation or restriction on that grant of planning permission;
  - (b) any recommendation by the Committee to the Governor under any provision of this Ordinance;
  - (c) any decision to serve or make or issue any waste land notice or enforcement notice;
  - (d) any decision to serve or make or issue a discontinuance notice;

- (d) any decision to grant or issue or not to grant or issue an established use certificate; and
- (e) any decision to serve a completion notice under section 52 above; and
- (f) any decision to extend or not to extend time for doing any thing; and
- (g) the making of any provisional tree preservation order.
- (5) The action by the Planning Officer referred to in subsection (1)(c) above is action by the Planning Officer of any of the following descriptions
  - (a) any recommendation made or advice given by the Planning Officer to the Committee or the Governor as to the exercise or non-exercise of any of its or his powers under any provision of this Ordinance;
  - (b) any consent or refusal to grant consent under any provision of this Ordinance enabling him to grant or withhold consent for any matter, thing or action; and
  - (c) any determination under section 61 above.
- (6) Notwithstanding subsections (3), (4) and (5) nothing in them shall effect the exercise of the jurisdiction of any court in respect of any refusal or failure of the Governor, the Committee or the Planning Officer (as the case may be) to decide or determine any matter he or it is required or enabled to decide or determine under any provision of this Ordinance.
- 110. (1) Subject to the provisions of this section
  - the validity of a waste land notice shall not, except by way of an appeal under Part VI of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought;
    - on similar notices.

Validity of enforcement

notices and

- (b) the validity of an enforcement notice shall not, except by way of an appeal under Part VII of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought; and
- (c) the validity of a relevant building enforcement notice shall not, except by way of an appeal under Part VII of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (2) Subsection (1)(b) above shall not apply to proceedings brought under section 88(5) above against a person who
  - (a) has held an interest in the land since before the enforcement notice was issued under Part VII of this Ordinance;
  - (b) did not have a copy of the enforcement notice served on him under that Part of this Ordinance;
  - (c) satisfies the court -
    - (i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and
    - (ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.
- (3) Subsection (!)(a) above shall not apply to proceedings brought under section 108 above against a person on whom the notice referred to in that subsection was not served, but who has held an interest in the land since before that notice was served on the owner and occupier of the land, if he did not appeal against that notice under Part VI of this Ordinance.
- (4) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both; and any reference in such a notice to a non-compliance with conditions or limitations (whether both such expressions are used in the

notice or only one of them) shall be construed as a reference to non-compliance with conditions or limitations or both with conditions and limitations, as the case may require.

111. (1) If any person aggrieved by a development plan, local plan or subject plan or by an alteration, repeal or replacement on the ground that it is not within the powers conferred by Part III of this Ordinance, or that any requirement of the said Part III or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration repeal or replacement, he may, within six weeks from the first publication in the Gazette of notice of the approval or adoption of the plan, alteration repeal or replacement, make an application to the Supreme Court under this section.

Proceedings for questioning validity of development plans.

- (2) On any application under this section the Supreme Court -
  - (a) may by interim order wholly or in part suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
  - (b) if satisfied that the plan, alteration, repeal or replacement, is wholly or to any extent outside the powers conferred by Part III of this Ordinance, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of the said Part III or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.

112. (1) If any person —

(a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Ordinance, or that any relevant requirements have not been complied with in relation to that order; or

Proceedings for questioning validity of other orders, decisions and directions.

(b) is aggrieved by any action by the Governor, the Committee or the Planning Officer (as the case may be) on the grounds that the action is not within the powers of this Ordinance, or that any of the relevant requirements have not been complied with in relation to that action,

he may, within six weeks from the date on which the order is made or the action is taken, as the case may be, make an application to the Supreme Court under this section.

- (2) This section applies to any such order as is mentioned in section 109(2) above and to any such action on the part of the Governor, the Committee or the Planning Officer (as the case may be) as is mentioned in section 109(3), (4) or (5) above.
  - (3) On any application under this section the Supreme Court
    - (a) may by interim order suspend the operation of the order or action, the validity
      of which is questioned in the application, until the final determination of
      the proceedings,
    - (b) if satisfied that the order or action in question is not within the powers of this Ordinance, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

Provided that paragraph (a) of this subsection shall not apply to -

- orders designating a building as being of special architectural or historic interest;
- (ii) prohibition notices; or
- (iii) tree preservation orders or provisional tree preservation orders.

113. (1) Where the Governor gives a decision in proceedings on an appeal under Part VII of this Ordinance against —

- (a) an enforcement notice; or
- (b) a relevant building enforcement notice,

Appeals to Supreme Court relating to enforcement notices and similar notices.

Appeals to Supreme Court

under s.61.

against decisions

the appellant or any other person having an interest in the land to which the notice relates may appeal to the Supreme Court against the decision on a point of law.

- (2) Where the Governor gives a decision in proceedings on an appeal under Part VII of this Ordinance against a notice under section 107 (notice to replace trees), the appellant or any person (other than the appellant) on whom the notice is served may appeal to the Supreme Court against the decision on a point of law.
- (3) In this section "decision" includes a direction or order and references to the giving of a decision shall be construed accordingly.
- 114. (1) This section applies to any decision of the Governor
  - (a) on an application under section 61 above which is referred to the Governor under the provisions of this Ordinance;
  - (b) on an appeal from the decision of the Planning Officer under section 61 above.
- (2) If the person who made the application to which a decision to which that section applies relates is dissatisfied with that decision in point of law he may appeal against the decision to the Supreme Court on a point of law.
- (3) Where an application under section 61 above is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to the application in so far as it is an application under section 61 above, but not in so far as it is an application for planning permission.

#### PART IX

#### SUPPLEMENTAL TO PARTS II TO VIII

115. (!) Where, under any foregoing provision of this Ordinance, any person has a right to make any written representations in relation to any matter to the Governor or, as the case may be, the Committee, and has exercised that right in accordance with any applicable provision of this Ordinance or of regulations made under any applicable provision of this Ordinance as to —

Duty to consider written representations.

- (a) the time within such written representations are to be made;
- (b) the person, body or authority to whom those written representations are to be delivered:

the Governor or, as the case may be, the Committee, shall consider those representations before deciding the matter in relation to which the person making the representations had the right to make them.

- (2) Where, under any provision of this Ordinance, the Committee is required to afford to any person other than an applicant for planning permission, a certificate or a consent under this Ordinance ("a third party") an opportunity to make written representations to it in relation to the applicant's application it shall
  - (a) permit the applicant or any agent of the applicant to inspect at any reasonable time on a business day at the office of the Planning Officer all written representations received from any third party;
  - (b) at the request of the applicant, supply to the applicant at a reasonable cost copies of any written representations from any third party;
  - (c) consider, in conjunction with any written representations from any third party,

any written response by the applicant thereto delivered to the Planning Officer before the commencement of the meeting of the Committee at which the applicant's application is to be considered by the Committee.

- (3) The provisions of subsection (2) above shall apply, with all necessary modifications whenever the applicant's application under any provision of this Ordinance falls to be determined by the Governor and not by the Committee.
- (4) Whenever in connection with any appeal and before determination of it the Governor receives any written communication from the appellant the Committee the Planning Officer or a third party in relation to or in connection with the appeal (and without prejudice to the generality of the foregoing, including written representations in relation to an appeal) he shall send a copy of the written communication
  - (a) to the appellant, in the case of a written communication received from the Committee or the Planning Officer;
  - (b) to the Planning Officer, in the case of a written communication received from the appellant; and
  - (c) to the appellant and to the Planning Officer, in the case of a written communication received from a third party.
- (5) The Governor shall afford to the appellant and to the Committee (or to the Planning Officer on behalf of the Committee) a reasonable opportunity of submitting to him, before the Governor determines the appeal, a response in writing to any written communication a copy of which has been supplied by the Governor under subsection (4) above, and shall consider any such response submitted to him before determining the appeal. This subsection does not, however, extend so as to afford to any person an opportunity of submitting, or so as to require the Governor to consider, any response in writing to a document which itself constitutes a response submitted to the Governor under this subsection.
- (6) No action or proceedings whatsoever may be founded upon the publication of any document constituted by permitting a person to inspect it or by the furnishing of copies of it in accordance with any provision of this section.
- 116. (1) Neither the Governor nor the Committee shall entertain any oral representations in relation to any matter from any person entitled to make written representations to him or it in connection with any matter falling to be determined by him or it or the other of him or it under any provision of this Ordinance.

Oral representations.

- (2) Nothing in subsection (1) applies so as to prevent the Governor or the Committee receiving during any site visit to which section 118(6) below applies any pertinent oral information as to the site, its surroundings or anything on the site provided that in the case of an appeal the appellant and the Planning Officer have each been afforded a reasonable opportunity of being present during the site visit.
- 117. (1) Whenever a member of the Executive Council has, as a member of the Committee, participated in deliberations of the Committee leading to a decision which is the subject of an appeal to the Governor under any of the foregoing provisions of this Ordinance, that member shall absent himself from the proceedings of the Executive Council at any time that that Council is considering what advice to give to the Governor in connection with that appeal.

Members of Committee etc not to take part in certain Executive Council deliberations.

- (2) Subsection (1) above also applies, with all necessary modifications, in relation to the attendance during the proceedings of the Executive Council of the Planning Officer whether present during the deliberations of the Committee or not and of any member of the Committee and any other public officer present at the Committee during the deliberations of the Committee leading to the decision the subject of the appeal.
- (3) Subject to subsection (1) above and to the Constitution, a member of the Committee may be present during any proceedings of the Executive Council when it is considering what advice to give to the Governor as to the exercise of any function he has under this Ordinance.

118. (1) The Planning Officer and any other person authorised in writing by the Chief Executive may at any reasonable time enter any land for the purpose of surveying it in connection with —

Rights of entry.

- the preparation, approval, adoption, making or amendment of a structure plan, local plan or subject plan;
- (b) any application under Part IV of this Ordinance, or in relation to a tree preservation order, provisional tree preservation order, designation order, prohibition notice or under any regulations made under this Ordinance relating to such an application, for any permission, consent or determination to be given or made in connection with that land or any other land;
- (c) any proposal by the Committee or by the Governor to make, issue or serve any order or notice under any foregoing provision of this Ordinance.
- (2) The Planning Officer or any other person authorised in writing by the Chief Executive may at any reasonable time enter any land for the purpose of surveying any building thereon in connection with a proposal to make a designation order or serve a prohibition notice.
- (3) The Planning Officer or any other person authorised in writing by the Governor may at any reasonable time enter any land for the purpose of ascertaining whether, in respect to any building on the land, an offence has been or is being committed under section 68(1) above or section 99 above or whether the building is being maintained in a proper state of repair.
- (4) The Planning Officer or any other person duly authorised by the Governor may at any reasonable time enter any land for the purpose of ascertaining whether
  - (a) an offence appears to have been committed under section 71 above;
  - (b) any of the functions conferred by section 103 or 107 above should be exercised in connection with the land,

or for the purpose of exercising any of those functions in connection with the land.

- (5) The Planning Officer or any other public officer authorised by him may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land for planning purposes.
- (6) The Committee and the Executive Council may at any reasonable time enter upon any land for the purpose of inspecting it in connection with the consideration of any application for planning permission, any application for consent or any appeal under this Ordinance (relating in any such case to that land) where the application or, as the case may be appeal, remains for the time being undetermined.
- (7) Subject to section 119 below, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.
- 119. (1) A person authorised under section 118 above to enter any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

Supplemental to section 118.

- (2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 118 above commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.
- (3) If any person who, in compliance with the provisions of section 118 above, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, he 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.

- (4) Where any land is damaged in the exercise of a right of entry conferred under section 118 above, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Crown.
- (5) Where under section 118 above a person proposes to carry out any works authorised by virtue of subsection (7) of that section he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (7) of that section.
- 120. (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under any provision of this Ordinance or section 121 below may be served or given —

Notices.

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address; or
- (c) by sending it in a prepaid registered letter, addressed to that person at his usual or last known place of abode, or, in a case where and address for service has been given by that person, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office, or sending it in a prepaid registered letter, addressed to the secretary or clerk of the company or body at that office; or
- (e) by sending a copy of it by telegraphic transmission in writing or by facsimile telegraphic transmission to a telegraphic installation of which in either case, the person to whom the notice or other document is addressed or in the case of a body corporate of which the addressee is its clerk or secretary, that body corporate, is the subscriber.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person can not be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if
  - (a) being addressed to him either by name or by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) above; or
  - (b) being so addressed, and marked in such manner as may be prescribed by regulations under this Ordinance for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery to some person on those premises, or is affixed conspicuously to some object on those premises.
- (3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the person or body required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interest in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to 'the owners and any occupiers' of that part of the land (describing it) and is affixed conspicuously to some object on the land.
- (4) Notwithstanding the preceding provisions of this section any notification under section 30(2) above of an application for planning permission may be given in any manner in which, in the discretion of the Planning Officer, he considers it likely that it should reasonably come to the early attention of the occupier of the premises concerned.

121. (1) For the purpose of enabling the Governor, the Committee or the Planning Officer to make an order or issue or serve any notice or other document which, by any of the foregoing provisions of this Ordinance, he or it is authorised or required to make, issue or serve, that person or body may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing within twenty-one days after the date on which the notice is served, or such longer time as may be specified in the notice, or as that person or body may allow, such information as to the matters mentioned in subsection (2) below as may be so specified.

Power to require information.

- (2) The matters referred to in subsection (1) of this section are -
  - (a) the nature of the interest in the premises of the person on whom the notice is served;
  - (b) the name and address of any other person known to him as having an interest in the premises;
  - (c) the purpose for which the premises are being used;
  - (d) the time when that use began;
  - (e) the name and address of any person known to the person on whom the notice is served as having used the premises for that purpose;
  - (f) the time when any activities being carried out on the premises began.
- (3) Any person who, without reasonable excuse, fails to comply with a notice served on him under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale.
- (4) Any person who, having been required by a notice under subsection (1) above to give any information knowingly makes an mis-statement in respect thereof commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale and to imprisonment for a term not exceeding two years or both.
- 122. (1) The Governor may make regulations under this Ordinance —

Regulations and Orders

- (a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Ordinance to be served, made or issued by him, the Committee or the Planning Officer;
- (b) for any purpose which regulations are authorised or required to be made under this Ordinance, not being a purpose for which regulations are authorised or required to be made by another person or authority;
- (c) as to the exercise of any claim for compensation and as to the person to whom such compensation or any part thereof is to be paid and as to the application of any such compensation or any part thereof in cases where, apart from such regulations, the right to claim compensation is exercisable by reference to an interest in land which is subject to a mortgage, or to a rentcharge, or to the trusts of a settlement, or which was so subject at the time specified in the regulations.
- (2) Any power conferred by any of the provisions of this Ordinance to make an order shall include power to vary or revoke any such order by a subsequent order.
- 123. (1) Where an offence under this Ordinance (other than an offence under section 71) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a 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, commit that offence and is liable to be proceeded against accordingly.
- (2) In subsection (1) above the expression "director" in relation to any body corporate established by or under an enactment for the purpose of carrying out any business or activity, being a body corporate whose affairs are managed by the members of the body corporate, means a member of that body corporate.

Offences by corporations. 124. (1) Regulations under this Ordinance may provide for the combination in a single document, made in such form and transmitted to such person or authority as may be prescribed by such regulations of —

Combined applications.

- (a) an application for planning permission in respect of any development; and
- (b) an application required, under any enactment specified in the regulations for any licence, permission or consent required under any such enactment.
- (2) Subsection (1) above shall have effect without prejudice to -
  - the validity of any application made in accordance with the enactment in question;
  - (b) any provision of that enactment enabling the Committee, the Governor or any other person to require further particulars of the matters to which the application relates.
- 125. For the avoidance of doubt it is declared that the provisions of this Ordinance, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the date of commencement of this Ordinance or by any re-enactment of any such enactment, for authorising or regulating any development of the land.

Ordinance not excluded by special enactment.

126. This Ordinance binds the Crown.

127. (1) Any permission, consent, notice, authorisation, order, determination, certificate or other document issued, made or given by the Committee under this Ordinance or under any subsidiary legislation made under this Ordinance is sufficiently and validly issued made or given if it is otherwise validly issued, made or given and —

Ordinance to bind the Crown. Signification of notices permissions and consents etc.

- (a) it is signed by the Planning Officer or by the Secretary of the Committee; and
- (b) it is expressed to be so signed by authority of the Committee.
- (2) Any permission, consent, notice, authorisation, order, determination, certificate or other document issued, made or given by the Governor under this Ordinance or under any subsidiary legislation made under this Ordinance is sufficiently and validly issued made or given if it is otherwise validly issued, made or give, and
  - (a) it is signed by the Governor personally; or
  - (b) it is signed by the Chief Executive, Attorney General or the Clerk of the Councils and is so expressed to be so signed by the direction of the Governor,

and where paragraph (b) is complied with in relation to a document, it shall be conclusively presumed that it was signed by the direction of the Governor.

128. (1) If any person claims that by virtue of any of the provisions of section 54(5), 55(16) or 65(1) or regulations under section 122(1)(c) of this Ordinance he is entitled to compensation and —

Appeals and references to Supreme Court in relation to compensation.

- (a) he has duly made a claim for that compensation; and
- (b) that claim is not admitted by the Crown within six weeks of it being made or, if admitted by the Crown, the amount of the compensation is not within three months of the claim agreed between him and the Crown,

he may refer the matter to the Supreme Court for determination.

- (2) On reference being made under subsection (1), the Supreme Court may -
  - (a) if appropriate, admit or refuse to admit the claim for compensation; and
  - (b) if the claim is admitted by the Crown or by the Supreme Court fix the amount of compensation to be paid in accordance with this Ordinance; and
  - (c) make such other or further order as it thinks just.
- 129. (1) The Buildings of Architectural and Historic Interest Ordinance 1987 ("the repealed Ordinance") is repealed.

Repeal and saving.

(2) The Governor may by regulations make provision giving continuing effect to any

notice, order, consent, permission or document, given, made, issued or served under the repealed Ordinance as if it had been given, made, issued or served under the corresponding provision or provisions of this Ordinance and may by such regulations make such transitional, consequential or incidental provision as appears to him necessary or convenient to make so as to give continuing effect to the same as if so given, made, issued or served.

## SCHEDULE 1 (section 54(5))

#### COMPENSATION FOR REVOCATION OR MODIFICATION OF PLANNING PERMISSION

#### Part 1

#### General

- 1. Subject to Part II below, where planning permission is revoked by an order under section 54 of this Ordinance, then if, on a claim made to the Governor in the manner prescribed by regulations under this Ordinance, it is shown that a person who is without an interest in the land itself but has an interest in minerals in, on or under it
  - (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification: or
  - (b) subject to paragraphs 2 and 4 below has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the Crown shall pay to that person compensation in respect of that expenditure, loss or damage.

- 2. Where a person would otherwise be entitled to payment of compensation under subparagraph (b) of paragraph 1 above, he shall not be entitled thereto if one of the following conditions is not satisfied in relation to him
  - (a) his interest in the land, or as the case may be, the minerals, is shown to have been acquired from a person who himself acquired it by an arms' length transaction after the grant of the planning permission revoked or modified;
  - (b) his interest in the land, or as the case may be, the minerals, is shown to have been acquired from a person who himself acquired it by an arms' length transaction after the grant of the planning permission revoked or modified.

For the purpose of this paragraph an "arms' length transaction" is a transaction whereby the person transferring the interest concerned intends that the full value of the interest transferred is reflected in the consideration paid or transferred to him as a result of the transaction and any transaction by way of gift or for a consideration which is manifestly not one which is intended to reflect the true value of the interest transferred is not an arms' length transaction.

- 3. For the purposes of this Schedule, any expenditure incurred after the grant of the planning permission revoked or modified in the preparation of plans for the purposes of any work, or upon any similar matters preparatory thereto shall be taken to be included in the expenditure incurred in carrying out that work.
- 4. No compensation shall be paid under this Schedule in respect of any work carried out before the grant of the planning permission revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of the permission.
- 5. In calculating, for the purposes of this Schedule, the amount of any loss or damage consisting of depreciation of the value of an interest in the land, it shall be assumed that planning permission would be granted for the carrying out of the following works
  - (a) the rebuilding, as often as occasion may require, of any building which was in existence on the first appointed day or any building which was in existence before that day but was destroyed or demolished after 1st April 1982 and before 15th June 1982 or demolished after 14th June 1982 as a consequence of damage sustained between the last-mentioned dates, and for the purpose of this sub-paragraph "rebuilding" includes the making good of war damage sustained by any such building;
  - (b) the rebuilding, as often as occasion may require of any building erected after the first appointed day and which was erected
    - (i) in accordance with planning permission granted by the former Committee; or
    - (ii) in accordance with planning permission granted under this Ordinance or deemed to be granted by any development order;
  - (c) the rebuilding, as often as occasion may require of any building, before commencement of this Ordinance of any building, if had it been erected after the commencement of this

Ordinance, planning permission would have been deemed to be granted for its erection under the provisions of any development order in force at the time of the revocation or modification under section 54 above of the planning permission giving rise to the claim for compensation;

- (d) unless the building is a relevant building, the carrying out of any works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not materially affect the external appearance of the building and so long, in any case, as the cubic content of the original building is not exceeded
  - in the case of a dwellinghouse by more than one tenth or 150 cubic metres, whichever is the greater; and
  - (ii) in any other case, by more than one tenth.

#### Part II

Special Provisions as to compensation for revocation or modification of planning permission for the winning and working of minerals

- 6. Where a planning permission for the winning and working of minerals is revoked or modified under section 54 of this Ordinance this Part of this Schedule has effect if the mineral compensation requirements are satisfied.
  - 7. The mineral compensation requirements are satisfied it -
    - (a) the order revokes or modifies planning permission for development consisting of the winning and working of minerals; and
    - (b) the order in effect prohibits the working and winning of minerals or imposes restrictions on the winning or working of minerals greater than existed before the making of the Order and such greater restrictions either directly or indirectly result in the annual rate of extraction of the minerals concerned being reduced.
  - 8. The compensation payable is limited
    - (a) in the case of a modification of planning permission resulting in a reduced rate of annual extraction to

$$C + (R (\underline{VY}))$$

(b) in the case of a revocation of planning permission to win and work minerals to

$$C + (VY \over X)$$

9. For the purposes of paragraph 7 —

"V" equals (subject to paragraph 9) the actual cost of the buildings, plant and machinery employed in winning and working of the minerals so far as is reasonably attributable to the land to which the planning permission relates;

"X" equals the duration of any licence granted under the Mining Ordinance to extract the minerals in question, or if none, equals 60;

"Y" equals the number of years (to the nearest whole year) unexpired at the date of the revocation or modification of the planning permission to the date when the licence under the Mineral's Ordinance will expire or, if none, from the date on which such revocation or modification to the sixtieth anniversary of the commencement of winning and working of the minerals;

"C" equals the compensation (including redundancy payments) actually paid and reasonably paid by the person claiming compensation to any employee of his whose employment is reasonably brought to an end as a result of such revocation or modification, insofar as the person claiming has not been, or will not be, able to set such payments off against any liability to tax;

"R" equals the reduction in the rate of annual extraction permitted as a result of modification of planning permission expressed as a percentage of the rate of extraction previously permitted;

and for the purposes of this paragraph -

(i) "actual cost" includes the cost of erecting or placing the same on site;

- (ii) where buildings, plant and machinery employed in winning and working minerals are also so used in relation to other land the values comprised in V shall be apportioned, by relation and in ratio to their use, and V shall be reduced in amount accordingly except where the claimant proves that the buildings, plant and machinery cannot reasonably economically be further used for that purpose by reason of the reduction in volume of minerals permitted to be extracted resulting from the modification or revocation of planning permission concerned.
- 10. Any compensation to which this Part of this Schedule relates shall be reduced by the value to the claimant of any building, machinery apparatus or materials he removes from the site in consequence of the order.

#### SCHEDULE 2

(section 55(16))

## COMPENSATION IN RESPECT OF ORDERS REQUIRING DISCONTINUANCE OF USE OR ALTERATION OR REMOVAL OF BUILDINGS OR WORKS

- 1. Subject to paragraphs 2 and 4 below the provisions of this Schedule as to compensation shall have effect where an order is made under section 55 above requiring a use of land to be discontinued or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be removed.
  - 2. No compensation shall be payable -
    - (a) where the use first commenced, or the buildings or works were constructed or erected (as the case may be) after the first appointed day and
      - (i) other than under a planning permission granted under this Ordinance or deemed to be granted under a development order; or
      - (ii) other than under a planning permission granted by the former Committee if, had the same commenced after the commencement of this Ordinance planning permission in respect thereof would not have been deemed to be granted under a development order;
    - (b) in respect of the discontinuance of, or imposition of conditions or the continuance of any use of land for the winning and working of minerals commenced before the commencement of this Ordinance unless the continuance of that use is permitted by the terms of a planning permission granted or deemed to be granted after the commencement of this Ordinance and so granted or deemed to be granted before the order in question is made under section 55 above.
- 3. If, subject to paragraph 2 above, on a claim made to the Governor within the time and in the manner prescribed by regulations under this Ordinance, it is shown that any person has suffered damage in consequence of the Order by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it or by being disturbed in his enjoyment of the land or of minerals in, on or under it, the Crown shall pay to that person compensation in respect of that damage.
- 4. Without prejudice to paragraph 3 above, any person who carries out any works in compliance with the order shall be entitled, on a claim being made as mentioned in that subsection, to recover from the Crown compensation in respect of any expenses reasonably incurred by him in that behalf.
- 5. Any compensation payable to a person under this Schedule shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

#### SCHEDULE 3

(section 65(4))

## COMPENSATION WHERE PLANNING PERMISSION IS REVOKED BY VIRTUE OF AN ORDER UNDER SECTION 65(1)

Where planning permission for demolition, alteration or extension of a building is revoked by section 65(4) paragraphs 1, 3 and 5(a) to (c) and 10 of Schedule 1 above shall apply as if the planning permission had been revoked under section 54(5) of this Ordinance, but paragraphs 2, 4, 5(d), and 6 to 9 (inclusive) shall not apply.



## THE

## FALKLAND ISLANDS GAZETTE

# Supplement

#### **PUBLISHED BY AUTHORITY**

Vol. 1

29th AUGUST 1990

No. 13

The following is published in this Gazette -

The Fisheries (Transhipment and Export) (Fees) (Amendment) Regulations Order (S.R. & O. No. 7 of 1990);

The Immigration (Visa Exemptions) (Amendment) Order (S.R. & O. No. 8 of 1990);

The Elected Councillors' Allowances (Amendment) Order (S.R. & O. No. 9 of 1990).

#### **FISHERIES**

## FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

(No. 11 of 1986)

## FISHERIES (TRANSHIPMENT AND EXPORT) (FEES) (AMENDMENT) REGULATIONS ORDER 1990

(S.R. & O. No. 7 of 1990)

Made: 22nd August 1990

Coming into operation: on publication

Published: 29th August 1990

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 (a), I make the following Order —

1. This Order may be cited as the Fisheries (Transhipment and Export) (Fees) (Amendment) Order 1990.

Citation.

2. The Fisheries (Transhipment and Export) (Fees) Order 1987 (b) is amended by adding at the end of the Schedule to that Order the following words (heading and subsequent text) —

Amendment of the principal Order.

#### "Licence fees payable by land stores

Export of fish from fishery waters £100 a year or part of a year payable on 1st January in each year" Export of fish from fisheries waters.

Made this 22nd day of August 1990.

W. H. FULLERTON, Governor.

- (a) No. 11 of 1986. Gazette Vol XCV in Extraordinary Gazette of 5 December 1986.
- (b) S.R. & O. No. 27 of 1987. Gazette Vol XCVI pp 377-378.

EXPLANATORY NOTE (not part of above Order)

This Order provides for fees payable for export licence fees for land stores exporting fish stored in them.

### **IMMIGRATION IMMIGRATION ORDINANCE 1987**

(No. 15 of 1987)

#### IMMIGRATION (VISA EXEMPTIONS) (AMENDMENT) ORDER 1990

(S.R. & O. No 8 of 1990)

Made: 22nd August 1990

Coming into operation: on publication

Published: 29th August 1990

IN EXERCISE of my powers under section 8 of the Immigration Ordinance 1987 (a) I make the following Order -

1. This Order may be cited as the Immigration (Visa Exemptions) (Amendment) Order 1990.

2. The Schedule to the Immigration (Visa Exemptions) Order 1987 (b) is amended by inserting the word "Chile" between the words "Canada" and "Cyprus" in the column of countries appearing therein.

Amendment of principal Order.

Made this 22nd day of August 1990.

W. H. FULLERTON, Governor.

#### EXPLANATORY NOTE (not part of above Order)

The effect of the above Order is to exempt Chilean nationals from the requirement to hold a valid visa before entry into the Falkland Islands.

<sup>(</sup>a) No 15 of 1987, Gazette Vol. XCVI pp 107-117.

<sup>(</sup>b) S.R. & O. No. 26 of 1987, Gazette Vol. XCVI pp 375-376.

#### LEGISLATIVE COUNCIL

# THE ELECTED COUNCILLORS' ALLOWANCES ORDINANCE 1990

(No. 2 of 1990)

# THE ELECTED COUNCILLORS' ALLOWANCES (AMENDMENT) ORDER 1990

(S.R. & O. No. 9 of 1990)

Made: 22nd August 1990

Coming into operation: 1st July 1990

Published: 29th August 1990

IN EXERCISE of my powers under section 5 of The Elected Councillors' Allowances Ordinance 1990 (a) I make the following Order —

- 1. This Order may be cited as The Elected Councillor's Allowances (Amendment) Order 1990, and shall be deemed to have come into operation on 1st July 1990.
- 2. Paragraph 5 of the Schedule to the Elected Councillor's Allowances Ordinance 1990 is amended by the addition of the following sentence at the end of that paragraph —

Amendment of Schedule to the Ordinance.

Citation

"He shall also be paid a non-accountable expenses allowance of £50 for each day thus spent overseas".

Made this 22nd day of August 1990.

W. H. FULLERTON, Governor.

(a) No. 2 of 1990. Gazettte Vol. XCIX Supplement Vol. 1 No. 3 (3rd April 1990).

## (not part of above Order)

This Order provides for the payment of a daily expenses allowance of £50 a day to elected members of the Legislative Council absent overseas on official business, additional to travel, accommodation and subsistence costs provided for by paragraph 5 of the Schedule to the Ordinance as enacted. The allowance is non-taxable (section 3 of the Ordinance).



# FALKLAND ISLANDS GAZETTE

# **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 1 30th AUGUST 1990 No. 14

The following is published in this Gazette -

The Fishing Licences (Applications and Fees) Regulations Order (S.R. & O. No. 10 of 1990).

## THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

(No. 11 of 1986)

## THE FISHING LICENCES (APPLICATIONS AND FEES) REGULATIONS ORDER 1990

(S.R. & O. No. 10 of 1990)

Made: 30th August 1990

Coming into operation: on publication

Published: 30th August 1990

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) Regulations Order 1990 and shall come into operation on the date it is first published in the Gazette and cease to have effect on the 30th June 1991.

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 those parts of the fishing waters of the Falkland Islands as lie within three nautical miles of the baselines from which the territorial sea of the Falkland Islands is measured or to the internal waters of the Falkland Islands.

Limitation of application of these Regulations.

3. In these Regulations —

"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 trawl or trawls;

"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;

"FICZ" means the interim conservation and management zone as defined in Section 2 of The Fisheries (Conservation and Management) Ordinance 1986;

"fishing licence" means a licence to catch or take fish within the fishing waters;

"jigger" means a fishing boat which is equipped so as to be able to catch or take fish by means of jigging machines;

"northern area" means all that part of the FICZ which lies to the north of latitude 51° 15' South;

"rotating licence" means a licence granted under the provision of regulation 8 below;

"southern area" means all that part of the FICZ which lies to the south of latitude 51° 15' South;

"the fishing season" means -

- (a) in relation to an "A" Licence the period commencing on 1 January 1991 and ending 30th June 1991;
- (b) in relation to a "B" Licence the period commencing on 1 March 1991 and ending on 31st May 1991;
- (c) in relation to a "C" Licence the period commencing on 1 February 1991 and ending on 31st May 1991;

Interpretation.

"the principal Regulations" means the Fishing Regulations Order 1987; and

"trawler" means a fishing boat which is equipped so as to be able to catch or take fish by means of a trawl or trawls.

4. For so long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not 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 provisions of the principal Regulations.

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

Types of

- an "A" Licence;
- (b) a "B" Licence; and
- 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 include 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.

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 Fisheries Department P O Box 122, 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 1700 GMT on Monday 1st October 1990.
- (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
- 7. (1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable Fees for licences. for type "A" Licences.

- (2) Table 2 of the Schedule to these Regulations applies in respect of the fees payable for type "B" licences granted to any jigger.
- (3) Table 3 of the Schedule to these Regulations applies in respect of the fees payable for type "B" licences granted to any trawler or combination vessel.
  - (4) Table 4 of the Schedule to these Regulations applies in respect of type "C" licences.
- (5) All fees payable under this regulation shall be paid in pounds sterling and in accordance with the principal Regulations.
- (6) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and shall not have legislative effect.
- 8. (1) The Director of Fisheries may, if he thinks fit, grant a licence in respect of one or more vessels in rotation for one another.

Rotating licences.

- (2) Where a licence is granted under paragraph (1) the Director of Fisheries shall impose such conditions in the licence as are necessary to make clear and ensure
  - 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 fleets waters appear therein.
- (3) The Director of Fisheries may require -
  - (a) that, where appropriate so as to take into consideration the overall fishing capacity of vessels as they are rotating for one another, a special licence fee calculated by reference to a formula which he shall cause to be issued in writing, shall be paid in respect of a rotating licence; and
  - (b) that an administrative fee of such amounts 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.

#### **SCHEDULE**

Provision as to fishing licences in respect of the fishing season

#### TABLE 1

Finfish only - Type "A" Licences

(Explanatory notes:

- 1. These notes are not of legislative effect but are for guidance only.
- 2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take finfish only.
- 3. The season for this type of licence commences on 1st January 1991 and ends on 30th June 1991 and will be subject to closed areas and The Fishing (Nets and Supplementary Equipment) Regulations Order 1990.
- 4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

Effective text (of legislative effect)

In the following Formula, "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

#### **FORMULA**

Fee payable per licensed month of fishing is the result of

 $£(1.70 \times GT + 5080)$ 

#### TABLE 2

Jiggers - Squid north - Type "B" 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 jiggers licensed to take squid in the northern area and not to trawlers or combination vessels.
- 3. The season for this type of licence commences on 1st March and ends on 31st May 1991.
- 4. Fees calculated by the Formula set out in this Table are for the full season only.)

#### Effective text (of legislative effect)

A. In the following Formula, "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with International Tonnage Measurement Rules; "D" means the number of double jigging machines located upon the jigger to which the licence relates and "S" means the number of single jigging machines located upon the jigger to which the licence relates.

B. A licence is not transferable.

#### **FORMULA**

Fee payable is the result of

£  $(0.407 \times GT \times (S + 1.5D) + 155,650)$ 

#### TABLE 3

Trawlers - Squid north - Type "B" 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 and combination vessels licensed to take squid in the northern area and not to jiggers.
- 3. The season for this type of licence commences on 1st March 1991 and ends on 31st May 1991 and is exempt from The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990
- 4. Fees calculated by the Formula set out in this Table are for the full season only).

Effective text (of legislative effect)

In the following Formula "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

#### **FORMULA**

Fee payable is the result of

£  $(6.7 \times GT + 91476)$ 

#### TABLE 4

Trawlers - Squid south - Type "C" 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 squid in the southern area.
- 3. The season for this type of licence commences on 1st February 1991 and ends on 31st May 1991 and is exempt from The Fishing (Nets and Supplementary Equipment) Regulation Order 1990 in certain parts of the southern area.
- 4. Fees calculated by the Formula set out in this Table are for the full season only).

Effective text (of legislative effect)

In the following Formula "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement rules.

#### **FORMULA**

Fee payable is the result of

£  $(39.2 \times GT + 112915)$ 

However, if the available freezing capacity of the trawler to which the licence relates is in the range 80 to 120 tonnes per day, as determined by The Director of Fisheries, the fee payable is 15% higher than that resulting from the above Formula.

If the available freezing capacity of the trawler to which the licence relates is greater than 120 tonnes per day as determined by the Director of Fisheries, the fee payable is 30% higher than that resulting from the above Formula.

Made this 30th day of August 1990.

W. H. FULLERTON,

Governor.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 1

11th SEPTEMBER 1990

No. 15

The following are published in this Supplement —

Statutory Instruments 1989 No. 2399 South Atlantic Territories; Statutory Instruments 1990 No. 1652 United Nations.

#### 1989 No. 2399

#### SOUTH ATLANTIC TERRITORIES

# The Falkland Islands Courts (Overseas Jurisdiction) Order 1989

Made

19th December 1989

Laid before Parliament

8th January 1990

Coming into force

30th January 1990

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by the British Settlements Acts 1887 and 1945(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Falkland Islands Courts (Overseas Jurisdiction) Order 1989 and shall come into force on 30th January 1990.

Citation and commencement.

2. In this Order, unless the contrary intention appears-

"the Constitution" means the Constitution of the Falkland Islands set out in Schedule 1 to the Falkland Islands Constitution Order 1985(b);

"Court of Appeal" means the Court of Appeal of the Falkland Islands established by section 78 of the Constitution;

"decision" includes judgment, sentence or order;

"the Magistrate's Court" means the Magistrate's Court of the Falkland Islands established by the Administration of Justice Ordinance(c) as amended by the Administration of Justice (Amendment) Ordinance 1970(d);

"the Supreme Court" means the Supreme Court of the Falkland Islands established by section 77 of the Constitution;

"Territory" means, as the context requires, the British Antarctic Territory or South Georgia and the South Sandwich Islands;

"the relevant Territory" means, in relation to proceedings in respect of any particular matter, the Territory under the law of which that matter arises.

Interpretation.

<sup>(</sup>a) 1887 c.54 and 1945 c.7 (9 & 10 Geo. 6).

<sup>(</sup>b) S.I. 1985/444.

<sup>(</sup>c) Laws of the Falkland Islands, Cap 3.

<sup>(</sup>d) Falkland Islands Ordinance No 1 of 1970 (Falkland Islands Gazette Vol. LXXIX p. 87).

Jurisdiction of Supreme Court and Magistrate's Court in Territory proceedings.

- 3.—(1) The Supreme Court shall have jurisdiction to hear and determine any civil or criminal proceedings in respect of matters arising—
  - (a) under the law of the British Antarctic Territory, being proceedings which, under any law in force in that Territory, are within the jurisdiction of the Supreme Court of the British Antarctic Territory; and
  - (b) under the law of South Georgia and the South Sandwich Islands, being proceedings which, under any law in force in that Territory, are within the jurisdiction of the Supreme Court of South Georgia and the South Sandwich Islands.
- (2) The Magistrate's Court shall have jurisdiction to hear and determine any civil or criminal proceedings in respect of matters arising-
  - (a) under the law of the British Antarctic Territory, being proceedings which, under any law in force in that Territory, are within the jurisdiction of the Magistrate's Court of the British Antarctic Territory; and
  - (b) under the law of South Georgia and the South Sandwich Islands, being proceedings which, under any law in force in that Territory, are within the jurisdiction of the Magistrate's Court of South Georgia and the South Sandwich Islands.
- (3) The Supreme Court shall have such jurisdiction to hear and determine appeals from decisions of the Magistrate's Court, exercising jurisdiction under subsection (2) of this section, as would, under any law in force in a Territory, be vested in the Supreme Court of that Territory if those decisions had been decisions of the Magistrate's Court of that Territory.
- (4) In this section "jurisdiction" includes original, appellate, supervisory and revisory jurisdiction.

Powers of Supreme Court and Magistrate's Court.

- 4.—(1) In exercising the jurisdiction conferred on them by section 3 of this Order in any proceedings, the Supreme Court and the Magistrate's Court shall have the like powers as they would have had if the proceedings had concerned matters arising under the law of the Falkland Islands.
- (2) Without prejudice to the generality of subsection (1) of this section, the Supreme Court and the Magistrate's Court shall have power-
  - (a) to order the arrest, and detention pending the outcome of the proceedings, of a person accused of an offence under the law of the relevant Territory, or to impose conditions to secure the attendance of such a person at his trial or for any other purpose;
  - (b) to order the seizure and detention of any article which may be evidence of such an offence;
  - (c) to order persons to give evidence or produce documents in proceedings relating to such an offence or in civil proceedings in respect of matters arising under the law of the relevant Territory;
  - (d) to order the conveyance in custody of any person charged with such an offence from the relevant Territory to any place in the Falkland Islands where he can be tried for that offence; and
  - (e) to order the conveyance of any article which may be evidence of such an offence from the relevant Territory to any place in the Falkland Islands where a person charged with that offence can be tried.
- (3) The powers conferred on the Supreme Court and the Magistrate's Court by the foregoing provisions of this section shall extend as well to persons in the relevant Territory and as respects things done or to be done in the relevant Territory as to persons in the Falkland Islands and as respects things done or to be done in the Falkland Islands.

- 5.—(1) Where a person who is charged with an offence under the law of a Territory is committed by a court of the Territory for trial by the Supreme Court or the Magistrate's Court of the Territory, the committing court—
  - (a) may, at the time of committal or subsequently, order that the trial shall take place, in accordance with the provisions of this Order, before, respectively, the Supreme Court or the Magistrate's Court of the Falkland Islands; and
  - (b) if it does so order, shall remand the accused person in custody or on bail, pending such trial, in accordance with any law in that behalf in force in the Territory.
- Institution of criminal proceedings under Territory law before Falkland Islands courts.
- (2) Where an order has been made by a court of a Territory under subsection (1) of this section-
  - (a) until an order is made by the Supreme Court or the Magistrate's Court under paragraph (b) of this subsection, an order made under subsection (1)(b) shall have effect in the Falkland Islands; and
  - (b) without prejudice to the powers in that behalf vested in the court of the Territory, the Supreme Court or the Magistrate's Court, as the case may be, may make the necessary dispositions and orders, in exercise of the powers conferred on it in that behalf by this Order, to secure the attendance of the accused person and of witnesses, and the production of documents and other evidence, at the trial and generally for the purposes of the trial.
- (3) Where an information is laid before a court in the Falkland Islands that a person in the Falkland Islands has, or is suspected of having, committed an offence under the law of a Territory, being an offence which the Supreme Court or the Magistrate's Court has jurisdiction under this Order to hear and determine, the court before which the information is laid shall deal with that information in the like manner as if the offence alleged in it were an offence under the law of the Falkland Islands triable only by the Supreme Court or the Magistrate's Court and shall dispose of the case accordingly.
- 6.—(1) In exercising the jurisdiction conferred on them by section 3 of this Order in any proceedings, the Supreme Court and the Magistrate's Court shall-

Law to be applied.

- (a) in all matters of procedure or evidence, apply the law, including rules of court, of the Falkland Islands; and
- (b) in all matters of substantive law, including remedies in civil proceedings and sentencing powers in criminal proceedings, apply the law of the relevant Territory.
- (2) If in any such proceedings the question arises whether any matter is one of procedure or evidence or substantive law, the question shall be determined by the court before which the question arises, and-
  - (a) any such determination by the Supreme Court shall be final; and
  - (b) an appeal against any such determination by the Magistrate's Court may be made to the Supreme Court, whose decision on the appeal shall be final.
- 7. In relation to a case in which proceedings for a criminal offence under the law of a Territory are being pursued before a court of the Falkland Islands under any provision of this Order, or in which such proceedings are in contemplation, or in which a person has been convicted in such proceedings, references in the Constitution to-
  - (a) a criminal offence shall be construed as including references to a criminal offence under the law of the Territory;
  - (b) an order of a court shall be construed as including references to an order of a court of the Territory; and
  - (c) authority of law for the deprivation of a person's personal liberty shall be construed as including references to any law of the Territory authorising such deprivation.

Application of Falkland Islands Constitution to Territory offences.

British Antarctic Territory appeals.

- 8.—(1) Article 4 of the British Antarctic Territory Court of Appeal Order 1965(a) is amended by the insertion after paragraph (3) of the following new paragraph—
  - "(4) In this article and in article 5 below-
    - (a) the expression "court of the Territory" shall be construed as including the Supreme Court and the Magistrate's Court of the Falkland Islands, to the extent that the Falkland Islands Courts (Overseas Jurisdiction) Order 1989 confers jurisdiction on those courts to hear and determine proceedings in respect of matters arising under the law of the Territory;
    - (b) the term "appeal" shall be construed as including a reference of a case to the Court which, under any law in force in the Territory, takes effect as an appeal.".
- (2) Section 85 of the Constitution shall not apply in respect of any decision of the Supreme Court in exercise of the jurisdiction conferred on it by section 3 of this Order in respect of matters arising under the law of the British Antarctic Territory.

South Georgia and the South Sandwich Islands appeals.

- 9.—(1) The Court of Appeal shall have jurisdiction to hear and determine such appeals from the courts of South Georgia and the South Sandwich Islands as may be prescribed by any law in force in that Territory.
- (2) In connection with an appeal in any proceedings from a court of South Georgia and the South Sandwich Islands the Court of Appeal shall, subject to the provisions of any law in force in that Territory, have all the powers and jurisdiction that are possessed by that court in those proceedings under any law in force in that Territory.
- (3) The Court of Appeal may, in accordance with such directions as the President of the Court may from time to time issue, sit in the Falkland Islands or elsewhere for the purpose of exercising any jurisdiction and powers conferred on it by or under this section.
  - (4) In this section-
    - (a) the expression "court of South Georgia and the South Sandwich Islands" shall be construed as including the Supreme Court and the Magistrate's Court of the Falkland Islands, to the extent that this Order confers jurisdiction on those courts to hear and determine proceedings in respect of matters arising under the law of South Georgia and the South Sandwich Islands;
    - (b) the term "appeal" shall be construed as including a reference of a case to the Court of Appeal which, under any law in force in South Georgia and the South Sandwich Islands, takes effect as an appeal.

Enforcement.

- 10.—(1) Any decision which is given in any proceedings by the Supreme Court or the Magistrate's Court in exercising the jurisdiction and powers conferred on them by sections 3, 4 and 5 of this Order shall have effect in the Falkland Islands, and, so far as the case requires, shall there be executed, enforced or otherwise complied with, as if it were given in exercise of the court's jurisdiction in proceedings in respect of matters arising under the law of the Falkland Islands.
- (2) Any decision which is given by the Court of Appeal or the British Antarctic Territory Court of Appeal in any proceedings on appeal from the Supreme Court or the Magistrate's Court exercising the jurisdiction and powers conferred on them by sections 3, 4 and 5 of this Order shall have effect in the Falkland Islands, and, so far as the case requires, shall there be executed, enforced or otherwise complied with, as if it were given in exercise of the jurisdiction of the Court of Appeal in proceedings in respect of matters arising under the law of the Falkland Islands.
- (3) Any decision referred to in subsection (1) or (2) of this section to which effect falls to be given in the relevant Territory (whether by execution or other means of enforcement or in any other way) shall be given such effect.

- (4) Where, by virtue of this Order, effect falls to be given and is given in the Falkland Islands (or elsewhere outside the relevant Territory) to any decision referred to in subsection (1) or (2) of this section concerning a matter arising under the law of a Territory, it shall be given full force and recognition in that Territory.
- (5) In this section the term "appeal" shall be construed as including a reference of a case to the Court of Appeal or the British Antarctic Territory Court of Appeal which, under any law in force in South Georgia and the South Sandwich Islands or, as the case may be, the British Antarctic Territory, takes effect as an appeal.

G. I. de Deney Clerk of the Privy Council

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order confers jurisdiction on the courts of the Falkland Islands to deal with certain civil and criminal proceedings in respect of matters arising under the law of the British Antarctic Territory and South Georgia and the South Sandwich Islands.

#### 1990 No. 1652

#### **UNITED NATIONS**

## The Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) Order 1990

Made - - - -

8th August 1990

Laid before Parliament

8th August 1990

Coming into force

9th August 1990

At the Court at HM Yacht Britannia the 8th day of August 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations have, by a resolution adopted on 6th August 1990, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to the situation between Iraq and Kuwait.

Now therefore Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a). is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

#### Citation and Commencement, Extent and Interpretation

- 1.—(1) This Order may be cited as the Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) Order 1990.
  - (2) This Order shall come into force on the 9th August 1990.
  - (3) (a) This Order shall extend to the territories listed in Schedule 2 to this Order.
    - (b) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.
- (4) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"commander", in relation to an aircraft, means the person designated as commander of the aircraft by the operator thereof, and includes any person who is for the time being in charge of command of the aircraft;

"Governor", means the Governor or other officer administering the government of the Territory.

"land transport vehicle" includes a barge;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or to a land transport vehicle, means the person for the time being having the management of the aircraft or the vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered; and

"person in Iraq or Kuwait" includes any body constituted or incorporated under the law of Iraq or Kuwait and any body carrying on business (whether within Iraq or Kuwait or not) which is controlled by persons or bodies resident in Iraq or Kuwait or constituted or incorporated as aforesaid.

#### Importation of Goods into the Territory

- 2.—(1) Except under the authority of a licence granted by the Governor or specified in Article 2(1) of the Iraq and Kuwait (United Nations Sanctions) Order 1990(a) any goods exported from either Iraq or Kuwait after the 6th August 1990 are prohibited from being imported into the Territory.
- (2) Any person who imports any goods into the Territory in contravention of paragraph 1 of this Article shall be guilty of an offence.
- (3) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the importation of goods into the Territory.

#### **Exportation of Goods from Iraq or Kuwait**

- 3.—(1) Except under the authority of a licence granted under Article 2(1) of the Iraq and Kuwait (United Nations Sanctions) Order 1990 no person shall
  - (a) make or carry out any contract for the exportation of any goods from either Iraq or Kuwait;
  - (b) make or carry out any contract for the sale of any goods which he intends or has reason to believe that another person intends to export from either Iraq or Kuwait; or
  - (c) do any act which would promote or is calculated to promote the exportation of any goods from either Iraq or Kuwait.
- (2) No person shall deal in any goods that have been exported from Iraq or Kuwait after the 6th August 1990, that is to say, shall, by way of trade or otherwise for gain, acquire or dispose of such goods or of any property or interest in them or any right to or charge upon them or process them or do any act calculated to promote any such acquisition, disposal or processing by himself or any other person. Provided that the aforesaid prohibition shall not apply, if a licence has been granted under paragraph (1) of this Article and is in force, to any dealing authorised by the said licence.

#### Supply of goods to Iraq and Kuwait

- 4.—Except under the authority of a licence granted by the Governor under this Order or under the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990(b) no person shall
  - (a) supply or deliver or agree to supply or deliver to or to the order of any person in either Iraq or Kuwait any goods that are not in either country;
  - (b) supply or deliver or agree to supply or deliver any such goods to any person, knowing or having reasonable cause to believe that they will be supplied or delivered to or to the order of a person in either Iraq or Kuwait or that they will be used for the purposes of any business carried on in or operated from Iraq or Kuwait; or

<sup>(</sup>b) S.I. 1990/1640.

(c) do any act calculated to promote the supply or delivery of any goods to any person in Iraq or Kuwait or for the purpose of any business carried on in Iraq or Kuwait in contravention of the foregoing provisions of this paragraph.

#### Application of Articles 3 and 4

- 5.—(1) The provisions of Articles 3 and 4 shall apply to any person within the Territory to which this Order extends and to any person elsewhere who:
  - (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, or a British protected person and is ordinarily resident in the Territory; or
  - (b) is a body incorporated or constituted under the law of the Territory.
- (2) Any person specified in paragraph 1 of this Article who contravenes the provisions of Article 3(1) or (2) or Article 4 shall be guilty of an offence.

#### **Exportation of Certain Goods from the Territory**

- 6.—(1) Except under the authority of a licence specified in Article 4 of this Order all goods are prohibited from being exported to Iraq or Kuwait.
- (2) Any person who exports any goods from the Territory in contravention of paragraph (1) of this Article shall be guilty of an offence against this Order.
- (3) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the exportation of goods from the Territory.

#### Carriage of certain goods exported from or destined for Iraq or Kuwait

- 7.—(1) Without prejudice to the generality of Article 3 of this Order, no ship or aircraft to which this Article applies and no land transport vehicle within the Territory shall be used for the carriage of any goods if those goods are being or have been exported from Iraq or Kuwait in contravention of Article 3 of this Order.
- (2) Without prejudice to the generality of Article 4 of this Order, no ship or aircraft to which this Article applies and no land transport vehicle within the Territory shall be used for the carriage of any goods if the carriage is, or forms part of, carriage from any place outside Iraq or Kuwait to any destination therein or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait.
- (3) This Article applies to British ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is
  - (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British protected person and is ordinarily resident in the Territory; or
  - (b) a body incorporated or constituted under the law of the Territory.
- (4) If any ship, aircraft or land transport vehicle is used in contravention of paragraph (1) of this Article, then each of the following persons
  - (a) in the case of a British ship registered in the Territory, or any aircraft so registered, the owner and master of the ship or, as the case may be, the operator and commander of the aircraft: or
  - (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this Article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
  - (c) in the case of a land transport vehicle, the operator of the vehicle;

shall be guilty of an offence against the Order unless he proves that he did not know and had no reason to suppose that the goods were being or had been exported from Iraq or Kuwait in contravention of Article 2(1) of this Order.

- (5) If any ship, aircraft or land transport vehicle is used in contravention of paragraph (2) of this Article, then
  - (a) in the case of a British ship registered in the Territory, or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
  - (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (3) of this Article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
  - (c) in the case of a land transport vehicle, the operator of the vehicle,

shall be guilty of an offence against this Order unless he proves that he did not know and had no reason to suppose that the carriage of goods in question was, or formed part of, carriage from any place outside Iraq or Kuwait to any destination therein or to any person for the purposes of any business carried on in or operated from Iraq or Kuwait.

- (6) Nothing in this Article applies to goods in respect of which a licence granted by the Secretary of State or the Governor is in force under:
  - (a) Article 2(1) of this Order; or
  - (b) Article 3 of this Order.
- (7) Nothing in this Article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or land transport vehicles.

#### Investigation, etc. of suspected British ships and aircraft

- 8.—(1) Where any authorised officer, that is to say, any such officer as is referred to in section 692(1) of the Merchant Shipping Act 1894(a), has reason to suspect that any British ship registered in the United Kingdom or in any other country or place to which this Order extends has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of Article 5 of the Order, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and. for that purpose, may use or authorise the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify: and an authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of Article 5(2) of this Order, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued, that is to say, he may either direct the master to refrain, except with the consent of an authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps:-
  - (a) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by any authorised officer that the ship may so proceed;
  - (b) if the ship is then in a port in the United Kingdom or in any other country or place to which this Order extends, to cause her to remain there until the master is notified by any authorised officer that the ship may depart;
  - (c) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (b) of this paragraph; and
  - (d) to take her to any other destination that may be specified by the officer in agreement with the master:

and the master shall comply with any such request or direction.

- (2) Without prejudice to the provisions of paragraph (8) of this Article, where a master refuses or fails to comply with a request made under this Article that his ship shall or shall not proceed to or from any place or where an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.
- (3) Where the Governor of the Territory or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any aircraft registered in the United Kingdom or in any other country or place to which this Order extends or any aircraft for the time being chartered to any person specified in paragraph 3 of Article 7 of this Order has been or is being or is about to be used in contravention of paragraph (1) or paragraph (2) of Article 7 of this Order then the Governor or that authorised person or that officer may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for their or his inspection such documents so relating and such cargo as they or he may specify, and that authorised person or that officer may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and, if the aircraft is then in the Territory, the Governor or any such authorised person or any such officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the Territory until notified that the aircraft may depart; and the charterer. the operator and the commander shall comply with any such request.
- (4) Without prejudice to the provisions of paragraph (8) of this Article, where the Governor or any person authorised by him as aforesaid or any such officer as aforesaid has reason to suspect that any request that an aircraft should remain in the Territory that has been made under paragraph (3) of this Article may not be complied with the Governor or that authorised person or that officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose
  - (a) enter, or authorise entry, upon any land and upon that aircraft;
  - (b) detain, or authorise the detention of, that aircraft; and
  - (c) use, or authorise the use of, reasonable force.
- (5) A person authorised by the Governor to exercise any power for the purposes of paragraph (3) or paragraph (4) of this Article shall, if requested to do so, produce evidence of this authority before exercising that power.
- (6) No information furnished or document produced by any person in pursuance of a request made under this Article shall be disclosed except
  - (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Article to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom on under or in the service of the Government of any other territory to which this Order extends; or
- (c) on the authority of the Governor to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Iraq or Kuwait decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Order or (whether in the Terri, bry or in any other territory to which this Order extends), with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs or for an offence against any provision of law with respect to similar matters that is for the time being in force in any country or place to which this Order extends.
- (7) Any power conferred by this Article to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.
- (8) Each of the following persons shall be guilty of an offence against this Order, that is to say:-
  - (a) A master of a ship who disobeys any direction given under paragraph (1) of this Article with respect to the landing of any cargo;
  - (b) A master of a ship or a charterer or an operator or a commander of the aircraft who, without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this Article by any person empowered to make it or who wilfully furnishes false information or produces false documents to such a person in response to such a request;
  - (c) A master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this Article.
- (9) Nothing in this Article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

#### Obtaining of evidence and information

9. The provisions of Schedule 1 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor of the Territory of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor of the Territory of evidence of the commission of an offence against this Order or with respect to any of the matters regulated by this Order, of an offence relating to customs.

#### Penalties and Proceedings

- 10.—(1) Any person guilty of an offence against this Order shall be liable -
  - (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £2,000 or its equivalent or to both.
- (2) Where any body corporate is guilty of an offence against this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate of 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.
- (3) Summary proceedings for an offence against this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than twelve months from the date on which the person charged first enters the Territory after committing the offence.
- (4) Proceedings against any person for an offence against this Order may be taken before the appropriate court in the Territory, or in any territory to which this Order extends, having jurisdiction in the place where that person is for the time being.
  - (5) No proceedings for an offence against this Order shall be instituted in a scheduled

territory except by or with the consent of the principal public officer of the territory having responsibility for criminal prosecutions.

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### Exercise of powers of the Governor of the Territory

- 11.—(1) The Governor of the Territory may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule I to this Order to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.
- (2) Any licences granted under this Order may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### Miscellaneous

- 12.—(1) This Order applies to or in relation to any ship or aircraft or any body corporate that purports to be registered in any particular place or, as the case may be, that purports to be incorporated or constituted under the law of that place as it applies to or in relation to any ship or aircraft that is so registered or any body corporate that is so incorporated or constituted.
- (2) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor or under the Iraq and Kuwait (United Nations Sanctions) Order 1990 or the Export of Goods (Control) (Iraq and Kuwait Sanctions) Order 1990 shall not have effect in relation to any such thing done in a country or place other than the Territory to which this Order extends or done elsewhere outside the Territory by a person who is ordinarily resident in, or by a body incorporated or constituted under the law of, that country or place, provided that it is so done under the authority of a licence or with permission granted, in accordance with any law in force in that country or place (being a law substantially corresponding to the relevant provision of this Order), by the authority competent in that behalf under that law.

G. I. de Deney Clerk of the Privy Council

#### SCHEDULE 1

Article 9

#### **EVIDENCE AND INFORMATION**

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Territory to furnish to the Governor (or to that authorised person) any information in his possession or control, or to produce to the Governor (or to that authorised person) any document in his possession or control, which the Governor (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

- (2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.
- (3) Where a person is convicted before a superior court for failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.
- (4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by the body corporate, to provide an explanation of any of them.
- 2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by a person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case—
  - (a) that there is reasonable ground for suspecting that an offence against this Order has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
  - (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, vessel or aircraft, he may grant a search warrant authorising any police officer, together with any other persons named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.
- (2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft and may seize any document or article found on the premises or in the vehicle, vessel or aircraft or on such person which he has reasonable ground to believe to be evidence of the commission of any offence against this Order or any document which he has reasonable ground to believe ought to have been produced under paragraph I of this Schedule or to take in relation to any such article or document any other steps which may appear necessary for preserving it and preventing interference with it:

Provided that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

- (3) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, vessel or aircraft he may use such force as is reasonably necessary for that purpose.
- (4) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for an offence against this Order to which they are relevant, until the conclusion of those proceedings.
- 3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.
- 4. No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except
  - (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead by given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom or under or in the service of the Government of any territory to which this Order extends; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence against this Order (whether in the Territory or any other territory to which this Order extends) or for an offence against any provision of law with respect to matters

similar to those regulated by this Order that is for the time being in force in the United Kingdom.

#### 5. Any person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) wilfully furnishes false information or a false explanation or otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes, or removes any document,

shall be guilty of an offence against this Order.

#### **SCHEDULE 2**

Article 1

#### TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

Bermuda

**British Antarctic Territory** 

British Indian Ocean Territory

Cayman Islands

Falkland Islands

South Georgia and South Sandwich Islands

Gibraltar

Hong Kong

Montserrat

Pitcaim

St Helena and its dependencies

Turks and Caicos Islands

Virgin Islands

#### EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It prohibits the importation into the territory of certain goods exported from Iraq or Kuwait and the exportation from the territory of certain goods intended for Iraq or Kuwait. It also prohibits certain activities and dealings relating to the exportation from Iraq or Kuwait of the former goods and the supply to Iraq or Kuwait of the latter goods, including carriage of these goods in British ships or aircraft. It also makes provision for the investigation of ships and aircraft that are suspected of contravening this Order. It confers certain powers relating to the obtaining of evidence and information for the purposes of the Order.



## FALKLAND ISLANDS GAZETTE

## **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 1

27th November 1990

No. 16

The following are published in this Gazette -

The Fishing Licences (Applications and Fees) (Amendment) Regulations Order 1990 (S.R. & O. No. 11 of 1990);

The Interpretation and General Clauses (Amendment) Bill 1990.

#### INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1990

Explanatory Memorandom

#### Introductory

In the course of the preparation of the Revised Edition of the Laws for publication, it has become apparent that there are a number of matters in the Interpretation and General Clauses Ordinance which require attention and these matters are the subject of the attached Bill. They are technical matters and involve nothing which is likely adversely to affect members of the public.

#### The provisions of the Bill

The Bill consists of two Clauses and a Schedule. If enacted, the provisions contained in the Bill would come into effect immediately it is first published in the Gazette after having been enacted. The amendments to the Interpretation and General Clauses Ordinance 1977 proposed by the Bill are set out in the Schedule to it. Paragraph (a) of the Schedule would insert a new section 2A in the 1977 Ordinance. Both the 1977 Ordinance and nearly every other Ordinance contain provisions defining words and phrases. In the case of the Interpretation and General Clauses Ordinance 1977, its general definition provision is section 3. In most other Ordinances the definition provision (usually bearing a marginal note "Interpretation") appears as section 2. In some Ordinances other provisions of the Ordinance in question define words and expressions for the purposes only of that provision or of a group of provisions of the Ordinance. Subsidiary legislation (Order and Regulations, for example) contain definition provisions in the same way as Ordinances do. In the case of both Ordinances and subsidiary legislation the definition provision begins "In this Ordinance or in this Order or in these Regulations" and there then follows a sort of dictionary saying that words and phrases have certain meanings. However, it is clear from the context (the wording and purpose) of other provisions of the Ordinance that in those provisions the words and phrases used could not sensibly have the meaning given in the definition provision. There is therefore an absurdity which needs to be corrected. The correction can simply be made by a provision in the Interpretation and General Clauses Ordinance which says that when a word or phrase is defined it shall have the defined meaning "unless the context otherwise requires". This is what the proposed section 2A of the Interpretation and General Clauses Ordinance 1977, which would be inserted by paragraph (a) to the Schedule to the Bill would do.

The commencement of section 3 of the Interpretation and General Clauses Ordinance 1977 shows a clear drafting error. Section 3 is intended to define a whole host of words and phrases for the purposes of Ordinances generally. In other words, it is a general "legislative dictionary". The clear intention was that unless a law defined a word or phrase appearing in it in a different manner (and this is frequently the case) that word or phrase should have the same meaning as it is given by section 3 of the Interpretation and General Clauses Ordinance 1977. However section 3 as enacted does not give effect to that intention because, unfortunately, it omits the necessary introductory words. Paragraph (b) of the Schedule to the Bill would, in effect, correct that omission by inserting the appropriate introductory words at the beginning of section 3 of the Interpretation and General Clauses Ordinance.

Paragraphs (c) and (d) are intended to correct an inconsistency of style in the definitions of "Attorney General" and "Financial Secretary" appearing in section 3 of the 1977 Ordinance when compared with the definition of "Chief Executive" which appears in it. Paragraphs (c) and (d) would define "Attorney General" and "Financial Secretary" in the same formula of words as that used in the definition of "Chief Executive" thus removing the inconsistency referred to.

Paragraph (e) of the Schedule would repeal the definition "Ordinance" (which is in such terms as to include subsidiary legislation and is a very extended definition) simply because it is intended by paragraph (f) to insert a new definition of "written law of the Falkland Islands" replacing it. Paragraph (f) would define "written law of the Falkland Islands" as being any Ordinance of the Falkland Islands and any subsidiary legislation. "Subsidiary legislation" is already defined in section 3 of the Interpretation and General Clauses Ordinance as meaning any Proclamation, Rule, Regulation, Order, Resolution, Notice, Rule of Court, Bylaw or other instrument made under or by virtue of any Ordinance and having legislative effect.

Paragraph (g) of the Schedule to the Bill would replace existing sections of the 1977 Ordinance by new sections. This is necessary so as to give affect consequentially to the definition of "written law" which would be inserted by the previous paragraph.

### THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1990

(No. of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
  - 2. Amendment of the Interpretation and General Clauses Ordinance 1977.

Schedule

## A Bill for An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

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

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1990.

Short title.

2. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of the Interpretation and General Clauses Ordinance 1977

(No. 14 of 1977).

#### **SCHEDULE**

The Interpretation and General Clauses Ordinance 1977 is amended -

(a) by inserting therein, immediately after section 2 thereof, the following new section -

"Definition provisions in written laws of the Falkland Islands. 2A Whenever in any written law of the Falkland Islands, including this Ordinance, and whether the provision in question was enacted or made before or after this section was enacted, any word or expression is defined for the purposes of that written law or of any particular provision or provisions of that written law that definition shall have effect for those purposes only in so far as the context does not otherwise require'.

(b) by inserting in section 3 thereof, immediately before the definition of "act" therein appearing, the following words —

"In —

- (a) this Ordinance and
- (b) in every other written law of the Falkland Islands except -
  - (i) where such is inconsistent with any provision of that written law or
  - (ii) the context otherwise requires -"
- (c) by repealing the definition of "Attorney General" appearing in section 3 of that Ordinance and by replacing it with the following definition —

""Attorney General" means the person for the time being holding or acting in the office of Attorney General of the Falkland Islands;"

(d) by repealing the definition of "Financial Secretary" appearing in section 3 of that Ordinance and by replacing it with the following definition

""Financial Secretary" means the person for the time being holding or acting in the office of the Financial Secretary of the Falkland Islands;"

- (e) by repealing the definition of "Ordinance" appearing in section 3 of that Ordinance;
- (f) by inserting in section 3 of that Ordinance, immediately after the definition of "writing" and "printing" appearing therein the following new definition —

""written law of the Falkland Islands" means any Ordinance of the Falkland Islands and any subsidiary legislation"; and

- (g) by repealing the existing sections 14 to 16 inclusive and by replacing them with the following new sections 14 to 15 -
  - "14.(1) Wherever any provision of any written law of the Falkland Islands refers to another such written law, that provision shall be deemed to include a reference to that other written law as the same may from time to time be amended.

"References to written laws as amended.

- (2) Wherever any written law of the Falkland Islands repeals revokes or rescinds and re-enacts or re-makes with or without modification any provision of another such written law, references in any other written law of the Falkland Islands to the provision so repealed, revoked or rescinded shall be construed as references to the provision so re-enacted or re-made.
- 15. Every description or citation in any written law of the Falkland Islands of a portion of any other such written law shall be construed as including the word, section, subsection, article, paragraph, sub-paragraph or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Citation of part of written law.

- (1) Wherever in any written law of the Falkland Islands there is a reference to a section, article, paragraph, Part, Chapter or Schedule by number or letter only, and not in conjunction with the title, short title or citation of any other written law, such reference shall be construed as a reference to the section, article, paragraph, Part, Chapter or Schedule of that number or letter contained in the written law in which such reference occurs.
- (2) Wherever in any section article or paragraph of any written law of the Falkland Islands there is a reference to a subsection, paragraph, sub-paragraph or other division by number or letter only, and not in conjunction with the number of any section, article or paragraph of that or any other such written law, such reference shall be construed as a reference to the subsection, paragraph or sub-paragraph or other division of that number or letter contained in the section article or paragraph in which such reference occurs."
- (h) Section 79 is amended -
- (a) by replacing the words "A reference in any law" appearing at the beginning of the section with the words "A reference in any written law of the Falkland Islands", and
- (b) by inserting between the words "shall" and "include" appearing in the section the words ", notwithstanding section 2(3) of this Ordinance,".

#### **OBJECTS AND REASONS**

This Bill seeks to amend the Interpretation and General Clauses Ordinance 1977 so as to remedy certain defects which have become apparent during the preparation of a new Revised Edition of the Laws.



# FALKLAND ISLANDS GAZETTE Supplement

### PUBLISHED BY AUTHORITY

Vol. 1

7th DECEMBER 1990

No. 17

The following are published in this Supplement —

The Dogs (Amendment) Rules 1990 (S.R. & O. No. 12 of 1990);

The Plant Importation (Amendment) Regulations 1990 (S.R. & O. No. 13 of 1990);

The Livestock Quarantine (Amendment) Regulations 1990 (S.R. & O. No. 14 of 1990);

The Stamp Duties (Abolition) Bill 1990;

The Family Allowances (Amendment) Bill 1990;

The Road Traffic (Amendment) Bill 1990.

#### SUBSIDIARY LEGISLATION

## DOG RULES Dog Rules Ordinance (a)

The Dogs (Amendment) Rules 1990 (S.R. & O. No. 12 of 1990)

Made: 5th December 1990

Coming into operation: 7th December 1990

Published: 7th December 1990

IN EXERCISE of my powers under section 13 of the Dogs Ordinance, I make the following Rules —

1. These rules may be cited as the Dogs (Amendment) Rules 1990 and shall come into force on the day this Order is first published in the Gazette.

Citation and Commencement.

2. Rule 3 of the Dogs Rules (a) is amended by the deletion of the words "Annual licence for each dog or bitch, ten pounds" and the substitution therefor of the following words —

Amendment of rule 3. (No. 5 of 1949).

"Annual licence for each dog or bitch, twenty-five pounds."

Made this 5th day of December 1990.

R. SAMPSON, Acting Governor.

(a) Cap. 40 Laws 1950 Edition Volume 1

(b) No. 6 of 1947 Laws 1950 Edition Volume II

#### **EXPLANATORY NOTE**

(not forming part of Order)

This Order has the effect of increasing the annual licencefor a dog or bitch to twenty pounds.

#### SUBSIDIARY LEGISLATION

#### PLANT IMPORTATION REGULATIONS

Plant Disease Regulation Ordinance (a)

The Plant Importation (Amendment) Regulations 1990 (S.R. & O. No. 13 of 1990)

Made: 5th December 1990

Coming into operation: 7th December 1990

Published: 7th December 1990

IN EXERCISE of my powers under Section 3 of the Plant Disease Regulation Ordinance, I make the following Regulations —

1. These regulations may be cited as the Plant Importation (Amendment) Regulations 1990 and shall come into force on the day this Order is first published in the Gazette.

Citation and Commencement.

2. The Plant Importation Regulations (b) are amended by the deletion of Regulation 7 and the substitution therefor of the following —

Amendment of Regulation 8 (No. 4 of 1947).

- "7(a) With the exception of the plants and seeds specified in the Second Schedule no plant, seed or soil may be imported without a permit from the prescribing authority
- (b) No permit may be issued by the prescribing authority until the applicant has made payment to the Crown of the appropriate permit fee
- (c) For the purpose of these Regulations the appropriate permit fee shall be £2.00 in respect of each consignment of plant, seed or soil (regardless of quantity) imported for non-commercial purposes and £10.00 in respect of each consignment of plant, seed or soil (regardless of quantity) imported for commercial purposes".

Made this 5th day of December 1990.

R. SAMPSON,
Acting Governor.

(a) Cap. 50 Laws 1950 Edition Volume 1

(b) No. 4 of 1947 Laws 1950 Edition Volume II

#### EXPLANATORY NOTE

(not forming part of the Order)

This Order makes provision for the imposition of a plant import permit fee of two pounds in respect of non-commercial imports and ten pounds in respect of commercial imports.

#### SUBSIDIARY LEGISLATION

#### THE LIVE STOCK REGULATIONS

Live Stock Ordinance(a)

The Live Stock Quarantine (Amendment) Regulations 1990 (S.R. & O. No. 14 of 1990)

Made: 5th December 1990

Coming into operation: 7th December 1990

Published: 7th December 1990

IN EXERCISE of my powers under Section 43 of the Live Stock Ordinance, I make the following Regulations —

1. These Regulations may be cited as the Live Stock Quarantine (Amendment) Regulations 1990 and shall come into force on the day this Order is first published in the Gazette.

Citation and Commencement.

2. The Live Stock Quarantine Regulations (b) are amended by the deletion of Regulation 2 and the substitution therefor of the following —

Replacement of Regulation 2.

"2 Any person intending to import any animal shall before it is imported give notice in the form set out in Schedule A to the Chief Inspector of Stock and such forms completed in duplicate should be delivered to the Chief Inspector together with an importation fee of twenty pounds at least two months before the animals to be imported are expected to arrive in the Colony."

Made this 5th day of December 1990.

R. SAMPSON,
Acting Governor.

(a) Cap. 40 Laws 1950 Edition Volume I

(b) No. 6 of 1947 Laws 1950 Edition Volume !I

#### **EXPLANATORY NOTE**

(not forming part of Order)

This Order provides for a fee of twenty pounds to be paid to the Chief Inspector of Stock upon submission of a notice of intention to import an animal into the Islands.

#### The Stamp Duties (Abolition) Bill 1990

(No. of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short title and commencement.
- 2. Abolition of stamp duties.

## A Bill for An Ordinance to abolish Stamp Duties and for connected purposes.

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

1. This Ordinance may be cited as the Stamp Duties (Abolition) Ordinance 1990 and shall come into force on 1st January 1991.

Short title and commencement.

2. (1) Sections 12 to 14 and 16 and 17 of and the Third Schedule to the Land Ordinance shall not have effect in relation to any deed executed and delivered on or after 1st January 1991 but shall continue to have effect in relation to any deed executed or delivered before that date regardless of the date appearing thereon.

Abolition of stamp duties.

- (2) If it appears to the Registrar General that any deed which is presented for registration after 31st December 1990 was executed and delivered before 1st January 1991 although bearing a date indicating to the contrary, the Registrar General shall require the person by whom or on whose behalf the deed is presented for registration to satisfy him that the deed was in fact executed after 31st December 1990 and if not so satisfied shall require stamp duty to be paid thereon.
- (3) A person aggrieved by a requirement of the Registrar General under subsection (2) above may within 28 days of that requirement appeal to the Magistrate's Court and the determination of the Magistrate's Court in the matter shall be final.

#### **OBJECTS AND REASONS**

To abolish stamp duties on deeds executed on or after 1st January 1991 and to make provision preventing fraudulent evasion of stamp duty by false dating of deeds executed before that date.

#### The Family Allowances (Amendment) Bill 1990

(No. of 1990)

#### 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 Allowance 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 1990 and shall come into force on the first day of January 1991.

Citation and

- 2. The Family Allowances Ordinance 1960 is amended by -
  - (a) the repeal of section 3(2) and by the substitution therefor of the following —

"(2) The Superintendent shall each month pay for each child of a family an allowance at the rate of £36"; 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 thirty pounds in addition to the allowance or allowances being paid under subsection (2)".

Commencement.

Amendment of Ordinance No. 9 of 1960.

#### **OBJECTS AND REASONS**

To increase the sums payable under the Family Allowances Ordinance 1960.

#### The Road Traffic (Amendment) Bill 1990

(No. of 1990)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Citation and Commencement.
- 2. Amendment of Cap 60.

## 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) Bill 1990 and shall come into force on 1st January 1991.

Citation and Commencement.

2. The Road Traffic Ordinance is amended by the repeal of section 4(1) and by the substitution therefor of the following —

Amendment of Cap 60.

"(1) There shall be charged, levied and paid in respect of every motor vehicle or trailer (except those mentioned in subsection (3)) used on a road, duty at the following rates —

Trailer		••			••						••	 	••	 	£ 2.00
Motoro	ycle											 	••	 	£ 8.00
Cars/la	ndro	over	s/va	ans	••							 	••	 	£20.00
Lorries	/tra	ctoi	rs ar	nd o	othe	r h	eav	v ve	hic	les		 		 	£32.00".

#### **OBJECTS AND REASONS**

To increase the sums payable under the Road Traffic Ordinance in respect of motor vehicles and trailers.



# FALKLAND ISLANDS GAZETTE

## **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 1

17th DECEMBER 1990

No. 18

The following are published in this Supplement -

The Building Control (Transfer of Functions) Bill 1991;

The Currency Notes (Validation) Bill 1991;

The Supplementary Appropriation (1989-1990) Bill 1991;

The Supplementary Appropriation (1990-1991) Bill 1991.

#### The Building Control (Transfer of Functions) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Introductory

- 1. Short title.
- 2. Interpretation.

#### Transfer of functions

- 3. Transfer of functions of the Building Committee.
- 4. Powers of entry.
- 5. Amendment of Highways (Building Lines) Ordinance 1990.

#### Administration and general

6. Application of Part II of the Planning Ordinance.

### A Bill for An Ordinance

## to transfer the functions of the Building Committee to the Planning and Building Committee.

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

#### Introductory

1. This Ordinance may be cited as the Building Control (Transfer of Functions) Ordinance 1990 and shall come into operation on such date as is notified by the Governor by notice published in the Gazette.

Short title.

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

Interpretation.

"Building Committee" means the committee of that name constituted by By-law 5 of the By-laws;

"Building Control Officer" means the Director of Public Works or such other officer as is designated by the Director of Public Works;

"By-laws" means the Board of Health By-laws;

(Laws 1950 Edu. Vol 11) (pp237-255)

"Planning and Building Committee" means the committee of that name established under section 4 of the Planning Ordinance 1990.

#### Transfer of functions of the Building Committee

3. The functions of the Building Committee under By-laws 5 to 44 (buildings) of the By-laws are transferred to the Planning and Building Committee and the Planning and Building Committee has all the functions of the Building Committee under By-laws 5 to 44 of the By-laws as if the words "Planning and Building Committee" appeared in them wherever the words "Building Committee" appear in them.

Transfer of functions of the Building Committee.

4. (1) The Building Control Officer or any other officer authorised by the Director of Public Works may enter any building, house or premises for the purpose of the enforcement or administration of the functions of the Planning and Building Committee under the By-laws.

Powers of entry.

- (2) Nothing in subsection (1) above shall be construed so as to precent inhibit or restrict the exercise of the powers of the Chief Medical Officer under By-law 4 of the By-laws.
- 5. The Highways (Building Lines) Ordinance 1990 is amended by the substitution of the words "Planning and Building Committee" for the words "Building Committee" wherever they appear in that Ordinance.

Amendment of Highways (Building Lines) Ordinance 1990.

#### Administration and general

6. (1) Part II (administration) of the Planning Ordinance 1990, subject to subsection (2), below applies in respect of the exercise by the Planning and Building Committee of functions it has by virtue of this Ordinance.

Application of Part II of the Planning Ordinance.

- (2) In the application of Part II the Planning Ordinance 1990 by virtue of subsection (1) above
  - (a) the words "Planning Officer" (wherever they appear) are to be construed as if they read "appropriate officer" and for that purpose "appropriate officer" means —
    - (i) in relation to the construction of buildings, the Building Control Officer;
    - (ii) in relation to fire prevention or the reduction of the consequences of fire, the Fire Officer;
    - (iii) in relation to health, sanitation and the prevention of disease the Chief Medical Officer or such other officer as is designated by him;
    - (iv) in relation to any matter falling within more than one of the foregoing sub-paragraphs, such of the officers to which those sub-paragraphs refer as may be appropriate in the circumstances of the case.
    - (b) section 10 of that Ordinance is to be disregarded.

#### **OBJECTS AND REASONS**

To transfer all the powers of the Building Committee to the Planning and Building Committee, so that there is one committee dealing with planning and building matters.

#### The Currency Notes (Validation) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. Interpretation.
- 3. Size of existing notes.
- 4. Validation of £50 notes.

## A Bill for An Ordinance

## to validate certain currency notes issued under the Currency Notes Ordinance (repealed) or under the Currency Ordinance 1987.

1. This Ordinance may be cited as the Currency Notes (Validation) Ordinance 1990.

Short title.

Interpretation.

2. In this Ordinance —

"the Commissioners" has the same meaning as it has under section 5 of the Currency Ordinance 1987 and

"the former Commissioner" means the person who was for the time being holding office as Commissioner of Currency under section 3 of the repealed Ordinance;

"the existing notes" means —

- (a) those notes of denominations, respectively of £1, £5, £10 and £20 denomination presently in circulation and issued by the former Commissioner under section 4 of the repealed Ordinance on and after 14th June 1983; and
- (b) those notes of £50 denomination issued by the Commissioners under section 6 of the Currency Ordinance 1987 (which notes have been printed but are not yet in circulation);

"the repealed Ordinance" means the Currency Notes Ordinance (Cap 15 of the Laws of the Falkland Islands 1950 Edition) which Ordinance was repealed by section 25 of the Currency Ordinance 1987;

"the Rules" means the Currency Notes Rules made under section 13 of the repealed Ordinance and which rules were, notwithstanding the repeal of the repealed Ordinance, continue for the time being to be in force under section 25 of the Currency Ordinance 1987.

3. It is hereby declared that notwithstanding that they do not comply with the requirements as to size set out in rule 10(1) of the Rules the existing notes shall be deemed to have been validly issued in all respects and shall be deemed at all times since their issue to have been legal tender in the Falkland Islands for the payment of any amount.

Size of existing Notes.

4. It is hereby declared that those notes of £50 denomination referred to in the definition in section 2 above of "existing notes" shall notwithstanding —

Validation of £50 notes.

- (a) that they are not of a denomination mentioned in rule 10(1) of the Rules; and
- (b) that they bear the facsimile of the signature of one only of the Commissioners,

be deemed to be validly issued in compliance with the Rules and shall be legal tender in the Falkland Islands for the payment of any amount.

#### **OBJECTS AND REASONS**

To validate currency notes issued under the Currency Notes Ordinance (repealed) and under the Currency Ordinance 1987 at various times on or after 14th June 1983.

#### The Supplementary Appropriation (1989 - 1990) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. Appropriation of £109,000 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 £109,000 for the service of the financial year which ended 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 1991.

Short title.

2. The issue by the Financial Secretary and appropriation out of the Consolidated Fund and the application to the service of the year which commenced on 1st July 1989 and ended on 30th June 1990 ("the financial year") of the (and in addition to any sum already granted and appropriated for the service of the financial year) sum of one hundred and nine thousand pounds, for the purposes of the several services expressed and particularly mentioned in the Schedule hereto and which came in course of payment during the financial year is hereby authorised as if this Ordinance had been in force at the time or times of the issue out of the Consolidated Fund of any sums to which this section relates.

Appropriation of £109,000 for the year 1990.

#### **SCHEDULE**

Number	Head of Service	£
100	Aviation	87,000
550	Police, Fire & Rescue & Immigration	17,570
880	FIDC funding	4,430
Total		£109,000

#### OBJECTS AND REASONS

To provide for further supplementary expenditure approved by the Standing Finance Committee during the period 7 December 1989 to 13 November 1990.

#### The Supplementary Appropriation (1990 - 1991) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

Clause

- 1. Short Title.
- 2. Appropriation of £4,432,625 for the services of year 1990 1991.

#### Schedule

### A Bill for An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £4,432,625 for the service of the financial year ending on 30 June 1991.

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

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) Short title. Ordinance 1991.
- 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 1990 and ending on 30th June 1991 ("the financial year") additional sums not exceeding in aggregate the sum of four million four hundred and thirty two thousand six hundred and twenty five 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 £4,432,625 for the services of year 1990-1991.

#### **SCHEDULE**

Number	Head of Service	£
PART 1 -	OPERATING BUDGET	
100	Aviation	74,155
150	Posts and Telecommunications	2,800
200	Medical and Dental	43,500
250	Education and Training	32,500
320	Fisheries	968,700
350	Public Works	26,880
400	Agriculture	1,706,200
450	Justice	51,890
500	Military	3,800
550	Police, Fire & Rescue & Immigration	32,440
600	Secretariat, Treasury, Central Store & Broadcasting	89,180
700	Social Welfare	12,800
800	Legislature	21,810
850	Falkland Islands Government Office London	3,060
Total Ope	rating Supplementary Expenditure	3,069,715
PART 2 -	CAPITAL BUDGET	
951	Expenditure to be met from Local Funds	1,362,910
TOTAL S	UPPLEMENTARY EXPENDITURE	£4,432,625

#### **OBJECTS AND REASONS**

To provide for supplementary expenditure approved by the Standing Finance Committee during the period 13 June 1990 to 13/14 November 1990.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 1

20th DECEMBER 1990

No. 19

The following is published in this Supplement —

Proclamation No. 2 of 1990.



#### **PROCLAMATION**

No. 2 of 1990

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 HONOUR RONALD SAMPSON ESQUIRE, the person designated in accordance with law to perform the functions of the office of Governor of the Falkland Islands during the present absence therefrom of HIS EXCELLENCY WILLIAM HUGH FULLERTON ESQUIRE, Governor of the Falkland Islands

WHEREAS a Joint Statement on the Conservation of Fisheries was issued by the Governments of the United Kingdom and Argentina on 28 November 1990 according to which the two Governments are to cooperate over the conservation of fish stocks in the South Atlantic between Latitude 45 degrees South and Latitude 60 degrees South and fishing is to be controlled in certain waters around the Falkland Islands,

AND WHEREAS there is a need to make further provision for the conservation of living resources and for the regulation of fishing in the seas around the Falkland Islands,

NOW THEREFORE I, RONALD SAMPSON, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do HEREBY PROCLAIM as follows:

- 1. There is established for the Falkland Islands an outer fishery conservation zone, hereinafter referred to as "the outer zone".
- 2. The outer zone has as its limits the lines defined in the schedule to this Proclamation.
- 3. The outer limits of the outer zone may be varied by means of a further Proclamation for the purpose of implementing any agreement or arrangements with another state or states or an international organisation or otherwise.
- 4. Her Majesty will exercise the same jurisdiction in respect of fisheries in the outer zone as she has in respect of fisheries in the territorial sea of the Falkland Islands subject to such provision as is in force or may hereafter be made by law for those matters within the territorial sea and the outer zone.
- 5. This Proclamation will become effective on the twenty-sixth day of December 1990.

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, Falkland Islands, this twentieth day of December in the year of our Lord One Thousand Nine Hundred and Ninety.



R SAMPSON,
Acting Governor.

#### **SCHEDULE**

The outer zone is bounded by lines of the type described in Column 2 joining the points defined to the nearest minute of arc by coordinates of latitude and longitude on WGS 72 Datum specified in Column 1.

Column 1 Coordinates of Latitude and Longitude Column 2 Line Type

ana —	l Longitude	
1.	47 degrees 42 minutes South,	
	60 degrees 41 minutes West	1 - 2 meridian.
2.	49 degrees 00 minutes South,	
	60 degrees 41 minutes West	2 - 3 parallel of latitude.
3.	49 degrees 00 minutes South,	
	60 degrees 55 minutes West	3 - 4 meridian.
4.	49 degrees 20 minutes South,	
	60 degrees 55 minutes West	4 - 5 arc of circle which has radius of 150 nautical miles and its centre at Latitude 51 degrees 40 minutes South, Longitude 59 degrees 30 minutes
		West, drawn clockwise.
5.	54 degrees 02 minutes South,	
	58 degrees 13 minutes West	5 - 6 rhumb line.
6.	54 degrees 38 minutes South,	
	58 degrees 02 minutes West	6 - 7 meridian.
7.	55 degrees 30 minutes South,	
	58 degrees 02 minutes West	7 - 8 rhumb line.
8.	56 degrees 14 minutes South,	
	58 degrees 31 minutes West	8 - 9 a line drawn anti- clockwise 200 nautical miles from the nearest points on the baseline of the territorial sea of the Falkland Islands.
9.	47 degrees 42 minutes South,	
	60 degrees 41 minutes West	



# THE

# FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

31st JANUARY 1991

No. 1

#### **Appointments**

Miss Leeann Eynon, Clerk, Legislature Department, 10.9.90.

Miss Amanda Mary Pearson, Nursing Sister/Midwife, Medical Department, 21.12.90.

Miss Cheryl Anne Cox, Nursing Sister/Midwife, Medical Department, 21.12.90.

Duane William Stewart, Constable, Falkland Islands Police Force, 1.1.91.

Mrs. Patricia Hanlon, Assistant Air Traffic Controller, Civil Aviation Department, 2.1.91.

Alec Segely Campbell, Teacher, Education Department, 5.1.91.

Brian Jarvis Hill, Director of Public Works, Public Works Department, 8.1.91.

Miss Heather Josephine Nutter, Clerk, Public Service, 14.1.91.

#### Acting Appointments

Miss Elizabeth Alice Marrow, Acting Senior Scientist, 1.1.90. - 31.12.90.

Peter Thomas King, Acting Chief Executive, 11.1.91

Robert Mark Titterington, Acting Director Civil Aviation, Civil Aviation Department, 25.1.91.

#### **Promotions**

Miss Glynis Margaret King, from Clerk, Public Service, to Senior Clerk, Treasury Department, 1.1.91

Mrs. Moira Cameron Eccles, from Clerk, Treasury Department, to Chief Clerk, Secretariat, 1.1.91.

William Alan Brayshaw, from Harbour Control Officer, Fisheries Department, to Fisheries Protection Officer, Fisheries Department, 8.1.91.

#### Completion of Contracts

Miss Claire Russell, Nursing Sister/Midwife, Medical Department, 30.11.90.

Miss Sandra Georgine Clark, Teacher, Education Department, 2.1.91.

Miss Diana Joy Ross Riach, Teacher, Education Department, 9.1.91.

Charles George Carter, Director of Public Works, Public Works Department, 14.1.91.

Miss Loretta Isobel Thomas, Auxiliary Nurse, Medical Department, 22.1.91.

#### Renewal of Contract

Miss Claire Russell, Nursing Sister/Midwife, Medical Department, 22.1.91.

#### Resignations

David Cambell Graham, Senior Fisheries Officer, Fisheries Department, 4.12.90.

Iain Michael Maden, Senior Fisheries Officer, Fisheries Department, 4.12.90.

Robin David John Edwins, Harbour Control Officer, Fisheries Department, 30.12.90.

Mark Timothy Bullock, Inspector, Falkland Islands Police Force, 31.12.90.

Mrs. Fiona Margaret Didlick, Senior Clerk, Medical Department, 6.1.91.

Miss Paula Pole-Evans, Clerk, Public Service, 12.1.91.

Mrs. Jane Aileen Marie France, Auxiliary Nurse, Medical Department, 17.1.91.

Rory Dominic Samuel Coward, Assistant Air Traffic Controller, Civil Aviation Department, 30.1.91.

No. 44

22nd November 1990

#### The Colony of the Falkland Islands

#### Certificate of Registration as a Minister for Celebrating Marriage

In accordance with Section 5 of the Marriage Ordinance, Cap. 45, I, William Hugh Fullerton, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Colony of the Falkland Islands Grant to the Reverend Edward Core this Certificate of Registration as a Minister for celebrating marriages in the Colony.

Given under my hand and the Public Seal at Stanley this 22nd day of November 1990.

W. H. FULLERTON,

Governor.

No. 1

18th January 1991

**CURRENCY ORDINANCE 1987** 

#### Calling in of £1 notes of issue dated 1 October 1984

IN EXERCISE of my powers under section 10(1) of the Currency Ordinance 1987 I DECLARE that the £1 notes issued on 1 October 1984 and numbered A000001 to A200000 inclusive shall with effect from midnight on 31st January 1991 cease to be legal tender.

Pursuant to section 10(2) of the Ordinance any person holding such notes may exchange them for legal tender at The Treasury, Stanley, acting as agents for the Commissioners of Currency. No handling charge will be made on any such exchange occurring before 1st Februart 1996.

Dated this 18th day of January 1991.

W. H. FULLERTON, Governor,

#### Customs Ordinance (Cap. 16)

In excercise of the powers conferred in section 4 of the Customs Ordinance, I hereby appoint —

CPL. Karen Pye, W.R.A.F.,

to be a temporary Customs Officer with effect from the 11th January 1991 to the 12th May 1991.

L. J. HALLIDAY, Collector of Customs.

#### APPLICATION FOR A RESTAURANT LICENCE

In accordance with section 7(1) of the Licensing Ordinance

#### Mr. William and Mrs. Lynda Anderson

have applied for a Restaurant Licence in respect of the premises to be known as BLUE BEACH LODGE AND FISHING CAMP.

2. 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 Gazette and Penguin News.

J. BUCKLAND - JAMES, Financial Secretary.

APPLICATION FOR A RESTAURANT LICENCE

In accordance with section 7(1) of the Licensing Ordinance

#### Mrs. Kathlene Jackson

has applied for a Restaurant Licence in respect of the premises to be known as BEAUCHENE GUEST HOUSE, 46 John Street, Stanley.

2. 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 Gazette and Penguin News.

J. BUCKLAND - JAMES, Financial Secretary.

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT Keith Gordon Stewart deceased of Stanley, Falkland Islands, died at Stanley, Falkland Islands on 27th January 1987, Intestate.

WHEREAS. Robert Ernest Peart, Friend of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley
Falkland Islands
7th December 1990.

Ref: PRO/11/90.

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT Betty Beattie deceased of North Arm, Falkland Islands, died at Stanley, Falkland Islands on 3rd October 1989, Intestate.

WHEREAS. Thomas George Beattie, Widower of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD,
Registrar, Supreme Court.

Stanley
Falkland Islands
4th January 1991.
Ref: PRO/18/90.

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT James Watts deceased of Stanley,
Falkland Islands, died at Stanley, Falkland Islands on
19th July 1963, leaving a Will of which the Executor

WHEREAS, Patrick James Watts, son of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD,

Registrar, Supreme Court.

Stanley
Falkland Islands
4th January 1991.
Ref: PRO/10/64.

has since died.

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1) TAKE NOTICE THAT Beatrice Ena Peck deceased of Stanley, Falkland Islands, died at Stanley, Falkland Islands on 5th December 1990, Intestate.

WHEREAS, Burned Brian Peck, son of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley
Falkland Islands
7th January 1991.
Ref: PRO/1/91.



### THE

# FALKLAND ISLANDS GAZETTE

# (Extraordinary)

#### PUBLISHED BY AUTHORITY

Vol. XCX

14th FEBRUARY 1991

No. 2

No. 2

12th February 1991.

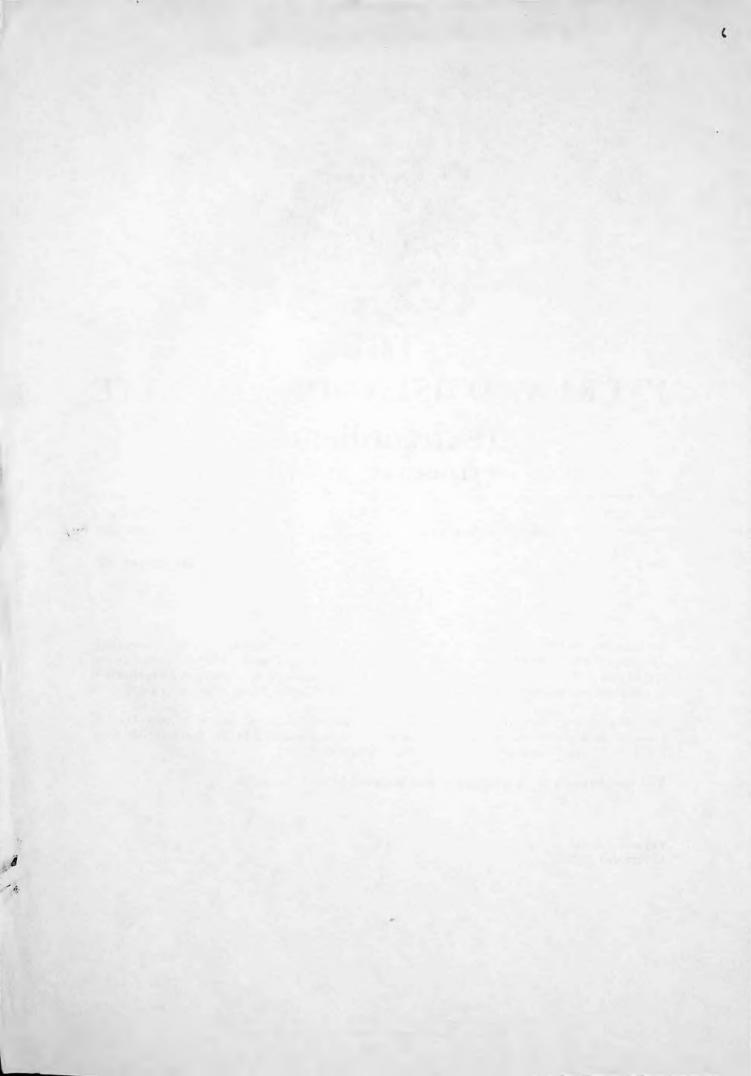
#### Public Notice Census 1991

A Census is to be held on Tuesday the 5th day of March 1991 when all householders will be required to complete a Census Form relating to their household and its members. Census forms will be distributed by post later this month throughout the Islands together with guidance notes which explain how the Form should be completed. Arrangements will be made to collect completed Census Forms after census day.

Any householder who requires assistance to fill in the Form or who has not received a Census Form by Friday the 1st day of March 1991 is asked to contact either the Attorney General's Chambers (Telephone: 27273 or 27274) or The Registrar General's Office (Telephone: 27272).

Your co-operation with the compiling of the Census will be much appreciated.

Registrar General. 12 February 1991.





# FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

27th FEBRUARY 1991

No. 3

#### Appointments

Miss Fatulatetele Tolo, Settlement Teacher, Education Department, 29.1.91.

Miss Vicky Carlyon, Travelling Teacher, Education Department, 29.1.91.

Anthony Edgar Lockington, Travelling Teacher, Education Department, 29.1.91

Miss Jane Marie Parry, Teacher, Education Department, 31.1.91.

John Christopher Halff, Teacher, Education Department, 31.1.91.

Miss Jennifer Mary Roberts, Travelling Teacher, Education Department, 31.1.91.

Miss Janice Honeyman, Junior Class Teacher, Education Department, 5.2.91.

Miss Dorothy Ruth Wilkinson, Auxiliary Nurse, Medical Department, 11.2.91.

Christopher David Williams, Dental Officer, Medical Department, 12.2.91.

Miss Janette Alison Broad, Pharmacy Technician, Medical Department, 12.2.91.

Miss Diana Joy Ross Riach, Teacher, Education Department, 21.2.91.

#### Acting Appointments

Robert Ernest Gilbert, Acting Superintendent, Power and Electrical Section, Public Works Department, 26,11.90 - 4.2.91.

Peter Thomas King, Acting Chief Executive, 11.1.91 - 24.1.91.

Robert Mark Titterington, Acting Director of Civil Aviation, Civil Aviation Department, 25.1.91 - 5.2.91.

#### Promotions

David Morris, from Station Sergeant, Falkland Islands Police, to Inspector, Falkland Islands Police, 1,1,91

Derek Frank Howatt, from Deputy Financial Secretary, Treasury Department, to Financial Secretary, Treasury Department, 16.2.91.

#### Completion of Contracts

Kenneth Martin Schofield, Teacher, Education Department, 29.1.91.

Captain Robert Stanley May, Pilot, Falkland Islands Government Air Service, 5.2.91.

John Henry Buckland - James, Financial Secretary, Treasury Department, 15.2.91.

#### Resignations

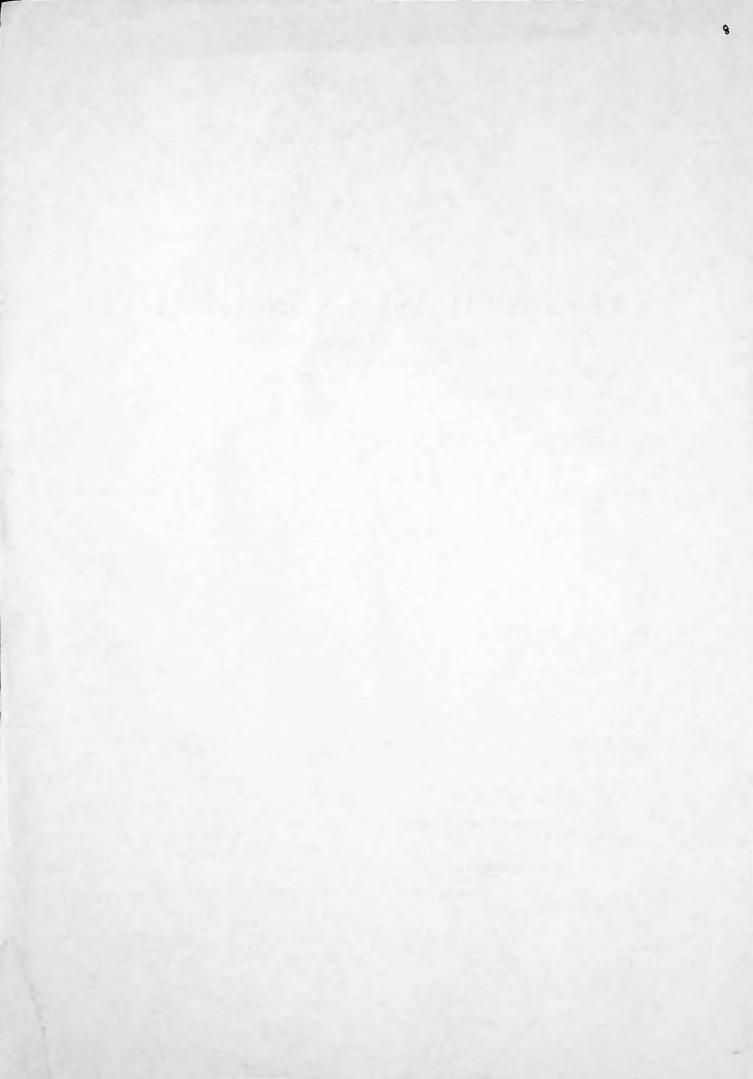
Mrs. Tracy Porter, Data Manager, Fisheries Department, 5.12.90.

Mrs. Susan Carol Gregory, Teacher, Education Department, 19.12.90.

Philip Andrew Gregory, Teacher, Education Department, 19.12.90.

Mrs. Jane Schofield, Pharmacy Technician, Medical Department, 11.1.91.

Price: Fifty Pence.



No. 3 13th March 1991

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 powers of dis-allowance in respect of the following Ordinances of the Colony -

- No. 1/91 The Fisheries (Outer Zone) Ordinance 1991.
- No. 2/91 The Road Traffic (Amendment) Ordinance 1991.
- No. 3/91 The Family Allowances (Amendment) Ordinance 1991.
- No. 4/91 The Supplementary Appropriation (1989-1990) Ordinance 1991.
- No. 5/91 The Supplementary Appropriation (1990-1991) Ordinance 1991.
- No. 7/91 The Planning Ordinance 1991.
- No. 8/91 The Building Control (Transfer of Functions) Ordinance 1991.
- No. 9/91 The Stamp Duties (Abolition) Ordinance 1991.

Anton Livermore C.P.M., Clerk of Councils.

Ref: Leg/10/4.

No. 4

11th March 1991

#### 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 - Falkspan Limited.

Nature of Business - Fishing Company.

Address of Registered Office - 44 John Street, Stanley,

Liquidator(s) Name(s) and Address(es) - Graeme Gill, Consultancy Services Falklands Limited, 44 John Street, Stanley.

Date of Appointment - 11th March 1991.

By Whom Appointed - Special Resolution of Company.

Signature(s) Graeme Gill (Liquidator(s)).

Dated - 18th March 1991.

No. 5

18th March 1991

#### Notice to Creditors to send in claims

Name of Company - Falkspan Limited (in Voluntary liquidation).

Notice is hereby given that the Creditors of the above-named Company are required, on or before the Twenty Second day of April 1991, 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, Graeme Gill, 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. This notice is purely formal and all known Creditors have been, or will be, paid in full.

Dated - 18th March 1991.



## THE

## FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

30th APRIL 1991

No. 5

#### **Appointments**

Mrs. Linda Jane Bonner, Clerk, Public Scrvice, 1.10.90.

Miss Susan Elizabeth Keith Cameron, Representative, Falkland Islands Government Office, London, 1.1.91.

Miss Anji Lee Hanlon, Agricultural Assistant, Department of Agriculture, 25.3.91.

Jason Whitney, Agricultural Assistant, Department of Agriculture, 25.3.91.

Miss Terri-Ann Jaffray, Clerk, Public Service, 27.3.91.

Peter Anthony Chester, Teacher, Education Department, 28.3.91.

Conor Paul Nolan, Senior Fisheries Scientist, Fisheries Department, 2.4.91.

Dr. David Andrew Jones, Medical Officer, Medical Department, 5.4.91.

John Rodney Tuckwood, Senior Plumber, Public Works Department, 9.4.91.

Miss Loretta Isobel Thomas, Auxiliary Nurse, Medical Department, 17.4.91.

#### Acting Appointments

Miss Susan Elizabeth Keith Cameron, Acting Representative, Falkland Islands Government Office, London, 25.6.90 - 31.12.90.

Dr. Robert James McIlroy, Acting Chief Medical Officer, Medical Department, 10.8.90 - 22.4.91.

Ralph Aaron Harris, Acting Foreman, Plant & Vehicle Section, Public Works Department, 3.12.90 - 1.2.91.

Dr. Barry Elsby, Acting Chief Medical Officer, Medical Department, 23.4.91.

Miss Elizabeth Alice Marrow, Acting Senior Scientist, Fisheries Department, 24.1.91 - 1.4.91.

David Ford, Acting Chief Fire Officer, Police Fire and Rescue Department, 26.4.91.

#### Completion of Contracts

Patrick Murray Lurcock, Computer Technician, Fisheries Department, 5.4.91.

Dr. Robert James McIlroy, Medical Officer, Medical Department, 17.4.91.

#### Renewal of Contracts

Patrick Murray Lurcock, Computer Technician, Fisheries Department, 6.4.91.

Dr. Robert James McIlroy, Medical Officer, Medical Department, 18.4.91.

#### Resignation

Mrs. Phyllis Marjorie Stewart, Manageress, Philatelic Bureau, Posts and Telecommunications Department, 16.4.91.

#### APPLICATION FOR A RESTAURANT LICENCE

In accordance with section 7(1) of the Licensing Ordinance

#### Mrs. P. C. A. Pratlett

has applied for a Restaurant Licence in respect of the premises known as GREAT BRITAIN HOTEL.

2. 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 Gazette and Penguin News.

D. F. HOWATT, Financial Secretary.

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT Philip George Summers, deceased of Market Deeping, England, died at Market Deeping on 26th March 1991, Intestate.

WHEREAS, Brian Summers, son of the deceased 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 21 days of the publication hereof.

Stanley Falkland Islands 23rd April 1991. B. FAIRFIELD, Registrar, Supreme Court.



# THE FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

31st MAY 1991

No. 6

#### Appointments

Miss Alison Jane Marie Alazia, Clerk, Public Service, 6.2.91.

Mrs Pamela Irene Lewis, Auxiliary Nurse, Medical Department, 1.5.91.

Ronald Clifton, Houseparent, Education Department, 1.5.91.

Ms. Jennifer Mary Luxton, Senior Clerk, Education Department, 6.5.91.

Ian Pickering, Water Supervisor, Public Works Department, 9.5.91.

Miss Michelle Debra Hartley, Teacher, Education Department, 21.5.91.

#### Acting Appointments

Michael Luxton, Acting Deputy Financial Secretary, Treasury Department, 16.2.91 - 19.5.91.

Miss Linda Margaret Lyse, Acting Chief Accountant, Treasury Department, 16.2.91 - 19.5.91.

Mrs. Marjoric May McPhee, Acting Postmistress, Posts and Telecommunications Department, 9.4.91 - 13.5.91.

Dr. Barry Elsby, Acting Chief Medical Officer, Medical Department, 23.4.91 - 20.5.91.

David Ford, Acting Chief Fire Officer, Police, Fire and Rescue Service, 26.4.91 - 20.5.91.

Dr. Robert James McIlroy, Acting Chief Medical Officer, Medical Department, 21.5.91.

#### Confirmation of Appointments

Mrs. Gladys Carey, Nurse, Medical Department, 17.2.82.

Mrs. Betty Josephine Biggs, Clerk, Public Service, 1.7.83.

Augusto Miranda, Senior Carpenter, Public Works Department, 1.8.83.

Mrs. Marjorie May McPhee, Senior Clerk, Posts & Telecommunications Department, 1.1.84.

Mrs. Melody Christine Fiddes, Assistant Teacher, Education Department, 9.7.84.

Charles Desmond Keenleyside Snr., Senior Painter, Public Works Department, 1.4.85.

Mrs. Alice Mary Etheridge, Social Welfare Officer, Medical Department, 1.1.86.

Patrick William Peck, Storeman, Central Store, Treasury Department, 1.6.86.

Mrs. Phyllis Elizabeth Grace MacBeth, Clerk, Public Service, 8.11.86.

Marvin Thomas Clarke, Chief Fire Officer, Police, Fire and Rescue Service, 7.1.87.

Angus Jaffray, Caretaker/Handyman, Public Works Department, 1.7.87.

Mrs. Jean Waddell Smith, Head Teacher, Infant/Junior School, Education Department, 19.7.87. Desmond O'Shea, Teacher, Education Department, 6.9.87.

John Christopher Rowland, Police Constable, Falkland Islands Police Force, 1.2.88.

Miss Diane McGill, Senior Clerk, Police, Fire & Rescue Service, 3.2.88.

Kenneth John Aldridge, Tradesman (Mechanic), Power Station, Public Works Department, 11.2.88. Mrs. Nicola Luxton, Assistant Teacher, Education Department, 3.3.88. Secretariat, 13.4.88.

Ms. Rose Ann Shirley Hirtle, Assistant Income Tax Officer, Treasury Department, 13.5.88.

Arthur Albert Nutter, Teacher, Education Department, 22.7.88.

Arthur Peake, Computer Systems Co-ordinator, Secretariat, 1.8.88.

Mrs. Wendy Jennifer Wylie (nee Cusworth), Senior Clerk, Public Works Department, 1.10.88.

Manfred Michael Ian Keenleyside, Deputy Director of Public Works, Public Works Department, 6.10.88.

Mrs. Nannete Morrison, Clerk, Public Service,

David Ford, Sub Fire Officer, Police, Fire & Rescue Service, 15.6.89.

Robert John King, Customs Officer, Customs & Harbour Department, 1.7.89.

Mrs. Mirabel Hermione Simpson, Teacher, Education Department, 3.8.89.

Michael Luxton, Chief Accountant, Treasury Department, 8.8.89.

Mrs. Kathleen Gay Clarke, Establishments Secretary, Secretariat, 8.8.89.

Richard Edwin John Fogerty, Education Officer, (Camp Education Supervisor) Education Department, 8.8.89.

Mrs. Trudi Dale Lee, Clerk, Public Service, 17.8.89. Mrs. Margaret Bell, Senior Nurse, Medical Department, 28.8.89.

James Garry Simpson, Clerk, Public Service, 1.9.89.

Mrs. Danuta Valler, Senior Clerk, Department of Agriculture, 20.9.89.

Erling Kenny, Storeman, Central Store, Treasury Department, 21.9.89.

Mrs. Veronica Summers, Senior Clerk, Posts & Telecommunications Department, 1,2.90.

Mrs. Jill Yolanda Harris, Assistant Teacher, Educa tion Department, 4.2.90.

James Steven Fairfield, Swimming Pool Superintendent, Education Department, 1.3.90.

Mrs. Charlene Rowland, Senior Clerk, Customs and Harbour Department, 25.4.90.

Glenn Stephen Ross, Electrical Foreman, Power Sta-

tion, Public Works Department, 15.7.90. Michael Anthony Pole-Evans, Foreman, Power Supply Section, Public Works Department, 1.8.90.

Mrs. Margaret Claxton, Technical Assistant, Public Works Department, 8.8.90.

Alan Smith Jones, Supplies Officer, Central Store, 16.8.90.

Neil Rowlands, Machine Operator, Printing Office. Justice Department, 17.8.90.

Owen William Summers, Director of Agriculture. Department of Agriculture, 31.8.90.

Simon Peter Miller Goss, Assistant Secretary, Mrs. Sharon Davis, Auxiliary Nurse, Medical Department, 5.9.90.

> Miss Amara Theresa Watts, Clerk, Public Service. 5.9.90.

> Mrs. Marie Cheek, Chief Clerk, Treasury Department, 1.10.90.

> Miss Sheena Ross, Chief Clerk, Public Works Department, 1.10.90.

> Miss Deborah Ann Hirtle, Auxiliary Nurse, Medical Department, 3.10.90.

Jonathan Jeffers Butler, Police Constable, Police, Fire and Rescue Department, 13.10.90.

Mrs. Suzanna Margaret Howatt, (nee Perrett), Senior Clerk, Falkland Islands Government Air Service. 7.11.90.

Norman Phillip Plumb, Gaoler/Handyman, Police, Fire and Rescue Department, 24.11.90.

Kenneth Benjamin John McLeod, Assistant Customs Officer, Customs & Harbour Department, 28.11.90.

Ramon Miranda, Gardener, Government House, 1.12.90.

Len Stanford McGill, Detective Sergeant, Police, Fire and Rescue Department, 1.1.91.

Arthur John Barton, Director of Fisheries, Fisheries Department, 1.1.91.

Bernard Leslie Eccles, Police Constable, Police, Fire and Rescue Department, 27.1.91.

Philip John Middleton, Further Education Officer, Education Department, 6.2.91.

Mrs. Ann Murphy, Clerk, Public Service, 13.2.91.

Mrs. Maria Faria, (nee Stevens), Senior Nurse, Medical Department, 16.2.91.

Mrs. Pauline Moore, Woman Police Constable, Police, Fire and Rescue Department, 6.3.91.

Miss Susan Jane Nightingale, Clerk, Public Service,

Miss Carol Ellen Eva Stewart, Travel Co-ordinator, Falkland Islands Government Office, London, 10.4.91.

#### Promotion

Richard Carl Wagner, from, Agricultural Economist, Department of Agriculture, to Deputy Financial Secretary, Treasury Department, 20,5.91.

#### Completion of Contracts

David Charles Makin-Taylor, Senior Sheep Husbandryman, Department of Agriculture, 12.5.91.

Miss Lynette Ann Hepworth, Teacher, Education Department, 29.5.91.

#### Resignation

Mrs. Glenys Alsop, Senior Clerk, Education Department, 3.5.91.

#### Termination of Contract

Graham Leslie Gleadell, Chief Development Economist, Secretariat, 3.5.91.

#### NOTICES

No. 6

27th May 1991

#### Stanley Rates 1991/92

Notice is hereby given that, under section 5 of the Stanley Rates Ordinance 1973, the Standing Finance Committee has fixed a rate poundage of £5.57 to be levied on the net annual value of premises in Stanley in respect of the period 1st July 1991 to 30th June

Please note that any rate not paid by 30th september 1991 is subject to a mandatory 5% penalty.

Ref: TRE/5/20.

#### Customs Ordinance (Cap. 16)

In exercise of the powers conferred in section 4 of the Customs Ordinace, I hereby appoint:-

CPL. Nicola Jane Threadgold, W.R.A.F.

to be a tempory Customs Officer with effect from the 11th May, 1991 to 10th September, 1991.

20th May 1991.

L. J. HALLIDAY, Collector of Customs.

#### APPLICATION FOR A BILLIARD TABLE LICENCE

In accordance with Section 70 of the Licencing Ordinance an application has been made by MR. ALISTAIR JACOBSON, Stanley, for a Billiard Table Licence in respect of the premises known as the Victory Bar.

Any objection to the granting of a licence must be made within 21 days from the publication of this notice in the Gazette and Penguin News.

The Treasury Stanley

D. F. HOWATT. Financial Secretary.

D. F. HOWATT.

Financial Secretary.

14th May 1991.

#### APPLICATION FOR A RESTAURANT AND RESIDENTIAL LICENCE

In accordance with Section 7(1) of the Licencing Ordinance

#### THE FALKLAND ISLANDS COMPANY LTD.

has applied for a Restaurant and Residential Licence in respect of the premises to be known as DARWIN LODGE.

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

The Treasury Stanley 7th May 1991.

Ref: 33/b/1.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCX

13th JUNE 1991

No. 7

The Following is Published in this Gazette -

The Register of Electors - Preliminary List

#### **REGISTER OF ELECTORS - PRELIMINARY LIST**

The Registration Officer has prepared the preliminary list of all persons who, on the qualifying date (15 May 1991), appear to be entitled to be registered as electors for the purposes of the Electoral Ordinance 1988. In accordance with Section 12 of the Ordinance, the Registration Officer has caused the preliminary list to be published in this edition of the Gazette.

Any person who claims that the name of a person entitled to be registered as a voter in the Falkland Islands, has been omitted from the preliminary list, should notify the Registration Officer (Justice Department, Town Hall, Stanley) of such claim in writing within 28 days of publication. Additionally, any person who wishes to object to the inclusion of a person whose name appears in the preliminary list, should notify the Registration Officer within 28 days of publication. The Registration Officer shall, upon receipt of any such claim or objection, subsequently determine the same in accordance with the provisions of the Electoral Ordinance 1988.

The preliminary list has been prepared from last years Electoral Register. The following is a summary of the deletions from and additions and alterations to last years list:-

#### Deceased Electors - Camp

Betts, Hyacinth Emily Coutts, Alexander Gleadell, Mavis Marie Newman, Rebecca Dickson

Deceased Electors - Stanley Alazia, Charles Ashley, Nora Phyllis Biggs, Hilda Evangeline Blackley, Janet Agnes Mary Clifton, Jessie Emily Jane Davis, Elsie Gladys Margaret Goodwin, Laurence Henry Johnson, Howard William King, Nanette May, James John Middleton, Margaret Wilhelmina Morrison, Elizabeth Margaret Mary Peck. Beatrice Ena Phillips, Jessie Catherine Watts, Ada Mabel

#### Electors who have changed Constituency-Camp to Stanley

Berntsen, Benjamin John Clarke, Fiona Alison Clarke, Violet Rose Clifton, Doreen Clifton, Terence Charles Davis, Yona Ferguson, Rose McCormick, Dale Ronald McKay, Josephine Ann McKay, Kenneth Andrew Ross, Odette Ellen May Ross, William Henry Smith, Eric Smith, Iola Winifred Smith, Osmond Raymond Summers, Dennis David

#### Electors who have changed Constituency-Stanley to Camp

Anderson, Gloria
Anderson, Marina Rose
Anderson, Ronald
Biggs, Robert William
Cartmell, Frederick James
Felton, Faith Dilys
Kidd, Lillian Rose Orissa
Kidd, Nathan John
Mitchell, Leon John
Porter, William Kenneth

#### Electors who are no longer resident - Camp

Green, David William Grocock, Charles Henry

#### Electors who are no longer resident - Stanley

Down, Janet Down, Robert William Michael Gleadell, Graham Leslie Guthrie, Hylton Oswald McCormick, Wayne Stanley James Watson, Gwen Watson, Harold

#### Electors who have changed name by deed poll or by marriage - Camp

McPhee, Trudi Lynette Evans, Michele Paula Hobman, Petula

#### Electors who have changed name by deed poll or by marriage - Stanley

Clingham, Yvonne Helen Decroliere, Carrie Madeline Helen Dickson, Marlaine Rose Fiddes, Melody Christina Henry, Patricia Denise McGill, Teresa Rose May, Connie Pollard, Elizabeth Eve Ross, Susan Vera

#### Electors entitled to vote by age for the first time - Camp

Blake, Alexander Charles Hirtle, Gerard Fenton Lee, Myles Luxton, Stephen Charles Morrison, Carol Margaret

#### Electors entitled to vote by age for the first time - Stanley

Alazia, Andrew
Ford, Christopher James
Gilding, Deborah
Goodwin, Simon James
Jaffray, Christopher
Jaffray, Jacqueline Ann
Jaffray, June Elizabeth
May, Jonathan Roy

Miranda, Carmen McGill, Coral Elizabeth McGill, Jane McPhee, Justin Owen Phillips, Julie Ann Pole-Evans, Paula Robson, Alison Emily

Electors and potential electors are advised that qualification for registration as an elector is governed by the provisions of Section 27 of the Constitution. This Section provides that, subject to certain exceptions, no person shall be qualified to be registered as an elector unless, on the qualifying date for registration as such an elector —

- (a) he is a Commonwealth citizen;
- (b) he is eighteen years of age or over; and
- (c) he has been resident in the Falkland Islands during the qualifying period.

The "qualifying period" is prescribed at Section 4 of the Electoral Ordinance 1988, where the expression is expressed to mean —

- (a) in relation to a person who was born in the Falkland Islands, that he was resident in the Falkland Islands for a period of at least 12 months immediately preceding the qualifying date; and
- (b) in relation to a person who was not born in the Falkland Islands, that he was resident in the Falkland Islands for a period of at least 5 years immediately preceding the qualifying date.

It should be noted that certain periods of absence from the Islands are permitted when calculating periods of residency. A full definition of the meaning of "resident" is contained at Section 3 of the Electoral Ordinance 1988, which is reproduced for the benefit of electors:

- 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
  - (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 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 (an 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 of 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 with 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 dependent 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 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.

#### STANLEY CONSTITUENCY

Register	of	Elector	ς
TieBiere:	v	LICCIOI	٥

regis	ter or Electi	)15			
1	Adams,	Annagret	58	Betts,	George Winston Charles
2	"	Carol Margaret *	59	"	Lucia Elizabeth
3	"	John Harvey	60	"	Shirley Rose
4	,,	Marjorie Rose	61	**	Terence Severine
5	Alazia,	Albert Faulkner *	62	Biggs,	Alastair Gordon
6	,,	Andrew *	63	"	Betty Josephine *
7	"	Anita Jayne	64	"	Edith Joan *
8	"	Freda	65	"	Frances
9	,,	Freda Evelyn	66	**	Irene Mary *
10	**	George Robert	67	"	Kathleen Frances *
11	"	James Andrew	68	,,	Leslie Frederick
12	,,	Maggie Ann *	69	**	Madge Bridget Frances *
13	**	Yvonne	70	**	Michael Elfed
14	Aldridge,	Caroline Mary	71	**	Pauline Lynx
15	"	Kenneth John	72	**	Peter Julian Basil
16	Almonacid,	Gladys Mabel	73	Binnie,	Susan
17	,,	Orlando	74	Birmingham	_ <del></del>
18	Anderson,	Andrew Ronald	75	11	Susan Jane
19	,,	Eddie *	76	Blackley,	Candy Joy
20	,,	Edward Bernard *	77	"	Charles David *
21	"	Elizabeth Nellie *	78	"	Hilda
22	**	Gertrude Maud *	79	**	John David
23	**	Hector Christian *	80	Blizard,	Lawrence Gordon *
24	**	Helen *	81	"	Malvina Mary
25	,,	Mildred Nessie *	82	Blyth,	Agnes Ruth *
26	**	Richard Louis	83	**	Alfred John *
27		Sophie Marina *	84	**	John *
28	**	Stephen Robert	85	Bonner,	Donald William *
29	Barkman,	Margaret Mary	86	»	Hayley Trina
<b>3</b> 0	Barnes,	Ernest *	87	**	Linda Jane
31	"	Marie	88	**	Nicholas
32		Molly Stella *	89	**	Paul Roderick
33	**	Sigrid Geraldine Wells *	90	,,	Timothy
34	"	Trevor Marshall	91	,,	Vera Ann
35	Barton,	Arthur John	92	**	Vera Joan
36	**	Alison Mary	93	,,	
37	Bedford,	Kita Muriel	94	Doorb	Violet *
38	Bennett,	Harold *	95	Booth,	Jessie *
39	"	Lena Grace Gertrude *	96	,,	Joseph Bories *
40	Berntsen,	Benjamin John	97		Myriam Margaret Lucia
41	bernisen,	Christian Olaf Alexander *	98		Stuart Alfred *
42	**	Cecilia del Rosorio	99	Bound,	Graham Leslie
43	,,			Davidso	Joan *
44	**	Diana Mary	100	Bowles,	Norma Evangeline
45	,,	Gina Michelle	101		William Edward *
46	,,	John Alexander	102	Bragger,	Edward Laurence
47	"	Kathleen Gladys *	103		Olga
		Lavina Maud *	104	Browning,	Althea Maria
48	,,	Mary Clarissa Elizabeth *	105	"	Edwina
49		Olaf Christian Alexander	106	,,	Gavin
50	"	Patrick	107	,,	Rex *
51	**	Valdamar Lars	108	**	Richard William
52	"	William Alexander	109	"	Trevor Osneth
53	"	William Blyth *	110	Buckett,	Ronald Peter
54	Bertrand,	Catherine Gladys *	111	Buckland,	Charles Ronald
55	Betts,	Arlette	112	"	Darlene Joanna
56	**	Donald William	113	Bundes,	Robert John Christian *
57	,,			Burns,	Mary Anne *
		Ellen Alma *	114	buills,	waiy Ailic

				Clife	Darwin Lewis
115	Butcher,	Michael George	175	Clifton,	Doreen Doreen
116	"	Trudi	176	19	Neil *
117	Butler,	Elsie Maud *	177	19	Stephen Peter
118	,,	Ernest Joseph •	178	39	Terence Charles
119	"	Frederick Lowther Edward Olai	179	,,	Valerie Ann
120	,,	George Joseph	180		Yvonne Helen
121	,,	James Donald *	181	Clingham,	Peter Anthony
122	"	Joan May	182	Collins,	Shiralee
123	"	Jonathon Jeffers *	183	0	
124	"	Lawrence Jonathan	184	Connolly,	Kevin Barry
125	"	Margaret Orlanda	185	Coombe,	Peter Shipley Appe
126	"	Orlanda Betty	186		Shirley Anne
127	,,	Sheila Olga	187	Coutts,	Carolynne Charles
128	Cameron,	Jane Diana Mary Keith	188	,,	•
129	Cant,	Martin Ronald	189	,,	Charles Lindsay *
130	"	Carol Rosine	190	,,	John
131	Card,	Denise	191	,,	Olga
132	Carey,	Anthony Michael *	192		Peter Nichola Jane
133	"	Gladys •	193	Crowie,	Alfred William Hamilton
134	,,	Mary Ann Margaret *	194	Curtis,	
135	"	Terence James *	195		Barbara Joan
136	Castle,	David Peter	196	Davies,	Anthony Warren
137	"	Isobel	197	,,	Colin George
138	Ceballos,	Claudette	198	,,	Eileen Wynne
139	"	Eulogio Gabriel	199		Jacqueline Nancy
140	Chater,	Annie	200		William
141	,,	Anthony Richard	201	Davis,	Albert Henry
142	Cheek,	Diane	202	"	Raymond Andrew
143	,,	Frederick John *	203	**	William John *
144	19	Gerald Winston	204		Yona
145	,,	Janet Linda *	205	Davy,	Patrick Alex Field
146	"	John Edward	206	Decroliere,	Carrie Madeline Helen
147	,,	Marie	207	Dickson,	Caroline Christine Bird *
148		Miranda *	208	<b>~</b> 11	Marlaine Rose
149	Clapp,	Kevin Christopher	209	Dodd,	Alison
150	Clarke,	Camilla Marie	210	Duncan,	Avis Marion *
151	"	David James	211	,,	Doreen *
152	11	Derek Simon *	212		William *
153	"	Doreen *	213	Etheridge,	Alice Mary
154	,,	Fiona Alison	214	Evans,	Derek Stanley
155	"	Gwynne Edwina	215	,,	Gladys Alberta *
156	,,	Hector *	216 217		Michael David
157	,,	Jane Lucacia *	217	Eynon,	Carol David John
158	"	Joyce Kathleen *	219	"	
159	,,	Kathleen Gay Martin James	220		Lecann Watson •
160	,,	Marvin Thomas	221	Fairfield,	Bonita Doreen *
161	,,	Ronald John •	222	Earla	James Steven
162	**		223	Faria,	Basil Harry
163	11	Rudy Thomas	224	Falson	Mary Ann •
164	,,	Trudi Ann Terence John	225	Felton,	Anthony Terence *
165		Violet Rose	226	**	Sonia Ellen
166	Clarke,		227	**	Violet Regina Margaret
167	Clasen,	Mally Denzil George Gustavius	228		Walter Arthur *
168	Clausen,	Melanie Florence *	229	Ferguson, Fiddes,	Rose
169	Clarace	Susan	230	riddes,	Robert Melody Christine
170	Clayton,	Kenneth Stanley	230	Finleyeon	Melody Christina
171	Cletheroe,	Stanley William *	231	Finlayson,	Hugh *
172	29	William Harold *	232	,,	Iris Dwenda Margaret *
173		Charles *	233	,,	Peter Physics #
174	Clifton,	Charles	234		Phyllis *

235	Fleuret,	Theodore Clovis *	295	Halliday,	Leslie John *
236	Fogerty,	Richard Edwin John	296	,,	Margaret Mary *
237	Ford,	Arthur Henry •	297	"	Raynor
238	**	Caroline •	298	Hansen,	Douglas John
239	**	Charles David *	299	*	Keva Elizabeth
240	,,	Cherry Rose	300	**	Terence Darwin
241	,,	Christopher James *	301	Hardy,	Douglas Morgan *
242		Colin Stewart	302	Harris,	Christopher James
243	,,	Colleen Mary	303	"	Heather
244	,,	David	304	,,	Jayne Elizabeth *
245	,,	Dorothy Minnie *	305	99	Jill Yolanda Miller
246	"	Elizabeth Harriet *	306	**	Leslie Sidney
247	"	Fanny Davidson *	307	**	Michael Ronald
248	,,	Frederick James	308	,,	Ralph Aaron
249	**	Gerard Alan	309	Harvey,	Muriel Elsie Elizabeth *
250	"	Hazel	310	Hawksworth,	
251	"	James Edward *		Mawkswoiui,	
252	"	John	311	**	Mary Catherine
253	**	Leann Caroline	312		Pauline May
254	**	Leonard	313	***	Terence
255	"	Marilyn Christina	314	Hayward,	Marjorie
256	**	Michael	315		Peter Dennis
257	**	Robert	316	Hazell,	Trudi Eileen Felton
258	Fullerton.	Mary Ellen •	317	Heathman,	Malcolm Keith
259	Gilbert,	Judith Elizabeth	318	"	Violet *
260	,,	Robert Ernest	319	Henry,	Patricia Denise *
261	Gilding,	Deborah *	320	Hewitt,	Frances Agnes
262	onding,	Peter Bernard	321	"	Gary George
263	Gooch,	Cecilia Ines Millard Bennett *	322	"	Kevin John *
264	Goodii,	Dudley Frederick *	323	**	Margaret Ann
265	Goodwin,	Bert Samuel *	324	**	Rachel Catherine Orissa
	Goodwiii,	Colin Valentine	325	**	Robert John David *
266	,,	Hazel Rose	326	Hills,	Heather Margaret *
267	,,		327	**	Richard William *
268	,,	June Elizabeth	328	Hirtle,	Christine
269	,,	June Rose Elizabeth	329	**	Debbie Ann
270		Kathleen Edith Marguerite *	330	"	Leonard Lloyd
271		Margaret Ann	331	,,	Mary Ann *
272	,,	Robin Christopher		,,	Robert Andrew Eric
273	**	Simon James *	332 333		Rose Ann Shirley *
274	"	Una	333	**	Sandra May Winifred
275	"	William Andrew Nutt *	334	**	Shirley
276	Goss,	Dorothy Ellen	335 336	,,	Wallace Carlinden *
277	,,	Grace Elizabeth *		"	Zane Eric
278	,,	Morgan Edmund	337		Anilda Marilu
279	"	Simon Peter Miller	338	Hobman,	
280	"	William Henry (Jnr)	339	YI	David Gonsalo
281	**	William Henry (Snr) *	340	Howatt,	Derek Frank
282	Gould,	Arthur William	341	Howe,	Alison Delia
283	Grant,	Leonard John *	342		Paul Anthony
284	,,	Mildred *	343	Huanel,	Jose Raul
285	Greenland,	Kenneth David *	344	Jacobsen,	Alistair
286	Grocock,	Trevor	345		Catherine Joan
287	Hadden,	Alexander Burnett *	346	Jaffray,	Angus
288	112000111	Sheila Peggy *	347	,,	Christopher *
289	Halford,	Rodney John	348		Eileen
	nanoiu,	Sharon	349	**	Estell Anita
290	TJell	Marilyn Joyce	350	,,	Frank Alexander
291	Hall,	Evelyn Edna *	351	*	Helen Rose
292	Halliday,		352	**	lan
293	,,	Gerald John Arthur Leslie *	353	**	Ingrid Joyce
294					

354	Jaffray,	Jacqueline Ann *	414	Lloyd,	Valerie Ann
355	**	Janice Vanessa *	415	Loftus,	Anthony
356	"	John Summers *	416	"	Colleen
357	"	June Elizabeth *	417	Lowe,	Adrian Stewart
358	**	Kenneth Ian	418	Luxton,	Ernest Falkland *
359	"	Robin George	419	**	Jennifer Mary
360	"	Stephen James	420	"	Michael
361	**	Terri Ann	421	**	Nicola
362	••	Tony	422	**	Sybil Grace *
363	***	William *	423	,,	Winifred Ellen *
364	Jennings,	Mary Ann Helen	424	Lyse,	Ethel Malvina
365	11	Neil	425	Lyse,	George Walter *
366	Johnson,	Jacqueline	426	,,	<del>-</del>
367	y y	Kenneth John	420	,,	Linda Margaret
368	**			,,	Reginald Sturdee *
369	,,	Lily Ann	428		Sydney Russell *
370	,,	Michael Neil	429	Macaskill,	Angus Lindsey
	**	Stanley Howard *	430		Jeannette May
371		Vanda Joan	431	,,	John
372	Jones,	Alan Smith	432	Malcolm,	George *
373		Jennifer	433	"	Velma *
374	,,	John Hugh	434	Мау,	Brian Roy
375	,,	Kevin Richard	435	"	Bruce Raymond
376	,,	Michael David	436	"	Connie
377	*1	Michelle	437	**	Jonathan Roy *
378	77	Sheila Janice	438	"	Heather
379	"	Yvonne Malvina	439	"	Monica
380	Jordan,	Margaret Dilys	440	**	William Albert *
381	Keenleyside,	Charles Desmond (Snr) *	441	Mercer,	Christel
382	"	Charles Desmond (Jnr)	442	Metcalf,	Rhoda Felton
383	"	Dorothy Maud *	443	Middleton.	Brian
384	**	Manfred Michael Ian	444	**	Caroline Ann
385	**	Nanette Barbara	445	,,	Dennis Michael
386	"	Susan Noreen	446	**	Ellen *
387	Kenny,	Erling	447	,,	Graham Cyril
388	Kiddle,	Robert Karl	448	,,	Joan Eliza
389	King,	Anna Constance Eve	449	**	Leonard
390	",	Desmond George Buckley *	450	**	Phillip John
391	**	Gladys Evelyn *	451	19	Sharon Elizabeth
392	**	Glynis	452	,,	Shirley
393	**	Peter Thomas	453	,,	
394	**	Robert John *	454	Miller,	Stephanie Ann
395	,,	Rosemarie	455	Miller,	Andrew Nigel
396	,,	Vernon Thomas *	456	,,	Betty Lois *
397	1 -66			,,	Carol
398	Laffi,	Atilio Segundo	457	,,	Florence Roberta *
		Kathleen Mary	458	,,	Gail Marie
399	Lang,	James Patrick	459		Sidney *
400	_	William Frank	460	,,	Simon Roy
401	Larsen,	Ellen	461	**	Timothy John Durose
402	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Margaret Anne *	462	Minto,	Graham Stewart
403	Lee,	Alfred Leslie *	463	"	Patrick Andrew
404	"	Derek William	464	,,	Timothy Ian
405		Elsie Adelaide *	465	Miranda,	Augusto *
406	**	Gladys	466	"	Carmen *
407	**	Leslie James	467	11	Ramon
408	**	Owen Henry	468	,,	Winifred Dorothy *
409	,,	Trudi Dale	469	Moffat,	Angela
410	Livermore,	Anton *	470	"	James
411	**	Darren	471	Morris,	Alana Marie
412	11	Marie Ann	472	"	David *
413	Lloyd,	Melvyn John	473	>1	Trevor Alan
	,				

474	Morrison,	Donald Ewen *	529	Mckay,	Ian Roderick
475	"	Doreen	530		James John *
476	"	Fayan	531	"	Jane Elizabeth *
477	"	Graham Stewart	532	"	Jeannie Paulina
478	31	Herman *	533	"	Josephine Ann
479	,,,	Hyacinth Emily *	534		Kenneth Andrew
480	,,	Joan Margaret	535	,,	Michael John
481	11	Lewis Ronald	536	"	Neil
482	"	Muriel Eliza Ivy *	537	"	Paul Anthony
483	**	Nanette Rose	538	"	Peter John
484	,,		539	,,	Rex
	,,	Nigel Peter	540	,,	Shelley Jane
485	**	Olive	541	,,	Stephen John * William Robert *
486	,,	Patrick	542		Alice Maude
487		Paul Roderick	543	McKenzie,	Charles Alexander Albert John
488	,,	Stewart	544 545	McLaren,	Tony Eugene Terence
489	,,	Ronald Terence *	546	McLeod,	David
490	"	Trevor	547	wicecod,	Donald Henry *
491	**	Valerie Ann	548		Ellen May *
492	,,	Violet Sarah	549	,,	Janet Wensley
493	**	William Roderick Halliday	550	"	Janice
494	Murphy,	Ann Susan	551	,,	John (1)
495	17	Bessie *	552	**	John (2)
496	11	Michael James *	553	**	Madeline Jean
497	McDonald,	John Alexander Horne	554	,,	Margaret Anne *
498	,,	Kerena Michelle	555	,,	Michael William
499	McAskill,	Susan Blanche *	556	11	Robert
			557	**	Robert John
500	McBain,	Arthur	558	**	Shona Marguerite
501		Rhoda Margaret	559	McPhee,	Grace Darling *
502	McBeth,	Phyllis Elizabeth Grace	560	"	Iris Blanche *
503	McCallum,		561	,,	Justin Owen *
504	***	Christopher John	562	"	Marjorie May
505	"	Elaine Michele	563	"	Natalie Marianne
506	**	Ellen *	564	,,	Owen Horace *
507	**	Jack *	565	,,	Patrick *
508	,,	James *	566	McRae,	Richard Winston
509	**	Timothy Andrew	567	Neal,	Richard John
	McCormick	k, Dale Ronald	568	Neilson,	Barry Marwood
510	McCornic	, Gloria Jane	569		Margaret Andrew Raymond *
511		Coral Elizabeth *	570	Newman,	Dorothy Elizabeth *
512	McGill,	Darrel lan *	571	,,	Joyce Noreen
513			572 573	***	Marlene
514	"	Diane Beverley	574	,,	Raymond Winston
515	19	Doris Mary *	575	,,	Wilfred Lawrence *
516	,,	Gary	<b>576</b>	Newell,	Donna *
517	17	Glenda	577	**	Joseph Orr
518	"	Ian Peter	578	**	Trudi Malvina
519	"	Jane *	579	Nightingale	Susan Jane
520	"	Len Stanford *	580	Nutter,	Arthur Albert
521	**	Lorraine Iris	581	**	Josephine Lesley
	,,	Roy	582	Parrin,	Norman George *
522	**	Teresa Rose	583	Pauloni,	Hilary Maud *
523		Diana Marion *	584		Romolo Vittorio *
524	McIlroy,	Robert James *	585	Peake,	Arthur
525			586	,,	Clair Linda
526	**	Rose Mary *	587	Peart,	Robert Ernest
527	МсКау,	Clara Mary *	588	Peck,	Burned Brian
528	"	Heather Valerie			

589	Peck,	Eleanor Margaret	642	Roberts,	Peter James	700					
590	**	Evelyn Elizabeth	643	"	William Henry *	700	Smith,	Anthony David	760	Summers,	Michael Kenneth
591	,,		644	Robertson,	Paul Jonathan *	701	,,	Anya Evelyn	761	**	Michael Victor
592	,,	Gordon Pedro James *	645	"	Sally Jean *	702		Bruce Dennis *	762	**	Nigel Clive *
	,,	James *	646	Robson,	Alison Emily *	703	"	Colin David	763	"	Owen William
593		Kim Brian	647	"	Gerard Michael *	704		Derek	764	"	Pamela Rosemary Cheek
594	"	Mary *	648	**	Gladys Mary	705	"	Ellen Mary	765	"	Rowena Elsie
595	,,	Maureen Heather	649	**	Louis Michael *	706	"	Eric	766 767	"	Sheila
596	**	Patrick William *	650	,,	Miranda Gay	707	,,	Gerard Alexander	767 768		Sybella Catherine Ann
597	**	Shirley	651	,,	Phyllis Ann	708	,,	Gwenifer May *	769	,,	Sylvia Jean Terence
598	**	Terence John *	652	,,		709	,,	Ileen Rose	770	**	Tony
599	PED		653	Rogers,	Raymond Nigel	710		Iola Winifred *	771	,,,	Veronica
600	Perkins,	Visianna Eathar Maria	654	Ross,	Neil Colin *	711	"	James Stanley *	772	,,	William Edward *
601	Perry,	Vivienne Esther Mary	655	WO22,		712	,,	James Terence *	773	Teggart,	Carol Wendy
		Augustave Walter *	656	,,	Glenn Stephen	713	,,	Jean Waddell	774	,,,	John Patrick
602	,,	Beatrice Annie Jane *	657	,,	Janet	714	,,	Jennifer Ethel	775	Thain,	John
603	"	Hilda Blanche *	658	,,	Lachlan Neil	715	,,	Joan Lucy Ann	776	11	Julia
604	**	Robert Juan Carlos	659	,,	Marie	716	,,	John	7 <b>7</b> 7	,,	Stephanie Ann
605	"	Thomas George *	660	**	Odette Ellen May	717	,,	Julia Trinidad	778	Thom,	David Anderson *
606	**	Thora Virginia *	661	,,	Roy	718	,,	Martyn James	779 780	,,	Dorothy Irene
607	Pettersson,		662	,,	Sheena Margarei	719	,,	Norah Kathleen	781	Thompson,	Norma Ann George Henry •
608	**	Eileen Heather		,,,	Susan Vera	720	,,	Osmond Raymond *	782	i nompson,	William John *
609	"	Tony	663		William Henry	721	"	Owen Archibald *	783	Tonse,	Cora Agnes
610	,,		664	Rowland,	Charlene Rose	722	,,	Paulette Rose	784		Diane Katherine
		Trudi Ann	665		John Christopher *	723	**	Rhona	785	Triggs,	Michael David
611	Phillips,	David Dawson	666	Rowlands,	Catherine Annie *	724	,,	Russel James	786	"	Dianne
612	,,	Julie Ann *	667	,,,	Daisy Malvina *	725	,,	Sidney Frederick	787	Turner,	Alva Ynonne
613	,,	Paul David *	668	"	Harold Theodore *	726	"	Terence George	788	,,	Andrea Mary Pitaluga *
614	Platt,	Veronica Shirley	669	"	John Richard *	727	Sollis,	Sarah Emma Maude *	789	**	Arthur Leonard Pitaluga
615	Pole-Evans,	•	670		Neil	728	Sornsen,	James Winston	790		Melvyn George
616	***	John *	671	"	Robert John	729	Spall,	Christopher Richard	791	Vidal,	Eileen Nora *
617	"	Michael Anthony	672	Rozee,	Betty Ellen	730	Spinks,	Alexander	792 793		Leona Lucila
618	,,	Paula *	673	**	Derek Robert Thomas *	731	"	Malvina Ellen *	794	Vincent,	Jannette Mary Stephen Lawerence
619	Pollard,		674	Sackett,	Michael John Carlos	732	Spruce,	Helena Joan *	795	Wallace,	Fraser Barrett
620	r onard,	Elizabeth Eve	675	Sarney,	Harry *	733	"	Terence George *	796	**	Maria Lillian
		John	676	Shedden,	James Alexander *	734	Steen,	Allan Graham *	797	"	Michael Ian
621	Poole,	Charles Lawrence *	677	Shepherd,	Ramsay	735	"	Barbara Ingrid	798	,,	Stuart Barrett *
622	"	Evelyn May *	678		Sylvia Ann *	736	"	Emma Jane *	799	"	Una
623	"	Nancy Margaret	679	Short,	Andrez Peter	737	,,	Gail *	800	Watson,	Boyd Edward Harold *
624	"	Raymond John	680	"	Celia Soledad	738	,,	Vernon Robert	801	"	Catherine Wilhelmina Jessie *
625	,,	William John *	681 682	,,	Charles William	739	Stephenson,	James	802	,,	Hannah Maude *
626	Porter,	Brian Charles	683	**	Christina Ethel *	740	"	Joan Margaret	803 804	,,	Lisa Marie * Paul
627	"	Charles *	684	,,	Donald Robert Gordon	741	"	Katrina	805	Watts,	Amara Theresa
628	**	Jean Lavinia	685	,,	Emily Christina	742	"	Zachary	806	**************************************	Lucinda Vikki *
629	,,	Tracy	686	,,	Gavin Phillip *	743	Stewart,	Aarron Stephen *	807	**	Patrick James
630	Reddick,	Keith John	687	"	Joseph Leslie *	744	,,	Ceila Joyce	808	White,	Kathleen Elizabeth *
631			688	,,	Lisa Helen	745	**	David William *	809	Whitney,	Frederick William
	Reeves,	Cheryl Rose	689	,,	Montana Tyrone	746	**	Duane William *	810	**	Jason
632		Michael *	690	,,	Peter Robert	747	"	Hulda Fraser	811	,,	Kurt Ian *
633	Reid,	Ann	691	**	Philip Stanley *	748	**	John	812	"	Robert Michael
634	,,	Colleen Rose	692	,,	Rose Stella	749	"	Kenneth Barry	813		Susan Joan
635	,,	Reynold Gus	693		Vilma Alicia	750	**	Phyllis Marjorie	814 815	Williams	Robert John *
636	Reive,	Ernest *	694	Simpson,	Bertha Veronica	751	"	Robert	816	Williams,	Charlotte Agnes * Eugene *
637	"	Roma Endora Mary *	695	,,	James Garry	752	>1	Sylvia Rose	817	,,	Marlene Rose Elizabeth
638	Rendell,	Michael	696	,,	John Frederick	753	Strange,	Ian John	818	Wylie,	Julian Richard
639	"	Phyllis Mary *	697		Mirabelle Hermione	754	"	Maria Marta	819	"	Wendy Jennifer
640	Roberts,	Diana Christine	698	Smith,	Alexander Gordon	755	Summers,	Brian	820	Zuvic,	Kuzma Mario
641	,,	Laura May	699	"	Ana Bonita	756	"	Dennis David	821	"	Sharon Marie
011		Laura Way	033		Andrew John	757	,,	Edith Catherine *			
						758	>1	Irvin Gerard		NOTITABLE	E TO SERVE AS A MIROR
						759	**	Judith Orissa *		NOI LIABL	E TO SERVE AS A JUROR
						759		344111 011004			

#### CAMP CONSTITUENCY

Regist	er of Electo	ors			
1001	Alazia,	Hazel	1058	Chandler,	Ann Beatrice
1002	, mazia,	Henry John *	1059	**	Edward
1002	**	Keith *	1060	Clark,	Fredrick Thomas
1003	**	Mandy Gwyneth	1061	Clarke,	lan
1004	**	Michael Robert	1062	"	Jeanette
1003	**	Stuart John	1063	,,	Michael Jan
	"		1064	,,	Shane Adrian *
1007 1008		Thora Lilian *	1065	Clausen,	Denzil
1008	Aldridge,	Brian George	1066	"	Henry Edward
1010		Olive Elizabeth Gloria *	1067	Clifton,	Leonard
	Anderson,		1068	Cirton,	Thora Janeene
1011	,,	Jenny	1069	Cockwell,	Grizelda Susan
1012	,,	Margaret Catherine		Cockwell,	John Richard *
1013	,,	Marina Rose	1070		
1014	,,	Paul James *	1071	Coutts,	Frederick George
1015		Reginald Stanford	1072	Davis,	Aase
1016		Ronald	1073	,,	Mandy John
1017	,,	Tony James	1074	,,	Maurice Nigel
1018	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	William	1075	,,	Nicholas
1019	Ashworth,	Glennis	1076	,,	Reginald John
1020		Malcolm	1077	,,	Violet
1021	Barnes,	Deirdre	1078		William James
1022		Marshall	1079	Dearling,	Leo Alexander *
1023	,,,	Paul	1080	Dickson,	Doreen
1024	Beattie,	Thomas George	1081	,,	Gerald William
1025	Berntsen,	Arena Janice	1082	"	Iris
1026	"	Ellen Rose	1083	"	Ronald Edward
1027	,,	Iain Kenneth	1084	Dobbyns,	Timothy John
1028	,,	Kenneth Frederick	1085	Donnelly,	Daniel
1029	,,	Leon	1086		Joyce Elizabeth
1030 1031	Betts,	Pamela Margaret Arthur John *	1087	Duncan,	Peter Ree Howard
1031	Dells,	Bernard Keith	1088	Dunford,	David Philip
1032	"	Cyril Severine *	1089	Edwards,	Norma *
1033	**	Diane Joan	1090		Emma Jane *
1034	,,	Irene Marion	1091	Evans,	Michele Paula
1035		Robert William	1092	,,	Olwyn Carol
1030	Biggs, Billett,	Leslie William	1093	"	Raymond
1037	Binnie,	Horace James *	1094		Richard Gregory
1038	Diffile,	Linda Rose	1095	Fairley,	John
1040	**	Ronald Eric *	1096	Felton,	Faith Dilys
1040	**	Rose Helen *	1097	Ferguson,	Finlay James
1041	Blackley,	Maurice	1098	,,	John William
1042	Blake,	Alexander Charles *	1099	,,	Robert John
1043	Diake,	Anthony Thomas *	1100		Thelma
1044	,,	Heidi Jane *	1101	Findlay,	Andrew John *
1046	**	Lionel Geoffrey *	1102		Gerald
1047	,,	Lyndsay Rae	1103	Finlayson,	Barry Donald *
1047	,,	Paul Wickham	1104	,,	Iris Heather *
1048	**	Sally Gwynfa	1105		Neil Roderick
1049	,,	Thomas Patrick *	1106	Ford,	Neil Fraser
		Avril Margaret Rose	1107		Penelope Rose
1051	Bonner,	Keith James	1108	Forster,	Gwyneth May
1052	**		1109	_ "	James
1053	**	Simon Sugan Appa	1110	Fox,	Eileen Mary
1054		Susan Anne Roy Peter	1111	Giles,	Gilbert
1055	Buckett,	Andrew Nutt	1112	Gleadell,	lan Keith
1056	Carımell,	Frederick James	1113		Marklin John
1057		1 redefier James	1114	Goodwin,	Emily Rose

1115	Goodwin,	Mandy Hazel	1175	Lee,	Carole
1116	"	Neil Alexander William	1176	"	Elizabeth
1117		Robin	1177		John Alfred
1118	,,	Sarah Margaret Rose *	1178		Myles *
1119		William John Maurice	1179		Robin Myles
1120	Goss,	Eric Miller	1180	**	Rodney William
1121	,,	Ian Ernest Earl	1181		Jean *
1122	"	Margaret Rose	1182	Lloyd,	John Moelwyn
1123	,,	Peter	1183	Luxton,	Patricia Maureen
1124	"	Roderick Jacob *	1184	,,	Stephen Charles *
1125		Shirley Ann	1185	"	William Robert *
1126	Gray,	David Edward	1186	•	Robert Charles
1127		Patricia May	1187	Marsh,	Alastair Roy
1128	Halliday,	Joyce Isabella Patience	1188	"	Anna Deirdre
1129	,,	Kenneth William	1189	,,	Arlette Sharon
1130	Hansen,	Ian	1190	"	Frank
1131	,,	Lionel Raymond *	1191	,,	Gavin Nicholas
1132	,,	Rose Idina	1192	"	June Helen
1133	"	Susan Ann	1193		Leon Peter
1134	Hardcastle,		1194	"	Marlane Rose
1135	,,	Eileen Beryl *	1195	,,	Robin Frank
1136	Harvey,	Jen	1196	Мау,	Christopher Raymond
1137	"	Valerie Ann	1197		Linsey Olga
1138	Heathman,	Ailsa	1198	Miller,	Betty
1139	"	Ewart Tony	1199	"	James Albert
1140	Hewitt,	Brian David	1200	"	Phillip Charles
1141	Hirtle,	Anthony	1201	Minnell,	Adrian James
1142	**	Doris Linda	1202	"	Benjamin James
1143	,,	Fenton	1203	,,	Donna Maria
1144	"	Gerard Fenton *	1204	"	Hazel Eileen
1145	**	Odette Susan *	1205	"	Michael Robert
1146	"	Susan Mary	1206	Minto,	Alistair Daen
1147	Hobman,	Juan Jose Eleuterio	1207	Mitchell,	Leon John
1148	,,,	Petula	1208	Morrison,	Carol Margaret *
1149	Hutton,	Elizabeth Isabella	1209		Edgar Ewen
1150	19	Phillip	1210	"	Eric George
1151	Jaffray,	Alexander	1211	,,	Gerald
1152	**	Brian	1212		Jacqueline Denise Anita
1153	**	Dereck Charles *	1213	,,	John *
1154	**	Elliott Jessie	1214	,,	Kathleen Iris
1155	"	Gerard Alan *	1215	,,	Kenneth
1156	**	Janet	1216	,,	Lena Leslie Theodore Norman
1157	"	John	1217	,,	Michael John
1158	"	John Willie	1218	,,	Susan Margaret
1159	**	Phyllis	1219		Raymond John
1160	**	Stephen Andrew *	1220	MacBeth,	Colin George
1161	"	Terence Roy	1221	MacDonaid,	Irene
1162	Jonson,	Carl	1222		Pauline Margaret Ruth
1163	Kilmartin,	Dinah May	1223 1224	McGhie,	James *
1164	,,	Kevin Seaton *	1224	Wicome,	Roy
1165	Kidd,	Lillian Rose Orissa	1225	McGill,	Robin Perry
1166	"	Nathan John	1226	McKay,	Christine
1167	Knight,	Nigel Arthur	1227	MICKAY,	Eilen Rose
1168	**	Shirley Louvaine Patricia		**	Frazer Roderick
1169	Lang,	Patrick Andrew *	1229	,,	Isabella Alice
1170	.,	Sandra Shirleen	1230	"	Richard *
1171	**	Velma Emily	1231	,,	Roderick John
1172	Larsen,	Josephine Mary	1232		Albert John
1173	n n	Ronald Ivan	1233	McLeod,	Henry Donald Alexander
1174	,,	Yvonne	1234		Helity Dollard Alexander
11/4					

1235	McLeod	Isabella Diana Frances	1278	Robertson,	Ann
1236	WICECOU "	Sarah Rose	1279	**	Peter Charles
1237	McMullen.	June	1280	Rozee,	Ronald David
1238	wichidinen,	Tony	1281	Short,	Arthur Richard *
1239	McPhee,	Kenneth John *	1282	"	Derek Patrick
1240	19	Iune Iris *	1283	**	Isobel Rose
1241	**	Trudi Lynette	1284	**	Michelle Rose
1242	McRae,	David Michael	1285	**	Patrick Warburton
1243	22	Gloria Linda	1286	,,	Robert Charles
1244	**	Robert George Hector *	1287	**	Robert George
1245	Napier,	Lily	1288	Sinclair,	Simon Keith
1246	"	Roderick Bertrand *	1289	Smith,	Francis David *
1247	Newman.	Adrian Henry Frederick	1290	,,	George Patterson
1248	"	Clive Alexander	1291	,,	Heather
1249	**	Dwenda Rose	1292	**	Jacqueline
1250	"	Jacqueline Elizabeth *	1293	**	Jenny Lorraine
1251	"	Sheena Melanie	1294	**	Michael Edmund
1252	Nightingale,		1295	**	Robert William
1253	"	Peter Richard	1296	**	Robin Charles
1254	Packham,	Derek	1297	"	Roy Alan
1255	Peck,	Christine	1298	Stevens,	Richard James
1256	"	Davina Margaret	1299	**	Toni Donna
1257	"	Paul	1300	Tellez,	Jeanette Valerie
1258	Phillips,	Albert James	1301	**	Jose Hector
1259	**	Carol Joan	1302	Thorsen,	David Moller
1260	"	Lindsay Marie *	1303	**	Gloria Penelope
1261	**	Lynda	1304	Turner,	Diana Jane *
1262	"	Terence	1305	**	Ronald
1263	Pitaluga,	Jene Ellen	1306	Velasquez,	Arleen
1264	"	Nicholas Alexander Robinson	1307	Watson,	Glenda Joyce
1265	"	Robin Andreas McIntosh *	1308	**	Neil
1266		Anthony Reginald *	1309	Whitney,	Agnes Kathleen *
1267	"	David Llewellyn	1310	**	Daneila Grace
1268	"	Shirley Hellen	1311	**	Dennis
1269	**	Suzan	1312	"	Henry Leslie *
1270	"	William Reginald	1313	33	Keith
1271	Poole,	Ella Josephine	1314	***	Lana Rose
1272		Steven Charles	1315	"	Leona Ann
1273	Porter,	George *	1316	"	Patrick George
1274	"	Joan	1317	**	Tyrone *
1275	12	William Kenneth	1318	Wilkinson,	David Clive Walter
1276	Reeves,	Ronald James	1319	***	Rosemary
1277	Reid,	Albert John *	*NOT	LIABLE TO	SERVE AS A JUROR



# FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

28th JUNE 1991

No. 8

#### **Appointments**

Michael Philipp Reichel, Veterinary Officer, Department of Agriculture, 28.5.91.

Alistair Brown McNaught, Teacher, Education Department, 28.5.91.

Mrs. Maria Lilian Wallace, Clerk, Public Service, 1.6.91.

Miss Fiona Dickson, Sheep Husbandry Officer/Adviser, Department of Agriculture, 4.6.91.

#### Acting Appointments

Glenn Stephen Ross, Acting Superintendent, Power Supply Section, Public Works Department, 3.5.91 - 25.5.91.

Miss Jacqueline Elizabeth Earnshaw, Acting Chief Nursing Officer, Medical Department, 18.3.91 - 16.6.91.

#### Confirmation of Appointments

Mrs. Eileen Wynne Davies, Establishments Officer, Secretariat, 30.1.89.

Tony Summers, Assistant Aircraft Engineer, Falkland Islands Government Air Service, 1.5.89.

John Smith, Curator, Falkland Islands Museum, Secretariat, 11.5.89.

Zachary Stephenson, Assistant Printer, Printing Office, Justice Department, 13.5.89.

Mrs. Enid Clarke, Senior Nurse, Medical Department, 1,6.89.

James Stephenson, Superintendent, Posts & Telecommunications Department, 1.6.89.

Mrs. Phyllis Mary Rendell, Director of Education, Education Department, 6.6.89.

Mrs. Connie May, Warden, Sheltered Housing Complex, Medical Department, 13.7.89.

Mrs. Elaine Plumb, Auxiliary Nurse, Medical Department, 27.7.89.

Fraser Barrett Wallace, Storekeeper/Clerk, Civil Aviation Department, 2.11.89.

Mrs. Vilma Short, Laboratory Assistant, Medical Department, 1.8.90.

Miss Diana Christine Roberts, Laboratory Technician, Department of Agricultural, 26.10.90.

#### **Promotions**

Andrew Timothy Henworth, from, Agricultural Advisor (Economics), Department of Agriculture, to, Agricultural Economist, Department of Agriculture, 1.6.91.

Eddie Anderson, from, Pilot, Falkland Islands Government Air Service, to, Chief Pilot, Falkland Islands Government Air Service, 19.6.91.

#### Completion of Contracts

Hylton Oswald Guthrie, Teacher, Education Department, 31.5.91.

Peter William Armitage, Veterinary Officer, Department of Agriculture, 5.6.91.

Andrew David Alsop, Chief Pilot, Falkland Islands Government Air Service, 18.6.91.

#### Resignation

David James Lewis, Resident Houseparent, Education Department, 20.6.91.

#### NOTICES

No. 7

27th June 1991.

#### The Electricity Supply Regulations 1969 (Regulation 10)

Notice is hereby given that the rate charged for the supply of electrical energy by the Government has been reviewed by the Governor in Council in accordance with Regulation 10 of the Electricity Supply Regulations 1969 and has been increased from 13p to 13½p per unit with effect from the quarter ending 30th June 1991.

The rebate available to consumers who are in receipt of Contributory or Non-Contributory Old Age Pensions has also been reviewed and is increased from 2p to 2½p per unit with effect from the quarter ending 30th June 1991.

Rel: ELE/2/1.

No. 8

28th June 1991.

#### Government House Rents

Notice is hereby given that with effect from 1st July 1991, rents of Government quarters will be increased by 20 per centum.

Ret. HOU-1/2

No. 9

28th June 1991.

#### FIGAS Freight Rates

Notice is hereby given that with effect from 1st July 1991, FIGAS freight rates will be as follows:

Perishable goods	30p per kilo
Frozen goods	40p per kilo
Other goods	50p per kilo
Minimum charge	£1.00

Ref: AIR/2/1

No. 10

28th June 1991.

#### Swimming Pool Charges

Notice is hereby given that with effect from 1st July 1991, the revised swimming pool charges are as follows:

Adult Membership	£53.00 per annum
Child Membership	£32.00 per 6 months £26.00 per annum
Consine Trans. Adula	£16.00 per 6 months
Session Entry Adult Session Entry Child	£1.20 £0.60
Aquarun Adult	£0.60 £1.40
Aquarun Child	£0.70
Pool Hire	£60.00 per hour.
Ref: INT/36/18.	

No. 11

28th June 1991.

#### Private Letter Box Rental

Notice is hereby given that with effect from 1st January 1992, private letter box rentals will be £12.00 per annum. The fee for a replacement key will be £12.00.

Ref: P& P/10/1

No. 12

28th June 1991

#### **Broadcast Announcements**

Notice is hereby given that with effect from 1st July 1991, the fees for broadcast announcements will be 12p per word with a minimum charge of £3.00. Ref: BR D/31/2.

No. 13

28th June 1991.

#### Public Library Video Hire

Notice is hereby given that with effect from 1st July 1991, there will be a 75p per day hire charge for videos from the Public Library.

Ref: EDU/27/1A

No. 14

28th June 1991.

#### **Evening Class Fees**

Notice is hereby given that evening class fees are increased as follows effective from the commencement of the third school term in September 1991:

1 1/2 hour class £2.00 2 hour class £2.50

Ref: EDU/25/2

#### Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT James John May, deceased of Stanley, died at Stanley on 9th April 1991, Intestate.

WHEREAS, Bryan Roy May, son of the deceased 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 21 days of the publication hereof.

B. FAIRFIELD.

Stanley Falkland Islands 18th June 1991.

Ref: PRO/8/91.

Registrar, Supreme Court.



### THE

# FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

31st JULY 1991

No. 9

#### Appointments

Miss Anna Constance Eve King, Office Manager, Falkland Islands Government Office, London, 19.6.91.

Tony Eugene Terence McLaren, Carpenter, Public Works Department, 1.7.91.

Miss Carol Ann Kelly, Broadcasting Assistant, Falkland Islands Broadcasting Station, 1.7.91.

Michael Ford, Mechanic, Public Works Department, 1.7.91.

Dr. Roger John Diggle, M.B., B.Ch, Chief Medical Officer, Medical Department, 2.7.91.

Miss Katherine Louise Heal, Clerk, Public Service, 29.7.91.

#### Acting Appointments

Dr. Robert James McIlroy, M.B., ChB, Acting Chief Medical Officer, Medical Department, 21.5.91 - 1.7.91.

Mrs. Jean Waddell Smith, Acting Director of Education, Education Department, 22.6.91.

Peter Burnard, Acting Headmaster, Infant/Junior School, Education Department, 22.6.91.

Mrs. Carol Wendy Teggart, Acting Broadcasting Officer, Falkland Islands Broadcasting Station, 12.7.91.

Mrs. Eileen Wynne Davies, Acting Establishments Secretary, Secretariat, 24.7.91.

Anton Livermore, Acting Senior Assistant Secretary, Secretariat, 24.7.91.

#### Confirmation of Appointments

Mrs. Bonita Doreen Fairfield, Registrar General, Justice Department, 14.6.91.

Miss Jennifer Ethel Smith, Immigration Officer, Immigration Department, 25.6.91.

Zane Hirtle, Assistant Computer Co-ordinator, Secretariat, 1.7.91.

#### **Promotions**

Mrs. Trudi Dale Lee, from Clerk, Public Service, to Senior Clerk, Police, Fire & Rescue Service, 1.7.91. Mrs. Moira Cameron Eccles, from Chief Clerk, Secretariat, to Income Tax Officer, Treasury Department, 1.7.91.

Miss Susan Jane Nightingale, from Clerk, Public Service, to Senior Clerk, Secretariat, 1.7.91.

#### Completion of Contracts

Graham Oakes, Laboratory Technician, Medical Department, 1.5.91.

Miss Myra May Pitt, Travelling Teacher, Education Department, 2.7.91.

Edward Joseph Whiteside, Teacher, Education Department, 17.7.91.

#### Renewal of Contract

Graham Oakes, Laboratory Technician, Medical Department, 10.6.91.

Edward Joseph Whiteside, Teacher, Education Department, 18.7.91.

#### Retirement

Mrs. Eileen Norah Vidal, R/T Operator, Posts and Telecommunications Department, 31.7.91.

No. 15

15th July 1991.

#### Application for Naturalisation

Notice is hereby given that Mr Hector Ricardo Villalon Corona of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and that any person who knows why naturalisation should not be granted should send a written and signed statement of the facts to the Immigration Officer at the Police Station, Stanley.

J. E. SMITH, Immigration Officer.

#### Appointment of Official Administrator

In accordance with the provisions of section 13 of the Administration of Justice Ordinance Cap. 1, I, WILLIAM HUGH FULLERTON, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Falkland Islands

#### HEREBY APPOINT -

**BONITA DOREEN FAIRFIELD** to be Official Administrator for the Colony

Given under my hand and the Public Seal this 10th day of July 1991.

W. H. FULLERTON,

Governor.

#### Appointment of Commissioner

IN EXERCISE of my powers under section 3(1) of the Revised Edition of the Laws Ordinance 1991, I APPOINT Dr Alan Milner, Barrister of Gray's Inn, Fellow of Trinity College, Oxford,

to prepare and publish, or cause to be prepared and published, a Revised Edition of the Laws of the Falkland Islands and from time to time to maintain and futher revise such Revised Edition in accordance with that Ordinance.

Dated 18th day of July 1991.

W. H. FULLERTON, Governor.

#### The Falkland Islands

#### **Douglas Station Limited**

TAKE NOTICE that in accordance with the provisions of S.353 of the Companies Act 1948 in it's application to the Falkland Islands and the requirements of the said section having been complied with the above-named Company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 17th day of July 1991.

B. FAIRFIELD, Registrar of Companies.

#### The Falkland Islands

#### Caley International (Falkland) Limited

TAKE NOTICE that in accordance with the provisions of S.353 of the Companies Act 1948 in it's application to the Falkland Islands and the requirements of the said section having been complied with the above-named Company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 17th day of July 1991.

B. FAIRFIELD, Registrar of Companies.

#### The Falkland Islands

#### Fishing Explorer Falklands Limited

TAKE NOTICE that in accordance with the provisions of S.353 of the Companies Act 1948 in it's application to the Falkland Islands and the requirements of the said section having been complied with the above-named Company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 17th day of July 1991.

B. FAIRFIELD, Registrar of Companies.

#### Customs Ordinance (Cap. 16)

In excercise of the powers conferred by section 4 of the Customs Ordinance, I hereby appoint —

Cpl. ROD INWOOD, R.A.F.

to be a temporary Customs Officer with effect from the 9th July - 11th November 1991.

25th July 1991.

L. J. HALLIDAY, Collector of Customs.

#### APPLICATION FOR A RESIDENTIAL LICENCE

In accordance with section 7(1) of the Licensing On dinance

#### Mr. Michael Rendell

has applied for a Residential Licence in respect of the premises known as MALVINA HOUSE HOTEL.

2. 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 Gazette.

D. F. HOWATT, Financial Secretary.

The Treasury Stanley. 21 June 1991. Ref: 33.

### APPLICATION FOR A PUBLICAN'S RETAIL

In accordance with section 7(1) of the Licensing Ordinance

#### Mr. P. J. Meffan

has applied for a Publican's Retail Licence in respect of bar premises located at the P.S.A. International Rural Roads Base Camp (approximately 2km west of L'Antioja Stream on M.P.A./Darwin track).

2. 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 Gazette.

D. F. HOWATT, Financial Secretary.

The Treasury Stanley.
22 July 1991.
Ret: 33.

#### Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (CAP. 1)

IN THE MATTER OF Sarah Margaret Rose Goodwin deceased of Stanley, Falkland Islands, who died at Wendover, United Kingdom on the 12th day of June 1991, Intestate.

WHEREAS, Robin Goodwin, son of the deceased, 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley Falkland Islands 9th July 1991.

Ref: PRO/12/91.

#### Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (CAP. I)

TAKE NOTICE THAT Isabella Jane Poole, deceased of Stanley, Falkland Islands, died on the 21st day of November 1989, Intestate.

WHEREAS, Charles Lawrence Poole, Widower of the deceased, 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley Falkland Islands 25th July 1991.

Ref: PRO/14/91.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCX

13th AUGUST 1991

No. 10

#### NOTICES

No. 16

31st July 1991.

#### Supreme Court of the Falkland Islands

Probate Division

Case No. PRO/15/91.

IN THE MATTER OF Lillian Clara Stacey, deceased, and IN THE MATTER OF The Administration of Estates Ordinance Cap. 1.

Before Her Honuor the Acting Judge sitting at Stanley on the 30th day of July 1991.

Upon reading the Petition of Bonita Doreen Fairfield, Official Administrator, and upon hearing the Official Administrator in person, the Acting Judge HEREBY DECLARES that the estate of LILLIAN CLARA STACEY who died at Stanley, Falkland Islands on the 1st day of March 1987 intestate is unrepresented and made the following order:

#### **ORDER**

- 1. That the Estate of Lillian Clara Stacey deceased of Stanley, Falkland Islands is unrepresented;
- 2. That the Official Administrator, namely Bonita Doreen Fairfield, is hereby appointed as Administrator of the estate of the said Lillian Clara Stacey.

Dated this 31st day of July 1991.

R. M. MCILROY,
Acting Judge, Supreme Court.

No. 17

5th August 1991.

I, William Hugh Fullerton, Governor of the Falkland Islands, revoke the appointment of Rose Mary McIlroy as Acting Judge made on the 8th day of February 1989 and Published in Gazette Number 4 of 1989 as Notice Number 4.

W. H. FULLERTON,

Governor.

No. 18

5th August 1991.

#### 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 Robert Mark Titterington possesses such legal qualifications and experience as are appropriate for him to be so appointed;

Now I William Hugh Fullerton, 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 Robert Mark Titterington 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 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 Robert Mark Titterington that he wishes himself to exercise his powers and are also of the following descriptions -

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 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 1991 whichever is the sooner.

Given under my hand and the Public Seal this 5th day of August 1991.

W. H. FULLERTON.

Governor.

No. 19

5th August 1991.

#### The Companies and Private Partnership Ordinance

(Cap. 13) Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the Companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of STANDAL LIMITED is struck off the register and the company is dissolved subject to the proviso to sub-section (5) of section 353 aforesaid. Dated this 5th day of August 1991.

B. FAIRFIELD,

Registrar of Companies.

Rel: C55.

5th August 1991.

No. 20

#### The Companies and Private Partnership Ordinance

(Cap. 13) Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the Companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of HARBOUR DEVELOPMENTS LIMITED is struck off the register and the company is dissolved subject to the proviso to sub-section (5) of section 353 aforesaid. Dated this 5th day of August 1991.

B. FAIRFIELD,

Registrar of Companies.

#### STANLEY CONSTITUENCY

#### Register of Electors

1	Adams,	Annagret	57	Dates	Donald William
2	, 1001113,	Carol Margaret *	58	Betts,	Donald William Ellen Alma *
3	**	John Harvey	59	,,	
4	**	Marjoric Rose	60	,,	George Winston Charles Lucia Elizabeth
5	Alazia,	Albert Faulkner *	61	,,	Shirley Rose
6	***************************************	Andrew *	62	,,	Terence Severine
7	**	Anita Jayne	63	Biggs,	Alastair Gordon
8	,,	Freda	64	nigg?	Betty Josephine *
9	**	Freda Evelyn	65	**	Edith Joan *
10	**	George Robert *	66	**	Frances
11	33	James Andrew	67	"	Irene Mary *
12	,,	Maggie Ann *	68	,,	Leslie Frederick
13	**	Yvonne	69	**	Madge Bridget Frances *
14	Aldridge,	Caroline Mary	70		Michael Elfed
15	"	Kenneth John	71	***	Pauline Lynx
16	Almonacid	Gladys Mabel	72		Peter Julian Basil
17	"	Orlando	73	Binnie	Susan
18	Anderson,	Andrew Ronald	74	Birminghan	
19	"	Eddie *	75	birtiinigilali	Susan Jane
20	"	Edward Bernard *	76	Blackley,	Candy Joy
21	,,,	Elizabeth Nellie *	77	Diackiey,	Charles David *
22	**	Gertrude Maud *	78	**	Hilda
23	.,	Hector Christian *	79	**	
24	**	Helen *		DI:4	John David
25	,,		80	Blizard,	Lawrence Gordon *
	**	Mildred Nessie *	81		Malvina Mary *
26	"	Richard Louis	82	Blyth,	Agnes Ruth •
27	,,	Sophie Marina *	83	,,	Alfred John *
28		Stephen Robert	84		John *
29	Barkman,	Margaret Mary	85	Bonner,	Donald William *
30	Barnes,	Ernest *	86	,,	Hayley Trina
31	,,	Marie	87		Linda Jane
32		Molly Stella *	88	**	Nicholas
33		Sigrid Geraldine Wells *	89	,,	Paul Roderick
34	,,	Trevor Marshall	90	,,,	Timothy
35	Barton,	Alison Mary	91	,,	Vera Ann
36		Arthur John	92	,,	Vera Joan
37	Bedford,	Kita Muriel	93	,,,	Violet *
38	Bennett,	Harold *	94	Booth,	Jessic *
39	,,	Lena Grace Gertrude *	95	**	Joseph Bories *
40	Berntsen,	Benjamin John	96	**	Myriam Margaret Lucia
41	**	Cecilia del Rosario	97	**	Stuart Alfred *
42	"	Christian Olaf Alexander *	98	Bound,	Graham Leslie
43	"	Diana Mary	99	,,	Joan *
44	**	Gina Michelle	100	Bowles,	Norma Evangeline
45	**	John Alexander	101	**	William Edward *
46	**	Kathleen Gladys *	102	Bragger,	Edward Laurence
47	**	Lavina Maud *	103	**	Olga
48	**	Mary Clarissa Elizabeth *	104	Browning,	Althea Maria
49	,,	Olaf Christian Alexander	105	,,	Edwina ·
50	,,	Patrick	106	**	Gavin
51	**	Valdamar Lars	107	**	Rex *
52	,,	William Alexander	108	**	Richard William
53	**	William Blyth *	109	**	Trevor Osneth
54	Bertrand,		110	Buckett,	Ronald Peter
			111	Buckland,	Charles Ronald
55	Betts,	Arlette	112	Buckland,	Darlene Joanna
56		Cyril Severine *	112		Danciic Juanna

112	D daa	Pakert John Christian *	163	Clarke,	Ronald John *
113	Bundes,	Robert John Christian *	164	,,	Rudy Thomas
114	Burns,	Mary Anne *	165		Terence John
115	Butcher,	Michael George	166	**	Trudi Ann
116		Trudi		,,	Violet Rose
117	Butler,	Elsie Maud *	167		
118		Ernest Joseph *	168	Clasen,	Mally
119	"	Frederick Lowther Edward Olai *	169	Clausen,	Denzil George Gustavius
120	,,,	George Joseph	170	,,	Melanie Florence *
121		James Donald *	171	Clayton,	Susan
122		Joan May	172	Cletheroe,	
123		Jonathon Jeffers *	173	,,	Stanley William *
124	"	Lawrence Jonathan	174		William Harold *
125	"	Margaret Orlanda	175	Clifton,	Charles *
126	"	Orlanda Betty	176	**	Darwin Lewis
127	*	Sheila Olga	177	**	Doreen
128	Cameron,		178	"	Neil *
129	Cant,	Carol Rosine	179	,,	Stephen Peter
130		Martin Ronald	180	**	Terence Charles
131	Card,	Denise	181	- 29	Valerie Ann
132	Carey,	Anthony Michael *	182	Clingham,	Yvonne Helen
133	"	Gladys *	183	Collins,	Peter Anthony
134	,,	Mary Ann Margaret *	184	"	Shiralee
135	"	Terence James *	185	Connolly,	
136	Casile	David Peler	186	Coombe	Peter
137		Isobel	187	**	Shirley Anne
138	Ceballos,	Claudette	188	Coutts,	Carolynne Sarah
139	,,	Eulogio Gabriel	189	"	Charles
140	Chater,	Annie	190	.,,	Charles Lindsay *
141	,,	Anthony Richard	191		John John
142	Check,	Barbara *	192	**	Olga
143		Diane	193	,,	Peter
144	"	Frederick John *	194	Crowie,	Nichola Jane
145	.,	Gerald Winston	195	·	
146		Janet Linda *	196	Curtis,	Alfred William Hamilton Barbara Joan
147	,,	John Edward			
148		Marie	197	Davies,	Anthony Warren
149	,,	Miranda *	198		Colin George
150	Clapp,	Kevin Christopher	199	"	Eileen Wynne
151	Clarke,	Camilla Marie	200	"	Jacqueline Nancy
152	**	David James	201	"	William
153	**	Derek Simon *	202	Davis,	Albert Henry
154	,	Doreen *	203	**	Raymond Andrew
155	"	Fiona Alison	204	"	William John *
156	,,	Gwynne Edwina	205	19	Yona
157	"	Hector *	206	Davy,	Patrick Alex Field
158	,,	Jane Lucacia *	207	Dearling,	Leo Alexander *
159	19	Joyce Kathleen *	208	Decroliere,	Carrie Madeline Helen
160	,,	Kathleen Gay	209	Dickson,	Caroline Christine Bird *
161	,,	Martin James	210		Marlaine Rose
162	,,	Marvin Thomas	211		Alison
		1			

212	Donnelly,	Denise	271	Goodwin,	June Rose Elizabeth
213	Duncan,	Avis Marion *	272	"	Kathleen Edith Marguerite *
214	"	Doreen *	273	"	Margaret Ann
215	"	William *	274	"	Robin Christopher
216	Etheridge,	Alice Mary	275	**	Simon James *
217	Evans,	Derek Stanley	276	31	Una
218	**	Gladys Alberta *	277	**	William Andrew Nutt *
219	**	Michael David	278	Goss,	Dorothy Ellen
220	Eynon,	Carol	279	"	Grace Elizabeth *
221	,,	David John	280	**	Morgan Edmund
222	***	Leeann Watson *	281	,,	Simon Peter Miller
223	Fairfield,	Bonita Doreen *	282	,,	William Henry (Jnr)
224	**	James Steven	283	,,	William Henry (Snr) *
225	Faria,	Basil Harry	284	Gould,	Arthur William
226	,	Mary Ann *	285	Grant,	Leonard John *
227	Felton,	Anthony Terence *	286	"	Mildred *
228	"	Sonia Ellen	287	Greenland,	Kenneth David *
229		Violet Regina Margaret	288	Grocock,	Trevor
230	***	Walter Arthur *	289	Hadden,	Alexander Burnett *
231	Faraucon	Rose	290	nadden,	Sheila Peggy *
	Ferguson,		291	Halford,	Rodney John
232	Fiddes,	Melody Christina Robert	292	nanoid,	Sharon
233	Elulanda		293	Hall,	Marilyn Joyce
234	Finlayson,	Hugh *	293	Halliday,	Evelyn Edna *
235	**	Iris Dwenda Margaret *		mailiday,	Gerald
236	**	Peter	295	"	John Arthur Leslie *
237		Phyllis *	296	**	Leslie John *
238	Fogerty,	Richard Edwin John	297	,,	
239	Ford,	Arthur Henry *	298	,,	Margaret Mary *
240	**	Caroline *	299		Raynor
241	**	Charles David *	300	Hansen,	Douglas John
242	**	Cherry Rose	301		Keva Elizabeth
243	"	Christopher James *	302		Terence Darwin
244	**	Colin Stewart	303	Hardy,	Douglas Morgan *
245	,,	Colleen Mary	304	Harris,	Christopher James
246	"	David	305	,,	Heather
247	"	Dorothy Minnie *	306	,,	Jayne Elizabeth *
248	,,	Elizabeth Harriet *	307	11	Jill Yolanda Miller
249	,,	Fanny Davidson *	308	,,	Leslie Sidney
250	,,	Frederick James	309		Michael Ronald
251	,,	Gerard Alan	310		Ralph Aaron
252	,	Hazel	311	Harvey,	Muriel Elsie Elizabeth *
253	,,	James Edward *	312	Hawksworth	
254	,,,	John	313	"	Mary Catherine
255	,,	Leann Caroline	314	,,	Pauline May
256	**	Leonard	315	"	Terence
257	**	Marilyn Christina	316	Hayward,	Marjorie
258	**	Michael	317	,,	Peter Dennis
259	**	Robert	318	Hazell,	Trudi Eileen Felton
260	Fullerton,	Mary Ellen *	319	Heathman,	Malcolm Keith
261	Gilbert,	Judith Elizabeth	320	,,	Violet *
262	"	Robert Ernest	321	Henry,	Patricia Denise *
263	Gilding,	Deborah *	322	Hewitt,	Frances Agnes
264	onding,	Peter Bernard	323	,,	Gary George
265	Gooch,	Cecilia Ines Millard Bennett *	324	**	Kevin John *
266	,,	Dudley Frederick *	325	"	Margaret Ann
267	Goodwin,	Bert Samuel *	326	,,	Rachel Catherine Orissa *
268	UUUUWIII,	Colin Valentine	327	,,	Robert John David *
	,,	Hazel Rose	328	Hills,	Heather Margaret *
269	,,	June Elizabeth	329	"	Richard William *
270		Julie Enzadetti			

**					Erling				0 "	505	34 D .1	District Conse
330	Hirtle,	Christine	389	Kenny,	Erling Robert Karl		448	Middleton,	Caroline Ann	507	McBeth,	Phyllis Elizabeth Grace
331	"	Debbie Ann	390	Kiddle,	Anna Constance Eve		449	,,	Dennis Michael	200	McCallum,	Bettina Kay Christopher John
332	"	Leonard Lloyd	391	King,	Desmond George Buckley *		450	,,	Ellen *	509	,,	Elaine Michele
333	"	Mary Ann *	392	,,	Gladys Evelyn *		451	,,	Graham Cyril		,,	Ellen *
334	"	Robert Andrew Eric	393	,,	Glynis		452	,,	Joan Eliza Leonard	511 512	**	Jack *
335	"	Rose Ann Shirley *	394	,,	Peter Thomas		453	**		513	"	James *
336	,,	Sandra May Winifred	395	,,	Robert John *		454 455	**	Phillip John Sharon Elizabeth	514	,,	Timothy Andrew
337	**	Shirley	396	,,	Rosemarie		455 456	,,	Shirley	515		, Dale Ronald
338	"	Wallace Carl Linden *	397	**	Vernon Thomas *		457	**				Gloria Jane
339	**	Zane Eric	398	Laffi,	Atilio Segundo		458	Miller,	Andrew Nigel	516 517	McGill,	Coral Elizabeth *
340	Hobman,	Anilda Marilu	399 400	Laill,	Kathleen Mary		459	willer,	Betty Lois *	518	wicom,	Darrel Ian *
341	,,	David Gonsalo		Lang,	James Patrick		460	,,	Carol	519	**	Diane Beverley
342	Howatt,	Derek Frank	401 402	Lang,	William Frank		461	**	Florence Roberta *	520	,,	Doris Mary *
343	Howe,	Alison Delia		Larcen	Ellen		462	**	Gail Marie	521	**	Gary
344	"	Paul Anthony	403	Larsen,	Margaret Anne *		463	,,	Sidney *	522	**	Glenda
345	Huanel,	Jose Raul	404	Las	Alfred Leslie *		464	,,	Simon Roy	523	**	Ian Peter
346	Jacobsen,	Alistair	405	Lec,	Derek William		465	**	Timothy John Durose	524	,,	Jane *
347	**	Catherine Joan	406	,,	Gladys		466	Minto,	Graham Stewart	525	**	Len Stanford *
348	Jaffray,	Angus	407 408	**	Leslie James		467	winto,	Patrick Andrew	526	**	Lorraine Iris
349	,,	Christopher *	409	,,	Owen Henry		467	**	Timothy Ian	527	,,	Roy *
350	,,	Eileen	410	,,	Robin Myles		469	Miranda,	Augusto *	528	,,	Teresa Rose
351	,,	Estell Anita		**	Trudi Dale		409	will allua,	Carmen *	529	McIlroy,	Diana Marion *
352	,,	Frank Alexander	411	Lowis	James *		471	,,	Ramon	530	"	Robert James *
353	,,	Helen Rose	412	Lewis,	Jean *		472		Winifred Dorothy *	531	**	Rose Mary *
354		lan	413	Livernore	Anton *		473	Moffat,	Angela	532	McKay,	Clara Mary *
355	,,	Ingrid Joyce	414	Livermore,			474	with rat,	James	533	**	Heather Valerie
356	,,	Jacqueline Ann *	415	,,	Darren Marie Ann		475	Moore,	Pauline *	534	**	Ian Roderick
357	,,	Janice Vanessa *	416				476	Morris,	Alana Marie	535	,,	James John *
358	,,	John Summers *	417	Lloyd,	Melvyn John	7	477	WIGHTIS,	David *	536	**	Jane Elizabeth *
359	,,	June Elizabeth *	418	Laftua	Valerie Ann	1	478	**	Trevor Alan	537	**	Jeannie Paulina
360	**.	Kenneth lan	419 420	Loftus,	Anthony Colleen		479	Morrison,	Donald Ewen *	538	"	Josephine Ann
361	11	Robin George	421	Louis	Adrian Stewart		480	, viciti3011,	Doreen	539	**	Kenneth Andrew
362	,,	Stephen James Terri-Ann	422	Lowe, Luxton,	Ernest Falkland *		481	**	Eleanor Olive	540	**	Michael John
363 364	,,	Tony	423	Euxion,	Jennifer Mary		482	**	Fayan	541	11	Neil
365	**	William *	424	,,	Michael		483	**	Graham Stewart	542	**	Paul Anthony
366	Jennings,	Mary Ann Helen	425	,,	Nicola		484	**	Herman *	543	.**	Peter John
367	Jennings,	Neil	426	,,	Sybil Grace *		485	,,	Hyacinth Emily *	544	"	Rex
368	Johnson,	Jacqueline	427	,,	Winifred Ellen *		486	**	Joan Margaret	545	"	Shelley Jane
369	JOINISON,	Kenneth John	428	Lyse,	Ethel Malvina		487	**	Lewis Ronald	546	***	Stephen John *
<b>3</b> 70	**	Lily Ann	429	Lyse,	George Walter *		488	- "	Muricl Eliza Ivy *	547	" -	William Robert *
371	**	Michael Neil	430	**	Linda Margaret		489	,,	Nanette Rose	548	McKenzie,	Alice Maude
372	,,	Stanley Howard *	431	**	Reginald Sturdee *		490	,,	Nigel Peter	549	"	Charles Alexander Albert John
373	,,	Vanda Joan	432	**	Sydney Russell *		491	**	Patrick	550	McLaren,	Tony Eugene Terence
374	Jones,	Alan Smith	433	Macaskill,	Angus Lindsey		492	**	Paul Roderick	551	McLeod,	David
375	"	Jennifer	434	macaskiii,	Jeannette May		493	,,	Ronald Terence *	552		Donald Henry *
376	**	John Hugh	435	**	John		494	,,	Stewart	553	**	Ellen May *
377	,,	Kevin Richard	436	Malcolm,	George *		495	,,	Trevor	554	"	Ian
378	"	Michael David	437	"	Velma *		496	**	Valerie Ann	555	**	Janet Wensley
379	**	Michelle	438	May,	Brian Roy		497	<b>59</b>	Violet Sarah	556		Janice
380	,,	Sheila Janice	439	"	Bruce Raymond		498	,,	William Roderick Halli	day 557		John (1)
381	"	Yvonne Malvina	440	**	Connie		499	Murphy,	Ann Susan	558	39.	John (2)
382	Jordan,	Dilys Margaret Ann	441	**	Heather		500	with pily,	Bessie *	559	**	Madeline Jean
383		, Charles Desmond (Snr) *	442	,,	Jonathan Roy *		501	,,	Michael James *	560		Margaret Anne *
384	"	Charles Desmond (Jnr)	443	"	Monica		502	McDonald,		561	*	Michael William
385	"	Dorothy Maud *	444	**	William Albert *		503	McDollaid,	Kerena Michelle	562	,	Robert
386	"	Manfred Michael Ian	445	Mercer,	Christel				Susan Blanche *	563	>3	Robert John
387	"	Nanette Barbara	446	Metcalf,	Rhoda Felton		504	McAskill,	Arthur	564	McPhee,	Grace Darling *
388	**	Susan Noreen	447	Middleton,			505	McBain,		565	39.	Iris Blanche *
200			-77	mudicity,	Ditali		506		Rhoda Margaret			

			625	Poole,	Charles Lawrence *			0.4	Chaphard	Ramsay			
566	McPhee,	Justin Owen *	626	,,	Evelyn May *			84	Shepherd,	Sylvia Ann *	743	Steen,	Allan Graham *
567	,,	Marjorie May	627	"	Nancy Margaret			85	Chast	The state of the s	744	,,	Barbara Ingrid
568	**	Natalie Marianne	628	"	Raymond John			86	Short,	Andrez Peter	745	.,	Emma Jane *
569	,,	Owen Horace *	629	,,	William John *			87	,,	Celia Soledad	746	**	Gail *
570	**	Patrick *	630	Porter,	Brian Charles			88	,,	Charles William	747	,,	Vernon Robert
571	McRae,	Richard Winston		roner,	Charles *			89	,,	Christina Ethel *	748	Stephenson,	
572	Neal,	Richard John	631	,,				90		Donald Robert Gordon	749	**	Joan Margaret
573	Neilson,	Barry Marwood	632	,,	Jean Lavinia			91	"	Emily Christina	750	"	Katrina
574	,,	Margaret	633		Tracy			92	"	Gavin Phillip *	751	"	Zachary
575	Newman,	Andrew Raymond *	634	Reddick,	Keith John		6	93	,,	Joseph Leslie *	752	Stewart,	Aarron Stephen *
576	**	Dorothy Elizabeth *	635	Reeves,	Cheryl Rose		6	94	"	Lisa Helen	753	,,	Ceila Joyce
577	**	Joyce Noreen	636	,,	Michael *		6	95	,,	Montana Tyrone	754	**	David William *
578	**	Marlene	637	Reid,	Ann		6	96	"	Peter Robert	755	"	Duane William *
579	**	Raymond Winston	<del>6</del> 38	,,	Colleen Rose		6	97	"	Philip Stanley *	756	"	Hulda Fraser
580	"	Wilfred Lawrence *	639	,,	Reynold Gus		6	98	"	Riley Ethroe	757	"	John
581	Newell,	Donna *	640	Reive,	Ernest *			99	**	Rose Stella	758	**	Kenneth Barry
582	**	Joseph Orr	641	,,	Roma Endora Mary *			00	"	Vilma Alicia	759	**	Phyllis Marjorie
583	**	Trudi Malvina	642	Rendell,	Michael			01	Simpson,	Bertha Veronica	760	,,	Robert
584	Nightingale,	Susan Jane	643	"	Phyllis Mary *			02	**	James Garry	761	**	Sylvia Rose
585	Nutter,	Arthur Albert	644	Roberts,	Diana Christine			03	**	John Frederick	762	Strange,	Ian John
586	**	Josephine Lesley	645	**	Laura May			04	,,	Mirabelle Hermione	763	"	Maria Marta
587	Parrin,	Norman George *	646	**	Peter James			05	Smith,	Alexander Gordon	764	**	Shona Marguerite
588	Pauloni,	Hilary Maud *	647	**	William Henry *			06	Jiiiii,	Ana Bonita	765	Summers,	Brian
589	"	Romolo Vittorio *	648	Robertson,	Janet			07	**	Andrew John	766	,,	Dennis David
590	Peake,	Arthur	649	RODERTSON,	Paul Jonathan *				,,,	Anthony David	767	,,	Edith Catherine *
591	, canc,	Clair Linda	650	,,	Sally Jean *			08	,,		768	,,	Irvin Gerard
592	Peart,	Robert Ernest	651	Dohaan				09	,,	Anya Evelyn	769	**	Judith Orissa *
593	Peck,	Burned Brian	652	Robson,	Alison Emily *			10	,,	Bruce Dennis *	770	,,	Michael Kenneth
594	, , , , , , , , , , , , , , , , , , ,	Eleanor Margaret		,,	Gerard Michael *			11		Colin David	77 <b>1</b>	,,	Michael Victor
595	,,	Evelyn Elizabeth	653	,,	Gladys Mary	,		12		Derek	772	,,	Nigel Clive *
596	.,	Gordon Pedro James *	654	,,	Louis Michael *			13	"	Ellen Mary	773	**	Owen William
597	***	Kim Brian	655		Miranda Gay	j		14	"	Eric	774	11	Pamela Rosemary Cheek
598	"	Mary *	656	,,	Phyllis Ann			15	,,	Gerard Alexander		**	Rowena Elsie
599	"	Maureen Heather	657	,,	Raymond Nigel			16	,,	Gwenifer May *	775	,,	Sheila
600	,,	Patrick William *	658	Rogers,	Ralph			17	,,	Ileen Rose	776	**	Sybella Catherine Ann
601	"	Shirley	659	"	Roger Neil		7	18	**	Iola Winifred *	777	,,	Sylvia Jean
602	"	Terence John *	660	Ross,	Colin *		7	'19	,,	James Stanley *	778	,,	Terence
603	PED	referice John	661	,,	Glenn Stephen		7	20	"	James Terence *	779	**	
604	Perkins,	Visianna Fashar Ma	662	,,	Janet		7	21	"	Jean Waddeil	780	,,	Tony
605	Perry,	Vivienne Esther Mary	663	"	Lachlan Neil		7	22	,,	Jennifer Ethel	781	,,	Veronica William Edward *
606	r ciry,	Augustave Walter * Beatrice Annie Jane *	664	,,	Marie		7	23	"	Joan Lucy Ann	782		Carol Wendy
607	"	Hilda Blanche *	665	51	Odette Ellen May		7	24	**	John	783	Teggart,	John Patrick
608	**		666	"	Roy		7	25	,,	Julia Trinidad	784		
609	**	Robert Juan Carlos	667	,,	Sheena Margaret		7	26	**	Martyn James		Thain,	John Julia
610	19	Thomas George *	668	"	Susan Vera		7	27	,,	Nora Kathleen	786	,,	Stephanie Ann
611	Pettersson,	Thora Virginia * Derek Richard	669	"	William Henry		7	28		Osmund Raymond *	787		
612	" cricisson,	Eileen Heather	670	Rowland,	Charlene Rose			29	,,	Owen Archibald *	788	Thom,	David Anderson *
613	,,		671	"	John Christopher *			30	"	Paulette Rose	789	,,	Dorothy Irene
614	**	Tony	672	Rowlands,	Catherine Annie *			'31	"	Rhona	790		Norma Ann
		Trudi Ann	673	**	Daisy Malvina *			32	**	Russell James	791	Thompson,	George Henry *
615 616	Phillips,	David Dawson	674	,,	Harold Theodore *			33	,,	Sidney Frederick	792		William John *
	,,	Julie Ann *	675	"	John Richard *			34	**	Terence George	793	Toase,	Cora Agnes *
617		Paul David *	676	,,	Neil			35	Sollis,	Sarah Emma Maude *	794	Towersey,	Diane Katherine
618	Platt,	Veronica Shirley	677	99	Robert John			36	Sornsen,	James Winston	795	Triggs,	Dianne
619	Pole-Evans,		678	Rozee,	Betty Ellen			37	Spall,	Christopher Richard	796	"	Michael David
620		John *	679	"	Derek Robert Thomas *			38	Spink,	Roger Kenneth	797	Turner,	Alva Ynonne
621		Michael Anthony	680	Sackett,	Albert John			39	Spinks,	Alexander	798	"	Andrea Mary Pitaluga *
622		Paula *	681	"	Michael John Carlos				Spinks,	Malvina Ellen *	799	,,	Arthur Leonard Pitaluga
623		Elizabeth Eve	682	Sarney,	Harry *			40		Helena Joan *	800	**	Melvyn George
624	"	John	683	Shedden,	•			41	Spruce,	Terence George *	801	Vidal,	Eileen Nora *
				onedden,	James Alexander *		/	42	-	Teleffee Oco. Be			

802 803 804 805 806 807 808 809 810 811 812 813 814 815	Vidal, Vincent, " Wallace, " " Watson,	Leona Lucila * Jannette Mary Stephen Lawerence Fraser Barrett Maria Lilian Michael Ian Stuart Barrett * Una Boyd Edward Harold * Catherine Wilhelmina Jessic * Hannah Maude * Lisa Marie Paul Amara Theresa	817 818 819 820 821 822 823 824 825 826 827 828 829 830	Watts, White, Whitney, " " Wilkinson, Williams, " Wylie, " Zuvic,	Patrick James Kathleen Elizabeth * Frederick William Jason Kurt Ian * Robert Michael Susan Joan Robert John * Charlotte Agnes * Eugene * Marlene Rose Elizabeth Julian Richard Wendy Jennifer Kuzma Mario
816	walls,	Lucinda Vikki *	831	"	Sharon Marie

<sup>\*</sup> NOT LIABLE TO SERVE AS A JUROR

#### CAMP CONSTITUENCY

1001	Alazia,	Hazel	1057	Chandler,	Edward
1002	,,	Henry John *	1058	Clark,	Fredrick Thomas
1003	,,	Keith *	1059	Clarke,	Ian
1004	,,	Mandy Gwyneth	1060	,,	Jeanette
1005	,,	Michael Robert	1061	**	Michael Jan
1006	,,	Stuart John	1062	**	Shane Adrian *
1007	,,	Thora Lilian *	1063	Clausen,	Denzil
1008	Aldridge,	Brian George	1064	"	Henry Edward
1009	,,	Olive Elizabeth	1065	Clifton,	Leonard
1010	Anderson,	Gloria *	1066	"	Thora Janeene
1011	,,	Jenny	1067	Cockwell,	Grizelda Susan
1012	**	Margaret Kathleen	1068	**	John Richard *
1013	**	Marina Rose	1069	Coutts,	Frederick George
1014	**	Paul James *	1070	Davis,	Aase
1015	**	Reginald Stanford	1071	**	Mandy John
1016	**	Ronald	1072	**	Maurice Nigel
1017	"	Tony James	1073	**	Nicholas
1018	**	William John Stanley	1074	**	Reginald John
1019	Ashworth,	Glennis	1075	**	Violet
1020	"	Maicolm	1076	**	William James
1021	Barnes,	Deirdre	1077	Dickson,	Doreen
1022	**	Marshall	1078	**	Gerald William
1023	**	Paul	1079	**	Iris
1024	Beattie,	Thomas George	1080	**	Ronald Edward
1025	Berntsen,	Arena Janice	1081	Dobbyns,	Timothy John
1026	»	Ellen Rose	1082	Donnelly,	Daniel
1027	**	lain Kenneth	1083	Donnerry,	Joyce Elizabeth
1028	**	Kenneth Frederick	1084	Duncan,	Peter Ree Howard
1029	**	Leon	1085	Dunford,	David Philip
1030	**	Pamela Margaret	1086	Edwards,	Emma Jane *
1031	Betts,	Arthur John *	1087	"	Norma *
1031	Dells,	Bernard Keith	1088	**	Roger Anthony
1032	,,	Diane Joan	1089	Evans,	Michele Paula
	**		1090	Evalis,	Olwyn Carol
1034		Irene Marion	1091	,,	Raymond
1035	Biggs,	Robert William	1091	,,	Richard Gregory
1036	Billett,	Leslie William *		Fairley,	John *
1037	Binnie,	Horace James *	1093	-	
1038	,,	Linda Rose	1094	Felton,	Faith Dilys
1039	,,	Ronald Eric *	1095	Ferguson,	Finlay James
1040	,,	Rose Helen *	1096	,,	John William Robert John *
1041	Blackley,	Maurice	1097	**	
1042	Blake,	Alexander Charles *	1098		Thelma Andrew John
1043	,,	Anthony Thomas	1099	Findlay,	
1044	"	Heidi Jane	1100	Ti-lama.	Gerald
1045	"	Lionel Geoffrey *	1101	Finlayson,	Barry Donald *
1046	,,	Lyndsay Rae	1102	,,	Iris Heather *
1047	**	Paul Wickham	1103		Neil Roderick
1048	,,	Sally Gwynfa	1104	Ford,	Neil Fraser
1049	"	Thomas Patrick *	1105		Penelope Rose
1050	Bonner,	Avril Margaret Rose	1106	Forster,	Gwyneth May
1051	"	Keith James	1107	,,	James
1052	,,	Simon	1108	Fox,	Mary Elizabeth
1053	,,	Susan Anne	1109	Giles,	Gilbert
1054	Buckett,	Roy Peter	1110	Gleadell,	Ian Keith
1055	Cartmell,	Andrew Nutt	1111	33	Marklin John
1056	Chandler,	Ann Beatrice	1112	Goodwin,	Emily Rose

			1170	Las	Carole
1113	Goodwin,	Mandy Hazel	1172		Elizabeth
1114	,,	Neil Alexander William	1173	,,	John Alfred
1115	**	Robin	1174	,,	
1116	"	William John Maurice	1175	,,	Myles *
1117	Goss,	Eric Miller	1176		Rodney William
1118	"	Ian Ernest Earl	1177	Lloyd,	John Moelwyn *
1119	"	Margaret Rose	1178	Luxton,	Patricia Maureen
1120	**	Peter	1179		Stephen Charles *
1121	,,	Roderick Jacob *	1180	,,	William Robert *
1122	**	Shirley Ann	1181	Maddocks,	Robert Charles
1123	Gray,	David Edward	1182	Marsh,	Alastair Roy
1124	**	Patricia May	1183	,,	Anna Deirdre
1125	Halliday,	Joyce Isabella Patience	1184	"	Arlette Sharon
1126	"	Kenneth William	1185	"	Frank
1127	Hansen,	lan	1186	"	Gavin Nicholas
1128	**	Lionel Raymond *	1187	**	June Helen
1129	**	Rose Idina	1188	,,	Leon Peter
1130	**	Susan Ann	1189	**	Marlane Rose
1131	Hardcasile,	Brook *	1190	"	Robin Frank
1132	"	Eileen Beryl *	1191	Мау,	Christopher Raymond
1133	Harvey,	Jen	1192	"	Linsey Olga
1134	**	Valerie Ann	1193	Miller,	Betty
1135	Heathman,	Ailsa	1194	,,	James Albert
1136	**	Ewart Tony	1195	**	Phillip Charles
1137	Hewitt,	Brian David	1196	Minnell,	Adrian James
1138	Hirtle,	Anthony	1197	**	Benjamin James
1139	**	Doris Linda	1198	**	Donna Marie
1140	,,	Fenton	1199	***	Hazel Eileen
1141	,,	Gerard Fenton *	1200	**	Michael Robert
1142	,,	Odette Susan *	1201	Minto,	Alistair Daen
1143	,,	Susan Mary	1202	Mitchell,	Leon John
1143	Hobman,	Juan Jose Eleuterio	1203	Morrison,	Carol Margaret *
1144	riodinan,	Petula	1204	**	Edgar Ewen
1145	Hutton,	Elizabeth Isabella *	1205	**	Eric George
	nution,	Phillip	1206	**	Gerald
1147	1 - 66	Alexander	1207	**	Jacqueline Denise Anita
1148	Jaffray,		1207	,,	John *
1149	"	Brian Dereck Charles *	1208	**	Kathleen Iris
1150	**			**	
1151	,,	Elliott Jessie	1210 1211	.,,	Kenneth Lena
1152	,,	Gerard Alan *	1211	**	Leslie Theodore Norman
1153	11	Janet	1212	,,	Michael John
1154	.,	John	1213	**	Susan Margaret
1155	,,	John Willie			Raymond John
1156		Phyllis	1215	MacBeth,	-
1157		Stephen Andrew *	1216	MacDonaid	, Colin George
1158	,,	Terence Roy	1217		Irene
1159	Jonson,	Carl	1218		, Pauline Margaret Ruth
1160	Kidd,	John Nathan	1219	McGhie,	James *
1161	"	Lillian Rose Orissa	1220		Roy
1162	Kilmartin,	Dinah May	1221	McGill,	Robin Perry
1163	**	Kevin Seaton *	1222	McKay,	Christine
1164	Knight,	Nigel Arthur	1223	, "	Ellen Rose
1165	"	Shirley Louvaine Patricia	1224	,,	Frazer Roderick
1166	Lang,	Patrick Andrew *	1225	,,	Isabella Alice
1167	**	Sandra Shirleen	1226	"	Richard *
1168	"	Velma Emily	1227	,,	Roderick John *
1169	Larsen,	Josephine Mary	1228	McLeod,	Albert John
1170	"	Ronald Ivan	1229	"	Henry Donald Alexander
1171	"	Yvonne	1230	"	Isabella Diana Frances

1231	McLeod,	Sarah Rose	1274	D 1	
1232	McMullen,	June	1274	Robertson,	Ann
1233	**	Tony			Peter Charles
1234	McPhee,	Kenneth John *	1276 1277	Rozee,	Ronald David
1235	**	June Iris *	1277	Short,	Arthur Richard *
1236	**	Trudi Lynette	1278	,,	Derek Patrick
1237	McRae,	David Michael	1279	,,	Isobel Rose
1238	**	Gloria Linda	1280	**	Michelle Rose
1239	,,	Robert George Hector *	1281	,,	Patrick Warburton
1240	Napier,	Lily	1283	**	Robert Charles
1241	**	Roderick Bertrand *	1283		Robert George
1242	Newman,	Adrian Henry Frederick	1285	Sinclair,	Simon Keith
1243	**	Clive Alexander	1285	Smith,	Francis David *
1244	,,	Dwenda Rose		**	George Patterson
1245	**	Jacqueline Elizabeth *	1287	,,	Heather
1246	**	Sheena Melanie	1288 1289	**	Jacqueline
1247	Nightingale,		1289	,,	Jenny Lorraine
1248	**	Peter Richard	1290	,,	Michael Edmund
1249	Packham,	Derek	1291	**	Robert William
1250	Peck,	Christine	1292	**	Robin Charles
1251	**	Davina Margaret	1293		Roy Alan
1252	19	James	1294	Stevens,	Richard James Toni Donna
1253	**	Paul	1295	Tellez,	
1254	Phillips,	Albert James	1290	1enez,	Jeanette Valerie Jose Hector
1255	**	Carol Joan	1297	Thorsen.	David Moller
1256	**	Lindsay Marie *	1299	riioisen,	Gloria Penelope
1257	**	Lynda	1300	Turner,	Diana Jane *
1258	**	Terence	1300	iutilei,	Ronald
1259	Pitaluga,	Jene Ellen *	1301	Velasquez,	Arleen
1260	manuga,	Nicholas Alexander Robinson	1302	Watson,	Glenda Joyce
1261	**	Robin Andreas McIntosh *	1303	waison,	Neil
1262	Pole-Evans.		1305	Whitney,	Agnes Kathleen *
1263	r cic-Lvans,	David Llewellyn	1306	"	Daneila Grace
1264	**	Shirley Helen	1307	,,,	Dennis
1265	,,	Suzan	1308	**	Henry Leslie *
1266	**	William Reginald	1309	,,	Keith
1267	Doole	Ella Josephine	1310	"	Lana Rose
1267	Poole,	Steven Charles	1311		Leona Ann
			1312	**	Patrick George
1269	Porter,	George *	1312	**	Tyrone *
1270	***	Joan William Kannath	1314	Wilkinson,	David Clive Walter
1271		William Kenneth	1314	wirkinson,	Rosemary
1272	Reeves,	Ronald James Albert John *	1717		NOJEIII AI
1273	Reid,	Aibert John	*	NOT LIABI	F TO SERVE AS A III

\* NOT LIABLE TO SERVE AS A JUROR



## THE

## FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

30th AUGUST 1991

No. 11

#### **Appointments**

Miss Catherine Jane Thorne, Health Visitor, Medical Department, 2.8.91.

Geoffrey Bell Porter, Pilot, F.I.G.A.S., 7.8.91.

#### Acting Appointments

Graham Brian France, Acting Deputy Director of Public Works, Public Works Department, 1.8.91.

David Ford, Acting Chief Fire Officer, Police Fire & Rescue Service, 3.8.91.

Mrs. Wendy Jennifer Wylie, Acting Chief Clerk, Public Works Department, 5.8.91.

Miss Amara Theresa Watts, Acting Legal Assistant, Justice Department, 7.8.91.

#### Confirmation of Appointments

Vernon Robert Steen, General Manager, F.I.G.A.S., 6.6.91.

Anton Livermore, Clerk of Councils, Legislature Department, 9.6.91.

Peter Thomas King, Senior Assistant Secretary, Secretariat, 9.6.91.

Miss Diane Cheek, Administrative Assistant (Recruitment), Falkland Islands Government Office, London, 28.6.91.

Miss Pauline Lynx Biggs, Teacher, Education Department, 24.7.91.

Miss Diana Marion McIlroy, Clerk, Public Service, 14.8.91.

Jason Lewis, Junior Technical Assistant, Public Works Department, 14.8.91.

#### **Promotion**

Mrs. Madeline Jean McLeod, from Clerk, Department of Agriculture, to Assistant (Training & Economics), Department of Agriculture, 1.8.91.

#### Renewal of Contract

Miss Myra May Pitt, Teacher, Education Department, 12.8.91.

#### Retirement

David Anderson Thom, Engineman, Power Supply Section, Public Works Department, 9.8.91.

#### Resignation

Mrs. Rosemary McIlroy, Senior Magistrate, Justice Department, 1.8.91.

#### Termination of Contract

William Rupert Shoobridge, Pilot, F.I.G.A.S., 31.8.91.

#### **NOTICES**

No. 21

19th August 1991.

#### Transocean Construction and Trading Limited

TAKE NOTICE that in accordance with the provisions of S. 353 of the Companies Act 1948 in it's application to the Falkland Islands and the requirements of the said section having been complied with the above-named Company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 19th day of August 1991.

B. FAIRFIELD, Registrar of Companies.

No. 22

19th August 1991.

#### San Carlos Co-Operative Limited

TAKE NOTICE that in accordance with the provisions of S. 353 of the Companies Act 1948 in it's application to the Falkland Islands and the requirements of the said section having been complied with the above-named Company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 19th day of August 1991.

B. FAIRFIELD, Registrar of Companies.

No. 23

22nd August 1991.

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 Powers of dis-allowance in respect of the following Ordinances of the Colony —

No. 12/91 The Supplementary Appropriation (1990-1991) (No. 2) Ordinance 1991.

No. 13/91 The Appropriation Ordinance 1991.

No. 15/91 The Non Contributory Old Age Pensions (Amendment) Ordinance 1991.

No. 16/91 The Supplementary Appropriation (1990 -1991) (No. 3) Ordinance 1991.

No. 17/91 The Revised Edition of the Laws Ordinance 1991.

No. 18/91 The Interpretation and General Clauses (Amendment) Ordinance 1991.

A. LIVERMORE, Clerk of Councils.

Customs Ordinance (Cap. 16)

In excercise of the powers conferred by section 4 of the Customs Ordinance, I hereby appoint —

Mr. J. ANDERSON

to be a temporary Customs Officer, South Georgia, during the period 12th August 1991 to 15th December 1991.

8th August 1991.

L. J. HALLIDAY, Collector of Customs.

#### Supreme Court of the Falkland Islands

IN THE MATTER OF Nora Phyllis Ashly, deceased of Stanley, died on the 8th day of December 1990, Intestate.

WHEREAS, Genevieve Silda Luxton, neice of the deceased, 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 21 days of the publication hereof.

B. FAIRFIELD,
Registrar, Supreme Court.

Stanley Falkland Islands 13th August 1991.

Ref: PRO/1/91

#### Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (CAP. I)

TAKE NOTICE THAT John Charles Anderson, deceased of Stanley, Falkland Islands, died at Stanley on the 1st day of January 1989, leaving a Will of which the Executor has since died.

WHEREAS, Anthony Warren Davies, relative of the deceased, 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley Falkland Islands 14th August 1991.

Ref: PRO/2/89



## THE

## FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

30th SEPTEMBER 1991

No. 12

#### Appointments

Gavin Phillip Short, Records Clerk/Storeperson, F.I.G.A.S., 26.8.91.

Peter Coutts, Carpenter, Public Works Department, 2.9.91.

Gerard Martin Hoppe, Senior Scientist, Department of Agriculture, 11.9.91.

Thomas James Keane, Engineman, Power Station, Public Works Department, 16.9.91.

Mrs. Margaret Mary Barkman, Clerk, Public Service, 16.9.91.

Miss Joanna May Baughan, Senior Sheephusbandry Officer/Adviser, Department of Agriculture, 17.9.91.

Mrs. Valerie Anne Morrison, Clerk, Public Service, 23.9.91.

#### Acting Appointments

Mrs. Jean Waddell Smith, Acting Director of Education, Education Department, 22.6.91. - 20.8.91.

Peter Burnard, Acting Headmaster, Infant/Junior School, Education Department, 22.6.91. - 20.8.91.

Mrs. Carol Wendy Teggart, Acting Broadcasting Officer, Falkland Islands Broadcasting Station, 12.7,91. - 9.8.91.

Anton Livermore, Acting Senior Assistant Secretary, Secretariat, 24.7.91. - 29.8.91.

Mrs. Eileen Wynne Davies, Acting Establishments Secretary, Secretariat, 24.7.91. - 29.8.91.

David Ford, Acting Chief Fire Officer, Fire & Rescue Service, 3.8.91. - 25.8.91.

Mrs. Wendy Jennifer Wylie, Acting Chief Clerk, Public Works Department, 5.8.91. - 30.9.91.

#### Confirmation of Appointments

Miss Linda Margaret Lyse, Accounting Officer, Treasury Department, 1.10.89.

Miss Ana Smith, Houseparent, Education Department, 25.3.91.

Miss Julie Ann Fisher, Assistant Immigration Officer, Immigration Department, 11.9.91.

#### Promotion

Fraser Barret Wallace, from, Storeman/Clerk, F.I.G.A.S., to, Chief Clerk, Secretariat, 1.9.91.

#### Renewal of Contract

William Alan Brayshaw, Fisheries Protection Officer, Fisheries Department, 19.9.91.

#### Transfer

John Christopher Rowland, from, Police Constable, Falkland Islands Police Force, to, Resident Houseparent, Education Department, 18.9.91.

#### Completion of Contracts

Gerard Martin Hoppe, Senior Pasture Agronomist, Department of Agriculture, 10.7.91.

William Alan Brayshaw, Fisheries Protection Officer, Fisheries Department, 18.9.91.

Frederick James Bell, Harbour Control Officer, Fisheries Department, 18.9.91.

#### **NOTICES**

No. 24

5th September 1991.

#### 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 —

Mr. Laurence Jonathan Butler

Mrs. Elizabeth Eve Pollard

Mrs. Marjorie May McPhee

Mr. Raymond Nigel Robson.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred in section 4 of the Customs Ordinance, I hereby appoint:-

#### CPL. MAXINE FRECKELTON, W.R.A.F.

to be a temporary Customs Officer with effect from the 7th September, 1991 - 7th January, 1992.

L. J. Halliday, Collector of Customs

Falkland Islands. 13th September 1991.

#### WAGES AGREEMENT

The following agreement has been reached between the Government and the General Employees' Union. The agreement shall be effective for a period of twelve months from 1st July 1991 and shall apply to the hourly paid Union employees of Government in Stanley.

#### 1. Basis of Wage Rates

During the course of this agreement wages shall be payable in accordance with the hourly rates set out in paragraph two except that any percentage change in the Retail Prices Index for Stanley shall be automatically applied as a Cost of Living Award adjustment to the hourly rates and date from the first day of the month following the quarter to which a review of the Index relates. Adjustments shall be rounded up or down to the nearest 1p on the following basis:

up to .49 of 1p to be rounded down upwards from .50 of 1p to be rounded up.

#### (a) Craftsmen - Certificated

All Craftsmen shall be paid at the full basic rate and the following crafts shall be recognised —

Carpenters and Joiners Masons
Blacksmiths Plumbers
Painters Electricians

Motor Mechanics Plant Mechanics/Fitters

The normal entry to a craft shall be by a full term of apprenticeship or the recognition of a person's qualifications by the Apprenticeship Board.

#### (b) Craftsmen - Uncertificated

This describes a skilled employee who is engaged to undertake a craft but who has not completed a formal Apprenticeship or gained other qualifications recognised by the Apprenticeship Board.

#### (c) Handyman

This term includes those employees doing skilled or semi-skilled work in one or more trades, but who have not served an apprenticeship nor have been recognised by the Apprenticeship Board.

#### (d) Plant Operator

This term applies to any employee whose primary task is to operate mechanical plant.

Operators must have a valid H.V. Licence and be engaged in the proficient operation of one of the following items of plant: Crane; Landtrain or Comet or Haulamatic or Foden; Wheeled or Tracked Backactor or F.E. Loader; Grader and Tracked Dozer. They must also be a P.W.D. approved operator of another item in the list.

All operators must be approved by the P.W.D. Mechanical Supervisor to operate plant. Their ability will be assessed by a P.W.D. Superintendent.

Operators who do not possess a valid H.V. licence or do not operate one of the listed items of plant cannot receive an hourly rate in the higher range of pay.

Operators who possess a valid H.V. licence and can only operate one of the listed items satisfactorily will be paid according to ability within the higher range of pay.

An operator showing proficiency shall be given the chance to gain experience on other types of plant when suitable opportunities arise.

2. Prevailing Rates	Hourly Rate
Class	£
1. Foremen	4.79
2. Assistant Foremen	4.41
3. Certificated Craftsmen	4.65
4. Uncertificated Craftsmen	4.09
5. Apprentices*	
lst year	3.09
2nd year	3.25
3rd year	3.41
4th year	3.56
5th year	3.76
* An apprenticeship should not commence before the	school leaving age has been

\* An apprenticeship should not commence before the school leaving age has bee attained.

6. Handymen (according to ability)	3.35 - 3.70
7. Labourers	
Age	
15 - 16	2.91
16 - 17	3.03
17 - 18	3.13
18 and over	3.27
8. Plant Operators (according to ability)	3.35 - 3.70
	and 3.73 - 4.09

The above hourly rates are minimum and the Government may, if it so wishes, offer higher rates, incentive bonuses, etc.

Casual Labour There is now no work which justifies a casual labour rate.

#### 3. Extra Payments

#### (a) "Dirt" Money

As a general guide, "Dirt" money should only be paid when the work is substantially dirtier than the work which an employee is normally called upon to do. The following jobs automatically qualify for 20p per hour with a maximum of 40 hours per week —

working at the crushing plant; handling filtration plant chemicals, gas oil, tar or bitumen.

In addition, the following jobs qualify for 34p per hour where it is agreed that the job is substantially dirtier than the employee is normally called upon to do:- handling cement in badly damaged bags; cleaning oil burners and chimney sweeping; cleaning blocked sewers; and such other jobs as may be approved by the Director of Public Works.

#### (b) Hazardous Work

Employees working on isolated structures, such as masts, at heights over 20 feet from the ground or where the structure joins the main roof of a building, shall be paid from 8p to 16p per hour according to the risk involved. This does not apply to work on properly erected scaffolding or on roofs where the work can be carried out from a position where the workman's feet are on a secured ladder. This Clause also relates to paint spraying.

#### (c) Extra Skill or Responsibility

- (i) Any employee specifically detailed to supervise the work of three or more other employees shall receive 25p per hour extra while taking this responsibility. This clause is intended for use on an occasional basis and does not cover people who continually supervise people or projects, such as Foremen or Assistant Foremen.
- (ii) Any labourer employed on semi-skilled work which would normally fall to a Handyman (eg painting, fencing, concrete laying) shall receive pay as a Handyman while engaged on this work. The precise rate shall be fixed by the Government according to the nature of the work and the skill of the particular labourer so employed. This will also apply to tallymen.

#### (d) Tool Allowance

A tool allowance of £19.08 per annum is payable at the commencement of each year to any craftsman or handyman who is required to provide his own tools and who has completed one year's continuous service with the Government. This allowance will not be paid where the necessary tools to carry out the duties are provided by the Government. The tool allowance shall be adjusted annually to take into account cost of living awards made during the course of the last four quarters.

#### 4. Working Hours

The normal working hours shall be 40 hours per week made up as follows, provided that where an employee is absent during any period of a working week, without a medical certificate, or on local leave, and subject to the request of the Government and acceptance of the employee, may be permitted to work at the ordinary hourly rate on the following Saturday, provided that the hours worked on Saturday do not exceed the completion of a 40 hour week, when any balance would be paid at the overtime rate.

Monday to Friday 07-30am to 4-30pm with dinner break from noon till 1pm. A refreshment break of fifteen minutes to be taken on site shall be allowed between 08-30 and 09-30am, the precise time being laid down by the Government after consultation with employees.

Other hours of work may be laid down by mutual agreement between the Government and employees, provided that the total number of hours does not exceed 40 per week.

#### 5. Overtime

(a) Overtime shall be paid for all hours worked outside normal working hours and overtime rates shall be as follows —

Time and a half

- (i) between the end of the normal day and midnight
- (ii) from 6am to the start of the normal working day, provided that work did not start before 6am.

#### Double time

- (i) between midnight and 6am
- (ii) from 6am to the start of the normal working day, if work commenced before 6am
- (iii) on Sundays and recognised Public Holidays
- (iv) for meal hours or parts thereof, if work continues through the normal working day without a full meal-hour break.
- (v) Double time rates shall also be paid during normal working hours if, exceptionally, an employee starts work before midnight and continues without a break into normal working hours. Double time rates shall then continue to apply until there is an (unpaid) break from work exceeding four hours, after which the normal rates will again apply.
- (b) Overtime is voluntary and an employee shall not be dismissed if he objects to working outside normal hours. However, certain jobs may require attendance at times outside the normal hours and in these cases employees shall be given the option of a 40 hour week by allowing time off during normal working hours, at a time to be agreed with the Government.

#### 6. Public Holidays

In addition to receiving double time for working a public holiday employees shall be entitled to 8 hours holiday.

#### 7. Holidays

(a) Annual Holidays.

All employees shall be entitled to accumulate holidays at the rates and to the maximum hereinafter set out, namely —

Earning Rate per month of continuous service 12 hours Maximum accumulation 400 hours

Paid holidays may be taken at a time to be mutually agreed upon.

(b) Public Holidays.

These are days on which Government offices are closed by notification in the Gazette and the following nine days shall be paid holidays for all employees —

New Year's Day, Good Friday, The Queen's Birthday and Commonwealth Day, Liberation Day, Falklands Day, Anniversary of the Battle of the Falkland Islands, Christmas Day, Boxing Day and one other day to coincide with the Annual Stanley Sports Meeting.

- (c) Any allowance or special rates earned on both the working day preceeding and the working day following the holiday shall be paid for the holiday.
- (d) When a dated holiday falls on a Saturday or a Sunday the next working day shall be the holiday.

#### 8. Sick Pay

- (a) Employees who have not completed three months' service with the Government shall not be entitled to sick pay.
- (b) An employee shall be entitled to the following sick pay commencing on the first day of sickness upon the production of a medical certificate which states the sickness is not brought on by any fault of his own, but the periods listed below being limited to the total number of entitled weeks within a 52 week period from the first day of sickness
  - (i) Employees who have completed three months' service with the Government —

Full pay for the first three weeks Half pay for the fourth and fifth weeks.

(ii) Employees who have completed two years' service with the Government —

Full pay for the first six weeks Half pay for the following twelve weeks.

(iii) Employees who have completed three years' service with the Government —

Full pay for the first eight weeks Half pay for the following sixteen weeks.

- (c) Full pay should be paid for any Public Holiday which falls during the first six weeks of sickness provided that the employee, when he has recovered, returns to work for the Government.
- (d) The Workmen's Compensation Ordinance shall apply in cases of sickness resulting from accidents at work. The Foreman and the Union Delegate should confirm in writing any accident at work.

#### 9. Termination of Employment

The Government may dismiss an employee summarily in any circumstance in which to do so would be fair if the Employment Protection Ordinance 1989 applied. Otherwise the following notice of termination shall be given by the Government —

- (a) Employees who have completed one month's service but less than two years' service one week's notice.
- (b) Employees who have completed between two years' and twelve years' continuous service one week's notice for each year of continuous employment.
- (c) Employees who have completed more than twelve years' continuous employment not less than twelve weeks' notice.

If desired the Government may pay wages in (a), (b) or (c), as appropriate in lieu of giving notice.

#### 10. General

- (a) When a party of employees is required to carry meals to their work, one employee shall be allowed reasonable time to heat meals for the rest of the party.
- (b) The Government may lay down times when employees shall appear for their wages, provided that the payment is completed within normal working hours.
- (c) An official or delegation of a recognised union may, with the Government's consent, attend at a job or shop at any time to interview workmen, but no meeting shall take place in working hours without the express permission of the Government. If a dispute arises, the Government or its nominee shall interview, by appointment, any official representative of its employees.
- (d) The Government shall display for the benefit of its employees copies of regulations and rules pertaining to wages and conditions of service of workers.
- (e) The Government shall ensure that tractors are fitted with safety cabs.

#### 11. Redundancy

If the Government wishes to declare any job redundant the Government shall notify the employee at least three months before the redundancy becomes effective unless otherwise agreed with the employee. In the event of an employee being declared redundant he shall be entitled to such payment or payments as, after taking any pension, gratuity or commuted pension payment he receives, he would be entitled to under Part VII of the Employment Protection Ordinance 1989 if it applied to employees of the Government.

#### 12. Payment for Public Service Duties

(a) An employee to which this agreement applies shall be entitled to be paid in respect of any period of absence from work occasioned by the need for him to perform public duties. For the purpose of this clause "public duties" means any of the following:

Justices of the Peace Jurors

Witnesses

Legislative Councillors

Members of any Committee established by the Government or by or under any Ordinance for which no payment is otherwise made, other than under the Legislative Council (Allowances) Ordinance.

Any other duties approved by the Governor for the purpose of this clause.

- (b) Payments under this clause shall be at the basic hourly rate of the employee concerned whether the employee in question would otherwise have been attending for duty of a kind or at a time which qualified for an enhanced payment or not.
- (c) If the employee would ordinarily be working in excess of the normal working hours payments under this clause shall nevertheless be limited to payments due in respect of a basic working day.
- (d) The Government shall be entitled before making a payment under this clause to require satisfactory evidence that the absence in question was an absence qualifying for payment under this clause.

Senior Assistant Secretary, for Falkland Islands Government.

Chairman, for General Employees' Union.

September 1991.



## THE FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

31st OCTOBER 1991

No. 13

#### Appointments

Kenneth David Greenland, Chief Police Officer, Falkland Islands Police Force, 17.9.91.

Henry James Elliot, Police Constable, Falkland Islands Police Force, 30.9.91.

Simon Roy Miller, Harbour Control Officer, Fisheries Department, 1.10.91.

Miss Rosemary Jane Anderson, Physiotherapist, Medical Department, 1.10.91.

Craig Paice, Trainee Filtration Plant Operator, Public Works Department, 15.10.91.

#### **Acting Appointments**

Andrew Timothy Henworth, Acting Director of Agriculture, Department of Agriculture, 12.6.91-24.9.91.

Simon Roy Miller, Acting Harbour Control Officer, 19.9.91-30.9.91.

Rodney John Halford, Acting Hospital Engineer, Medical Department, 2.10.91.

Kim Brian Peck, Acting Foreman, Power Station, Public Works Department, 19.8.91.

Confirmation of Appointments Miss Maria Joan Sigaton, Clerk, Public Service, 1.8.91. Mrs. Tracy Clifton (née Jones), Assistant Air Traffic Controller, Civil Aviation Department, 11.9.91.

Nigel Keith Dodd, Accounting Officer, Treasury Department, 11.9.91.

Candy Joy Blackley, Administrator, Medical Department, 1.10.91.

Robert David Doole, Fireman, Fire and Rescue Department, 7.10.91.

#### Transfer

Miss Sheena Margaret Ross, from Chief Clerk, Public Works Department, to Licensing Officer, Fisheries Department, 30.9.91.

#### Promotion

Mrs. Wendy Jennifer Wylie, from Senior Clerk, Public Works Department, to Chief Clerk, Public Works Department, 1.10.91.

#### Completion of Contracts

Kenneth David Greenland, Chief Police Officer, Falkland Islands Police Force, 16.9.91.

Robert Mark Titterington, Senior Crown Counsel, Justice Department, 22.10.91.

#### NOTICES

No. 25

14th October 1991.

#### Cost of Living Committee

His Honour The Acting Governor has approved the following change to the membership of the Cost of Living Committee to be effective from 1st October 1991.

Mrs. Rosemary King

to replace

Mrs. Francis Biggs.

Ref: 31/A.

No. 26

22nd October 1991.

#### The Companies and Private Partnership Ordinance

(Cap. 13)

#### Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of CALEY INTERNATIONAL (FALKLAND) LIMITED is struck off the register and the Company is dissolved subject to the proviso to subsection (5) of section 353 aforesaid.

Dated this 22nd day of October 1991.

B. FAIRFIELD. Registrar of Companies.

Ref: C56

No. 27

22nd October 1991.

#### The Companies and Private Partnership Ordinance (Cap. 13)

#### Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of FISHING EXPLORER FALK-LANDS LIMITED is struck off the register and the Company is dissolved subject to the proviso to sub-section (5) of section 353 aforesaid.

Dated this 22nd day of October 1991.

B. FAIRFIELD, Registrar of Companies. No. 28

22nd October 1991.

#### The Companies and Private Partnership Ordinance

(Cap. 13)

#### Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of DOUGLAS STATION LIMITED is struck off the register and the Company is dissolved subject to the proviso to subsection (5) of section 353 aforesaid.

Dated this 22nd day of October 1991.

B. FAIRFIELD. Registrar of Companies.

No. 29

23rd October 1991

THE COLONY OF THE FALKLAND ISLANDS

#### Certificate of Registration as a Minister for Celebrating Marriage

In accordance with Section 5 of the Marriage Ordinance, Cap. 45, I. Ronald Sampson, Acting Governor of the Colony of the Falkland Islands Grant to Canon Stephen Palmer this Certificate of Registration as a Minister for celebrating marriages in the Colony.

Given under my hand and the Public Seal at Stanley this 23rd day of October 1991.

> R. SAMPSON, Acting Governor.

#### Supreme Court of the Falkland Islands

IN THE MATTER OF JOHN CHARLES ANDERSON DECEASED AND IN THE MATTER OF THE PETITION OF ANTHONY WARREN DAVIES

Upon reading the Petition of Anthony Warren Davies sworn on the 14th day of August 1991 AND Upon being satisfied that the estate of the above named deceased is unrepresented IT IS ORDERED THAT

- 1. The Prayer in the said Petition be and is hereby dismissed
- 2. The Official Administrator be and is hereby granted Letters of Administration to administer the estate of JOHN CHARLES ANDERSON DECEASED who died on the 1st day of January 1989 until further order.

Dated this 23rd day of October 1991.

ROBERT MARK TITTERINGTON, Acting Judge.

#### SUPREME COURT OF THE FALKLAND ISLANDS

Notice under the administration of Estates Ordinance (Cap. 1)

TAKE NOTICE THAT Elizabeth Margaret May Morrison, deceased of Stanley, Falkland Islands, died at Stanley on the 3rd day of October 1990. leaving a Will of which the Executor has renounced his right and title to the probate and execution of the said Will.

WHEREAS Clara Mary McKay, daughter of the deceased, 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 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 21 days of the publication hereof.

B. FAIRFIELD.

Registrar, Supreme Court. Stanley, Falkland Islands. 10th October 1991.

Ref: PRO/16/91.

applied for Letters of Administration to administer the estate of the said deceased in the Colony.

SUPREME COURT OF THE FALKLAND ISLANDS

Notice under the administration of Estates Ordinance

(Cap. 1)

TAKE NOTICE THAT Elsie Adielade Lee, deceased

of Stanley, Falkland Islands, died at Stanley on the

WHEREAS Alfred Leslie Lee, son of the deceased, has

3rd day of July 1991 Intestate.

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 21 days of the publication hereof.

B. FAIRFIELD.

Stanley. Falkland Islands. 23rd October 1991.

Ref: PRO/17/91.

Registrar, Supreme Court.

#### **ERRATA**

In Gazette No. 9 published on the 31st July 1991 under the Appointment of Official Administrator the reference to Administration of Justice Ordinance should have in fact read Administration of Estates Ordinance.

> R. SAMPSON, Acting Governor.

Registration of United Kingdom Trade Marks 1st January 1988 to 31st December 1988. The following four Trade Marks Logo's were missed from the 1988 Trade Marks Register published in Gazette No. 14 dated 31st October 1990.



"HOLLIGARD" No. 8486.

No. 8487

"REEBOK" No. 8495.

B. FAIRFIELD, Registrar General.

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## THE FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

29th NOVEMBER 1991

No. 14

Appointments

Hugh Marsden, Agricultural Adviser, (Farm Business Management), Department of Agriculture, 8.11.91.

Robin Geoffrey Stedman, Hospital Engineer, Medical Department, 19.11.91.

Atilio Segundo Laffi, Engineman, Power Station, Public Works Department, 21.11.91.

**Acting Appointments** 

Rodney John Halford, Acting Hospital Engineer, Medical Department, 2.10.91-19.11.91.

David Morris, Acting Chief Police Officer, Falkland Islands Police Force, 14.10.91 - 24.11.91.

Confirmation of Appointment

Mrs. Greta Winnora Skene, Data Manager, Fisheries Department, 24.10.91.

Mrs. Carol Wendy Teggart, Assistant Producer, Broadcasting Department, 1.11.91.

Transfer

Miss Barbara Ingrid Steen, from P.A. to FIGO Representative, London, to Senior Clerk, Public Works Department, 1.11.91.

Retirements

Terence Darwin Hansen, Engineman, Power Station, Public Works Department, 31.7.91.

Darwin Lewis Clifton, Representative, Falkland Islands Government Office, London, 30.9.91.

Resignation

Mrs. Amanda Burgess (née Pearson), Nursing Sister/Midwife, Medical Department, 13.11.91.

#### NOTICES

No. 30 28th October 1991. The findings of the Cost of Living Committee for the quarter ended 30th September 1991 are published for general information.

Quarter Ended Percentage Increase over June 1989 prices

30th September 1991

15.396

- 2. Calculation of the Index of Retail prices for the quarter ended 30th September 1991 shows an increase of 0.11%. This increase is insufficient to effect hourly rates of pay as defined by the FIG/GEU Wages Agreement and no adjustments to rates are therefore required.
- 3. The marginal increase will be incorporated in any adjustment that results from the calculation of the Index as at 31st December 1991.

F. WALLACE, for Senior Assistant Secretary.

Secretariat, Stanley. Ref: Int/2/2. No. 31

6th November 1991.

#### Marriage Ordinance (Cap 45) Section 5

The following are registered as Ministers for celebrating marriages:

The Reverend Canon Stephen Palmer Rector of Christ Church Cathedral

The Right Reverend Monsignor Antony Agreiter Prefect Apostolic of the Falkland Islands.

> P. T. KING, Senior Assistant Secretary.

No. 32

19th November 1991.

#### The Companies and Private Partnership Ordinance (Cap. 13) Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the Companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of TRANSOCEAN CONSTRUCTION AND TRADING LIMITED is struck off the register and the company is dissolved subject to the proviso to sub-section (5) of section 353 aforesaid.

Dated this 19th day of November 1991.

B. FAIRFIELD,

Registrar of Companies.

Ref: C16.

No. 33

19th November 1991.

#### The Companies and Private Partnership Ordinance (Cap. 13) Companies Act 1948

NOTICE IS HEREBY GIVEN pursuant to section 2 of the Companies and Private Partnership Ordinance and section 353 of the Companies Act 1948 in its application to the Falkland Islands that with effect from the publication of this Notice the name of SAN CARLOS CO-OPERATIVE LIMITED is struck off the register and the company is dissolved subject to the proviso to sub-section (5) of section 353 aforesaid.

Dated this 19th day of November 1991.

B. FAIRFIELD,
Registrar of Companies.

Ref: C18.

No. 34

20th November 1991

#### SCHOOL TERMS 1992.

#### Stanley Schools

1st Term 6th February - 20th May 2ndTerm 4th June 26th August 3rdTerm 17th September 16th 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 the alteration in dates.

#### **HOLIDAYS**

Camp Sports 24th February - 28th February inclusive

Good Friday 17th April Queen's Birthday 21st April

Liberation Day 15th June (transferred)

Falklands Day 14th August Battle Day 8th December

#### Holidays for Travelling Teacher

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

19th December 1991 - 8th January 1992

Three additional days (to be taken by arrangement with the Director of Education):

16th December 1992 - 6th January 1993.

No. 35

27th November 1991.

## The Colony of the Falkland Islands Certificate of Registration as a Minister for Celebrating Marriage

In accordance with Section 5 of the Marriage Ordinance, Cap. 45, I Ronald Sampson Acting Governor of the Colony of the Falkland Islands Grant to the Reverend Timothy John Harrison Royal Air Force this Certificate of Registration as a Minister for celebrating marriages in the Colony.

Given under my hand and the Public Seal at Stanley this 27th day of November 1991.

RONALD SAMPSON, Acting Governor.

#### **CUSTOMS ORDINANCE (Cap. 16)**

In exercise of the powers conferred in section 4 of the Customs Ordinance, I hereby appoint:-

Cpl. John Kay R.A.F.P.

to be a temporary Customs Officer with effect from the 12th November, 1991 - 7th March, 1992.

L. J. HALLIDAY, Collector of Customs.



# THE FALKLAND ISLANDS GAZETTE (Extraordinary)

#### PUBLISHED BY AUTHORITY

Vol. XCX 11th DECEMBER 1991 No. 15

#### **NOTICES**

No. 35.

10th December 1991.

#### Continental Shelf Ordinance 1991

IN EXERCISE of my powers under section 1(2) of the Continental Shelf Ordinance 1991 ("the Ordinance") I NOTIFY that the Ordinance shall come into force on the 12th day of December 1991.

Dated 10th December 1991.

W. H. FULLERTON, Governor.

No. 36.

10th December 1991.

## THE COLONY OF THE FALKLAND ISLANDS 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 —

#### HEREBY APPOINT -

PATRICK WARBURTON SHORT a Registrar for the purpose of the marriage at Blue Beach Lodge, San Carlos, Falkland Islands, of Elvio Miguel Cofre and Anya Evelyn Smith.

Given under my hand at Stanley this 10th day of December 1991.

W. H. FULLERTON, Governor.



## THE FALKLAND ISLANDS GAZETTE

#### PUBLISHED BY AUTHORITY

Vol. XCX

20th December 1991

No. 16

#### Appointments

James Patrick Glass, Fisheries Observer, Fisheries Department, 27.11.91.

Andrew Liam Davies, Police Constable, Falkland Islands Police Force, 1.12.91.

Anthony John Lee, Design Engineer, Public Works Department, 3.12.91.

Miss Sara McPhee, Cadet/Junior Assistant Customs Officer, Customs Department, 16.12.91.

#### **Acting Appointment**

Manfred Michael Ian Keenleyside, Acting Director of Public Works, Public Works Department, 10.10.91 -29.10.91.

#### Confirmation of Appointments

Derek Robert Thomas Rozee, Senior Filtration Plant Operator, Public Works Department, 7.9.91.

Bruce Raymond May, Engineman, Public Works Department, 26.10.91.

#### Transfer

Bernard Leslie Eccles, From Police Constable, Falkland Islands Police Force, to Customs Officer, Customs Department, 1.12.91.

#### **Completion of Contracts**

Roy John Barrowdale Carryer, Planning Officer, Secretariat, 18.12.91.

Robert Mark Titterington, Senior Crown Counsel, Justice Department, 22.10.91.

#### Renewal of Contract

Robert Mark Titterington, Senior Crown Counsel, Justice Department, 17.12.91.

#### Resignation

Mrs. Patricia Hanlon, Assistant Air Traffic Controller, Civil Aviation Department, 30.11.91.

#### NOTICES

No. 38

20th December 1991.

It is with deep regret that His Excellency the Governor announces the death on the 9th December 1991 of Miss Celia Monica Harrington, Teacher, Education Department.

#### Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

TAKE NOTICE THAT Kelvin Stewart Green, deceased, of Stanley died at Stanley on the 18th November 1991 Intestate.

WHEREAS Diana Anita Patricia Green, widow of the deceased, 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 21 days of the publication hereof.

B. FAIRFIELD, Registrar, Supreme Court.

Stanley
Falkland Islands
13th December 1991.
Ref: PRO/19/91.

#### **CORRIGENDUM**

Gazette Notices No. 35 and No. 36 published in Gazette No. 15 dated 11th December 1991 should, in fact, have been numbered Nos. 36 and 37.



# FALKLAND ISLANDS GAZETTE Supplement

#### **PUBLISHED BY AUTHORITY**

Vol. 2

23rd JANUARY 1991

No. 1

The following are published in this Supplement —

The Fisheries (Outer Zone) Ordinance (No. 1 of 1991);

The Road Traffic (Amendment) Ordinance (No. 2 of 1991);

The Family Allowances (Amendment) Ordinance ( No. 3 of 1991);

The Supplementary Appropriation (1989 - 1990) Ordinance (No. 4 of 1991);

The Supplementary Appropriation (1990 - 1991) (No. 5 of 1991);

The Currency Notes (Validation) Ordinance 1991 (No. 6 of 1991);

The Building Control (Transfer of Functions) Ordinance 1991 (No. 8 of 1991);

The Stamp Duties (Abolition) Ordinance 1991 (No. 9 of 1991);

The Land (Fees) (Amendment) Regulations 1991 (S. R. & O. No. 1 of 1991).

Note — The Planning Ordinance (No. 7 of 1991) will be published in Gazette Supplement No. 2 of 1991.

#### The Fisheries (Outer Zone) Ordinance 1991 (No. 1 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2 Construction and interpretation.
- 3. General prohibition as to fishing in the outer zone.

#### **ELIZABETH II**



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Fisheries (Outer Zone) Ordinance 1991

(No. 1 of 1991)

An Ordinance to make special provision in relation to the Outer Fishery Conservation Zone.

> (assented to: 15th January 1991) (commencement: on publication) (published: 23rd January 1991)

ENACTED by the Legislative Council of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Fisheries (Outer Zone) Ordinance 1991.
- 2. (1) This Ordinance shall be construed as one with the Fisheries (Conservation and Management) Ordinance 1986 and that Ordinance and this Ordinance may be cited collectively as the Fisheries Ordinances 1986 to 1991.

Construction

- (2) In this Ordinance -
- "outer zone" means the outer fishery conservation zone of that name established by the Proclamation by the Acting Governor of 20th December 1990; and
- "the 1986 Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986.
- 3. (1) Notwithstanding that by virtue of paragraph (d) of section 3 of the 1986 Ordinance General the outer zone is part of the fishing waters —
  - (a) a licence granted under section 4 of the 1986 Ordinance does not permit fishing in that zone unless that licence contains a statement to the contrary; and
  - (b) a licence shall not be granted in such form as to contain a statement of the kind mentioned in paragraph (a) above unless the Governor in exercise of his powers under section 9(2) of the 1986 Ordinance has directed that the licence shall contain such a statement.
- (2) Subsection (1) applies to all licences whether granted before or after the commencement of this Ordinance.

Short title.

interpretation.

prohibition as to

outer zone.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

### The Road Traffic (Amendment) Ordinance 1991

(No. 2 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Citation and Commencement.
- 2 Amendment of Cap 60.

### ELIZABETH II



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Road Traffic (Amendment) Ordinance 1991 (No. 2 of 1991)

#### An Ordinance to amend the Road Traffic Ordinance.

(assented to: 15th January 1991) (commencement: Ist January 1991) (published: 23rd January 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 1991 and shall be deemed to have come into force on 1st January 1991.

Citation and Commencement.

2. The Road Traffic Ordinance is amended by the repeal of section 4(1) and by the substitution therefor of the following -

"(1) There shall be charged, levied and paid in respect of every motor vehicle or trailer (except those mentioned in subsection (3)) used on a road, duty at the following rates -

Trailer			• •		••	 	£ 2.00
Motorcycle						 	£ 8.00
Cars/landrovers/vans		** **			••	 ••	£20.00
Lorries/tractors and other heavy vehicles					£32 00°		

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

## The Family Allowances (Amendment) Ordinance 1991 (No. 3 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

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

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Family Allowances (Amendment) Ordinance 1991

(No. 3 of 1991)

#### An Ordinance

to amend the Family Allowances Ordinance 1960.

(assented to: 15th January 1991) (commencement: 1st January 1991) (published: 23rd January 1991)

ENACTED by the Legislature of the Falkland Islands as follows —

- 1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1991 Citation and and shall be deemed to have come into force on the 1st January 1991.

- 2 The Family Allowances Ordinance 1960 is amended by -
  - (a) the repeal of section 3(2) and by the substitution therefor of the following —
- "(2) The Superintendent shall each month pay for each child of a family an allowance at the rate of £36"; 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 thirty pounds in addition to the allowance or allowances being paid under subsection (2)".

Commencement.

Amendment of Ordinance No. 9 of 1960.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

## The Supplementary Appropriation (1989 - 1990) Ordinance 1991 (No. 4 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2 Appropriation of £109,000 for the services of year 1989 1990.

#### Schedule

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

The Supplementary Appropriation (1989 - 1990) Ordinance 1991

(No. 4 of 1991)

#### An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £109,000 for the service of the financial year which ended on 30th June 1990.

> (assented to: 15th January 1991) (commencement: on publication) (published: 21st January 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Supplementary Appropriation (1989 1990) Short title. Ordinance 1991.
- 2 The issue by the Financial Secretary and appropriation out of the Consolidated Fund and the application to the service of the year which commenced on 1st July 1989 and ended on 30th June 1990 ("the financial year") of the (and in addition to any sum already granted and appropriated for the service of the financial year) sum of one hundred and nine thousand pounds, for the purposes of the several services expressed and particularly mentioned in the Schedule hereto and which came in course of payment during the financial year is hereby authorised as if this Ordinance had been in force at the time or times of the issue out of the Consolidated Fund of any sums to which this section relates.

Appropriation of £109,000 for the year 1989-1990.

#### SCHEDULE

Number	Head of Service	£
100	Aviation	87,000
550	Police, Fire & Rescue & Immigration	17,570
880	FIDC funding	4,430
Total		£109,000

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

## The Supplementary Appropriation (1990 - 1991) Ordinance 1991 (No. 5 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1 Short Title.
- 2. Appropriation of £4,432,625 for the services of year 1990 1991.

#### Schedule

#### ELIZABETH II



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

## The Supplementary Appropriation (1990 - 1991) Ordinance 1991

(No. 5 of 1991)

#### An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £4,432,625 for the service of the financial year ending on 30 June 1991.

> (assented to: 15th January 1991) (commencement: on publication) (published: 23rd January 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Supplementary Appropriation (1990 - 1991) Short title. Ordinance 1991.

2. The Financial Secretary may cause to be issued out of the Consolidated Fund and apfor the services of year

1990-1991.

plied to the service of the year commencing 1st July 1990 and ending on 30th June 1991 ("the financial year") additional sums not exceeding in aggregate the sum of four million four hundred and thirty two thousand six hundred and twenty five 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.

#### **SCHEDULE**

Number	Head of Service	£
PART 1 - (	OPERATING BUDGET	
100	Aviation	74,155
150	Posts and Telecommunications	2,800
200	Medical and Dental	43,500
250	Education and Training	32,500
320	Fisheries	968,700
350	Public Works	26,880
400	Agriculture	1,706,200
450	Justice	51,890
500	Military	3,800
550	Police, Fire & Rescue & Immigration	32,440
500	Secretariat, Treasury, Central Store & Broadcasting	89,180
700	Social Welfare	12,800
300	Legislature	21,810
350	Falkland Islands Government Office London	3,060
Total Opera	iting Supplementary Expenditure	3,069,715
PART 2 - C	CAPITAL BUDGET	
)51	Expenditure to be met from Local Funds	1,362,910
OTAL SU	PPLEMENTARY EXPENDITURE	£4,432,625

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

## The Currency Notes (Validation) Ordinance 1991

(No. 6 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2 Interpretation.
- 3. Size of existing notes.
- 4. Validation of £50 notes.

#### **ELIZABETH II**



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Currency Notes (Validation) Ordinance 1991

(No. 6 of 1991)

#### An Ordinance

to validate certain currency notes issued under the Currency Notes Ordinance (repealed) or under the Currency Ordinance 1987.

> (assented to: 15th January 1991) (commencement: on publication) (published: 23rd January 1991)

1. This Ordinance may be cited as the Currency Notes (Validation) Ordinance 1991.

2 In this Ordinance -

Interpretation.

"the Commissioners" has the same meaning as it has under section 5 of the Currency Ordinance 1987 and

"the former Commissioner" means the person who was for the time being holding office as Commissioner of Currency under section 3 of the repealed Ordinance;

"the existing notes" means -

- (a) those notes of denominations, respectively of £1, £5, £10 and £20 denomination presently in circulation and issued by the former Commissioner under section 4 of the repealed Ordinance on and after 14th June 1983; and
- those notes of £50 denomination issued by the Commissioners under section 6 of the Currency Ordinance 1987 (which notes have been printed but are not yet in circulation);

"the repealed Ordinance" means the Currency Notes Ordinance (Cap 15 of the Laws of the Falkland Islands 1950 Edition) which Ordinance was repealed by section 25 of the Currency Ordinance 1987;

"the Rules" means the Currency Notes Rules made under section 13 of the repealed Ordinance and which rules were, notwithstanding the repeal of the repealed Ordinance, continue for the time being to be in force under section 25 of the Currency Ordinance 1987.

3. It is hereby declared that notwithstanding that they do not comply with the requirements Size of existing as to size set out in rule 10(1) of the Rules the existing notes shall be deemed to have been validly issued in all respects and shall be deemed at all times since their issue to have been legal tender in the Falkland Islands for the payment of any amount.

4 It is hereby declared that those notes of £50 denomination referred to in the definition Validation of in section 2 above of "existing notes" shall notwithstanding —

£50 notes

- (a) that they are not of a denomination mentioned in rule 10(1) of the Rules; and
- (b) that they bear the facsimile of the signature of one only of the Commissioners,

be deemed to be validly issued in compliance with the Rules and shall be legal tender in the Falkland Islands for the payment of any amount.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

#### The Building Control (Transfer of Functions) Ordinance 1991

(No. 8 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Introductory

- L Short title.
- 2. Interpretation.

#### Transfer of functions

- 3. Transfer of functions of the Building Committee.
- 4. Powers of entry.
- 5. Amendment of Highways (Building Lines) Ordinance 1990.

#### Administration and general

6. Application of Part II of the Planning Ordinance.

#### ELIZABETH II



### Colony of the Falkland Islands

#### WILLIAM HUGH FULLERTON, C.M.G., Governor.

## The Building Control (Transfer of Functions) Ordinance 1991

(No. 8 of 1991)

#### An Ordinance

to transfer the functions of the Building Committee to the Planning and Building Committee.

> (assented to: 15th January 1991) (commencement: on publication) (published: 23rd January 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

#### Introductory

1. This Ordinance may be cited as the Building Control (Transfer of Functions) Ordinance Short title. 1991 and shall come into operation on such date as is notified by the Governor by notice published in the Gazette.

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

Interpretation

"Building Committee" means the committee of that name constituted by By-law 5 of the By-laws;

"Building Control Officer" means the Director of Public Works or such other officer as is designated by the Director of Public Works;

"By-laws" means the Board of Health By-laws;

(Laws 1950 Edn. Vol 1D (pp237-255)

"Planning and Building Committee" means the committee of that name established under section 4 of the Planning Ordinance 1990.

#### Transfer of functions of the Building Committee

3. The functions of the Building Committee under By-laws 5 to 44 (buildings) of the Bylaws are transferred to the Planning and Building Committee and the Planning and Building Committee has all the functions of the Building Committee under By-laws 5 to 44 of the By-laws as if the words "Planning and Building Committee" appeared in them wherever the words "Building Committee" appear in them.

Building

4 (1) The Building Control Officer or any other officer authorised by the Director of Public Powers of entry. Works may enter any building, house or premises for the purpose of the enforcement or administration of the functions of the Planning and Building Committee under the By-laws.

- (2) Nothing in subsection (1) above shall be construed so as to prevent, inhibit or restrict the exercise of the powers of the Chief Medical Officer under By-law 4 of the By-laws.
- 5. The Highways (Building Lines) Ordinance 1990 is amended by the substitution of the words "Planning and Building Committee" for the words "Building Committee" wherever they appear in that Ordinance.

Amendment of Highways (Building Lines) Ordinance 1990.

#### Administration and general

- 6. (1) Part II (administration) of the Planning Ordinance 1990, subject to subsection (2), below applies in respect of the exercise by the Planning and Building Committee of functions it has by virtue of this Ordinance.
- Application of Part II of the Planning Ordinance.
- (2) In the application of Part II the Planning Ordinance 1990 by virtue of subsection (1) above
  - (a) the words "Planning Officer" (wherever they appear) are to be construed as if they read "appropriate officer" and for that purpose "appropriate officer" means —
    - (i) in relation to the construction of buildings, the Building Control Officer;
    - (ii) in relation to fire prevention or the reduction of the consequences of fire, the Fire Officer;
    - (iii) in relation to health, sanitation and the prevention of disease the Chief Medical Officer or such other officer as is designated by him;
    - (iv) in relation to any matter falling within more than one of the foregoing sub-paragraphs, such of the officers to which those sub-paragraphs refer as may be appropriate in the circumstances of the case.
    - (b) section 10 of that Ordinance is to be disregarded.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

## The Stamp Duties (Abolition) Ordinance 1991 (No. 9 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title and commencement.
- 2 Abolition of stamp duties.

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Stamp Duties (Abolition) Ordinance 1991

(No. 9 of 1991)

#### An Ordinance

to abolish Stamp Duties and for connected purposes.

(assented to: 19th January 1991) (commencement: 1st January 1991) (published: 23rd January 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Stamp Duties (Abolition) Ordinance 1991 and shall be deemed to have come into force on 1st January 1991.

Short title and commencement.

- 2 (1) Sections 12 to 14 and 16 and 17 of and the Third Schedule to the Land Ordinance shall not have effect in relation to any deed executed and delivered on or after 1st January 1991 but shall continue to have effect in relation to any deed executed or delivered before that date regardless of the date appearing thereon.
- (2) If it appears to the Registrar General that any deed which is presented for registration after 31st December 1990 was executed and delivered before 1st January 1991 although bearing a date indicating to the contrary, the Registrar General shall require the person by whom or on whose behalf the deed is presented for registration to satisfy him that the deed was in fact executed after 31st December 1990 and if not so satisfied shall require stamp duty to be paid thereon.
- (3) A person aggrieved by a requirement of the Registrar General under subsection (2) above may within 28 days of that requirement appeal to the Magistrate's Court and the determination of the Magistrate's Court in the matter shall be final.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE,

Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

#### SUBSIDIARY LEGISLATION

#### LAND

#### LAND ORDINANCE

(Cap. 36)

Section 48

#### THE LAND (FEES) (AMENDMENT) REGULATIONS 1991 (S. R. & O. No. 1 of 1991)

Made 19th January 1991 Coming into operation 1st February 1991 Published 23rd January1991

IN EXERCISE of my powers under section 48(2) of the Land Ordinance (a) I make the following Order -

1. This Order may be cited as the Land (Fees Amendment) Regulations 1991 and shall come Citation and into operation on 1st February 1991.

commencement.

2 Parts I and II of the Second Schedule to the Land Ordinance (a) (as amended by paragraph 2 of the Land (Fees) (Amendment) Regulations Order 1984 (b)) are replaced by the new Parts I and II appearing in the Schedule to these Regulations.

Replacement of Parts I and II Schedule to the Land Ordinance. Revocation of spent Order.

3. The Land (Fees) (Amendment) Regulations Order 1984 is revoked.

#### **SCHEDULE**

(regulation 2)

New Parts I and II of second Schedule to Lands Ordinance -

#### PART I

1. For registering an Order of the Court pursuant to section 9

£10.00

- 2. For registering pursuant to section 9 or otherwise any deed instrument or other document not otherwise provided for -
  - (a) In respect of the first deed instrument or other document presented for registration on the same occasion and affecting land in the same ownership £50.00

- (a) Laws of the Falkland Islands 1950 Edition Pages
- (b) Gazette Volume XCIII Page 81

	(b)	In respect of each subsequent deed document or instrument presented for registration on the same occasion affecting the same title and not being a deed whereby land held under the same title is subdivided	£10.00
	(c)	In respect of a Power of Attorney or Change of Name Deed —	
		(i) in respect of the first title to land in respect of which it is to be registered	£25.00
		(ii) in respect of every subsequent title to land in respect of which it is to be registered	£10.00
	(d)	For registering the revocation of any Power of Attorney	
		(i) in respect of the first title to land in respect of which it is to be registered	£10.00
		(ii) in respect of every subsequent title to land in respect of which it is to be registered	£5.00
	(e)	For registering the severance of any joint tenancy in equity	£25.00
	(f)	For registering the discharge of any mortgage-for each title to land affected	£10.00
. For pee pay	provid able f	ing a certified copy of any deed document or instrument, in addition to any or any search under Part II below —	
10.00	and 2	5p for every page thereof after the first	
	(e)	For preparing any plan, in addition to any search fee payable under Part II below —	£25.00
	(f)	For a certificate as to the registration of any deed instrument or other document in addition to any search fee payable under Part II below —	£10.00
	(g)	For preparing or completing at any person's request any deed, instrument or document except a Crown Grant or Crown lease £50.00 per hour reasonably occupied in or associated with its preparation	
	(h)	For registering any Assent £10.00 respect of title which it affects	
		PART II	
	(a)	For every search undertaken of any title (the fee to be payable in addition to any fee payable under Part I above)	£10.00
	(b)	For producing any register or index for inspection £4.00 plus £2.00 per half-hour or part thereof occupied on attendance upon the person inspecting the same	
	(c)	For comparing any deed with any recorded deed upon the request of any person	£10.00

Made this 19th day of January 1991

W. H. FULLERTON, Governor

## EXPLANATORY NOTE (not part of above Order)

The effect of these Regulations is to increase fees payable in respect of the Deeds Registry. However, the increases are to come into operation on 1st February 1991, and Stamp Duties have been abolished with effect from 1st January 1991. When the abolition of Stamp Duties is taken into account, the net effect is that the total amount payable to the Government in respect of land transactions will in the great majority of cases be very much lower than pre-existing levels. Taking a fairly typical example of the purchase of a house for £40,000 (1%) with a mortgage of £36,000 (0.1%).

Fees and stamp duties prior to 1st January 1991 -

(a)	Stamp duty on purchase deed	£400.00
(b)	Stamp duty on mortgage	£36.00
(c)	Registration of purchase deed	£20.00
(d)	Registration of mortgage	£5.00
		£461.00

Fees payable after 31st January 1991 in respect of the same transactions, if the deeds are presented at the same time (and no stamp duty)

£60.00



## FALKLAND ISLANDS GAZETTE

## **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 2

28th JANUARY 1991

No. 2

The following is published in this Supplement —

The Planning Ordinance 1991 (No. 7 of 1991).

#### The Planning Ordinance 1991

(No. 7 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### PART I INTRODUCTORY

#### Section

- 1. Short Title.
- 2. Commencement.
- 3. Interpretation.

#### PART II

#### **ADMINISTRATION**

- 4 Planning and Building Committee.
- 5. Composition of Planning and Building Committee etc.
- 6. Chairman of the Committee.
- 7. Meetings of the Committee.
- & Quorum.
- 9. Attendance of public officers and other persons at meetings of the Committee.
- 10. Appointment of the Planning Officer.
- 11. Secretary of the Committee.
- 12. Copies of minutes to be sent.

#### PART III

#### **DEVELOPMENT PLANS**

#### Survey and Structure Plan

- 13. Survey of Falkland Islands.
- 14. Preparation of preliminary draft structure plan.
- 15. Approval in principle of draft structure plan.
- 16. Publication of draft structure plan.
- 17. Substantive approval or rejection of structure plan by Governor.
- 18. Alteration of structure plan.

#### Local Plans

- 19. Preparation of local plans.
- 20. Approval of preliminary draft local plan.
- 21. Publication of draft local plan.
- 22. Adoption and approval of local plan.
- 23. Alteration of local plans.

#### Subject Plans

#### 24. Subject plans.

#### Supplementary Provisions

25. Supplementary provisions as to structure local and subject plans.

#### PART IV

#### GENERAL PLANNING CONTROL

## Meaning of development and requirement for planning permission

- 26. Meaning of "development".
- 27. Development requiring planning permission.

#### Development Orders

28. Development orders.

#### Applications for planning permission

- 29. Form and content of applications.
- 30. Publicity for planning applications.
- 31. Representations and duty to take into account representations.
- 32. Notification of applications to owners and agricultural tenants.
- 33. Environmental impact statements.
- 34. Material considerations.
- 35. Supplementary to section 34.

#### Determination of planning applications

- 36. Determination of applications.
- 37. Applications conflicting with development plan.
- 38. Applications by the Crown.
- 39. Applications for planning permission in respect of minerals.
- 40. Conditional grant of planning permission.
- 41. Aftercare conditions on permissions for working and winning materials.
- 42. Directions etc as to method of dealing with applications.
- 43. Permission to develop land without compliance with conditions previously attached.
- 44. Permission to retain buildings or works or continue use of land.
- 45. Provisions as to effect of planning permission.
- 46. Planning register.

#### Appeals

- 47. Appeals against planning decisions.
- 48. Appeal in default of planning decision.

#### Duration of planning permission

- 49. Limit of duration of planning permission.
- 50. Outline planning permission.
- 51. Provisions supplementary to sections 49 and 50.
- 52. Termination of planning permission by a reference to a time limit.
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# Waste land

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# ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Planning Ordinance 1991

(No. 7 of 1991)

# An Ordinance

to make new provision as to the control of development and the use of land and development in the territorial sea of the Falkland Islands; and for purposes connected with the foregoing purposes.

> (assented to: 21st January 1991) (commencement: on publication) (published: 28th January 1991)

ENACTED by the Legislature of the Falkland Islands as follows —

# PART I INTRODUCTORY

1. This Ordinance may be cited as the Planning Ordinance 1991.

Short title.

2. This Ordinance shall come into operation on such date as shall be notified by the Governor by notice published in the Gazette.

3. (1) In this Ordinance, unless the context otherwise requires —

Interpretation

"advertisement" has the meaning assigned to it by section 78(4) below;

"aftercare condition" has the meaning assigned to it by section 41(2) below;

"building", except in Part V below, includes any structure or erection but does not include plant or machinery comprised in a building;

"buildings or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" include rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;

"Committee" means the Planning and Building Committee established under section 4 below:

"development" has the same meaning assigned to it by section 26 below;

"designated building" means a building the subject of a designation order under section 65 below and "designation order" means an order under that section;

"development plan" means -

- (a) the provisions of the structure plan for the time being in force;
- (b) any alterations to that plan approved by the Governor;
- (c) any provisions of a local plan for the time being in force;
- (d) any alterations to that local plan approved by the Governor;
- (e) any provisions of a subject plan for the time being applicable; and
- (f) any alterations to a subject plan approved by the Governor,

and references in the foregoing provisions of this definition —

- to the provisions of any plan shall, in relation to a part of the Falkland Islands to which they are applicable, be construed as references to so much of those provisions as are applicable to that part, and
- (ii) to the alterations to a plan being approved by the Governor shall be construed as meaning approved by him and notified in the Gazette:

"disposal" means disposal by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and "dispose of" shall be construed accordingly;

"enactment" includes an enactment in any Ordinance, and an order, rule, regulation, byelaw or scheme made under an Ordinance:

"enforcement notice" means a notice under section 80 below;

"engineering operations" includes the formation or laying out of means of access to highways;

"erection", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

"established use certificate" has the meaning assigned to it by section 91 below;

"functions" includes powers and duties;

"land" includes land covered by water (including the sea) and the bed of any river or of the sea or other body of water;

"lease" includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and 'leasehold interest' means the interest of the tenant under a lease as so defined;

"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

"minerals" includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;

"mortgage" includes any charge or lien on any property for securing money or money's

"owner", in relation to any land, means (except in section 32 below) a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

"planning decision" means a decision made on an application under Part IV below;

"planning permission" means permission under Part IV below, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to section 44(2) below;

"planning permission granted for a limited period" has the meaning assigned to it by section 40(2) below:

"prescribed" (except in relation to matters expressly required or authorised by this Ordinance to be prescribed in some other way) means prescribed by regulations under this Ordinance;

"prohibition notice" means a notice under section 66 below;

"public notice board" means the notice board in the foyer of The Secretariat building Stanley on which public notices are customarily displayed;

"relevant building" has the meaning assigned by section 69(4) below;

"restoration condition" has the meaning assigned to it by section 41(2) below;

"steps for the protection of the environment" except in section 57 below, and "proposals for the protection of the environment" mean steps or proposals, as the case may be for preventing or ameliorating any damage or danger of damage to or loss of the amenities of the area in which the land is, or under which the land development has been, is being or is proposed to be carried out, and for the purposes of this definition "amenities", without prejudice to the generality of that expression include any plant, tree, shrub, fish, bird, mammal or other living creature or thing, whether naturally occurring or not and any view or outlook from any part of that area and any geological or geophysical feature; and without prejudice to the foregoing provisions of this definition include steps or proposals for —

- (a) the prevention or reduction of the emission or discharge of any ionising radiation, fumes, smell, gas, liquid or solid substance and the prevention or reduction of noise or vibration,
- (b) the exterior treatment of any building or structure whether by the materials of which it is constructed or by external decoration or otherwise;
- (c) the screening of the land affected whether by fences, walls or other structures or by the planting, maintenance, aftercare and replacement of trees and shrubs or otherwise;
- (d) measures to deal with any danger or nuisance caused the discharge by accident or misadventure of any thing referred to in subparagraph (a) of this definition; and
- (e) the storage, treatment or removal of any deposit or waste material and any matters incidental thereto;

"stop notice" has the meaning assigned to it by section 85 below;

"suspension order" and "supplementary suspension order" have the meanings assigned to them by section 57 below;

"use", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

- (2) With respect to references in this Ordinance to planning decisions -
  - in relation to a decision altered on appeal by the reversal or variation of the whole or part thereof, such references shall be construed as references to the decision as so altered;
  - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the Committee and not to the decision of the Governor on the appeal;

- (c) in relation to a decision given on an appeal in the circumstances mentioned in section 48 below, such references shall be construed as references to the decision so given; and
- (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the Committee (whether or not that decision is or was altered on that appeal), or, in the case of a decision given on an appeal in the circumstances mentioned in section 48 below, the time when in accordance with that section notification of a decision of the Committee is deemed to have been received.
- (3) Subject to section 51(1) below, for the purposes of this Ordinance development of land shall be taken to be initiated
  - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
  - (b) if the development consists of a change in use, at the time when the new use is instituted: and
  - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (4) In relation to the sale or acquisition of an interest in land, references in this Ordinance to a contract are references to a contract in writing, enforceable in accordance with law and, where the interest is or was conveyed or assigned without a preliminary contract, are references to the conveyance or assignment; and references to the making of a contract are references to the execution thereof.
  - (5) In this Ordinance -
    - (a) references to a person from whom title is derived by another person include references to any predecessor in title of that person;
    - (b) references to a person deriving title from another person include references to any successor in title of that other person;
    - (c) references to deriving title are references to deriving title either directly or indirectly.
- (6) References in this Ordinance to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Ordinance.

# PART II ADMINISTRATION

4. (1) There shall be a Planning and Building Committee and, subject to this Ordinance, that Committee is the authority responsible for the administration of this Ordinance.

Planning and Building Com-

- (2) The Committee shall, before exercising any function under this Ordinance, seek and consider the advice of the Planning Officer.
- (3) The question of whether the Committee has exercised any function after seeking and considering advice in accordance with subsection (2) above shall not be enquired into in any court of law.
- 5. (1) The Planning and Building Committee shall consist of not fewer than five and not more than seven persons but may exercise its functions under this Ordinance notwithstanding any vacancy in its membership, provided that no business shall be transacted by the Committee if its membership is reduced to less than three persons.

Composition of Planning and Building Committee etc.

- (2) Two of the members of the committee shall be elected by the elected members of Legislative Council from among their number and all other members of the Committee shall be appointed by the Governor.
- (3) Unless he is an elected member of the Legislative Council a public officer shall not be capable of being a member of the Committee, and a public officer who is a member

of the Legislative Council shall cease to be a member of the Committee immediately he becomes a member of the Legislative Council, but unless he is elected as a member of the Committee under subsection (2) above.

- (4) The Planning Officer shall be entitled to attend at all meetings of the Committee and to take part in its proceedings, except that if a matter is put to the vote, he shall not vote.
- (5) A member of the Committee who has a direct or indirect financial or other personal interest in any matter being considered by the Committee shall not take part in the consideration by the Committee of that matter and shall declare his interest in it. If so required by the Chairman he shall absent himself from the meeting of the Committee during such time as a matter in which he has declared his interest is under consideration by the
- (6) A member of the Committee declaring an interest in any matter is not obliged to specify the nature or extent of his interest.
- (7) A decision of the Committee on any matter is not invalidated by the presence during the consideration of a matter of a member who has declared his interest in that matter or who has failed to declare his interest in that matter when he ought reasonably to have
- (8) A member of the Committee who is present during consideration by the Committee of any matter in which he ought reasonably to have declared his interest and who has failed to declare that interest commits an offence and on conviction of that offence is liable to a fine not exceeding the maximum of level 5 on the standard scale.
- (9) Proceedings for an offence under subsection (8) above may only be instituted by or with the consent of the Attorney General.
- 6. (1) The Chairman of the Committee shall be such one of the two members of the Committee elected from among their number by the elected members of the Legislative Council as they shall designate and the Vice-Chairman of the Committee shall be the other of such two members.

(2) The Chairman shall preside at all meetings of the Committee at which he is present, save that he shall not preside during consideration of any matter in which he has declared an interest.

- (3) The Vice-Chairman of the Committee shall preside at all meetings of the Committee at which he is present and at which the Chairman is not present, and during consideration of all matters considered at a meeting of the Committee in which the Chairman has declared an interest, save that he shall not preside during consideration of any matter by the Committee by which he himself has declared an interest.
- (4) This subsection applies where the operation of the foregoing subsections of this section in the opinion of the Chairman of the Committee (or, if for any reason he is not available, in the opinion of the Vice-Chairman of the Committee) would not result in an elected member of the Legislative Council presiding at a meeting of the Committee. In any such case the Chairman, or as the case may be, the Vice-Chairman of the committee, may appoint another elected member of the Legislative Council to preside in his place, and whether or not the person appointed is a member of the Committee. The person so appointed shall, in respect of all matters before the Committee during which he presides be deemed to be a member of it appointed under section 5(1) above, even if his appointment results in the number of members of the Committee exceeding eight. This subsection also applies if no person having the right by virtue of the foregoing provisions of this section (including this subsection) at a meeting of the Committee or during consideration of a matter before the Committee (as the case may be) is present, when the members of the Committee then present shall elect one of their number to preside.
- 7. (1) Subject to subsections (2) and (3) below, the Committee shall meet when called upon Meetings of the so do to by the Chairman.
- (2) The Chairman shall convene a meeting of the Committee to take place within fourteen days of receipt by him of request in writing signed by not less than three members of the Committee requesting him to do so.
- (3) If the Chairman is outside the Falkland Islands or is for any reason unable or unavailable to perform his functions under subsection (1) and (2) above, the Vice- Chairman shall perform those functions in place of the Chairman.
- (4) Subject to this subsection, every member of the Committee and all appropriate public officers shall be given by the Secretary at least five days notice of any meeting of the Committee. A majority of the members present at any meeting of the Committee called on shorter notice may, however, resolve to accept shorter notice of that meeting.

Chairman of the

- (5) The question as to whether due notice has been given of any meeting of the Committee shall not be enquired into in any court of law.
- 8. (1) Subject to subsection (3) below no business shall be transacted at any meeting of Quorum. the Committee when there are not three members of the Committee present.

- (2) Any member who has declared an interest in any matter shall not be counted amongst the members present for the purpose of determining whether there is a sufficient number of members personally present.
- (3) Notwithstanding subsection (1), above a meeting of the Committee may adjourn to a further meeting of the Committee the business of the meeting or such part of it in respect of which a sufficient number of members is not present.
- 9. (1) Any public officer or other person may, by the invitation or with the permission of the Chairman or other person presiding at the meeting of the Committee or (as the case may be) during consideration of any matter by the Committee, attend at the Committee.

(2) A person attending under subsection (1) above may take part in the Committee's proceedings except that if a matter is put to the vote, he shall not vote.

10. (1) There shall be a Planning Officer who shall be appointed by the Governor acting in his discretion and who shall have, without prejudice to any other functions he may have. the functions conferred on him by this Ordinance.

11. (1) A public officer shall be appointed by the Chief Executive to be the secretary to Secretary of the the Committee.

Committee

Officer.

Attendance of

public officers

and other per-

of the Com-

mittee.

sons at meetings

Appointment of

the Planning

- (2) It shall be the duty of the secretary -
  - (a) to attend at all meetings of the Committee;
  - (b) to prepare minutes of all meetings of the Committee: and
  - save as is provided by this Ordinance to have custody of the Committee's records.
- 12. A copy of the minutes of every meeting of the Committee shall be sent, as soon as Copies of they are prepared, to the Governor and to the Chief Executive.

minutes to be sent.

# PART III DEVELOPMENT PLANS

Survey and Structure Plan

13. (1) The Planning Officer shall institute a survey of the Falkland Islands, in so far Survey of as this has not already been done, examining the matters which may be expected to affect the development of the Falkland Islands or the planning of their development and, in any event, shall keep all such matters under review.

- (2) Notwithstanding that the Planning Officer may have carried out in his duty under subsection (1) above, the Planning Officer may if he thinks fit, and shall if so directed by the Governor, institute a fresh survey of the Falkland Islands examining the matters mentioned in that subsection.
- (3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review shall include -
  - (a) the proposed balance of future development between Stanley and Camp;
  - (b) broad policies for controlling major new industrial mineral and other development anywhere in the Falkland Islands;
  - proposals for the improvement of infrastructure in so far as these have land use implications; and
  - policies to be followed in relation to the conservation of flora and fauna, protection of the environment generally, the prevention or reduction of pollution and the protection of the landscape.
- 14. (1) In the preparation of the preliminary draft structure plan the Planning Officer Preparation of

preliminary draft structure plan.

shall consult with such other public officers as the Governor may direct and, in the absence of any such direction, such other public officers as he shall think fit. In addition, the Planning Officer may consult such persons appearing to him to have a interest in the matter as he thinks fit.

- (2) The preliminary draft structure plan shall be a written statement
  - (a) formulating the Government's policy and general proposals in respect of the development and other use of land in the Falkland Islands and
  - containing such other matters as may be prescribed or as the Governor may direct.
- The written statement may be illustrated by maps, plans and diagrams.
- It means in the written statement referred to in subsection (2) above, the Planning Officer solut have sound -
  - 2) to the current whose of the Government with respect to the economic planmag and development of the Falkland Islands;
  - (b) to the manpower and maneral resources likely to be available for carrying the proposals embedied in the structure plan;
  - to the economic and social justification for the proposals set out in the structure plan; and
  - (d) to such other matters as the Governor may direct him to take into account.
- (5) The preliminary draft structure plan shall contain or be accompanied by an explanatory memorandum summarising the reasons which in the opinion of the Planning Officer justify each and every policy and general proposal formulated in the plan.
- 15. (1) As soon as possible after he has completed the preparation of the preliminary draft structure plan, the Planning Officer shall submit the preliminary draft structure plan to the Planning and Building Committee.
- (2) On submission of the preliminary draft structure plan under subsection (1) above, the Planning and Building Committee shall consider it and shall within a period not greater than two months forward it together with its comments and observations thereon to the Governor.
- 3) On receipt of the preliminary draft structure plan from the Planning and Building Commines and that Committee's comments and observations on the preliminary draft structure pian, the Governor shall cause all the same to be considered by the Executive Council.
- (4) On consideration of the preliminary draft structure plan prior to publication under the provisions of this section, the Executive Council shall advise the Governor whether any amendment and additions need, in its opinion, to be made to the draft structure plan pelone it is draft and, subject thereto, whether it approves the draft structure pien in principle.
- (5) The dealt practure plan shall not be published -
  - (a) amendments modifications or alterations required by the Governor made to the preliminary draft structure plan and
  - (b) unless the preliminary draft structure plan has been approved in principle (subject, as the case may be, to amendments modifications and alterations) by the Governor.
- 16. (1) The Planning Officer shall, as soon as the draft structure plan has been approved Publication of by the Governor (and after, if appropriate, all amendments modifications and alterations required by the Governor have been incorporated therein) -

  - publish the draft structure plan in such manner as the Governor may direct publish it in any case in such a manner that adequate publicity is given to the contents of the draft structure plan and the right of all the persons interested to make comments and representations in relations thereto under subsection (2) below; and

Approval in principle of draft structure

draft structure plan

- (c) shall notify its publication by notice in the Gazette.
- (2) Any person may, within a period of two months from the appearance in the Gazette of the notice required by subsection (1)(c) above of the publication of the draft structure plan, or such greater period as the Governor may have directed prior to the publication of the draft structure plan, make written representation or comments upon the draft structure plan. All such written representations or comments shall be sent to the Planning Officer who shall forthwith send a copy of them to the Governor.
- (3) As soon as may be after the expiration of the period during which written representations or comments may be made in relation to the draft structure plan under subsection (2) above, the Planning Officer shall, after he has consulted the Committee thereon, send to the Governor his written observations (if any) in relation to the written representations and comments received by him.
- (4) The Governor shall, as soon as conveniently possible after the expiration of the period referred to in subsection (2) above, submit to the Executive Council all written representations and comments received in relation to the draft structure plan together with the Planning Officer's written observations in relation thereto.
- 17. (1) The Governor may, after consulting the Executive Council on the documents required to be submitted to the Executive Council under section 16(4) above and, after considering the draft structure plan, either approve it (in whole or in part and with or without modifications or reservations) or reject it.

(2) In considering the draft structure plan under subsection (1) above, the Governor may take into account any matters which he thinks are relevant, whether or not they were taken into account in the draft structure plan as submitted to him under section 16 above, and notwithstanding the earlier approval in principle of the preliminary draft structure plan

(3) Where on considering the draft structure plan under subsection (1) above, the Governor does not determine then to reject it, he shall, before determining whether or not to approve it, consider any written representations or comments upon the draft structure plan and the Planning Officer's observations (if any) in relation to such written representations

by the Governor.

- (4) On considering the draft structure plan under subsection (1) above, the Governor may consult with, or consider the views of, any persons or body or association of persons as he thinks fit but he shall not, other than provided by subsection (3) above, be under any obligation to do so.
- If the Governor in exercise of his powers under subsection (1) above has approved the draft structure plan, the Planning Officer shall after making any modifications the Governor may then have required to be made in the draft structure plan -
  - (a) notify the approval of the structure plan by notice published in the Gazette;
  - publish the approved structure plan in such manner as the Governor may
- 18. (1) At any time after the approval of the structure plan, the Planning Officer may Alteration of submit to the Governor and shall, if so directed by the Governor, submit to him within a period specified in the direction, such proposals for alterations to the structure plan as it appears to the Planning Officer after consultation with the Committee that it would be expedient to make or as the Governor may direct, as the case may be, and any such proposals may relate to the whole or part of the Falkland Islands.
- (2) Any proposal under subsection (1) above shall be accompanied by an explanatory memorandum summarising the reasons which, the opinion of the Planning Officer, justify the alterations which he is proposing. The explanatory memorandum shall also state the relationship of the proposals to general proposals for the development and other use of land in the Falkland Islands and
  - shall also contain or refer to any information on which the proposals are based;
  - (b) may contain such illustrative material as the Planning Officer thinks appropriate.
- (3) The provisions of section 16 above shall apply with all necessary modifications in relation to draft alterations to the structure plan as they apply in relation to a draft structure plan and section 17 above shall apply, with all necessary modifications, to the approval of draft alterations to the structure plan.

# Local Plans

19. (1) The Planning Officer shall, if the Governor so directs him in relation to any part

Preparation of local plans.

proval or rejection of structure Governor.

of the Falkland Islands, as soon as practicable prepare for that part a preliminary draft local plan of such nature as may be specified in the direction.

- (2) Without predudice to any direction under subsection (1) above, the Planning Officer may, if he thinks it desirable, prepare a preliminary draft local plan for any part of the Falkland Islands and, when the structure plan has been approved by the Governor shall, in any case, as soon as practicable consider, and thereafter keep under review, the desirability of preparing a local plan for any part of the Falkland Islands.
- (3) A preliminary draft local plan shall consist a written statement illustrated by such maps plans diagrams as may be necessary or convenient and shall -
  - (a) formulate in such detail as the Planning Officer thinks appropriate the Planning Officer's proposals for the development and other use of land in that part of the Falkland Islands or for any description of development or other use of such land (including in either case such measures as the Planning Officer thinks fit for the improvement of the physical environment) and;
  - (b) contain such matters as may be prescribed or as the Governor may in any particular case direct;

and in this subsection 'proposals' includes proposed policies.

- (4) Different preliminary local plans may be prepared for different purposes for the same part of the Falkland Islands.
- (5) A preliminary draft local plan for any area shall contain, or shall be accompanied by, such diagrams, illustrations and descriptive matter as the Planning Officer may think appropriate for the purpose of explaining or illustrating the proposals in the preliminary draft plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Governor; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the preliminary draft plan.
- (6) In formulating his proposals in a preliminary draft local plan the Planning Officer shall secure that the proposals conform generally with the structure plan (or, as the case may be, the draft structure plan) as it stands for the time being and shall have regard to any information and other considerations which appears to him to be relevant, or which may be prescribed, or which the Governor may in any particular case direct him to take into account.
- 20. (1) As soon as possible after he has completed the preparation of the preliminary draft Approval of local plan, the Planning Officer shall submit it to the Committee for its consideration.

(2) The Committee on considering a preliminary draft local plan may —

- recommend that it be approved or that it be approved subject to such modifications or reservations as it may recommend; or
- (b) recommend that it be rejected.
- (3) The preliminary draft local plan shall as soon as possible after the Committee has completed its consideration of it be submitted by the Planning Officer to the Governor together with the Committee's recommendations in relation to it.
- (4) The Governor on receiving a preliminary draft local plan together with the Committee's recommendations in relation to it may
  - approve the preliminary draft local plan with or without modifications or reservations (and whether or not they are the same as those recommended by the Committee) or:
  - (b) reject the preliminary draft local plan.
- (5) If the Governor under subsection (2) above rejects the preliminary draft local plan he may either at the same time or at any future time direct the Planning Officer to prepare a new preliminary draft local plan in accordance with such directions as the Governor then
- (6) When a preliminary draft local plan has been approved by the Governor under subsection (4) above (and after any modifications required by the Governor have been made thereto) the preliminary draft local plan shall constitute a draft local plan.
- 21. (1) As soon as possible after a preliminary draft local plan has become a draft local Publication of plan under section 20(4) above, the Planning Officer shall take such steps as will in his draft local plan.

that adequate publicity is given to the draft local plan and to the matters included in it:

preliminary draft local plan.

- (b) that persons who may be expected to desire an opportunity of making representations with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
- that such persons are given an adequate opportunity of making such representations.
- (2) Notification of the draft local plan shall be published in the Gazette. For a period of at least two months following such publication, a copy of the draft local plan shall be available for inspection at the office of the Planning Officer and at such other places as may be directed by the Governor or the Planning Officer, in the absence of such directions may think fit. The notification in the Gazette shall include a statement of the time within which objections to the draft local plan may be made.
- (3) The time limited by a notification under subsection (2) above shall not be less than two months from the date of that notification and the notification shall require that all objections to the draft local plan shall be in writing and shall be delivered to the Planning Officer.
- (4) As soon as possible after the expiration of the time within which objections to the draft local plan may be made, the Committee shall consider those objections together with the observations of the Planning Officer thereon. The Committee shall then make its own comments and observations on those objections and shall forward the same, together with the objections and the Planning Officer's observations and comments on the objections to the Governor.
- (5) The Governor shall, as soon as possible after receiving the documents referred to in subsection (4) above, consult the Executive Council in relation thereto.
- (6) In the event that no objections are made to a draft local plan in accordance with this section, the Committee shall notify the Governor of that fact.
- 22. (1) On receiving the documents submitted to him by the Planning Officer under section 21(5) above or, as the case may be, on receiving a report from the Committee under section 21(6) above, the Governor may adopt the draft local plan, either as originally published or as modified to take account of any objections or matters arising out of objections or as otherwise modified as the Governor determines. The draft local plan shall then constitute a local plan.

approval of local plan.

- (2) Until a draft local plan has been approved by the Governor under this section, it shall not have effect but, without prejudice to the foregoing, and pending such approval, the Committee may, if it thinks fit, take the proposals and matters embodied in the draft local plan into consideration when determining or considering any application for planning permission or any other permission or consent required under the provisions of this
- (3) Notification of the approval of the local plan shall be published as soon as possible in the Gazette.
- 23. (1) The Planning Officer may at any time with the consent of the Governor make Alteration of proposals for the alteration, repeal or replacement of a local plan.

(2) Without prejudice to subsection (1) above, the Planning Officer shall, if the Governor so directs him in that behalf, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of a local plan. Such provisions of the antecedent sections of this Ordinance as relate to the preparation of a preliminary draft local plan, the publication of the draft local plan and consideration of objections thereto, as apply in relation to the preparation of a preliminary draft local plan and the approval of a draft local plan shall also apply (with all necessary modifica-

# Subject Plans

tions) in relation to the alteration, repeal or replacement of a local plan.

- 24. (1) The Planning Officer may, if he thinks fit, and shall if the Governor so directs Subject plans. him, prepare a draft subject plan.
- (2) Without prejudice to any other circumstances in which a draft subject plan may be prepared by the Planning Officer, or directed by the Governor to be prepared by the Planning Officer, a draft subject plan may be prepared or directed to be prepared if —
  - (a) an application for planning consent has been received in relation to any proposed development which, if it were implemented, would be likely to have a major impact upon the environment; or

local plans.

- (b) any application for planning consent has been received which, if it were granted, would constitute a major departure from the provisions of the structure plan or local plan.
- (3) A preliminary draft subject plan, when prepared, shall be submitted by the Planning Officer as soon as possible to the Committee for its comments and observations upon it.
- (4) As soon as a preliminary draft subject plan has been considered by the Committee the Committee shall submit the same, together with the Committee's observations and comments thereon, to the Governor who shall consult the Executive Council thereon, after, if he shall think fit, an opportunity has been offered to the public to make written representations to him in relation to it.
- (5) The Governor may approve a draft subject plan, with or without modifications or reservations, or reject it. If the subject plan is approved by the Governor it shall have effect notwithstanding any inconsistency between it and the structure plan or any local plan and the structure plan or local plan shall then have effect subject, so far as may be necessary, to the subject plan.
- (6) Approval of a subject plan shall be notified by the Planning Officer in the Gazette.
- (7) Section 23 above applies, with all necessary modifications, in relation to subject plans as it does in relation to local plans.

# Supplementary Provisions

25. (1) Without prejudice to the preceding provisions of this Part, the Governor may make regulations with respect to the form and contents of structure plans, local plans and subject plans and with respect to the procedure to be followed in connection with their preparation, alteration, repeal and replacement.

plans.

(2) Regulations under subsection (1) may make different provisions for different parts of the Falkland Islands.

## PART IV **GENERAL PLANNING CONTROL**

# Meaning of development and requirement for planning permission

- 26. (1) In this Ordinance, except where the context otherwise requires, "development", Meaning of subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- (2) Subject to the provisions of this Ordinance in relation to relevant buildings, the following operations or use of land shall not be taken for the purposes of this Ordinance to involve development of the land, that is to say
  - the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
  - the carrying out by the Government of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road:
  - the carrying out by the Government of any works for the purposes of inspecfing, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
  - the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
  - the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
  - in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Governor under this section, the use thereof for any other purposes of the same class.
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section

Supplementary provisions as to structure local and subject

"development"

- the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used:
- the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site;
- the siting on any land for any purposes of any caravan, mobile home, container or any other building or structure of a kind originally designed and constructed so as to be readily movable from site to site constitutes development of the land:
- the use of the curtilage of or any building or structure within the curtilage of a dwellinghouse for any trade or business purpose other than agriculture constitutes a material change in the use of the land;
- the storage in the open air on any land (including any road) for a period exceeding one month of any of the following -
  - (i) any motor vehicle not reasonably capable of being driven under its own power (and whether registered for the time being under the Road Traffic Ordinance or not);
  - (ii) any parts of a motor vehicle or former motor vehicle;
  - (iii) any plant, machinery or materials whatsoever not reasonably incidental to the use of the land for a purpose for which planning permission has been granted or for which planning permission is not required,
    - each constitute a material change in the use of the land.
- (4) Subject to section 82 below and without prejudice to any regulations made under that section relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purposes shall be treated for the purposes of this section as involving a material change in the use of that part of the building.
- (5) For the purposes of this section, and without prejudice to any other situation in which any of the same constitute development, development of land for the purposes of breeding or rearing fish shellfish or molluscs and development of land for the purposes of breeding or rearing animals or birds (not being cats or dogs), which in their wild state are predators is not development for the purposes of agriculture.
- 27. (1) Subject to the provisions of this section, planning permission is required for the Development recarrying out of any development of land.

quiring planning permission.

- (2) Where on the date on which this Ordinance comes into operation (hereinafter in this section called "the commencement date") land was being used temporarily for a purpose other than the purpose for which it was normally used, planning permission is not required in respect for the resumption of the use of the land for the last-mentioned purpose.
- (3) Where on the commencement date land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required in respect of the use of the land for that purpose on other
- (4) Where land was unoccupied on the commencement date, but had at any previous time within the ten years preceding that date been occupied, planning permission is not required in respect of any use of the land for the purpose for which it was last used before the commencement date.
- (5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before that permission was
- (6) Notwithstanding anything in subsections (2) to (4) above, the use of land as a caravan site or as the site of a portable building or structure shall not, by virtue of those subsections, be treated as a use for which planning permission is not required unless -

- (a) the land was so used on one occasion at least during the period of two years ending with the commencement date, and the land was so used in respect of the same caravan, portable building or structure; and
- (b) at the time the land was so used, the caravan, portable building or structure was reasonably fit for occupation and use for some purpose for which but for the provisions of subsections (2) to (4) above would have required the grant of planning permission.

# Development orders

28. (1) The Governor shall by order (in this Ordinance referred to as a "development order") provide for the granting of planning permission.

Development orders

- (2) A development order may either
  - itself grant planning permission for development specified in the order, or for development of any class so specified; or
  - in respect of development for which planning permission is not granted by the order itself provide for the granting of planning permission by the Committee (or, in the cases hereafter provided, by the Governor on an application in that behalf made to the Committee in accordance with the provisions of the order).
- (3) A development order may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified.
- (4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.
  - Without prejudice to the generality of subsection (4) of this section
    - where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the Committee or of the Planning Office to be obtained with respect to the design or external appearance of the buildings:
    - where planning permission is granted by a development order for development of a specified class, the order may enable the Governor or the Committee to direct that the permission shall not apply either in relation to the development in a particular area or in relation to any particular development.
- (6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Ordinance to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.
- (7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment to which this subsection applies, or any regulations, orders or byelaws made at any time under such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.
- (8) Subsection (7) above applies to any enactment passed before the commencement of this Ordinance.

# Applications for planning permission

29. Every application for planning permission shall be made in such manner as may be Form and conprescribed by regulations under this Ordinance, and shall include such particulars, and be tent of apverified by such evidence, as may be required by the regulations or by directions given by plications. the Committee or by the Governor thereunder.

30. (1) An application for planning permission shall not be considered by the Committee Publicity for until it has been notified in accordance with the subsequent provisions of this section.

planning applications.

- (2) The Planning Officer shall not less than two weeks before an application for planning permission is first considered by the Committee notify the occupiers of any land which, in his opinion is —
  - (a) in the circumstances of the case, within reasonable proximity of the land the subject of the application; and
- (b) likely to be substantially affected by the proposed development, if carried out, but in no case shall the Planning Officer be obliged by this subsection to notify (although he may do so) the occupier of any land no part of which lies
  - in the case of an application relating to land in Stanley, within one hundred metres of that land; or
  - in the case of an application relating to land in Camp, within one kilometre of that land;

and it is sufficient notification for the purposes of this section if the notice is left upon some part of the premises on which the occupier is likely to find it.

- (3) Regulations under this Ordinance may prescribe the form and contents of a notification under subsection (2).
- (4) In addition to any notification under subsection (2) above, the Planning Officer shall at least ten days before any meeting of the Committee, cause notification of all applications for planning permission to be first considered at that meeting to be published on the public notice board or in such other manner as may be prescribed by regulations.
- (5) No court or other authority shall have jurisdiction to enquire as to whether the provisions of this section have been complied with in any particular case.
- 31. (1) Any person may make representations in writing to the Planning Officer in relation to any application for planning permission.

Representations and duty to take into account representations

- (2) When any representations in writing to relation to any application for planning permission are received by the Planning Officer before that application has been determined, he shall bring those representations to the attention of the Committee and if, pursuant to this Ordinance, the application is to be determined by the Governor, to the attention also of the Governor.
- (3) The Committee, and where appropriate, the Governor shall, before determining any application for planning permission, take into account any representations brought to its or his attention under subsection (2) above, but nothing in this subsection permits the determination of any application by relation to considerations which are not material considerations under section 34 below.
- 32. (1) Without prejudice to section 30 above the Committee or, as the case may be, the Notification of Governor, shall not entertain any application for planning permission unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say -

applications to owners and agricultural

- (a) a certificate stating that, in respect of every part of the land to which the application relates, the applicant is either the estate owner in respect of the fee simple or is entitled to a tenancy thereof;
- (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;

- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of the service of each such notice), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;
- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) of this subsection, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so.
- (2) Any such certificate as is mentioned in paragraph (c) or paragraph (d) of subsection (1) above shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (b) of that subsection) been published in the Gazette.
- (3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say
  - (a) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding;
  - (b) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.
- (4) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) above or by a certificate containing a statement in accordance with subsection (3)(b) above, the application shall not be determined before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later.
- (5) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall commit an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.
- (6) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.
- (7) In this section "owner", in relation to any land, means a person who is for the time being the estate owner in respect of the fee simple thereof or is entitled to a tenancy thereof granted or extended for a term of years certain of which not less than ten years remain unexpired.

- (8) In this section "agricultural holding" means the aggregate of the land (whether agricultural land or not) comprised in a contract of tenancy which is a contract for an agricultural tenancy, not being a contract under which that land is let to the tenant during his continuance in any office, appointment or employment held under the landlord and for the purposes of this subsection, a contract of tenancy relating to any land is a contract for an agricultural tenancy if, having regard to
  - (a) the terms of the tenancy;
  - (b) the actual or contemplated use of the land at the time of conclusion of the contract and subsequently;
  - (c) any other relevant circumstances,

the whole of the land comprised in the contract, subject to such exceptions only as do not substantially affect the character of the tenancy, is let for use as agricultural land.

- (9) For the purposes of subsection (8) above, "agricultural land" means land used for agriculture if by way of trade or business it is used for any one or more of the following purposes
  - (a) horticulture;
  - (b) fruit growing;
  - (c) seed growing;
  - (d) dairy farming;
  - (e) livestock breeding;
  - (f) livestock keeping;
  - (g) grazing land;
  - (h) meadow land;
  - (i) osier land;
  - (j) market gardens;
  - (k) nursery grounds; or
  - (l) woodlands where that use is ancillary to the farming of land for other agricultural purposes,

but land enjoyed and used as part of the curtilage of one or more dwellinghouses is not agricultural land unless that dwellinghouse or at least one of those dwellinghouses is used for the purposes of the trade or business for agriculture of a person engaged in agriculture who uses other land by way of trade or business for agriculture and that dwellinghouse is occupied (but not necessarily by the owner of that trade or business) for the purposes of that trade or business.

33. (1) If, on receiving any application for planning permission, the Planning Officer considers having regard to —

Environmental impact statements.

- (a) the scale and nature of the proposed development, or
- (b) the operations proposed by the applicant, or
- (c) the nature of the site or of the environment of the site,

that the proposed development, if carried out, might have a substantial impact on the surrounding area, whether to public amenity or other environmental factors (including wildlife), he may by notice in writing require the applicant to furnish him with an environmental impact statement.

(2) A requirement under subsection (1) shall specify the matters with which the environmental impact statement shall deal and these may include the applicant's intentions

as to protection of the environment, the likely impact, in the applicant's view on the environment if the proposed development were carried out, and any proposals of the applicant as to measures to be taken by him on his behalf to prevent or lessen any adverse impact on the environment.

- (3) Where a requirement has been made under subsection (1) above in relation to an application for planning permission, the application shall not, unless the Committee or the Governor withdraws that requirement, be considered by the Committee or, as the case may be, the Governor, until the environmental impact statement has been received.
- - (a) a requirement has been made under subsection (1) above, and
  - (b) the environmental impact statement to which the requirement relates is not submitted within two months of the requirement or such greater time as the Planning Officer, or as the case may be, the Committee or the Governor may allow: or
  - the Planning Officer notifies the applicant that he is not satisfied with the environmental impact statement,

the application for planning permission to which it relates shall be deemed to have been refused and no appeal shall lie against such deemed refusal to any court or authority.

- (5) The Planning Officer shall lay before the Committee or the Governor, as the case may be any environmental impact statement received by him under this section.
- (6) Where, under the preceding provisions of this section an environmental impact statement has been required or received the Governor, if he considers that the application ought appropriately to be considered by the Executive Council, may, in his discretion, require the Committee to deal with the application as if it conflicted with the development plan and section 37 below shall then apply as if it did so conflict.
- 34. (1) The following matters are material considerations (but are not determining factors, contrary to the public interest) for the purposes of determination of any application for planning permission -

- the provisions of the structure plan, any local plan and any subject plan so far as material to the application;
- (b) any matter of public amenity:
- any other consideration, whether public or private in nature which relates to the development and use of land and is relevant -
  - (i) in relation to the land the subject of the application; or
  - (ii) any other land which might be affected either by the carrying out of the development proposed in the application or by the development proposed in the application not being carried out;
- (d) any environmental impact statement received under section 33 above.
- (2) Any consideration related solely to the circumstances of the applicant is not ordinarily a material consideration.
- 35. (1) For the purposes of section 34(1)(c) circulars, notes and guidance issued by any Supplementary authority having under any corresponding law responsibility for national policy or national to section 34. administration in relation to functions similar to those of the Committee or those of the Governor under this Ordinance are matters which may properly be taken into account on the determination of any application for planning permission, including the duration of and conditions of any planning permission and reasons for refusal of planning permission.

(2) The Governor may issue or authorise the issue of circulars notes or guidance in relation to the determination of applications for planning permission, including the duration of and conditions of any planning permission, and the Committee shall on determining any application for planning permission take into account any relevant circular notes or guidance to which this subsection relates.

# Determination of planning applications

- 36. (1) Where an application is made to the Committee for planning permission, the Committee or the Governor, in dealing with the application, shall have regard to any material consideration, and subject thereto shall determine the application in such manner as it or he thinks fit.
- (2) The Planning Officer shall give notice of the decision of the Committee or the Governor on the application to every person who made representations under section 30(1) above in relation to it.

37. (1) Where an application for planning permission, if granted, would in the opinion Applications of the Committee, conflict with the development plan, the Committee shall not grant the conflicting with application but shall refer it to the Governor for determination.

development

- (2) On referring an application under subsection (1) above, the Committee shall at the same time transmit to the Governor the views of the Committee and of the Planning Officer on the application and such views shall include views as to any conditions subject to which the application should be granted, if the Governor determines to grant it.
- (3) The Governor shall have, in relation to any application referred to him under subsection (1) of this section the powers of the Committee under section 36(1) above and section 40 below.
- (4) No appeal otherwise than as provided by Part VIII of this Ordinance, shall lie to any court or authority in respect of the decision of the Governor on any application for planning permission referred to him under this section.
- 38. (1) An application by the Crown for planning permission shall not be refused by the Applications by Committee and if the Committee would, if it had power to do so, refuse it, the Committee the Crown. shall refer it to the Governor for determination.

- (2) The Committee shall, on referring an application to the Governor pursuant to subsection (1) above, inform the Governor of the reasons for which it believes the application should be refused, and the views of the Planning Officer in relation to the application.
- (3) Section 43 below applies if the Committee grants an application by the Crown for planning permission subject to conditions.
- (4) The Governor, on a referral under subsection (1) of this section has the same powers as he has under section 37(3) above in relation to a referral under section 37(1) above.
- 39. (1) Any application for planning permission for exploration for or winning and working Applications for of minerals shall, subject to subsection (3) below, not be determined by the Committee but shall be referred to the Governor for determination.

planning permission in respect of minerals.

- (2) Subsections (2) and (3) of section 38 above shall apply in respect of an application referred under subsection (1) above as they do in respect of an application referred under section 37(1) above.
- (3) This section does not apply in respect of an application relating to winning and working peat or to the winning of working of peat granted planning permission by a development order or exempted by a development order from any need to obtain planning per-
- 40. (1) Without prejudice to the generality of section 36(1) above, conditions may be im- Conditional posed on the grant of planning permission thereunder -

grant of planning of per-

- for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Committee to be expedient for the purpose of or in connection with the development authorised by the permission;
- for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period;
- requiring the design or external appearance of the building or any matter of detail to be approved by the Planning Officer;
- (d) requiring that steps be taken for the protection of the environment.
- (2) Subject to section 53(5) below any planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Ordinance referred to as "planning permission granted for a limited period".
  - (3) Where
    - planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 49 or 50 below); and
    - (b) any building or other operations are commenced after the time so specified,



# THE FALKLAND ISLANDS GAZETTE

# PUBLISHED BY AUTHORITY

Vol. XCX

28th MARCH 1991

No. 4

## **Appointments**

Sidney John Salter, Plumber, Public Works Department, 28.2.91.

Stephen Leslie Burston, Police Constable, Falkland Islands Police Force, 1.3.91.

Miss Alison Emily Robson, Clerk, Public Service, 4.3.91.

Miss Jaqueline Margaret Robertson, Teacher, Education Department, 9.3.91.

Jonathan Mark Stafford, Fisheries Protection Officer, Fisheries Department, 14.3.91.

Mervyn Wright, Licensed Aircraft Engineer, Falkland Islands Government Air Service, 21.3.91.

### Confirmation of Appointments

Mrs. Helen Rose Jaffray, House Matron, Stanley School Hostel, Education Department, 1.9.85.

Mrs. Lorraine Iris McGill, Deputy Head of Hostel, Stanley School Hostel, Education Department, 1.7.89.

Mrs. Sheila Summers, House - parent, Stanley School Hostel, Education Department, 15.9.88.

Mrs. Irene Ewing, Personal Assistant, Fisheries Department, 1.7.89.

## Acting Appointments

Miss Lynda Margaret Lyse, Acting Chief Accountant, Treasury Department, 16.2.91.

Michael Luxton, Acting Deputy Financial Secretary, Treasury Department, 16.2.91. Miss Jaqueline Elizabeth Earnshaw, Acting Chief Nursing Officer, Medical Department, 18.3.91.

#### **Promotions**

Graham John Didlick, from Police Constable, Falkland Islands Police Force, to Sergeant, Falkland Islands Police Force, 1.3.91

Mrs. Sylvia Jean Summers, from Clerk, Public Service, to Senior Clerk, Medical Department, 1.3.91.

#### Resignations

Miss Carol Margaret Morrison, Receptionist, Falkland Islands Government Office, London, 1.3.91.

John Rodney Tuckwood, Senior Plumber, Public Works Department, 7.3.91.

Nigel Peter Morrison, Agricultural Assistant, Department of Agriculture, 8.3.91.

#### NOTICES

# Corrigendums

Mr. & Mrs. Gregory who both appeared under Resignations in Gazette No. 3 dated 27th February 1991 should have appeared under Completion of Contracts, and Mrs. Tracy Porter who appeared under Resignations as Data Manager should have appeared as Chief Clerk, Fisheries Department.

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

- 41. (1) Where planning permission for development consisting of the winning and working of minerals is granted subject to a restoration condition, it may be granted subject also to any such aftercare condition as the Governor thinks fit.
- (2) In this Ordinance -

"restoration condition" means a condition requiring that after operations for the winning and working of minerals have been completed, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and

"aftercare condition" means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely —

- (a) use for agriculture;
- (b) use for forestry; or
- (c) use for amenity.
- (3) An aftercare condition may either
  - (a) specify the steps to be taken; or
  - (b) require that the steps be taken in accordance with a scheme (in this section referred to as an "aftercare scheme") approved by the Governor.
- (4) The Governor may approve an aftercare scheme in the form in which it is submitted to him or may modify it and approve it as modified.
- (5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.
- (6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.
- (7) In subsection (6) of this section "the aftercare period" means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.
- (8) The power to prescribe maximum periods conferred by subsection (7) of this section includes power to prescribe maximum periods differing according to the use specified.
  - (9) In a case where -
    - (a) the use specified is a use for agriculture; and
    - (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased; and
    - (c) the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (10) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (11) Where the use specified is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.
- (12) Where the use specified is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or plants or for such other purpose as is specified in the aftercare condition.
- (13) Before imposing an aftercare condition, the Governor shall consult
  - (a) the Director of Agriculture, where the Governor proposes that the use specified in the condition shall be a use for agriculture; and
  - (b) shall also consult the Director of Agriculture where the Governor proposes that the use so specified shall be use for a forestry,

Aftercare conditions on permissions for working and winning minerals as to whether it is appropriate to specify that use.

- (14) The Governor shall also consult the Director of Agriculture -
  - (a) as to the steps to be specified in an aftercare condition which specifies a use for agriculture or for forestry; and
  - (b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.
- (15) The Governor shall also from time to time as he considers expedient, consult the Director of Agriculture as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.
- (16) On the application of any person with an interest in land in respect of which an aftercare condition has been imposed the Governor, if he is satisfied that the condition has been complied with, shall issue a certificate to that effect.
- (17) A person who has complied with an aftercare condition but who has not himself carried out any operations for the winning and working of minerals in, on or under the land shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred in complying with the aftercare condition.
- (18) In this section —

"authorised" means authorised by planning permission; and

"forestry" means the growing of a utilisable crop of timber.

42. Subject to the provisions of sections 34 to 40 above, provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by the Committee and in particular —

Directions etc as to method of dealing with applications.

- (a) for enabling the Governor to give directions restricting the grant of planning permission by the Committee either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for requiring that, before planning permission for any development is granted or refused, the Committee shall consult with such authorities or persons as may be so prescribed;
- (c) for requiring the Committee to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (d) for requiring the Committee to give any applicant for consent, agreement or approval required by a condition imposed on a grant of planning permission notice of its decision on his application, within such time as may be so prescribed;
- (e) for requiring the Committee to give to the Governor and such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the Committee, including information as to the manner in which any such application has been dealt with.

43. (1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

- (2) Special provision may be made with respect to such applications
  - (a) by regulations above as regards the form and content of the application; and
  - (b) by a development order as regards the procedure to be followed in connection with the application.
- (3) On such an application the Committee shall consider only the question of the conditions subject to which planning permission should be granted, and
  - if it decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, it shall grant planning permission accordingly; and

Permission to develop land without compliance with conditions previously attached.

- (b) if it decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, it shall refuse the application.
- (4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to time within which the development to which it related was to be begun, that time has expired without the development having been begun.
- (5) If an application to which subsection (1) above applies is made by the Crown, it shall not be determined by the Committee but shall be referred to the Governor, with the advice of the Committee and of the Planning Officer in relation to it.
- (6) In respect of an application referred to him under subsection (5) above the Governor shall have in relation to it all the powers of the Committee under subsection (3) above.
- 44. (1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether
  - the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period; or
  - the application is for permission to retain the buildings or works, or continue the use of the land, without complying with some condition subject to which a previous planning permission was granted.
- (2) Any power to grant planning permission to develop land under this Ordinance shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in subsection (1) of this section; and references in this Ordinance to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly;

Provided that this subsection shall not affect the construction of sections 30, 31(2) or (3) above or section 73 below.

- (3) Any planning permission granted in accordance with subsection (2) above may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.
- 45. (1) Without prejudice to the provisions of this Part of this Ordinance as to the dura- Provisions as to tion, revocation or modification of planning permission, any grant of planning permission effect of plannto develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.
- (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purposes is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
- 46. (1) The Planning Officer shall keep, in such manner as may be prescribed by a develop- Planning ment order, a register containing such information as may be so prescribed with respect to applications for planning permission made to the Committee including information as to the manner in which such applications have been dealt with.
- (2) A development order may make provision for the register to be kept in two or more parts, each containing such information relating to applications for planning permission made to the Committee as may be prescribed by the order, and may also make provision
  - for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
  - for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the
- (3) The register kept under this section shall be available for inspection by the public at all reasonable hours.

#### **Appeals**

47. (1) Where the Committee determines any application -

Appeals against planning decisions.

Permission to retain buildings or tinue use of

ing permission.

- for planning permission to develop land;
- for any consent, agreement or approval of the Committee required by a condition imposed on a grant of planning permission granted by the Commit-
- (c) for any approval of the Committee required under a development order, and that permission, consent agreement or approval is refused by the Committee or granted by it subject to conditions, the applicant (if other than the Crown) if he is aggrieved by its decision may by notice under this section appeal to the Governor.
- (2) Where any matter referred to in paragraphs (a) to (c) of subsection (1) above is under any preceding provision of this Ordinance referred to and determined by the Governor no appeal lies against the decision of the Governor in relation to any such matter nor except as provided by this Ordinance may that decision be called into question in any manner in any proceedings whatsoever before any court.
- (3) A notice under this section shall be served within twenty-eight days from the date of notification of the decision to which it relates and in such manner as may be prescribed by a development order.
- (4) Where an appeal is brought under this section, the Governor may allow or dismiss the appeal, or may reverse or vary any part of the decision of the Committee, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.
- (5) Sections 36, 40, 43, 44 and 45 above shall apply, with any necessary modifications, in relation to an appeal to the Governor under this section as they apply in relation to an application for planning permission.
- (6) An appeal under this section shall be by way of written representations and in accordance with Part VIII of this Ordinance and any applicable regulations.
- (7) The decision of the Governor on any appeal under this section is final.
- 48. (1) Where any such application as is mentioned in section 47(1) of this Ordinance is Appeal in made to the Committee then unless subject to subsection (2) below, within two months default of plann of the submission of the application, or within such extended period as may at any time ing decision. be agreed upon in writing between the applicant and the Planning Officer the Committee either

- (a) gives notice to the applicant of its decision on the application; or
- gives notice to him that the application has been referred to the Governor in accordance with the preceding provisions of this Ordinance,

the provisions of section 47 above shall apply in relation to the application as if the permission or approval to which it relates had been refused by the Committee, and as if notification of its decision has been received by the applicant at the end of the period of two months, or at the end of the said extended period, as the case may be.

(2) Where an applicant has, within the period of two months or such extended period as is referred to in subsection (1) above been notified that the application has been referred to the Governor, that period shall thereby be extended for a further period of two months from the date of the notification and, if the Governor does not within that extended period or such greater period as may be agreed in writing between the applicant and the Planning Officer, notify his decision on the application, that application shall be deemed to have been refused by the Committee, notwithstanding any lack of power on its part to refuse the application, and subsection (1) above shall then apply with all necessary modifications.

# Duration of planning permission

49. (1) Subject to the provisions of this section, every planning permission granted or deem- Limit of duraed to be granted shall be granted or, as the case may be, be deemed to be granted, subject tion of planning to the condition that the development to which it relates must be begun not later than the permission. expiration of

- five years beginning with the date on which the permission is granted, or as the case may be, deemed to be granted; or
- such other period (whether longer or shorter) beginning with the said date as the Governor may direct, being a period which the Governor considers

appropriate having regard to the provisions of the development plan and to any other material considerations.

- (2) If planning permission is granted without the condition required by subsection (1) of this section, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (3) Nothing in this section applies -
  - (a) to any planning permission granted by a development order;
  - (b) to any planning permission for a limited period;
  - to any planning permission for development consisting of the winning and working of minerals which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after the completion of other development consisting of the winning and working of minerals which is already being carried out by the applicant for the planning permission;
  - to any planning permission granted under section 44 above on an application relating to buildings or works completed, or a use of land instituted, before the date of the application; or
  - (e) to any outline planning permission, as defined by section 50 below.

50. (1) In this section and section 49 of this Ordinance "outline planning permission" means planning permission granted, in accordance with the provisions of a development order with the reservation for subsequent approval by the Committee or by the Governor of matters (referred to in this section as "reserved matters") not particularised in the application.

Outline planning

- (2) Subject to the provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the following effect
  - that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
  - that the development to which the permission relates must be begun not later than whichever is the later of the following dates
    - the expiration of five years from the date of the grant of outline planning permission; or
    - the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (3) If outline planning permission is granted without the conditions required by subsection (2) of this section, it shall be deemed to have been granted subject to those conditions.
- (4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2) of this section, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as it considers appropriate.
- (5) The said authority may, in applying in the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if it does so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a
- (6) In considering whether to exercise their powers under subsections (4) and (5) of this section, the said authority shall have regard to the provisions of the development plan and to any other material considerations.
- 51. (1) For the purposes of sections 49 and 50 above, development shall be taken to be Provisions supbegun on the earliest date on which any specified operation comprised in the development begins to be carried out.

plementary to sections 49 and

- (2) In subsection (1) above "specified operation" means any of the following, that is to say
  - (a) any work of construction in the course of the erection of a building;
  - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building:
  - the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph:
  - any operation in the course of laying out or constructing a road or part of
  - (e) any change in the use of any land, where that change constitutes material development.
- (3) In subsection (2)(e) above "material development" means any development other than -
  - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted; and
- (b) development of any class prescribed for the purposes of this subsection; and in this subsection "general development order" means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in the Falkland Islands.
- (4) The authority referred to in section 50 above is the Committee or the Governor, in the case of planning permission granted by either of them.
- (5) For the purposes of section 50 above, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the Committee and there is an appeal to the Governor against the Committee's decision on the application and the Governor grants the approval, on the date of the determination of the appeal.
- (6) Where the Committee grants planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 49 or 50 above to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 47 above against the decision of the Committee.
- (7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 49 or 50 above -
  - (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and
  - (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.
- 52. (1) The following provisions of this section shall have effect where, by virtue of section 49 and 50 above, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.

sion by reference

- (2) If the Committee are of opinion that the development will not be completed within a reasonable period, the Planning Officer may serve a notice (in this section referred to as a 'completion notice') stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.
- (3) A completion notice -
  - (a) shall be served on the owner and on the occupier of the land and on any

- other person who in the opinion of the Committee will be affected by the notice; and
- (b) shall take effect only if and when it is confirmed by the Governor, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.
- (4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Governor, before confirming the notice, shall afford to that person and to the Planning Officer an opportunity of making written representations to him.
- (5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) of this section or a longer period substituted by the Governor under subsection (3) of this section, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.
- (6) The Committee may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if it does so it shall forthwith give notice of the withdrawal to every person who was served with the completion notice.
- 53. (1) Every planning permission for development consisting of the winning and working of minerals shall be subject to a condition as to the duration of the development.
- (2) Except where a condition is specified under subsection (3) of this section the condition is that the development must cease not later than the expiration of the period of sixty years beginning with the date of the permission.
- (3) The Governor may specify a longer or shorter period than sixty years, and if he does so, the condition is that the development must cease not later than the expiration of a period of the specified length beginning with the date of the permission.
- (4) A longer or shorter period than sixty years may be prescribed for the purposes of subsections (2) and (3) of this section.
- (5) A condition to which planning permission for development consisting of the winning and working of minerals is subject by virtue of this section is not to be regarded for the purposes of this Ordinance as a condition such as is mentioned in section 40(1)(b) above.

# Revocation or modification of planning permission

- 54. (1) If it appears to the Governor, having regard to the development plan and to any Power to revoke other material considerations, that it is expedient to revoke or modify any permission to or modify plandevelop land granted on an application made under this Part of this Ordinance, the Governor, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) he considers expedient.
- (2) The power conferred by this section to revoke or modify permission to develop land may be exercised
  - where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;
  - where the permission relates to a change of the use of any land, at any time before the change has taken place,

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

- (3) Where the permission relates to the winning or working of minerals an order under this section may contain any such aftercare condition as the Governor thinks fit if -
  - (a) the permission also includes a restoration condition; or
  - a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Ordinance.
- (4) Subsections (3) to (18) of section 41 above shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under that
- (5) Schedule 1 below shall apply to compensation in respect of revocation or modification of planning permission.

Limit of duration of planning permission for winning and working of

ning permission.

# Additional powers of control

55. (1) Subject to subsection (3) below, if it appears to the Committee that it is expedient Orders requiring in the interests of proper planning (including the interests of amenity), regard being had to the development plan and to any other material considerations

that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed,

the Committee may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the building or works, as the case may be.

- (2) For the purposes of this section development consisting of the winning and working of minerals in, or under any land is to be treated as a use of that land.
- (3) Where the use of the land in question is, or includes, the winning or working of minerals -
  - (a) the Committee shall have no powers under subsection (1) above and the Governor shall have those powers and the subsection shall have effect as if the words "the Governor" appeared therein wherever the words "the Committee" appear therein:
  - (b) subject to paragraph (a) above subsection (1) shall have effect as if
    - (i) the words "or (c) that any plant or machinery used for the winning or working of minerals should be altered or removed,"

were added at the end of paragraph (b) of that subsection;

- the words "or plant and machinery" were inserted after the words "buildings or works" in the second place where those words occur.
- (4) Where development consisting of the winning and working of minerals is being carried out in, on or under any land, the conditions which an order under this section may impose include a restoration condition.
- (5) An order under this section may include any such aftercare condition as the Governor thinks fit if -
  - (a) it also includes a restoration condition; or
  - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Ordinance.
- (6) Subsections (3) to (8) and (11) to (18) of section 41 above shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.
- (7) In a case where
  - (a) the use specified is a use for agriculture; and
  - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
  - the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (8) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (9) Any order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and the provisions of section 54 above shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted on an application made under this Part of this Ordinance.
- (10) The power conferred by subsection (9) of this section shall include power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order -
  - (a) for the retention, on the land to which the order relates, of buildings or works

discontinuance of use or alteration or removal of buildings or works.

constructed or carried out before the date on which the order was made;

- (b) for the continuance of a use of that land instituted before that date; and section 44(3) above shall apply to planning permission granted by virtue of this subsection as it applies to planning permission granted in accordance with section 44(2) above.
- (11) An order under this section made by the Committee shall not take effect unless it is confirmed by the Governor, either without modification or subject to such modifications as he considers expedient.
- (12) The power of the Governor under this section to confirm an order subject to modifications shall include power
  - (a) to modify any provision of the order granting planning permission, as mentioned in subsection (9) or subsection (10) above;
  - (b) to include in the order any grant of planning permission which might have been included in the order as submitted to the Governor.
- (13) Where the Committee submit an order to the Governor for his confirmation under this section, the Planning Officer shall serve notice on the owner and on the occupier of the land affected, and on any other person who in his opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Governor before confirming the order, shall afford to that person and to the Planning Officer an opportunity of making written representations to the Governor.
- (14) Where the Governor himself proposes to make an order under this section, other than in relation to an order made by the Committee, subsection (13) shall apply with such modifications as are necessary.
- (15) Where an order under this section made by the Committee has been confirmed by the Governor or an order has been made under this section by the Governor other than by way of confirmation of an order made by the Committee, the Planning Officer shall serve a copy of the order on the owner and occupier of the land to which the order relates.
- (16) Schedule 2 below shall apply to compensation in respect of orders under this section.
- 56. (1) Where it appears to the Governor
  - (a) that development consisting of the winning and working of minerals has been carried out, on or under any land; but
  - (b) that it has permanently ceased,

the Governor may by order -

- (i) prohibit the resumption of such development; and
- (ii) impose, in relation to the site, any such requirement as is specified in subsection (3) of this section.
- (2) The Governor may assume that development consisting of the winning and working of minerals has permanently ceased only when
  - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least two years; and
  - (b) it appears to the Governor, on the evidence available to him at the time when he makes the order, that resumption of such development in, on or under the land is unlikely.
- (3) The requirements mentioned in subsection (1) above are -
  - (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working of minerals or for any purpose ancillary to that purpose;
  - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working of minerals, other than injury due to subsidence caused by underground mining operations;
  - (c) a requirement that any condition subject to which planning permission for development consisting of the winning and working of minerals was granted

Prohibition of resumption of winning and working of minerals.

or which has been imposed by virtue of any provision of this Ordinance shall be complied with; and

- (d) a restoration condition.
- (4) An order under this section may include any such aftercare condition as the Governor thinks fit if
  - (a) it also includes a restoration condition; or
  - (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Ordinance.
- (5) Subsections (3) to (8) and (11) to (18) of section 41 above shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.
- (6) In a case where
  - (a) the use specified is a use for agriculture; and
  - (b) the land was in user for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
  - (c) the Director of Agriculture has notified the Governor of the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (7) In any other case where the use specified is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (8) Before making an order under this section the Governor shall give to any person who is the owner or occupier of any land to which the order (if made) may relate to an opportunity of making written representations to him about the proposed order and shall also afford such an opportunity to any person who, in his opinion, may be affected by the order.
- (9) A copy of any order made under this section shall be served by the Planning Officer on every person who was given the opportunity of making written representations under subsection (8) above.
- (10) On an order under this section taking effect any planning permission for the development to which the order relates shall cease to have effect but without prejudice to the power of the Governor, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals.
- 57. (1) Where it appears to the Governor -
  - (a) that development consisting of the winning and working of minerals has been carried out in, on or under any land; but
  - (b) that it has been temporarily suspended,

the Governor may by order (in this Ordinance referred to as a "suspension order") require that steps shall be taken for the protection of the environment.

- (2) The Governor may assume that development consisting of the winning and working of minerals has been temporarily suspended only when
  - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least twelve months; but
  - (b) it appears to the Governor, on the evidence available to him at the time when he makes the order, that a resumption of such development in, on or under the land is likely.
- (3) In this section "steps for the protection of the environment" means steps for the purpose —

Orders after suspension of winning and working of materials.

- (a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while operations for the winning and working of minerals in, on or under it are suspended;
- (b) of protecting that area from damage during that period; or
- (c) or preventing any deterioration in the condition of the land during that period.
- (4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any required step for the protection of the environment is to be taken and may specify different periods for the taking of different steps.
- (5) At any time when a suspension order is in operation the mineral planning authority may by order (in this Ordinance referred to as a "supplementary suspension order") direct -
  - (a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous supplementary suspension order specified as required to be taken; or
  - (b) that the suspension order or any supplementary suspension order shall cease to have effect.
- 58. (1) It shall be the duty of the Governor —

to undertake in accordance with the following provisions of this section reviews of suspension orders and supplementary suspension orders which are in opera-

- to determine whether he should make, in relation to any land to which a suspension order or supplementary suspension order applies. —
  - (i) an order under section 56 above; or
  - (ii) a supplementary suspension order.
- (2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect and each subsequent review shall be undertaken not more than five years after the previous review.
- (3) If a supplementary suspension order is in operation in relation to any land for which a suspension order is in operation, they shall be reviewed together.
- (4) If the Governor has made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous order under section 57 above, the Governor shall undertake reviews of the supplementary suspension order in accordance with subsection (5) of this section.
- (5) The first review shall be undertaken not more than five years from the date on which the order takes effect and each subsequent review shall be undertaken not more than five years after the previous review.
- 59. (1) Nothing in a suspension order or a supplementary suspension order shall prevent Resumption of the recommencement of development consisting of the winning and working of minerals in, on, or under the land in relation to which the order is in effect; but no person shall recommence such development without first giving the Governor notice of his intention to do so.
- (2) A notice under subsection (1) above shall specify the date on which the person giving the notice intends to recommence development consisting of the winning and working of minerals.
- The Governor shall revoke the order if development consisting of the winning and working of minerals has recommenced to a substantial extent in, on or under the land in relation to which the order is in effect.
- (4) If the Governor does not revoke the order before the end of the period of two months from the date specified in the notice under subsection (1) above, the person who gave that notice may apply to him for the revocation of the order.
- Notice of an application under subsection (4) above shall be given by the applicant to the Planning Officer.
- (6) If he is required to do so by the person who gave the notice or by the Planning Officer, the Governor before deciding whether to revoke the order, shall afford to that person and to the Planning Officer an opportunity of making written representations to him.
- (7) If the Governor is satisfied that development consisting of the winning and working of minerals in, on or under the land has recommenced to a substantial extent, he shall revoke the order.

Reviews of

winning and working of minerals after suspension order

(8) If the Governor revokes an order by virtue of subsection (7) above, he shall give notice of its revocation to the person who applied to him for the revocation and to the Planning Officer.

60. The Crown may enter into an agreement with any person interested in land in the Agreements Falkland Islands for the purpose of restricting or regulating the development or use of the regulating land, either permanently or during such period as may be prescribed by the agreement; and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the Governor to be necessary or expedient for the purposes of the agreement

development or use of land

- (2) An agreement made under this section with any person interested in land may be enforced by the Crown against persons deriving title under that person in respect of that land, as if the Crown were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.
- (3) Nothing in this section or in any agreement made thereunder shall be construed
  - (a) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Governor or the Committee or other authority under this Ordinance so long as those powers are exercised in accordance with the provisions of the development plan; or
  - as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a) of this subsection.

# Determination whether planning permission required

61. (1) If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of the land, and, if so, whether an application for planning permission in respect thereof is required under this Part of this Ordinance, having regard to the provisions of the development order, he may, either as part of an application for planning permission, or without any such application, apply to the Planning Officer to determine that question.

Applications to whether plann ing permission required.

(2) An appeal lies to the Governor against any determination by the Planning Officer that planning permission is required and the foregoing provisions of this Part relating to appeals against refusal of planning permission apply with any necessary modifications to such appeals.

# PART V ADDITIONAL CONTROL IN RESPECT OF BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

## Introductory

62. Unless the context otherwise requires, for the purposes of this Part -

Interpretation of this part.

"building" includes any structure or erection and includes plant or machinery whether within a building or not and includes a group of buildings and where a building (as previously defined) is a relevant building includes the curtilage of that building if and to the extent that curtilage is included in an order under section 65 below or in a prohibition notice under section 66 below;

"Committee" in sections 64 to 72 below means the Committee composed as required by section 63(2) below;

"designated building" means a building designated by the Governor by order under section 65 below; and

"relevant building" has the meaning assigned by section 69(4) below.

- 63. (1) The functions of the Committee under sections 64 to 72 below shall be exercisable Composition only if the Committee, at any time it decides to exercise that function, is composed of
  - such persons as constitute the Committee for the purposes of the antecedent provisions of this Ordinance; and
  - (b) at least three persons appointed under subsection (2) below
- and there are present during consideration of the matter by the Committee those persons as apart from this section would under section 8 above
  - be sufficient to constitute a quorum of the Committee; and (ii) at least two of the persons appointed under subsection (2) below.
- (2) The Governor may appoint not fewer than three and not more than five persons appearing to him to have a special knowledge of or interest in buildings of architectural

and quorum of Committee for the purposes of this part.

or historic interest to be additional members of the Committee for the purposes of its functions under sections 64 to 72 below and of sections 93, 94, 97(1) and 99 below. A public officer is not disqualified from appointment under this subsection.

(3) This provisions of sections 5(5) to 5(9), 6, 7, 8, 9, 11 and 12 above shall apply with all necessary modifications to the Committee composed as required by this section, to the members of the Committee and to its procedure when exercising any functions under this Part.

# Building designation

- 64. (1) The Committee may recommend to the Governor that a building be designated under section 65(1) below and may do so -
  - (a) of its own motion; or
  - (b) on referral by the Governor to it of the question for its consideration.
- (2) The Committee may, before making any recommendation under subsection (1), consult with such other persons or bodies of persons as appear to it to be appropriate as having a special interest in buildings of architectural or historic interest.
- 65. (1) Subject to subsection (2) below, the Governor may by Order made under this subsection designate any building as being of special architectural or historic interest.
  - (2) The Governor shall not make an Order under subsection (1) unless
    - he has first given an opportunity to the owner and any occupier of the building to make written representations to him in the matter; and
    - (b) he acts on the recommendation of or after consultation with the Committee.
- (3) Subsection (2) of section 64 above applies with all necessary modifications, in respect of the Governor's exercise of his powers under subsection (1) of this section as it does in respect of the Committee's exercise of its functions under subsection (1) of that section.
- (4) When an order is made in respect of a building under subsection (1) above any planning permission previously granted for the demolition alteration of extension of or execution of works to the building is thereby revoked and Schedule 3 below shall apply to compensation in respect of such revocation.
- (5) Subject to section 66(3) below, when a designation order under this section applies, or a prohibition notice is in force under section 66 below, in respect of a building, no provision of any development order shall have effect so far as concerns that building, which would otherwise permit works of any kind to be carried out without the specific grant of planning permission in respect of those works.
- 66. (1) The Governor may, if he believes that a building may be of special architectural Prohibition or historic interest and that it may be appropriate for that building to be designated by Order under section 65(1) above, but it has not already been designated under that provision, by notice ("a prohibition notice") to the owners and occupiers of that building prohibit the carrying out of any works of demolition, alteration, repair or maintenance to that building without the consent in writing of the Governor.
- (2) A prohibition notice shall ordinarily be served upon the owners and occupiers of the building but is sufficiently served upon them if it is affixed to a prominent part of the building the subject of the notice.
- (3) A prohibition notice shall have the effect of suspending while it continues in force any planning permission previously granted under any preceding provision of this Ordinance or deemed to be granted under a development order save insofar as the Governor, pursuant to subsection (4), below permits to be carried out any works or operations permitted thereby which are necessary to render the building safe or wind and water tight.
- (4) The Governor by writing under his hand may permit to be carried out any works or operations reasonably necessary to render the building safe or wind and water tight but any such consent shall not operate so as to render unnecessary any planning permission which would otherwise be required under any Part IV of this Ordinance.
  - (5) A prohibition notice ceases to have effect
    - when it is revoked by notice by the Governor served upon the persons on whom the prohibition notice was served; or
    - (b) if a designation order is made in respect of the building; or
- (c) on the expiration of six months from the date on which it was made, whichever shall first occur.

(6) In this section "owner" and "occupier" have the same meaning as it has under section 32 above.

Recommenda tion to the Governor to designate a building under section 65

Designation of buildings of ar chitectural or historic interes

67. (1) In considering whether to exercise any power he has under section 65(1) above or Supplementary section 66(1) above, the Governor may take into account not only the building itself but

to sections 65

- any way in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part;
- the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure or forming part of the land comprised within the curtilage of the building.
- (2) In considering any recommendation to the Governor under section 64(1) the Committee shall have regard to the same matters as are mentioned in paragraphs (a) and (b) of subsection (1) above.

## Consents for works

68. (1) Subject to this Part of this Ordinance, if a person executes or causes to be executed any works for the demolition of a designated building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised in accordance with section 66(4) above or subsection (2) or (4) of this section, he commits an offence.

works to relevant buildings.

- (2) Works for demolition of a designated building or for its alteration or extension (including alteration or extension of its curtilage insofar as that curtilage is included in an order under section 65 above) are authorised if they are permitted under the terms of a planning permission granted under this Ordinance after the designation of the building and are carried out in accordance with all conditions restrictions and limitations subject to which that permission was granted.
- (3) Subsections (1) and (2) above apply to a building the subject of a prohibition notice and its curtilage with the substitution of the words "building the subject of a prohibition notice" for the words "designated building" and of the words "after the making of the prohibition order" for the works "after the designation of the building" wherever occurring in those subsections.
- (4) The Planning Officer may, on the application of any person appearing to him to have a sufficient interest in the building to which subsection (1) or (3) above applies, grant consent for the carrying out of any works not requiring planning permission and not likely, in his opinion
  - (a) to affect the exterior of the building; or
  - (b) to affect any man-made feature of the building having architectural or historic interest,

and may impose such conditions on the grant of any such consent as appear to him to be necessary and works carried out under and in accordance with the conditions of any such consent are authorised for the purposes of subsection (1) above.

- (5) Notwithstanding the terms of any development order nothing in any such order authorises the carrying out of any works to or demolition of a building to which this section relates contrary to the provisions of subsection (1) above.
- (6) Without prejudice to subsection (1) above and subject to subsection (8) below, a person commits an offence who carries out or causes to be carried works to a building the subject of a designation order or prohibition notice
  - without planning permission in that behalf granted after the date of the designation order or prohibition notice or consent granted under section 66(4) above or under subsection (2) or (4) of this section; or
  - (b) otherwise than in compliance with any conditions imposed on the grant of any such permission or consent.
- (7) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 6 on the standard scale or to imprisonment for twelve months or both such fine and imprisonment.
- (8) In proceedings for an offence under this section it is a defence to prove the following matters
  - that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building; and
  - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
  - that the works carried out were limited to the minimum measures immediately necessary; and

- that notice in writing justifying in detail the carrying out of works was given to the Committee as soon as reasonably practicable.
- (9) Demolition of a relevant building shall be deemed for the purposes of Part IV of this Ordinance to constitute development conflicting with the development plan and section 37 above (planning permission only to be granted by the Governor) shall apply accordingly to an application for planning permission for such demolition and without prejudice to the foregoing the Governor shall and may exercise in relation to such an application all the powers of the Committee under section 69 below
- 69. (1) In relation to a relevant building the conditions subject to which planning permis- Conditions sion or consent may be granted under section 66(4) or section 68(2) or (4) above (for the purposes of this section called, in every case, "consent") include conditions with respect to -

which may be consents.

- (a) the preservation of particular features of the building, either as part of it or after severance therefrom:
- the making good, after the works are completed, of any damage caused to the building by the works:
- the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the con-
- (2) Consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the Committee or, in the case of consent granted by the Governor, specifying whether the reserved details are to be approved by the Committee or by him.
- (3) Consent for the demolition of a relevant building may be granted.
- (4) In this section —

"relevant building" means a building which is a designated building or the subject of a prohibition notice.

## Miscellaneous

70. Before taking any steps under any applicable enactment with a view to the making Dangerous strucof a dangerous structure order in respect of a relevant building, under any statute the Committee shall consider whether they should instead recommend the Governor to exercise his powers under section 103 below (power to carry out urgent works for preservation of building).

ture orders in respect of rele-

vant buildings.

- 71. (1) If any person who, but for this section, would be entitled to do so, does or permits Damage to relethe doing of any act which causes or is likely to result in damage to a relevant building or building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) In subsection (1) of this section "excepted works" means works authorised pursuant by a consent.
- (3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the failure continues.
- (4) In this section "consent" has the same meaning as it has under section 69(4) above.
- 72. (1) Any person interested in a relevant building in respect of which a consent (within the meaning given by section 69(4) above) has been granted subject to conditions may apply to the Committee for variation or discharge of those conditions, where the consent was granted by the Committee or by the Planning Officer, or to the Governor, where the consent was granted by him.

Application for variation or discharge of conditions and

(2) On such an application the Committee or, as the case may be, the Governor (in the case of a consent granted by him) may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon such variation or discharge, as it or he thinks fit.

(3) The provisions of Part IV above relating to appeals from decisions of the Committee to grant planning permission subject to conditions or subject to a limitation of time and to refusals of planning permission apply in respect of any such decisions of the Committee in relation to a relevant building but no appeal, except as provided by Part VIII below, lies from any decision of the Governor,

# PART VI LANDSCAPING, ADVERTISEMENTS AND AMENITY

# Landscaping

73. (1) It shall be the duty of the Committee and of the Governor to ensure, whenever Duties: Landit is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the landscaping of any land comprised in the development.

- (2) In subsection (1) "landscaping" includes -
  - (a) carrying out works so as improve the appearance of land by grading, levelling, or contouring, application of top soil, application of fertiliser, the sowing of grass, application of turf, the planting of plants or shrubs and the aftercare for a reasonable period of any grass, shrubs or plants the subject of a condition imposed in accordance with section (1) and the replacement of any grass plants or shrubs seriously damaged diseased or dead and initially provided under such a condition;
  - (b) the treatment of the curtilage of the development in any other way not provided for in paragraph (a) above in such manner as to be likely to improve the environment of the development concerned.
- 74. (1) The Committee or Governor, in granting planning permission may as a condition of that permission prohibit the carrying out of the development permitted thereby until such time as the applicant has furnished to it or him, and it or he has approved, a landscaping scheme in relation to the land comprised in the development.

Landscaping schemes.

- (2) A landscaping scheme submitted in compliance with a requirement imposed under subsection (1) shall set out the applicant's proposals as to the landscaping (within the meaning given by section 73(2) above) of the land affected by the requirement.
- (3) On submission to it or him of a landscaping scheme, the Committee or the Governor, as the case may be, may -
  - (a) approve it with or without modifications (when the landscaping scheme shall constitute "an approved landscaping scheme"); or
  - (b) reject it and require the applicant to submit a fresh landscaping scheme to it or him for approval (when the provisions of subsection (2) above and of this subsection shall apply in respect of any fresh landscaping scheme submitted in response to that requirement as if the requirement had been made under subsection (1) above).

This subsection also applies in respect of a landscaping scheme submitted voluntarily (that is to say, without a requirement under subsection (1) having been made).

- (4) The provisions of Part IV of this Ordinance as to appeals to the Governor against refusal of planning permission by the Committee, save such of those provisions as require the giving of notice to any other person, apply with all necessary modifications to
  - the modification by the Committee of a landscaping scheme submitted by the applicant; and
  - (b) the rejection of such a scheme and a requirement to submit a fresh such scheme for approval.

#### Waste land

75. (1) Subject to subsection (3) of this and to section 76 below if it appears to the Committee that the amenity of any part of the Falkland Islands is seriously injured by reason of —

- (a) the ruinous or dilapidated condition of any building; or
- (b) the derelict, waste or neglected condition of any land,

the Committee may serve on the owner and occupier of the land a notice (in this section and in section 76 and 77 below called "a waste land notice") requiring such steps for abating the nuisance as may be specified in the notice to be taken within such period as may be so specified.

- (2) Subject to section 76 below, a waste land notice shall take effect on such date as is specified in the notice, being a date not less than 28 days after the service of the notice.
- (3) No notice may be served under subsection (1) above in relation to a building which is a designated building or the subject of a prohibition notice.
- (4) The Committee may withdraw a waste land notice (without prejudice to its powers to serve another) at any time before it takes effect; and if it so withdraws it, it shall forthwith give notice of the withdrawal to every person on whom the notice was served.
- 76. (1) No notice may be served under section 75(1) above in respect of any land which Crown land. is in the ownership of the Crown and not in the occupation of any tenant or licensee.

- (2) Where, but for subsection (1) above, the Committee would have had power to serve a waste land notice, the Committee shall notify the Governor in writing of that fact setting out the circumstances which would, in its opinion, have justified the service of such a notice and the Governor shall, if he considers that the Committee is justified and reasonable in its view, cause such steps to be taken as will abate the nuisance.
- 77. (1) A person on whom a waste land notice is served, or any other person having an interest in the land to which the notice relates, may at any time within the period specified in the notice at the end on which it is to take effect appeal to the Governor against the notice, on any of the following grounds -

Appeals against waste land

- (a) that there is no serious injury to amenity; or
- (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such injury; or
- that the specified period for compliance with the notice falls short of what should reasonably be allowed; or
- (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
- (e) that the notice was served other than in accordance with section 75 above.
- (2) An appeal under this section shall be made by notice in writing to the Governor.
- (3) The provisions of subsections (3) to (5) of section 81 and of section 82 below shall apply to appeals under this section as they apply to appeals under section 81 below.
- (4) On an appeal under this section the Governor -
  - (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material; and

- (b) may disregard the failure of the Committee to serve the notice upon a person whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section the waste land notice shall be of no effect pending the final determination, or the withdrawal of the appeal.
- (6) On determining an appeal under this section the Governor shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.

#### Advertisements

78. (1) The Governor may, by regulations made under this subsection, provide that the Control of display of advertisements in such circumstances or manner as is prescribed in those regulations shall constitute development requiring planning permission.

- (2) Subject to any regulations for the time being in force made under subsection (1) above, the display of any advertisement on any land owned by or in the occupation of the person displaying the advertisement, and notwithstanding section 26 above (definition of "development") does not require planning permission unless —
  - (a) the advertisement is -
    - (i) designed and constructed so as to be illuminated, either internally or externally; and
    - (ii) is so positioned as to be visible from any road, street or other public place; or
  - (b) the advertisement -
    - (i) exceeds one and one half square metres in area; and
    - (ii) is not solely an announcement of the name or nature of a profession business or trade being carried on in the building or upon the land on which the advertisement is displayed and is an advertisment of a commercial nature and not of a social, charitable or political nature.
- (3) Regulations made under subsection (1) above may amend subsection (2) so as to extend the advertisements in respect of which planning permission is not required.
- (4) For the purposes of this section and section 79 below "advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, or adapted for use for the display of advertisements. Notwithstanding the foregoing provisions of this definition, a traffic sign or road direction sign erected or provided by the Crown is not an advertisement.
- 79. (1) Any person who places or erects or causes to be placed or erected any advertise- Advertisements ment on land belonging to another person without that other person's consent commits an offence.

on land belong ing to another.

(2) A person convicted of an offence under subsection (1) above is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and to a further fine not exceeding that maximum in respect of every day on which the offence continues after the date of conviction of the offence under subsection (1).

# PART VII ENFORCEMENT OF CONTROL UNDER PARTS IV V AND VI

# Development requiring planning permission

80. (1) Where it appears to the Committee that there has been a breach of planning control after the commencement of this Ordinance, then subject to the following provisions of this section, the Committee, if it considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

- (2) A notice under this section is referred to in this Ordinance as an "enforcement notice".
- (3) There is a breach of planning control -
  - (a) if development has been carried out, after the commencement of this Ordinance without the grant of the planning permission under Part IV of this Ordinance; or
  - if any conditions or limitations subject to which planning permission was granted have not been complied with.
- (4) An enforcement notice may be issued only within the period of four years from the date of the breach unless the breach alleged consists of breach of a condition or limitation limiting the duration of a planning permission or relates to development without planning permission to which paragraph (c) or (e) of section 26(3) above relates.
- (5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect -
  - (a) on the owner and on the occupier of the land to which it relates; and
  - (b) on any other person having an interest in that land, being an interest which in the opinion of the Committee is materially affected by the notice.
- (6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.
- (7) An enforcement notice shall also specify -
  - (a) any steps which are required by the Committee to be taken in order to remedy the breach:
  - (b) any such steps as are referred to in subsection (10) of this section and are required by the Committee to be taken.
- (8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.
- (9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose -
  - (a) of restoring the land to its condition before the development took place; or
  - (b) of securing compliance with the conditions or limitations subject to which planning permission was granted,

including -

- (i) the demolition or alteration of any buildings or works;
- (ii) the discontinuance of any use of land; and
- (iii) the carrying out on land of any building or other operations.
- (10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose
  - (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
  - (b) of removing or alleviating any injury to amenity which as been caused by the development.
- (11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.
- (12) The Governor may by regulations direct
  - (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
  - (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 81 below.
- (13) Subject to section 81(9) below an enforcement notice shall take effect on the date specified in it.
- (14) The Committee may withdraw an enforcement notice (without prejudice to its power to issue another) at any time before it takes effect.
- (15) If it does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (16) Where
  - (a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and
  - (b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and
  - (c) the steps have been taken,

for the purposes of this Ordinance planning permission for the retention of the building or works as they are a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the Committee.

81. (1) A person having an interest in the land to which an enforcement notice relates Appeals against may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Governor against the notice, whether or not a copy of it has been served on him.

- (2) An appeal may be brought on any of the following grounds -
  - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
  - (b) that the matters alleged in the notice do not constitute a breach of planning control:
  - (c) that the breach of planning control alleged in the notice has not taken place;
  - (d) in the case of a notice which, by virtue of section 80(4) above, may be issued only within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;
  - (e) in case of a notice not falling within paragraph (d) of this subsection, that
    the breach of planning control alleged by the notice occurred before the commencement of this Ordinance;
  - (f) that copies of the enforcement notice were not served as required by section 80(5) above;
  - (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 80(10) above;
  - (h) that the period specified in the notice as the period which any step is to be taken falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made by notice in writing to the Governor.
- (4) A person who gives notice under subsection (3) of this section shall submit to the Governor, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section, a statement in writing
  - (a) specifying the grounds on which he is appealing against the enforcement notice; and
  - (b) giving such further information as the regulations may prescribe.
- (5) The Governor may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection
  - (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;
  - (b) may require the Committee to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the Planning Officer or the appellant to give such notice of an appeal under this section as may be prescribed, being notice which in the opinion of the Governor is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated:
  - (e) may require the Planning Officer to send to the Governor, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
  - (6) The Governor -

- (a) may dismiss an appeal if the appellant fails to comply with subsection (4)
  of this section within the time prescribed by regulations under subsection (5);
- (b) may allow an appeal and quash the enforcement notice if the Committee or Planning Officer fails to comply with any requirement of regulations made by virtue of paragraph (b), (c) (d) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) The Governor shall permit the Committee the appellant and any other person wishing to do so or the Planning Officer on behalf of the Committee (and without prejudice to subsections (4) and (5) above) to make written representations to him in relation to the appeal and, if notice has been given under subsection (5)(d) above, shall not determine the appeal, except in accordance with subsection (6) above, until at least 28 days have expired from the date on which that notice was given.
  - (8) If
    - (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
    - (b) the appellant does not give information required under paragraph (b) of that subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,

the Governor may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

- (9) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- 82. (1) On the determination of an appeal under section 81 above, the Governor shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

notices: general supplementary or in provisions.

Appeals against

- (2) On such an appeal the Governor may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the Committee.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Governor may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 83. (1) On the determination of an appeal under section 81 above, the Governor may
  - (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) above, the Governor shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may
  - include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Governor thinks fit;

Appeals against enforcement notices: supplementary provisions relating to planning permission. and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

- (3) Where an appeal against an enforcement notice is brought under section 85 above, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Governor of his powers under subsection (1) of this section
  - (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Governor's decision shall be final; and
  - (c) for the purposes of this Ordinance the decision shall be treated as having been given by the Governor in dealing with an application for planning permission made to the Committee required by this Ordinance to be referred to him for determination.
- 84. (1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person commits an offence under this subsection and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale.

Penalties for non-compliance with enforcement notices.

- (2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner
  - (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he commits a further offence and is liable on conviction to a fine not exceeding £250 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall commit an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale; and if the use is continued after the conviction he commits a further offence and is liable on conviction to a fine not exceeding £500 for each day on which the use is so continued.
- (6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or such extended period as the Committee may allow for compliance with the notice.
- 85. (1) Where in respect of any land the Committee -

Stop notices.

- (a) has served a copy of an enforcement notice requiring a breach of planning control to be remedied; but
- (b) considers it expedient to prevent, before the expiry of the period allowed for compliance with the notice, the carrying out of any activity which is, or is included in, a matter alleged by the notice to constitute the breach,

then, subject to the following provisions of this section, it may at any time before the notice takes effect serve a notice (in this Ordinance referred to as a "stop notice") referring to, and having annexed to it a copy of, the enforcement notice and prohibiting the carrying out of that activity on the land, or on any part of it specified in the stop notice.

- (2) A stop notice shall not prohibit -
  - (a) the use of any building as a dwellinghouse, or
  - (b) the use of land as the site for a caravan or any portable building or structure occupied by any person as his only or main residence, or
  - (c) the taking of any steps specified in the enforcement notice as required to be taken in order to remedy the breach of planning control;

and where the period during which an activity has been carried out on land (whether continuously or otherwise) began more than twelve months earlier, a stop notice shall not prohibit the carrying out of that activity on that land unless it is, or is incidental to, building, engineering, mining, or other operations or the deposit of refuse or waste materials.

- (3) A stop notice shall not take effect (and so cannot be contravened) until such date as it may specify, being a date not earlier than three nor later than twenty-eight days from the day on which it is first served on any person.
- (4) A stop notice shall cease to have effect when -
  - (a) the enforcement notice is withdrawn or quashed, or
  - (b) the period allowed for compliance with the enforcement notice expires, or
  - (c) notice of the withdrawal of the stop notice is first served under subsection(6) of this section;

and a stop notice shall also cease to have effect if or to the extent that the activities prohibited by it cease, on a variation of the enforcement notice, to be included in the matters alleged by the enforcement notice to constitute a breach of planning control.

- (5) A stop notice may be served by the Committee on any person who appears to it to have an interest in the land or to be engaged in any activity prohibited by the notice; and where a stop notice has been served in respect of any land, the Committee may display there a notice (in this section referred to as a "site notice") stating that a stop notice has been served and that any person contravening it may be prosecuted for an offence under this section, giving the date when the stop notice takes effect and indicating its requirements.
- (6) The Committee may at any time withdraw a stop notice (without prejudice to its power to serve another) by serving notice to that effect on persons served with the stop notice and, if a site notice was displayed in respect of the stop notice displaying a notice of the withdrawal in place of the site notice.
- (7) If any person contravenes, or causes or permits the contravention of, a stop notice -
  - (a) after a site notice has been displayed, or
  - (b) if a site notice has not been displayed, more than two days after the stop notice has been served on him,

then, subject to subsection (8) of this section, he commits an offence and is liable on summary conviction to a fine not exceeding the maximum of level 7 on the standard scale, or on conviction on indictment to a fine; and if the offence is continued after conviction he commits a further offence and is liable on conviction to a fine not exceeding £500 for each day on which the offence is continued.

86. (1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the Committee may allow, any steps which by virtue of

Execution and cost of works required by enforcement notice. section 84(7)(a) above are required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the Crown may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by it in doing so.

- (2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice a copy of which has been served in respect of any breach of planning control (as defined in section 80(3) above) and any sums paid by the owner of any land under subsection (1) of this section in respect of expenses incurred by the Crown in taking steps required by such notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.
- (3) Regulations made under this Ordinance may provide that in relation to any steps required to be taken by an enforcement notice, such enactments as are specified therein shall apply, subject to such adaptations and modifications as may be specified in the regulations, including adaptations and modifications for the purpose of affording to the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.
- (4) Any regulations made in accordance with subsection (3) of this section may provide for the charging on the land of any expenses recoverable by the Crown under subsection (1) of this section.
- 87. (1) If, after the service of a copy of an enforcement notice, planning permission is Effect of planngranted for the retention on land of buildings or works, or for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works, or the discontinuance of that use, as the case may be.

on enforcement notice.

- (2) If the planning permission granted as mentioned in subsection (1) of this section is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.
- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.
- 88. (1) The Planning Officer shall keep, in such manner as may be prescribed by a development order or by regulations, a register containing such information as may be so prescribed with respect -

Register of enforcement notices and stop notices.

- (a) to enforcement notices; and
- (b) to stop notices.
- (2) A development order may make provision for the entry relating to any enforcement notice or stop notice, and everything relating to any such notice, to be removed from the register in such circumstances as may be specified in the order.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- 89. (1) Compliance with an enforcement notice, whether in respect of -
  - (a) the completion, demolition or alteration of any buildings or works; or
  - (b) the discontinuance of any use of land,

or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to subsection (1) above, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part IV of this Ordinance; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention

Enforcement notice to have effect against subsequent

development.

of the enforcement notice.

- (3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to subsection (4) below the provisions of section 86(1) and (2) above shall apply accordingly.
- (4) Where, at any time after an enforcement notice takes effect -
  - (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice; and
  - the Crown proposes, under section 86(1) above to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

the Crown shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of its intention to do so.

- (5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice commits an offence. and shall be liable on conviction of it to a fine not exceeding the maximum of level 7 on the standard scale; and no person shall be liable under any of the provisions of section 88 above for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.
- 90. (1) A person who, when a stop notice under section 85 above is first served, has an Compensation interest in or occupies the land to which the stop notice relates shall, in any circumstances for loss due to mentioned in sub-section (2) of this section, be entitled to be compensated by the Crown in respect of any loss or damage directly attributable to the prohibition contained in the notice (or, in a case within paragraph (b) of that sub-section, so much of that prohibition as ceases to have effect).

stop notice.

- (2) A person shall be entitled to compensation under sub-section (1) above in respect of a prohibition contained in a stop notice in any of the following circumstances
  - the enforcement notice is quashed on grounds other than those mentioned in paragragh (a) of section 81(2) above;
  - the enforcement notice is varied, otherwise than on the grounds mentioned in that paragragh, so that the matters alleged to constitute a breach of planning control cease to include one or more of the activities prohibited by the stop notice;
  - the enforcement notice is withdrawn by the Committee otherwise than in consequence of the grant by it of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a conditional limitation subject to which a previous planning permission was granted;
  - (d) the stop notice is withdrawn.
- (3) A claim for compensation under this section shall be made to the Chief Executive within the time and in the manner prescribed by regulations under this Ordinance.
- (4) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition.
- (5) In the assessment of compensation under this section, account shall be taken of the extent (if any)to which the claimant's entitlement is attributable to his failure to comply with a notice under section 116 below or to any mis-statement made by him in response to such a notice.
- 91. (1) For the purposes of this Part of this Ordinance, a use of land is established if Certification as
  - (a) it was begun before the commencement of this Ordinance and has continued since the commencement of this Ordinance;
  - it was begun after the commencement of this Ordinance under a planning permission in that behalf granted subject to conditions or limitations, which either have never been complied with or have not been complied with since a date preceding by at least four years the time in question;
  - it was begun after the commencement of this Ordinance as the result of a change of use which, under this Ordinance did not require at the time the change of use took place, the grant of planning permission and there has not been any subsequent change of use requiring such permission.
- (2) Where a person having an interest in land claims that a particular use of it has become established, he may apply to the Committee for a certificate (in this Ordinance referred to as an "established use certificate") to that effect:

to established

Provided that no such application may be made in respect of the use of land as a single dwellinghouse, or of any use not subsisting at the time of the application.

- (3) An established use certificate may be granted (either by the Committee or, under section 92 below, by the Governor) -
  - (a) either for the whole of the land specified in the application, or for part of it;
  - (b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.
- (4) On an application to it under this section, the Committee shall, if and so far as it is satisfied that the applicant's claim is made out, grant to him an established use certificate accordingly; and if and so far as it is not so satisfied, it shall refuse the application.
- (5) Where an application is made to the Committee for an established use certificate, then unless within such period as may be prescribed by a development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the Planning Officer, the Committee gives notice to the applicant of its decision on the application, then, for the purposes of section 92(2) below the application shall be deemed to be refused.
- An established use certificate shall, as respects any matters stated therein, be conclusive for the purposes of an appeal to the Governor against an enforcement notice a copy of which has been served in respect of any land to which the certificate relates, but only where the copy of the notice is served after the date of the application on which the certificate was granted.
- (7) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate or on an appeal arising out of such an application -
  - (a) knowingly or recklessly makes a statement which is false in a material particular; or
  - with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or
  - (c) with intent to deceive, withholds any material information,

he 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 period not exceeding two years or both such fine and such imprisonment.

- 92. (1) The Governor may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by the Committee; and, on any such application being referred to him in accordance with such directions, section 91(4) above shall apply in relation to the Governor as it applies in relation to the Committee in the case of an application determined by it.
- (2) Where an application is made to the Committee for an established use certificate and is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Governor; and on any such appeal the Governor shall
  - if and so far as he is satisfied that the Committee's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the Committee on the application;
  - (b) if and so far as he is satisfied that the Committee's refusal is well founded, dismiss the appeal.
- (3) On an application referred to him under subsection (1) of this section or on an appeal to him under subsection (2) of this section, the Governor may, in respect of any use of land for which an established use certificate is not granted (either by him or by the Committee), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.
- (4) Before determining an application or appeal under this section the Governor shall, if either the applicant or appellant (as the case may be) or the Committee so desire, afford to each of them an opportunity of making written representations to him in relation to the application or appeal.
- (5) The decision of the Governor on an application referred to him, or on an appeal, under this section shall be final.

Grant of certificate by Governor on referred applica

tion or appeal

against refusal.

(6) In the case of any use of land for which the Governor has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.

# Designated buildings and buildings the subject of a prohibition notice

93. (1) Where it appears to the Committee that any works have been or are being executed to a relevant building and are such as to involve a contravention of section 68(1) or (3) above, relevant building it may if it considers expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice -

enforcement

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice to be taken within such period as may be so specified -
  - (i) for restoring the building to its former state; or
  - (ii) where the Committee considers that such restoration would not be reasonably practicable, or would it be undesirable, for executing such further works specified in the notice as it considers necessary to alleviate the effect of the works which were carried out without consent as defined by section 69(1) above; or
  - (iii) for bringing the building to the state in which it would have been if the terms and conditions of any such consent which has been granted for the works had been complied with.
- (2) A notice under this section is referred to in this Ordinance as a "relevant building enforcement notice".
- (3) A copy of a relevant building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect -
  - (a) on the owner and on the occupier of the building to which it relates; and
  - (b) on any other person having an interest in that building, being an interest which in the opinion of the Committee is materially affected by the notice.
- (4) Subject to section 94 below, a relevant building enforcement notice shall take effect on the date specified in it.
- (5) The Committee may withdraw a relevant building enforcement notice (without prejudice to its power to issue another) at any time before it takes effect.
- (6) If it does so, it shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.
- (7) Where a relevant building enforcement notice imposes any such requirement as is mentioned in subsection (1)(b)(ii) of this section, planning permission shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.
- (8) In this section "relevant building" has the same meaning as it has under section 69(4) above.
- 94. (1) A person having an interest in the building to which a relevant building enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Governor against the notice on any of the following grounds -

Appeal against relevant building

- (a) that the matters alleged to constitute a contravention of section 68(1) or (3) above do not involve such a contravention;
- (b) that the contravention of that section alleged in the notice has not taken place;
- that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the

- building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (d) that planning permission ought to be granted for the works, that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (e) that copies of the notice were not served as required by section 93(3) above;
- (f) except in relation to such a requirement as is mentioned in section 93(1)(b)(ii) or (iii) above, the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (g) that the period in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
- (h) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (i) that steps required to be taken by virtue of section 93(1)(b)(ii) above exceed what is necessary to alleviate the effect of the works executed to the building;
- (j) that steps required to be taken by virtue of section 93(1)(b)(iii) above exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the consent under section 66(4) or 68(2) or (4) (as the case may be) had been complied with.
- (2) An appeal under this section shall be made by notice in writing to the Governor.
- (3) A person who gives notice under subsection (2) of this section shall submit to the Governor, either when giving the notice or within such time as may be prescribed under subsection (4) of this section, a statement in writing
  - (a) specifying the grounds on which he is appealing against the relevant building enforcement notice; and
  - (b) giving such further information as the regulations may prescribe.
- (4) The Governor may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection, may make any such provision in relation to appeals under this section as may be made in relation to appeals under section 81 above by regulations under subsection (5) of that section.
- (5) The Governor
  - (a) may dismiss an appeal if the appellant fails to comply with subsection (3) above within the time prescribed by regulations under subsection (4); and
  - (b) may allow an appeal and quash the relevant building enforcement notice if the Committee or, as the case may be, the Planning Officer fails to comply with any requirement of regulations under this section corresponding to regulations made by virtue of subsection (5)(b), (c) or (e) of section 81 above within the period prescribed by the regulations.
- (6) Subject to subsection (7) of this section, the Governor shall, if either the appellant or the Committee so desire, afford to each of them an opportunity of making written representations to him in relation to the matter.
- (7) The Governor shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (5) of this section or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection.
  - (8) If
    - (a) a statement under subsection (3) of this section specifies more than one ground on which the appellant is appealing against a listed building enforcement notice; but
    - (b) the appellant does not give information required under paragraph (b) of that

subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (4) of this section, the Governor may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

- (9) Where an appeal is brought under this section, the relevant building enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- 95. (1) On the determination of an appeal under section 94 above, the Governor shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the relevant building enforcement notice or for varying its terms.

Relevant building enforcement notice appeals supplementary provision.

- (2) On such an appeal the Governor may correct any informality, defect or error in the relevant building enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the Committee.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the relevant building enforcement notice was not served, the Governor may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
  - (4) On the determination of such an appeal the Governor may -
    - (a) grant planning permission for the works to which the relevant building enforcement notice relates or for part only of those works;
    - (b) discharge any condition or limitation subject to which planning permission was granted and substitute any other condition, whether more or less onerous;
    - (c) revoke the designation order or prohibition order relating to the building in question.
- (5) Any planning permission granted by the Governor under subsection (4) above shall be treated as granted on an application for planning permission, and the Governor's decision in relation to the grant shall be final.
- 96. (1) Subject to the provisions of this section, where a relevant building enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the building to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, that person commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale.

Penalties for non-compliance with a relevant building enforce

- (2) If a person against whom proceedings have been brought under subsection (1) above has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the building, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the building (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner
  - (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall commit a further offence and be liable on conviction to a fine not exceeding £500 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

- (5) Any reference in this section to the period allowed for compliance with a relevant building enforcement notice is a reference to the period specified in the notice as that within which steps specified in the notice are required thereby to be taken, or such extended period as the Committee may allow for taking them.
- 97. (1) If, within the period specified in a relevant building enforcement notice as that within which the steps specified in the notice are required thereby to be taken, or within such extended period as the Committee may allow, any steps required by the notice to be taken have not been taken, the Crown may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by it in doing so.

Execution and cost of works required by relevant building enforcement

- (2) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a relevant building enforcement notice, and any sums paid by the owner of a building under subsection (1) above in respect of expenses incurred by the Crown in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) The provisions of section 86(3) above shall apply in relation to a relevant building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by the Crown under subsection (1) above.
- 98. (1) If, after the issue of a relevant building enforcement notice, planning permission is granted under section 44 above for the retention of any work to which the relevant building enforcement notice relates, the relevant building enforcement notice shall cease to have effect in so far as it requires steps to be taken which would involve the works not being retained in accordance with the planning permission.

(2) If the planning permission is granted so as to permit the retention of works without complying with some condition subject to which a previous planning permission was granted, the relevant building enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

- (3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the relevant enforcement notice before the relevant provisions of that notice ceased to have effect.
- 99. (1) If it appears to the Governor, after consultation with the Committee, to be expedient that a relevant building enforcement notice should be issued in respect of any land, he may issue such a notice; and any notice so issued by the Governor shall have the like effect as a notice issued by the Committee.

(2) In relation to a relevant building enforcement notice issued by the Governor the provisions of section 97 above shall apply as if for any reference in that section to the Committee there were substituted a reference to the Governor.

100. (1) Where it appears to the Governor that works are urgently necessary for preservation of a relevant building, the Crown may, subject to the following provisions of this section, execute the works, which may consist of or include works for affording temporary support or shelter for the building.

(2) If the building is occupied works may be carried out only to those parts which are not in use.

- (3) The owner of the building shall be given not less than seven days' notice in writing of the intention to carry out the works and the notice shall describe the works proposed to be carried out.
- 101. (1) This section has effect for enabling the expenses of works executed under section 100 above to be recovered by the Crown.

(2) The Governor may give notice to the owner of the building requiring him to pay the expenses of the works.

Effect of plann ing permission on relevant building enforce-

ment notice.

Enforcement by the Governor.

works by the

Recovery of expenses of works under section

- (3) Where the works consist of or include works for affording temporary support or shelter for the building -
  - (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used, and
  - (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.
- (4) The owner may within 28 days of the service of the notice represent to the Governor -
  - (a) that some or all of the works were unnecessary, for the preservation of the
  - (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time; or
  - (c) that the amount specified in the notice is unreasonable or that the recovery of it would cause him hardship.

and the Governor shall determine to what extent the representations are justified.

- (5) The Governor shall give notice of his determination, the reasons for it and the amount recoverable to the owner of the building.
- 102. (1) For the purposes of exercising or considering the exercise of any of its functions Composition of under the provisions of this Part mentioned in subsection (2) below, section 63 above shall apply as it does for the purposes of the exercise by the Committee of its functions under sections 64 to 72 above.

nurposes of cer-

(2) The provisions referred to in subsection(1) above are sections 93, 94 and 97(1) and 99.

## Waste land

103. (1) The provisions of this section shall have effect where a notice has been served under section 75 above.

Penalties for non-compliance with notice as to waste land.

- (2) Subject to the following provisions of this section, if any owner or occupier of the land on whom the notice was served fails to take any steps required by the notice within the period specified in it for compliance with it, he commits an offence and liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale.
- (3) If a person against whom proceedings are brought under subsection (2) above as the owner of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner brought before the court in the proceedings.
- (4) If a person against whom proceedings are brought under subsection (2) above as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice, ceased to be the occupier, he shall, upon information duly laid

by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person who then became the occupier brought before the court in the proceedings.

- (5) If
  - (a) a person against whom proceedings are brought under subsection (2) above as the occupier of the land has, at some time before the end of the period allowed for compliance with the notice ceased to be the occupier; and
  - (b) nobody then became the occupier,

he shall, upon information duly laid by him, and giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who is the owner at the date of the notice brought before the court in the proceedings.

- (6) If, after it has been proved that any steps required by the notice under section 75 above, have not been taken within the period allowed for compliance with that notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a persons specified in a notice under this section
  - (a) that person may be convicted of the offence; and
  - (b) the original defendant shall be acquitted of the offence if he further proves that he took all reasonable steps to ensure compliance with the notice.
- (7) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.
- (8) Any reference in this section to the period allowed for compliance with a notice is a reference to the period specified in the notice for compliance with it or to such extended period as the Committee may allow for compliance with it.

# PART VIII VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

104. (1) Except as provided by the following provisions of this Part of this Ordinance, the validity of —

- (a) a structure plan, a local plan, a subject plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted; or
- (b) any such Order as is mentioned in subsection (2) below; or
- (c) any such action on the part of the Governor the Committee or the Planning Officer mentioned in subsections (3) (4) and (5) of this section,

shall not be questioned in any legal proceedings whatsoever.

- (2) The orders of the Governor referred to in subsection 1(b) above are orders by the Governor of any of the following descriptions, that is to say
  - (a) any order under section 54 above (revocation or modification of planning permission) or under the provisions of that section as applied by or under any other provision of this Ordinance;
  - (b) any order under section 55 above (requirement to discontinue use or of alteration or removal of buildings or works);
  - (c) any order under section 56 above (prohibition of resumption of winning and working of minerals);
  - (d) any order under section 57 above (order after suspension of winning and working of minerals);

Validity of development plans and certain orders deci sions and directions.

- (e) any order under section 65(1) above (designation of buildings of architectural or historic interest).
- (3) The action by the Governor referred to in subsection (1)(c) of this section is action on the part of the Governor of any of the following descriptions
  - (a) any decision of the Governor on any application for planning permission referred to him, made to him or deemed to be made to him under any provision of this Ordinance;
  - (b) any decision by the Governor on any appeal made to him under any provision of this Ordinance;
  - (c) the giving by the Governor of any direction under any provision of this Ordinance:
  - (d) any decision by the Governor to confirm a completion notice under section 52 above;
  - (e) any decision of the Governor relating to any application for consent or planning permission under any regulations as to control of advertisements, or relating to any certificate or direction under any such regulations and whether it is a decision of the Governor on appeal or an application referred to him for determination in the first instance;
  - (f) any decision of the Governor to designate any building as a building of architectural or historic interest or not to revoke a prohibition notice;
  - (g) any decision of the Governor to attach, or not to attach, any condition, limitation or restriction under any provision of this Ordinance on the granting of any planning permission, or consent granted by him under any provision of this Ordinance, including any reason given for the attachment or non-attachment of any such condition, limitation or restriction;
  - (h) any decision of the Governor not to grant or to refuse any planning permission, consent or certificate he has power to grant any provision of this Ordinance;
  - (i) any decision of the Governor to make or not to make any order he has power to make under any provision of this Ordinance;
  - (j) any decision of the Governor to confirm or act upon or not to confirm or act upon any recommendation of the Committee or of the Planning Officer made to him under any provision of this Ordinance; and
  - (k) any decision of the Governor under any provision of this Ordinance enabling him so to do, to vary, waive, alter or modify any condition, limitation or restriction imposed by the Committee and whether or not any new substituted or different condition limitation or restriction is then imposed by the Governor.
- (4) The action of the Committee referred to in subsection (1)(c) above is action on the part of the Committee of any of the following descriptions
  - (a) a decision on any application for planning permission, whether to refuse or grant it, and if to grant it subject to any conditions limitation or restriction or any decision to impose a condition limitation or restriction on that grant of planning permission;
  - (b) any recommendation by the Committee to the Governor under any provision of this Ordinance;
  - (c) any decision to serve or make or issue any waste land notice or enforcement notice:
  - (d) any decision to serve or make or issue a discontinuance notice;

- (e) any decision to grant or issue or not to grant or issue an established use certificate;
- (f) any decision to serve a completion notice under section 52 above; and
- (g) any decision to extend or not to extend time for doing any thing.
- (5) The action by the Planning Officer referred to in subsection (1)(c) above is action by the Planning Officer of any of the following descriptions
  - (a) any recommendation made or advice given by the Planning Officer to the Committee or the Governor as to the exercise or non-exercise of any of its or his powers under any provision of this Ordinance;
  - (b) any consent or refusal to grant consent under any provision of this Ordinance enabling him to grant or withhold consent for any matter, thing or action; and
  - (c) any determination under section 61 above.
- (6) Notwithstanding subsections (3), (4) and (5) nothing in them shall affect the exercise of the jurisdiction of any court in respect of any refusal or failure of the Governor, the Committee or the Planning Officer (as the case may be) to decide or determine any matter he or it is required or enabled to decide or determine under any provision of this Ordinance.
- 105. (1) Subject to the provisions of this section
  - (a) the validity of a waste land notice shall not, except by way of an appeal under Part VI of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought;

Validity of en-

similar notices.

notices and

- (b) the validity of an enforcement notice shall not, except by way of an appeal under Part VII of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought; and
- (c) the validity of a relevant building enforcement notice shall not, except by way of an appeal under Part VII of this Ordinance, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (2) Subsection (1)(b) above shall not apply to proceedings brought under section 84(5) above against a person who
  - (a) has held an interest in the land since before the enforcement notice was issued under Part VII of this Ordinance;
  - (b) did not have a copy of the enforcement notice served on him under that Part of this Ordinance;
  - (c) satisfies the court -
    - (i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and
    - (ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.
- (3) Subsection (1)(a) above shall not apply to proceedings brought under section 103 above against a person on whom the notice referred to in that subsection was not served, but who has held an interest in the land since before that notice was served on the owner and occupier of the land, if he did not appeal against that notice under Part VI of this Ordinance.
- (4) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both; and any reference in such a notice to a noncompliance with conditions or limitations (whether both such expressions are used in the

notice or only one of them) shall be construed as a reference to non-compliance with conditions or limitations or both with conditions and limitations, as the case may require.

106. (1) If any person aggrieved by a development plan, local plan or subject plan or by an alteration, repeal or replacement on the ground that it is not within the powers conferred by Part III of this Ordinance, or that any requirement of the said Part III or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration repeal or replacement, he may, within six weeks from the first publication in the Gazette of notice of the approval or adoption of the plan, alteration repeal or replacement, make an application to the Supreme Court under this section.

Proceedings fo questioning validity of development plans.

- (2) On any application under this section the Supreme Court -
  - (a) may by interim order wholly or in part suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
  - (b) if satisfied that the plan, alteration, repeal or replacement, is wholly or to any extent outside the powers conferred by Part III of this Ordinance, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of the said Part III or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.

107. (1) If any person —

(a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Ordinance, or that any relevant requirements have not been complied with in relation to that order; or

Proceedings for questioning validity of other orders, decisions and directions.

(b) is aggrieved by any action by the Governor, the Committee or the Planning Officer (as the case may be) on the grounds that the action is not within the powers of this Ordinance, or that any of the relevant requirements have not been complied with in relation to that action,

he may, within six weeks from the date on which the order is made or the action is taken, as the case may be, make an application to the Supreme Court under this section.

- (2) This section applies to any such order as is mentioned in section 104(2) above and to any such action on the part of the Governor, the Committee or the Planning Officer (as the case may be) as is mentioned in section 104(3), (4) or (5) above.
- (3) On any application under this section the Supreme Court
  - (a) may by interim order suspend the operation of the order or action, the validity of which is questioned in the application, until the final determination of the proceedings,
  - (b) if satisfied that the order or action in question is not within the powers of this Ordinance, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

Provided that paragraph (a) of this subsection shall not apply to -

- (i) orders designating a building as being of special architectural or historic interest; or
- (ii) prohibition notices.

108. (1) Where the Governor gives a decision in proceedings on an appeal under Part VII of this Ordinance against -

- (a) an enforcement notice; or
- (b) a relevant building enforcement notice,

the appellant or any other person having an interest in the land to which the notice relates may appeal to the Supreme Court against the decision on a point of law.

- (2) In this section "decision" includes a direction or order and references to the giving of a decision shall be construed accordingly.
- 109. (1) This section applies to any decision of the Governor -
  - (a) on an application under section 61 above which is referred to the Governor under the provisions of this Ordinance;
  - (b) on an appeal from the decision of the Planning Officer under section 61 above.
- (2) If the person who made the application to which a decision to which that section applies relates is dissatisfied with that decision in point of law he may appeal against the decision to the Supreme Court on a point of law.
- (3) Where an application under section 61 above is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to the application in so far as it is an application under section 61 above, but not in so far as it is an application for planning permission.

# PART IX SUPPLEMENTAL TO PARTS II TO VIII

110. (1) Where, under any foregoing provision of this Ordinance, any person has a right Duty to consider to make any written representations in relation to any matter to the Governor or, as the case may be, the Committee, and has exercised that right in accordance with any applicable provision of this Ordinance or of regulations made under any applicable provision of this Ordinance as to -

written represen-

- the time within such written representations are to be made:
- (b) the person, body or authority to whom those written representations are to be delivered;

the Governor or, as the case may be, the Committee, shall consider those representations before deciding the matter in relation to which the person making the representations had the right to make them.

- (2) Where, under any provision of this Ordinance, the Committee is required to afford to any person other than an applicant for planning permission, a certificate or a consent under this Ordinance ("a third party") an opportunity to make written representations to it in relation to the applicant's application it shall -
  - (a) permit the applicant or any agent of the applicant to inspect at any reasonable time on a business day at the office of the Planning Officer all written representations received from any third party;
  - (b) at the request of the applicant, supply to the applicant at a reasonable cost copies of any written representations from any third party;
  - consider, in conjunction with any written representations from any third party,

Appeals to relating to enforcement notices and similar notices

Appeals to Supreme Court

against decisions

111. (1) Neither the Governor nor the Committee shall entertain any oral representations Oml represen-

in relation to any matter from any person entitled to make written representations to him or it in connection with any matter falling to be determined by him or it or the other of

him or it under any provision of this Ordinance.

(2) Nothing in subsection (1) applies so as to prevent the Governor or the Committee receiving during any site visit to which section 113(6) below applies any pertinent oral information as to the site, its surroundings or anything on the site provided that in the case of an appeal the appellant and the Planning Officer have each been afforded a reasonable opportunity of being present during the site visit.

112. (1) Whenever a member of the Executive Council has, as a member of the Committee, participated in deliberations of the Committee leading to a decision which is the subject of an appeal to the Governor under any of the foregoing provisions of this Ordinance, that member shall absent himself from the proceedings of the Executive Council at any ecutive Council time that that Council is considering what advice to give to the Governor in connection with that appeal.

- (2) Subsection (1) above also applies, with all necessary modifications, in relation to the attendance during the proceedings of the Executive Council of the Planning Officer whether present during the deliberations of the Committee or not and of any member of the Committee and any other public officer present at the Committee during the deliberations of the Committee leading to the decision the subject of the appeal.
- (3) Subject to subsection (1) above and to the Constitution, a member of the Committee may be present during any proceedings of the Executive Council when it is considering what advice to give to the Governor as to the exercise of any function he has under this Ordinance.

any written response by the applicant thereto delivered to the Planning Officer before the commencement of the meeting of the Committee at which the applicant's application is to be considered by the Committee.

- (3) The provisions of subsection (2) above shall apply, with all necessary modifications whenever the applicant's application under any provision of this Ordinance falls to be determined by the Governor and not by the Committee,
- (4) Whenever in connection with any appeal and before determination of it the Governor receives any written communication from the appellant the Committee the Planning Officer or a third party in relation to or in connection with the appeal (and without prejudice to the generality of the foregoing, including written representations in relation to an appeal) he shall send a copy of the written communication -
  - (a) to the appellant, in the case of a written communication received from the Committee or the Planning Officer;
  - (b) to the Planning Officer, in the case of a written communication received from the appellant; and
  - to the appellant and to the Planning Officer, in the case of a written communication received from a third party.
- (5) The Governor shall afford to the appellant and to the Committee (or to the Planning Officer on behalf of the Committee) a reasonable opportunity of submitting to him, before the Governor determines the appeal, a response in writing to any written communication a copy of which has been supplied by the Governor under subsection (4) above, and shall consider any such response submitted to him before determining the appeal. This subsection does not, however, extend so as to afford to any person an opportunity of submitting, or so as to require the Governor to consider, any response in writing to a document which itself constitutes a response submitted to the Governor under this subsection.

(6) No action or proceedings whatsoever may be founded upon the publication of any document constituted by permitting a person to inspect it or by the furnishing of copies of it in accordance with any provision of this section.

Members of deliberations.

- 113. (1) The Planning Officer and any other person authorised in writing by the Chief Rights of entry. Executive may at any reasonable time enter any land for the purpose of surveying it in connection with -
  - (a) the preparation, approval, adoption, making or amendment of a structure plan, local plan or subject plan;
  - (b) any application under Part IV of this Ordinance, or in relation to a designation order, prohibition notice or under any regulations made under this Ordinance relating to such an application, for any permission, consent or determination to be given or made in connection with that land or any other land;
  - (c) any proposal by the Committee or by the Governor to make, issue or serve any order or notice under any foregoing provision of this Ordinance.
- (2) The Planning Officer or any other person authorised in writing by the Chief Executive may at any reasonable time enter any land for the purpose of surveying any building thereon in connection with a proposal to make a designation order or serve a prohibition
- (3) The Planning Officer or any other person authorised in writing by the Governor may at any reasonable time enter any land for the purpose of ascertaining whether, in respect to any building on the land, an offence has been or is being committed under section 68(1) above or section 96 above or whether the building is being maintained in a proper state of repair.
- (4) The Planning Officer or any other person duly authorised by the Governor may at any reasonable time enter any land for the purpose of ascertaining whether -
  - (a) an offence appears to have been committed under section 71 above;
  - (b) any of the functions conferred by section 100 above should be exercised in connection with the land.

or for the purpose of exercising any of those functions in connection with the land.

- (5) The Planning Officer or any other public officer authorised by him may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land for planning purposes.
- (6) The Committee and the Executive Council may at any reasonable time enter upon any land for the purpose of inspecting it in connection with the consideration of any application for planning permission, any application for consent or any appeal under this Ordinance (relating in any such case to that land) where the application or, as the case may be appeal, remains for the time being undetermined.
- (7) Subject to section 114 below, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.
- 114. (1) A person authorised under section 113 above to enter any land shall, if so re- Supplemental to quired, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 113 above commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.
- (3) If any person who, in compliance with the provisions of section 113 above, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, he 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.

- (4) Where any land is damaged in the exercise of a right of entry conferred under section 118 above, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Crown.
- (5) Where under section 113 above a person proposes to carry out any works authorised by virtue of subsection (7) of that section he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (7) of that section.
- 115. (1) Subject to the provisions of this section, any notice or other document required Notices. or authorised to be served or given under any provision of this Ordinance or section 116 below may be served or given --

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that
- by sending it in a prepaid registered letter, addressed to that person at his usual or last known place of abode, or, in a case where and address for service has been given by that person, at that address; or
- in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office, or sending it in a prepaid registered letter, addressed to the secretary or clerk of the company or body at that office; or
- by sending a copy of it by telegraphic transmission in writing or by facsimile telegraphic transmission to a telegraphic installation of which in either case, the person to whom the notice or other document is addressed or in the case of a body corporate of which the addressee is its clerk or secretary, that body corporate, is the subscriber.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person can not be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if -
  - (a) being addressed to him either by name or by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) above;
  - (b) being so addressed, and marked in such manner as may be prescribed by regulations under this Ordinance for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery to some person on those premises, or is affixed conspicuously to some object on those premises.
- (3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the person or body required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interest in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to 'the owners and any occupiers' of that part of the land (describing it) and is affixed conspicuously to some object on the land.
- (4) Notwithstanding the preceding provisions of this section any notification under section 30(2) above of an application for planning permission may be given in any manner in which, in the discretion of the Planning Officer, he considers it likely that it should reasonably come to the early attention of the occupier of the premises concerned.

116. (1) For the purpose of enabling the Governor, the Committee or the Planning Officer to make an order or issue or serve any notice or other document which, by any of the foregoing provisions of this Ordinance, he or it is authorised or required to make, issue or serve, that person or body may by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing within twenty-one days after the date on which the notice is served, or such longer time as may be specified in the notice, or as that person or body may allow, such information as to the matters mentioned in subsection (2) below as may be so specified.

- (2) The matters referred to in subsection (1) of this section are -
  - (a) the nature of the interest in the premises of the person on whom the notice is served;
  - the name and address of any other person known to him as having an interest in the premises;
  - the purpose for which the premises are being used;
  - the time when that use began;
  - the name and address of any person known to the person on whom the notice is served as having used the premises for that purpose;
  - (f) the time when any activities being carried out on the premises began.
- (3) Any person who, without reasonable excuse, fails to comply with a notice served on him under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale.
- (4) Any person who, having been required by a notice under subsection (1) above to give any information knowingly makes an mis-statement in respect thereof commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale and to imprisonment for a term not exceeding two years or both.
- 117. (1) The Governor may make regulations under this Ordinance —

(a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Ordinance to be served, made or issued by him, the Committee or the Planning Officer;

(b) for any purpose which regulations are authorised or required to be made under this Ordinance, not being a purpose for which regulations are authorised or required to be made by another person or authority;

- as to the exercise of any claim for compensation and as to the person to whom such compensation or any part thereof is to be paid and as to the application of any such compensation or any part thereof in cases where, apart from such regulations, the right to claim compensation is exercisable by reference to an interest in land which is subject to a mortgage, or to a rentcharge, or to the trusts of a settlement, or which was so subject at the time specified in the regulations.
- (2) Any power conferred by any of the provisions of this Ordinance to make an order or regulations shall include power to vary or revoke any such order or regulations by a subsequent order or subsequent regulations, as the case may be.
- 118. (1) Where an offence under this Ordinance (other than an offence under section 71) Offences by corwhich has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a 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, commit that offence and is liable to be proceeded against accordingly.

(2) In subsection (1) above the expression "director" in relation to any body corporate established by or under an enactment for the purpose of carrying out any business or activity, being a body corporate whose affairs are managed by the members of the body corporate, means a member of that body corporate.

Regulations and

Orders.

119. (1) Regulations under this Ordinance may provide for the combination in a single Combined apdocument, made in such form and transmitted to such person or authority as may be plications. prescribed by such regulations of -

- (a) an application for planning permission in respect of any development; and
- (b) an application required, under any enactment specified in the regulations for any licence, permission or consent required under any such enactment.
- (2) Subsection (1) above shall have effect without prejudice to -
  - (a) the validity of any application made in accordance with the enactment in
  - (b) any provision of that enactment enabling the Committee, the Governor or any other person to require further particulars of the matters to which the application relates.

120. For the avoidance of doubt it is declared that the provisions of this Ordinance, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may excluded by be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the date of commencement of this Ordinance or by any re- enactment of any such enactment, for authorising or regulating any development of the land.

special

121. This Ordinance binds the Crown.

122. (1) Any permission, consent, notice, authorisation, order, determination, certificate or other document issued, made or given by the Committee under this Ordinance or under any subsidiary legislation made under this Ordinance is sufficiently and validly issued made or given if it is otherwise validly issued, made or given and -

Ordinance to bind the Crown notices permissions and con-

- (a) it is signed by the Planning Officer or by the Secretary of the Committee; and
- (b) it is expressed to be so signed by authority of the Committee.
- (2) Any permission, consent, notice, authorisation, order, determination, certificate or other document issued, made or given by the Governor under this Ordinance or under any subsidiary legislation made under this Ordinance is sufficiently and validly issued made or given if it is otherwise validly issued, made or give, and -
  - (a) it is signed by the Governor personally; or
  - (b) it is signed by the Chief Executive, Attorney General or the Clerk of the Councils and is so expressed to be so signed by the direction of the Governor,

and where paragraph (b) is complied with in relation to a document, it shall be conclusively presumed that it was signed by the direction of the Governor.

123. (1) If any person claims that by virtue of any of the provisions of section 54(5), 55(16) 65(1), 90 or regulations under section 117(1)(c) of this Ordinance he is entitled to compensation and -

Appeals and references to Supreme Cour in relation to compensation

- (a) he has duly made a claim for that compensation; and
- (b) that claim is not admitted by the Crown within six weeks of it being made or, if admitted by the Crown, the amount of the compensation is not within three months of the claim agreed between him and the Crown,

he may refer the matter to the Supreme Court for determination.

- (2) On reference being made under subsection (1), the Supreme Court may
  - (a) if appropriate, admit or refuse to admit the claim for compensation; and
  - (b) if the claim is admitted by the Crown or by the Supreme Court fix the amount of compensation to be paid in accordance with this Ordinance; and
  - (c) make such other or further order as it thinks just.
- 124. (1) The Buildings of Architectural and Historic Interest Ordinance 1987 ("the repealed Repeal and Ordinance") is repealed.
- (2) The Governor may by regulations make provision giving continuing effect to any

notice, order, consent, permission or document, given, made, issued or served under the repealed Ordinance as if it had been given, made, issued or served under the corresponding provision or provisions of this Ordinance and may by such regulations make such transitional, consequential or incidental provision as appears to him necessary or convenient to make so as to give continuing effect to the same as if so given, made, issued or served.

# SCHEDULE 1 (section 54(5))

# COMPENSATION FOR REVOCATION OR MODIFICATION OF PLANNING PERMISSION

#### Part 1

## General

- 1. Subject to Part II below, where planning permission is revoked by an order under section 54 of this Ordinance, then if, on a claim made to the Governor in the manner prescribed by regulations under this Ordinance, it is shown that a person who is without an interest in the land itself but has an interest in minerals in, on or under it
  - (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
  - (b) subject to parargraphs 2 and 4 below has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the Crown shall pay to that person compensation in respect of that expenditure, loss or damage.

- 2. Where a person would otherwise be entitled to payment of compensation under subparagraph (b) of paragraph 1 above, he shall not be entitled thereto if one of the following conditions is not satisfied in relation to him
  - (a) his interest in the land, or as the case may be, the minerals, is shown to have been acquired from a person who himself acquired it by an arms' length transaction after the grant of the planning permission revoked or modified;
  - (b) his interest in the land, or as the case may be, the minerals, is shown to have been acquired from a person who himself acquired it by an arms' length transaction after the grant of the planning permission revoked or modified.

For the purpose of this paragraph an "arms' length transaction" is a transaction whereby the person transferring the interest concerned intends that the full value of the interest transferred is reflected in the consideration paid or transferred to him as a result of the transaction and any transaction by way of gift or for a consideration which is manifestly not one which is intended to reflect the true value of the interest transferred is not an arms' length transaction.

- 3. For the purposes of this Schedule, any expenditure incurred after the grant of the planning permission revoked or modified in the preparation of plans for the purposes of any work, or upon any similar matters preparatory thereto shall be taken to be included in the expenditure incurred in carrying out that work.
- 4. No compensation shall be paid under this Schedule in respect of any work carried out before the grant of the planning permission revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of the permission.
- 5. In calculating, for the purposes of this Schedule, the amount of any loss or damage consisting of depreciation of the value of an interest in the land, it shall be assumed that planning permission would be granted for the carrying out of the following works
  - (a) the rebuilding, as often as occasion may require, of any building which was in existence on the commencement date or any building which was in existence before that day but was destroyed or demolished after 1st April 1982 and before 15th June 1982 or demolished after 14th June 1982 as a consequence of damage sustained between the last-mentioned dates, and for the purpose of this sub-paragraph "rebuilding" includes the making good of war damage sustained by any such building;
  - (b) the rebuilding, as often as occasion may require of any building erected after the commencement date and which was erected in accordance with planning permission granted under this Ordinance or deemed to be granted by any development order;

- (c) unless the building is a relevant building, the carrying out of any works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not materially affect the external appearance of the building and so long, in any case, as the cubic content of the original building is not exceeded
  - (i) in the case of a dwellinghouse by more than one tenth or 150 cubic metres, whichever is the greater; and
  - (ii) in any other case, by more than one tenth.

#### Part II

Special Provisions as to compensation for revocation or modification of planning permission for the winning and working of minerals

- 6. Where a planning permission for the winning and working of minerals is revoked or modified under section 54 of this Ordinance this Part of this Schedule has effect if the mineral compensation requirements are satisfied.
- 7. The mineral compensation requirements are satisfied it
  - (a) the order revokes or modifies planning permission for development consisting of the winning and working of minerals; and
  - (b) the order in effect prohibits the working and winning of minerals or imposes restrictions on the winning or working of minerals greater than existed before the making of the Order and such greater restrictions either directly or indirectly result in the annual rate of extraction of the minerals concerned being reduced.
- 8. The compensation payable is limited
  - (a) in the case of a modification of planning permission resulting in a reduced rate of annual extraction to

$$C + (R (\frac{VY}{X}))$$

(b) in the case of a revocation of planning permission to win and work minerals to

$$C + (\frac{VY}{X})$$

9. For the purposes of paragraph 7 —

"V" equals (subject to paragraph 9) the actual cost of the buildings, plant and machinery employed in winning and working of the minerals so far as is reasonably attributable to the land to which the planning permission relates;

"X" equals the duration of any licence granted under the Mining Ordinance to extract the minerals in question, or if none, equals 60;

"Y" equals the number of years (to the nearest whole year) unexpired at the date of the revocation or modification of the planning permission to the date when the licence under the Mineral's Ordinance will expire or, if none, from the date on which such revocation or modification to the sixtieth anniversary of the commencement of winning and working of the minerals;

"C" equals the compensation (including redundancy payments) actually paid and reasonably paid by the person claiming compensation to any employee of his whose employment is reasonably brought to an end as a result of such revocation or modification, insofar as the person claiming has not been, or will not be, able to set such payments off against any liability to tax;

"R" equals the reduction in the rate of annual extraction permitted as a result of modification of planning permission expressed as a percentage of the rate of extraction previously permitted:

and for the purposes of this paragraph -

(i) "actual cost" includes the cost of erecting or placing the same on site:

- (ii) where buildings, plant and machinery employed in winning and working minerals are also so used in relation to other land the values comprised in V shall be apportioned, by relation and in ratio to their use, and V shall be reduced in amount accordingly except where the claimant proves that the buildings, plant and machinery cannot reasonably economically be further used for that purpose by reason of the reduction in volume of minerals permitted to be extracted resulting from the modification or revocation of planning permission concerned.
- 10. Any compensation to which this Part of this Schedule relates shall be reduced by the value to the claimant of any building, machinery apparatus or materials he removes from the site in consequence of the order.

#### SCHEDULE 2

(section 55(16))

# COMPENSATION IN RESPECT OF ORDERS REQUIRING DISCONTINUANCE OF USE OR ALTERATION OR REMOVAL OF BUILDINGS OR WORKS

- 1. Subject to paragraphs 2 and 4 below the provisions of this Schedule as to compensation shall have effect where an order is made under section 55 above requiring a use of land to be discontinued or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be removed.
- 2. No compensation shall be payable
  - (a) where the use first commenced, or the buildings or works were constructed or erected (as the case may be) after the commencement of this Ordinance and
    - (i) other than under a planning permission granted under this Ordinance or deemed to be granted under a development order; or
    - (ii) other than in circumstances in relation to which an established use certificate has been issued;
  - (b) in respect of the discontinuance of, or imposition of conditions or the continuance of any use of land for the winning and working of minerals commenced before the commencement of this Ordinance unless the continuance of that use is permitted by the terms of a planning permission granted or deemed to be granted after the commencement of this Ordinance and so granted or deemed to be granted before the order in question is made under section 55 above.
- 3. If, subject to paragraph 2 above, on a claim made to the Governor within the time and in the manner prescribed by regulations under this Ordinance, it is shown that any person has suffered damage in consequence of the Order by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it or by being disturbed in his enjoyment of the land or of minerals in, on or under it, the Crown shall pay to that person compensation in respect of that damage.
- 4. Without prejudice to paragraph 3 above, any person who carries out any works in compliance with the order shall be entitled, on a claim being made as mentioned in that subsection, to recover from the Crown compensation in respect of any expenses reasonably incurred by him in that behalf.
- 5. Any compensation payable to a person under this Schedule shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

# SCHEDULE 3

(section 65(4))

# COMPENSATION WHERE PLANNING PERMISSION IS REVOKED BY VIRTUE OF AN ORDER UNDER SECTION 65(1)

Where planning permission for demolition, alteration or extension of a building is revoked by section 65(4) paragraphs 1, 3 and 5(a) and (c) and 10 of Schedule 1 above shall apply as if the planning permission had been revoked under section 54(5) of this Ordinance, but paragraphs 2, 4, 5(d), and 6 to 9 (inclusive) shall not apply.

Passed by the Legislature of the Falkland Islands this 8th day of January 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.



# FALKLAND ISLANDS GAZETTE Supplement

# PUBLISHED BY AUTHORITY

Vol. 2

30th JANUARY 1991

No. 3

The following are published in this Supplement -

The Falkland Islands (Territorial Sea) Order 1989;

The Income Tax (Amendment) (No. 2) Bill 1991;

The Income Tax (Amendment) ( No. 3) Bill 1991.

#### STATUTORY INSTRUMENTS

#### 1989 No. 1993

## SOUTH ATLANTIC TERRITORIES

The Falkland Islands (Territorial Sea) Order 1989

Made - - -

1st November 1989

Coming into force

1st January 1990

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

Present,

The Queen's Most Excellent Majesty in Council

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

- 1. This Order may be cited as the Falkland Islands (Territorial Sea) Order 1989 and shall come into force on 1st January 1990.
- 2. The boundaries of the Colony of the Falkland Islands are hereby extended to include, as territorial sea, that part of the sea which is situated within 12 nautical miles measured from the baselines as established by article 3 of this Order, together with the seabed of the territorial sea and its subsoil.
- 3.—(1) Except as otherwise provided in paragraphs (2) to (4) of this article, the baseline from which the breadth of the territorial sea adjacent to the Falkland Islands is measured shall be the low-water line along the coast of all islands comprised in the Colony of the Falkland Islands.
- (2) For the purposes of this article a low-tide elevation which lies wholly or partly within the breadth of sea which would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth thereof and if paragraphs (3) and (4) of this article were omitted shall be treated as an island.
- (3) The baseline from which the breadth of the territorial sea is measured between Cape Carysfort (East Falkland), Cape Percival (West Falkland) and MacBride Head (East Falkland) shall consist of the series of loxodromes drawn so as to join successively, in the order in which they are there set out, the points identified by the co-ordinates of latitude and longitude in the first column of the Schedule to this Order, each being a point situate on the low-water line on or adjacent to the feature named in the second column of that Schedule opposite to the co-ordinates of latitude and longitude of the point in the first column.
- (4) The provisions of paragraph (3) of this article shall be without prejudice to the operation of paragraph (2) of this article in relation to any island or low-tide elevation which for the purposes of that paragraph is treated as if it were an island, being an island or low-tide elevation which lies to seaward of the baseline specified in paragraph (3) of this article.

(a) 1895 c.34.

#### 4. In this Order-

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

G. I. de Deney Clerk of the Privy Council

#### SCHEDULE

Article 3

# POINTS BETWEEN CAPE CARYSFORT (EAST FALKLAND), CAPE PERCIVAL (WEST FALKLAND) AND MACBRIDE HEAD (EAST FALKLAND) JOINED TO FORM THE BASELINES

	Co-ordinates of latitude and longitude of Point		Name of Feature				
	Latitude South Longitude West						
1.	51° 24′ 49″	57° 50′ 52″	Cape Carysfort				
2.	51° 30′ 38″	57" 44' 11"	Volunteer Point				
3.	51° 40′ 34″	57° 41′ 00″	Seal Rocks				
4.	51° 43′ 41″	57° 44′ 22″	Wolf Rock				
5.	52° 05′ 51″	58° 24′ 36″	Prong Point				
6.	52° 27′ 00″	58° 53′ 33″	East Sea Lion Island				
7.	52* 26' 53"	59° 07′ 16″	West Sea Lion Island				
8.	52° 23′ 48″	59° 43′ 25″	Barren Island				
9.	52° 15′ 33″	60° 38′ 52″	Cape Meredith				
10.	52° 10′ 11″	60° 56′ 07"	Bird Island				
11.	51° 50′ 05″	61° 20′ 36″	Cape Percival				
12.	51° 41′ 35″	61° 19′ 46″	Landsend Bluff				
13.	51° 00′ 27″	61° 15′ 36″	Steeple Jason Islet				
14.	51° 01′ 09″	61° 07′ 46″	Grand Jason NW Islet				
15.	51° 01′ 30″	61° 05′ 34"	Grand Jason N Islet				
16.	51° 09′ 36"	60° 14′ 13"	Wreck Islands				
17.	51° 12′ 28″	59° 54′ 58″	Government Island				
18.	51° 13′ 49″	59° 46′ 23″	White Island				
19.	51° 16′ 26″	59° 29′ 55"	Cape Tamar				
20.	51° 13′ 59"	58° 57′ 56″	Cape Dolphin				
21.	51° 17′ 52"	58° 27′ 42″	Cape Bougainville				
22.	51° 21′ 40″	57° 56′ 46″	MacBride Head				

The above positions are on Falkland Islands Datum (1943).

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

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

## INCOME TAX AMENDMENT LEGISLATION

As a result of changes in the amounts of deductions from chargeable income agreed by the Legislative Council last May and more latterly as a result of further changes in tax rates allowances and exemptions from tax proposed by the Government it was decided to introduce into Legislative Council on 8th January 1991 the Income Tax (Amendment) Bill 1991 which, if it had been enacted, would have given effect to these changes with effect from 1 January 1991, the commencement of the present year of assessment so that they would have effect in relation to taxpayers' tax assessments in this year of assessment: that is to say as to individuals their income during the calendar year 1990 and in relation to corporations their income during the accounting period (not necessarily the full calendar year 1990) on which their 1991 assessment will be based. In respect of individuals the changes would result in much reduced tax assessments and those persons who are employees making payments on account of tax by way of deduction from their salary or wages could, in many cases, expect to receive a tax repayment during the course of 1991. In many cases the repayment would be substantial.

In relation to corporations also, by and large it might be expected that the effect of the changes would be to reduce the amount of tax due. However, in relation to them some of the changes would have the effect of disallowing for tax purposes some deductions from profits, notably in relation to entertainment expenses.

In relation to individuals, a proposed change in the law which would render taxable in an amount to be prescribed by rules under the Income Tax Ordinance the benefit of the private use of a motor vehicle to an employee other than in agriculture could, technically, increase the taxpayer's tax burden but in practice that would be likely if not in every case then in an overwhelming majority of cases being more than compensated for by the other changes proposed. In other words, the individual would still be likely to have a lower tax bill than he would have had if the Bill had not been enacted. The net effect of the Bill, therefore, would have been to reduce the tax burden and, in a number of instances, quite dramatically.

Legislative Councillors however decided that the Bill should be deferred so that public consultation on its provisions might take place. Subsequently it has been decided that the Bill introduced in the Legislative Council on 8th January 1991 should be split into two Bills. The object of this is so that the proposed changes might be more readily understood by the public and, in due course, be debated by the Legislative Council. Against that background two new Bills have been drafted. The first of these is the Income Tax (Amendment) (No. 2) Bill 1991. This is the shorter, and simpler, of the two Bills. Its principal effect, if enacted, would be to increase the amount of various allowances against chargeable income for tax purposes, to reduce the rates of personal and company taxation and to increase the amount of chargeable income liable to the minimum rate of tax (i.e. so that a greater amount of income can be enjoyed before a higher tax rate is applicable). The provisions of the Bill are explained in some detail in the Explanatory Memorandum attached to it.

The Income Tax (Amendment) (No. 3) Bill 1991 is somewhat more lengthy. The principal purpose of that Bill is to bring into effect a number of changes of a more complex nature in the present Income Tax Ordinance. For example, an entirely new right of appeal to a Tax Appeal Tribunal is provided for. The Bill also provides for some major changes in depreciation allowances, which will be of interest primarily to corporations and those engaged in business, a reduction in the amount of allowable entertainment expenses, an increase in the amount liable by way of deduction for training expenses occurred by a business or corporation and more detailed provision as to the filing of accounts by companies. Again, the provisions of that Bill are explained in some detail in the Explanatory Memorandum attached to it. It is in relation to this second new Bill that it is believed that Legislative Councillors would particularly invite the comments to them of interested persons.

#### The Income Tax (Amendment) (No. 2) Bill 1991

#### EXPLANATORY MEMORANDUM

#### Introductory

The Bill is entitled the Income Tax (Amendment) (No. 2) Bill 1991 because an Income Tax (Amendment) Bill 1991 was introduced in the Legislative Council on 8th January 1991, but is not likely to be proceeded with further. That Bill is likely to be replaced by this Bill and by the provisions of the Income Tax (Amendment) (No.3) Bill 1991 if they are enacted. This present Bill, if enacted, would be the first Income Tax (Amendment) Ordinance 1991 and so although it is the No. 2 Bill it would not be appropriate to describe it as the Income Tax (Amendment) (No. 2) Ordinance 1991 but, rather, as the Income Tax (Amendment) Ordinance 1991 and the No. 3 Bill would, if enacted, become the Income Tax (Amendment) (No.2) Ordinance 1991.

The Bill consists of three short clauses and a Schedule. The three clauses are self-explanatory and, as will be seen, clause 3 would amend the Income Tax Ordinance in the manner set out in the Schedule to the Bill.

#### Explanation of the amendments proposed by the Schedule to the Bill

Paragraph 1 of the Schedule would replace paragraph (letter) (l) of section 8 of the Income Tax Ordinance. The present paragraph (letter) (l) of that section deals with exemptions in relation to employees of certain Argentine entities involved in the long-defunct Argentine local operations in fuel supplies and air services. The opportunity would be taken to remove that provision and at the same time insert a new provision in its place which, of course, is in no way related to it. The new paragraph (l) would exempt from liability to income tax interest received on a deposit in an interest-bearing account maintained at a bank or branch of a bank in the Falkland Islands or with a registered co-operative society (e.g. the Stanley Co-operative Society and Falkland Farmers). The object of this provision is to make it attractive for persons to maintain local deposits rather than putting their money on deposit overseas. Interest received on deposits of money overseas by persons locally resident will continue to be subject to Falkland Islands Income Tax. Under the present law one tenth of earned income before other deductions is exempted from taxation by way of "earned income relief". The effect of paragraph 2 of the Schedule to the Bill would be to increase the earned income allowance from one tenth of earned income (10%) to 15% of earned income. This would, of course, have the effect of reducing the tax liability of all persons who are at present liable for tax on earned income.

A minor amendment would be made by paragraph 3 of the Schedule which by the addition of a new paragraph (i) to section 10(3) of the Income Tax Ordinance would exempt from tax all sums paid by a taxpayer by way of contributions for himself or any employee of his under the Old Age Pensions Ordinance. This does not involve any change in practice, but merely a formal change in the law. The Commissioner of Income Tax had in practice allowed Old Age Pension contributions under section 17 of the Income Tax Ordinance. That section allows deductions in respect of Life Insurance contributions and contributions to a Pension Fund but it does not in fact cover Old Age Pension contributions. To bring the law into conformity with established practice paragraph 3 of the Schedule would insert the necessary provision into section 10(3) of the Income Tax Ordinance.

Paragraph 4 of the Schedule to the Bill would merely correct the present error in the Income Tax Ordinance that there are two subsections 10(2) of that Ordinance. The second of them would be renumbered to become section 10(4). The wife's earned income allowance would be increased by paragraph 5 of the Schedule to the Bill from £2,750 to £3,000 by making the appropriate amendment to section 14(1) of the Income Tax Ordinance. Similarly the Bill proposes in paragraph 6 to the Schedule that section 15(1) of the Income Tax Ordinance be amended so as to increase a married man's deduction in respect of his wife living with him or wholly maintained by him from £1,750 to £1,900.

Paragraph 7 to the Schedule to the Bill would make two changes in section 15(2) of the Income Tax Ordinance which grants a deduction of £920 a year for tax purposes from a taxpayer's income in respect of a female relative of his or of his deceased wife or of her deceased husband who is so resident for the purpose of taking charge of the taxpayer's children. Section 15(2) is presently discriminatory in that it only allows a deduction for a female relative so resident and engaged. Subparagraph (a) of paragraph 7 would render the deduction available irrespective of the gender of the relative engaged for the purpose of taking charge of the taxpayer's children. Subparagraph (b) of that paragraph would increase the amount of the deduction from £920 a year to £1,020 a year. By paragraph 8 of the Schedule to the Bill section 15(3) of the Income Tax Ordinance would be amended so as to increase the deduction allowable for maintenance of an infirm or elderly relative from £920 a year to £1,020 a year and to increase from £2,000 a year to £4,000 a year the level of total income of the infirm relative disqualifying a taxpayer from eligibility for this deduction.

Section 19 of the Income Tax Ordinance allows a deduction in respect of the remuneration of non-resident directors of a company limited to 15% of the chargeable income of the company (before directors remuneration was taken into account) or £1,500 whichever is the greater with a limit on deductions under this section to £7,500. By paragraph 10 of the Schedule to the Bill these amounts would be increased so that the remuneration to a non-resident director could be up to £3,000 and the total amount payable to non-resident directors could be up to £15,000.

Major changes in the rates of and bands of income liable to tax in relation to individuals would be made by paragraph 11 of the Schedule to the Bill. At present the first £10,000 of chargeable income is liable to tax at 25%, the next £10,000 of chargeable income is liable to tax at 30% and the remainder is liable to tax at 40%. Paragraph 11 would amend section 21(1) of the Income Tax Ordinance so that the future rates of tax would be 20% on the first £20,000 of chargeable income and 25% on the remainder of chargeable income. By way of example, under the present law a taxpayer who has a chargeable income of £15,000 (that is to say after all allowable deductions from his gross income have been made) is liable to tax of £4,000. Ignoring the fact that his chargeable income will in any case be reduced by the other provisions of the Bill which have been explained above (e.g. increases in deductions and in earned income relief) under the Bill a person with a chargeable income of £15,000 would be liable to tax of £3,250. This, however, does not fully depict the extent of the reduction in personal taxation which would result from the Bill. The following examples are therefore given to illustrate the impact of the changes proposed.

#### Example A

(Note: for the purposes of this example deductions for Old Age Pension contributions have been left out of consideration).

The example is of a married couple living together where the husband has earnings of £15,000 and the wife has earnings of £8,000 and they have a deposit account at the Standard Chartered Bank which earns them interest of £500 a year.

#### (1) Present tax position

£23,500	
£ 9,550	(made up as detailed below)
£13,950	
£ 3,685	(made up as detailed below)
£23,500	
£ 3,685	
£19,815	
	£ 9,550 £13,950 £ 3,685 £23,500 £ 3,685

The deductions totalling £9,550 are made up as follows —

- (i) Earned income relief at 10% of £23,000 (section 10(1)) £2,300
- (ii) Wife's earnings deduction (section 14(1)) £2,750
- (iii) Wife deduction (section 15(1)) £1,750 (iv) Personal deduction (section 15(4)) £2,750

The tax of £3,685 is made up as follows -

- (i) Tax at 25% on £10,000 £2,500
- (ii) Tax at 30% on £3,950 £1,185

#### (2) Position if the Bill is enacted

,		
Gross income	£23,500	
Allowable deductions	£11,850	(made up as below)
Chargeable income	£11,850	
Tax payable	£ 2,330	(made up as below)
Gross income	£23,500	· · · · · · · · · · · · · · · · · · ·
Tax payable	£ 2,330	
Net income after tax	£21,170	

The deductions are made up as follows -

- (i) Bank interest now not liable to tax £ 500
- (ii) Earned income relief (section 10(1)) £3,450
- (iii) Wife's earnings deduction (section 14(1)) £3,000
- (iv) Wife deduction (section 15(1)) £1,900
- (v) Personal deduction (section 15(4)) £3,000

The tax of £2,330 is 20% of £11,650.

In the above example the couple's tax bill is reduced from £3,685 to £2,330.

#### Example B

In this example the taxpayer is a widower with earnings of £14,000 who has two young children which his sister, who has part-time earnings of £3,000 (which would be taxable separately, but in fact are below the "tax threshold") and who lives with him looks after his children. Again, Old Age Pension contributions have been ignored. So too have Family Allowances receivable, since they are not taxable.

#### (1) Present tax position

Gross Income	£14,000	
Allowable deductions	£ 5,020	(made up as below)
Chargeable income	£ 8,980	
Tax payable	£ 2,245	
Gross income	£14,000	
Less tax payable	£ 2,245	
Net income after tax	£11,755	

The deductions are made up as follows -

- (i) Earned income relief (section 10(1)) £1,400
- (ii) Charge of children deduction (section 15(2)) £ 920
- (iii) Personal deduction (section 15(4)) £2,750

The tax is calculated as 25% of £8,980.

#### (2) Position if the Bill is enacted

Gross income	£14,000
Allowable deductions	£ 6,120
Chargeable income	£ 7,880
Tax payable	£ 1,576
Gross income	£14,000
Tax deductable	£ 1,576
Net income	£12,434

The deductions are made up as follows -

- (i) Earned income relief (section 10(1)) £2,100
- (ii) Charge of children deduction (section 15(3)) £1,020
- (iii) Personal deduction (section 15(4)) £3,000

The tax deductable of £1,576 is 20% of £7,880.

The taxpayer's tax bill is reduced from £2,750 to £1,576.

Returning now to the provisions of the Schedule to the Bill, the effect of paragraph 12 of the Schedule is to amend section 21(2) of the Income Tax Ordinance so as to reduce the basic rate of company taxation from 35% to 25% but with a higher rate applying on distributions of dividends to non-residents. Section 21(3) of the principal Ordinance will no longer be appropriate and, consequently, it would be repealed by paragraph 13 of the Schedule to the Bill. Paragraph 14 would make a further consequential amendment in relation to tax credits to shareholders resulting from the lower rates of company taxation.

## A Bill for An Ordinance

#### to amend the Income Tax Ordinance.

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

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1991 and shall Short title and be deemed to have come into force on 1st January 1991.

commencement

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

Principal Ordinance (Cap

3. The principal Ordinance is amended in the manner specified in the Schedule hereto.

Amendment of principal Ordinance.

#### **SCHEDULE**

(Section 2)

#### Amendment of Income Tax Ordinance (Cap. 15)

- 1. Paragraph (1) of section 8 of the principal Ordinance is replaced by the following paragraph -
- "(1) interest receivable in respect of any funds deposited in an interest-bearing account maintained at a bank or branch of a bank in the Falkland Islands or with a registered co-operative society;"
- 2 Section 10(1) is amended by replacing the words "one tenth" with the words "fifteen per centum".
- 3. Section 10(3) is amended by the addition of a new paragraph
  - (i) any sums paid by the taxpayer as to himself or any employee of his under the Old Age Pensions Ordinance.
- 4. The section 10(2) beginning "(2) The Governor in Council may" is renumbered to become section 10(4).
- 5. In section 14(1) "£2,750" is replaced by "£3,000".
- 6. In section 15(1) "£1,750" is replaced by "£1,900".

- 7. In section 15(2) —
- the word "female" is deleted wherever it appears; and
- "£920" is replaced by "£1,020". (b)
- 8. In section 15(3) —
- (a) "£2,000" is replaced by "£4,000"; and
- "£920" is replaced by "£1,020".
- 9. In section 15(4) "£2,750" is replaced by "£3,000".
- 10. In section 19 —
- "£1,500" is replaced by "£3,000"; and
- "£7,500" is replaced by "£15,000".
- 11. In section 21(1) the words following the words "On every pound of " are replaced by the words "the first £20,000 of chargeable income 20 per cent; and

the remainder of chargeable income 25 per cent."

- 12. In section 21(2) the words after "at the following rates" are replaced by the following words —
- on all profits, whether distributed or undistributed, 25 per cent; and
- on any part of its profits which the company pays to any person not ordinarily resident or company not resident in the Falkland Islands a further 10 per cent (in addition to the tax charged under paragraph (a) above);"
- 13. Section 21(3) is repealed.
- 14. Section 22(1) is amended by replacing the words "before 1st January 1988 and twenty-five seventy fifths in relation to years of assessment commencing on or after that date" with the words "before 1st January 1988, twenty-five seventy fifths in relation to the years of assessment commencing on 1st January 1988, 1st January 1989 and 1st January 1990 and, in respect of years of assessment commencing on or after 1st January 1991, one quarter".

## The Income Tax (Amendment) (No. 3) Bill 1991

#### EXPLANATORY MEMORANDUM

#### Introductory

The principal purpose of this Bill, consisting of four clauses and two Schedules, is to incorporate into law a number of reforms of the Income Tax legislation resulting from consideration of a report by consultant advisers by the Government. Further legislation will be required in due course in order to implement a number of other recommendations by the consultants which Government has accepted. It is likely that on that occasion the whole Income Tax Ordinance will be repealed and comprehensively replaced. It is not likely, however, that this legislation will be forthcoming for a considerable number of months. The opportunity would also be taken in this Bill to revoke a number of spent pieces of subsidiary legislation.

#### Detail

Amendments to the Income Tax Ordinance would be made by Schedule 1 to the Bill. Paragraph 1 of Schedule 1 to the Bill would insert five new definitions into section 2(1) (Interpretation) of the Income Tax Ordinance. The definitions of "bank" and "registered co-operative society" (subparagraphs (a) and (d) of paragraph 1) are required because the No. 2 Bill if enacted would exempt from Income Tax certain interest paid on deposits by banks and registered co-operative societies. The replacement by paragraph 1(b) of Schedule 1 of the definition of the Commissioner is required because an important purpose of the Bill is to grant a right of appeal to an Income Tax Tribunal from decisions of the Commissioner and, in relation to matters coming before it on appeals, the Tribunal will need to have all the powers in the first instance of the Commissioner. The replacement of the definition of "company" is required so as to make clear that all persons who are not subject to taxation as individuals will be subject to taxation as companies (unless of course exempted from taxation - e.g. certain charities).

Section 2 of the Income Tax Ordinance would be amended by paragraph 2 of Schedule 1 to the Bill by the addition of three new subsections. The new subsection (1A) would give a statutory test of the place of residence of a company. The new subsection (1B) would provide that non-resident company which had received any payment for which income tax had been deducted could not make a claim for repayment of that income tax until final determination of its assessment to income tax for the year of assessment in question. The new subsection (1C) would provide that a company (as defined) would be liable to Falkland Islands tax on the full amount of its profits wherever arising but subject to any double taxation agreement or arrangement.

Paragraph 3 of Schedule 1 to the Bill would insert new subsections (2A), (2B), (2C), (2D), (2E) and (2F) in section 2 to the Income Tax Ordinance. The new subsection (2A) would set out rules as to when an accounting period of a company (as defined) would begin for income tax purposes and the new subsection (2B) would set out rules as to when an accounting period of a company for tax purposes would end. The new subsections (2C) to (2F) would make related and further provision in relation to accounting periods for tax purposes of companies.

New sections 3A to 3H conferring a right of appeal to a Tax Appeal Tribunal would be inserted by paragraph 4 of Schedule 1 to the Bill. Under the Income Tax Ordinance as presently existing there is a right of appeal to the Judge of the Supreme Court against assessments and many other kinds of decision by the Commissioner. This right has not been exercised in recent years and appeals to the Supreme Court are, of course, of their nature complicated and, if professional assistance is engaged, expensive to the taxpayer. The effect in the first instance to a Tribunal made up of between five and seven persons which could not include any on point of law (that is to say anything but a finding of fact and even on a finding of fact where the Tribunal had no legal basis on which it could find the fact in question) to the Supreme Court. It is hoped that, in practice it will be rare for anybody to need to exercise that further right of appeal.

By the Bill, the Tribunal is to have a Chairman and a Clerk. No member of the Tribunal who has, or whose partner, spouse or child has any direct interest in any matter falling to be considered by the Tribunal may take part in its proceedings. Ordinarily any appeal to the Tribunal is to be lodged within 42 days of the decision of the Commissioner appealed against and an appeal can proceed by way of oral hearing or by way of written representations. The choice as to whether the appeal shall be by way of oral hearing or by way of written representations will be that of the taxpayer. Nobody will be required to engage professional advice (e.g. an accountant or a lawyer) whichever route of appeal is decided upon. Some taxpayers will feel happier making an oral argument (in which case they will presumably choose to ask for an oral hearing) while others will feel daunted by the thought of having to make an oral argument and will prefer to appeal by way of written representations. Whether the appeal is by way of oral argument or by way of written representations the Tribunal will deal with it in private, and not in public. The reason for that is purely the privacy of the taxpayer's affairs. The Tribunal and its Clerk would be required to maintain confidentiality as to matters coming before it on appeal.

Paragraph 5 of Schedule 1 to the Bill would amend section 5 of the Income Tax Ordinance by adding a new paragraph (cc). This paragraph would appear in the section immediately after paragraph (c) which deals with the annual value of land and improvements. The new paragraph (cc) would enable the benefit of the use of a motor vehicle provided for the use of an employee or arising out of or in connection with his employment or profession, trade or business to be taxed if such taxation were provided for by rules confirmed by the Legislative Council. No such rules have yet been made or considered by the Legislative Council. It is however the Government's intention that the use of vehicles arising out of agricultural employment or an agricultural profession trade or business carried on by the taxpayer will be excluded from taxation under any rules to be made in relation to paragraph (cc).

Amendments to section 10(3) of the Income Tax Ordinance are proposed in paragraph 6 of Schedule 1 to the Bill. These amendments are intended to make it clear that if an allowance is claimed against tax for bad debts all steps that ought reasonably to be taken to recover the debts have been taken.

The amendment to section 11 proposed by paragraph 7 of Schedule 1 to the Bill is intended to make it clear that a taxpayer may, if he wishes elect not to claim a depreciation allowance which he is entitled to claim. In other words, that he is not bound to to claim a depreciation allowance if he does not wish to do so.

Paragraph 8 of Schedule 1 to the Bill would insert a new section 12A dealing with the deduction of entertainment expenses. There would be two basic rules under the proposed the new section. The first is that entertainment expenses incurred by any person engaged in any profession trade or business should not be allowable at all unless the Commissioner is satisfied that they were reasonably incurred for the purpose of that profession trade or business. The second is that even if the Commissioner were so satisfied only 60% of the actual amount of that expenditure would be allowed.

Paragraph 8 of Schedule 1 would also insert a new section 12B in the Income Tax Ordinance dealing with the deduction of training expenses. This would allow a person engaged in any profession trade or business or a company to claim a tax deduction of 150% of the amount of his expenditure on training expenses incurred in relation to an employee or indeed the owner of the business himself for the purpose of training. The intention of this provision is to grant a major tax incentive for businesses to incur such expenditure where appropriate. The expenditure allowable would be upon trade business or professional training and tertiary education but would not include school fees.

The Government is considering the amendment of the rules as to old age relief and the amounts in which it should be allowable. Paragraph 9 of Schedule 1 to the Bill would renumber the existing section 16A of the Income Tax Ordinance (which deals with old age relief) so that it becomes section 16 - the previous section 16 which dealt with another subject was repealed in 1985. Any alterations could not have effect unless changes had been proposed by a Resolution of the Legislative Council.

Paragraph 10 of Schedule 1 to the Bill would insert a new section 23 in the Income Tax Ordinance. There is at present no section 23 of the Ordinance as the previous section 23, which dealt with a quite different subject, was repealed in 1980. The new proposed section 23 would enable the Commissioner to require a company to file audited accounts and contain related provision.

The reference to section 16A in section 26(1) of the Income Tax Ordinance is no longer required and paragraph 11 of Schedule 1 to the Bill would delete it. Consequential upon paragraph (1) of section 8 (proposed by the No. 2 Bill) an amendment is required to section 32(1) of the Income Tax Ordinance which would be made by paragraph 12 of Schedule 1 to the Ordinance. A similar consequential amendment would be made by paragraph 13. Provision is made for a minor amendment to section 34(2)(b) of the Income Tax Ordinance. This, in effect, presently requires returns from an employer in respect of persons whose remuneration in the employment for the year does not exceed £80: that figure would be amended to £800. Paragraphs 15 to 17 of Schedule 1 make amendments to section 43 and section 45 of the Income Tax Ordinance consequential upon a right of appeal to the Tribunal being granted by earlier provisions of the Schedule.

Under section 55 of the Income Tax Ordinance, a penalty equal to 5% of the amount of tax payable is leviable if tax is not paid when due. Thus, if a taxpayer fails to pay say £1,000 of tax due he is liable to pay a penalty of £50 however long it is before he eventually pays the tax. Paragraph 18 of Schedule 1 to the Bill would change this situation by replacing section 55(a) with a provision requiring interest to be paid on the amount outstanding at 2% over the base lending rate of Standard Chartered Bank, Stanley Branch and paragraph 19 of Schedule 1 would make that interest payable after as well as before any demand for payment of tax.

Paragraphs 21 and 22 would amend section 85(1) and section 85A(1) of the Income Tax Ordinance, principally, by increasing the amount of fines payable to more modern levels.

At present if a person becomes ordinarily resident of the Falkland Islands in, say, November he can claim deductions from tax in the full annual amount provided for by the the Ordinance as against income for only two months of the year. There are also odd situations arising under the Ordinance if a man marries, his wife dies, or he is separated from his wife during the course of the year. To iron out these anomalies. paragraph 23 of Schedule 1 to the Bill provides, by the proposed insertion of a new paragraph (cc) to section 89(1) of the Income Tax Ordinance for apportionment rules to be made. (n.b. section 89(1) permits the Governor in Council from time to time to make rules generally for carrying out the provisions of the Ordinance). Section 90 of the Income Tax Ordinance allows the Governor in Council to remit the whole or any part of the income tax payable by any person if he is satisfied that it would be just and equitable to do so. Such a remission could arise in circumstances where the tax should never have been charged in the first place. It could also arise, for example, where a taxpayer by reason of serious injury was unable to work again and simply could not afford to pay the tax. The last sentence of section 90 of the Income Tax Ordinance requires that when any tax is remitted under that section "notice of such remission shall be published in the Gazette". The provisions of the section are very rarely used. It is no longer the case that a person's name is published in the Gazette when the Executive Council agrees that an ex gratia payment of an old age pension shall be paid to him and it would appear to be more in accord with modern practice not to publish a taxpayer's name in the Gazette for the amount of tax remitted on the rare occasions when section 90 is used. Consequently paragraph 24 of Schedule 1 to the Bill proposes that the last sentence of section 90, requiring publication in the Gazette of the remission of tax, should be deleted.

Paragraph 25 of Schedule 1 to the Bill would insert a new section 91 in the Income Tax Ordinance enabling any changes in tax rates for the amounts of allowances under the Ordinance to be given effect to by regulations provided the changes have been agreed to by a Resolution of the Legislative Council. The object of this provision is purely to save time and for convenience. Changes are normally agreed to by the Legislative Council in the Budget Session of the Legislative Council in May, following consideration of the Estimates in Select Committee. At present any such changes require an Ordinance to be passed by the Legislative Council and it may be many months, and possibly until December, before the Ordinance can be presented. If the new section 91 were to be enacted, regulations could be made very speedily after the Budget Session of the Legislative Council, giving effect to the changes which the Legislative Council had approved. It would not longer be necessary for Legislative Council at a later date to consider an amending Bill, when it had already decided the matter. The new section would, of course, make it clear that no such changes could be made unless they had been approved by the Legislative Council, so that Legislative Councillors control of changes would continue.

Section 8A of the Income Tax Ordinance (which dealt with the Pioneer Enterprise tax exemption) was repealed in 1988 when these exemptions were replaced by exemptions under the Taxes and Duties (Special Exemptions) Ordinance 1988. The Fifth Schedule to the Income Tax Ordinance which relates to the former section 8A was not repealed after that time. Paragraph 26 would declare the Fifth Schedule to have been repealed from the date on which section 8A was repealed, but without prejudice to its continued operation in respect of any Pioneer Enterprise Tax Exemption Order made under section 8A which continues to have effect.

The Sixth Schedule to the Income Tax Ordinance deals with certain depreciation allowances under section 11 of the Ordinance. These are depreciation deductions in respect of buildings (excluding land), ships and machinery and plant other than ships. Paragraph 27 of Schedule 1 to the Bill would amend paragraph 3 of the Sixth Schedule to the Ordinance so that the Sixth Schedule also relates to aircraft and so that a 25% depreciation deduction (instead of the present 100% depreciation deduction under paragraph 3(a) of the Seventh Schedule) would in future be allowable in respect of expenditure on aircraft. The amendment to paragraph 4 of the Sixth Schedule to the Ordinance proposed by paragraph 28 of Schedule 1 to the Bill is a related provision.

Paragraph 7 of the Sixth Schedule to the Income Tax Ordinance reads "where a building is bought or sold together with land the Commissioner shall make such apportionment of the total sum as is just for the purpose of arriving at the separate value of the building". Paragraph 29 of Schedule 1 to the Bill proposes that that paragraph should be replaced by more appropriate provision as to the apportionment by the Commissioner of values for depreciation purposes. The main purpose of the relevant provisions is to prevent a fictional value being used to obtain an unjust advantage at the expense of the taxpayers generally. The intent is that true values, not fictional values for tax purposes, should be used.

Paragraph 30 of Schedule 1 to the Bill proposes a number of amendments to the Seventh Schedule to the Income Tax Ordinance which also deals with depreciation deductions. First of all, in future depreciation allowances could not be claimed under that Schedule in respect of aircraft at 100%: claims of 25% per annum of the written down value of the aircraft could instead be claimed under the Sixth Schedule (see above). Secondly the deductions allowable by way of initial allowance on industrial buildings and on commercial and agricultural buildings would be increased from 30% to 50%, the initial allowances in respect of hotel buildings would be increased from 20% to 50% and there would be amendments in respect of depreciation deductions for the provision of houses. In future depreciation deductions would not be allowable in respect of houses provided for occupation by employees where the house is used for housing the owner of the business or a close relative of his who is technically employed by the business. The object of that provision is to avoid artificial tax avoidance at the expense of the general taxpayer. Those rules, however, would not apply in relation to houses provided for agricultural purposes (i.e. the great majority of all houses in Camp owned for the purpose of a business).

Where a house is insured for more than its written down value, the excess insurance proceeds received by a taxpayer on the destruction of the house (e.g. by fire) would not, if the house formed part of the assets of a business, in future constitute a "profit" subject to tax. The same provisions as apply in relation to the Sixth Schedule as to apportionment of values so as to avoid fictional values being claimed would also apply under the Seventh Schedule. Paragraph 8 of the Seventh Schedule which requires a company undertaking a new industrial commercial other venture to form a separate company before qualifying for certain depreciation deductions would be repealed.

Lastly, Schedule 2 to the Bill would revoke a number of spent pieces of subsidiary legislation.

## A Bill for An Ordinance

#### to amend the Income Tax Ordinance.

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

1. This Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance 1991 and shall be deemed to have come into force on 1st January 1991.

Short title and commencement

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

Principal Ordinance (Cap 15.).

3. The principal Ordinance is amended in the manner specified in Schedule 1 below.

Amendment of Principal Ordinance.

4. The Orders specified in Schedule 2 below (which are spent) are revoked.

Revocation of spent Orders.

#### SCHEDULE 1

(Section 2)

Amendment of Income Tax Ordinance (Cap. 15)

- 1. Section 2(1) is amended -
- by inserting before the definition of "Commissioner" the following definition "bank" means a financial institution licensed under the Banking Ordinance 1987;
- by replacing the definition of "Commissioner" with the following definition —

  "Commissioner" means the Commissioner of Income Tax but any reference to a decision or determination of the Commissioner includes a reference to a decision or determination of the Tribunal on appeal from the Commissioner and a reference to a decision or determination of the Supreme Court on a further appeal from the Tribunal on a point of law:
- (c) by replacing the definition of "Company" with the following definition —

  "company" means any body corporate or unincorporated association but does not include a partnership;";
- by inserting after the definition of "maintenance payments" the following new definitions —
  "registered co-operative society" means a co-operative society registered under the Co-operative
  "the Tribunal" means the Tax Appeal Tribunal established under section 3A below."

- 2. Section 2 is further amended by the insertion of the following new subsections after subsection (1)
  - "(1A) For the purposes of the determination place of residence of a company its place of registration or incorporation, whether in the Falkland Islands or not, shall be regarded as immaterial and its place of residence shall be determined by relation to the abode of the management and control of the company's business; provided that where the management and control of a company's business lies partly within the Falkland Islands and partly outside the Falkland Islands the company shall for the purposes of this Ordinance be treated, subject to the provisions of any applicable agreement or arrangement with the tax authorities of any country relating to the avoidance of double taxation, be chargeable to tax under this Ordinance on all its chargeable profits wherever arising and, for the purposes of this subsection "chargeable profits" means any trading income arising directly or indirectly through or from a branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but with the exception in any case of distributions received from companies resident in the Falkland Islands).
  - (1B) Where a company not resident in the Falkland Islands receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to tax under this Ordinance, the income tax thereon shall be set off against any tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for the purposes of this Ordinance; and accordingly in that respect the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.
  - (IC) Except as otherwise provided by this Ordinance, and subject to the provisions of any applicable agreement or arrangement with the tax authorities of any country, tax under this Ordinance shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in that period (whether or not received in or transmitted to the Falkland Islands) without any other deduction than is authorised by this Ordinance."
- 3. Section 2 is further amended by the insertion of the following new subsections after subsection (2)
  - "(2A) An accounting period of a company shall, unless the Commissioner otherwise approves, begin for the purposes of tax under this Ordinance whenever
    - (a) the company, not then being within the charge to such tax, comes within it, whether by the company becoming resident in the Falkland Islands or acquiring a source of income, or otherwise; or
    - (b) an accounting period of the company ends without the company then ceasing to be within the charge to tax under this Ordinance.
  - (2B) An accounting period of a company shall end for the purposes of tax under this Ordinance on the occurrence of the first of the following
    - (a) the expiration of 12 months from the beginning of the accounting period;
    - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period; (c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all of the trades carried on by it, within the charge to tax under this Ordinance;
    - (d) the company beginning or ceasing to be resident in the Falkland Islands;

- (e) the company ceasing to be within the charge to tax under this Ordinance.
- (2C) For the purposes of subsection (1D) above and of subsections (2A) to (2F) of this section a company resident in the Falkland Islands, if not otherwise within the charge to tax under this Ordinance, shall be treated as coming within the charge to such tax at the time when it commences to carry on business.
- (2D) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (2B)(b) above shall apply with reference to the accounting date of such one of the trades as the Commissioner may determine.
- (2E) Notwithstanding anything in subsections (1D) and (2A) to (2D) above, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter subject to any other provisions of this Ordinance relating to tax on liquidation of a company, an accounting period shall not end otherwise than by the expiration of 12 months from the beginning or by the completion of the winding up. For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Act 1948 in its application to the Falkland Islands
- (2F) Where it appears to the Commissioner that the beginning or end of an accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding 12 months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either
  - (a) the Commissioner on further facts coming to his knowledge sees fit to revise it; or
  - (b) on an appeal to the Tribunal against the assessment in respect of some other matter the company shows the true accounting periods;

and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the accounting periods, and there shall be made such other assessments for any such periods or any of them as might have been made at the time the assessment appealed against was made."

4 The following sections shall be inserted after section 3 —

"Tax Appeal Tribunal.

- 3A(1) There shall be a Tax Appeal Tribunal and the Governor shall appoint not less than five and not more than seven persons to be members of the Tax Appeal Tribunal.
- (2) A person who is -
  - (a) an elected member of the Legislative Council; or
  - (b) a public officer holding any public office in the Finance Department,

is not qualified to be appointed as a member of the Tribunal and any person who, under this subsection, is not qualified to be appointed as a member of the Tribunal ceases, if he is already a member of the Tribunal, to hold office as such immediately he ceases to be qualified under this subsection to be appointed to be a member of the Tribunal.

- (3) A member of the Tribunal who has, or whose partner, spouse or child has, any direct interest in any matter falling to be considered by the Tribunal shall not take any part in the consideration of that matter by the Tribunal, and shall declare that interest if he is present thereat and withdraw therefrom for so long as that matter is being considered.
- (4) No business shall be transacted (except to adjourn) by the Tribunal unless at least three of its members are present, but the Tribunal may otherwise act notwithstanding a vacancy for the time being in its members. A member of the Tribunal who has declared an interest shall not be counted as being present for the purposes of this subsection.
- (5) The Governor shall appoint one of the members of the Tribunal and, subject to this section, the Chairman shall preside at all meetings of the Tribunal at which he is present. Where the Chairman is, by virtue of subsection (3) above, unable to take part in consideration of a matter or is absent from the meeting of the Tribunal, the members of the Tribunal present (where appropriate, after withdrawal of the Chairman) shall elect one of their members to preside at that meeting or so much of it as the Chairman is absent.

Clerk to the Tribunal.

- 3B(1) The Governor shall appoint a public officer to be the Clerk to the Tribunal.
- (2) The duties of the Clerk shall be -
  - (a) to have custody of the records at the Tribunal;
  - (b) to receive notices of appeal and written representations in connection with any appeal;
  - (c) to keep minutes of all meetings of the Tribunal;
  - (d) to notify the parties to any appeal to the Tribunal of the determination of the appeal by Tribunal and the reasons for that determination; and
  - (e) such others as are imposed on him by this Ordinance; and
  - (f) such others, not inconsistent with this Ordinance, as the Chairman of the Tribunal may assign to him.

Appeals to the Tribunal.

- 3C(1) Any person aggrieved by a decision of the Commissioner under this Ordinance may, within 42 days of that decision or such greater period as the Commissioner, in his discretion, may allow, appeal to the Tribunal in accordance with this section.
- (2) In subsection (1), without prejudice to the generality of that expression, "decision of the Commissioner" includes
  - (a) an assessment of liability to tax or entitlement to repayment of tax already paid or of entitlement to repayment of any sum already paid on account of tax;
  - (b) a decision of the Commissioner that a person is not entitled to the benefit of a deduction, allowance or relief under this Ordinance or that the entitlement of a person thereto is in a sum less than or subject to conditions more onerous than that admitted by that person;
  - (c) a decision to require payment of a penalty under this Ordinance;
  - (d) a decision that a natural person is or was at the relevant time ordinarily resident in the Falkland Islands for the purposes of this Ordinance;
  - (e) a decision that a company is, for the purposes of this Ordinance, to be treated as being resident in the Falkland Islands;

(f) a decision that income of the person that any income is to be treated as unearned income or, as the case may be, earned income,

but does not include a decision of any of the following kinds -

- (i) a requirement of a person to file a return of his income;
- (ii) a requirement of a person engaged, or appearing to the Commissioner to be engaged, in any profession, trade or business in the Falkland Islands that he file accounts or audited accounts of that profession, trade or business in relation to such period as the Commissioner may have required (and in this subparagraph "person" includes a company);
- (iii) a requirement that a person pay interest on any tax upaid or paid late in accordance with such provisions of this Ordinance as authorise the Commissioner to require the payment of such interest;
- (iv) a decision to take proceedings for the recovery of any tax alleged to be due and unpaid; or
- (v) a decision to prosecute for any offence under this Ordinance.
- (3) For the purposes of subsection (1) "person aggrieved" means all or any of the following
  - (a) the person directly affected by the decision in question, or, where he is deceased, his personal representative;
  - (b) in relation to a bankrupt, his trustee in bankruptcy or, where there is none, the Official Receiver or person acting as Official Receiver in relation to the bankrupt's estate;
  - (c) in relation to the estate of a deceased person, the deceased person's personal representative;
  - (d) in relation to a settlement of property, the trustees for the time being of that settlement; and
  - (e) in relation to a person under an incapacity -
    - (i) if that person is a minor, his parents or either of them or any other person who is his guardian;
    - (ii) if that person is under a mental incapacity, the person who has been appointed by the Supreme Court as his receiver or, if there be none, any person appearing to the Tribunal to have a sufficient interest in his welfare; and
  - (f) in relation to a company in the course of being wound up, the liquidator.
- (4) A person desiring to appeal to the Tribunal under this section shall, within the time permitted under subsection (1) above, send or cause to be received by the Clerk to the Tribunal a notice of appeal in writing.
- (5) A notice under subsection (3) above shall specify the decision or decisions the subject of the appeal, the appellant's grounds of appeal and whether the appellant desires to be heard orally, in person or by his representative, by the Tribunal or whether, alternatively, he is content for his appeal to be dealt with by written representations.
- (6) On consideration of any written representations made in accordance with section 3D below, or upon hearing an oral appeal, the Tribunal may allow the appellant to put forward any ground not specified in the notice of appeal, and take it into consideration.

Written representation appeals.

- (7) On receiving a notice of appeal under this section, the Clerk to the Tribunal shall transmit a copy of it to the Commissioner.
- 3D(1) Where the Commissioner receives a copy appeals, notice of appeal under section 3C(6) above which indicates the appellant's desire that the appeal be dealt with by written representations, the Commissioner shall within 21 days of such receipt or such greater period as the Chairman of the Tribunal may permit transmit to the Clerk to the Tribunal his own written representations in relation to the appeal in support of the decision or decisions appealed against in general and in relation to the grounds of appeal in particular.
- (2) On receipt of the written representations of the Commissioner transmitted in accordance with subsection (1) above, the Clerk to the Tribunal shall transmit a copy of those representations to the appellant.
- (3) Within 21 days of the receipt of the Commissioner's written representations the appellant shall transmit his own written representations in support of his grounds of appeal to the Clerk to the Tribunal who shall on receiving them transmit a copy of them
  - (a) to the Chairman of the Tribunal; and
  - (b) to the Commissioner.
- (4) If it appears to the Chairman of the Tribunal that the written representations of the appellant raise any fresh ground of appeal (that is to say, which is not raised in the appellant's notice of apeal under section 3C above), the Chairman shall cause the Clerk to the Tribunal to notify the Commissioner in accordance with subsection (5) below: provided that the Chairman need not do so if he reasonably considers that the fresh ground has been anticipated in the Commissioner's own written representations so that no injustice to the Commissioner is likely to result if he is not offered the opportunity of making further written representations.
- (5) A notification under subsection (4) is a notification that the Commissioner may, if he sees fit to do so, and in relation only to the fresh grounds of appeal specified in the notification, transmit to the Clerk to the Tribunal within 14 days of the notification or such greater period as the Chairman of the Tribunal may allow, such further written representations as the Commissioner considers appropriate.
- (6) On receiving any further written representations of the Commissioner submitted in accordance with subsection (5), the Clerk to the Tribunal shall transmit a copy of them
  - (a) to the Chairman of the Tribunal; and
  - (b) to the appellant,

but unless the Chairman otherwise for special reason directs, the appellant shall not have the right to submit any further written representations on his own behalf.

- (7) The Chairman -
  - (a) unless he has caused the Clerk to the Tribunal to give notification to the Commissioner under subsections (4) and (5) above, as soon as reasonably possible, and
  - (b) where notification has been given under subsections (4) and (5) above, as soon as reasonably possible after the Commissioner's further written representations are received or the period during which they are to be submitted has expired (whichever is the earlier),

shall cause the Clerk to the Tribunal to convene a meeting of the Tribunal to consider the appeal, if no meeting of the Tribunal has already been convened at which it may conveniently be considered.

- (8) The Clerk to the Tribunal shall then send to every member of the Tribunal
  - (a) a copy of the notice of appeal and of all written representations received under this section in relation to it;
  - (b) notice of the date on and time and place at which the appeal will be considered by the Tribunal.
- (9) The Tribunal shall not, on consideration of an appeal under this section -
  - (a) consider any representations other than written representations submitted in accordance with this section;
  - (b) permit any person other than a member of the Tribunal or the Clerk to the Tribunal to be present.
- (10) Section 3E(9) below applies in relation to the determination of an appeal by written representations as well as to an appeal dealt with by way of oral hearing.
- 3E(1) Where the appellant's notice of appeal under section 3C(3) above indicates that the appellant desires that the appeal be dealt with by way of oral hearing, the Chairman of the Tribunal shall cause the Clerk to the Tribunal to give notice of the date on and time and place at which the Tribunal will commence hearing the appeal.
- (2) The notice required by subsection (1) above shall be given
  - (a) to every member of the Tribunal;
  - (b) to the appellant; and

Oral appeals.

- (c) to the Commissioner.
- (3) At the hearing of an oral appeal the appellant and the Commissioner may appear and be heard in person or by any other person appointed to appear before the Tribunal on behalf of the person appointing him.
- (4) On the hearing of an oral appeal, the appellant, or a person on his behalf, shall be heard first and then the Commissioner or a person on his behalf shall be heard in reply. The appellant and the Commissioner shall each have the right to call witnesses or to produce written evidence as part of their case, and any witness who gives oral evidence may be cross-examined by the other party. All witnesses and written evidence on behalf of the appellant shall have completed their evidence before the Commissioner or a person on his behalf is called upon to speak in reply. If the Commissioner calls witnesses or produces written evidence after the close of the case for the appellant, the appellant shall have the right (if he wishes) to address the Tribunal for a second time.
- (5) After it has heard the parties to the appeal, the Tribunal shall require the parties (and any witnesses they may have called) to withdraw, and shall then consider its decision in the appeal.
- (6) The Clerk to the Tribunal shall make a sufficient note of -
  - (a) the address or addresses to the Tribunal of the appellant and of the Commissioner; and
  - (b) of any oral evidence given to the Tribunal.
- (7) The Tribunal shall not require any evidence given to it during the hearing of an appeal to be sworn.
- (8) The Tribunal shall not permit any person other than -
  - (a) the Tribunal itself;
  - (b) the parties, their representatives and their witnesses; and

(c) the Clerk to the Tribunal,

to be present during the hearing of an appeal under this section.

(9) The Tribunal shall cause its decision and the reasons for that decision to be taken down in writing by the Clerk to the Tribunal. As soon as reasonably convenient the Clerk to the Tribunal shall cause a fair copy of the Tribunal's decision and the reasons for it to be signed by the Chairman or other member of the Tribunal presiding during the consideration of the appeal, and the copy so signed shall then constitute the determination of the appeal.

Notification of determination of appeal: further appeal on point of law.

- 3F(1) As soon as possible after the determination of the appeal has been signed, the Clerk to the Tribunal shall transmit a copy of it to the appellant and to the Commissioner.
- (2) The appellant and the Commissioner may, if dissatisfied by the determination of the Tribunal in relation to some point or points of law, within 28 days of the receipt of the Tribunal's determination appeal to the Supreme Court by notice under subsection (3) below.
- (3) A notice under this subsection shall -
  - (a) specify the point or points of law in question;
  - (b) the reasons, in relation to that point of law or those points of law, the appellant to the Supreme Court (be he the original appellant or the Commissioner) alleges that the Tribunal was in error;
  - (c) be delivered in triplicate to the Registrar of the Supreme Court.
- (4) On determination of an appeal to it under this section, the Supreme Court may
  - (a) correct any immaterial informality or error in the determination of the Tribunal which it is satisfied can be made without injustice to the parties;
  - (b) quash or vary the determination of the Tribunal in such manner as it considers appropriate; and
  - (c) make any other order it considers appropriate in the circumstances of the case (including, without prejudice to the generality of the foregoing, an order as to the costs of the appeal to the Supreme Court).
- (5) The Chief Justice may make rules in relation to the procedure of the Supreme Court in appeals to it under this section, but until such rules are first made, and subject to the foregoing provisions of this section, the procedure on such appeals shall as nearly as possible be that on civil appeals to the Supreme Court.

Commssioner to give effect to decisions on appeal.

- 3G(1) Subject to subsection (2) below, the Commissioner shall take such steps and do such things as are necessary to give effect to the determination of the Tribunal on an appeal to it.
- (2) Subsection (1) does not apply where the Commissioner has appealed or intends to appeal in accordance with section 3F above to the Supreme Court against the determination of the Tribunal save that the Commissioner shall not, inconsistently with any determination of the Tribunal, seek to enforce payment of any tax until or unless the determination of the Tribunal is quashed or varied to the relevant extent by the Supreme Court.
- (3) The Commissioner shall, so far as it affects him, take all such steps and do all such things as are necessary to give effect to any order of the Supreme Court on an appeal under section 3F above.

Supplementary to sections 3A to 3G.

3H(1) A member of the Tribunal is not personally liable in respect of anything done or omitted by him in good faith in the course of his functions as such a member.

- (2) The Tribunal has no power to award to any person any costs of an appeal to it.
- (3) For the sake of avoidance of doubt, it is declared that section 4 below (official secrecy) applies to all members of the Tribunal and to the Clerk to the Tribunal in the performance of their functions as such.
- (4) Neither the making of an appeal to the Tribunal nor the making of a further appeal from the Tribunal to the Supreme Court shall (otherwise than by reason of the manner of determination of that appeal or further appeal) have effect
  - (a) to postpone any liability to pay any tax;
  - (b) to excuse any person from payment of interest on any tax overdue or abate that interest; or
  - (c) to excuse any person from any penalty otherwise payable under this Ordinance."
- 5. Section 5 is amended by the addition of a new paragraph —

  "(cc) the annual value of a motor vehicle provided for the use of a person arising out of or in connection with his employment or profession, trade or business;"
- 6. Section 10(3) is amended -
- in paragraph (e) by the insertion after the words "commencement of the said year" the words "provided that the Commissioner is satisfied that all steps that ought reasonably to have been taken to recover the debts have in fact been taken;";
- (b) in paragraph (e) by replacing the words "provided that all sums" with the words 'and provided further that all sums";
- 7. Section 11 is amended by the addition of the following proviso -

"Provided that a person may elect not to take the benefit of any deduction to which he is thereby entitled".

8. The following new sections are inserted after section 12 -

"Deduction of entertainment expences.

- 12A(1) Any item of expenditure incurred in entertainment by a person engaged in any profession, trade or business or by a company shall be wholly disallowed in ascertaining the profits thereof for tax purposes unless the Commissioner is satisfied that it was reasonably incurred for the purpose of that profession, trade or business or, in the case of a company, reasonably incurred for the purpose of any undertaking of the company.
- (2) Where, having regard to subsection (1) any item of expenditure incurred in entertainment is not wholly disallowed in ascertaining profits for tax purposes, forty per cent of the value of that item shall be disallowed in ascertaining the profits of the profession, trade or business or company.

Augmented deduction of training expences.

- 12B(1) Where the Commissioner is satisfied training expenses, that any expenditure has reasonably been incurred by a person engaged in any profession trade or business or by a company
  - (a) upon the training or education of a person employed or intended to be employed by that person or by that company; and
  - (b) that training or education was incurred for the purpose of improving the value of that person as an employee in that profession trade or business or of that company or of fitting him (if not already employed) for employment therein or thereby,

the Commissioner shall, in addition to the actual amount of that expenditure, allow a further sum equal to one half of that amount to be deducted in ascertaining the profits for tax purposes of the taxpayer.

(2) In subsection (1) "employed" and its correlatives shall be construed as including the sole owner of and any partners in any profession trade or

business and "training" does not include education at any school and "school" for the purposes of this subection includes any college, institution or establishment however described at which the trainee attends for the purpose of non-vocational education below the tertiary education level".

#### 9. Section 16A is amended

- (a) by renumbering it so that it becomes section 16 (there being presently no section 16 of the principal Ordinance);
- (b) by adding the following subsections
  - "(3) Without prejudice to the Governor's powers under section 91(1) below (power by regulations to give effect to any resolution of the Legislative Council that any allowance or deduction provided for by this Ordinance by reference to a fixed sum or by a percentage of a sum of income or expenditure shall be altered to the fixed sum or percentage specified in that resolution), the Governor may by regulations made under this subsection give effect to a resolution of the Legislative Council that in place of the provisions of subsections (1) and (2) above or either of them —
  - (a) the age of entitlement under either or both of those subsections be altered;
  - (b) that the deduction allowable under either or both of those subsections shall be a fixed sum or a fraction or percentage of income,

and so far as is necessary to give effect to such a resolution, regulations made under this subsection may amend or replace either or both of those subsections.

- (4) Regulations made under subsection (3) may be revoked (whether or not for the purpose of replacing them) or amended by further regulations made under that subsection."
- 10. A new section 23 is inserted in the principal Ordinance as follows (there being at present no section 23 thereof) —

Requirement to file accounts.

- 23(1) The Commissioner may require -
  - (a) any company which appears to him to be resident in the Falkland Islands for the purposes of this Ordinance;
  - (b) any company which he believes may be resident in the Falkland Islands for the purposes of this Ordinance;
  - (c) any company which the Commissioner believes is not resident in the Falkland Islands but which he believes is carrying on business in the Falkland Islands through a branch or agency; and
  - (d) any person who claims to be, or the Commissioner believes to be, carrying on a profession, trade or business in the Falkland Islands.

to lodge with him, at the same time as it or he lodges any return of income it or he has been required under this Ordinance to lodge, or within such period thereafter as the Commissioner may approve —

- (i) accounts of all of the company's business (in the Falkland Islands or elsewhere) (in the case of a company to which paragraph (a) or (b) above relates);
- (ii) accounts of the branch or agency in the Falkland Islands (in the case of a company to which paragraph (c) above relates); or
- (iii) accounts of the profession trade or business (in the case of a person to whom paragraph (c) above relates).
- (2) In subsection (1) above, "accounts" means accounts in such form as the Commissioner may reasonably require and, in any case, such as fairly and sufficiently to depict the results of the company, branch or agency of the company or profession, trade or business to which they relate in respect of the accounting period with which such accounts deal, and the word "accounts" includes such notes and or explanations as are necessary to enable any

information provided in response to a requirement under subsection (1) above to be understood, including (if required by the Commissioner) a statement of or explanation of any accounting convention which may have been used or employed in the preparation of any information supplied in response to such a requirement.

- (3) Accounts lodged in response to a requirement under subsection (1) above shall, unless the Commissioner otherwise agrees, or it is otherwise required by or under any provision of this Ordinance, relate to the accounting period of the company (or, as the case may be, branch or agency of the company or of the profession, trade or business) last expired before the commencement of the year of assessment to which the return of income referred to in subsection (1) above relates.
- (4) Notwithstanding subsection (3) above (but subject to any contrary requirement by or under any other provision of this Ordinance) a company or person engaged in any profession, trade or business shall not by its or his voluntary act (excepting voluntary liquidation bankruptcy or ceasing to carry on the profession, trade or business) vary, from one year of assessment to another, its or his accounting period in relation to which accounts are under this section provided unless the Commission so requires or so approves.
- (5) The Commissioner may require any accounts lodged under this section to be accompanied by or to incorporate the certificate of an auditor approved by him: provided that an auditor who has been appointed by a company in accordance with any requirement of the law of its place of incorporation shall be deemed to be approved by the Commissioner in relation to that company.
- 11. Section 26(1) is amended by deleting '16A' in paragraphs (a) and (b).

Section 26(3) is amended -

- by replacing the words "Where it appears to the Commissioner, or to the Judge by whom an appeal is heard", with the words "Where it appears to the Commissioner" (the words replaced now being unnecessary by virtue of previous amendments made by this Schedule);
- (b) by replacing the words "the Commissioner or Judge" with the words "the Commissioner" (for the same reason);
- (c) by replacing the proviso with the following
  - "Provided that the amount of the percentage shall in each case be determined by the Commissioner having regard to the nature of the business." (for a similar reason).
- 12. Section 32(1) is amended by the insertion of the words "Except in relation to interest receivable in respect of a deposit to which paragraph (l) of section 8 relates and" before the word "Notwithstanding".
- 13. Section 32(2) is amended by the insertion in paragraph (a) of the words "except as provided in subsection (1) above," before the words "any payment".
- 14. Section 34(2) is amended in paragraph (b) by replacing "£80" with "£800".
- 15. Section 43(1) is amended by the replacement of all words following the words "may appeal against the assessment" with the words "in the manner provided by section 3C above."
- 16. Section 43(2) to (11) is repealed.
- 17. Section 45 is amended by the insertion after the words "any return or assessment shall in" of the words "the Tribunal,".
- 18. Section 55 is amended by replacing paragraph (a) with the following -
- "(a) interest on the tax or the part of it for the time being remaining unpaid shall be recoverable in addition to the tax, and for the purposes of this paragraph the rate of such interest shall be two per cent per annum over the base lending rate in respect of loans to customers in the Falkland Islands for the time being as announced by the Standard Chartered Bank, Stanley branch;"
- 19. Section 55 is further amended by the addition of a paragraph (c) -

- interest under paragraph (a) above shall be recoverable in respect of the period after as well as before the service of a demand note under paragraph (b) above and it is sufficient, in relation to a period falling after the date of the demand note, for it to state that interest is payable as specified in paragraph (a) above.
- 20. Section 84 is repealed and is replaced by the following section —
- "84. A person convicted of an offence under this Ordinance for which no other penalty is provided is liable on conviction to a fine not exceeding £1,000."
- 21. Section 85(1) is amended -
- (a) by replacing "£100" with "£1,000"; and
- (b) by omitting all words appearing after the words "as correct" (imprisonment in default of payment of a fine being provided for generally by the Criminal Justice Ordinance 1989).
- 22. Section 85A(1) is amended -
- (a) by replacing the word "verbally" in paragraph (c) with the word "orally";
- (b) by replacing "£500" with "£5,000"; and
- (c) by omitting all words appearing after the words "offence was committed" (for the same reason as is specified in subparagraph (b) of the preceding paragraph of this Schedule).
- 23. Section 89(1) is amended by the insertion of the following paragraph (cc) —
- (cc) as to the apportionment of deductions or allowances under this Ordinance where a person becomes resident or ceases to be resident in the Falkland Islands during the year preceding the year of assessment or his personal circumstances change during such year (for example, upon marriage, death or separation from his spouse) or where it otherwise appears that apportionment of deductions or allowances would be appropriate.
- 24. Section 90 is amended by the omission of the last sentence.
- 25. A new section is added —

Regulations to give effect to resolutions of the Legislative Council.

- 91(1) Where the Legislative Council has by resolution approved any alteration
  - (a) in the rate of any tax payable under any provision of this Ordinance by any person or class of person (including any company) or the amount or amounts of chargeable income or profits in respect of which any rate of tax shall be applicable, or both;
  - (b) the amount (whether expressed in figures or by relation to a fraction or percentage) of any allowance, deduction or relief to be allowed in comparing the amount of any income or profits subject to tax,

the Governor may by regulations under this section give effect in law to such resolution.

- (2) Regulations under this section may, so far only as is necessary to give effect to the resolution of Legislative Council referred to in subsection (1) above amend the relevant provisions of this Ordinance and any amendment so made shall have effect as if made by Ordinance.
- (3) Unless the resolution of Legislative Council specifically states to the contrary, regulations made under this section shall not come into force until the beginning of the year of assessment next following the date of the resolution.
- 26. The Fifth Schedule (which relates to pioneer enterprise concessions under section 8A of the principal Ordinance which was repealed in 1987) is declared to have been repealed from the date on which section 8A was repealed, but without prejudice to its continued operation in respect of any Order made under that section until such Order itself ceases to have effect.

- 27. Paragraph 3 of the Sixth Schedule is replaced by the following paragraph -
  - "3 The capital assets in respect of which a depreciation deduction may be claimed under this Schedule
- (a) buildings (other than land)
- (b) ships:
- (in respect of years of assessment commencing on or after 1st January 1991) aircraft; (c)
- (d) ships: and
- (e) machinery and plant, other than ships and aircraft."
- 28. Paragraph 4 of the Sixth Schedule is amended by inserting in subparagraph (a) after the word "ship" the words "or (in respect of a year of assessment commencing on or after 1st January 1991) is an aircraft."
- 29. Paragraph 7 of the Sixth Schedule is replaced by the following paragraph —
- 7. Where a capital asset of which a depreciation deduction has been made in accordance with this Schedule has been sold or destroyed together with or at the same time as any other property and —
- the consideration received on the sale of the assets or by way of insurance recoveries is as the case may be, a sum which relates to all the property sold or a sum which relates to all the property destroyed or the subject of the claim under the relevant insurance contract,
- (b) the total consideration received on the sale has by agreement or arrangement between the parties been apportioned between the various items sold at the same time by the same vendor to the same purchaser, and whether by or under the same contract or under separate contracts, or similarly insurance recoveries have been apportioned between insured and insurer-

the Commissioner may -

- (i) where (a) above applies, agree with the former and new owners the apportionment of the sum to which (a) above relates between the various items of property to which it relates and the values thus attributed shall then apply for the purposes of the future operation of this Schedule both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former
- where (a) above applies, and in default of agreement as per (i) (ii) above, himself apportion the sum to which (a) above relates between the various items of property to which it relates and the values thus attributed (subject to any appeal under this Ordinance) shall then apply for the purposes of the future operation of this Schedule both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former owner;
- (iii) where (b) above applies, and the Commissioner is of the view that the apportionment arrived at, if accepted by him, would afford an unjust tax advantage to the new owner or former owner, apportion, for tax purposes, the total consideration between the various items of property to which it relates in accordance with his view of the true value of such items, and the values thus apportioned shall then apply (subject to any appeal under this Ordinance) for the purposes of the future operation of this Schedule where the items of property were sold both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former owner and where the property was destroyed to the owner thereof prior to its destruction.

The Commissioner shall in writing notify the persons affected of any apportionment made by him under this

30. Paragraph 3A of the Seventh Schedule is amended -

- by renumbering the existing paragraph so that it constitutes paragraph 3(1); (a)
- (b) by adding at the end of sub-subparagraph (a) of that subparagraph the words — "(but so that an allowance under this sub-subparagraph shall not be claimed in respect of an aircraft in any year of assessment commencing on or after 1st January 1991)";
- by inserting in sub-subparagraph (b) after the words "used for the purpose of productive manufac-(c) turing or processing", the words "and on commercial and agricultural buildings";
- by replacing the words "30 per cent" in sub-subparagraph (b) with the words "50 per cent"; (d)
- by replacing the words "20 per cent" in sub-subparagraph (c) with the words "50 per cent" (e)
- (f) by replacing the words "30 per cent" in sub-subparagraph (d) with the words "50 per cent";
- in sub-subparagraph (e) by inserting before the words "on other buildings" the words "subject to (g) subparagraph (2) below,";
- by adding the following subparagraphs -(h) "(2) No allowance shall be claimable under subparagraph (1)(e) above —
- except as provided in subparagraph (3) below, where the house is occupied by the proprietor of (a) a business or any associated person;
- (b) except as provided in subparagraph (3) below, where the house is occupied by a major shareholder or by any associated person:
- except as provided in subparagraph (3) below, where the freehold title or lease out of which the tenancy or occupation of the house derives passes to the ownership of any person or company other than the person or company which originally met the cost of the construction of the house;
- Subparagraphs (2)(a) and (b) above do not apply where the Commissioner is satisified that the house (3)(a)is occupied principally for agricultural purposes;
- Subparagraph (2)(c) above does not apply where the Commissioner is satisfied
  - (i) that the new owner is engaged in the business of agriculture; and
  - (ii) that the house is occupied principally for agricultural purposes.
- (4) Notwithstanding any foregoing provision of this Ordinance and paragraph 5 of this Schedule, the excess of sale proceeds or insurance recoveries over its written-down value in respect of a house in the hands of a taxpayer shall not be additional income chargeable to tax.
- (5) For the purposes of this paragraph —

"industrial building" includes -

- warehouses;
- buildings used for the purpose of a transport or dock undertaking; (b)
- all other buildings used for industrial purposes other than hotels and commercial buildings and (c) house or; and
- works involved preparing, cultivating, tunnelling or levelling land prior to or in connection with the construction or re erection of a building which is an industrial building by virtue of (a), (b) or (c) above;

"commercial building" includes -

- a shop; (a)
- a restaurant or cafe; (b)
- an office: (c)
- any other building which is not an industrial building, an agricultural building, hotel, a house or other dwelling if, and only if, the Commissioner is satisfied that it is bona fide being used principally for the purposes of a profession trade or business operated with a view to the realisation of profit;

(e) works involved in preparing, cultivating, tunnelling or levelling land prior to or in connection with the construction of a building which is a commercial building by virtue of (a), (b), (c) or (d) above.

"major shareholder" means a person who himself is, or together with associated persons is, the beneficial owner of a relevant shareholding (whether directly or through a nominee or trustee or any company, and whether any such company is a subsidiary of another company or not, in which he owns, or any associated person or he and associated persons together directly or indirectly beneficially owns, a controlling interest) and "relevant shareholding" means twenty-five per cent or more of the issued share capital of a company carrying voting rights at general meetings of the company;

"associated person" in relation to a person means his spouse, child, father, mother, grandfather, grandmother, brother, sister, half-brother, half-sister or grandchild or any person who is in such a relationship to his spouse, and any company in which he or any person in which he or any associated person or he and any associated persons together hold a controlling interest shall itself be deemed to be an associated person for the purposes of this paragraph.

31. Paragraph 6 of the Seventh Schedule is replaced by the following -

"6. Paragraph 7 of the Sixth Schedule above shall also apply for the purposes of this Schedule as if here set out in full but with the replacement of the words "paragraph 6" wherever appearing therein by the words "paragraph 5".

32. Paragraph 8 of the Seventh Schedule is repealed.

SCHEDULE 2

(section 4)

Revoked Orders

No. 7 of 1953 The Income Tax Order 1953.

No. 4 of 1980 The Income Tax (Pioneer Enterprise) (Fellmongery) Order 1980.

No. 12 of 1986 The Pioneer Enterprise (David James Clarke) Order 1986.



# FALKLAND ISLANDS GAZETTE

# **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 2

4th FEBRUARY 1991

No. 4

The following are published in this Supplement —

The Drug Trafficking Offences Ordinance 1989 (Correction of Errors) Order 1991 (S.R. & O. No. 2 of 1991);

The Census (Forms) Regulations Order 1991 (S.R. &. O. No. 3 of 1991).

## SUBSIDIARY LEGISLATION

# Criminal Law and Medicine and Pharmacy

## Drug Trafficking Offences Ordinance 1989 (Correction of Errors) Order 1991

(S.R. & O. No. 2 of 1991)

Made 25th January 1991 Coming into operation on publication Published 31st January 1991

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a) I make the following Order -

1. This Order may be cited as the Drug Trafficking Offences Ordinance 1989 (Correction Citation. of Errors) Order 1991.

2. The Drug Trafficking Offences Ordinance 1989(b) is corrected in the manner described in the Schedule to this Order.

Errors.

#### **SCHEDULE**

(paragraph 2)

- 1. The word "control" in the Long Title to the Ordinance is replaced by the word "controlled".
- 2. The words "section 23(1)" in section 4 of the Ordinance are replaced by the words "section 24(1)".
- 3. A closing bracket is inserted after the word "Ordinance" in section 5(1)(a) of the Ordinance.

Made this 25th day of January 1991.

D. G. LANG, Attorney General.

- (a) No. 14 of 1977
- (b) No. 20 of 1989

### EXPLANATORY NOTE

(not forming part of above Order)

This Order corrects several clerical errors in the Drug Trafficking Offences Ordinance 1989.

#### SUBSIDIARY LEGISLATION

#### Census

(Section 4)

#### The Census (Forms) Regulations Order 1991

(S.R. & O. No. 3 of 1991)

Made 25th January 1991 Coming into operation on publication Published 31st January 1991

IN EXERCISE of my powers under section 4(e) of the Census Ordinance 1990 (a) I make the following Order -

- 1. This Order may be cited as the Census (Forms) Regulations Order 1991 and shall come into force on the date it is first published in the Gazette.
- 2. The style of form contained within the Schedule to this Order shall be used in the taking of the Census in the Falkland Islands.

Made this 25th day of January 1991.

W. H. FULLERTON, Governor.

(2) No. 9 of 1990

## EXPLANATORY NOTE

(not forming part of above Order) This Order prescribes the style of form to be used for taking the Census in the Islands.

This household's accommodation is:  In a caravan  In a flat or maisonette  * In a house	This Census form relates to the householder and household indicated below.  TO HE COMPLETED BY CENSUS OFFICE FOR ASSISTANCE	What is the main fuel used for heating your accommodation?  Please tick the appropriate box  1. Peat (or other solid fuel)  2. Diesel oil, parafin or kerosene  3. Gas  4. Electricity  Motor Vehicles  Please tick the appropriate box to indicate whether or not a motor wehicle is available for use by you or not a motor wehicle is available of the propositions of your household other than temporary visitors  1. NO motor vehicle svailable  2. AT LEAST ONE motor vehicle available  2. AT LEAST ONE motor vehicle available  (a) Indicover (include all landrover makes eg:  (b) Car or van or 4 wheel drive motor vehicle other than landrover  (c) Motorcycle  (d) Other (Please specify)
PAREL A  AND AMERICED I  4.	PAIXIAND ISIANDS  CENSUS 1991  To he completed by Census Office  For assistance Telephone:	Herr 1- HOUSEMOID  11. Redrooms  12. House ownership  12. House ownership  13. The number of bedrooms in your household's accommodation?  14. The number of bedrooms is  15. House ownership  16. The appropriate box  17. The appropriate box  18. The number of bedrooms is  18. House ownership  19. The appropriate box  10. The appropriate box  11. The appropriate box  12. The first Heating  13. Central Heating  14. The appropriate box  15. The appropriate box  16. The appropriate box  17. The appropriate box  18. The appropriate box  19. The appropriate box  10. The appropriate box  10. The appropriate box  10. The appropriate box  11. The appropriate box  12. The appropriate box  13. Alia of the property (is some main rooms)  14. The appropriate box  15. The appropriate box  16. The appropriate box  17. The appropriate box  18. The appropriate box  19. The appropriate box  10. The appropriate box  11. The appropriate box  12. The appropriate box  13. The appropriate box  14. The appropriate box  15. The appropriate box  16. The appropriate box  17. The appropriate box  18. The appropriate box  19. The appropriate box  19. The appropriate box  19. The appropriate box  19. The appropriate box  10. The appropriate box  11. The appropriate box  12. The appropriate box  13. The appropriate box  14. The appropriate box  15. The appropriate box  16. The appropriate box  17. The appropriate box  18. The appropriate box  19. The appropriate box  19. The appropriate box  10. The appropriate box  10. The appro

	ħ			8	겨	P4.
MOLESTICA	Name, sex, date of birth and relationship			Present Marital Status	Whereabouts on Census Night	Usual address
1st Person (1e householder)	Surname	1 Male 2 Female Date of Birth	Day Month Year	Never married  Married  Divorced and not now married	1 At this address 2 Elsewhere in the Falkland 3 Outside the Falkland Islands	This address  Elsewhere (write full address below - DO NOT use P.O. Box Number)
2ND PERSON	Surname Forenames	1 Male 2 Female Date of Birth	Day Month Year Relationship to 1st Person :	Never married  Married  Divorced and not now married	At this address  2 Elsewhere in the Falkland  3 Outside the Falkland  Islands	1 This address 2 Elsewhere (write full address below - DO NOT use P.O. Box Number)
MOSTERA OHE	Surname	1 Male 2 Female Date of Birth	Day Month rear Relationship to 1st Person	1 Never married 2 Married 3 Divorced and not now merried	1 At this address  At this address  Elsewhere in the Falkland  Solution of the Falkland  Solution of the Falkland  Islands	This address  Elsewhere (write full address below - DO NOT use P.O. Box Number)

PART 2 - PERSONAL

SHD PERSON	Stanley Camp Overseas Person less than 10 years old	Falkland Islands United Kingdom Other country (please specify below)	Yee No	2 years or less 3 to 5 years 6 to 10 years More than 10 years	British Citizership or British Dependent Territories Citizenship Citizen of another country. Please specify which
ZMD FERSON	Stanley   1   2   2   3   3   4   Person less than 10   4   4   9   9   1   1   1   1   1   1   1   1	Falkland Islands   1   2   United Kinglom   2   3   3   Specify below   3   3   3   3   3   3   3   3   3	1 Yes 1 2 2 2	2 2 years or less 1 2 2 3 to 5 years 2 3 3 to 10 years 3 4 4 More than 10 years 4	British Citizenship or British Dependent Territories Citizenship
(1e HOUSIBHOLDER)	Stanley  Camp  Overseas  Person less than 10	1 Falkland Islands 2 United Kingdom 5 Other country (please	1 Yes	1 2 years or less 2 3 to 5 years 3 5 to 10 years 4 More than 10 years	British Citizenship or British Dependent Territories Citizenship  2 Citizen of another country. Please specify which
CUESTION	P5. Where were you normally resident TEN YEARS ago (ie: November 1980)	P6. Country of Birth	Was the person born in the Falkland Islands or did he or she arrive in the Islands within 6 months of birth?	Ma. How long has the person been permenently resident in the Islands?	P9. Citizenship What is the person's citizenship

P15.	P14.	P13.	F1 2.		P11.			P10.	
Education Has the person obtained any degrees professional or vocational qualifications	Education Has the person obtained any recognised school-level examination passes	Employment Status Does the person run his or her own full or part-time business ?	Bonomic Activity Please specify the type of work in which the person is engaged for his main occupation and secondary occupation (if any). A list of types of work is attached as Arnex II to the Guidance Notes	occupation?	Secondary Occupation Does the person have a second or part-time	FIG employees need only write job title	A list of occupations is attached as Annex I to the Guidance Notes	Main Occupation What is the person's main occupation or employment stabus?	QUESTION
Yes Yes	Yes  No	1 Yes 2 No	Main Occupation: Secondary or part-time occupation (if any):	2 No	1 Yes. Please specify:	Main occupation. Please specify:	Does not work for other reasons (eg full time housewife or student)	1 Retired 2 Unemployed	IST PERSON
Yes Yes	1 Yes 2 No	1 Yes 2 No	Main Occupation: Secondary or part-time occupation (if any):	2 No	1 Yes. Please specify:	4 Main occupation. Please specify:	J Does not work for other reasons (eg full time housewife or student	1 Retired 2 Unemployed	ZND PERSON
1 Yes 2 No	1 Yes 2 No	1 Yes 2 No	Main Occupation: Secondary or part-time occupation (if any):	2 No	1 Yes. Please specify:	4 Main occupation. Please specify:	Does not work for other reasons (eg full time housewife or student	1 Retired 2 Unemployed	THE PERSON



# FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 2

11th FEBRUARY 1991

No. 5

The following is published in this Supplement -

The Revised Edition of the Laws Bill 1991.

#### The Revised Edition of The Laws Bill 1991

#### EXPLANATORY MEMORANDOM

#### Introductory

The present edition of the Laws of the Falkland Islands was published in two volumes in 1950. Its predecessors were published in 1875 and 1915. Only a very few copies of the 1950 edition are now in existence and in any case the 1950 edition is hopelessly out of date and of very limited practical use.

It is a maxim of the Common Law that ignorance of the law is no excuse for any action or lack of action (not, as is sometimes said, that everybody is presumed to know the law). However, when there is no reasonably convenient way in which an educated man can readily discover what the law of the Falkland Islands is on any subject, a most unsatisfactory situation clearly exists. That situation most unfortunately exists in the Falkland Islands at present because a person seeking to discover what the statute law of the Falkland Islands is confronted with the task of consulting the 1950 Edition and then the forty years volumes of the Falkland Islands Gazettes which have been published since. Many statutes have come into existence in 1950 have been repealed and others have been massively amended. The same applies in relation to a number of important statutes enacted since 1950. The Income Tax Ordinance is an example of the problems confronting the enquirer - amended, as it has been, in almost every year since it was enacted.

Clearly something needs to be done and the Government has in recent months placed a contract for the preparation of a Revised Edition of the Laws by a company in England headed by Dr Alan Milner of Trinity College Oxford. Even so, it will be about three years before it is available. The reason for this is that the task is colossal because the Legislative output of forty years, represented by thousands of pages of Gazettes has to be edited, read and annotated. The Government recognised that the task was urgent in 1977 and obtained the enactment in that year of a Revised Edition of the Laws Ordinance, intending that a Revised Edition should be published then with Mr Frederick Cooke as editor. The Government was forced to abandon the project for financial reasons.

#### The reasons for the Bill

Any Revised Edition of the Laws must be the definitive version of the laws of the Falkland Islands. So that this may be so, it must be prepared and published with statutory authority. The concept of the Revised Edition now being prepared differs in a number of ways from that of the aborted 1977 proposal. Most importantly, instead of being published as a casebound (traditionally bound) work, it is to be published in loose-leaf form. This is so that material which becomes outdated can be replaced with supplements which will be published annually. Thus the Revised Edition will not become out of date as its predecessors inevitably did. The reader will be assisted by a comprehensive index, footnotes and cross-references.

Additionally, the Revised Edition will be published by grouping statutes under Title Numbers. Related statutes will appear together rather than, as in the past, under Chapter numbers allocated by reference to the alphabetical order of the short titles of Ordinances. Subsidiary legislation will appear immediately following the Ordinance under which it is made rather than in a distinct volume.

The Revised Edition cannot be prepared under the 1977 Ordinance as it stands because of the different publication concept. The amendments required would be considerable and certain defects in the 1977 Ordinance, requiring remedy have become apparent. The choice has been to amend the 1977 Ordinance or to repeal and replace it. The latter course has been chosen because the amendments required are considerable in scope, an entire replacement is easier to comprehend and consistency of style is more readily achieved.

#### The provisions of the Bill

Clause 1 states the Short title. The Bill would, if enacted, come into force on publication of the Ordinance in the Gazette. In Clause 2 appear definitions necessary for the purposes of the Bill. Clause 3 provides for the appointment of the Commissioner and for his replacement if and whenever necessary. If the Bill is enacted it is intended that Dr Alan Milner should be appointed the first Commissioner.

Clause 4 provides for the form of and promulgation of the Revised Edition. It is to be in loose-leaf form and brought up to date by (annual) supplements and it and they are to be brought into force by Orders made by the Governor. Clause 5 states the required content of such an Order.

In Clause 6 provision is made for the certification and admissibility of the Revised Edition and annual supplements. The Revised Edition and (annual) supplements ("further revisions") are to be prime source of reference as to the laws of the Falkland Islands. All legislation would, however, continue to be published in the Gazette as and when made. Supplements to the Revised Edition will be compiled, by reference to the legislation as published in the Gazette, but after exercise where appropriate of the Commissioner's powers under Clauses 7 to 10 and 12.

Clause 7 would lay down what the contents of the Revised Edition must be.

Clauses 8 and 9 would enable legislative "dead wood" (of no utility to the reader or not of any general importance). Clause 10 would confer upon the Commissioner a number of miscellaneous but most important and necessary editorial powers. All these are intended to ensure that the Revised Edition is accurate, and is as helpful to the reader as possible. However, under Clause 11 it is provided that the Commissioner cannot alter the substance of any law (that is to say, the legal effect of the law or the intention of the Legislature). He would be given power under Clause 12 to correct any errors or omissions from the Revised Edition. Clause 13 contains a number of regulation making powers necessary in relation to the printing and publishing of the Revised Edition. Clause 14 and the Schedule would amend the Interpretation and General Clauses Ordinance 1977. Definitions of "Revised Edition" and "Revised Edition of the Laws" would be inserted in section 3 of that Ordinance. Replacement of sections 11, 100 and 101 of the Interpretation and General Clauses Ordinance 1977 (which is necessary consequential upon the provisions of the Bill) would also be effected.

# The Revised Edition of the Laws Bill 1991 (No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. Interpretation.
- 3. Appointment of Commissioner.
- 4. Form and promulgation of Revised Edition and further revisions.
- 5. Contents of Law Revision Orders.
- 6. Certification and admissibility in evidence.
- 7. Contents of Revised Edition and further revisions.
- 8. Omission of subsisting laws.
- 9. Other omissions.
- 10. Miscellaneous powers of Commissioner.
- 11. Limitation of Commissioner's powers.
- 12. Correction of errors and omissions.
- 13. Regulations.
- 14. Amendment of Interpretation and General Clauses Ordinance 1977.
- 15. Repeal.

#### Schedule

### A Bill

#### for

#### An Ordinance

to provide for the preparation and publication of a revised edition of the laws of the Falkland Islands and for matters connected therewith.

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

1. This Ordinance may be cited as the Revised Edition of the Laws Ordinance 1991.

Short title

2. In this Ordinance —

Interpretation

"further revision" means any subsequent revision of the Revised Edition of the Laws of the Falkland Islands, carried out under the authority of section 4(2) of this Ordinance;

"Law Revision Order" means an Order made by the Governor under section 4(4) of this

"laws" means the enactments specified in section 7(1) of this Ordinance;

"relevant revision date" in respect of the Revised Edition means the date as at which the Governor shall specify by Order under section 4(4) that the Revised Edition represents the laws of the Falkland Islands; and in respect of each further revision means 1st January in the year of such further revision or such other date as the Governor may by Order specify as a relevant revision date;

"Revised Edition" means the Revised Edition of the Laws of the Falkland Islands to be prepared under the authority of this Ordinance and shall include, where the context permits, such Revised Edition as revised by any further revision.

3. (1) The Commissioner shall appoint a fit and proper person to prepare and publish, Appointment of or cause to be prepared and published, a Revised Edition of the Laws of the Falkland Islands and from time to time to maintain and further revise such Revised Edition in accordance with this Ordinance.

- (2) If the person for the time being holding appointment as Commissioner is unable for any reason fully to discharge his duties or exercise his powers under this Ordinance, the Governor may appoint some other fit and proper person to be the Commissioner in
- (3) Every appointment made under this section shall be notified in the Gazette.
- 4. (1) The Revised Edition shall be published in loose-leaf form and shall include only such pages as may be authorised to be included therein by an Order made under subsection (4).
- (2) As soon as practicable after 1st January in each year following the bringing into revisions. operation of the Revised Edition, the Revised Edition shall be revised further in accordance with this Ordinance and the necessary pages prepared and published in inclusion, as

inulgation of Revised Edition and further

additions to or to replace pages in the Revised Edition, and the necessary instructions given to remove from the Revised Edition containing all the laws which are required or authorised by this Ordinance to be included therein and are in force on the relevant revision date.

- (3) Every page comprised in the Revised Edition shall bear a reference to the Order by which its inclusion therein was authorised.
- (4) The Governor may by Order approve the Revised Edition and each further revision and direct that they shall come into operation.
- (5) Nothing in this section or in section 2 shall be so construed as to prevent the Governor from appointing more than one date in any year for the bringing into operation of a further revision carried out under the authority of subsection (2).
- 5. A Law Revision Order made under section 4(4) shall specify -

Contents of Law Revision Orders

- (a) each and every page to be included in the Revised Edition and each and every page to be added to, replaced in and removed from the Revised Edition on the occasion of a further revision;
- (b) the relevant revision date;
- (c) the date on which the Order is to come into operation, not being earlier than the date of the first publication of the Order in the Gazette.
- 6. (1) The Governor shall certify three copies of the Revised Edition and of each further revision as being true and complete copies thereof and shall transmit them to the Registrar of the Supreme Court together with a signed copy of the relevant Law Revision Order. If any question thereafter arises as to what is or is not included in the Revised Edition at any relevant revision date, that question shall be determined by reference to one of the copies transmitted to the Registrar but if for any reason no such copy is available, the question shall be determined by the Attorney General producing to the revelant court a copy of the Revised Edition under cover of a certificate under his hand to the effect that the copy is a true and complete copy of the Revised Edition at such relevant revision date.

(2) The Revised Edition once approved under section 4(4) shall be admissible in evidence in any action, matter or proceedings whatsoever before any court as to the existence and contents as at the relevant revision date of any law included in the Revised Edition.

(3) Subsection (2) shall not preclude any court from receiving in evidence any officially pubished copy of any law in force in the Falkland Islands, but unless that court is satisfied that the Revised Edition is manifestly in error in the relevant particular, the court shall in relation to that particular prefer the copy of the law published in the Revised Edition to any other copy:

Provided that any reprint of pages in the Revised Edition authorised under section 13(2)(d) shall for the purposes of this subsection be treated as equivalent to the Revised Edition.

- 7. (1) The Revised Edition shall comprise -
  - (a) all Ordinances in force in the Falkland Islands at the relevant date, except such as are omitted under the provisions of sections 8 and 9;
  - (b) all subsidiary legislation in force in the Falkland Islands at the relevant revision date, except such as is omitted under the provisions of sections 8 and 9,

Provided that in lieu of including any piece of subsidiary legislation, the Commissioner may, where he considers it convenient, set out the effect of that legislation in tabular or abbreviated form; and

- (c) such imperial enactments in force in the Falkland Islands at the relevant revision date as the Commissioner may think it desirable to include, or lists of and references to all or any such imperial enactments.
- (2) The Revised Edition shall also contain -
  - (a) a table of contents;
  - (b) a list of all Ordinances contained in the Revised Edition of the Laws prepared

admissibility in

Certification and

Contents of Revised Edition and further revisions.

under the authority of the Revised Edition of the Laws Ordinance 1943, and a chronological list of all Ordinances subsequently enacted, with notes showing how the same have been dealt with;

- (c) a list of all Ordinances omitted from the Revised Edition under the provisions of section 8; and
- (d) an alphabetical subject-matter index.
- 8. (1) It shall not be necessary to include in the Revised Edition -

Omission of subsisting laws

- (a) any Appropriation Ordinance or Supplementary Appropriation Ordinance;
- (b) any law having application only to the former Dependencies of the Falkland
- (c) any law containing only special provision in relation to the pension of any person named therein; and
- (d) any law which the Commissioner considers it unnecessary to include as not being part of general or of current importance.
- (2) Any law omitted from the Revised Edition under the provisions of subsection (1) shall remain in full force until it has expressly been repealed or revoked or has expired or become spent or had its effect.
- 9. There may also be omitted or removed from the Revised Edition where the Commissioner considers it convenient -

- (a) laws or parts of laws which have been repealed or revoked expressly or by necessary implication, or which have expired, or have become spent, or have had their effect;
- (b) repealing or revoking laws and tables and lists of repealed or revoked laws, whether contained in schedules or otherwise;
- (c) all introductory words of enactment;
- provisions prescribing the date when the amendments effected thereby have been embodied in the laws to which they relate;
- transitional provisions; and
- in any law, the interpretation of any expression which is defined in similar or identical terms with the definition of that expression contained in the Interpretation and General Clauses Ordinance 1977.
- 10. (1) The Commissioner shall have power —

Miscellaneous powers of

- to arrange the laws by Titles in such order and manner and in such groups as he may determine;
- (b) to consolidate into one law any two or more laws relating to similar matters, making such alterations as are thereby rendered necessary or expedient and affixing such date thereto as may seem most convenient;
- (c) to divide any law into two or more laws and to make all the amendments necessary, including the supplying of titles or the alteration of existing titles, consequent upon such division;
- (d) to transfer any provision contained in any law from that law to any other to which, in his opinion, it more properly belongs;
- (e) to alter the order of the provisions of any law;
- to alter the form or arrangement of any provision of any law either by combining it in whole or in part with another provision, or by dividing it into two or more provisions, or by transposing words;
- to divide any law into parts or other divisions and to give to each such part or division a suitable heading;

- (h) to make such adaptions of or amendments to any law as may be required by virtue of any statutory provision having taken effect or as may appear to be necessary or proper as a consequence of constitutional or other changes in the Falkland Islands or any other country or in or to any international body or organisation;
- to make such formal alternations to names, localities, offices, titles and ranks and otherwise as may be necessary to bring any law into conformity with the present circumstances of the Falkland Islands;
- to simplify the phraseology of any law and to make such formal alterations to any law as are necessary or expedient for recurring uniformity of expression;
- (k) to correct grammatical, punctuation, spelling or typographical errors in the laws, and for that purpose to make verbal additions, alterations or deletions not affecting the meaning of any law;
- (1) to supply or correct cross-references:
- (m) to supply, alter or delete marginal or other notes;
- (n) to supply or alter tables of contents;
- to number or renumber, or designate or redesignate, the provisions in any law where in his opinion it is desirable to do so;
- (p) to frame and insert definitions of terms or expressions used in any law and to substitute other terms and expressions of a like nature for those used; and
- generally, to do all things relating to form and method which, in his opinion, may be necessary for the perfecting of the Revised Edition and of any further revision thereof.
- (2) The Commissioner, in including in the Revised Edition any imperial enactment, treaty or convention or any expedient therefrom, may include it as amended by any other instrument or as modified in its application to the Falkland Islands.
- 11. The powers conferred on the Commissioner by this Ordinance shall not be taken to Limitation of imply any power in him to make any alteration or amendment in the substance of any law or part thereof.

12. (1) If at any time any error in or omission from the Revised Edition or any further Correction of revision is discovered, the Commissioner may prepare the necessary pages and give the necessary instructions which should have been prepared or given under section 4(2) and include them in the next convenient further revision.

- (2) No error in or omission from the Revised Edition or any further revision shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.
- 13. (i) The Governor may make Regulations for carrying this Ordinance into effect.

Regulations.

- (2) In particular, but without prejudice to the generality of the foregoing power, such Regulations may -
  - (a) authorise the printing and publishing of the Revised Edition and any further revision by a person or persons other than the Government Printer;
  - (b) authorise the distribution free of charge of copies of the Revised Edition and each further revision to such persons as shall be specified therein;
  - (c) specify the number of copies of the Revised Edition and each further revision to be offered for sale and the price to be charged for such copies;
  - (d) authorise the Government Printer or such other person or persons as may be specified to reprint in booklet form or otherwise any pages containing any Ordinance or the subsidiary legislation made thereunder or both and specify the number of copies of such reprint to be offered for sale and the price to be charged for such copies;
  - (e) authorise the storage of undisturbed and unsold copies of the Revised

Edition and further revisions at such place or places in the Falkland Islands or in the United Kingdom as may be specified.

14. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule.

Amendment of Interpretation and General Clauses Ordinance 1977.

15. The Revised Edition of the Laws Ordinance 1977 is hereby repealed.

(No. 14 of 1977) (No. 13 of 1977)

#### **SCHEDULE**

The Interpretation and General Clauses Ordinance 1977 is amended —

- (a) by the insertion in section 3, immediately after the definition of "repeal", of the following new definition
  - "Revised Edition" and "Revised Edition of the Laws" means the Revised Edition of the Laws of the Falkland Islands prepared under the authority of the Revised Edition of the Laws Ordinance 1991 and shall include, where the context permits, such Revised Edition as revised by any further revision.
- (b) by the repeal of section 11 and its replacement by the following new section 11
  - "11.(1) Wherever in any law or in any document of whatever kind, reference is made to any law affected by or under the operation of the Revised Edition of the Laws Ordinance 1991, such reference shall, unless the context otherwise requires, be construed as a reference to the corresponding law as published in the Revised Edition.
  - (2) Where any written law of the Falkland Islands is referred to, it shall be sufficient for all purposes to cite such written law —
  - (a) by any Title number or chapter number lawfully given to it under the authority of any Ordinance providing for the publication of a Revised Edition of the laws of the Falkland Islands;
  - (b) by the title, short title or citation thereof; or
  - (c) by its number among the Ordinances, Proclamations or Statutory Rules and Orders of the year in which it was enacted or made."
- (c) by the repeal of section 100 and its replacement by the following new section 100
  - "100.(1) A copy of any written law of the Falkland Islands shall, if published in the Gazette or in the Revised Edition of the Laws or purporting to be printed by the Government Printer, be deemed to be an authentic copy of that written law as at the date of such publication or printing.
  - (2) A copy of any other instrument shall, if published in the Gazette or purporting to be printed by the Government Printer, on its production be admitted as prima facie evidence thereof in all courts and for all purposes whatsoever without any further proof?"
- (d) by the repeal of section 101 and its replacement by the following new section 101
  - "101.(1) The Attorney General may, by Order published in the Gazette, correct any grammatical punctuation, spelling or typographical error in any written law of the Falkland Islands, not being a written law published in the Revised Edition of the Laws.
  - (2) Every Order made under this section shall be laid on the table of the Legislative Council without unreasonable delay, and, if a resolution is passed at the next sitting of the Legislative Council held after the sitting at which the Order is so laid that the Order shall be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new Order under subsection (1) of this section.



## THE

# FALKLAND ISLANDS GAZETTE

# **Supplement**

#### PUBLISHED BY AUTHORITY

Vol. 2

14th FEBRUARY 1991

No. 6

#### SUBSIDIARY LEGISLATION

#### Census

#### The Census Order 1991

(S.R. & O. No. 4 of 1991)

Made 14th February 1991

Coming into operation on publication

Published 14th February 1991

IN EXERCISE of my powers under section 2 of the Census Ordinance 1990(a) I make the following Order —

- 1. This Order may be cited as the Census Order 1991 and shall come into force on the date it is first published in the Gazette.
- 2. In this Order, unless the context otherwise requires —
- "census day" means 5 March 1991:
- "household" means either one person living alone or a group of two or more people (who may or may not be related) living, or staying temporarily, at the same address with common housekeeping in the Falkland Islands:
- "householder" means the head joint head or acting head of a household resident in the Falkland Islands on census day.
- 3. A census shall be held in respect of the Falkland Islands on census day.
- 4. Returns shall be made by all householders upon and relate to the topics raised by the form prescribed for the taking of the census.

Made this 14th day of February 1991.

W. H. FULLERTON, Governor.

(a) No 9 of 1990.



# FALKLAND ISLANDS GAZETTE

# **Supplement**

PUBLISHED BY AUTHORITY

Vol. 2 1st MARCH 1991 No. 7

The Following are Published in this Supplement —

The Income Tax (Amendment) Ordinance 1991 (No. 10 of 1991);

The Income Tax (Amendment) (No. 2) Ordinance 1991 (No. 11 of 1991);

The Planning Ordinance 1991 Commencement Notice 1991 (S.R. & O. No. 5 of 1991);

The General Development Order 1991 (S.R. & O. No. 6 of 1991);

The Planning (General) Regulations 1991 (S.R. & O. No. 7 of 1991);

The Income Tax (Apportionment of Deductions) Rules 1991 (S.R. & O. No. 8 of 1991);

The Income Tax (Annual Values) Rules 1991 (S.R. & O. No. 9 of 1991);

The Deductions (Employees) (Amendment) Regulations 1991 (S.R. & O. No. 10 of 1991).

#### The Income Tax (Amendment) Ordinance 1991

(No. 10 of 1991)

Arrangement of Provisions

#### Section

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.

#### Schedule

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# An Ordinance to amend the Income Tax Ordinance

(assented to: Ist March 1991) (commencement: on publication) (published: 1st March 1991)

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

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1991 and shall be deemed to have come into force on 1st January 1991.

Short title and

2 In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

Principal Ordinance. (Cap.

3. The principal Ordinance is amended in the manner specified in the Schedule hereto.

Amendment of principal Ordinance.

#### SCHEDULE

(Section 2)

#### Amendment of Income Tax Ordinance (Cap. 15)

- 1. Paragraph (1) of section 8 of the principal Ordinance is replaced by the following paragraph —
- "(1) interest receivable in respect of any funds deposited in an interest-bearing account maintained at a bank or branch of a bank in the Falkland Islands or with a registered co-operative society;"
- 2. Section 10(1) is amended by replacing the words "one tenth" with the words "fifteen per centum".
- 3. Section 10(3) is amended by the addition of a new paragraph
  - (i) any sums paid by the taxpayer as to himself or any employee of his under the Old Age Pensions Ordinance.
- 4. The section 10(2) beginning "(2) The Governor in Council may" is renumbered to become section 10(4).
- 5. In section 14(1) "£2,750" is replaced by "£3,000".
- 6. In section 15(1) "£1,750" is replaced by "£1,900".

- 7. In section 15(2) —
- (a) the word 'female' is deleted wherever it appears; and
- (b) "£920" is replaced by "£1,020".
- 8. In section 15(3) —
- (a) "£2,000" is replaced by "£4,000"; and
- (b) "£920" is replaced by "£1,020".
- 9. In section 15(4) "£2,750" is replaced by "£3,000".
- 10. In section 19 —
- (a) "£1,500" is replaced by "£3,000"; and
- (b) "£7,500" is replaced by "£15,000".
- 11. In section 21(1) the words following the words "On every pound of " are replaced by the words "the first £20,000 of chargeable income 20 per cent; and

the remainder of chargeable income 25 per cent."

- 12. In section 21(2) the words after "at the following rates" are replaced by the following words —
- "(a) on all profits, whether distributed or undistributed, 25 per cent; and
- (b) on any part of its profits which the company pays to any person not ordinarily resident or company not resident in the Falkland Islands a further 10 per cent (in addition to the tax charged under paragraph (a) above),"
- 13. Section 21(3) is repealed.
- 14. Section 22(1) is amended by replacing the words "before 1st January 1988 and twenty-five seventy fifths in relation to years of assessment commencing on or after that date" with the words 'before 1st January 1988, twenty-five seventy fifths in relation to the years of assessment commencing on 1st January 1988, 1st January 1989 and 1st January 1990 and, in respect of years of assessment commencing on or after 1st January 1991, one quarter".

Passed by the Legislature of the Falkland Islands this 20th day of February 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Income Tax (Amendment) (No. 2) Ordinance 1991 (No. 11 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title and Commencement.
- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.
- 4. Revocation of spent Orders.

#### Schedule 1

Schedule 2

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# An Ordinance to amend the Income Tax Ordinance.

(assented to: Ist March 1991) (commencement: on publication) (published: Ist March 1991)

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

- 1. This Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance 1991 and shall be deemed to have come into force on 1st January 1991.
- 2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.
- 3. The principal Ordinance is amended in the manner specified in Schedule 1 below.
- 4. The Orders specified in Schedule 2 below (which are spent) are revoked.

Short title and Commencement.

Principal Ordinance. (Cap.

- Amendment of principal Ordinance.
  Revocation of
- re revoked. Revocation of spent Orders.

#### SCHEDULE 1

(Section 2)

Amendment of Income Tax Ordinance (Cap. 15)

- 1. Section 2(1) is amended -
- (a) by inserting before the definition of "Commissioner" the following definition —
  "bank" means a financial institution licensed under the Banking Ordinance 1987;

Court on a further appeal from the Tribunal on a point of law;

- b) by replacing the definition of 'Commissioner' with the following definition —

  "Commissioner" means the Commissioner of Income Tax but any reference to a decision or determination of the Commissioner includes a reference to a decision or determination of the Tribunal on appeal from the Commissioner and a reference to a decision or determination of the Supreme
- (c) by replacing the definition of "Company" with the following definition —

  ""company" means any body corporate or unincorporated association but does not include a
  partnership;";
- (d) by inserting after the definition of "maintenance payments" the following new definitions —

  "registered co-operative society" means a co-operative society registered under the Co-operative Societies Ordinance 1987;
  - ""the Tribunal" means the Tax Appeal Tribunal established under section 3A below "

- 2. Section 2 is further amended by the insertion of the following new subsections after subsection (1) -
  - "(IA) For the purposes of the determination place of residence of a company its place of registration or incorporation, whether in the Falkland Islands or not, shall be regarded as immaterial and its place of residence shall be determined by relation to the abode of the management and control of the company's business; provided that where the management and control of a company's business lies partly within the Falkland Islands and partly outside the Falkland Islands the company shall for the purposes of this Ordinance be treated, subject to the provisions of any applicable agreement or arrangement with the tax authorities of any country relating to the avoidance of double taxation, be chargeable to tax under this Ordinance on all its chargeable profits wherever arising and, for the purposes of this subsection "chargeable profits" means any trading income arising directly or indirectly through or from a branch or agency, and any income from property or rights used by, or held by or for, the branch or agency (but with the exception in any case of distributions received from companies resident in the Falkland Islands).
  - (1B) Where a company not resident in the Falkland Islands receives any payment on which it bears income tax by deduction, and the payment forms part of, or is to be taken into account in computing, the company's income chargeable to tax under this Ordinance, the income tax thereon shall be set off against any tax assessable on that income by an assessment made for the accounting period in which the payment falls to be taken into account for the purposes of this Ordinance; and accordingly in that respect the company shall not be entitled to a repayment of income tax before the assessment for that accounting period is finally determined and it appears that a repayment is due.
  - (IC) Except as otherwise provided by this Ordinance, and subject to the provisions of any applicable agreement or arrangement with the tax authorities of any country, tax under this Ordinance shall be assessed and charged for any accounting period of a company on the full amount of the profits arising in that period (whether or not received in or transmitted to the Falkland Islands) without any other deduction than is authorised by this Ordinance."
- 3. Section 2 is further amended by the insertion of the following new subsections after subsection (2)
  - "(2A) An accounting period of a company shall, unless the Commissioner otherwise approves, begin for the purposes of tax under this Ordinance whenever
    - (a) the company, not then being within the charge to such tax, comes within it, whether by the company becoming resident in the Falkland Islands or acquiring a source of income, or otherwise; or
    - (b) an accounting period of the company ends without the company then ceasing to be within the charge to tax under this Ordinance.
  - (2B) An accounting period of a company shall end for the purposes of tax under this Ordinance on the occurrence of the first of the following
    - (a) the expiration of 12 months from the beginning of the accounting period;
    - (b) an accounting date of the company or, if there is a period for which the company does not make up accounts, the end of that period;
    - (c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all of the trades carried on by it, within the charge to tax under this Ordinance;
    - (d) the company beginning or ceasing to be resident in the Falkland Islands;

- (e) the company ceasing to be within the charge to tax under this Ordinance.
- (2C) For the purposes of subsection (1D) above and of subsections (2A) to (2F) of this section a company resident in the Falkland Islands, if not otherwise within the charge to tax under this Ordinance, shall be treated as coming within the charge to such tax at the time when it commences to carry on business.
- (2D) If a company carrying on more than one trade makes up accounts of any of them to different dates, and does not make up general accounts for the whole of the company's activities, subsection (2B)(b) above shall apply with reference to the accounting date of such one of the trades as the Commissioner may determine.
- (2E) Notwithstanding anything in subsections (1D) and (2A) to (2D) above, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter subject to any other provisions of this Ordinance relating to tax on liquidation of a company, an accounting period shall not end otherwise than by the expiration of 12 months from the beginning or by the completion of the winding up. For this purpose a winding up is to be taken to commence on the passing by the company of a resolution for the winding up of the company, or on the presentation of a winding up petition if no such resolution has previously been passed and a winding up order is made on the petition, or the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Act 1948 in its application to the Falkland Islands
- (2F) Where it appears to the Commissioner that the beginning or end of an accounting period of a company is uncertain, he may make an assessment on the company for such period, not exceeding 12 months, as appears to him appropriate, and that period shall be treated for all purposes as an accounting period of the company unless either
  - (a) the Commissioner on further facts coming to his knowledge sees fit to revise it; or
  - (b) on an appeal to the Tribunal against the assessment in respect of some other matter the company shows the true accounting periods;

and if on an appeal against an assessment made by virtue of this subsection the company shows the true accounting periods, the assessment appealed against shall, as regards the period to which it relates, have effect as an assessment or assessments for the accounting periods, and there shall be made such other assessments for any such periods or any of them as might have been made at the time the assessment appealed against was made."

4. The following sections shall be inserted after section 3 -

"Tax Appeal Tribunal.

- 3A(1) The Governor shall appoint not less than five and not more than seven persons to constitute the Tax Appeal Tribunal.
- (2) A person who is -
  - (a) an elected member of the Legislative Council; or
  - (b) a public officer in any public office in the Finance Department,

is not qualified to be appointed as a member of the Tribunal and any person who, under this subsection, is not qualified to be appointed as a member of the Tribunal ceases, if he is already a member of the Tribunal, to hold office as such immediately he ceases to be qualified under this subsection to be appointed to be a member of the Tribunal.

- (3) A member of the Tribunal who has, or whose partner, spouse or child has, any direct interest in any matter falling to be considered by the Tribunal shall not take any part in the consideration of that matter by the Tribunal, and shall declare that interest if he is present thereat and withdraw therefrom for so long as that matter is being considered.
- (4) No business shall be transacted (except to adjourn) by the Tribunal unless at least three of its members are present, but the Tribunal may otherwise act notwithstanding a vacancy for the time being in its members. A member of the Tribunal who has declared an interest shall not be counted as being present for the purposes of this subsection.
- (5) The Governor shall appoint one of the members of the Tribunal and, subject to this section, the Chairman shall preside at all meetings of the Tribunal at which he is present. Where the Chairman is, by virtue of subsection (3) above, unable to take part in consideration of a matter or is absent from the meeting of the Tribunal, the members of the Tribunal present (where appropriate, after withdrawal of the Chairman) shall elect one of their members to preside at that meeting or so much of it as the Chairman is absent.

Clerk to the Tribunal.

- 3B(1) The Governor shall appoint a public officer to be the Clerk to the Tribunal.
- (2) The duties of the Clerk shall be -
  - (a) to have custody of the records at the Tribunal;
  - (b) to receive notices of appeal and written representations in connection with any appeal;
  - (c) to keep minutes of all meetings of the Tribunal;
  - (d) to notify the parties to any appeal to the Tribunal of the determination of the appeal by Tribunal and the reasons for that determination; and
  - (e) such others as are imposed on him by this Ordinance; and
  - (f) such others, not inconsistent with this Ordinance, as the Chairman of the Tribunal may assign to him.

Appeals to the Tribunal.

- 3C(1) Any person aggrieved by a decision of the Commissioner under this Ordinance may, within 42 days of that decision or such greater period as the Commissioner, in his discretion, may allow, appeal to the Tribunal in accordance with this section.
- (2) In subsection (1), without prejudice to the generality of that expression, "decision of the Commissioner" includes
  - (a) an assessment of liability to tax or entitlement to repayment of tax already paid or of entitlement to repayment of any sum already paid on account of tax;
  - (b) a decision of the Commissioner that a person is not entitled to the benefit of a deduction, allowance or relief under this Ordinance or that the entitlement of a person thereto is in a sum less than or subject to conditions more onerous than that admitted by that person;
  - (c) a decision to require payment of a penalty under this Ordinance;
  - (d) a decision that a natural person is or was at the relevant time ordinarily resident in the Falkland Islands for the purposes of this Ordinance;
  - (e) a decision that a company is, for the purposes of this Ordinance, to be treated as being resident in the Falkland Islands;

(f) a decision that income of the person that any income is to be treated as unearned income or, as the case may be, earned income,

but does not include a decision of any of the following kinds -

- (i) a requirement of a person to file a return of his income;
- (ii) a requirement of a person engaged, or appearing to the Commissioner to be engaged, in any profession, trade or business in the Falkland Islands that he file accounts or audited accounts of that profession, trade or business in relation to such period as the Commissioner may have required (and in this subparagraph "person" includes a company);
- (iii) a requirement that a person pay interest on any tax upaid or paid late in accordance with such provisions of this Ordinance as authorise the Commissioner to require the payment of such interest;
- (iv) a decision to take proceedings for the recovery of any tax alleged to be due and unpaid; or
- (v) a decision to prosecute for any offence under this Ordinance.
- (3) For the purposes of subsection (1) "person aggrieved" means all or any of the following
  - (a) the person directly affected by the decision in question, or, where he is deceased, his personal representative;
  - (b) in relation to a bankrupt, his trustee in bankruptcy or, where there is none, the Official Receiver or person acting as Official Receiver in relation to the bankrupt's estate;
  - (c) in relation to the estate of a deceased person, the deceased person's personal representative;
  - (d) in relation to a settlement of property, the trustees for the time being of that settlement; and
  - (e) in relation to a person under an incapacity -
    - (i) if that person is a minor, his parents or either of them or any other person who is his guardian;
    - (ii) if that person is a mental incapacity, the person who has been appointed by the Supreme Court as his receiver or, if there be none, any person appearing to the Tribunal to have a sufficient interest in his welfare; and
  - (f) in relation to a company in the course of being wound up, the liquidator.
- (4) A person desiring to appeal to the Tribunal under this section shall, within the time permitted under subsection (1) above, send or cause to be received by the Clerk to the Tribunal a notice of appeal in writing.
- (5) A notice under subsection (3) above shall specify the decision or decisions the subject of the appeal, the appellant's grounds of appeal and whether the appellant desires to be heard orally, in person or by his representative, by the Tribunal or whether, alternatively, he is content for his appeal to be dealt with by written representations.
- (6) On consideration of any written representations made in accordance with section 3D below, or upon hearing an oral appeal, the Tribunal may allow the appellant to put forward any ground not specified in the notice of appeal, and take it into consideration.

Written representation appeals.

- (7) On receiving a notice of appeal under this section, the Clerk to the Tribunal shall transmit a copy of it to the Commissioner.
- 3D(1) Where the Commissioner receives a copy of a notice of appeal under section 3C(6) above which indicates the appellant's desire that the appeal be dealt with by written representations, the Commissioner shall within 21 days of such receipt or such greater period as the Chairman of the Tribunal may permit transmit to the Clerk to the Tribunal his own written representations in relation to the appeal in support of the decision or decisions appealed against in general and in relation to the grounds of appeal in particular.
- (2) On receipt of the written representations of the Commissioner transmitted in accordance with subsection (1) above, the Clerk to the Tribunal shall transmit a copy of those representations to the appellant.
- (3) Within 21 days of the receipt of the Commissioner's written representations the appellant shall transmit his own written representations in support of his grounds of appeal to the Clerk to the Tribunal who shall on receiving them transmit a copy of them
  - (a) to the Chairman of the Tribunal; and
  - (b) to the Commissioner.
- (4) If it appears to the Chairman of the Tribunal that the written representations of the appellant raise any fresh ground of appeal (that is to say, which is not raised in the appellant's notice of apeal under section 3C above), the Chairman shall cause the Clerk to the Tribunal to notify the Commissioner in accordance with subsection (5) below: provided that the Chairman need not do so if he reasonably considers that the fresh ground has been anticipated in the Commissioner's own written representations so that no injustice to the Commissioner is likely to result if he is not offered the opportunity of making further written representations.
- (5) A notification under subsection (4) is a notification that the Commissioner may, if he sees fit to do so, and in relation only to the fresh grounds of appeal specified in the notification, transmit to the Clerk to the Tribunal within 14 days of the notification or such greater period as the Chairman of the Tribunal may allow, such further written representations as the Commissioner considers appropriate.
- (6) On receiving any further written representations of the Commissioner submitted in accordance with subsection (5), the Clerk to the Tribunal shall transmit a copy of them
  - (a) to the Chairman of the Tribunal; and
  - (b) to the appellant,

but unless the Chairman otherwise for special reason directs, the appellant shall not have the right to submit any further written representations on his own behalf.

- (7) The Chairman -
  - (a) unless he has caused the Clerk to the Tribunal to give notification to the Commissioner under subsections (4) and (5) above, as soon as reasonably possible, and
  - (b) where notification has been given under subsections (4) and (5) above, as soon as reasonably possible after the Commissioner's further written representations are received or the period during which they are to be submitted has expired (whichever is the earlier),

shall cause the Clerk to the Tribunal to convene a meeting of the Tribunal to consider the appeal, if no meeting of the Tribunal has already been convened at which it may conveniently be considered.

- (8) The Clerk to the Tribunal shall then send to every member of the Tribunal
  - (a) a copy of the notice of appeal and of all written representations received under this section in relation to it;
  - (b) notice of the date on and time and place at which the appeal will be considered by the Tribunal.
- (9) The Tribunal shall not, on consideration of an appeal under this section
  - (a) consider any representations other than written representations submitted in accordance with this section;
  - (b) permit any person other than a member of the Tribunal or the Clerk to the Tribunal to be present.
- (10) Section 3E(9) below applies in relation to the determination of an appeal by written representations as well as to an appeal dealt with by way of oral hearing.
- 3E(1) Where the appellant's notice of appeal under section 3C(3) above indicates that the appellant desires that the appeal be dealt with by way of oral hearing, the Chairman of the Tribunal shall cause the Clerk to the Tribunal to give notice of the date on and time and place at which the Tribunal will commence hearing the appeal.
- (2) The notice required by subsection (1) above shall be given -
  - (a) to every member of the Tribunal;
  - (b) to the appellant; and
  - (c) to the Commissioner.
- (3) At the hearing of an oral appeal the appellant and the Commissioner may appear and be heard in person or by any other person appointed to appear before the Tribunal on behalf of the person appointing him.
- (4) On the hearing of an oral appeal, the appellant, or a person on his behalf, shall be heard first and then the Commissioner or a person on his behalf shall be heard in reply. The appellant and the Commissioner shall each have the right to call witnesses or to produce written evidence as part of their case, and any witness who gives oral evidence may be cross-examined by the other party. All witnesses and written evidence on behalf of the appellant shall have completed their evidence before the Commissioner or a person on his behalf is called upon to speak in reply. If the Commissioner calls witnesses or produces written evidence after the close of the case for the appellant, the appellant shall have the right (if he wishes) to address the Tribunal for a second time.
- (5) After it has heard the parties to the appeal, the Tribunal shall require the parties (and any witnesses they may have called) to withdraw, and shall then consider its decision in the appeal.
- (6) The Clerk to the Tribunal shall make a sufficient note of -
  - (a) the address or addresses to the Tribunal of the appellant and of the Commissioner; and
  - (b) of any oral evidence given to the Tribunal.
- (7) The Tribunal shall not require any evidence given to it during the hearing of an appeal to be sworn.
- (8) The Tribunal shall not permit any person other than -
  - (a) the Tribunal itself;
  - (b) the parties, their representatives and their witnesses; and

Oral appeals.

(c) the Clerk to the Tribunal,

to be present during the hearing of an appeal under this section.

(9) The Tribunal shall cause its decision and the reasons for that decision to be taken down in writing by the Clerk to the Tribunal. As soon as reasonably convenient the Clerk to the Tribunal shall cause a fair copy of the Tribunal's decision and the reasons for it to be signed by the Chairman or other member of the Tribunal presiding during the consideration of the appeal, and the copy so signed shall then constitute the determination of the appeal.

Notification of determination of appeal: further appeal on point of law.

- 3F(1) As soon as possible after the appeal determination of the appeal has been signed, the Clerk to the Tribunal shall transmit a copy of it to the appellant and to the Commissioner.
- (2) The appellant and the Commissioner may, if dissatisfied by the determination of the Tribunal in relation to some point or points of law, within 28 days of the receipt of the Tribunal's determination appeal to the Supreme Court by notice under subsection (3) below.
- (3) A notice under this subsection shall -
  - (a) specify the point or points of law in question;
  - (b) the reasons, in relation to that point of law or those points of law, the appellant to the Supreme Court (be he the original appellant or the Commissioner) alleges that the Tribunal was in error;
  - (c) be delivered in triplicate to the Registrar of the Supreme Court.
- (4) On determination of an appeal to it under this section, the Supreme Court may
  - (a) correct any immaterial informality or error in the determination of the Tribunal which it is satisfied can be made without injustice to the parties;
  - (b) quash or vary the determination of the Tribunal in such manner as it considers appropriate; and
  - (c) make any other order it considers appropriate in the circumstances of the case (including, without prejudice to the generality of the foregoing, an order as to the costs of the appeal to the Supreme Court).
- (5) The Chief Justice may make rules in relation to the procedure of the Supreme Court in appeals to it under this section, but until such rules are first made, and subject to the foregoing provisions of this section, the procedure on such appeals shall as nearly as possible be that on civil appeals to the Supreme Court.

Commissioner to give effect to decisions on appeal.

- 3G(1) Subject to subsection (2) below, the Commissioner shall take such steps and do such things as are necessary to give effect to the determination of the Tribunal on an appeal to it.
- (2) Subsection (1) does not apply where the Commissioner has appealed or intends to appeal in accordance with section 3F above to the Supreme Court against the determination of the Tribunal save that the Commissioner shall not, inconsistently with any determination of the Tribunal, seek to enforce payment of any tax until or unless the determination of the Tribunal is quashed or varied to the relevant extent by the Supreme Court.
- (3) The Commissioner shall, so far as it affects him, take all such steps and do all such things as are necessary to give effect to any order of the Supreme Court on an appeal under section 3F above.

3H(1) A member of the Tribunal is not personally liable in respect of anything done or omitted by him in good faith in the course of his functions as such a member.

- (2) The Tribunal has no power to award to any person any costs of an appeal to it.
- (3) For the sake of avoidance of doubt, it is declared that section 4 below (official secrecy) applies to all members of the Tribunal and to the Clerk to the Tribunal in the performance of their functions as such.
- (4) Neither the making of an appeal to the Tribunal nor the making of a further appeal from the Tribunal to the Supreme Court shall (otherwise than by reason of the manner of determination of that appeal or further appeal) have effect
  - (a) to postpone any liability to pay any tax;
  - (b) to excuse any person from payment of interest on any tax overdue or abate that interest; or
  - (c) to excuse any person from any penalty otherwise payable under this Ordinance."
- 5. Section 10(3) is amended —
- in paragraph (e) by the insertion after the words "commencement of the said year" the words "provided that the Commissioner is satisfied that all steps that ought reasonably to have been taken to recover the debts have in fact been taken";
- (b) in paragraph (e) by replacing the words "provided that all sums" with the words 'and provided further that all sums":
- 6. Section 11 is amended by the addition of the following proviso -

"Provided that a person may elect not to take the benefit of any deduction to which he is thereby entitled".

7. The following new sections are inserted after section 12 -

"Deduction of entertainment expenses. 12A Any item of expenditure incurred in entertainment by a person engaged in any profession, trade or business or by a company shall be wholly disallowed in ascertaining the profits thereof for tax purposes unless the Commissioner is satisfied that it was reasonably incurred for the purpose of that profession, trade or business or, in the case of a company, reasonably incurred for the purpose of any undertaking of the company.

Augmented deduction of training expenses.

- 12B(1) Where the Commissioner is satisfied that any expenditure has reasonably been incurred by a person engaged in any profession trade or business or by a company
  - (a) upon the training or education of a person employed or intended to be employed by that person or by that company; and
  - (b) that training or education was incurred for the purpose of improving the value of that person as an employee in that profession trade or business or of that company or of fitting him (if not already employed) for employment therein or thereby,

the Commissioner shall, in addition to the actual amount of that expenditure, allow a further sum equal to one half of that amount to be deducted in ascertaining the profits for tax purposes of the taxpayer.

- (2) In subsection (1) "employed" and its correlatives shall be construed as including the sole owner of and any partners in any profession trade or business and "training" does not include education at any school and "school" for the purposes of this subection includes any college, institution or establishment however described at which the trainee attends for the purpose of non-vocational education below the tertiary education level".
- "8. Section 16A is repealed and replaced by the following new section 16 (there presently being no section 16 of the principal Ordinance) —

Supplementary to sections 3A to 3G.

"Old Age Relief.

16(1). In ascertaining the chargeable income of any married man who proves that at any time during the year preceding the year of assessment he was of the age of 60 years or upwards and that his wife was living with him or was wholly maintained by him there shall be deducted an amount equal (whether or not he actually receives the same) to the annual value of the contributor's rate of old age pension at the married man's rate payable as at the beginning of the year of assessment in question.

- (2) In ascertaining the income of any individual, not being entitled to a deduction under subsection (1) above, who proves that at any time within the year preceding the year of assessment he was of the age of 60 years or upwards there shall be deducted an amount equal (whether or not he actually receives the same) to the annual value of the contributor's rate of old age pension at the single person's rate payable as at the beginning of the year of assessment in question".
- 9. A new section 23 is inserted in the principal Ordinance as follows (there being at present no section 23 thereof) —

Requirement to file accounts.

- 23(1) The Commissioner may require
  - (a) any company which appears to him to be resident in the Falkland Islands for the purposes of this Ordinance;
  - (b) any company which he believes may be resident in the Falkland Islands for the purposes of this Ordinance;
  - (c) any company which the Commissioner believes is not resident in the Falkland Islands but which he believes is carrying on business in the Falkland Islands through a branch or agency; and
  - (d) any person who claims to be, or the Commissioner believes to be, carrying on a profession, trade or business in the Falkland Islands,

to lodge with him, at the same time as it or he lodges any return of income it or he has been required under this Ordinance to lodge, or within such period thereafter as the Commissioner may approve —

- (i) accounts of all of the company's business (in the Falkland Islands or elsewhere) (in the case of a company to which paragraph (a) or (b) above relates);
- (ii) accounts of the branch or agency in the Falkland Islands (in the case of a company to which paragraph (c) above relates); or
- (iii) accounts of the profession trade or business (in the case of a person to whom paragraph (c) above relates).
- (2) In subsection (1) above, "accounts" means accounts in such form as the Commissioner may reasonably require and, in any case, such as fairly and sufficiently to depict the results of the company, branch or agency of the company or profession, trade or business to which they relate in respect of the accounting period with which such accounts deal, and the word 'accounts' mation provided in response to a requirement under subsection (1) above to or explanation of any accounting convention which may have been used or a requirement.
- (3) Accounts lodged in response to a requirement under subsection (1) above shall, unless the Commissioner otherwise agrees, or it is otherwise required by or under any provision of this Ordinance, relate to the accounting period of the company (or, as the case may be, branch or agency of the company or of the profession, trade or business) last expired before the

commencement of the year of assessment to which the return of income referred to in subsection (1) above relates.

- (4) Notwithstanding subsection (3) above (but subject to any contrary requirement by or under any other provision of this Ordinance) a company or person engaged in any profession, trade or business shall not by its or his voluntary act (excepting voluntary liquidation bankruptcy or ceasing to carry on the profession, trade or business) vary, from one year of assessment to another, its or his accounting period in relation to which accounts are under this section provided unless the Commissioner so requires or so approves.
- (5) The Commissioner may require any accounts lodged under this section to be accompanied by or to incorporate the certificate of an auditor approved by him: provided that an auditor who has been appointed by a company in accordance with any requirement of the law of its place of incorporation shall be deemed to be approved by the Commissioner in relation to that company.
- 10. Section 26(1) is amended by deleting "16A" in paragraphs (a) and (b).

Section 26(3) is amended -

- (a) by replacing the words "Where it appears to the Commissioner, or to the Judge by whom an appeal is heard", with the words "Where it appears to the Commissioner" (the words replaced now being unnecessary by virtue of previous amendments made by this Schedule);
- (b) by replacing the words "the Commissioner or Judge" with the words "the Commissioner" (for the same reason);
- (c) by replacing the proviso with the following —

  "Provided that the amount of the percentage shall in each case be determined by the Commissioner having regard to the nature of the business." (for a similar reason).
- 11. Section 32(1) is amended by the insertion of the words "Except in relation to interest receivable in respect of a deposit to which paragraph (1) of section 8 relates and" before the word "Notwithstanding".
- 12. Section 32(2) is amended by the insertion in paragraph (a) of the words "except as provided in subsection (1) above," before the words "any payment".
- 13. Section 34(2) is amended in paragraph (b) by replacing "£80" with "£800".
- 14. Section 43(1) is amended by the replacement of all words following the words "may appeal against the assessment" with the words "in the manner provided by section 3C above."
- 15. Section 43(2) to (11) is repealed.
- 16. Section 45 is amended by the insertion after the words "any return or assessment shall in" of the words "the Tribunal".
- 17. Section 55 is amended by replacing paragraph (a) with the following —
- "(a) interest on the tax or the part of it for the time being remaining unpaid shall be recoverable in addition to the tax, and for the purposes of this paragraph the rate of such interest shall be two per cent per annum over the base lending rate in respect of loans to customers in the Falkland Islands for the time being as announced by the Standard Chartered Bank, Stanley branch;"
- 18. Section 55 is further amended by the addition of a paragraph (c) -
- interest under paragraph (a) above shall be recoverable in respect of the period after as well as before the service of a demand note under paragraph (b) above and it is sufficient, in relation to a period falling after the date of the demand note, for it to state that interest is payable as specified in paragraph (a) above.
- 19. Section 84 is repealed and is replaced by the following section —
- "84. A person convicted of an offence under this Ordinance for which no other penalty is provided is liable on conviction to a fine not exceeding £1,000."
- 20. Section 85(1) is amended —

- (a) by replacing "£100" with "£1,000"; and
- (b) by omitting all words appearing after the words "as correct" (imprisonment in default of payment of a fine being provided for generally by the Criminal Justice Ordinance 1989).
- 21. Section 85A(1) is amended -
- (a) by replacing the word "verbally" in paragraph (c) with the word "orally";
- (b) by replacing "£500" with "£5,000"; and
- (c) by omitting all words appearing after the words "offence was committed" (for the same reason as is specified in subparagraph (b) of the preceding paragraph of this Schedule).
- 22. Section 89(1) is amended by the insertion of the following paragraph (cc) -
- (cc) as to the apportionment of deductions or allowances under this Ordinance where a person becomes resident or ceases to be resident in the Falkland Islands during the year preceding the year of assessment or his personal circumstances change during such year (for example, upon marriage, death or separation from his spouse) or where it otherwise appears that apportionment of deductions or allowances would be appropriate.
- 23. Section 90 is amended by the omission of the last sentance.
- 24. The Fifth Schedule (which relates to pioneer enterprise concessions under section 8A of the principal Ordinance which was repealed in 1987) is declared to have been repealed from the date on which section 8A was repealed: but without prejudice to its continued operation in respect of any Order made under that section until such Order itself ceases to have effect.
- 25. Paragraph 3 of the Sixth Schedule is replaced by the following paragraph
  - "3 The capital assets in respect of which a depreciation deduction may be claimed under this Schedule are —
- (a) buildings (other than land)
- (b) ships;
- (c) (in respect of years of assessment commencing on or after 1st January 1991) aircraft;
- (d) ships; and
- (e) machinery and plant, other than ships and aircraft."
- 26. Paragraph 4 of the Sixth Schedule is amended by inserting in subparagraph (a) after the word "ship" the words "or (in respect of a year of assessment commencing on or after 1st January 1991) is an aircraft;".
- 27. Paragraph 7 of the Sixth Schedule is replaced by the following paragraph —
- 7. Where a capital asset of which a depreciation deduction has been made in accordance with this Schedule has been sold or destroyed together with or at the same time as any other property and —
- (a) the consideration recived on the sale of the insurance recoveries is a sum which relates to all the property sold or the insurance recoveries is a sum which relates to all the property destroyed or the subject of the claim under the relevant insurance contract,
- (b) the total consideration received on the sale has by agreement or arrangement between the parties been apportioned between the various items sold at the same time by the same vendor to the same purchaser, and whether by or under the same contract or under separate contracts, or similarly insurance recoveries have been apportioned between insured and insurer
  - the Commissioner may
    - where (a) above applies, agree with the former and new owners the apportionment of the sum to which (a) above relates between the various items of property to which it relates and the values thus attributed shall then apply for the purposes of the future operation of this Schedule both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former owner;
    - (ii) where (a) above applies, and in default of agreement as per (i) above, himself apportion the sum to which (a) above

relates between the various items of property to which it relates and the values thus attributed (subject to any appeal under this Ordinance) shall then apply for the purposes of the future operation of this Schedule both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former owner;

where (b) above applies, and the Commissioner is of the view that the apportionment arrived at, if accepted by him, would afford an unjust tax advantage to the new owner or former owner, apportion, for tax purposes, the total consideration between the various items of property to which it relates in accordance with his view of the true value of such items, and the values thus apportioned shall then apply (subject to any appeal under this Ordinance) for the purposes of the future operation of this Schedule where the items of property were sold both in relation to the new owner and (as to the operation of paragraph 6 above) in relation to the former owner and where the property was destroyed to the owner thereof prior to its destruction.

The Commissioner shall in writing notify the persons affected of any apportionment made by him under this paragraph.

- 28. Paragraph 3A of the Seventh Schedule is amended —
- (a) by renumbering the existing paragraph so that it constitutes paragraph 3(1);
- (b) by adding at the end of sub-subparagraph (a) of that subparagraph the words —
   "(but so that an allowance under this sub-subparagraph shall not be claimed in respect of an aircraft in any year of assessment commencing on or after 1st January 1991)";
- by inserting in sub-subparagraph (b) after the words "used for the purpose of productive manufacturing or processing", the words "and on commercial and agricultural buildings";
- (d) by replacing the words "30 per cent" in sub-subparagraph (b) with the words "50 per cent";
- (e) by replacing the words "20 per cent" in sub-subparagraph (c) with the words "50 per cent"
- (f) by replacing the words "30 per cent" in sub-subparagraph (d) with the words "50 per cent";
- in sub-subparagraph (e) by inserting before the words "on other buildings" the words "subject to subparagraph (2) below,";
- (h) by adding the following subparagraphs here the following subparagraphs (h)
  - "(2) No allowance shall be claimable under subparagraph (1)(e) above --
    - (a) except as provided in subparagraph (3) below, where the house is occupied by the proprietor of a business or any associated person;
    - (b) except as provided in subparagraph (3) below, where the house is occupied by a major shareholder or by any associated person;
    - (c) except as provided in subparagraph (3) below, where the freehold title or lease out of which the tenancy or occupation of the house derives passes to the ownership of any person or company other than the person or company which originally met the cost of the construction of the house;
  - (3)(a) Subparagraphs (2)(a) and (b) above do not apply where the Commissioner is satisified that the house is occupied principally for agricultural purposes;
    - (b) Subparagraph (2)(c) above does not apply where the Commissioner is satisfied
      - (i) that the new owner is engaged in the business of agriculture; and
      - (ii) that the house is occupied principally for agricultural purposes.
  - (4) Notwithstanding any foregoing provision of this Ordinance and paragraph 5 of this Schedule, the excess of sale proceeds or insurance recoveries over its written-down value in respect of a house in the hands of a taxpayer shall not be additional income chargeable to tax.

- (5) For the purposes of this paragraph "industrial building" includes
  - (a) warehouses;
  - (b) buildings used for the purpose of a transport or dock undertaking;
  - (c) all other buildings used for industrial purposes other than hotels and commercial buildings and house or; and
  - (d) works involved preparing, cultivating, tunnelling or levelling land prior to or in connection with the construction or re erection of a building which is an industrial building by virtue of (a), (b) or (c) above;

"commercial building" includes -

- (a) a shop;
- (b) a resturant or cafe;
- (c) an office;
- (d) any other building which is not an industrial building, an agricultural building, hotel, a house or other dwelling if, and only if, the Commissioner is satisfied that it is bona fide being used principally for the purposes of a profession trade or business operated with a view to the realisation of profit;
- (e) works involved in preparing, cultivating, tunnelling or levelling land prior to or in connection with the construction of a building which is a commercial building by virtue of (a), (b), (c) or (d) above.

"major shareholder" means a person who himself is, or together with associated persons is, the beneficial owner of a relevant shareholding (whether directly or through a nominee or trustee or any company, and whether any such company is a subsidiary of another company or not, in which he owns, or any associated person or he and associated persons together directly or indirectly beneficially owns, a controlling interest) and "relevant shareholding" means twenty-five per cent or more of the issued share capital of a company carrying voting rights at general meetings of the company;

"associated person" in relation to a person means his spouse, child, father, mother, grandfather, grandmother, brother, sister, half-brother, half-sister or grandchild or any person who is in such a relationship to his spouse, and any company in which he or any person in which he or any associated person or he and any associated persons together hold a controlling interest shall itself be deemed to be an associated person for the purposes of this paragraph."

- 29. Paragraph 6 of the Seventh Schedule is replaced by the following -
  - "6. Paragraph 7 of the Sixth Schedule above shall also apply for the purposes of this Schedule as if here set out in full but with the replacement of the words "paragraph 6" wherever appearing therein by the words "paragraph 5".
- 30. Paragraph 8 of the Seventh Schedule is repealed.

SCHEDULE 2

(section 4)

Revoked Orders

No. 7 of 1953 The Income Tax Order 1953.

No. 4 of 1980 The Income Tax (Pioneer Enterprise) (Fellmongery) Order 1980.

No. 12 of 1986 The Pioneer Enterprise (David James Clarke) Order 1986.

Passed by the Legislature of the Falkland Islands this 20th day of February 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# SUBSIDIARY LEGISLATION

# Planning and Building

# The Planning Ordinance 1991 Commencement Notice 1991

(S.R. & O. No. 5 of 1991)

Made: 1st March 1991

Coming into operation: 1st March 1991

Published: 1st March 1991

IN EXERCISE of my powers under section 1 of the Planning Ordinance 1991 1 notify that that Ordinance shall come into operation on 1st March 1991 and that this Notice may be cited as the Planning Ordinance 1991 Commencement Notice 1991.

Made this 1st day of March 1991.

W. H. FULLERTON. Governor.

# SUBSIDIARY LEGISLATION

# Planning and Building

# The General Development Order 1991

(S.R. & O. No. 6 of 1991)

Made: 1st March 1991

Coming into operation: 1st March 1991

Published: 1st March 1991

IN EXERCISE of my powers under sections 26(2)f, 28, 46 and 88 of the Planning Ordinance 1991(a) and of all other powers me enabling in that behalf I make the following Order —

1. This Order may be cited as the General Development Order 1991.

Citation.

2. This Order shall come into operation on 1st March 1991.

Commencement

3. (1) In this Order, except as specified in subparagraph (2) below, and except in so far Interpretation. as is inconsistent with the context, words and expressions have the same meaning as they have in the Ordinance.

(2) In this Order, except in so far as is inconsistent with the context —

"building" has the meaning it has under section 3(1) of the Ordinance for the purposes of the Ordinance generally (and does not therefore have the special meaning it has for the purposes of Part V of the Ordinance);

"former Committee" means the Building Committee formerly existing under by-laws made under the Public Health Ordinance(b);

"land" includes any building or structure on land and land covered by water;

"the Ordinance" means the Planning Ordinance 1991;

"outline planning permission" means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the appropriate authority with respect to one or more reserved matters and "outline application" has a corresponding meaning;

"the Planning (General) Regulations" means the Planning (General) Regulations 1991(c);

"road" has the same meaning as it has under the Road Traffic Ordinance(d).

(Cap. 60)

<sup>(</sup>a) No. 7 of 1991.

<sup>(</sup>b) Cap. 54 Laws of the Falkland Islands 1950 Edition.

<sup>(</sup>c) S.R. & O. No. 7 of 1991.

<sup>(</sup>d) Cap. 60 Laws of the Falkland Islands 1950 Edition.

- 4 (1) Subject to the provisions of this Order, where a building or other land is used for Use Classes. a purpose of any class specified in Schedule I below, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land.
- (2) References in subparagraph (1) above to a building include references to land occupied with the building and used for the same purposes.
- (3) A use which is included in and ordinarily incidental to any use in a class specified in Schedule 1 below is not excluded from the use to which it is incidental merely because it is specified in Schedule 1 as a separate use.
- (4) No class specified in Schedule 1 includes uses -
  - (a) for the commercial washing or cleaning of clothes or fabrics;
  - (b) as a restaurant or cafe;
  - (c) for the sale of hot food for consumption off the premises;
  - (d) for the sale of fuel for motor vehicles;
  - for the sale or display for sale of motor vehicles;
  - for a taxi business or business for the hire of motor vehicles;
  - (g) as a builder's yard where storage of material is outside a building;
  - (h) as a scrapyard, or a yard for the storage or destruction of containers and temporary buildings, or the breaking of motor vehicles;
  - (i) as a depot, warehouse or repository for petroleum products or explosive materials.
- 5. (1) Subject to the provisions of this Order, planning permission is hereby granted for the classes of development described in Schedule 2 below.

Permitted Development

- (2) Any permission granted by subparagraph (1) above is subject to any relevant exception, limitation or condition specified in Schedule 2 below.
- (3) References in the following provisions of this order to permission granted by Schedule 2 below or by any part, class or paragraph of that Schedule is a reference to the permission granted by this paragraph in relation to the development described in that Schedule or that provision of that Schedule.
- (4) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Parts IV, V, or VI of the Ordinance otherwise than by this Order.
- (5) The permission granted by Schedule 2 below shall not, except in relation to development permitted by Part 2 of that Schedule, authorise any development which requires or involves the formation, laying out or material widening of a means of access to an existing public road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons.
- (6) Schedule 2 below does not grant permission for any works of any kind to be carried out to a building to which a designation order applies or a prohibition notice is in force under Part V of the Ordinance.
- (7) Schedule 2 below does not grant permission for any works of any kind in the territorial sea of the Falkland Islands, other than those works described in Class J of Part 1 and Class I of Part 2.

(8) Subject to the provisions of this Order -

- Part 1 of Schedule 2 below applies to all land and territorial sea of the Fulkland Islands which -
  - (i) is not further than 10 kilometres from the spire of Christ Church Cathedral, Stanley; or
  - lies not further than 500 metres from the centre line of any public road; and
- Part 2 of Schedule 2 below applies to all land and territorial sea of the Falkland Islands to which Part 1 of that Schedule does not apply.
- (9) In subparagraph (8) above "land" includes land covered by water and the internal waters of the Falkland Islands.
- 6. (1) If the Governor is satisfied that it is expedient that development described in any Directions Part, Class or paragraph of Schedule 2 below, other than Class N in Part 1 or Class N in Part 2 of that Schedule, should not be carried out unless permission is granted for it on application, he may, subject to subparagraph (2), give a direction that the permission granted by paragraph 5 shall not apply to -

restricting permitted developement.

- (a) all or any development of the Part, Class or paragraph in question in an area specified in the direction; or
- (b) any particular development, falling within that Part, Class or paragraph, which is specified in the direction.
- (2) A direction under subparagraph (1) above shall not affect the carrying out of any development in an emergency.
- (3) Subject to subparagraph (4) below, notice of any direction made under paragraph (!) shall be served by the Planning Officer on the owner and occupier of every part of the land affected as soon as possible after the direction has been made; and a direction shall come into force in respect of any part of the land on the date on which notice is so served on the occupier of that part, or, if there is no occupier, on the owner.
- (4) Where the Planning Officer considers that individual service in accordance with subparagraph (3) above is impracticable for any of the reasons set out in subparagraph (6) below he shall publish a notice in the Gazette of the direction which shall name a place or places where a copy of the direction may be seen at all reasonable hours.
- (5) Where notice of a direction has been published in accordance with subparagraph (4), the direction shall come into force on the date on which the notice is first published.
- (6) The reasons referred to in subparagraph (4) are that the number of owners and occupiers of the land to which the direction relates makes individual service impracticable, or that it is difficult to identify or locate one or more of them.
- (7) The Governor may, by making a subsequent direction, cancel or vary or replace any direction made by him under subparagraph (1).
- (8) Subparagraphs (3) to (6) above shall apply to any direction made under subparagraph (7) above.
- 7. (1) An outline application for planning permission may be made, and may only be made, Outline planning where the applicant desires to obtain approval in principle for the erection of a building.

applications

- (2) Where an application for planning permission has been properly made, the Committee or the Governor (whichever of them has in the circumstances power to do so) may grant outline planning permission: that is to say planning permission subject to a condition specifying matters reserved for its or his subsequent approval ("reserved matters").
- (3) In subparagraph (2) above "reserved matters" means any or all of the following matters -
  - (a) siting;
  - (b) design;
  - external appearance;
  - means of access; and

- (e) the landscaping of the site.
- (4) Where the authority who are to determine an application for the outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, they shall within the period of 42 days from the receipt of the application notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require.
- 8. (1) Where a valid application under the Planning (General) Regulations has been received by the Secretary of the Planning Committee, the Committee shall within the period prescribed in subparagraph (2) below give the applicant notice of the Committee's decision or determination or notice that the application has been referred to the Governor.

- (2) The period specified in this subparagraph is the greater of
  - (a) a period of two months beginning with the date when the application was received by the Secretary:
  - (b) except where the applicant has already given notice of appeal to the Governor, such extended period as may be agreed in writing between the applicant and the Committee or a person acting on its behalf.
- (3) For the purposes of this paragraph and subject to the Planning (General) Regulations, the date when the application was received shall be taken to be the date when each of the following events has occurred —
  - (a) the application form or application in writing has been lodged with the Secretary; and
  - (b) any certificate or documents required by or under the Ordinance have been lodged with the Secretary.
- 9. Where an application has been made to the Planning Committee for consent, agree- Application ment or approval required by a condition or limitation attached to a grant of planning permission by the Planning Committee (other than an application for approval of reserved matters) the Committee shall give notice to the applicant of their decision on the application within a period of two months from the date when the application was received by its Secretary or such longer period as may be agreed by the applicant and the Committee in writing.

made under condition.

- 10. When the Planning Committee give notice of a decision or determination
  - on an application for planning permission or for approval of reserved matters, and a permission or approval is granted subject to conditions or the application is refused, the notice shall -

state clearly and precisely their full reasons for the refusal or for any condition imposed; and

where the Governor has given a direction restricting the grant of permission for the development for which application is made, give details of the direction.

and shall be accompanied by a notification in the terms (or substantially in the terms) set out in Schedule 3 below;

(b) on an application for determination under section 61 of the Ordinance (whether forming part of an application for planning permission or not), the notice shall (except where the Planning Officer determines that the carrying out of operations or the making of a change in the use of land would not constitute or involve development of the land) state clearly and precisely the full grounds for his determination, and include a statement to the effect that, if the applicant is aggrieved by his decision, he may appeal to the Governor under section 47 of the Ordinance (as applied by section 61 of the Ordinance) within 28 days of receipt thereof or such longer period as the Governor may at any time allow.

Written notice of decision or determination relating to a Planning Permission

11. (1) An applicant who wishes to appeal to the Governor under section 47 of the Act (including section 47 as applied by sections 48 or 61) shall give notice of appeal to the Governor by -

- (a) lodging with the Clerk to the Executive Council, within the time limit specified in subparagraph (2) a form obtained from him, together with such of the documents specified in subparagraph (3) as are relevant to the appeal; and
- (b) serving on the Secretary of the Committee a copy of the form mentioned in paragraph (a), as soon as reasonably practicable, together with a copy of any relevant documents mentioned in subparagraph (3)(e) below.
- The time limit mentioned in paragraph (1) is 28 days from -
  - (a) the date of the notice of the decision or determination giving rise to the appeal;
  - (b) the expiry of the period specified in paragraph 9 or as the case may be, paragraph 10 above; or
  - in a case in which the Planning Committee have served a notice on the applicant in accordance with paragraph 7(4) that they require further information, and he has not provided the information, the date of service of that

or such longer period as the Governor may, at any time, allow.

- (3) The documents mentioned in paragraph (1) are -
  - (a) the application made to the Planning Committee which has occasioned the appeal;
  - all plans, drawings and documents sent to the Secretary to the Committee in connection with the application;
  - all correspondence with the Planning Officer or the Committee relating to the application;
  - any certificate provided to the Secretary to the Committee under section 32 of the Ordinance;
  - any other plans, documents or drawings relating to the application which were not sent to the Secretary to the Committee;
  - (f) the notice of the decision or determination, if any;
  - if the appeal relates to an application for approval of certain matters in accordance with a condition on a planning permission, the application for that permission, the plans submitted with that application and the planning permission granted.

12. Any certificate or notice required to be given by an applicant for planning permission Forms of cerunder section 32 of the Ordinance shall be in such form as is supplied by the Planning Officer.

13. (1) The Planning Officer shall maintain the planning register required by section 46 of the Ordinance in three parts -

Natices. Planning

- (a) an index map or maps,
- (b) a sequential file of copies of applications for planning permission, together with a file of copies of plans submitted with applications for planning permission,
- (c) a file of decisions on or determinations of applications for planning permission,

which shall together constitute the planning register.

- (2) The index map or maps shall indicate in a convenient manner the site of every application for planning permission and its reference number.
- (3) Every application for planning permission shall, on receipt be allocated a reference number.

14. (1) Subject to subparagraph (2) of this paragraph, the register under section 88 of Register of enthe Ordinance shall contain the following information with respect to every enforcement notice issued -

stop Notices.

- (a) the address of the land to which the notice relates or a plan by reference to which its situation can be ascertained:
- (b) the date of issue of the notice;
- the date of service of copies of the notice;
- (d) a statement or summary of the breach of planning control alleged and the requirements of the notice, including the period within which any required steps are to be taken;
- (e) the date specified in the notice as the date on which it is to take effect;
- information on any postponement of the date specified as the date on which the notice will take effect by reason of section 81(a) of the Ordinance (appeal to the Governor) and the date of the final determination or withdrawal of any appeal;
- the date of service and, if applicable, of withdrawal of any stop notice referring to the enforcement notice, together with a statement or summary of the activity prohibited by any such stop notice;
- (h) the date, if any, on which the Committee are satisfied that steps required by the notice for a purpose mentioned in section 80(10)(b) of the Ordinance (removal or alleviation of injury to amenity) have been taken.
- (2) The entry relating to any enforcement notice or stop notice and everything relating to any such notice shall be removed from the register if the enforcement notice is quashed by the Governor or withdrawn.
- 15. (1) An application to the Committee for an established use certificate shall be in Established use writing, shall be accompanied by plans identifying clearly the land to which the application relates and shall give -

- (a) the address or location of the land;
- a description of the use in respect of which a certificate is sought (being a use subsisting on the date when the application is made);
- if there is more than one use of the land at the date when the application is made, a full description of all uses of the land at the date and, where appropriate, an indication of the part of the land to which each of the uses relates:
- (d) whether the use referred to in (b) above was begun before 1st March 1991 and, if not, the date when it was begun:
- if the use referred to in sub- paragraph (b) above was begun on or after 1st March 1991, particulars of the use of the land on the preceding day and all subsequent intervening uses, including the date when each such use began and ended:
- the nature of the applicant's interest in the land;
- a statement of the grounds (as set out in section 91(1) of the Ordinance) upon which a certificate is sought;
- such other information as the applicant considers necessary to substantiate (h) or make good his claim.
- (2) An application for an established use certificate shall be accompanied by such supporting evidence as the applicant can provide and, where a certificate is being sought on ground (b) of section 91(1) of the Ordinance (use begun after commencement of the Ordinance under a planning permission granted subject to conditions or limitations which have not been complied with), a copy of the relevant planning permission or, where this cannot be supplied, details of the condition in question and such other particulars as the applicant can provide.

- (3) The Committee may, by notice in writing, require the applicant for an established use certificate to provide such further information as may be specified, to enable them to deal with the application.
- (4) An application for an established use certificate shall not be entertained by the Committee unless it is accompanied by one of the following certificates signed by or on behalf of the applicant —
  - (a) a certificate stating that at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the land to which the application relates;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to each of them, and the date of service of each such notice;
  - (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding sub-paragraphs, that he has given the requisite notice of the application to one or more of the persons mentioned in 30b-paragraph (b) as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to each of them and the date of service of each notice) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so; or
  - a certificate stating that the applicant is unable to issue a certificate in accordance with sub-paragraph (a) of this paragraph, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in sub-paragraph (b) of this paragraph and that he has been unable to do so.
- (5) For the purposes of this paragraph a person shall be treated as an owner of the land if -
  - (a) in respect of any part of the land, he is entitled to the freehold or a lease, the unexpired term of which at the relevant time is not less than 7 years; or
  - (b) he is the occupier of any part of the land.
- (6) (a) All certificates given pursuant to subparagraph (4) above shall contain -
  - (i) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding; or
  - (ii) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, with the names of each such person, the address at which notice of the application was given to him, and the date of service of that notice.
  - (b) a certificate of the kind mentioned in subparagraph (4)(c) or (d) above shall also contain a statement that the requisite notice of the application, as set out in the certificate, has, on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in subparagraph (4)(b) above), been published in the Gazette.
- (7) Where an application for an established use certificate is accompanied by such a certificate as is mentioned in subparagraph (4)(b), (c) or (d) above or by a certificate containing a statement in accordance with subparagraph (6)(a)(ii) above the Committee —
  - (a) shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the

- dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later;
- (b) in determining the application, shall take into account any representations made before the end of the period mentioned in (a) of this subparagraph by any person who satisfies them that he is an owner of land to which the application relates or that he is the tenant of an agricultural holding the whole or part of which is comprised in that land; and
- shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with (b) above.
- (8) The Committee shall give notice to the applicant of their decision (or the reference of the application to the Governor, as the case may be) within a period of two months beginning with the date of receipt of the application, or (except where the applicant has already given notice of appeal to the Governor) such extended period as may be agreed upon in writing between the applicant and the Committee.
- (9) Where an established use certificate is refused, the Committee shall give notice of their decision in writing with a clear and precise statement of the full grounds for their decision and a statement to the effect that if the applicant is aggrieved by the decision he may appeal to the Governor.
- (10) An applicant who desires to appeal against a decision of the Committee refusing an established use certificate, or refusing it in part, shall give notice of appeal in writing to the Clerk to the Executive Council within 28 days of the date of notice of the decision or of the expiry of the period allowed under subparagraph (8) as above, as the case may be, or such longer period as the Governor may at any time allow. Such persons shall also provide the Clerk to the Executive Council with copies of each of the following documents —
  - (a) the application:
  - all relevant plans, drawings, statements and particulars submitted with it (including the certificate given under subparagraph (4) above);
  - the notice of the decision, if any;
  - all other relevant documents and correspondence with the local planning (d)
- (11) The provisions of subparagraphs (3) to (6) above shall apply with any necessary modifications in relation to an appeal to the Governor as they apply in relation to an application to the Committee for an established use certificate.
- 16. Any power conferred by this Order to give a direction includes power to cancel or Directions. vary the direction by a subsequent direction.

17. The provisions of Schedule 4 below apply so as to grant deemed planning permission Transitional. for any development carried out within two years from the date of this Order in respect of which permission consent or approval was granted by the former committee on or after 1st March 1989.

# SCHEDULE 1

# CLASS 1. Shops

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Use for all or any of the following purposes

- for the retail sale of goods and incidental storage
- (b) as a post office
- (c) for the sale of tickets or as a travel agency
- (d) for hairdressing
- for the direction of funerals (e)
- (f) for the display of goods for sale
- (g) for the hiring out of domestic or personal goods or articles
- (h) for the reception or service of goods to be washed, cleaned or repaired where the sale, display or service is to visiting members of the public.

#### CLASS 2. Offices

Use for all or any of the following purposes

- as an office
- as a bank or building society

# CLASS 3. Light Industry

Use for the carrying on of an industrial process which could be carried out in a residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

## CLASS 4. Warehousing and Storage

Use for wholesale warehousing, or the storage or distribution of goods, or as a repository for any purpose other than in connection with the winning and working of minerals.

#### SCHEDULE 2

#### PART 1

# CLASS A. DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLING HOUSE

- The enlargement, improvement or other alteration of a dwelling house, so long as
  - the cubic content of the original dwelling house (as ascertained by external measurement) is not exceeded by more than 70 cubic metres or 15%, whichever is greater, subject to a maximum of 115 cubic metres;
  - the height of the building as so enlarged, altered or improved does not exceed the height of the highest part of the roof of the original dwelling house;
  - no part of the building as so enlarged, improved or altered which lies within a distance of two metres from any boundary of the curtilage of the dwelling house has, as a result of the development, a height exceeding four metres;
  - no part of the building as so enlarged, improved or altered is nearer to any boundary of the curtilage with a public road than -
    - (i) the part of the original dwelling house nearest to that road; or
    - (ii) 20 metres;

whichever is nearest to the public road.

The erection, construction or placing within the curtilage of a dwellinghouse of any building or enclosure (other than a dwelling, a building providing additional living accommodation, a container or prefabricated building) required for a purpose incidental to the enjoyment of the dwelling house as such, including the garaging of vehicles, the storage of peat or other solid fuel, the keeping of poultry or pet animals for the domestic needs or personal enjoyment of the occupants of the dwelling house, so long as —

- (a) no part of such building or enclosure lies within a distance of five metres from any boundary of the curtilage with a public road;
- (b) the height does not exceed, in the case of a building with a ridged roof, four metres or, in other cases, three metres;
- (3) The erection or placing within the curtilage of a dwelling house of a tank for the storage of oil for domestic heating so long as
  - (a) the capacity of the tank does not exceed 3,500 litres;
  - (b) no part of the tank is more than 3 metres above the level of the ground;
  - (c) no part of the tank lies within a distance of five metres from any boundary of the curtilage with a public road;
- (4) The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house.

# CLASS B. MINOR OPERATIONS

- (1) The erection or construction of gates, fences, walls or other means of enclosure not exceeding 1 metre above ground level where erected or constructed adjacent to a road used by vehicular traffic or 2 metres in height in any other case, and the maintenance, improvement or alteration of any gates, fences, walls or other means of enclosure; so long as no improvement or alteration increases the height above the height appropriate for a new means of enclosure.
- (2) The painting, cladding, or re-roofing of any building or works, and the fitting or replacement of windows and doors to any existing building, so long as
  - (a) these alterations do not result in any material increase in the volume of the building or works;
  - (b) in the case of re-roofing, these alterations do not increase the height of the building to a material extent.

# CLASS C. CHANGES OF USE

Development consisting of a change of use to -

- (a) Use as a light industrial building as defined by Schedule 1 above from use as an industrial building of a type not defined in that Schedule;
- (b) use as any type of shop other than those listed below from use as
  - (i) a shop for the sale of hot food for consumption off the premises
  - (ii) a shop for the sale or display for sale of motor vehicles
  - (iii) a restaurant or cafe

# CLASS D. TEMPORARY BUILDINGS AND USES

- The provision on land of buildings (other than residential buildings), movable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being carried out on, in, under or over that land or on land adjoining that land, so long as
  - (a) the operations referred to are not mining operations or waste disposal operations; and
  - (b) planning permission has been granted or is deemed to have been granted for those operations.
- (2) The use of any land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any movable structure for the purposes and for the duration of the purposes and for the duration of the
  - (a) the land in question is not within the curtilage of a building;
  - (b) no part of the land in question, if used for motor car or motor-cycle racing, trials or similar uses, lies within 150 metres of any dwelling;

- (c) the use of the land does not involve the use of firearms;
- (d) the use of the land is not for a caravan site.

# CLASS E. AGRICULTURAL BUILDINGS, WORKS AND USES

- (1) The carrying out on agricultural land of building or engineering operations requisite for the use of that land for the purposes of agriculture other than the placing on land of prefabricated buildings not designed for those purposes or the erection, extension and alteration of dwellings, so long as no part of any building is erected within five metres of the boundary of the site with a public road.
- (2) The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use of the land, including the fertilisation of the land so used.

# CLASS F. INDUSTRIAL AND WAREHOUSE DEVELOPMENT

- The replacement of existing plant and machinery sited outside a building with plant and machinery of similar type and dimensions.
- (2) The provision, re-arrangement or replacement of a sewer, main, pipe, cable or other apparatus within the boundaries of the undertaking.
- (3) The creation of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned.

#### CLASS G. SERVICES

- (1) The carrying out of any works by the Crown or its authorised contractor required in connection with the supply of water, including engineering works to watercourses and the erection, extension or siting of plant or buildings required in connection with that function, so long as no building or extension to a building exceeds 30 cubic metres in volume or is sited within five metres of a public highway.
- (2) The carrying out of any works by the Crown or their authorised contractor required in connection with the generation and distribution of electricity, including the erection, extension or siting of plant or buildings required in connection with that function, so long as
  - (a) the works for the generation of electricity are located within the boundaries of existing sites used for that purpose;
  - (b) no building or extension to a building exceeds 30 cubic metres in volume or is sited within five metres of a public highway;
  - (c) the works do not include the erection of overhead power cables, other than the replacement of existing cables.
- The carrying out by the Crown or its authorised contractor of land drainage works; the provision, improvement, maintenance or replacement of underground drains, sewers, manholes and related works, so long as no works involve the provision of a new foul sewer outfall to the sea.
- (4) The carrying out by Cable & Wireless Plc or their authorised contractor of any works for the provision, inspection, repair or renewal of underground telephone cables or similar equipment.

# CLASS H. ROADS

- (1) The carrying out by the Crown or its authorised contractor on land within the boundaries of an existing public road or on land outside it but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the public road.
- (2) The carrying out within the boundaries of a privately-owned road or track of works required for the maintenance or improvement of that road or track.

# CLASS I. AVIATION DEVELOPMENT

(1) The carrying out within the boundaries of Stanley Airport of works (including the erection of a building) required in connection with the operation of the Airport.

(2) The carrying out of works, within the boundary of Stanley Airport or outside the boundary of the Airport, of works in connection with the navigation of aircraft using the Airport.

### CLASS J. MARINE WORKS

- (1) The carrying out, within the boundaries of a site owned or controlled by the Crown and used as a port undertaking, of development by the Crown or their agent or appointed contractor required for the purposes of shipping.
- (2) The carrying out by the Crown or its authorised contractor of works on land or in the territorial sea of the Falkland Islands of works required in connection with the navigation of shipping, but excluding dredging and similar operations.

# CLASS K. MINOR PUBLIC WORKS

- (1) The erection or construction and the maintenance, improvement or other alteration by the Crown of lamp standards, posting boxes, public shelters and seats, fire alarms, refuse bins or baskets and similar structures or works.
- (2) The carrying out by the Crown or its authorised contractor of works for the maintenance, improvement or landscaping of land owned by it.

# CLASS L. PEAT

The winning and working of peat for domestic use.

# CLASS M. DEVELOPMENTS AT QUARRIES

The erection, extension and replacement of buildings, plant and machinery at an existing quarry.

# CLASS N. DEVELOPMENT ON BEHALF OF THE SECRETARY OF STATE FOR DEFENCE

All development on land owned, occupied or controlled by the Secretary of State for Defence.

# PART 2

# CLASS A. RESIDENTIAL DEVELOPMENT

- (1) The erection of dwelling houses.
- (2) The enlargement, improvement or other alteration of a dwelling house.
- (3) The erection or construction of any building or enclosure required for a purpose incidental to the enjoyment of a dwelling house as such.

# CLASS B. MINOR OPERATIONS

- (1) The erection or construction of gates, fences, walls or other means of enclosure.
- (2) The painting, cladding or re-roofing of any building or works.
- (3) The erection or placing on or under land of tanks for the storage of oil for domestic heating.

# CLASS C. CHANGES OF USE

- (1) The change of use of any land or building not involving a change to -
  - (a) use for industrial purposes other than light industrial purposes defined by Schedule 1 or industrial purposes solely connected with the use of land for agriculture;
  - (b) uses connected with the winning and working of minerals, including offshore mineral deposits;
  - (c) use as a scrapyard or for the breaking of motor vehicles;
  - (d) uses (other than as a dwelling house) in which the principal use is the accommodation of tourists or other persons not engaged in agriculture.

# CLASS D. AGRICULTURAL BUILDINGS AND USES

- (1) The carrying out of building or engineering operations requisite for the purposes of agriculture.
- (2) The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use of the land, including the fertilisation of the land so used.

# CLASS E. INDUSTRIAL AND WAREHOUSE DEVELOPMENT

- (1) The erection, alteration, extension and repair of buildings for light industrial purposes defined by Schedule 1, or industrial purposes solely connected with the use of land for agriculture, and the carrying out of any other building and engineering operations in connection with such purposes.
- (2) The erection, alteration, extension and repair of buildings for use as a warehouse or repository for any purpose other than a purpose connected with
  - (a) the winning and working of minerals, including offshore mineral deposits;
  - (b) industrial uses other than light industrial uses defined by Schedule 1 or industrial uses solely connected with the use of land for agriculture.

and the carrying out of any other building and engineering operations in connection with such purposes.

# **CLASS F. SERVICES**

The carrying out of any works related to the supply of water, the generation and distribution of electricity, the drainage of land and buildings, and the operation of telephone, radio, television transmission, telecommunications or similar equipment, so long as these works are not required in connection with —

- (a) the winning and working of minerals, including offshore mineral deposits;
- (b) industrial uses other than light industrial uses defined by Schedule 1 or industrial uses solely connected with the use of land for agriculture.

## CLASS G. ROADS

Engineering works, and building works incidental to these works, for the construction, improvement and maintenance of any road or track, other than roads or tracks required in connection with

- (a) the winning and working of minerals, including offshore mineral deposits;
- (b) industrial uses other than light industrial uses defined by Schedule 1 or industrial uses solely connected with the use of land for agriculture.

# CLASS H. AVIATION DEVELOPMENT

The construction and maintenance of airstrips or runways and associated buildings, plant and navigation equipment so long as the main use of the airstrip is not connected with —

- (a) the winning and working of minerals, including offshore mineral deposits;
- (b) industrial uses other than light industrial uses defined by Schedule 1 or industrial uses solely connected with the use of land for agriculture.

# CLASS I. MARINE WORKS

- (1) The construction, improvement and maintenance of piers, jetties and associated buildings, plant and hardstandings used primarily for the transportation of agricultural produce or domestic goods or for the recreational use of the resident population.
- (2) The carrying out of works on land or in the territorial sea of the Falkland Islands of works required in connection with the navigation of shipping, but excluding dredging and similar operations.

# CLASS J. COMMUNITY BUILDINGS

The erection, extension, improvement or maintenance of any building primarily for the recreational or community use by the resident population or for the provision of health or education services to the resident population, and the carrying out of building and engineering operations in connection with such buildings.

# CLASS K. MISCELLANEOUS MINOR WORKS

- (1) The erection or construction and the maintenance, improvement or other alteration of lamp standards, posting boxes, public shelters and seats, fire alarms, refuse bins or baskets and similar structures or works.
- (2) The carrying out of works for the maintenance, improvement or landscaping of land.

# CLASS L. PEAT

The winning and working of peat for domestic use.

# CLASS M. DEVELOPMENTS AT QUARRIES

The erection, extension and replacement of buildings, plant and machinery at an existing quarry.

# CLASS N. DEVELOPMENT ON BEHALF OF THE SECRETARY OF STATE FOR DEFENCE

All development on land owned, occupied or controlled by the Secretary of State for Defence.

#### **SCHEDULE 3**

Notice to be sent to an applicant when the Committee refuses planning permission or grants it subject to conditions (This may be endorsed on the notice of a decision)

# THESE NOTES DO NOT APPLY IF THE DECISION OVERLEAF IS SIGNED BY OR BY THE DIRECTION OF THE GOVERNOR

# Appeals to the Governor (in Executive Council)

- \* If you are dissatisfied with the decision of the Committee to refuse permission or grant it subject to conditions, you have a right of appeal to the Governor (in Executive Council)
- \* To appeal, you must fill in a form you can obtain from the Clerk to the Executive Council. Usually, you must return the form completed within 28 days of the date you received the Committee's decision, but the Governor has power to grant you a longer period of time.
- \* After returning the form of appeal to the Clerk to the Executive Council, you will have an opportunity to make written representations. The Executive Council will consider each side's written case in private. It will not permit any member of the Committee or the Planning Officer to be present when it does so. No oral representations by any person can be made to the Executive Council about the appeal.

#### **SCHEDULE 4**

## Transitional Provisions

- 1. Planning permission shall be deemed to be granted by this Schedule for the carrying out of transitional development.
- 2. "Transitional development" is either of the following
  - (a) the carrying out of any development, subject to the conditions set out in paragraph 3 below, the plans for which were approved by the former Committee on or after 1st March 1989; or
  - (b) the completion subject, so far as appropriate to the same conditions, of any building or engineering operations begun before 1st March 1991.
- 3. The conditions referred to in paragraph 2 are
  - (a) the development must be carried out in accordance with the plans approved by the former Committee and any substantial variation from those plans shall, subject to the Ordinance, require the grant of planning permission from the Planning and Building Committee, and any minor variation shall require the consent of the Planning Officer in writing (Building By-law approval may also be required for any variation);
  - (b) the development must be substantially completed on or before 28th February 1993 and wholly completed on or before 28th February 1995.

# 4. In paragraph 3 —

"substantially completed means completed to such an extent as to be reasonably fit for occupation and use for the purpose for which the development was intended; and

"wholly completed" means completed in full accordance with the plans approved by the former Committee or, if appropriate, completed in accordance with those plans as varied in accordance with any planning permission or consent of the kind referred to in that paragraph.

5. Planning permission deemed to be granted by paragraph 1 above extends to engineering operations which are reasonably incidental to and necessary for the carrying out of the development in question.

Made this 1st day of March 1991.

W. H. FULLERTON,

# SUBSIDIARY LEGISLATION

# Planning and Building

# The Planning (General) Regulations 1991

(S.R. & O. No. 7 of 1991)

Made: 1st March 1991

Coming into operation: 1st March 1991

Published: 1st March 1991

IN EXERCISE of my powers under section 117 of the Planning Ordinance 1991(a) I make the following Regulations -

# PART I INTRODUCTORY

1. These Regulations may be cited as the Planning (General) Regulations 1991.

Citation.

2. These Regulations come into force on 1st March 1991.

Commencement

3. In these Regulations -Interpretation

"building" does not include any plant or machinery or a structure or erection of the nature of plant or machinery:

"Building By-laws" means the by-laws of that title made under the Public Health Ordinance(b);

"combined application" means an application at one and the same time for planning permission and for approval of plans under the Building By-laws;

"the Ordinance" means the Planning Ordinance 1991;

"outline planning permission" means planning permission for the erection of a building, subject to a condition requiring the subsequent approval of the Committee with respect to one or more reserved matters, that is to say -

- siting,
- (b) design,
- external appearance,
- means of access,
- the landscaping of the site.

# PART II PLANNING APPLICATIONS

4. (1) Subject to the following provisions of this regulation, an application for planning Application for permission shall —

planning permission.

applications.

- be made on a form provided by the Planning Officer;
- include the particulars specified in the form and be accompanied by a plan which identifies the land to which it relates and any other plans and drawings and information necessary to describe the development which is the subject of the application.
- (2) Three copies (including the original) of the form and of the plans and drawings submitted with it shall be delivered to the Secretary of the Committee except that where the application is a combined application (as defined in regulation 3 above) four copies shall be so delivered.
- (3) In the case of an application for outline permission (as defined in regulation 3 above) the applicant does not need to give details of any proposed reserved matters (as so defined).
- (4) An application -
  - (a) for renewal of planning permission previously granted for development which has not yet begun;
  - (b) for renewal of planning permission where a time limit was imposed under section 40(1)(b) or (3) of the Ordinance (limit of duration of planning permission) or on the grant of outline planning permission;
  - (c) under section 43(1) of the Ordinance (an application for the variation of a condition subject to which the planning permission was granted) or section 44(1) of the Ordinance (an application for permission to retain buildings or works or continue the use of land without compliance with a condition),

shall be made in writing and give sufficient information to enable the previous grant of planning permission and the condition in question to be identified.

- (5) Paragraph (4)(a) and (b) above shall also apply, with all necessary modifications where the applicant has the benefit of a deemed grant of planning permission under Schedule 4 of the General Development Order 1991(a) (planning permission deemed to be granted in respect of certain plans approved by the former Committee) and seeks planning permission —
  - (a) to carry out the development so as to substantially complete it after 28th February 1993 or wholly complete it after 28th February 1995;
  - (b) to carry out the development so as to commence it after 28th February 1993.
- 5. (1) Subject to the following provisions of this regulation, a person who seeks planning Combined permission to carry out development consisting of or including the construction or alteration of a building or structure for which he is required also to obtain approval under the Building By-laws, may if he wishes, apply for such approval at the same time as he applies for planning permission and may do so by complying with the provisions of regulation 4 above.
- (2) A combined application cannot be made for outline planning permission and approval under the Building By-laws.

<sup>(2)</sup> No. 7 of 1991.

<sup>(</sup>b) Cap. 54 Laws of the Falkland Islands 1950 Edition.

<sup>(</sup>a) S.R. & O. No. 6 of 1991.

- (3) Where a combined application is made and the application for planning permission falls to be decided by the Governor or is referred to the Governor for decision the Committee shall decide the application for approval under the Building By-laws as if the application were an application for such approval only and shall not defer their decision in relation to it until the decision of the Governor on the application for planning permission is known.
- 6. (1) In this regulation "the authority" means the Committee, in every instance but includes the Governor where the application falls to be decided by him or is referred to him authority. for decision.

- (2) The authority may direct an applicant in writing to -
  - (a) supply any further information and, except in the case of an outline application, plans and drawings necessary to enable the application to be determined; or
  - (b) provide any evidence reasonably necessary to verify any particulars or information given by the applicant.

#### PART III

#### **ENVIRONMENTAL IMPACT STATEMENTS**

7. (1) Where an applicant for planning permission has been required under section 33(1) Publicity for enof the Ordinance to furnish an environmental impact statement or voluntarily submits such vironmental ima statement, he shall deliver at least six copies of the statement to the Secretary of the Committee.

- (2) On receipt of an environmental impact statement, the Secretary of the Committee shall transmit two copies of it to the Planning Officer.
- On receipt of copies of an environmental impact statement, the Planning Officer shall
  - transmit one copy of it to the Governor together with a copy of the relevant application and of any documents submitted with the application and any observations or comments he wishes to make in relation thereto for the purpose of the Governor considering whether or not he should exercise his powers under section 33(6) of the Ordinance (power to require that the application be considered by the Executive Council);
  - take steps to ensure that a copy of the environmental impact statement is placed on the planning register with the application;
  - take such steps as are reasonably necessary in his opinion to advise the public in general that
    - the statement has been received and will be taken into account in determining the application; and
    - the statement is available for inspection at his office and that they may make representations in writing and that any such representations, if received by the time notified, will be taken into account in consideration of the application.
- 8. (1) Where an applicant is required in accordance with section 33(1) of the Ordinance Extension of to furnish an environmental impact statement or voluntarily furnishes such a statement, period for for the purposes of section 48(1) of the Ordinance, and the General Development Order determination. 1991 the application shall be deemed not to be received until the environmental impact statement has been delivered in accordance with regulation 7(1) above.

Made this 1st day of March 1991.

W. H. FULLERTON.

# SUBSIDIARY LEGISLATION

# Income Tax

# Income Tax (Apportionment of Deductions) Rules 1991

(S.R. & O. No. 8 of 1991)

Made: 1st March 1991

Coming into operation: on publication

Published 1st March 1991

IN EXERCISE of my powers under section 89(1)(cc) of the Income Tax Ordinance (a) and all other powers me enabling in that behalf, I make the following Rules —

1. These Rules may be cited as the Income Tax (Apportionment of Deductions) Rules 1991. Citation.

2. These Rules apply in respect of the assessment of income tax payable in any year of Application. assessment commencing after 31st December 1990.

3. For the purposes of these rules a "relevant deduction" means any deduction allowable Relevant under any provision so as to arrive at a person's chargeable income other than -

- (a) earned income relief under section 10(1) of the Ordinance; and
- any deduction in respect of depreciation allowable under section 11 and the Sixth, or Seventh, Schedule to the Ordinance,

and "relevant event" includes any of the following events -

- (i) a person becoming divorced, and having a wife living with him or commencing or recommencing to wholly maintain a wife not living with him;
- (ii) a person becoming divorced, judicially or otherwise separated from a wife, or ceasing wholly to support a wife who is not living with him;
- (iii) the death of a spouse;
- (iv) becoming resident in the Falkland Islands or ceasing to become resident in the Falkland Islands.
- 4. (1) Where a relevant event occurs in respect of a person during the calendar year Apportionment. preceding the year of assessment in question, he shall be allowed by way of deduction from income so as to arrive at his chargeable income in that year of assessment so much of any relevant deduction as, having regard to the date on which the event occurred, represents the appropriate fraction of that deduction.

<sup>(</sup>a) Cap. 32 Laws of the Falkland Islands 1950 Edition.

(2) Subparagraph (1) above shall be construed in accordance with the following examples -

# Example A

A man becomes resident in the Falkland Islands on 1st December in a year which has 365

- (a) his income assessable to tax in the following year of assessment is that received on or after 1st December in that year;
- (b) in arriving at his chargeable income thirty-one three hundred and sixty-fifths of the amount of any deduction referable to the full calendar year shall be allowed unless he would on application of paragraph (1) have been entitled to a lesser fraction of that deduction (for example, if he marries after 1st December and before the next succeeding 1st January).

# Example B

A man marries on 1st June in a calendar year having 366 days (a leap year) and his wife lives with him in the Falkland Islands or is wholly maintained by him for the remainder of that calendar year -

The man shall be allowed two hundred and thirteen three hundred and sixty-sixths of the deduction under section 15(1) of the Ordinance (deduction for wife) and the same fraction of the deduction for his wife's earnings (if any) provided for by section 14(1) of the Ordinance.

# Example C

The wife, living with him, of a man dies on 1st September in a year having 365 days -The man shall be allowed two hundred and forty-four three hundred and sixty-fifths of the deduction under section 15(1) of the Ordinance (deduction for wife).

Made this 1st day of March 1991.

W. H. FULLERION, Governor.

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

These Rules provide for apportionment on a time basis where a "broken period" is involved of fixed sum allowable deductions from income provided for by the Income Tax Ordinance.

# SUBSIDIARY LEGISLATION

# Income Tax

# Income Tax (Annual Values) Rules 1991

(S.R. & O. No. 9 of 1991)

Made: 1st March 1991

Coming into operation: on publication

Published: 1st March 1991

IN EXERCISE of my powers under section 5 of the Income Tax Ordinance (a) and of all other powers me enabling in that behalf, I make the following Rules -

1. These Rules may be cited as the Income Tax (Annual Values) Rules 1991.

Citation.

2. These Rules shall not come into operation until they have been approved by a resolution of the Legislative Council or a draft of these Rules corresponding in all material aspects with these Rules has been so approved but subject to the foregoing shall have effect from the beginning of the year of assessment commencing on 1st January 1991.

Commencement application.

3. Paragraph 2 of these Rules is without prejudice to the provisions of the proviso to section 5 of the Ordinance (which requires these Rules to be confirmed by the Legislative Council at the meeting following the publication of these Rules).

4 (1) The following annual values are prescribed for the purposes of section 5(b)(ii) and 5(c) of the Ordinance -

Board and accommodation. fuel, light and

- (a) Board and accommodation provided aboard ship as an incident of his employment to a member of the crew of a ship who is resident in the Falkland Islands and whose usual place of abode during the relevant period is aboard ship:
- (b) Board and accommodation provided as an incident of his employment to a domestic servant employed other than in an institution: £434;
- (c) Employees residing as an incident of his employment in an institution:
  - (i) in respect of accommodation in the institution (including the provision to him of fuel, light and power or any of them): £434;
  - (ii) in respect of food or meals provided by the employer: £490;
  - (d) Employee, other than an employee in agriculture or horticulture, provided with -
  - (i) free fuel: £210;
  - (ii) free light and power: £84;
- Employee other than an employee of a kind mentioned in subparagraph (a), (b) or (c) above, provided by his employer with free board and lodging -
  - (i) where the employee only is so provided: £945;

<sup>(</sup>a) Cap. 32 Laws of the Falkland Islands 1950 Edition.

- (ii) where the employee and his spouse are so provided: £1190 and in addition for each child so provided £126;
- (f) A person other than a person engaged or employed in agriculture who as a result thereof is provided with a dwelling is liable to income tax on the difference between the amount he actually pays in respect of the use and occupation of the house and whichever of the following sums is relevant -

# Category A

A dwelling not having permanent disadvantages of a kind such as those mentioned under Categories B and C -

- (a) Where the house is provided substantially furnished: £11.90 per room per
- Where the house is not provided substantially furnished: £9.45 per room per

# Category B

A dwelling which, in the opinion of the Commissioner, suffers permanent disadvantages such as over-thin dividing walls -

- (a) Where the house is provided substantially furnished: £10.85 per room per
- Where the house is not provided substantially furnished: £8.40 per room per

# Category C

A dwelling which, in the opinion of the Commissioner, is particularly disadvantaged by reason of lack of privacy, liability of the tenant for repair or decoration or other sufficient reason -

- Where the house is provided substantially furnished: £8.40 per room per (a)
- (b) Where the house is not provided substantially furnished: £7.00 per room per month.

And, for the purposes of any liability to tax under any of the foregoing categories -

- (i) The maximum number of rooms in respect of which a liability to tax may arise is seven: and
- (ii) Garages, outbuildings, porches, bathrooms, lavatories, larders, halls and passages are not rooms.
- 6. Where a person has the benefit of anything to which paragraphs 4 and 5 relate for part Apportionment. only of a calendar year, the sums provided for by those paragraphs shall be reduced in the proportion that part bears to a full year.

7. The Income Tax (Annual Values) Rules 1986 are revoked but without prejudice to their Revocation. application to any year of assessment ended before 1st January 1991.

Made this 1st day of March 1991.

W. H. FULLERTON, Governor:

# SUBSIDIARY LEGISLATION

# Income Tax

# Deductions (Employees) (Amendment) Regulations 1991

(S.R. & O. No. 10 of 1991)

Made: 1st March 1991

Coming into operation: 1st March 1991

Published: 1st March 1991

IN EXERCISE of my powers under section 32E of the Income Tax Ordinance (a) I make the following Regulations -

1. These Regulations may be cited as the Deductions (Employees) (Amendment) Regula- Citation and tions 1991 and shall come into operation on 1st March 1991.

2. The Deductions (Employees) Regulations 1987 (b) are amended by replacing Tables A and B in the Schedule thereto with the following new Tables A and B -

commencement

Amendment of Deductions (Employees) Regulations

<sup>(</sup>a) Cap. 32 Laws of the Falkland Islands 1950 Edition.

<sup>(</sup>b) S.R. & O. No. 23 of 1987 as amended by S.R. & O. No. 22 of 1988 and S.R. & O. No. 6 of 1990.

# Table A

# SINGLE PERSON

WEEKLY WAGE

TAX	per	WEEK
	(£)	

70		0
75		1
80		2
85		3
90		
		4
95	***************************************	5
100		5
105		6
110		7
115		8
120		
125		9
		10
130		11
135		11
140		12
145		13
150		14
155		_
160		15
		16
165		17
170	***************************************	17
175	***************************************	18
180		19
185		20
190		
195		21
200		22
		22
205		23
210		24
215		25
220		26
225		27
230		28
235		
240		28
245		29
		30
250		31
255	***************************************	32
260		33
265		34
270		34
275	***************************************	35
280		
285		36
290		37
		38
295		39
300	***************************************	39
305		40
310		41
315	and the state of t	42
320		
325		43
330		44
7 767		AE

35	45
40	46
45	 47
50	48
55	49
60	50
65	51
70	51
75	52
80	53
85	54
90	55
95	56
00	 56
05	57
110	58
115	59
20	60
25	 61
30	62
135	 62
40	 63
45	64
150	 65
155	 66
160	67
165	 68
170	 68
175	 69
180	 70
185	 71
190	72
195	73
500	73
505	74
510	75 76
515	77
520	78
525	79
530	80
535	81
540	82
545	83
550	84
555	85
560	86
565 570	87
575	89
580	90
585	91
590	92
595	93
600	 74
605	 7.1
610	 70
615	 71
620	 70
625	 ,,
630	 100
635	 101
640	 .02
645	 105
650	104
000	

		106
655		107
660		108
665		109
670		110
675		111
680		112
685		113
690		114
695		115
700		116
705		117
710		118
715		119
720		120
725		121
730		123
735		124
740		125
745		126
750 755		127
760		128
765		129
770		130
775		131
780		132
785		133
790		134
795		135
800		136
805		137
810		138
815	***************************************	140
820		141
825		142
830		143
835		144
840		145
845		146
850		147
855		148
860 865		149
870		150
875		151
880		152
885		153
890		154
895		155
900		157
905		158
910		159
915		160
920		161
925		162
930		163
935		164
940		165
945		166
950		167
955		168
960	***************************************	169
965		170
		171

970		
975		172
980		174
985		175
990		176
995		177
1,000		178
1,005		179
-		180
1,010		181
1,015		182
1,020		183
1,025		184
1,030		185
1,035		186
1,040		187
1,045		188
1,050		189
1,055		191
1,060	***************************************	192
1,065		193
1,070		194
1,075		195
1,080		196
1,085		197
1,090		198
1,095		199
1,100		200
1,105		201
1,110		202
1,115		203
1,120		204
1,125		205
1,130		206
1,135		208
1,140		209
1,145		210
1,150		211
1,155		212
1,160		213
1,165		214
1,170		215
1,175		216
1,180		217
1,185		218
1,190		219
1,195		220
1,200		221
1,200		

\* 2

# Table A

# MARRIED PERSON

WEEKLY	WAGE
(£)	

TAX per WEEK
(£)

115		1	
120		2	
125		2	
130		3	
		4	
135		5	
140		_	
145		6	
150	***************************************	7	
155		8	
160	101111111111111111111111111111111111111	8	
165		9	
170		10	
175		11	
		12	
180			
185		13	
190	***************************************	13	
195		14	
200		15	
205		16	
210		17	
215		_	
	***************************************	18	
220		19	
225		19	
230		20	
235		21	
240	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	22	
245		23	
250		24	
255			
260		25	
		25	
265	***************************************	26	
270		27	
275		28	
280		29	
285		30	
290		30	
295		_	
300		31	
305		32	
		33	
310		34	
315		35	
320		36	
325		36	
330		37	
335			
340		38	
345		39	
350		40	
		41	
355	**************************************	42	
360		42	
365			
370		43	
375		44	
380		45	
200		46	

85		
90		47
95		47
00		48
05		49
110		50
_		
115		51
20		52
25		53
30		53
35		54
40		55
45		56
50		57
55		58
60		59
		59
65	(1)-(1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1)-(1-1	60
70		61
75		62
180		63
85		
90		64
195		64
600		65
505		66
		67
510		68
515		69
520		70
525		70
530		71
535		72
540		73
545		74
550		75
		76
555		76
60		
565		77
570		78
575		79
580		80
585		82
590		83
595		84
		85
500		86
505		87
610		88
615		89
520		90
525		91
530		
635		92
640		93
		94
645		95
650		96
555		97
5 <b>6</b> 0		99
665		
670		
675		
680		
685		
690		
695		
700		
705		108
710		

		109
715		110
720		111
725		112
730		113
735		114
740		
745		116
750		117
755		118
760		119
		120
765		121
770		122
775		123
780		124
785		125
790		126
795		127
800		128
805		-
810		129
815		130
820		131
825	***************************************	133
830		134
835		135
840		136
845		137
850		138
855		139
860		140
		141
865		
870		142
875		143
880		144
885		145
890		146
895		147
900		148
905		150
910		151
915		152
920		153
925		154
930		155
935		156
940		157
945		158
950		
955		159
960		160
965		161
		162
970		163
975		164
980		165
985		167
990		168
995		169
000		170
005		171
,010		
.015		172
020		173
025		174
023	***************************************	175

1.030		
1,035		176
1.040		177
1,045		178
1.050		179
,		180
1,055		181
1,060	11	182
1,065		184
1,070		185
1,075		186
1,080		187
1,085		188
1,090		189
1,095		190
1,100		191
1,105		192
1.110		193
1,115		193
1,120		195
1,125		
•		196
1,130		197
1,135		198
1,140		199
1,145		201
1,150		202
1,155		203
1,160		204
1,165	***************************************	205
1,170		206
1,175	***************************************	207
1,180		208
1,185		209
1,190		210
1,195		211
1,200		212

# Table B

# SINGLE PERSON

MONTHLY	WAGE
(£)	

TAX per MONTH
(£)

		1
300		5
325		10
350		14
375		
400		18
425		22
450		27
475		31
500		35
525		39
550		44
575		48
		52
600		56
625		
650		61
675		65
700		69
725		73
750		78
775		82
800		86
825		90
850		95
875		
		99
900		103
925		107
950	***************************************	112
975		116
1,000	***************************************	120
1,025		124
1,050	.,	129
1,075		133
1,100		137
1,125		
1,150		141
1,175		146
		150
1,200		154
1,225		158
1,250		163
1,275		167
1,300		171
1,325		175
1,350		
1,375		180
1,400		184
1,425		188
1,450		192
		197
1,475		201
1,500		205
1,525		209
1,550		
1,575		214
1,600		218
1,625		222
1,650		226
1,030		231

1,675		
1,700		235
1,725		239
1,750		243
1,775		248
1,800		252
1,825		256
1,850		260
1,875		265
1,900		269
1,925		273
1,950		277
1,975		282
2,000		286
2,025		290
-	Harris and the state of the sta	294
2,050		299
2,075		303
2,100		307
2,125		311
2,150		316
2,175		_
2,200		320
2,225		324
2,250		328
2,275		333
		338
2,300		343
2,325		348
2,350		354
2,375		359
2,400		364
2,425		370
2,450		375
2,475		380
2,500		385
2,525		391
2,550		396
2,575		401
-		
2,600		407
2,625		412
2,650		417
2,675		423
2,700		428
2,725		433
2,750		439
2,775		444
2,800		449
2,825		455
2,850		460
		465
2,875		470
2,900		476
2,925		481
2,950		486
2,975		492
3,000		
3,025		497
3,050		502
3,075		508
		513
3,100		518
3,125		524
3,150		529
3,175		

		534
3,200		540
3,225		545
3,250		550
3,275		555
3,300		561
3,325		566
3,350		571
3,375		577
3,400		582
3,425		587
3,450		593
3,475		598
3,500		603
3,525		609
3,550		614
3,575 3,600		619
3,625		625
3,650		630
3,675		635
3,700		640
3,725		646
3,750		651 656
3,775		662
3,800		667
3,825		672
3,850		678
3,875		683
3,900		688
3,925		694
3,950		699
3,975		704
4,000		710
4,025 4,050		715
4,075		720
4,100		725
4,125		731
4,150		736
4,175		741
4,200		747
4,225		752
4,250		757
4,275		763
4,300		768
4,325		773
4,350		779 784
4,375		789
4,400		795
4,425 4,450		800
4,475		805
4,473		810
4,525		816
4,550		821
4,575		826
4,600		832
4,625	••••••	837
4,650	.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	842
4,675		848
4 700		85

4,725	
4,750	858
4,775	864
4,800	869
•	874
4,825	 880
4,850	885
4,875	890
4,900	895
4,925	
4,950	901
•	906
4,975	 911
5,000	 917
5,025	 922
5,050	 927
5,075	933
5,100	938
5,125	
•	943
5,150	949
5,175	954
5,200	959

# Table B

# MARRIED PERSON

TAX per WEEK

233 237

	WEEKLY W	VALTE	(per WEE)
	(£)		(£)
_			2
	500		3
	525		8
	550	<u></u>	12
	575		16
	600		20
	625		25
	650	***************************************	29
	675		33
	700		37
	725		42
	750		46
	775		50
	800		54
	825		59
	850		63
	875		67
	900		71
	925		76
	950		
	975		80
	1,000		84
			88
	1,025		93
	1,050		97
	1,075		101
	1,100		105
	1,125		110
	1,150		114
	1,175		118
	1,200		122
	1,225		127
	1,250		131
	1,275		135
	1,300		139
	1,325		144
	1,350		148
	1,375	A	152
	1,400		156
	1,425		161
	1,450		
	1,475	***************************************	165
	1,500		169
	1,525		173
	1,550		178
	1,575		182
	1,600		186
	1,625		190
	1,650		195
	1,675		199
	1,700		203
	1,725	***************************************	
	1,750	***************************************	
	1,775	***************************************	
	1,800	***************************************	220
	1,000		220

1,850 ..... 1,875 .....

,900	·	
,925		241
,950		246
,975		250
2,000		254
2,025	***************************************	258
2,050		263
	***************************************	267
2,075	***************************************	271
2,100		275
2,125		280
2,150		
2,175		284
2,200		288
2,225		292
2,250		297
2,275		301
		305
2,300		309
2,325		314
2,350		318
2,375		322
2,400		326
2,425		
2,450		331
2,475		335
		341
2,500		346
2,525		351
2,550		357
2,575		362
2,600		367
2,625		372
2,650		378
2,675		383
2,700		388
2,725		394
2,750		399
2,775		404
2,800		410
2,825		415
2,850		420
2,875		426
2,900		
2,925		
2,950		
2,975		
3,000		
3,025		
3,050		. 463
3,075		. 408
3,100		. 4/3
3,125		479
		. 484
3,150		489
3,175		
3,200		
3,225		500
3,250		
3,275		
3,300		
-		521
3,325		527
3,350		532
3,375	5	537
3,400		

		543
,425		542
,450		548
3,475		553
-		558
3,500	***************************************	564
3,525		569
3,550		574
3,575		
3,600	***************************************	580
3,625		585
3,650		<b>59</b> 0
3,675		596
		601
3,700		606
3,725		
3,750		612
3,775		617
3,800		622
3,825		627
3,850		633
3,875		638
3,900		643
3,925		649
		654
3,950		
3,975		659
4,000		665
4,025	***************************************	670
4,050		675
4,075	, manual	681
4,100		686
4,125		691
4,150		697
4,175		702
1,200		707
4,225		
1,250		712
4,275		718
		723
1,300		728
1,325		734
4,350		739
1,375		744
<b>4,40</b> 0		750
4,425		755
4,450		760
4,475		
4,500		766
4,525		771
4,550		776
4,575		782
		787
4,600		792
4,625		797
4,650		803
4,675		808
4,700		813
4,725		819
4,750		
4,775		824
4,800		829
•		835
4,825		840
4,850		845
4,875		851
4,900	pp-00-1	856
4,925		961

0	
	86
	873
	87
	88
	88
	89
	89
	90
	90
	91
	92

Made this 1st day of March 1991

W. H. FULLERTON,

Governor,

# EXPLANATORY NOTE

(not forming part of above Order)

These Regulations reduce the amounts to be deducted from employee's remuneration and are consequent on the changes in tax rates and allowances against gross income made by the Income Tax (Amendment) Ordinance 1991.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 2

2nd APRIL 1991

No. 8

# **Publication Note**

It will be noted that this Supplement is Supplement No. 8 of 1991. It is published out of sequence. Supplement No. 9 was published on 22nd March 1991. The next Supplement to be published will be Supplement No. 10.

D. G. LANG, Attorney General.

The Following is Published in this Supplement —

The Banking Regulations (Amendment) Order 1991 (S.R. & O. No. 11 of 1991).

# SUBSIDIARY LEGISLATION

# Banking

# The Banking Regulations (Amendment) Order 1991

(S.R. & O. No. 11 of 1991)

Made 7th March 1991

Coming into operation 1st January 1991

Published 2nd April 1991

IN EXERCISE of my powers under section 27 of the Banking Ordinance 1987(a) I make the following Order —

1. This Order may be cited as the Banking Regulations (Amendment) Order 1991 and shall be deemed to have come into force on 1st January 1991.

Citation and commencement

2. In this Order, "the principal Order" means the Banking Regulations Order 1989(b).

Interpretation.

3. The principal Order is amended in the manner specified in the Schedule below.

Amendment of principal Order,

#### **SCHEDULE**

(paragraph 3)

# Amendments to the principal Order

- 1. The principal Order is amended by the insertion of the following paragraph
- "Fees. 4. Every financial institution licensed under the Ordinance shall pay the following fees to the Treasury
  - (a) on the grant of its licence -
    - (i) where the licence is granted before 1st January 1992, a fee of £250;
    - (ii) where the licence is granted after 31st December 1991, a fee of £500;
  - (b) on or before the 1st January in every year after the year in which the licence was granted
    - (i) where that subsequent year commences on the 1st January in any year before the year 1992, a fee of £250;
    - (ii) where that subsequent year commences on 1st January in any year after the year 1991, a fee of £500."
- 2. The Second Schedule to the principal Order (form of licence to carry on banking business) is amended by the addition of the following paragraphs
  - "4. This Licence is granted subject to the following conditions imposed pursuant to section 5(2) of the Ordinance \*/ This Licence is granted without the imposition of conditions pursuant to section 5(2) of the Ordinance.\*

(Note: \*Delete one of the alternatives. Where conditions are imposed they must be here set out)

5. This Licence is granted for a period expiring on the

day of

19 .

#### 6. Attention is drawn to -

- (a) the Governor in Council's power under section 5(3) of the Ordinance to vary this Licence at any time by amending, adding to or revoking any condition in respect of this Licence;
- (b) the Governor in Council's powers under section 5(6) of the Ordinance to revoke this Licence in any of the events there set out;
- (c) the provisions of section 6 of the Ordinance (in the case of licensees incorporated in the Falkland Islands) and section 7 of the Ordinance (in the case of licensees incorporated outside the Falkland Islands) as to reconstructions and similar arrangements in relation to licensed financial institutions;
- (d) the provisions of section 18 of the Ordinance as to returns required to be made to the Financial Secretary and the provisions of section 19 as to the publication of a balance sheet; and
- (e) the provisions of section 23 of the Ordinance as to the appointment annually of an approved auditor.

(Note: the absence of mention in the foregoing of any provision of the Ordinance does not signify that it is not important or that contravention by the licensee of any provision will be lightly regarded)."

Made this 7th day of March 1991.

W. H. FULLERTON,

Governor.

# EXPLANATORY NOTE (Not part of the above Order)

This Order amends the Banking Regulations Order by providing for the amount of licence fees and amending the form of licence.

<sup>(</sup>a) No. 13 of 1987.

<sup>(</sup>b) S.R. & O. No. 13 of 1989.





# FALKLAND ISLANDS GAZETTE

# Supplement

PUBLISHED BY AUTHORITY

Vol. 2

22nd MARCH 1991

No. 9

The following is published in this Supplement -

The Fishing Licences (Application and Fees) Regulations Order 1991 (S.R. & O. No. 12 of 1991).

# SUBSIDIARY LEGISLATION

# The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

# The Fishing Licences (Application and Fees) Regulations Order

(S.R.& O. No. 12 of 1991)

Made 22nd March 1991 Coming into operation on publication Published 22nd March 1991

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) Regulations Order 1991, and shall come into operation on the day it is first published in the Gazette commencement. and cease to have effect on the 31st December 1991.

- (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
- 2. Nothing in these Regulations applies to licences for exploratory or scientific purposes Limitation of or to fishing within the territorial sea or internal waters.

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 "X" Licence the period commencing on 1st August 1991 and ending 31st October 1991;
- (b) in relation to a "Y" Licence, the period commencing on 1st July 1991 and ending on 31st December 1991;
- (c) in relation to a "Z" Licence a period commencing on 1st July 1991 and ending on 31st December 1991;

"the principal regulations" means the Fishing Regulations Order 1987.

4 For so long as these Regulations are in force such of the provisions of the principal regulations as are inconsistent with these Regulations shall not be in force, but except as aforesaid the provisions of the principal regulations remain in force and shall be complied with in addition to those of these Regulations.

certain provisions of the Principal Regulations.

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

Types of

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

- (2) An "X" Licence issued under these Regulations shall authorise the catching or taking of squid of the species Loligo gahi from on or after the 1st August 1991 until and including 31st October 1991.
- (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 include squid of any kind.
- (4) A "Z" Licence issued under these Regulations shall permit the catching or taking of any finfish except Hake (Merluccius spp.), that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including squid or Hake (Merluccius sp.) 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. (1) Applications for licences in respect of the whole or any part of any fishing season Applications for shall be made to the Director of Fisheries at the Falkland Islands Fisheries Department, fishing licences. P. O. Box 122, Stanley, Falkland Islands.

- (2) Any application to which paragraph (1) of this regulation relates shall be accompanied by an application fee of £200 (which shall not be returnable whether or not the application is granted) and shall be made so as to be received there by Wednesday 10th April 1991.
- (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 "X" Licences.

Fees for licences

- (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 this regulation 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 shall not have legislative effect.
- 8. The fees for transhipment or transhipment and export licences for the period 1st July 1991 to 31st December 1991 shall be £150 per transhipment operation.

Transhipmen licence fees.

# THE SCHEDULE

Provisions as to fishing licences in respect of the fishing season

#### TABLE 1

Squid - 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 squid.
- 3. The season for this type of licence commences on 1st August 1991 and ends on 31st October 1991.
- 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 result of f (11.58 X GT + 25494)

#### 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 1st July 1991 and ends on 31st December 1991, and will be subject to a closed area and mesh restrictions.)

# 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 is result of £ (3.84 X GT + 2611)

# TABLE 3

Finfish Only, Species restricted - 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 all finfish species except Hake (Merluccius spp.)
- 3. The season for this type of licence commences on 1st July 1991 and ends on 31st December 1991, and will be subject to a closed area and mesh restrictions.)

# 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 is result of £ (4.43 X GT + 1204)

Made this 22nd day of March 1991.

W. H. FULLERTON, Governor.



# FALKLAND ISLANDS GAZETTE

# **Supplement**

**PUBLISHED BY AUTHORITY** 

Vol. 2 11th APRIL 1991 No. 10

The following is published in this Supplement —

The Revised Edition of the Laws Bill 1990.

Note: This Bill replaces the version published in the Gazette Supplement Number 5 of 11th February 1991.

# The Revised Edition of The Laws Bill 1991

# EXPLANATORY MEMORANDOM

#### Introductory

The present edition of the Laws of the Falkland Islands was published in two volumes in 1950. Its predecessors were published in 1875 and 1915. Only a very few copies of the 1950 edition are now in existence and in any case the 1950 edition is hopelessly out of date and of very limited practical use.

It is a maxim of the Common Law that ignorance of the law is no excuse for any action or lack of action (not, as is sometimes said, that everybody is presumed to know the law). However, when there is no reasonably convenient way in which an educated man can readily discover what the law of the Falkland Islands is on any subject, a most unsatisfactory situation clearly exists. That situation most unfortunately exists in the Falkland Islands at present because a person seeking to discover what the statute law of the Falkland Islands is confronted with the task of consulting the 1950 Edition and then the forty years volumes of the Falkland Islands Gazettes which have been published since. Many statutes have come into existence in 1950 have been repealed and others have been massively amended. The same applies in relation to a number of important statutes enacted since 1950. The Income Tax Ordinance is an example of the problems confronting the enquirer - amended, as it has been, in almost every year since it was enacted.

Clearly something needs to be done and the Government has in recent months placed a contract for the preparation of a Revised Edition of the Laws by a company in England headed by Dr Alan Milner of Trinity College Oxford. Even so, it will be about three years before it is available. The reason for this is that the task is colossal because the Legislative output of forty years, represented by thousands of pages of Gazettes has to be edited, read and annotated. The Government recognised that the task was urgent in 1977 and obtained the enactment in that year of a Revised Edition of the Laws Ordinance, intending that a Revised Edition should be published then with Mr Frederick Cooke as editor. The Government was forced to abandon the project for financial reasons.

#### The reasons for the Bill

Any Revised Edition of the Laws must be the definitive version of the laws of the Falkland Islands. So that this may be so, it must be prepared and published with statutory authority. The concept of the Revised Edition now being prepared differs in a number of ways from that of the aborted 1977 proposal. Most importantly, instead of being published as a casebound (traditionally bound) work, it is to be published in loose-leaf form. This is so that material which becomes outdated can be replaced with supplements which will be published annually. Thus the Revised Edition will not become out of date as its predecessors inevitably did. The reader will be assisted by a comprehensive index, footnotes and cross-references.

Additionally, the Revised Edition will be published by grouping statutes under Title Numbers. Related statutes will appear together rather than, as in the past, under Chapter numbers allocated by reference to the alphabetical order of the short titles of Ordinances. Subsidiary legislation will appear immediately following the Ordinance under which it is made rather than in a distinct volume.

The Revised Edition cannot be prepared under the 1977 Ordinance as it stands because of the different publication concept. The amendments required would be considerable and certain defects in the 1977 Ordinance, requiring remedy have become apparent. The choice has been to amend the 1977 Ordinance or to repeal and replace it. The latter course has been chosen because the amendments required are considerable in scope, an entire replacement is easier to comprehend and consistency of style is more readily achieved.

# The provisions of the Bill

Clause 1 states the Short title. The Bill would, if enacted, come into force on publication of the Ordinance in the Gazette. In Clause 2 appear definitions necessary for the purposes of the Bill. Clause 3 provides for the appointment of the Commissioner and for his replacement if and whenever necessary. If the Bill is enacted it is intended that Dr Alan Milner should be appointed the first Commissioner.

Clause 4 provides for the form of and promulgation of the Revised Edition. It is to be in loose-leaf form and brought up to date by (annual) supplements and it and they are to be brought into force by Orders made by the Governor. Clause 5 states the required content of such an Order.

In Clause 6 provision is made for the certification and admissibility of the Revised Edition and annual supplements. The Revised Edition and (annual) supplements ("further revisions") are to be prime source of reference as to the laws of the Falkland Islands. All legislation would, however, continue to be published in the Gazette as and when made. Supplements to the Revised Edition will be compiled, by reference to the legislation as published in the Gazette, but after exercise where appropriate of the Commissioner's powers under Clauses 7 to 10 and 12.

Clause 7 would lay down what the contents of the Revised Edition must be.

Clauses 8 and 9 would enable legislative "dead wood" (of no utility to the reader or not of any general importance). Clause 10 would confer upon the Commissioner a number of miscellaneous but most important and necessary editorial powers. All these are intended to ensure that the Revised Edition is accurate, and is as helpful to the reader as possible. However, under Clause 11 it is provided that the Commissioner cannot alter the substance of any law (that is to say, the legal effect of the law or the intention of the Legislature). He would be given power under Clause 12 to correct any errors or omissions from the Revised Edition. Clause 13 contains a number of regulation making powers necessary in relation to the printing and publishing of the Revised Edition. Clause 14 and the Schedule would amend the Interpretation and General Clauses Ordinance 1977. Definitions of "Revised Edition" and "Revised Edition of the Laws" would be inserted in section 3 of that Ordinance. Replacement of sections 11, 100 and 101 of the Interpretation and General Clauses Ordinance 1977 (which is necessary consequential upon the provisions of the Bill) would also be effected.

# The Revised Edition of the Laws Bill 1991 (No. of 1991)

# ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short title.
- 2. Interpretation.
- 3. Appointment of Commissioner.
- 4. Form and promulgation of Revised Edition and further revisions.
- 5. Contents of Law Revision Orders.
- 6. Certification and admissibility in evidence.
- 7. Contents of Revised Edition and further revisions.
- 8. Omission of subsisting laws.
- 9. Other omissions.
- 10. Miscellaneous powers of Commissioner.
- 11. Limitation of Commissioner's powers.
- 12. Correction of errors and omissions.
- 13. Regulations.
- 14. Amendment of Interpretation and General Clauses Ordinance 1977.
- 15. Repeal.

## Schedule

# A Bill for An Ordinance

# to provide for the preparation and publication of a revised edition of the laws of the Falkland Islands and for matters connected therewith.

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

1. This Ordinance may be cited as the Revised Edition of the Laws Ordinance 1991.

Short title.

2. In this Ordinance -

"further revision" means any subsequent revision of the Revised Edition of the Laws of the Falkland Islands, carried out under the authority of section 4(2) of this Ordinance;

"Law Revision Order" means an Order made by the Governor under section 4(4) of this

"laws" means the enactments specified in section 7(1) of this Ordinance;

"relevant revision date" in respect of the Revised Edition means the date as at which the Governor shall specify by Order under section 4(4) that the Revised Edition represents the laws of the Falkland Islands; and in respect of each further revision means 1st January in the year of such further revision or such other date as the Governor may by Order specify as a relevant revision date;

"Revised Edition" means the Revised Edition of the Laws of the Falkland Islands to be prepared under the authority of this Ordinance and shall include, where the context permits, such Revised Edition as revised by any further revision.

- 3. (1) The Governor shall appoint a fit and proper person to prepare and publish, or cause Appointment of to be prepared and published, a Revised Edition of the Laws of the Falkland Islands and from time to time to maintain and further revise such Revised Edition in accordance with this Ordinance.
- (2) If the person for the time being holding appointment as Commissioner is unable for any reason fully to discharge his duties or exercise his powers under this Ordinance, the Governor may appoint some other fit and proper person to be the Commissioner in his stead.
- (3) Every appointment made under this section shall be notified in the Gazette.
- 4. (1) The Revised Edition shall be published in loose-leaf form and shall include only such pages as may be authorised to be included therein by an Order made under subsection
- (2) As soon as practicable after 1st January in each year following the bringing into operation of the Revised Edition, the Revised Edition shall be revised further in accordance with this Ordinance and the necessary pages prepared and published for inclusion, as additions to or to replace pages in the Revised Edition, and the necessary instructions shall be given to remove from the Revised Edition the pages no longer required, with a view to the Revised Edition containing all the laws which are required or authorised by this Ordinance to be included therein and are in force on the relevant revision date.

Interpretation

Form and promulgation of Revised Edition and futher

- (3) Every page comprised in the Revised Edition shall bear a reference to the Order by which its inclusion therein was authorised.
- (4) The Governor may by Order approve the Revised Edition and each further revision and direct that they shall come into operation.
- (5) Nothing in this section or in section 2 shall be so construed as to prevent the Governor from appointing more than one date in any year for the bringing into operation of a further revision carried out under the authority of subsection (2).
- 5. A Law Revision Order made under section 4(4) shall specify -

Contents of Law Revision Orders.

- (a) each and every page to be included in the Revised Edition and each and every page to be added to, replaced in and removed from the Revised Edition on the occasion of a further revision;
- the relevant revision date;
- the date on which the Order is to come into operation, not being earlier than the date of the first publication of the Order in the Gazette.
- 6. (1) The Governor shall certify three copies of the Revised Edition and of each further Certification and revision as being true and complete copies thereof and shall transmit them to the Registrar admissibility in of the Supreme Court together with a signed copy of the relevant Law Revision Order. If any question thereafter arises as to what is or is not included in the Revised Edition at any relevant revision date, that question shall be determined by reference to one of the copies transmitted to the Registrar but if for any reason no such copy is available, the question shall be determined by the Attorney General producing to the revelant court a copy of the Revised Edition under cover of a certificate under his hand to the effect that the copy is a true and complete copy of the Revised Edition at such relevant revision date.
- (2) The Revised Edition once approved under section 4(4) shall be admissible in evidence in any action, matter or proceedings whatsoever before any court as to the existence and contents as at the relevant revision date of any law included in the Revised Edition.
- (3) Subsection (2) shall not preclude any court from receiving in evidence any officially pubished copy of any law in force in the Falkland Islands but, unless that court is satisfied that the Revised Edition is manifestly in error in the relevant particular, the court shall in relation to that particular prefer the copy of the law published in the Revised Edition to any other copy:

Provided that any reprint of pages in the Revised Edition authorised under section 13(2)(d) shall for the purposes of this subsection be treated as equivalent to the Revised Edition.

- 7. (1) The Revised Edition shall comprise
  - (a) all Ordinances in force in the Falkland Islands at the relevant revision date, except such as are omitted under the provisions of sections 8 and 9;
  - all subsidiary legislation in force in the Falkland Islands at the relevant revision date, except such as is omitted under the provisions of sections 8 and 9,
    - Provided that in lieu of including any piece of subsidiary legislation, the Commissioner may, where he considers it convenient, set out the effect of that legislation in tabular or abbreviated form; and
  - such imperial enactments in force in the Falkland Islands at the relevant revision date as the Commissioner may think it desirable to include, or lists of and references to all or any such imperial enactments.
- (2) The Revised Edition shall also contain -
  - (a) a table of contents;
  - (b) a list of all Ordinances contained in the Revised Edition of the Laws prepared under the authority of the Revised Edition of the Laws Ordinance 1943, and a chronological list of all Ordinances subsequently enacted, with notes showing how the same have been dealt with;

Contents of Revised Edition and futher

revisions.

- (c) a list of all Ordinances omitted from the Revised Edition under the provisions of section 8; and
- (d) an alphabetical subject-matter index.

8. (1) It shall not be necessary to include in the Revised Edition —

Omission of subsisting laws

- (a) any Appropriation Ordinance or Supplementary Appropriation Ordinance;
- (b) any law having application only to the former Dependencies of the Falkland
- (c) any law containing only special provision in relation to the pension of any person named therein; and
- (d) any law which the Commissioner considers it unnecessary to include as not being part of general or of current importance.
- (2) Any law omitted from the Revised Edition under the provisions of subsection (1) shall remain in full force until it has expressly been repealed or revoked or has expired or become spent or had its effect.
- 9. There may also be omitted or removed from the Revised Edition where the Commissioner (No 14 of 1977) considers it convenient -

- (a) laws or parts of laws which have been repealed or revoked expressly or by necessary implication, or which have expired, or have become spent, or have
- repealing or revoking laws and tables and lists of repealed or revoked laws, whether contained in schedules or otherwise;
- (c) all introductory words of enactment;
- (d) provisions prescribing the date when, or the manner in which, any law or part of any law is to come into operation;
- amending laws or parts thereof when the amendments if effected thereby have been embodied in the laws to which they relate;
- transitional provisions; and

(No: 14 of 1977)

- in any law, the interpretation of any expression which is defined in similar or identical terms with the definition of that expression contained in the Interpretation and General Clauses Ordinance 1977.
- 10. (1) The Commissioner shall have power —

Miscellaneous powers of Commissioner

- (a) to arrange the laws by Titles in such order and manner and in such groups as he may determine;
- (b) to consolidate into one law any two or more laws relating to similar matters. making such alterations as are thereby rendered necessary or expedient and affixing such date thereto as may seem most convenient;
- (c) to divide any law into two or more laws and to make all the amendments necessary, including the supplying of titles or the alteration of existing titles. consequent upon such division;
- (d) to transfer any provision contained in any law from that law to any other law to which, in his opinion, it more properly belongs:
- to alter the order of the provisions of any law;
- to alter the form or arrangement of any provision of any law either by combining it in whole or in part with another provision, or by dividing it into two or more provisions, or by transposing words;
- to divide any law into parts or other divisions and to give to each such part or division a suitable heading;

- (h) to make such adaptations of or amendments to any law as may be required by virtue of any statutory provision having taken effect or as may appear to be necessary or proper as a consequence of constitutional or other changes in the Falkland Islands or any other country or in or to any international body or organisation;
- to make such formal alterations to names, localities, offices, titles and ranks and otherwise as may be necessary to bring any law into conformity with the present circumstances of the Falkland Islands;
- to simplify the phraseology of any law and to make such formal alterations to any law as are necessary or expedient for recurring uniformity of expression;
- to correct grammatical, punctuation, spelling or typographical errors in the laws, and for that purpose to make verbal additions, alterationas or deletions not affecting the meaning of any law;
- to supply or correct cross- references;
- (m) to supply, alter or delete marginal or other notes;
- to supply or alter tables of contents;
- to number or renumber, or designate or redesignate, the provisions in any law where in his opinion it is desirable to do so;
- to frame and insert definitions of terms or expressions used in any law and to substitute other terms and expressions of a like nature for those used; and
- generally, to do all things relating to form and method which, in his opinion, may be necessary for the perfecting of the Revised Edition and of any further revision thereof.
- (2) The Commissioner, in including in the Revised Edition any imperial enactment, treaty or convention or any extract therefrom, may include it as amended by any other instrument or as modified in its application to the Falkland Islands.
- 11. The powers conferred on the Commissioner by this Ordinance shall not be taken to Limitation of imply any power in him to make any alteration or amendment in the substance of any law or part thereof.

Commissioner's

12. (1) If at any time any error in or omission from the Revised Edition or any further Correction of revision is discovered, the Commissioner may prepare the necessary pages and give the necessary instructions which should have been prepared or given under section 4(2) and include them in the next convenient further revision.

- (2) No error in or omission from the Revised Edition or any further revision shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.
- 13. (1) The Governor may make Regulations for carrying this Ordinance into effect.

Regulations.

- (2) In particular, but without prejudice to the generality of the foregoing power, such Regulations may
  - authorise the printing and publishing of the Revised Edition and any further revision by a person or persons other than the Government Printer;
  - (b) authorise the distribution free of charge of copies of the Revised Edition and each further revision to such persons as shall be specified therein;
  - specify the number of copies of the Revised Edition and each further revision to be offered for sale and the price to be charged for such copies;
  - authorise the Government Printer or such other person or persons as may be specified to reprint in booklet form or otherwise any pages containing any Ordinance or the subsidiary legislation made thereunder or both and specify the number of copies of such reprint to be offered for sale and the price to be charged for such copies;

- (e) authorise the storage of undistributed and unsold copies of the Revised Edition and further revisions at such place or places in the Falkland Islands or in the United Kingdom as may be specified.
- 14. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule hereto.

Amendment of Interpretation and General Clauses Ordinance 1977.(No. 14 of 1977)

15. The Revised Edition of the Laws Ordinance 1977 is hereby repealed.

Repeal. (No. 13 of 1977)

#### **SCHEDULE**

The Interpretation and General Clauses Ordinance 1977 is amended -

- (a) by the insertion in section 3, immediately after the definition of "repeal", of the following new definition —
- ""Revised Edition" and "Revised Edition of the Laws" mean the Revised Edition of the Laws of the Falkland Islands prepared under the authority of the Revised Edition of the Laws Ordinance 1991 and shall include, where the context permits, such Revised Edition as revised by any further revision;"
- (b) by the repeal of section 11 and its replacement by the following new section 11 -
- "11.(1) Wherever in any law or in any document of whatever kind, reference is made to any law affected by or under the operation of the Revised Edition of the Laws Ordinance 1991, such reference shall, unless the context otherwise requires, be construed as a reference to the corresponding law as published in the Revised Edition.
- (2) Where any written law of the Falkland Islands is referred to, it shall be sufficient for all purposes to cite such written law —
- (a) by any Title number or chapter number lawfully given to it under the authority of any Ordinance providing for the publication of a Revised Edition of the laws of the Falkland Islands;
- (b) by the title, short title or citation thereof; or
- (c) by its number among the Ordinances, Proclamations or Statutory Rules and Orders of the year in which it was enacted or made."
- (c) by the repeal of section 100 and its replacement by the following new section 100 -
- "100.(1) A copy of any written law of the Falkland Islands shall, if published in the Gazette or in the Revised Edition of the Laws or purporting to be printed by the Government Printer, be deemed to be an authentic copy of that written law as at the date of such publication or printing.
- (2) A copy of any other instrument shall, if published in the Gazette or purporting to be printed by the Government Printer, on its production be admitted as prima facie evidence thereof in all courts and for all purposes whatsoever without any further proof."
- (d) by the repeal of section 101 and its replacement by the following new section 101 -
- "101.(1) The Attorney General may, by Order published in the Gazette, correct any grammatical punctuation, spelling or typographical error in any written law of the Falkland Islands, not being a written law published in the Revised Edition of the Laws.
- (2) Every Order made under this section shall be laid on the table of the Legislative Council without unreasonable delay, and, if a resolution is passed at the next sitting of the Legislative Council held after the sitting at which the Order is so laid that the Order shall be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new Order under subsection (1) of this section."



# FALKLAND ISLANDS GAZETTE

# Supplement

# PUBLISHED BY AUTHORITY

Vol. 2

12th APRIL 1991

No. 11

The following is published in this Supplement —

The Stanley-Darwin Road (De-designation) Order 1991 (S.R. & O. No. 13 of 1991).

# SUBSIDIARY LEGISLATION

# ROAD TRAFFIC

# The Stanley - Darwin Road (De-designation) Order 1991

(S.R. & O. No. 13 of 1991)

Made 11th April 1991

Coming into operation on publication

Published 12th April 1991

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

- 1. This Order may be cited as the Stanley Darwin (De-designation) Order 1991 and shall come into operation on the day it is first published in the Gazette.
- 2. In this Order, "the Stanley-Darwin Road" shall have the same meaning as in the Stanley-Darwin (Designation and Speed Limits) Order 1989.(b)
- 3. All that part of the Stanley-Darwin Road as lies on the Darwin side of the L'Antioja Stream shall no longer be designated as a restricted road.
- 4. The Stanley-Darwin Road (Designation and Speed Limits) Order 1989 is amended accordingly.

Made this 11th day of April 1991.

RONALD SAMPSON,
Acting Governor.

- (a) Cap 60. Laws of the Falkland Islands 1950 Edition.
- (b) S.R. & O. No. 18 of 1989.

#### **EXPLANATORY NOTE**

(Not part of the above order)

As a result of the making of this Order all that part of the Stanley to Darwin Road which lies immediately to the west of the L'Antioja Stream ceases to be a road for the purposes of the Road Traffic Ordinance. This amendment makes it unnecessary for persons driving motor vehicles upon the road from L'Antioja Stream to Darwin to hold Falkland Islands driving licences or otherwise comply with the requirements of the Road Traffic Ordinance.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 2 1st MAY 1991 No. 12

The following is published in this Supplement —

The Supplementary Appropriation (1990 - 1991) (No. 2) Ordinance 1991.

# The Supplementary Appropriation (1990 - 1991) (No. 2) Ordinance 1991

(No. 12 of 1991)

# ARRANGEMENT OF PROVISIONS

# Section

- 1. Short Title.
- 2. Appropriation of £6,000,000 for the service of year 1990 1991.

Schedule

# ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G. Governor.

# The Supplementary Appropriation (1990 - 1991) (No. 2) Ordinance 1991

(No. 12 of 1991)

# An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £6,000,000 for the service of the financial year ending on 30 June 1991.

> (assented to: Ist May 1991) (commencement: on publication) (published: Ist May 1991)

ENACTED by the Legislature of the Falkland Islands as follows —

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) (No. Short title. 2) Ordinance 1991.
- 2. The Financial Secretary may cause to be issued out of the Consolidated Fund and ap- Appropriation plied to the service of the year commencing 1st July 1990 and ending on 30th June 1991 of £6,000,000 ("the financial year") additional sums not exceeding in aggregate the sum of six million pounds, which sum is granted and shall be appropriated for the purpose of the Head of Services mentioned in the Schedule hereto and which will come in course of payment during the Financial Year.

for the service of year 1990-1991.

# SCHEDULE

Number	Head of Service	£	
CAPITAL	BUDGET		
951	Expenditure to be met from Local Funds	£6,000,000	
TOTAL SIL	PPI EMENTARY EXPENDITURE	£6,000,000	

Passed by the Legislature of the Falkland Islands this 23rd day of April 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 2 21st MAY 1991 No. 13

The following is published in this Supplement —

The Supplementary Appropriation (1990 - 1991) (No. 3) Ordinance 1991.

#### The Supplementary Appropriation (1990-1991) (No. 3) Bill 1991 (No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- I. Short Title.
- 2 Appropriation of £1,889,080 for the services of year 1990 1991.

#### Schedule

# A Bill for

### An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £1,889,080 for the service of the financial year ending on 30 June 1991.

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

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) (No. Short title. 3) Ordinance 1991.
- 2. The Financial Secretary may cause to be issued out of the Consolidated Fund and ap- Appropriation plied to the service of the year commencing 1st July 1990 and ending on 30th June 1991 of £1,889,080 for ("the Financial Year") additional sums not exceeding in aggregate the sum of one million eight hundred and eighty nine thousand and eighty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Service mentioned in the Schedule hereto and which will come in course of payment during the Financial Year.

the services of

#### SCHEDULE

Number	Head of Service	£
PART I - OPERA	TING BUDGET	
100	Aviation	164,510
150	Posts and Telecommunications	7,510
200	Medical and Dental	212,780
250	Education and Training	12,000
300	Customs and Harbour	441,700
320	Fisheries	263,000
350	Public Works	12,030
450	Justice	4,450
550	Police, Fire and Rescue & Immigration	21,210
600	Secretariat, Treasury, Central Store & Broadcasting	162,490
850	Falkland Islands Government Office, London	10,500
900	Income	92,000
Total Operating St	1,404,180	
PART II - CAPIT	AL BUDGET	
951	Expenditure to be met from Local Funds	484,900
TOTAL SUPPLEM	MENTARY EXPENDITURE	£1,889,080

#### **OBJECTS AND REASONS**

To provide for supplementary expenditure approved by the Standing Finance Committee during the period 12 December 1990 to 26 April 1991.



# FALKLAND ISLANDS GAZETTE

# Supplement

#### PUBLISHED BY AUTHORITY

Vol. 2 7th JUNE 1991 No. 14

#### LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

Customs Ordinance (Cap. 16)
(Section 5)

#### RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 1 of 1991

BE IT RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Cap. 16), on the 6th day of June 1991, as follows —

- 1. That the Customs Order No. 6 of 1948 be amended by the substitution for paragraph 2 thereof of the following
  - "2. The following import duties of customs shall be payable -

Item	Article	Rate of Duty
1.	Beer, ale, perry, porter, spruce, cider, and stouts of all kinds (per litre)	£0.17
2.	SPIRITS - Whisky, Gin, Rum, Brandy, Vodka and other spirituous liquors and liqueurs (per litre)	£6.66
3.	WINES - Still wines, sparkling wines and champagne (per litre)	£0.44
4.	Vermouth, sherry and port (per litre)	£0.54
5.	TOBACCO -  (a) Cigars (per kilo)  (b) Cigarettes (per kilo)  (c) Tobacco (per kilo)	£49.75 £35.98 £32.70"

2. This Resolution may be cited as the Customs (Amendment of Import Duties) Resolution 1991 and shall come into force on the 6th day of June 1991.

Ref: CUS/10/2.

A. LIVERMORE, Clerk of Councils.



# THE

# FALKLAND ISLANDS GAZETTE

# **Supplement**

#### PUBLISHED BY AUTHORITY

Vol. 2

26th JUNE 1991

No. 15

The Following are Published in the Gazette -

The Appropriation Ordinance (No. 13 of 1991);

The Old Age Pensions (Amendment) Ordinance (No. 14 of 1991);

The Non-Contributory Old Age Pensions (Amemdment) Ordinance (No. 15 of 1991);

The Supplementary Appropriation (1990-1991)(No. 3) Ordinance (No. 16 of 1991);

The Revised Edition of the Laws Ordinance (No. 17 of 1991);

The Interpretation and General Clauses (Amendment) Ordinance (No. 18 of 1991);

The Licensing (Revocation) Regulations 1991 (S.R. & O. No. 14 of 1991);

The Navy Point Buildings Designation Order (S.R. & O. No. 15 of 1991);

The Transhipment Fees (Land Stores) Regulations (S.R. & O. No. 16 of 1991);

The Family Allowances (Amendment) Bill 1991.

# The Appropriation Ordinance 1991

(No. 13 of 1991)

#### ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. Appropriation of £39,144,400 for the service of the year 1991 1992.

Schedule

#### ELIZABETH II



## Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### An Ordinance

to provide for the service of the Financial Year commencing on 1st July 1991 and ending on 30th June 1992

> (assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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

- 1. This Ordinance may be cited as the Appropriation Ordinance 1991.
- 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 1991 and ending on 30th June 1992 of £39,144,400 ("the financial year"), sums not exceeding in aggregate the sum of thirty nine million one hundred and forty four thousand four hundred 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.

for the service 1991-1992.

Number	Head of Service	£
PART I OPI	ERATING BUDGET	
100	Aviation	1,502,580
150	Posts & Telecommunications	387,100
200	Medical & Dental	1,901,390
250	Education & Training	1,804,160
300	Customs & Harbour	148,480
310	Shipping Services	400,000
320	Fisheries	6,796,450
350	Public Works	5,380,500
390	Fox Bay Village	59,870
400	Agriculture	2,036,960
450	Justice	324,890
500	Falkland Islands Defence Force	167,170
520	Mineral Resources	50,000
550	Police, Fire & Rescue Service & Immigration	594,940
600	Secretariat, Treasury, Central Store & Broadcasting	1,679,140
650	Pensions & Gratuities	312,400
700	Social Welfare	517,820
750	The Governor	217,470
800	Legislature	203,930
850	Falkland Islands Government Office	292,650
880	FIDC Funding	95,000
900	Income Tax Refunds	260,000
	ERATING BUDGET	25,132,900
PART II CA	APITAL BUDGET	
951	Expenditure	14,011,500
TOTAL EX	PENDITURE	£39,144,400

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

Ref: TR E/14/25

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

# The Old Age Pensions (Amendment) Ordinance 1991 (No. 14 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title and Commencement.
- 2. The principal Ordinance.
- 3. Repeal and replacement of section 6 (2) of the principal Ordinance.
- 4 Repeal and replacement of section 6B of the principal Ordinance.
- 5. Replacement of the Schedule.

Schedule

#### **ELIZABETH II**



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

### An Ordinance to amend the Old Age Pensions Ordinance 1952

(assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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 1991 and shall come into force on 1st July 1991.

Short title and Commencement.

2. In this Ordinance, "the principal Ordinance" means The Old Age Pensions Ordinance The principal 1952.

Ordinance.

Repeal and replacement of

section 6 (2) of

the principal Ordinance.

3. Section 6(2) of the principal Ordinance is repealed and replaced by the following new section 6(2) -

"(2) Subject to the provisions of this Ordinance —

(a) every employed male person and every employed female contributor other

than the widow of a contributor shall be liable to pay weekly contributions at the rate of £4.50 per week if between the ages of 17 and 64 years;

(b) every employer of an employed person or a female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £6.70 per week if the employed male person or female contributor is between the ages of 17 and 64 years;

every self-employed male person and every self-employed female contributor shall be liable to pay weekly contributions at the rate of £11.20 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

"6B Notwithstanding any other provisions of this Ordinance relating to the payment of contributions and pensions, the following special provisions shall apply to female

replacement of section 6B of the principal Or-

- (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 £4,000 or more per annum together with an additional sum of £1,000 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 £4,000 per annum together with an additional £1,000 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

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Non-Contributory Old Age Pensions (Amendment) Ordinance 1991

(No. 15 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title and Commencement.
- 2. The principal Ordinance.
- 3. Replacement of Schedule.

Schedule

#### **ELIZABETH II**



### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### An Ordinance

### to amend the Non-Contributory Old Age Pensions Ordinance 1961

(assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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 Ordinance 1991 and shall come into force on the 1st July 1991.

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	£67
Unmarried person	£48
Man or woman separated or living apart from his or her wife	£48

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE. Clerk of Councils.

# The Supplementary Appropriation (1990-1991) (No. 3) Ordinance

(No. 16 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2. Appropriation of £1,889,080 for the services of the year 1990 1991.

#### Schedule

#### ELIZABETH II



### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £1,889,080 for the service of the financial year ending on 30 June 1991.

> (assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) (No. Short title.
- 3) Ordinance 1991.
- 2. The Financial Secretary may cause to be issued out of the Consolidated Fund and ap- Appropriation plied to the service of the year commencing 1st July 1990 and ending on 30th June 1991 ("the Financial Year") additional sums not exceeding in aggregate the sum of one million eight hundred and eighty nine thousand and eighty pounds, which sum is granted and shall be appropriated for the purposes of the Heads of Service mentioned in the Schedule hereto and which will come in course of payment during the Financial Year.

the services of the year

#### SCHEDULF

Number	Head of Service	£
PART I - OPE	RATING BUDGET	
100	Aviation	164,510
150	Posts and Telecommunications	7,510
200	Medical and Dental	212,780
250	Education and Training	12,000
300	Customs and Harbour	441,700
320	Fisheries	263,000
350	Public Works	12,030
450	Justice	4,450
550	Police, Fire and Rescue & Immigration	21,210
600	Secretariat, Treasury, Central Store & Broadcasting	162,490
850	Falkland Islands Government Office, London	10,500
900	Income	_92,000
Total Operating Supplementary Expenditure		1,404,180
PART II - CA	PITAL BUDGET	
951	Expenditure to be met from Local Funds	484,900
TOTAL SUPPLEMENTARY EXPENDITURE		£1,889,080

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Revised Edition of the Laws Ordinance 1991 (No. 17 of 1991)

### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title.
- 2. Interpretation.
- 3. Appointment of Commissioner.
- 4. Form and promulgation of Revised Edition and further revisions.
- 5. Contents of Law Revision Orders.
- 6. Certification and admissibility in evidence.
- 7. Contents of Revised Edition and further revisions.
- 8. Omission of subsisting laws.
- 9. Other omissions.
- 10. Miscellaneous powers of Commissioner.
- 11. Limitation of Commissioner's powers.
- 12. Correction of errors and omissions.
- 13. Regulations.
- 14. Amendment of Interpretation and General Clauses Ordinance 1977.
- 15. Repeal.

Schedule

# ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### An Ordinance

to provide for the preparation and publication of a revised edition of the laws of the Falkland Islands and for matters connected therewith.

(assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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

1. This Ordinance may be cited as the Revised Edition of the Laws Ordinance 1991.

2. In this Ordinance -

"further revision" means any subsequent revision of the Revised Edition of the Laws of the Falkland Islands, carried out under the authority of section 4(2) of this Ordinance;

"Law Revision Order" means an Order made by the Governor under section 4(4) of this Ordinance:

"laws" means the enactments specified in section 7(1) of this Ordinance:

"relevant revision date" in respect of the Revised Edition means the date as at which the Governor shall specify by Order under section 4(4) that the Revised Edition represents the laws of the Falkland Islands; and in respect of each further revision means 1st January in the year of such further revision or such other date as the Governor may by Order specify as a relevant revision date:

"Revised Edition" means the Revised Edition of the Laws of the Falkland Islands to be prepared under the authority of this Ordinance and shall include, where the context permits, such Revised Edition as revised by any further revision.

- 3. (i) The Governor shall appoint a fit and proper person to prepare and publish, or cause Appointment of to be prepared and published, a Revised Edition of the Laws of the Falkland Islands and from time to time to maintain and further revise such Revised Edition in accordance with this Ordinance.
- (2) If the person for the time being holding appointment as Commissioner is unable for any reason fully to discharge his duties or exercise his powers under this Ordinance, the Governor may appoint some other fit and proper person to be the Commissioner in his stead.
- (3) Every appointment made under this section shall be notified in the Gazette.
- 4. (i) The Revised Edition shall be published in loose-leaf form and shall include only Form and prosuch pages as may be authorised to be included therein by an Order made under subsection (4).
- (2) As soon as practicable after 1st January in each year following the bringing into operation of the Revised Edition, the Revised Edition shall be revised further in accordance with this Ordinance and the necessary pages prepared and published for inclusion, as additions to or to replace pages in the Revised Edition, and the necessary instructions shall be given to remove from the Revised Edition the pages no longer required, with a view to the Revised Edition containing all the laws which are required or authorised by this Ordinance to be included therein and are in force on the relevant revision date.

Short title Interpretation

mulgation of Revised Edition and futher revisions.

- (3) Every page comprised in the Revised Edition shall bear a reference to the Order by which its inclusion therein was authorised.
- (4) The Governor may by Order approve the Revised Edition and each further revision and direct that they shall come into operation.
- (5) Nothing in this section or in section 2 shall be so construed as to prevent the Governor from appointing more than one date in any year for the bringing into operation of a further revision carried out under the authority of subsection (2).
- 5. A Law Revision Order made under section 4(4) shall specify —

Contents of Law Revision Orders.

- (a) each and every page to be included in the Revised Edition and each and every page to be added to, replaced in and removed from the Revised Edition on the occasion of a further revision;
- (b) the relevant revision date;
- the date on which the Order is to come into operation, not being earlier than the date of the first publication of the Order in the Gazette.
- 6. (1) The Governor shall certify three copies of the Revised Edition and of each further Certification and revision as being true and complete copies thereof and shall transmit them to the Registrar admissibility in of the Supreme Court together with a signed copy of the relevant Law Revision Order. If any question thereafter arises as to what is or is not included in the Revised Edition at any relevant revision date, that question shall be determined by reference to one of the copies transmitted to the Registrar but if for any reason no such copy is available, the question shall be determined by the Attorney General producing to the revelant court a copy of the Revised Edition under cover of a certificate under his hand to the effect that the copy is a true and complete copy of the Revised Edition at such relevant revision date.

Contents of

revisions.

Revised Edition

- (2) The Revised Edition once approved under section 4(4) shall be admissible in evidence in any action, matter or proceedings whatsoever before any court as to the existence and contents as at the relevant revision date of any law included in the Revised Edition.
- (3) Subsection (2) shall not preclude any court from receiving in evidence any officially pubished copy of any law in force in the Falkland Islands but, unless that court is satisfied that the Revised Edition is manifestly in error in the relevant particular, the court shall in relation to that particular prefer the copy of the law published in the Revised Edition to any other copy:

Provided that any reprint of pages in the Revised Edition authorised under section 13(2)(d) shall for the purposes of this subsection be treated as equivalent to the Revised Edition.

- 7. (1) The Revised Edition shall comprise -
  - (a) all Ordinances in force in the Falkland Islands at the relevant revision date, except such as are omitted under the provisions of sections 8 and 9;
  - (b) all subsidiary legislation in force in the Falkland Islands at the relevant revision date, except such as is omitted under the provisions of sections 8 and 9.
    - Provided that in lieu of including any piece of subsidiary legislation, the Commissioner may, where he considers it convenient, set out the effect of that legislation in tabular or abbreviated form; and
  - such imperial enactments in force in the Falkland Islands at the relevant revision date as the Commissioner may think it desirable to include, or lists of and references to all or any such imperial enactments.
- (2) The Revised Edition shall also contain -
  - (a) a table of contents;
  - a list of all Ordinances contained in the Revised Edition of the Laws prepared under the authority of the Revised Edition of the Laws Ordinance 1943, and a chronological list of all Ordinances subsequently enacted, with notes showing how the same have been dealt with;

- (c) a list of all Ordinances omitted from the Revised Edition under the provisions of section 8; and
- (d) an alphabetical subject-matter index.
- 8. (1) It shall not be necessary to include in the Revised Edition —

Omission of subsisting laws

- (a) any Appropriation Ordinance or Supplementary Appropriation Ordinance;
- (b) any law having application only to the former Dependencies of the Falkland
- (c) any law containing only special provision in relation to the pension of any person named therein; and
- (d) any law which the Commissioner considers it unnecessary to include as not being of general or of current importance.
- (2) Any law omitted from the Revised Edition under the provisions of subsection (1) shall remain in full force until it has expressly been repealed or revoked or has expired or become spent or had its effect.
- 9. There may also be omitted or removed from the Revised Edition where the Commissioner (No 14 of 1977) considers it convenient -

- (a) laws or parts of laws which have been repealed or revoked expressly or by necessary implication, or which have expired, or have become spent, or have had their effect:
- repealing or revoking laws and tables and lists of repealed or revoked laws, whether contained in schedules or otherwise;
- (c) all introductory words of enactment;
- provisions prescribing the date when, or the manner in which, any law or part of any law is to come into operation;
- amending laws or parts thereof when the amendments if effected thereby have been embodied in the laws to which they relate:
- (f) transitional provisions; and

in any law, the interpretation of any expression which is defined in similar or identical terms with the definition of that expression contained in the Interpretation and General Clauses Ordinance 1977.

(No: 14 of 1977)

Miscellaneous powers of

Commissioner

- 10. (1) The Commissioner shall have power
  - (a) to arrange the laws by Titles in such order and manner and in such groups as he may determine;
  - (b) to consolidate into one law any two or more laws relating to similar matters, making such alterations as are thereby rendered necessary or expedient and affixing such date thereto as may seem most convenient;
  - to divide any law into two or more laws and to make all the amendments necessary, including the supplying of titles or the alteration of existing titles, consequent upon such division;
  - (d) to transfer any provision contained in any law from that law to any other law to which, in his opinion, it more properly belongs;
  - (e) to alter the order of the provisions of any law;
  - to alter the form or arrangement of any provision of any law either by combining it in whole or in part with another provision, or by dividing it into two or more provisions, or by transposing words;
  - to divide any law into parts or other divisions and to give to each such part or division a suitable heading:

to make such formal alterations to names, localities, offices, titles and ranks and otherwise as may be necessary to bring any law into conformity with the present circumstances of the Falkland Islands;

to make such adaptations of or amendments to any law as may be required

by virtue of any statutory provision having taken effect or as may appear to be necessary or proper as a consequence of constitutional or other changes

in the Falkland Islands or any other country or in or to any international

- to simplify the phraseology of any law and to make such formal alterations to any law as are necessary or expedient for recurring uniformity of expression;
- to correct grammatical, punctuation, spelling or typographical errors in the laws, and for that purpose to make verbal additions, alterationas or deletions not affecting the meaning of any law;
- to supply or correct cross-references:

body or organisation;

- (m) to supply, alter or delete marginal or other notes;
- (n) to supply or alter tables of contents:
- to number or renumber, or designate or redesignate, the provisions in any law where in his opinion it is desirable to do so;
- to frame and insert definitions of terms or expressions used in any law and to substitute other terms and expressions of a like nature for those used; and
- generally, to do all things relating to form and method which, in his opinion, may be necessary for the perfecting of the Revised Edition and of any further revision thereof.
- (2) The Commissioner, in including in the Revised Edition any imperial enactment, treaty or convention or any extract therefrom, may include it as amended by any other instrument or as modified in its application to the Falkland Islands.
- 11. The powers conferred on the Commissioner by this Ordinance shall not be taken to imply any power in him to make any alteration or amendment in the substance of any law or part thereof.

Commissioner's

12. (1) If at any time any error in or omission from the Revised Edition or any further revision is discovered, the Commissioner may prepare the necessary pages and give the necessary instructions which should have been prepared or given under section 4(2) and include them in the next convenient further revision.

Correction of omissions.

- (2) No error in or omission from the Revised Edition or any further revision shall affect the validity or lawfulness of any act or omission by any person which would otherwise have been valid or lawful.
- 13. (1) The Governor may make Regulations for carrying this Ordinance into effect.

Regulations.

- (2) In particular, but without prejudice to the generality of the foregoing power, such Regulations may -
  - (a) authorise the printing and publishing of the Revised Edition and any further revision by a person or persons other than the Government Printer;
  - (b) authorise the distribution free of charge of copies of the Revised Edition and each further revision to such persons as shall be specified therein;
  - specify the number of copies of the Revised Edition and each further revision to be offered for sale and the price to be charged for such copies;
  - authorise the Government Printer or such other person or persons as may be specified to reprint in booklet form or otherwise any pages containing any Ordinance or the subsidiary legislation made thereunder or both and specify the number of copies of such reprint to be offered for sale and the price to be charged for such copies;

- (e) authorise the storage of undistributed and unsold copies of the Revised Edition and further revisions at such place or places in the Falkland Islands or in the United Kingdom as may be specified.
- 14. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule hereto.

Amendment of Interpretation and General Clauses Ordinance 1977.(No. 14 of 1977)

15. The Revised Edition of the Laws Ordinance 1977 is hereby repealed.

Repeal. (No. 13 of 1977)

#### SCHEDULE

The Interpretation and General Clauses Ordinance 1977 is amended -

- (a) by the insertion in section 3, immediately after the definition of "repeal", of the following new definition —
- ""Revised Edition" and "Revised Edition of the Laws" mean the Revised Edition of the Laws of the Falkland Islands prepared under the authority of the Revised Edition of the Laws Ordinance 1991 and shall include, where the context permits, such Revised Edition as revised by any further revision;"
- (b) by the repeal of section 11 and its replacement by the following new section 11 -
- "11.(1) Wherever in any law or in any document of whatever kind, reference is made to any law affected by or under the operation of the Revised Edition of the Laws Ordinance 1991, such reference shall, unless the context otherwise requires, be construed as a reference to the corresponding law as published in the Revised Edition.
- (2) Where any written law of the Falkland Islands is referred to, it shall be sufficient for all purposes to cite such written law —
- (a) by any Title number or chapter number lawfully given to it under the authority of any Ordinance providing for the publication of a Revised Edition of the laws of the Falkland Islands;
- (b) by the title, short title or citation thereof; or
- (c) by its number among the Ordinances, Proclamations or Statutory Rules and Orders of the year in which it was enacted or made."
- (c) by the repeal of section 100 and its replacement by the following new section 100 -
- "100.(1) A copy of any written law of the Falkland Islands shall, if published in the Gazette or in the Revised Edition of the Laws or purporting to be printed by the Government Printer, be deemed to be an authentic copy of that written law as at the date of such publication or printing.
- (2) A copy of any other instrument shall, if published in the Gazette or purporting to be printed by the Government Printer, on its production be admitted as prima facie evidence thereof in all courts and for all purposes whatsoever without any further proof."
- (d) by the repeal of section 101 and its replacement by the following new section 101 —
- "101.(1) The Attorney General may, by Order published in the Gazette, correct any grammatical punctuation, spelling or typographical error in any written law of the Falkland Islands, not being a written law published in the Revised Edition of the Laws.
- (2) Every Order made under this section shall be laid on the table of the Legislative Council without unreasonable delay, and, if a resolution is passed at the next sitting of the Legislative Council held after the sitting at which the Order is so laid that the Order shall be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new Order under subsection (1) of this section."

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

## The Interpretation and General Clauses (Amendment) Ordinance 1991 (No. 18 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short Title.
- 2 Amendment of the Interpretation and General Clauses Ordinance 1977.

Schedule

#### ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

(assented to: 19th June 1991) (commencement: on publication) (published: 26th June 1991)

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

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Short title. Ordinance 1991.

2. The Interpretation and General Clauses Ordinance 1977 is amended in the manner Amendment of specified in the Schedule to this Ordinance.

the Interpretation and General Clauses Ordinance 1977 (No. 14 of 1977).

#### SCHEDULE

The Interpretation and General Clauses Ordinance 1977 is amended —

- (a) by inserting therein, immediately after section 2 thereof, the following new section —
- "Definition provisions in written laws of the Falkland Islands.
- 2A Whenever in any written law of the Falkland Islands, including this Ordinance, and whether the provision in question was enacted or made before or after this section was enacted, any word or expression is defined for the purposes of that written law or of any particular provision or provisions of that written law that definition shall have effect for those purposes only in so far as the context does not otherwise require".
- (b) by inserting in section 3 thereof, immediately before the definition of "act" therein appearing, the following words -

"In —

- (a) this Ordinance and
- (b) in every other written law of the Falkland Islands except -
  - (i) where such is inconsistent with any provision of that written law or
  - (ii) the context otherwise requires --"
- (c) by repealing the definition of "Attorney General" appearing in section 3 of that Ordinance and by replacing it with the following definition -

""Attorney General" means the person for the time being holding or acting in the office of Attorney General of the Falkland Islands;"

(d) by repealing the definition of "Financial Secretary" appearing in section 3 of that Ordinance and by replacing it with the following definition -

""Financial Secretary" means the person for the time being holding or acting in the office of the Financial Secretary of the Falkland Islands;"

- (e) by repealing the definition of "Ordinance" appearing in section 3 of that Ordinance;
- (f) by inserting in section 3 of that Ordinance, immediately after the definition of "writing" and "printing" appearing therein the following new definition -

""written law of the Falkland Islands" means any Ordinance of the Falkland Islands and any subsidiary legislation"; and

- (g) by repealing the existing sections 14 to 16 inclusive and by replacing them with the following new sections 14 to 15 -
  - "14.(1) Wherever any provision of any written law of the Falkland Islands "References to refers to another such written law, that provision shall be deemed to include a reference to that other written law as the same may from time to time be amended.

written laws as

- (2) Wherever any written law of the Falkland Islands repeals revokes or rescinds and re-enacts or re-makes with or without modification any provision of another such written law, references in any other written law of the Falkland Islands to the provision so repealed, revoked or rescinded shall be construed as references to the provision so re-enacted or re-made.
- 15. (1) Every description or citation in any written law of the Falkland Citation of part Islands of a portion of any other such written law shall be construed as including the word, section, subsection, article, paragraph, sub-paragraph or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.
- (2) Wherever in any written law of the Falkland Islands there is a reference to a section, article, paragraph, Part, Chapter or Schedule by number or letter only, and not in conjunction with the title, short title or citation of any other written law, such reference shall be construed as a reference to the section, article, paragraph, Part, Chapter or Schedule of that number or letter contained in the written law in which such reference
- (3) Wherever in any section article or paragraph of any written law of the Falkland Islands there is a reference to a subsection, paragraph, sub-paragraph or other division by number or letter only, and not in conjunction with the number of any section, article or paragraph of that or any other such written law, such reference shall be construed as a reference to the subsection, paragraph or sub-paragraph or other division of that number or letter contained in the section article or paragraph in which such reference occurs."
- (h) Section 79 is amended -
- (a) by replacing the words "A reference in any law" appearing at the beginning of the section with the words "A reference in any written law of the Falkland Islands", and
- (b) by inserting between the words "shall" and "include" appearing in the section the words ", notwithstanding section 2(3) of this Ordinance".

Passed by the Legislature of the Falkland Islands this 6th day of June 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

#### SUBSIDIARY LEGISLATION

#### INTOXICATING LIQUOR

# The Licensing (Revocation) Regulations 1991

(S.R. & O. No. 14 of 1991)

Made 19th June 1991 Coming into operation on publication Published 26th June 1991

IN EXERCISE of my powers under section 35 and 83 of the Licensing Ordinance(a) I make the following Regulations -

1. These Regulations may be cited as the Licensing (Revocation) Regulations 1991.

2. The Licensing Regulations 1949(b) are revoked.

Revocation

Made this 19th day of June 1991.

W. H. FULLERTON, Governor.

- (a) (Cap. 38) Laws of the Falkland Islands 1950 Edition.
- (b) Pages 204 and 205 Vol 11 Laws of the Falkland Islands 1950 Edition

#### **EXPLANATORY NOTE**

(Not forming part of above Regulations)

The Licensing Regulations 1949 are obsolete. They prohibited "off sales" of liquor to any member of HM Forces or non-resident members of the crew of any vessel entering Stanley Harbour. They also provided special hours on Sundays (12 noon to 2.30 p.m. and 4.30 p.m. to 10.00 p.m.) in respect of premises known as the Mon-Star Hotel (which premises have not existed for some years).

#### SUBSIDIARY LEGISLATION

#### PLANNING AND BUILDING

### The Navy Point Buildings Designation Order 1991

(S.R. & O. No. 15 of 1991)

Made 19th June 1991 Coming into operation on publication Published 26th June 1991

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and upon the recommendation of the Planning and Building Committee under section 65(2) of that Ordinance I make the following Order -

1. This Order may be cited as the Navy Point Buildings Designation Order 1991.

Citation

2. (1) The buildings known as Camber House and The Pump House Navy Point East Designation of Falkland are each designated as buildings of special architectural and historic interest.

Buildings.

(2) The designations by paragraph (1) of the Camber House Pump House Navy Point by paragraph (1) are declared to extend, in respect of Camber House, to its curtilage and in respect of The Pump House to its curtilage and to all pumps, parts of pumps, plant machinery and equipment in or affixed to The Pump House or within its curtilage.

Made this 19th day of June 1991.

W. H. FULLERTON, Governor.

(a) No. 7 of 1991.

#### **EXPLANATORY NOTE**

(Not forming part of above Order)

The effect of this Order is to prohibit without prior planning permission of a special kind (subject to exceptions - see Planning Ordinance 1991) any works of demolition, alteration or removal in relation to Camber House, The Pump House and plant in or attached to The Pump House. The Order also extends to the curtilages of those buildings.

#### SUBSIDIARY LEGISLATION

#### **FISHERIES**

# THE TRANSHIPMENT FEES (LAND STORES) REGULATIONS 1991

(S.R. & O. No. 16 of 1991)

Made 20th June 1991

Coming into operation on publication

Published 26th June 1991

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986(a) I make the following Order -

1. This Order may be cited as the Transhipment Fees (Land Stores) Regulations 1991, and Citation and shall come into operation on the date of its first publication in the Gazette.

commencement.

2. In these Regulations -

"the 1987 Fees Regulations" means The Fisheries (Transhipment and Export) (Fees) Regulations 1987(b);

"the 1987 General Regulations" means the Fishing Regulations Order 1987(c);

"qualifying vessel" has the meaning given in regulation 3(2).

3. (1) Nothing in the 1987 Fees Regulations shall apply in respect of a transhipment from a qualifying vessel to a land store.

Modification of 1987 Fees Regulations.

- (2) For the purposes of this regulation, a qualifying vessel is a fishing boat
  - (a) in respect of which at the time of the transhipment in question a licence granted under section 4 of the Ordinance is held (and whether or not that licence is endorsed under section 4(11) of the Ordinance so as to operate as a transhipment licence);
  - (b) in respect of which during the fishing season (within the meaning of regulation 7(1) of the 1987 General Regulations) last past at the time of the transhipment in question, a fishing licence was held; or
  - (c) in respect of which the fishing boat is or was, in relation to the time of the transhipment, the subject of a voluntary restraint agreement during the present fishing season or the last past fishing season.
- (3) For the purposes of paragraph (2) a voluntary restraint agreement is an agreement between the owner or operators of a fishing boat and the Crown under which it is agreed that that fishing boat will refrain, either altogether or to an extent, from fishing in the waters specified in that agreement (being waters other than waters to which the Ordinance applies).
- (4) A fee of £150 shall be payable for each licence granted for a transhipment of fish from a qualifying vessel to a land store and applied for in accordance with regulations 36 and 37 of the 1987 General Regulations. The fee shall be payable once only in respect of any one transhipment operation.

(b) S.R. & O. No. 27 of 1987.

(c) S.R. & O. No. 24 of 1987.

Made this 20th day of June 1991.

W. H. FULLERTON, Governor.

#### EXPLANATORY NOTE

(not part of the Regulations)

These Regulations reduce, in the prescribed circumstances, the fees payable for transhipments of fish to land stores from those payable under the 1987 Fees Regulations.

<sup>(</sup>a) No. 11 of 1986.

# The Family Allowances (Amendment) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

Clause

- I. Short Title.
- 2. Amendment of the Family Allowances Ordinance 1960. (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) (No. 2) Ordinance Short title. 1991.

- 2. The Family Allowances Ordinance 1960 is amended
  - by replacing paragraph (c) of (No 9 of 1960) section 41(c) with the following new paragraph (c) -

Amendment of the Family Allolwances Ordinance 1960. (No. 9 of 1960)

"(c) subject to subsection (2) below if he is -

- unmarried; (i)
- (ii) has not yet attained the age of nineteen years; and
- (iii) one of the following conditions is satisfied in relation to him —
- (aa) he is awaiting admission to any university, college school or other educational establishment for the purpose of undergoing thereat a course of full-time instruction;
- (bb) he is undergoing a course of full-time instruction at any university, college, school or other educational establishment,

it being immaterial for the purposes of this paragraph whether the educational establishment in question is in the Falkland Islands or overseas"; and

(b) by the repeal of paragraph (a) of section 4(2).

#### **OBJECTS AND REASONS**

To limit the payment of Family Allowances so that they are only payable in respect of children under the age of nineteen years.



# FALKLAND ISLANDS GAZETTE

# Supplement

PUBLISHED BY AUTHORITY

No. 16

Vol. 2 27th JUNE 1991

The following is published in this Gazette -

The Permitted Hours (Public Houses) Regulations 1991 (S.R. & O. No. 17 of 1991).

#### SUBSIDIARY LEGISLATION

#### INTOXICATING LIQUOR

### Permitted Hours (Public Houses) Regulations

(S.R. & O. No. 17 of 1991)

Made 25th June 1991

Coming into operation 1st July 1991

Published 27th June 1991

IN EXERCISE of my powers under sections 35(1) and 83 of the Licensing Ordinance(a) I make the following Regulations —

1. These Regulations may be cited as the Permitted Hours (Public Houses) Regulations 1991 and come into operation on 1st July 1991.

Citation and commencement.

2. In these Regulations -

Interpretation.

"public house" means premises in respect of which a publican's retail licence issued under the Ordinance is held; and

"weekday" means every day of the week except Sundays and any day of the week on which Good Friday or Christmas Day falls.

3. The hours specified in section 35(1) of the Ordinance as those during which intoxicating liquor may be sold in public houses are varied so that they are —

Permitted hours.

- (a) on any weekday other than a Friday or Saturday, 10.00 a.m. until 2.00 p.m. and 5.30 p.m. until 11.00 p.m.;
- (b) on any weekday which is a Friday or Saturday, 10.00 a.m. until 2.00 p.m. and 5.30 p.m. until 11.30 p.m.;
- (c) on any Sunday and on any day which is Good Friday or Christmas Day, 12.00 noon to 2.00 p.m. and 7.00 p.m. until 10.00 p.m.
- 4. Nothing in regulation 3 or in section 35(1) of the Ordinance requires any public house to be open for the sale of intoxicating liquor between the hours set out in regulation 3 and a public house may, if the licensee so decides, be closed for such purpose at any time during or falling within those hours.

Public hours not required to be open.

Made this 25th day of June 1991.

W. H. FULLERTON, Governor.

(a) Cap. 38 Laws of the Falkland Islands 1950 Edition.

#### **EXPLANATORY NOTE**

(Not forming part of the above Regulations)

These Regulations apply only to public houses.



# THE

# FALKLAND ISLANDS GAZETTE

# Supplement

PUBLISHED BY AUTHORITY

Vol. 2

9th AUGUST 1991

No. 17

The following are published in this Supplement -

The Criminal Justice (Amendment) Bill 1991);

The Road Traffic (Amendment) (No. 2) Bill 1991;

The Bills of Exchange (Adopted Legislation) Bill 1991;

The Interpretation and General Clauses (Amendment) Bill 1991;

The Family Allowances (Amendment) (No. 2) Bill 1991.

### Criminal Justice (Amendment) Bill 1991

#### EXPLANATORY MEMORANDUM

#### Introductory

In 1990, the United Kingdom enacted the Criminal Justice (International Co-operation)
Act 1990. Section 30(4) of that Act provides —

"(4) Her Majesty may by Order in Council direct that the provisions of this Act shall extend, with such exceptions and modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands, the Isle of Man or any colony."

However, the United Kingdom Government has indicated that it would prefer colonies to enact *local* legislation applying to themselves, with the necessary modifications, the provisions of the 1990 Act. Quite apart from anything else this is because the criminal law of all colonies is different: both from that in England and that in other colonies. In every case, major modifications are likely to be required in the colony's laws but in some cases greater modification will be required than in others.

The Criminal Justice (International Co-operation Act) 1990 was enacted, in part, to provide specifically for measures to implement the United Nations Convention against the illicit traffic in narcotics drugs and psychotropic substances signed in Vienna on 20 December 1988 ("the Vienna Convention") The Vienna Convention has, it is understood, been applied by the United Kingdom to all its dependent territories ("colonies"), the Channel Islands and the Isle of Man. It is necessary therefore to enact legislation to give effect in Falkland Islands' law to the Vienna Convention: which substantially relates to the international problems arising from illicit drug trafficking. The Falkland Islands is fortunate that so far, and largely, it is believed, because of its special geographic and other circumstances, it has suffered little from drug problems, and the criminal activities associated with them (eg. "money-laundering"). Nevertheless even if the Falkland Islands continues to have no internal drug problem, it will wish to have effective measures in place to discourage the investment here of drug proceeds from overseas. The Falkland Islands Government's policy is, of course, to co-operate fully in international efforts to combat the international illicit traffic in narcotic drugs and psychotropic substances.

#### The Vienna Convention

The Convention begins with a Preamble which perhaps sufficiently emphasises the problems with which the Vienna Convention deals.

#### "The Parties to this Convention,

Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society,

Deeply concerned also by the steadily increasing inroads to various social groups made by illicit traffic in narcotic drugs and psychotropic substances, and particularly by the fact that children are used in many parts of the world as an illicit drug consumers market for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity,

Recognising the links between illicit traffic and other related organised criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States.

Recognising also that illicit traffic is an international criminal activity, the suppression of which demands urgent attention and the highest priority,

Aware that illicit traffic generates large financial profits and wealth enabling transnational criminal organisations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels,

Determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,

Desiring to eliminate the root causes of the problem of abuse of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic,

Considering that measures are necessary to monitor certain substances, including precursors, chemicals and solvents, which are used in the manufacture of narcotic drugs and psychotropic substances, the ready availability of which has led to an increase in the clandestine manufacture of such drugs and substances,

Determined to improve international co-operation in the suppression of illicit traffic by sea, Recognising that eradication of illicit traffic is a collective responsibility of all States and that, to that end, co-ordinated action within the framework of international co-operation is necessary,

Acknowledging the competence of the United Kingdom in the field of control of narcotic drugs and psychotropic substances and desirous that the international organs concerned with such control should be within the framework of that Organisation,

Reaffirming the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody,

Recognising the need to reinforce and supplement the measures provided in the Single Convention on Narcotic Drugs, 1961, that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961, and the 1971 Convention on Psychotropic Substances, in order to counter the magnitude and extent of illicit traffic and its grave consequences,

Recognising also the importance of strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international criminal activities of illicit traffic,

Desiring to conclude a comprehensive, effective and operative international convention that is directed specifically against illicit traffic and that considers the various aspects of the problem as a whole, in particular those aspects not envisaged in the existing treaties in the field of narcotic drugs and psychotropic substances".

#### The necessary measures

The Falkland Islands are already able to implement much of the Vienna Convention, mainly through the provisions of the Misuse of Drugs Ordinance 1987 and the Drug Trafficking Offences Ordinance and the Criminal Justice Ordinance 1989. The Bill, if enacted, would provide the additional local law required to enable the Convention to be implemented.

#### PART I OF THE BILL

This contains provisions as to the Short Title and Interpretation (clauses 1 and 2). It will be noted that clause 2(1) contains an unusual definition of "Governor" (so that, except where the context otherwise requires (as it does in clause 10(1)) "Governor" means the Governor acting in his discretion or in accordance with instructions received from the Secretary of State for Foreign and Commonwealth Affairs. Quite clearly, where this definition applies (international obligations under the Vienna Convention or the Commonwealth Scheme for Mutual Assistance in Criminal Matters) the matter falls into the "external relations" field—one for which, in relation to the Falkland Islands, the United Kingdom is responsible at international law. Thus, the definition reflects the constitutional position.

#### PART II OF THE BILL

This Part of the Bill will bring the Falkland Islands in conformity with the Commonwealth Scheme on Mutual Assistance in Criminal Matters. The Falkland Islands has, in part, already implemented this Scheme (Criminal Justice Ordinance 1989 and Drug Trafficking Offences Ordinance 1989) and at a London Conference convened by the United Kingdom Prime Minister in 1989 gave assurances that the full Scheme would be implemented. It should be stressed that the Scheme and Part II of the Bill are not limited to "drugs related" offences. Clauses 3 and 4 thus contain important and far-reaching provisions as to the mutual service of legal process. Under existing law, a summons requiring a person to attend as a defendant or witness in criminal proceedings in a court overseas, and a decision of such a court in criminal proceedings will not be served by the Falkland Islands authorities and the converse applies. However, where an overseas summons or document is served under clause 3 — - there will be no obligation to comply under Falkland Islands law to comply with it; - when a person is served under the clause with an overseas summons or document he must be told by written notice that he is under no obligation under the law of the Falkland Islands to comply with it and that he may wish to seek advice as to the possible consequences in the overseas country concerned of his failure to comply with it; — indicating that under the relevant overseas law, if he complies with it he may not be

— indicating that under the relevant overseas law, if he complies with it he may not be entitled to the same privileges as a witness under Falkland Islands law has (eg: he may not under the overseas law be entitled to the privilege against self-incrimination)

Where Falkland Islands criminal process is served overseas under clause 4 a person served will NOT be under any obligation under the law of the Falkland Islands to comply with it unless he is subsequently re-served in the Falkland Islands. Clauses 5 to 8 relate to mutual

assistance in the provision of evidence criminal proceedings. Clause 5 deals with the obtaining of evidence overseas for use in the Falkland Islands. The evidence will be obtained under a "letter of request" procedure and, consequently, it will be documentary (and not oral evidence given in court in the Falkland Islands). For these reasons, it is necessary to introduce in law a number of safeguards for the benefit of the defendant. The first safeguard is to bring into Falkland Islands law the provisions of section 25 of the Criminal Justice Act 1988. (This is done by adopting Parts II and III of the 1988 Act - see clause 29(1) of and Schedule 4 paragraph 4 to the Bill (section 25 is in Part II of the 1988 Act)). Section 25 of the 1988 Act enables a court to exclude evidence otherwise admissible if not to do so would, in the court's view, be unfair to the defendant. Clause 5(8) of the Bill would require the Falkland Islands' court, in applying section 25 of the 1988 Act, to have regard to whether it was possible to cross-examine the maker of a written statement obtained by virtue of a letter of request and whether the overseas law allowed legal representation.

Clause 6 of the Bill deals with the obtaining in the Falkland Islands of evidence for the purpose of overseas criminal proceedings. Before assistance could be provided under this clause, the Governor would have to be satisfied -

- that an offence under the law of the country or territory in question had been committed or that there were reasonable grounds for suspecting that such an offence had been committed (ic: that the request was not "a mere fishing expedition"); AND
- that proceedings for that offence had been instituted or that an investigation into that offence was being carried out.

Under clause 6(2) there would be special provisions as to "fiscal" offences (eg: taxes, duties and exchange offences). Unless proceedings in the relevant overseas country or territory had been instituted, the Governor could only give effect to the overseas request if —

- the request was from a country or territory in the Commonwealth; OR
- the request is made pursuant to a treaty to which the United Kingdom is a party and which it extends to the Falkland Islands; OR
- the conduct constituting the offence would constitute an offence of the same or similar nature if it had occurred in the Falkland Islands.

Under clause 6(6), Schedule 1 to the Bill would apply in relation to the procedure in a Falkland Islands' court in relation to giving effect to a letter of request.

Clause 7 of the Bill deals with the transfer of a prisoner in the Falkland Islands for the purpose of giving evidence in an overseas country or assisting in an investigation of an offence in such a country. Clause 8 of the Bill deals with the converse situation. Clause 7 contains a number of important safeguards. By clause 7(2), a Falkland Islands prisoner could not be transferred —

- unless he had consented; OR
- if by reason of his physical or mental condition or his youth, he could not act for himself, consent had been given by an appropriate person acting on his behalf,

BUT consent, once given, could not be withdrawn.

Similarly, under clause 8(3), an overseas prisoner could not be brought without his consent to the Falkland Islands for the purpose of giving evidence or assisting in an investigation in the Falkland Islands.

Clauses 9 and 10 would make other relevant provision. Clause 9(1) would extend powers of entry search and seizure under Part VIII of the Criminal Justice Ordinance 1989 in relation to serious offences so that they are exercisable in the Falkland Islands in relation to conduct which —

- constitutes an offence overseas AND
- would constitute an offence in the Falkland Islands if it had occurred there.

Similarly, clause 9(2) would enable the Senior Magistrate or a justice of the peace (on application being made by direction of the Governor under clause 9(4) to issue a search warrant —

- if satisfied that criminal proceedings have been instituted overseas or that a person has been arrested in the oversea country concerned in the course of an investigation there; AND
- if satisfied that the conduct constituting the offence which is the subject of the proceedings or investigation overseas would constitute an arrestable offence under the Criminal Justice Ordinance 1989 if it had occurred in the Falkland Islands: AND
- if satisfied there are reasonable grounds for suspecting that there is for premises in the Falkland Islands occupied or controlled by that person evidence relating to the offence other than items subject to legal privilege under the Criminal Justice Ordinance 1989.

Note that Clause 9(1) relates only to conduct equating to a "serious arrestable offence" and clause 9(2) relates to conduct *not* equating to a "serious arrestable offence".

Clause 9(3) would prohibit a "general fishing expedition" on a warrant granted under clause 9(2). Clause 9(4) which relates to both clauses 9(1) and 9(2) says that the powers under those subclauses could only be used on a direction being by the Governor in response to an overseas request.

Clause 10 would make provision for an Order to be made by the Governor (with the advice of Executive Council) for the enforcement of orders of courts overseas for the destruction or forfeiture and disposal of things in respect of which an offence has been committed or which was used in connection with an offence.

Clause 11 would make provision for the making of rules of court in relation to matters arising under clauses 3 to 9.

#### PART III OF THE BILL

This Part (clauses 12 to 22) relates to the Vienna Convention and is required so as to enable the Falkland Islands to implement the Convention (see "Introductory" above). Clause 12 would provide a number of definitions for the purposes of the Part.

Clause 13(1) would create an entirely new offence of manufacturing a "scheduled substance" (defined clause 13(4) to and Schedule 2 to the Bill) knowing or suspecting that the substance is to be used in or for the unlawful production of a "controlled drug" (as defined by the Misuse of Drugs Ordinance 1987 - see clause 13(3)). The new offence would be punishable by imprisonment for up to 14 years or a fine (without limit) or both (clause 13(2)). (It should be noted that Article 3 paragraph 6 of the Vienna Convention requires sentencing powers adequate to "maximise the effectiveness of law enforcement measures ... with due regard to the need to deter the commission of such offences.")

Clause 14 would enable the Governor with the advice of the Executive Council to make regulations imposing certain requirements in relation to scheduled substances.

Clause 15(1) and (2) would create entirely new offences (in broad terms) of "money laundering" activities in relation to drug-trafficking. Furthermore, under clause 15(3) a person would commit an offence who, knowing or having reasonable cause to suspect that property he buys "for an inadequate consideration" (roughly speaking, a "knock-down price" (see clause 15(5)) represents, in whole or in part, and directly or indirectly a person's proceeds of drug trafficking. Offences under clause 15(1), (20 or (3) would be punishable by fourteen years imprisonment or a fine (without limit) or both (clause 15(6)).

Clause 16 provides for interest to be payable on sums payable under a confiscation order. Clause 17 would make provision increasing powers available, in relation to confiscation orders, under section 7(3) of the Drug Trafficking Ordinance 1989.

Clause 18 to 21 would deal with offences at sea.

Under clause 18(1) anything which is done on a "British ship" (defined in clause 12(1)) which would, if done on land in the Falkland Islands, constitute a "drug trafficking offence", will constitute that offence but, if that ship is not registered in the Falkland Islands only if it would also be such an offence in the United Kingdom. At present, it would be because, subject to the Bill being enacted as drafted the relevant United Kingdom law and the Falkland Islands law will correspond. The object of clause 18, taken as a whole, is to make "drug trafficking offences" aboard ships registered in the Falkland Islands triable before local courts: otherwise they would only be triable under United Kingdom legislation in the United Kingdom itself.

Clause 19 would create an "international offence" of knowingly carrying a controlled drug aboard a ship (whether or not a British ship) when knowing or having reasonable grounds to suspect that the controlled drug is intended to be imported or exported contrary to drug trafficking laws. Various penalties would be available (clause 19(4)) depending on which Class the controlled drug fell into. Clause 20 would confer enforcement powers not existing under present law in relation to ships. There would be restrictions under clause 20(2) and clause 20(3) on the use of the enforcement powers —

- they could not be used outside the landward limit of the territorial sea of the Falkland Islands (but could be used, for example, in Berkeley Sound which is to landward of the landward limit of the territorial sea of the Falkland Islands) except with the authority of the Governor and could not, in any circumstances be used in the territorial sea of any other country or state;
- the Governor could not give his authority (where required as above) unless either the flag state of the ship had requested the assistance of the United Kingdom or the Falkland Islands in the exercise of the enforcement powers or the flag state had authorised the United Kingdom or the Falkland Islands to act for that purpose.

Schedule 3 to the Bill sets out the enforcement powers in question.

Clause 21 contains a number of provisions related to jurisdiction and prosecutions in relation to proceedings under Part III of and Schedule 3 to the Bill. No proceedings under them could be instituted without the consent of the Attorney General (clause 21(2)) and the consent of the Governor would also be required in respect of proceedings for an offence on a non-United Kingdom ship committed outside the landward limits of the territorial sea of the Falkland Islands.

#### PART IV OF THE BILL

This Part of the Bill (clause 23 to 27) deals with drug trafficking money imported or exported in cash. This Part is principally concerned with the combating of "money-laundering activities".

Clause 23 contains a number of definitions for the purposes of Part IV.

Clause 24(1) would enable a police officer or customs officer to seize and detain any cash exceeding "the prescribed sum" being imported or exported. The prescribed sum would be £5000 or such greater sum (in any currency or currencies) prescribed by an Order under clause 24(7). However, cash detained under clauses 24(1) could not be detained for more than 48 hours unless its continued detention were authorised by the Senior Magistrate or a justice of the peace. (Clause 24(2)), who can authorise contained detention for up to three months (if justified) initially, but the period of detention can be extended, on further application, if justified, up to two years in all (clause 24(3)). An application for a continued detention order can only be made by or on behalf of the Attorney General (clause 24(4). Cash detained could be released (a) on application by an affected person or by a customs officer or police officer acting with authority given by the Attorney General (clause 24(5) but if a forfeiture application (under clause 25) or criminal proceedings in relation to an offence with which the cash is connected are pending the cash seized cannot be released (clause 24(6)).

Clause 25 provides for or a forfeiture order in relation to detained cash to be made by the Supreme Court, on application by or on behalf of the Attorney General. Such an order can only be made if the Supreme Court were satisfied, on the balance of probabilities, that the cash represents, directly or indirectly, the proceeds of, or money intended to be used in, drug trafficking.

Clause 26 would require cash seized under Part IV of the Bill, and held for more than forty-eight hours, to be held on interest-earning deposit.

Clause 27(1) would provide that notice of an Order under clause 24(2) (an order by the Senior Magistrate or a justice of the peace for continued detention of cash seized under clause 24(1)) must provide for notice of it to be given to persons affected by the Order. Clause 27(2) provides for the Chief Justice to be able to make rules of court for the purposes of applications to a court under the provisions of Part IV and (clause 27(3)) without prejudice to his existing powers to make rules.

#### PART V OF THE BILL

Clause 28(1) would require expenses incurred by the Governor or any public officer under the Bill (if enacted) to be paid out of funds appropriated by Ordinance and clause 25(2) would require any money representing cash forfeited under Part IV of the Bill to be paid into the Consolidated Fund.

Clause 29(1) and Schedule 4 would amend a number of existing Ordinances and clause 29(2) would give general effect to the amendment of the definition of 'drug trafficking offence' in section 2(1) of the Drug Trafficking Ordinance 1989.

There follow the Schedules.

Schedule 1 (having effect under clause 6(6) if enacted) would provide for the procedure of Falkland Islands' Courts under the "letter of request" procedure. In particular it should be noted that —

- a person could not be compelled to give evidence which he could not be compelled to give in criminal proceedings in the Falkland Islands; AND
- provided that the relevant claim for privilege is conceded by the requesting overseas court, tribunal or authority he can take advantage of any additional privilege under the relevant overseas law;
- if the claim for privilege under overseas law is *not* conceded a person might be required to give the relevant evidence *but* if an (appellate) court in the overseas country or territory upholds the claim, it would not be transmitted overseas.

Schedule 2 lists in two Tables substances useful for manufacturing controlled drugs which are "scheduled substances" and the manufacture or supply of which, under clause 1, would be in certain circumstances a serious offence.

Schedule 3 contains detailed provisions in relation to the enforcement powers which would be conferred under clause 19(1) in relation to offences, and suspected offences, aboard ships.

Schedulc 4 would make amendments to a number of existing Ordinances. Paragraph 1 deals with a number of minor and consequential amendments to the Drug Trafficking Offences Ordinance 1989, all necessarily flowing from the foregoing provisions of the Bill.

Paragraph 2 of Schedule 4 would insert new Parts IIIA and IIIB in the Criminal Justice Ordinance 1989. These would constitute sections 70A to 70.0 of the Ordinance. However, as the new section 70.0 seeks to make clear. The new sections 70A to 70N represent what is already law of the Falkland Islands under provisions of the Interpretation and General Clauses Ordinance 1977 which apply the provisions of English statutes. It is strongly believed that these provisions should appear in locally made law (so as to be more readily available) and the opportunity has been taken in the Bill to achieve this: particularly as these provisions underlie some of the provisions of clauses of the Bill.

Paragraph 3 of the Schedule would insert a new Schedule 2A (supplementing the new section 70D) in the Criminal Justice Ordinance 1989.

Paragraph 4 of Schedule 4 would specifically adopt as law of the Falkland Islands Parts II and III of and Schedule 2 to the Criminal Justice Act 1988. These provisions already apply under Part XI of the Interpretation and General Clauses Ordinance 1977. Because of the enactment by Schedule 4 paragraph 2 of provisions (the new Parts IIIA and IIIB of the Criminal Justice Ordinance 1989) presently part of Falkland Islands law by virtue of the application of provisions of the Police and Criminal Evidence Act 1984, it is necessary to modify Parts II and III and Schedule 2 of the 1988 Act so that the references in it to provisions of the 1984 Act are varied to references to the (equivalent) new provisions of the Criminal Justice Ordinance 1989. Paragraph 4 of Schedule 4 to the Bill, which would insert a new section 139 and Schedule 9 in the Criminal Justice Ordinance 1989 would do this.

### The Criminal Justice (Amendment) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### PART I: INTRODUCTORY

- 1. Short Title.
- 2. Interpretation.

#### PART II: CRIMINAL PROCEEDINGS AND INVESTIGATIONS

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- 3. Service of overseas process in the Falkland Islands.
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#### Mutual provision of evidence

- 5. Overseas evidence for use in the Falkland Islands.
- 6. Falkland Islands evidence for use overseas.
- 7. Transfer of Falkland Islands prisoner to give evidence or assist investigation overseas.
- 8. Transfer of overseas prisoner to give evidence or assist investigation in the Falkland Islands.

#### Additional co-operation powers

- 9. Search etc. for material relevant to overseas investigation.
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11. Rules of court.

#### PART III: THE VIENNA CONVENTION

Interpretation of this Part

12. Interpretation of Part III.

Substances useful for manufacture of controlled drugs

- 13. Manufacture and supply of scheduled substances.
- 14. Regulations about scheduled substances.

#### Proceeds of drug trafficking

- 15. Concealing or transferring proceeds of drug trafficking.
- 16. Interest on sums unpaid under confiscation orders.
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#### Offences at sea

- 18. Offences on British ships.
- 19. Ships used for illicit traffic.
- 20. Enforcement powers.
- 21. Jurisdiction and prosecutions.

#### Supplementary

22. Amendment of Misuse of Drugs Ordinance 1987.

# PART IV: DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

- 23. Interpretation of Part IV.
- 24. Seizure and detention.
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- 26. Interest.
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#### PART V: GENERAL

- 28. Expenses.
- 29. Consequential and other amendments.

#### SCHEDULES:

#### SCHEDULE 1:

FALKLAND ISLANDS EVIDENCE FOR USE OVERSEAS: PROCEEDINGS OF NOMINATED COURT

#### SCHEDULE 2:

SUBSTANCES USEFUL FOR MANUFACTURING CONTROLLED DRUGS

#### SCHEDULE 3:

ENFORCEMENT POWERS IN RESPECT OF SHIPS

#### SCHEDULE 4:

CONSEQUENTIAL AND OTHER AMENDMENTS

### A Bill for

#### An Ordinance

to enable the Falkland Islands to co-operate with other countries in criminal proceedings and investigations; to enable the Falkland Islands, in the event that the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is ratified by Her Majesty's Government in the United Kingdom in such manner that the provisions of the Convention are applicable to the Falkland Islands, to enable the Falkland Islands to join with other countries in implementing that Convention; to provide for the seizure, detention and forfeiture of drug trafficking money imported or exported in cash; and to amend the Criminal Justice Ordinance 1989 for purposes connected with the above purposes and for other purposes.

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

#### PART 1

#### INTRODUCTORY

1. This Ordinance may be cited as the Criminal Justice (Amendment) Ordinance 1991 and Short title shall come into operation on such date as the Governor on the advice of the Executive Council may by Order appoint.

2. (1) In this Ordinance except where the context otherwise requires —

Interpretation

"Governor" means the Governor acting in his discretion, or, where he has received instructions from the Secretary of State, the Governor acting in accordance with such instructions;

"judge" includes the Senior Magistrate and any judge of the Supreme Court;

"the Secretary of State" means Her Majesty's Secretary of State for Foreign and Commonwealth Affairs.

- (2) It shall not be competent for any court or tribunal in any proceedings whatsoever, whether the proceedings arise out of or in connection with any provision of this Ordinance or otherwise, to inquire into or determine any question as to whether -
  - (a) the Governor has received any instructions from the Secretary of State as to or in connection with the exercise of any of his functions under this Ordinance;
  - (b) if he has, whether he has acted in accordance with those instructions.

#### PART II

#### CRIMINAL PROCEEDINGS AND INVESTIGATIONS Mutual Service of Process

3. (1) This section has effect where the Governor receives from the government of, or Service of authority in, a country or territory outside the Falkland Islands

in the Falkland (a) a summons or other process requiring a person to appear as defendant or Islands. 1990 c.5 s.1

attend as a witness in criminal proceedings in that country or territory; or a document issued by a court exercising criminal jurisdiction in that country or territory and recording a decision of the court made in the exercise of that

together with a request for it to be served on a person in the Falkland Islands.

- (2) The Governor may cause the process or document to be served by post or, if the request is for personal service, direct the chief police officer to cause it to be personally served on the person to be served.
- (3) Service by virtue of this section of any such process as is mentioned in subsection (1)(a) above shall not impose any obligation under the law of the Falkland Islands to comply with it.
- (4) Any such process served by virtue of this section shall be accompanied by a notice
  - (a) stating the effect of subsection (3) above;

jurisdiction,

- (b) indicating that the person on whom it is served may wish to seek advice as to the possible consequences of his failing to comply with the process under the law of the country or territory where it was issued; and
- (c) indicating that under that law he may not, as a witness, be accorded the same rights and privileges as would be accorded to him in criminal proceedings in the Falkland Islands.
- (5) Where the chief police officer is directed under this section to cause any process or document to be served he shall after it has been served forthwith inform the Governor when and how it was served and (if possible) furnish him with a receipt signed by the person on whom it was served; and if the chief police officer has been unable to cause the process or document to be served he shall forthwith inform the Governor of that fact and of the reason.
- 4. (1) Process of the following descriptions, that is to say -
  - (a) a summons requiring a person charged with an offence to appear before a court in the Falkland Islands; and

(b) a summons or order requiring a person to attend before a court in the Falkland Islands for the purpose of giving evidence in criminal proceedings,

may be issued or made notwithstanding that the person in question is outside the Falkland Islands and may be served outside the Falkland Islands in accordance with arrangements made in relation to the Falkland Islands by Her Majesty's Government in the United Kingdom.

- (2) Service of any process outside the Falkland Islands by virtue of this section shall not impose any obligation under the law of any part of the Falkland Islands to comply with it and accordingly failure to do so shall not constitute contempt of any court or be a ground for issuing a warrant to secure the attendance of the person in question.
- (3) Subsection (2) above is without prejudice to the service of any process (with the usual consequences for non-compliance) on the person in question if subsequently effected in the Falkland Islands.

#### Mutual provision of evidence

5. (1) Where on an application made in accordance with subsection (2) below it appears Overseas to a justice of the peace or a judge -

evidence for use in the Falkland Islands. 1990 c.5 s.3

Service of Falkland Islands process overseas. 1990 c.5 s.2

- (a) that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed; and
- (b) that proceedings in respect of the offence have been instituted or that the offence is being investigated,

he may issue a letter ("a letter of request") requesting assistance in obtaining outside the Falkland Islands such evidence as is specified in the letter for use in the proceedings or investigation.

- (2) An application under subsection (1) above may be made by or on behalf of the Attorney General, or the chief police officer or, if proceedings have been instituted, by the person charged in those proceedings.
- (3) The Attorney General may himself, with the consent of the Governor, issue a letter of request if
  - (a) he is satisfied as to matters mentioned in subsection (1)(a) above; and
  - (b) the offence in question is being investigated or he or the chief police officer has instituted proceedings in respect of it.
- (4) Subject to subsection (5) below, a letter of request shall be sent to the Governor for transmission either
  - (a) to a court or tribunal specified in the letter and exercising jurisdiction in the place where the evidence is to be obtained; or
  - (b) to any authority recognised by the government of the country or territory in question as the appropriate authority for receiving requests for assistance of the kind to which this section applies.
- (5) In cases of urgency a letter of request may with the consent of the Governor be sent direct to such a court or tribunal as is mentioned in subsection (4)(a) above.
- (6) In this section "evidence" includes documents and other articles.
- (7) Evidence obtained by virtue of a letter of request shall not without the consent of such an authority as is mentioned in subsection (4)(b) above be used for any purpose other than that specified in the letter; and when any document or other article obtained pursuant to a letter of request is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it shall be returned to such an authority unless that authority indicates that the document or article need not be returned.
- (8) In exercising the discretion conferred by section 25 of the Criminal Justice Act 1988 in its application to the Falkland Islands (exclusion of evidence otherwise admissible) in relation to a statement contained in evidence taken pursuant to a letter of request the court shall have regard
  - (a) to whether it was possible to challenge the statement by questioning the person who made it; and
  - (b) if proceedings have been instituted, to whether the local law allowed the parties to the proceedings to be legally represented when the evidence was being taken.
- 6. (1) This section has effect where the Governor receives
  - (a) from a court or tribunal exercising criminal jurisdiction in a country or territory outside the Falkland Islands or a prosecuting authority in such a country or territory; or
  - (b) from any other authority in such a country or territory which appears to him to have the function of making requests of the kind to which this section applies,

a request for assistance in obtaining evidence in the Falkland Islands in connection with criminal proceedings that have been instituted, or a criminal investigation that is being carried on, in that country or territory.

Falkland Islands evidence for use overseas. 1990 c.5 s.4

- (2) If the Governor is satisfied -
  - (a) that an offence under the law of the country or territory in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed; and
  - (b) that proceedings in respect of that offence have been instituted in that country or territory or that an investigation into that offence is being carried on there,

he may, if he thinks fit, by a notice in writing nominate a court in the Falkland Islands, to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request.

- (3) Where it appears to the Governor that the request relates to a fiscal offence in respect of which proceedings have not yet been instituted he shall not exercise his powers under subsection (2) above unless
  - (a) the request is from a country or territory which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party and which extends to the Falkland Islands; or
  - (b) he is satisfied that the conduct constituting the offence would constitute an offence of the same or similar nature if it had occurred in the Falkland Islands.
- (4) For the purposes of satisfying himself as to the matters mentioned in subsection (2)(a) and (b) above the Governor shall regard as conclusive a certificate issued by such authority in the country or territory in question as appears to him to be appropriate.
- (5) In this section "evidence" includes documents and other articles.
- (6) Schedule 1 to this Ordinance shall have effect with respect to the proceedings before a nominated court in pursuance of a notice under subsection (2) above.
- 7. (1) The Governor may, if he thinks fit, issue a warrant providing for a person ("a prisoner") serving a sentence in a prison or other institution to which the Prison Ordinance 1966 applies to be transferred to a country or territory outside the Falkland Islands for the purpose
  - (a) of giving evidence in criminal proceedings there; or
  - (b) of being identified in, or otherwise by his presence assisting, such proceedings or the investigation of an offence.
- (2) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being transferred as mentioned in subsection (1) above and that consent may be given either
  - (a) by the prisoner himself; or
  - (b) in circumstances in which it appears to the Governor inappropriate, by reason of the prisoner's physical or mental condition or his youth, for him to act for himself, by a person appearing to the Governor to be an appropriate person to act on his behalf;

but a consent once given shall not be capable of being withdrawn after the issue of the warrant.

- (3) The effect of a warrant under this section shall be to authorise
  - (a) the taking of the prisoner to a place in the Falkland Islands and his delivery at a place of departure from the Falkland Islands into the custody of a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred; and
  - (b) the bringing of the prisoner back to the Falkland Islands and his transfer in custody to the place where he is liable to be detained under the sentence to which he is subject.
- (4) Where a warrant has been issued in respect of a prisoner under this section he shall be deemed to be in legal custody at any time when, being in the Falkland Islands or on board a British ship, British aircraft or British hovercraft, he is being taken under the warrant to or from any place or being kept in custody under the warrant.

Tranfer of Falkland Islands prisoner to give evidence or assist investigation overseas. 1990 c.5 s.5

(No. 5 of 1966)

- (5) A person authorised by or for the purposes of the warrant to take the prisoner to or from any place or to keep him in custody shall have all the powers, authority, protection and privileges of a police officer and whether the prisoner is within the Falkland Islands for the time being or outside the Falkland Islands for the time being.
- (6) If the prisoner escapes or is unlawfully at large, he may be arrested without warrant by a police officer and taken to any place to which he may be taken under the warrant issued under this section.
- (7) In subsection (4) above -

"British Aircraft" means a British-controlled aircraft with the meaning of section 1 (application of Criminal law to aircraft) of the Tokyo Convention Act 1967 (Overseas Territories) Order 1968 (which Order remains in force in relation to the Falkland Islands notwithstanding the repeal of the Tokyo Convention Act 1967 by section 109(3) of and Schedule 16 to the Civil Aviation Act 1982 and which Order under section 17(2)(b) of the Interpretation and Act 1978 has effect as if made under, or partly made under section 108 of the Civil Aviation Act 1982);

"British hovercraft" means a British- controlled hovercraft within the meaning of that sec- 1968 c.59 tion as applied in relation to hovercraft by virtue of provisions made under the Hovercraft Act 1968 or one of Her Majesty's hovercraft;

"British ship" means a British ship for the purposes of the Merchant Shipping Acts or one of Her Majesty's ships;

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

- (8) In subsection (6) above "police officer" means any person who is a police officer in the Falkland Islands or any person who, at the place in question has, under any enactment including subsection (5) above, the powers of such a police officer.
- (9) This section applies to a person in custody awaiting trail or sentence and a person committed to prison for default in paying a fine as it applies to a prisoner and the reference in subsection (3)(b) above to a sentence shall be construed accordingly.
- (10) The reference in subsection (7) above to the Hovercraft Act 1968 shall be construed as a reference to that Act to the extent that, at the time in question it applies to the Falkland Islands by virtue of -
  - (a) an Order or Orders of Her Majesty in Council under section 1(1) of that Act: or
  - (b) by legislation made in the Falkland Islands for the time being in force.
- 8. (1) This section has effect where -
  - (a) a witness order has been made or a witness summons issued in criminal proceedings in the Falkland Islands in respect of a person ("a prisoner") who is detained in custody in a country or territory outside the Falkland Islands by virtue of a sentence or order of a court or tribunal exercising criminal jurisdiction in that country or territory; or
  - (b) it appears to the Governor that it is desirable for a prisoner to be identified in, or otherwise by his presence to assist, such proceedings or the investigation in the Falkland Islands of an offence.
- (2) If the Governor is satisifed that the appropriate authority in the country or territory where the prisoner is detained will make arrangements for him to come to the Falkland Islands to give evidence pursuant to the witness order or witness summons or, as the case may be, for the purpose mentioned in subsection (1)(b) above, he may issue a warrant under this section.

Transfer of overseas prisoner to assist investigation in the Falkland Islands. 1990 c.5 s.6

- (3) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being brought to the Falkland Islands to give evidence as aforesaid or, as the case may be, for the purpose mentioned in subsection (1)(b) above but a consent once given shall not be capable of being withdrawn after the issue of the warrant.
  - (4) The effect of the warrant shall be to authorise -
    - (a) the bringing of the prisoner to the Falkland Islands;
    - (b) the taking of the prisoner to, and his detention in custody at, such place or places in the Falkland Islands as specified in the warrant; and
    - the returning of the prisoner to the country or territory from which he has
- (5) Subsections (4) to (8) of section 7 above shall have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section.
- (6) A person shall not be subject to the Immigration Ordinance 1987 in respect of his entry into or presence in the Falkland Islands pursuance of a warrant under this section but if the warrant ceases to have effect while he is still in the Falkand Islands -
  - (a) he shall be treated for the purposes of that Ordinance as if he has then illegally entered the Falkland Islands; and
  - (b) the provisions of that Ordinance shall have effect accordingly except that a carrier shall not be liable for expenses of custody or passage in relation to directions for his removal given by virtue of this subsection.
- (7) This section applies to a person detained in custody in a country or territory outside the Falkland Islands in consequence of having been transferred there -
  - (a) from the Falkland Islands under the Repatriation of Prisoners Act 1984 in its application to the Falkland Islands; or
  - under any similar provision or arrangement from any other country or ter-

as it applies to a person detained as mentioned in subsection (1) above.

#### Additional co-operation powers

9. (1) Part VIII of the Criminal Justice Ordinance 1989 (powers of entry search and seizure) Search etc. for shall have effect as if references to serious arrestable offences in section 112 or Schedule 4 to that Ordinance included any conduct which is an offence under the law of a country or territory outside the Falkland Islands and would constitute a serious arrestable offence if it had occurred in the Falkland Islands.

material relevant vestigation

1990 c.5 s.7 (No.

17 of 1989)

(2) If, on an application made by a police officer, a justice of the peace or the Senior

- Magistrate is satisfied -
  - (a) that criminal proceedings have been instituted against a person in a country or territory outside the Falkland Islands or that a person has been arrested in the course of a criminal investigation carried on there;
  - (b) that the conduct constituting the offence which is the subject of the proceedings or investigation would constitute an arrestable offence within the meaning of the Criminal Justice Ordinance 1989 if it had occurred in the Falkland Islands; and
  - (c) that there are reasonable grounds for suspecting that there is on premises in the Falkland Islands occupied or controlled by that person evidence relating to the offence other than items subject to legal privilege within the meaning of that Ordinance,

he may issue a warrant authorising a police officer to enter and search those premises and to seize any such evidence found there.

(3) The power to search conferred by subsection (2) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence as is there mentioned.

- (4) No application for a warrant or order shall be made by virtue of subsection (1) or (2) above except in pursuance of a direction given by the Governor in response to a request received --
  - (a) from a court or tribunal exercising criminal jurisdiction in the overseas country or territory in question or a prosecuting authority in that country or territory;
  - from any other authority in that country or territory which appears to him to have the function of making requests for the purposes of this section;

and any evidence seized by a constable by virtue of this section shall be furnished by him to the Governor for transmission to that court, tribunal or authority.

- (5) If in order to comply with the request it is necessary for any such evidence to be accompanied by any certificate, affidavit or other verifying document the constable shall also furnish for transmission such document of that nature as may be specified in the direction given by the Governor.
- (6) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.
- 10. (1) The Governor may by Order made with the advice of the Executive Council provide for the enforcement in the Falkland Islands of any order which -

overseas forfeiture orders.

Enforcement of

- (a) is made by a court in a country or territory outside the Falkland Islands 1990 c.5 s.9 designated for the purposes of this section by the Order; and
- is for the forfeiture and destruction, or the forfeiture and other disposal, of anything in respect of which an offence to which this section applies has been committed or which was used in connection with the commission of such an offence.
- (2) Without prejudice to the generality of subsection (1) above an Order under this section may provide for the registration by a court in the Falkland Islands of any order as a condition of its enforcement and prescribe requirements to be satisfied before an order can be registered.
- (3) An Order under this section may include such supplementary and incidental provisions as appear to the Governor to be necessary or expedient and may apply for the purposes of the Order (with such modifications as appear to the Governor to be appropriate) any provisions relating to confiscation or forfeiture orders under any other enactment.
- (4) An Order under this section may make different provision for different cases.
- (5) This section applies to any offence which corresponds to or is similar to an offence under the Misuse of Drugs Ordinance 1987, a drug trafficking offence as defined in section 2(1) of the Drug Trafficking Offences Ordinance 1989 or an offence to which sections 49 to 65 (confiscation of the proceeds of an offence and enforcement etc of confiscation orders) of the Criminal Justice Ordinance 1989 apply.

#### Supplementary

11. (1) Provision may be made by rules of court for any purpose for which it appears Rules of court. to the authority having power to make the rules that it is necessary or expedient that provision should be made in connection with any of the provisions of this Part of this Ordinance.

- (2) Rules made for the purposes of Schedule 1 to this Ordinance may, in particular, make provision with respect to the persons entitled to appear or take part in the proceedings to which that Schedule applies and for excluding the public from any such proceedings.
- (3) An Order under section 10 above may authorise the making of rules of court for any purpose specified in the Order.

(4) This section is without prejudice to the generality of any existing power to make rules.

# THE VIENNA CONVENTION

#### Interpretation of this Part

12. (1) In this Part of this Ordinance -

"British ship" means a ship registered in the United Kingdom, or the Falkland Islands or any other colony;

Interpretation of Part III.

1990 c.5 s.24

"Convention state" has the meaning given in section 19(1) below;

"scheduled substance" has the meaning given in section 13(4) below;

"ship" includes any vessel used in navigation;

"the territorial seas of the Falkland Islands" means the territorial sea of the Falkland Islands existing under the Falkland Islands (Territorial Sea) Order 1989:

"the Vienna Convention" means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Pyschotropic Substances which was signed in Vienna on 20th December

- (2) Any expression used in this Part of this Ordinance which is also used in the Drug Trafficking Offences Ordinance 1989 has the same meaning as in that Ordinance.
- (3) If in any proceedings under this Part of this Ordinance any question arises whether any country or territory is a state or is a party to the Vienna Convention, a certificate issued by or under the authority of the Governor shall be conclusive evidence on that question.

#### Substances useful for manufacture of controlled drugs

- 13. (1) It is an offence for a person
  - (a) to manufacture a scheduled substance; or
  - (b) to supply such a substance to another person.

knowing or suspecting that the substance is to be used in or for the unlawful production of a controlled drug.

Manufacture and supply of scheduled substances.

1990 c.5 s.12

- (2) A person who commits an offence under subsection (1) above is liable on conviction to imprisonment for a term not exceeding fourteen years or a fine (with no limit on the amount of the fine which may be imposed) or both.
- (3) In this section "a controlled drug" has the same meaning as in the Misuse of Drugs Ordinance 1987 and 'unlawful production of a controlled drug' means the production of such a drug which is unlawful by virtue of a section of that Ordinance.
- (4) In this section and elsewhere in this Part of this Ordinance "a scheduled substance" means a substance for the time being specified in Schedule 2 to this Ordinance.
- (5) The Governor may by Order amend that Schedule (whether by addition, deletion or transfer from one Table to the other) but -
  - (a) no such Order shall add any substance to the Schedule unless -
    - (i) it appears to the Governor to be frequently used in or for the unlawful production of a controlled drug; or
    - it has been added to the Annex to the Vienna Convention under Article 12 of that Convention.
- 14. (1) The Governor may by Regulations made with the advice of the Executive Council make provision —
  - (a) imposing requirements as to the documentation of transactions involving scheduled substances;

Regulations about scheduled substances

- (b) requiring the keeping of records and the furnishing of information with respect to such substances;
- (c) for the inspection of records kept pursuant to the regulations;
- (d) for the labelling of consignments of scheduled substances.
- (2) Regulations made by virtue of subsection (1)(b) above may, in particular, require -
  - (a) the notification of the proposed exportation of substances specified in Table 1 in Schedule 2 to this Ordinance to such countries as may be specified in the regulations; and
  - the production, in such circumstances as may be so specified, of evidence that the required notification has been given;

and for the purposes of sections 35 and 36 of the Customs Ordinance (offences relating (Cap. 16) to exportation of prohibited or restricted goods) any such substance shall be deemed to be exported contrary to a prohibition for the time being in force with respect to it under this Ordinance if it is exported without the requisite notification having been given.

- (3) Regulations under this section may make different provision in relation to substances specified in Table 1 and Table II in Schedule 2 to this Ordinance respectively and in relation to different cases or circumstances.
- (4) Any person who fails to comply with any requirement imposed by the regulations or, in purported compliance with any such requirement, furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular is guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding the maximum of level 7 on the standard scale.
- (5) No information obtained pursuant to the regulations shall be disclosed except for (No. 20 of 1989) the purposes of criminal proceedings or of proceedings under the provisions of the Drug Trafficking Offences Ordinance 1989.

Concealing or transferring pro-

ceeds of drug

trafficking.

1990 c.5 s.14

#### Proceeds of drug trafficking

- 15. (1) A person commits an offence if he
  - (a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking; or
  - (b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order.

- (2) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he -
  - (a) conceals or disguises that property; or
  - (b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order.

- (3) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires that property for no, or for inadequate, consideration.
- (4) In subsections (1)(a) and (2)(a) above the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
- (5) For the purposes of subsection (3) above consideration given for any property is inadequate if its value is significantly less than the value of that property, and there shall not be treated as consideration the provision for any person of services or goods which are of assistance to him in drug trafficking

(6) A person convicted of an offence under this section is liable on conviction to imprisonment for a term not exceeding fourteen years or a fine (without limit on the amount of the fine which may be imposed) or both.

16. (1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid (whether forthwith on the making of the order or at a time specified under section 42(1) of the Criminal Justice Ordinance 1988) that person shall be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.

Interest on sums unpaid under confiscation 1990 c.5 s.15

(2) The rate of interest under subsection (1) above shall be that for the time being applying to a civil judgment debt under section 17 of the Judgments Act 1838 in its application to the Falkland Islands.

17. (1) This section has effect whereby virtue of section 7(3) of the Drug Trafficking Offences Ordinance 1989 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed by the value of his proceeds of drug trafficking.

property.

1990 c.5 s.16

- (2) If on an application made in accordance with subsection (3) below, the court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.
- (3) An application under subsection (2) above may be made either by or on behalf of the Attorney General or by a receiver appointed under the said Ordinance in relation to the realisable property of the person in question.
- (4) Where a certificate has been issued under subsection (2) above the Attorney General or a person on his behalf may apply to the Court for an increase in the amount to be recovered under the confiscation order; and on that application the court may -
  - (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
  - increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 42 of the Criminal Justice Ordinance 1988 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (4) of that section.

#### Offences at sea

18. (1) Anything which would constitute a drug trafficking offence if done on land in Offences on the Falkland Islands shall constitute that offence if done on a British ship, but if done British ships. on a British ship which is a British ship registered at a port of registry outside the Falkland Islands only if that thing would also constitute a drug trafficking offence in the United Kingdom.

(2) For the purposes of subsection (1) above, an offence is a drug trafficking offence 1990 c.5 in the United Kingdom if it is a drug trafficking offence for the purposes of Part II of the Criminal Justice (International Co-operation) Act 1990 (which Part of that Act makes provision corresponding to the provisions of this Part of this Ordinance).

- (3) Subsections (1) and (2) above have effect without prejudice to the application to British ships in accordance with its terms of section 18 of the Criminal Justice (International Co-operation) Act 1990.
- 19. (1) This section applies to a British ship, a ship registered in a state other than the Ships used for United Kingdom which is party to the Vienna Convention (a "Convention state") and a ship not registered in any country or territory.

illicit traffic.

1990 c.5 s.19

- (2) A person commits an offence if on a ship to which this section applies, wherever it may be, he -
  - (a) has a controlled drug in his possession; or
  - (b) is in anyway knowingly concerned in the carrying or concealing of a controlled drug on the ship,

knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 3(1) of the Misusc of Drugs Ordinance 1987 or the law of any country or territory other than the Falkland Islands.

- (3) A certificate purporting to be issued by or on behalf of the government of any state to the effect that the importation or export of a controlled drug is prohibited by the law of that state shall be evidence of the matters stated.
- (4) A person who commits an offence under this section is liable -
  - (a) in a case where the controlled drug is a Class A drug on conviction, to imprisonment for life or a fine (wihout limit on the amount of fine which may be imposed) or both:
  - (b) in a case where the controlled drug is a Class B drug on conviction of indictment, to imprisonment for a term not exceeding fourteen years or a fine or both; (without limit on the amount of the fine which may be imposed)
  - (c) in a case where the controlled drug is a Class C drug on conviction, to imprisonment for a term not exceeding five years or a fine or both.
- (5) In subsection (2) above "United Kingdom" includes the United Kingdom, the Channel Islands, the Isle of Man and every colony of dependent territory of the United Kingdom to which the Vienna Convention applies and, "state other than the United Kingdom" includes every other country or territory which the Vienna Convention may have been applied by the action of the Convention state which is responsible for the international relations of that country or territory.
- (6) In this section "a controlled drug" and the references to controlled drugs of a specified Class have the same meaning as they have under the Misuse of Drugs Ordinance 1987; and an offence under this section shall be included in the offences to which section 25 of that Ordinance (defences) applies.
- 20. (1) The powers conferred on an enforcement officer by Schedule 3 to this Ordinance Enforcement shall be exercisable in relation to any ship to which section 18 or 19 above applies for the purpose of detecting and the taking of the appropriate action in respect of the offices mentioned in those sections.

- (2) Those powers shall not be exercised outside the landward limits of the territorial sea of the Falkland Islands in relation to a ship registered in a Convention state except with the authority of the Governor and he shall not give his authority in relation to a ship registered in a Convention state other than the United Kingdom unless that state has in relation to that ship
  - requested the assistance of the United Kingdom or the Falkland Islands for the purpose mentioned in subsection (1) above; or
  - (b) authorised the United Kingdom or the Falkland Islands to act for that purpose.
- (3) In giving his authority pursuant to a request or authorisation from a Convention state the Governor shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.
- (4) The powers conferred by Schedule 3 to this Ordinance shall not be exercised in the territorial sea of any other country or state.
- (5) The Governor shall not authorise under subsection (3) above the exercise of powers conferred by Schedule 3 to this Ordinance in relation to a ship registered in a Convention state other than the United Kingdom except -
  - (a) upon the instructions of the Secretary of State; or

- (b) after consulting the Secretary of State and in accordance with such instructions, if any, as he may then receive.
- (6) In subsection (5) above "United Kingdom" has the same meaning as it has under section 19(5) above.
- 21. (1) Proceedings under this Part of this Ordinance or Schedule 3 in respect of an offence on a ship may be taken as if they were offences to which section 23 of the Misuse of Drugs Ordinance 1987 related and the offence may for all incidental purposes be treated as having been committed in the Falkland Islands.

Jurisdiction and

1990 c.5 s.21

- (2) No such proceedings shall be instituted except by or with the consent of the Attorney General.
- (3) Without prejudice to subsection (2) above, no proceedings for an offence under section 20 above alleged to have been committed outside the landward limits of the territorial sea of the Falkland Islands on a ship registered in a Convention state (other than the United Kingdom) shall be instituted except with the consent of the Governor and (so far as is applicable) in accordance with the requirement for his consent under section 3 of the Territorial Waters Jurisdiction Act 1878.

(4) In subsection (3) above, "United Kingdom" has the same meaning as it has under section 19(5) above.

#### Supplementary

22. (1) The Misuse of Drugs Ordinance 1987 (in this section called "the 1987 Ordinance") is amended in accordance with this section.

Amendment of Misuse of Drugs Ordinance 1987.

- (2) In section 13(1) (prohibition direction on practitioners etc in consequence of a conviction) -
  - (a) after paragraph (b) thereof there shall be inserted —

"(c) an offence under section 14 or 15 of the Criminal Justice Ordinance

- (b) the word "or" at the end of paragraph (a) thereof shall be deleted;
- (c) the word "or" at the end of paragraph (b) thereof shall be deleted:
- (3) In section 19 (offences by corporations) there shall be inserted the words "of Part III of the Criminal Justice Ordinance 1991".
- (4) In section 21 (powers to search and obtain evidence)
  - (a) in subsection (3) after the words "Justice of the Peace" there shall be inserted the words "or the Senior Magistrate";
  - (b) after subsection (3) there shall be inserted —

"(3A) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part III of the Criminal Justice Ordinance 1991 and subsection (3) above (excluding paragraph (a)) shall apply also to offences under section 13 or 14 of that Ordinance, taking references in those provisions to controlled drugs as references to scheduled substances within the meaning of that Part."

- (5) In the Schedule (controlled drugs)
  - there shall be added at the end of sub-paragraph (a) of paragraph 1 of Part 1 (Class A drugs) the words "and any other substance or product which is a Class A drug within the meaning of and for the purposes of the Misuse of Drugs Act 1971";

1971 c.38

- (b) there shall be added at the end of paragraph 1 of Part 2 (Class B drugs) the following -
  - "(c) any other substance or product which is a Class B drug within the 1971 c.38 meaning of and for the purposes of the Misuse of Drugs Act 1971.",

and the full stop at the end of sub- paragraph (b) of that paragraph is replaced by a comma: and

(c) there shall be added at the end of paragraph 1 of Part 3 (Class C Drugs) the words "and any other substance or product which is a Class C drug within the meaning of and for the purposes of the Misuse of Drugs Act 1971."

#### PART IV

# DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

23. In this Part of this Ordinance -

Interpretation of

"cash" includes coins and notes in any currency;

1990 c.5 5.29(1)

"customs officer" means an officer appointed by the Governor to be a customs officer;

"drug trafficking" has the same meaning as in the Drug Trafficking Offences Ordinance 1989;

"exported", in relation to any cash, includes its being brought to any place in the Falkland Islands for the purpose of being exported;

"the proceeds of drug trafficking" has the same meaning as in the said Ordinance of 1989 and includes proceeds received by a person before as well as after the coming into force of this Part of this Ordinance.

24. (1) A customs officer or police officer may seize and, in accordance with this section. Seizure and detain any cash which is being imported into or exported from the Falkland Islands if its detention amount is not less than the prescribed sum and he has reasonable grounds for supsecting that it directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

1990 c.5 s.25

- (2) Cash seized by virtue of this section shall not be detained for more than forty-eight hours unless its continued detention is authorised by an order made by a justice of the peace or the Senior Magistrate; and no such order shall be made unless the justice or, as the case may be, the Senior Magistrate is satisfied -
  - (a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and
  - (b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the Falkland Islands or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.
- (3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order; and the Magistrate's Court or the Summary Court, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that -
  - (a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and
  - the total period of detention shall not exceed two years from the date of the order under subsection (2) above.
- (4) Any application for an order under subsection (2) or (3) above shall be made by or on behalf of the Attorney General.
- (5) At any time while cash is detained by virtue of the foregoing provisions of this section -
  - (a) the Senior Magistrate may direct its release if satisfied
    - (i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2) above; or
    - on an application made by any other person, that detention of the cash is not for that or any other reason justified; and

- a customs officer or police officer, if so authorised in writing by the Attorney General, may release the cash but first shall notify the court under whose order it is being detained, and the Attorney General shall not authorise the release of the cash unless he is satisfied that its detention is no longer justified.
- (6) If at a time when any cash is being detained by virtue of the foregoing provisions of this section -
  - (a) an application for its forfeiture is made under section 25 below; or
  - (b) proceedings are instituted (whether in the Falkland Islands or elsewhere) against any person for an offence with which the cash is connected,

the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

(7) In subsection (1) above "the prescribed sum" means £5000 or such greater sum in 1990 c.5 s.29(2) sterling as may for the time being be prescribed for the purposes of that subsection by an Order made by the Governor and in determining under this section whether an amount of currency other than sterling is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.

25. (1) The Supreme Court may order the forfeiture of any cash which has been seized Forfeiture. under section 24 above if satisfied, on an application made while the cash is detained under that section, that the cash directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

- (2) Any application under this section shall be made by or on behalf of the Attorney General.
- (3) The standard of proof in proceedings on an application under this section shall be that applicable to civil proceedings, and an order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.
- 26. Cash seized under this Part of this Ordinance and detained for more than forty-eight Interest. hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture

27. (1) An order under section 24(2) above shall provide for notice to be given to persons Procedure. affected by the order.

1990 c.5 s.28

- (2) The Chief Justice may make rules of court with respect to applications to any court under this Part of this Ordinance, for the giving of notice of such applications to persons affected, for the joinder, of such persons as parties and generally with respect to the procedure under this Part of this Ordinance before any court.
- (3) Subsection (2) above is without prejudice to the generality of any existing power of the Chief Justice to make rules.

#### PART V **GENERAL**

28. (1) Any expenses incurred by the Governor or any public officer under this Ordinance Expenses. shall be defrayed out of money appropriated by Ordinance.

1990 c.5 s.30

- (2) Any money representing cash forfeited under Part IV of this Ordinance shall be paid into the Consolidated Fund.
- 29. (1) The enactments mentioned in Schedule 4 to this Ordinance shall have effect with the amendments there specified.

Consequential and other amendments.

(2) For the avoidance of doubt it is hereby declared that the amendment by that Schedule of the definition of "drug trafficking offence" in section 2(1) of the Drug Trafficking Offences Ordinance 1989 applies to that definition as applied by any other enactment, including this Ordinance.

# EVIDENCE FOR USE OVERSEAS: PROCEEDINGS OF NOMINATED COURT

### Securing attendance of witnesses

1. The court shall have the like powers for securing the attendance of a witness for the purpose of the proceedings as it has for the purpose of other proceedings before the court.

#### Power to administer oaths

2. The court may in the proceedings take evidence on oath.

#### Privilege of witnesses

- 3.(1) A person shall not be compelled to give in the proceedings any evidence which he could not be compelled to give
  - (a) in criminal proceedings in the Falkland Islands; or
- (b) subject to sub-paragraph (2) below, in criminal proceedings in the country or territory from which the request for the evidence has come.
- (2) Sub-paragraph (1)(b) above shall not apply unless the claim of the person questioned to be exempt from giving the evidence is conceded by the court, tribunal or authority which made the request.
- (3) Where such a claim made by any person is not conceded as aforesaid he may (subject to the other provisions of this paragraph) be required to give the evidence to which the claim relates but the evidence shall not be transmitted to the court, tribunal or authority which requested it if a court in the country or territory in question, on the matter being referred to it, upholds the claim.
- (4) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence if his doing so would be prejudicial to the security of the United Kingdom or of the Falkland Islands; and a certificate signed by or on behalf of the Governor to the effect that it would be so prejudicial for that person to do so shall be conclusive evidence of that fact.
- (5) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence in his capacity as an officer or servant of the Crown.
- (6) In this paragraph references to giving evidence include references to answering any question and to producing any document or other article and the reference in sub-paragraph (3) above the transmission of evidence given by a person shall be construed accordingly.

#### Transmission of evidence

- 4. (1) The evidence received by the court shall be furnished to the Governor for transmission to the court, tribunal or authority that made the request.
- (2) If in order to comply with the request it is necessary for the evidence to be accompanied by a certificate, an affidavit or other verifying document, the court shall also furnish for transmission such document of that nature as may be specified in the notice nominating the court.
- (3) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of a document the original or a copy shall be transmitted, and where it consists of any other article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.

#### Supplementary

- 5. For the avoidance of doubt it is hereby declared that the Bankers' Books Evidence Act 1879 in its application to the Falkland Islands applies to the proceedings as it applies to other proceedings before the court.
- 6. No order for costs shall be made in the proceedings.

#### SUBSTANCES USEFUL FOR MANUFACTURING CONTROLLED DRUGS

TABLE I

EPHEDRINE
ERGOMETRINE
ERGOTAMINE
LYSERGIC ACID
PHENLYPROPANONE
PSEUDOEPHEDRINE

The salts of the substances listed in this Table whenever the existence of such salts is possible.

TABLE II

ACETIC ANHYDRIDE ACETONE ANTHRANILIC ACID ETHYLETHER PHENYLACETIC ACID PIPERIDINE

The salts of the substances listed in this Table whenever the existence of such salts is possible.

#### SCHEDULE 3

#### **ENFORCEMENT POWERS IN RESPECT OF SHIPS**

#### Preliminary

- 1. (1) In this Schedule "an enforcement officer" means -
  - (a) a police officer;
  - (b) a customs officer;
  - (c) any other public officer or other person appointed by the Governor for the purposes of this Schedule.
- (2) In this Schedule "the ship" means the ship in relation to which the powers conferred by this Schedule are exercised.

#### Power to stop, board, divert and retain

- 2. (1) An enforcement officer may stop the ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to a port in the Falkland Islands and detain it there.
- (2) Where an enforcement officer is exercising his powers with the authority of the Governor given under section 20(2) of this Ordinance the officer may require the ship to be taken to a port in the Convention state in question or, if that state has so requested, in any other country or territory willing to receive it.
- (3) For any of those purposes he may require the master or any member of the crew to take such action as may be necessary.
- (4) If an enforcement officer detains a vessel he shall serve on the master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an enforcement officer.

#### Power to search and obtain information

- 3. (1) An enforcement officer may search the ship, anyone on it and anything on it including its cargo.
- (2) An enforcement officer may require any person on the ship to give information concerning himself or anything on the ship.
- (3) Without prejudice to the generality of those powers an enforcement officer may
  - (a) open any containers;

- (b) make tests and take samples of anything on the ship;
- (c) require the production of documents, books or records relating to the ship or anything on it;
- (d) make photographs or copies of anything whose production he has power to require.

# Powers in respect of suspected offence

- 4. If an enforcement officer has reasonable grounds to suspect that an offence mentioned in section 18 or 19 of this Ordinance has been committed on a ship to which that section applies he may —
- (a) arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of an offence; and
  - (b) seize and detain anything found on the ship which appears to him to be evidence of the offence.

#### Assistants

- 5. (1) An enforcement officer may take with him, to assist him in exercising his powers -
  - (a) any other persons; and
  - (b) any equipment or materials.
- (2) A person whom an enforcement officer takes with him to assist him may perform any of the officer's functions but only under the officer's supervision.

#### Use of reasonable force

6. An enforcement officer may use reasonable force, if necessary, in the performance of his functions.

#### Evidence of authority

7. An enforcement officer shall, if required, produce evidence of his authority.

#### Protection of officers

8. An enforcement officer shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Schedule if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

#### Offences

- 9. (1) A person commits an offence if he -
- (a) intentionally obstructs an enforcement officer in the performance of any of his functions under this Schedule;
- (b) fails without reasonable excuse to comply with a requirement made by an enforcement officer in the performance of those functions; or
  - (c) in purporting to give information required by an officer for the performance of those functions
    - (i) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
    - (ii) intentionally fails to disclose any material particular.
- (2) A person who commits an offence under this paragraph is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

#### **SCHEDULE 4**

(section 29(1))

# CONSEQUENTIAL AND OTHER AMENDMENTS

The Drug Trafficking Offences Ordinance 1989

1. The Drug Trafficking Offences Ordinance 1989 is amended as follows -

- (a) in section 5(4) after the words "section 23 of this Ordinance" the words "or section 15 of the Criminal Justice (Amendment) Ordinance 1991" shall be inserted;
  - (b) in the definition of "drug trafficking" in section 2(1) after paragraph (c) there is inserted —

"(d) manufacturing or supplying a scheduled substance within the meaning of section 13 of the Criminal Justice (Amendment) Ordinance 1991 where the manufacture or supply is an offence under that section;

(c) in the definition of "drug trafficking offence" in section 2(1) after paragraph (c) there is inserted —

"(cc) an offence under section 13, 15 or 19 of the Criminal Justice (Amendment) Ordinance 1991;".

#### The Criminal Justice Ordinance

2. The Criminal Justice Ordinance 1989 is amended by the insertion the following new Parts IIIA and IIIB —

#### "PART IIIA

#### DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

Introductory to Part IIIA. 70A. This Part of this Ordinance shall have effect in conjunction with the provisions Part II of the Criminal Justice Act 1988 in its application to the Falkland Islands under section 139 of and Schedule 9 to this Ordinance.

Interpretation of Part IIIA.

70B. (1) In this Part of this Ordinance -

"document" has the same meaning as it has under section 2(1) above;

of. 1984 c.60 s.72 & 1968 c.64 s.10

"proceedings" means criminal proceedings;

"statement" includes any representation of fact, whether made in words or otherwise.

(2) In this Part of this Ordinance any reference to a copy of a document includes —

(a) in the case of a document falling within paragraph (c) but not (d) of the definition of "document" in section 2(1) above, a transcript of the sounds or other data embodied therein;

(b) in the case of a document falling within paragraph (d) but not (c) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not;

(c) in the case of a document falling within both those paragraphs, such a transcript together with a still reproduction; and

(d) in the case of a document not falling within the said paragraph (d) of which a visual image is embodied in a document falling within paragraph, a reproduction of that image, whether enlarged or not,

and any reference to a copy of a material part of a document shall be construed accordingly.

(3) Nothing in this Part of this Ordinance shall prejudice any power of a court to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

Evidence from computer records. 70C. (1) In any proceedings, a statement in a document produced by a computer shall not be admissible as evidence of any fact stated therein unless it is shown —

1984 c.60 s.69

(a) that there are no reasonable grounds for believing that the statement is inaccurate because of improper use of the computer;

- (b) that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents;
- (c) that any relevant conditions specified in rules made under subsection (2) below are satisfied.
- (2) The Chief Justice may make rules requiring that in any proceedings where it is desired to give a statement in evidence by virtue of this section such information concerning the statement as may be required by the rules shall be provided and at such time as may be so required.
- (3) If it should happen that no rules made under subsection (2) above are in force and that rules of court are in force in England under section 69(2) of the Police and Criminal Evidence Act 1984 (a provision corresponding to subsection (2) above) or under any provision for the time being replacing that provision then those rules of court shall apply in the Falkland Islands with such modifications only as are necessary in the circumstances of the case.
- (4) In this section "computer" means any device for storing and processing information.

Supplementary to section 70C.

70D. Schedule 2A to this Ordinance shall have effect for the purpose of supplementing section 70C above.

#### PART IIIB

#### **EVIDENCE IN CRIMINAL PROCEEDINGS - GENERAL**

#### Introductory

Interpretation of Part IIIB.

70E. (1) In this Part of this Ordinance -

1984 c.60 s.82

"clerk of the court" or "clerk to the court" means the Registrar General unless another person has been appointed clerk of or to the court in question;

"confession" includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

"proceedings" means criminal proceedings.

(2) Nothing in this Part of this Ordinance shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

#### Convictions and acquittals

Proof of conviction and acquittals.

1984 c.60 s.73

- 70F. (1) Where in any proceedings the fact that a person has in the Falkland Islands been convicted or acquitted of an offence is admissible in evidence, it may be proved by producing a certificate of conviction or, as the case may be, of acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.
- (2) For the purposes of this section a certificate of conviction or of acquittal
  - (a) shall, as regards a conviction or acquittal on indictment, consist of a certificate, signed by the clerk of the court where the conviction or acquittal took place, giving the substance and effect (omitting the formal parts) of the indictment and of the conviction or acquittal; and

(b) shall, as regards a conviction or acquittal on a summary trial, consist of a copy of the conviction or of the dismissal of the information, signed by the clerk of the court where the conviction or acquittal took place or by the clerk of the court, if any, to which a memorandum of the conviction or acquittal was sent;

and a document purporting to be a duly signed certificate of conviction or acquittal under this section shall be taken to be such a certicate unless the contrary is proved.

- (3) References in this section to the clerk of a court include references to his deputy and to any other person having the custody of the court record.
- (4) The method of proving a conviction or acquittal authorised by this section shall be in addition to and not to the exclusion of any other authorised manner of proving a conviction or acquittal.

Conviction as evidence of commission of an offence.

1984 c.60.s.74

- 70G. (1) In any proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the Falkland Islands shall be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that that person committed that offence, whether or not any other evidence of his having committed that offence is given.
- (2) In any proceedings in which by virtue of this section a person other than the accused is proved to have been convicted of an offence by or before any court in the Falkland Islands he shall be taken to have committed that offence unless the contrary is proved.
- (3) In any proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which he is charged, if the accused is proved to have been convicted of the offence before any court in the Falkland Islands, he shall be taken to have committed that offence unless the contrary is proved.
- 4) Nothing in this section shall prejudice
  - (a) the admissibility in evidence of any conviction which would be admissible apart from this section; or
  - (b) the operation of any enactment whereby a conviction or a finding of act in any proceedings is for the purpose of any other proceedings made conclusive evidence of any fact.

Provisions supplementary to section 70G.

1984 c.60 s.

- 70H.(1) Where evidence that a person has been convicted of an offence is admissible by virtue of section 70G above, then without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based
  - (a) the contents of any document which is admissible as evidence of the conviction; and
  - (b) the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted,

shall be admissible in evidence for that purpose.

(2) Where in any proceedings the contents of any document are admissible in evidence by virtue of subsection (1) above, a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

- (3) Nothing in any of the following section 18 of this Ordinance (under which a conviction mentioned in that section); and shall affect the operation of section 70G above.
- (4) Nothing in section 70G above shall be construed as rendering admissible in any proceedings evidence of any conviction other than a subsisting one.

#### Confessions

Confessions.

1984 c.60 s.76

- 70I. (1) In any proceedings a confession made by an accused person may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained
  - (a) by oppression of the person who made it;
  - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.

- (3) In any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in subsection (2) above.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence
  - (a) of any facts discovered as a result of the confession; or
  - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies -
  - (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
  - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) In this section "oppression" includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).
- 70J. (1) Without prejudice to the general duty of the court at a trial on indictment to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial
  - (a) the case against the accused depends wholly or substantially on a confession by him; and

Confessions by mentally handicapped persons. 1984 c.60 s.77

- (b) the court is satisfied -
  - (i) that he is mentally handicapped; and
  - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in paragraphs (a) and (b) above.

- (2) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.
- (3) In this section -

"independent person" does not include a police officer or a person employed for, or engaged on, police purposes;

"mentally handicapped", in relation to a person, means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

"police purposes", includes the purposes of reserve police officers, of police cadets or other persons undergoing training with a view to becoming members of the police force or of any such reserve constables, cadets or other persons.

#### Miscellaneous

Exclusion of unfair evidence.

1984 c.60 s.78

- 70K. (1) In any proceedings the court may refuse to allow evidence on which the prosecution purposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.
- (2) Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

Time for taking accused's evidence.

1984 c.60 s.79

70L. If at the trial of any person for an offence -

- (a) the defence intends to call two or more witnesses to the facts of the case; and
- (b) those witnesses include the accused,

the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

Competence and compellability of accused's spouse.

- 70M. (1) In any proceedings the wife or husband of the accused shall be competent to give evidence
  - (a) subject to subsection (4) below, for the prosecution; and
  - (b) on behalf of the accused or any person jointly charged with the accused.
- (2) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence on behalf of the accused.
- (3) In any proceedings the wife or husband of the accused shall, subsection to subsection (4) below, be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if and only if —

- (a) the offence involves an assault, or injury or threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of sixteen; or
- (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
- (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling with paragraph (a) or (b) above.
- (4) Where a husband and wife are jointly charged with an offence neither spouse shall at the trial be competent or compellable by virtue of subsection (1)(a), (2) or (3) above to give evidence in respect of that offence unless that spouse is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any proceedings a person who has been but is no longer married to the accused shall be competent and compellable to give evidence as if that person and the accused had never been married.
- (6) Where in any proceedings the age of any person at any time is material for the purposes of subsection (3) above, his age at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or to have been his age at that time.
- (7) In subsection (3)(b) above "sexual offence" means an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967 section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978 in their respective application to the Falkland Islands.
- (8) The failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (9) For the sake of avoidance of doubt, it is declared that section 1(d) of the Criminal Evidence Act 1898 (which related to communications between spouses) and section 43(1) of the Matrimonial Causes Act 1965 (evidence as to marital intercourse) ceased to have effect in the Falkland Islands on 1st January 1986 (which is the date upon which the provisions of English law corresponding to this section came into effect in England).

70N. (1) The rules for the time being in force in England under section 81 of the Police and Criminal Evidence Act 1984 (which makes provision corresponding to subsections (2) and (3) below) shall, until and unless rules made under those subsections come into force in the Falkland Islands, have effect in the Falkland Islands with such modifications as are necessary (including in particular the substitution of a reference to the Supreme Court for every reference to the Crown Court or a Crown Court).

(2) The Chief Justice may by rules make provision —

- (a) requiring any party to proceedings before the Supreme Court to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings; and
- (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) above from adducing that evidence without the leave of the court.
- (2) Rules made by virtue of this section may specify the kinds of expert evidence to which they apply and may exempt facts or matters of any description specified in the rules.

Advance notice of expert evidence in the Supreme Court.

cf. 1984 c.60 s.81 Parts VII and VIII of the Police and Criminal Evidence Act 1984 etc.

- 70.0 (1) Nothing in the enactment of this Part of this Ordinance or of Part IIIA of this Ordinance is to be construed as affecting the application to the Falkland Islands, prior to the commencement of this Part and of Part IIIA of this Ordinance, of Parts VII and VIII of the Police and Criminal Evidence Act 1984 in so far as they so applied by virtue of Part XI of the Interpretation and General Clauses Ordinance 1977, but for the avoidance of doubt it is declared that those Parts of that Act cease so to apply on the commencement of this section.
- (2) It is further declared that in so far as any of the enactments repealed by section 119 of and Schedule 7 to the Police and Criminal Evidence Act 1984 previously applied to the Falkland Islands by virtue of the Application of Enactments Ordinance 1954, Part XI of the Interpretation and General Clauses Ordinance 1977 or any other written law of the Falkland Islands, such enactments ceased to apply to the Falkland Islands on the respective dates on which their repeal took effect in England."
- 3. The Criminal Justice Ordinance 1989 is further amended by the addition of the following new Schedule —

#### "SCHEDULE 2A (section 70D)

#### PROVISIONS SUPPLEMENTARY TO SECTION 70C

- 1. In any proceedings where it is desired to give a statement in evidence in accordance with section 70C above, a certificate
  - (a) identifying the document containing the statement and describing the manner in which it was produced;
  - (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced or by a computer;
  - (c) dealing with any of the matters mentioned in subsection
  - (1) of section 70C above; and
  - (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be evidence of anything stated in it; and for the purposes of this paragraph it shall be sufficient for a matter to be stated to be best of the knowledge and belief of the person stating it.

- 2. Notwithstanding paragraph 1 above, a court may require oral evidence to be given of anything of which evidence could be given by a certificate under that paragraph.
- 3. A person commits an offence who in a certificate tendered under paragraph I above in the Summary Court, the Magistrate's Court, the Crown Court or the Court of the Appeal makes a statement which he knows to be false or does not believe to be true and a person convicted of such an offence is liable to imprisonment for a term not exceeding two years or to a fine not exceeding the maximum of level 8 on the standard scale or both.
- 4. In estimating the weight, if any, to be attached to a statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular
  - (a) to the question whether or not the information which the information contained in the statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information; and

- (b) to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts
- 5. For the purposes of paragraph 4 above information shall be taken to be supplied to a computer whether it is supplied directly (with or without human intervention) by means of any appropriate equipment.
- 6. Where in any proceedings a statement contained in a document is admissible in evidence in accordance with section 70C above it may be proved
  - (a) by the production of a document; or
  - (b) (whether or not that document is still in existence) by the production of a copy of that document, or of the material part of it;

authenticated in such manner as the court may approve.

- 7. For the purpose of deciding whether or not a statement is so admissible the court may draw any reasonable inference
  - (a) from the circumstances in which the statement was made or otherwise came into being; or
  - (b) from any other circumstances, including the form and contents of the document in which the statement is contained.
- 8. The Chief Justice may make rules for supplementing the provisions of section 70C above or this Schedule."
- 4. The Criminal Justice Ordinance 1989 is further amended by the addition thereto of the following new section and Schedule —

"Adoption of Parts 11 and 111 of Schedule 2 to the Criminal Justice Act 1988 (1988 c.33)

- 139 (1) Part II (documentary evidence in criminal proceedings), Part II (other provisions about evidence in criminal proceedings) of and Schedule 2 (documentary evidence supplementary) to the Criminal Justice Act 1988 are adopted as law of the Falkland Islands with the modifications set out in Schedule 9 to this Ordinance.
- (2) Nothing in subsection (1) above or in Schedule 9 to this Ordinance shall be construed as affecting the application to the Falkland Islands of the said Parts II and III of and Schedule 2 to the Criminal Justice Act 1988 under Part XI of the Interpretation and General Clauses Ordinance prior to the commencement of this section, but after such commencement they shall apply to the Falkland Islands only by virtue of subsection (1) above."

#### **SCHEDULE 9**

(Section 139)

# MODIFICATION OF PARTS II AND III OF AND SCHEDULE 2 TO THE CRIMINAL JUSTICE ACT 1988 IN THEIR APPLICATION TO THE FALKLAND ISLANDS

- 1. In section 23 (first-hand hearsay) -
- (a) paragraph (b) of subsection (1) is replaced by -
  - "(b) subject to any requirement of or under any written law that evidence given orally at an original trial shall be given orally at any retrial";
- (b) in paragraph (c) of subsection (1) the words "section 69 of the Police and Criminal Evidence Act 1984" shall be replaced by the words "section 70C of the Criminal Justice Ordinance 1989";
- (c) in paragraph (b) of subsection (2) the words "United Kingdom" are replaced by the words "Falkland Islands"; and

- (d) in subsection 4 the words "section 76 of the Police and Criminal Evidence Act 1984" are replaced by the words "section 70I of the Criminal Justice Ordinance 1989".
- 2. In section 24 (business etc. documents) —
- (a) paragraph (b) of subsection (1) is replaced by -

"(b) subject to any requirement of or under any written law that evidence given orally at an original trial shall be given orally at any retrial"; (b) paragraph (c) of subsection (l) shall be omitted;

- (b) in subsection (3) the words "section 76 of the Police and Criminal Evidence Act 1984" are replaced by the words "section 70I of the Criminal Justice Ordinance 1989"; and
- 3. In section 25 (principles to be followed by court) subsection (1) is replaced by the following "(1) If, having regard to all the circumstances
  - (a) the Supreme Court
    - (i) on a trial on indictment:
    - (ii) on an appeal from the Magistrate's Court or the Summary Court;
  - (b) the Court of Appeal; or
  - (c) the Magistrate's Court or the Summary Court on a trial of an information.

is of opinion that in the interests of justice a statement which is admissible by virtue of section 23 or 24 above nevertheless ought not to be admitted, it may direct that the statement shall not be admitted."

- 4. In section 29 (issue of letters of request) —
- (a) in subsection (l) after the words "justice of the peace" are inserted the words, "the Senior Magistrate";
- (b) in paragraph (b) of subsection (l) the words "United Kingdom" are replaced by the words "Falkland Islands";
- (c) in subsection (3) the words "a prosecuting authority" are replaced by the words "the Attorney General, the chief police officer or any person acting on the authority of either of them"; and
- (d) subsection (5) is replaced by -
  - "(5) Without prejudice to the generality of any written law of the Falkland Islands conferring upon him power to make them, the Chief Justice may by rules make such provision as appears to him to be necessary or convenient for the purposes of this section and in particular for the appointment of a person before whom evidence may be taken in pursuance to a letter of request."
- 5. In section 31 the words "Crown Court Rules may make provision" are replaced by the words "the Chief Justice may by rules make provision."
- 6. Section 32 is omitted.
- 7. Paragraphs 4, 5 and 6 of Schedule 2 are replaced by the following -
  - "4. Without prejudice to the generality of any written law of the Falkland Islands conferring power upon him to make them, the Chief Justice may make rules making such provision as appears to him necessary or expedient for the purpose of the purposes of Part II of this Act in its application to the Falkland Islands.
  - 5. Where an expression is used both in Part II of this Act and in Part I of the Civil Evidence Act 1968 that expression in Part II of this Act is to be construed in accordance with section 10 of that Act.
  - 6. In Part II of this Act "confession" has the same meaning as it has under section 70E(1) of the Criminal Justice Ordinance 1989."
- 8. Part I of Schedule 6 to the Criminal Justice Ordinance 1989 (preserved powers of arrest) is amended by inserting after "Customs Ordinance (Cap. 16)" the words "Fisheries (Conservation and Management) Ordinance 1986!"

**OBJECTS AND REASONS** 

As stated in the long title to the Bill.

# The Road Traffic (Amendment) (No. 2) Bill 1991 (No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short title and commencement.
- 2. Amendment of section 4 of the Road Traffic Ordinance (Cap. 60).

## A Bill for An Ordinance to amend the Road Traffic Ordinance

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

1. This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1991 Short title and and shall come into operation on 1st January 1991.

commencement.

2.(1) Section 4(1), (2) and (3) of the Road Traffic Ordinance is repealed and replaced by the following section -

Amendment of section 4 of the Road Traffic Ordinance (Cap.

"Motor Vehicle 4.(1) Subject to subsection (3) there shall be charged, levied and paid in respect of every motor vehicle or trailer used on a road, Licences duty at the following annual rates -

Trailer	£ 3.00
Motorcyle	£11.00
Cars, landrovers,	£27.00
Vans Lorries, tractors and	
other heavy vehicles	£43.00

- (2) A licence may be taken out in respect of any vehicle mentioned in subsection (1) for a period of three months, six months or nine months on payment of the appropriate fraction of the annual duty in respect of that vehicle.
- (3) Subsections (1) and (2) do not apply to vehicles which are —
  - (a) the property of the Crown (whether in right of the Falkland Islands or of the United Kingdom of Great Britain and Northern Ireland) or of the British Antarctic Survey;
  - (b) vehicles usually kept in the Falkland Islands at a place not in East Falkland."
- (2) Section 4(5) of the Road Traffic Ordinance is renumbered so as to become section 4(4) (there being presently no section 4(4)).

#### OBJECTS AND REASONS

To increase motor vehicle and trailer duties and to apply them to all vehicles (except those mentioned in section 4(3) (as amended) of the Road Traffic Ordinance) usually kept in East Falkland.

# The Bills of Exchange (Adopted Legislation) Bill 1991

#### EXPLANATORY MEMORANDOM

#### Introductory

The Bills of Exchange Act 1882 is a most important piece of legislation in terms of banking law, codifying as it does provisions in relation to cheques and other bills of exchange. It applies to the Falkland Islands by reason of the provisions of section 81A of the Interpretation and General Clauses Ordinance 1977. The effect of the Bill would be to apply it under the terms of the Bill and instead of under the provisions of section 81A of the 1977 Ordinance.

#### Detail

Under the 1882 Act periods of time are allowed for doing certain things in relation to the honouring or dishonouring of cheques and other bills of exchange. Saturdays, Sundays, Good Fridays, Christmas Day, Bank holidays in England, days of public fast or thanksgiving and days which are declared under section 2 of the Banking and Financial Dealings Act 1971 to be non-business days are not to be counted for these purposes where the time limited for doing any act or thing is less than three days. This is so by reason of section 92 of the 1882 Act as amended. This section does not work entirely satisfactorily and it is desired to replace it, in the application of the 1882 Act to the Falkland Islands with a more satisfactory provision. This would be achieved by paragraph 3 of the Schedule to the Bill. Clause 2(1) of the Bill would have the effect of applying the 1882 Act subject to the modifications appearing in the Schedule. Clause 2(2) of the Bill is merely declaratory. The Cheques Act 1957 already applies to the Falkland Islands and would be continued by the clause. The substantial effect of that Act is that a paid cheque is evidence of the receipt of the monies paid by that cheque and a separate signed receipt is, in most cases, not necessary. The 1957 Act also protects bankers who pay unendorsed or irregularly endorsed cheques and gives protection to bankers in their collection of payment of cheques. Paragraphs 1 and 2 of the Schedule to the Bill make minor modifications to the Bills of Exchange Act 1882 in its application to the Falkland Islands and being ones which are required by local circumstances.

Since the new section 92 of the 1882 Act, in terms of its application to the Falkland Islands, refers to a definition of "non-business day" which would only appear in Falkland Islands law if the Interpretation and General Clauses Ordinance is amended as provided by the Interpretation and General Clauses (Amendment) Bill 1991, this present Bill cannot be enacted until that Bill is enacted.

# The Bills of Exchange (Adopted Legislation) Bill 1991

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short Title.
- 2. Application of Bills of Exchange Act 1882.

#### Schedule

#### A Bill

#### for

#### An Ordinance

to end the application of the Bills of Exchange Act 1882 to the Falkland Islands by virtue of section 81A of the Interpretation and General Clauses Ordinance 1977 and to apply it to the Falkland Islands subject to the modifications and adaptations specified in this Ordinance.

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

- 1. This Ordinance may be cited as the Bills of Exchange (Adopted Legislation) Ordinance Short title.
- 2. (1) On the enactment of this Ordinance the ceases to apply to the Falkland Islands Application of by virtue of section 81A of the Interpretation and General Clauses Ordinance 1977 and so applies by virtue of this subsection and subject to the modifications and adaptations change Act 1882. set out in the Schedule to this Ordinance.
- (2) Nothing in subsection (1) affects the application of the Bills of Exchange Act 1882 to the Falkland Islands prior to the enactment of this Ordinance, or the continued application of the Cheques Act 1957 by virtue of section 78 of the Interpretation and General Clauses Ordinance 1977.

Vict.c.61) (No. 14 of 1987)

#### **SCHEDULE**

(section 2(1))

Modifications and adaptations of the Bills of Exchange Act 1882 in its application to the Falkland Islands.

- 1. Every reference in the Act to "the British Islands" is replaced by a reference to the Falkland Islands and the definition of "British Islands" in section 4(1) of the Act is omitted.
- 2. Section 53(2) of the Act (which applies to Scotland) is omitted.
- 3. Section 92 is replaced by the following section -

Computation of time.

92. Where by this Act, the time limited for doing any act or thing is less than three days, in reckoning time, any day which is a non-business day (as defined by section 3 of the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands) is excluded."

#### **OBJECTS AND REASONS**

Under the Bills of Exchange Act 1882 certain days are "non-business days". These days include bank holidays declared in England and certain other days declared for the purposes of that Act to be non-business days, including days declared as such under the Banking and Financial Dealings Act 1971. The 1882 Act presently applies to the Falkland Islands under section 81A of the Interpretation and General Clauses Ordinance 1977. This is not satisfactory, because, clearly, the days on which banks may be shut in the Falkland Islands are not the same as those in England. Some adjustment is necessary. This Bill, and the Interpretation and General Clauses (Amendment) (No. 2) Bill 1991 in so far as it would by amendments to the Interpretation and General Clauses Ordinance 1977 amend the definition of "public holiday", insert a new definition of "non-business day" (both in section 3) amend sections 71, 72, replace section 73, and insert a new section 73A and seek to achieve the necessary adjustments.

#### EXPLANATORY MEMORANDOM

# The Interpretation and General Clauses (Amendment) Bill 1991

#### Introductory

During the course of the preparation of the Revised Edition of the Laws all written laws of the Falkland Islands are being considered as to whether amendments are sensibly required for legal reasons. During the course of this exercise various amendments required to the Interpretation and General Clauses Ordinance 1977 were identified and were effected by the Interpretation and General Clauses (Amendment) Ordinance 1991 the Bill for which was passed by the Legislative Council early in June 1991. This present Bill, which if enacted would become the Interpretation and General Clauses (Amendment) (No. 2) Ordinance 1991, would effect further amendments to the 1977 Ordinance the need for which has been identified in the course of the work being done in relation to the preparation of the Revised Edition of the Laws. These amendments are not believed to involve any matter of controversy or any decision of policy significance. The amendments which would be affected by the Bill are explained in this Memorandum.

#### New and Amended Definitions

Section 3 of the 1977 Ordinance contains a number of definitions of words and phrases for the purpose of Ordinances and Subsidiary Legislation of the Falkland Islands. Broadly speaking it is a "dictionary provision". Definitions appearing in section 3 of the 1977 Ordinance have the effect that the words and phrases defined have the meaning given by that section in all Ordinances and subsidiary legislation of the Falkland Islands unless the contrary is stated. Section 3 avoids the need to define words used in Ordinances and subsidiary legislation which are defined in that section unless, in the legislation in question, they are to have a different meaning. Amendments to section 3 of the 1977 Ordinance would be made by paragraph 1 of the Schedule to Bill.

Paragraph 1(a) to the Schedule would insert a new definition: that of "age of majority".

Paragraph 1(b) of the Schedule to the Bill would amend the definition of "alien" so as to state that an "alien" is a person who is not a "British subject".

The replacement of the definition of "arrestable" offence (in the 1977 Ordinance) is necessary because under the Criminal Justice Ordinance 1989 provisions of the law as to what are "arrestable offences" are spelt out in detail in an entirely different way from the present definition in the 1977 Ordinance and it is necessary, therefore, to bring the definition of "arrestable offence" in the 1977 Ordinance into line with that in the Criminal Justice Ordinance 1989. Paragraph 1(c) of the Schedule to the Bill would do this.

The present definition of "British subject" reflects the provisions of the British Nationality Act 1948, which was repealed by the British Nationality Act 1981. The new definition of "British subject" which would be inserted by paragraph 1(d) of the Schedule to the Bill, would reflect the position under the 1981 Act.

"Fishing waters" is defined in the Fisheries (Conservation and Management) Ordinance 1986, which was of course enacted after the Interpretation and General Clauses Ordinance 1977. It is the internal waters, the territorial sea, the FICZ and the FOCZ. The definition of "fishing waters" in the Interpretation and General Clauses Ordinance 1977 in a manner reflecting that in the 1986 Ordinance will be useful in the terms of other legislation so that "fishery waters" in that legislation, unless the contrary is stated, will have the same meaning as in the 1986 Ordinance.

The definition of "non-business day" which would be inserted by paragraph 1(f) of the Schedule to the Bill is related to the provisions of sections 71 and 73 of the 1977 Ordinance. Many written laws of the Falkland Islands contain provisions requiring people to do things within a certain time (for example in response to a Statutory Notice served under the provisions of an Ordinance). Under section 71 of the 1977 Ordinance, as it at present stands, public holidays are not to count against a time period legally allowed where that time is short, and in the circumstances provided by section 71. Public holidays are, of course, generally speaking non-working days. But so, for most purposes, are Saturdays and Sundays.

It is regarded as being somewhat illogical that, against a short time limit, a public holiday on say the Friday or Monday would not count, but the Saturday and Sunday preceding or following them would. As will be seen later, the words "public holiday" in section 71 of the 1977 Ordinance would be replaced by the words "non-business day". By reason of the definition of "non-business day" to be inserted by paragraph I(f)(i) of the Schedule to the Bill, Saturdays and Sundays would not count against short time periods allowed for the purposes of any written law of the Falkland Islands. Equally public holidays would not count nor would any day appointed in exercise of the Royal Prerogative to be a day of public fast or thanksgiving.

In relation to "days of public fast or thanksgiving" it should perhaps be explained that Her Majesty has, in the exercise of Her Royal Prerogative, the right to appoint by Proclamation a day to be a day of public fast or thanksgiving. It is not known when the Royal Prerogative was last exercised to appoint a day of public thanksgiving, but it appears that it was last exercised to appoint a day of fast on the occasion of the Indian Mutiny in 1857. The existence of the Royal Prerogative in this respect is recognised in the Bills of Exchange Act 1882, which applies in the Falkland Islands and is most important for banking purposes. Even though the Royal Prerogative in question has not been exercised for a very long time, it is clear that it still exists and that it is therefore necessary to reflect it in the definition of "non-business day".

All distinctions between "misdemeanours" and "felonies" were abolished on 1 January 1968. The definition of "offence" presently appearing in section 3 of the 1977 Ordinance is therefore obsolete and needs to be replaced. Paragraph 1(g) of the Schedule to the Bill relates to this.

Paragraph 1(h) of the Schedule to the Bill would insert a new definition of "public holiday" according with the new section 73 (which is explained below).

Section 4 of the 1977 Ordinance defines "Commonwealth" in terms which are not entirely satisfactory because, at the time it was enacted, there was no satisfactory "acid test" in law which could be applied. The British Nationality Act 1981 provides in a large measure a satisfactory test of which countries are Commonwealth countries and which are not. The new section 4 has been drafted to take into account those provisions.

#### Other Provisions

Paragraph 3 of the Schedule to the Bill would amend section 28(e) (general power to provide for fines in subsidiary legislation) by replacing the reference to "£200" (that set in 1977) with "the maximum of level 4 on the standard scale". The levels on the standard scale are provided for by section 4 of the Criminal Justice Ordinance 1989 and "level 4" is currently £1000. The figures appearing in section 4(1) of the Criminal Justice Ordinance 1989 can be varied, if this is necessary by reason of inflation, by an Order under section 4(5) of the 1989 Ordinance.

Section 71 of the 1977 Ordinance would be amended by paragraph 4 of the Schedule to the Bill so as to replace the word "Ordinance" in the phrase "in computing time for the purposes of any Ordinance" with the words "any written law of the Falkland Islands". "Written law of the Falkland Islands" is defined in section 3 of the 1977 Ordinance (as amended) as meaning "any Ordinance and any subsidiary legislation". Paragraph 4 of the Schedule to the Bill would also replace "public holiday" appearing in section 71 with the words "non-business day". The reason for this has been explained in relation to the new definition of "non-business day" which would be inserted by an earlier provision of the Schedule to the Bill. Similarly paragraph 5 of the Schedule to the Bill would replace the word "Ordinance" appearing in section 72 of the 1977 Ordinance with the words "any written law of the Falkland Islands" with the effect mentioned above.

Section 73 of the 1977 Ordinance at present reads -

"73. The Governor may from time to time, by notice in the Gazette, appoint any day to be a public holiday.".

Paragraph 6 of the Schedule to the Bill would repeal and replace that section. Good Friday and the first Monday in October in every year have always traditionally been public holidays. So too, where they do not fall on Saturdays or Sundays have 1st January (New Year's Day), 14 June (Liberation Day), 8 December (Battle Day), 25 December (Christmas Day) and 26 December (Boxing Day) traditionally been public holidays.

The effect of the new section 73(1) would be to directly declare these dates always to be public holidays where they do not fall on a Saturday or Sunday. In respect of years when any of the dates just mentioned fall on a Saturday or Sunday, the new section 73(2) would have the effect of automatically transferring the public holidays which would otherwise have fallen on these dates to the next day which is not a non-business day. If, for example, Christmas Day fell on a Sunday in any year, the effect of the proposed new section 73(2) would be to transfer a public holiday to the following Monday (26 December). That date would have been a public holiday as Boxing Day, and section 73(2) would therefore transfer the public holiday which would otherwise be celebrated on the Monday (as Boxing Day) to the Tuesday (27 December). This, of course, entirely accords with past practice. If, in any year, Christmas Day (25 December) falls on a Friday, that day will, of course, be a public holiday. 26 December in that year (Boxing Day) would of course fall on a Saturday and the following Monday (28 December) would under section 73(2) be a public holiday. This again accords with past practice.

The new section 73(3) would enable the Governor to appoint any other day (not being one which would be a public holiday by virtue of section 73(1) or (2)) to be a public holiday. Section 73(4) is merely declaratory.

The new section 73A proposed by paragraph 7 of the Schedule to the Bill replaces in the law of the Falkland Islands section 2 of the Banking and Financial Dealings Act 1971 which would otherwise apply under section 81A of the 1977 Ordinance. Section 73A is modelled on section 2 of the 1971 Act but incorporates such modifications to section 2 of the 1971 Act as appeared to be necessary in the circumstances of the Falkland Islands. Section 73A is, in effect, an emergency power which would be usable, for example, where there is a currency crisis involving, perhaps, a run on the Pound or on gold or silver. Is a necessary power but, of course, it is hoped that it would never have to be used. It does not, however, represent any change in principle in the existing law (because section 2 of the 1971 Act at present applies).

Paragraph 10 of the Schedule to the Bill would replace section 93 of the 1977 Ordinance with a provision more satisfactorily reflecting the provisions of the Constitution and various Acts (for example the Territorial Waters Act 1878) which require, in certain instances, the consent of the Governor to a prosecution.

# The Interpretation and General Clauses (Amendment) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- 1. Short title.
- 2. Amendment of the Interpretation and General Clauses Ordinance 1977.

# A Bill for An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

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

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Short title. (No.2) Ordinance 1991.

2. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of the Interpreta-

Amendment of the Interpretation and General Clauses Ordinance 1977. No. 14 of 1977.

#### SCHEDULE

(section 2)

#### AMENDMENT OF INTERPRETATION AND GENERAL CLAUSES ORDINANCE

- 1. Section 3 of the Ordinance is amended -
  - (a) by inserting therein, immediately before the definition of "aircraft" the following new definition —

"age of majority", in relation to a person, means the age of eighteen years;"

- (b) by replacing the definition of "alien" appearing therein with the following definition "alien" means a person who is not a British subject;
- (c) by repealing the definition of "arrestable offence" appearing therein and replacing it with the following definition —
- ""arrestable offence" has the same meaning as it has for the purposes of the Criminal Justice Ordinance 1989;"
- (d) by repealing the definition of "British subject" appearing therein and by replacing it with the following definition —

""British subject" means -

- (a) in relation to any time before 1st January 1983, means any person who was, at that time
  - (i) a British subject or 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;

- (b) in relation to any time after 31st December 1982, means any person who at that time -
  - (i) a British citizen, British Dependent Territories citizen, a British National (Overseas) 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);
- (e) by inserting immediately before the definition of "folio" appearing therein the following new definition —
- ""fishing waters" has the same meaning as it has under the Fisheries (Conservation and Management) Ordinance 1986;
- (f) by inserting therein, immediately before the definition of "oath" and "affidavit" the following new definition —
- ""non-business day" means -
  - (i) every Saturday and Sunday, Good Friday, and each of the following dates in every year which does not fall on a Saturday or a Sunday —

1st January, 14th June, 8th December, 25th December and 26th December;

- (ii) any other day which in section 73(2) is declared to be a public holiday;
- (iii) any other day appointed under section 73(3) to be a public holiday;
- (iv) any day appointed in exercise of the Royal Prerogative to be a day of public fast or thanksgiving;"
- (g) by repealing the definition of "offence" appearing therein, and by replacing it with the following definition —
- ""offence" means an act, other than an act constituting a contempt of court, in respect of which a person on being convicted or found guilty thereof by a court, is liable to be sentenced to suffer death, to be sentenced to a term of imprisonment or to be sentenced to pay a fine or one or more of the foregoing;"
- (h) by repealing the definition of "public holiday" appearing therein and by replacing it with the following definition —
- ""public holiday" means any day stated in section 73(1), declared in section 73(2) or appointed under section 73(3) to be a public holiday;".
- 2. Section 4 of the Ordinance is repealed and replaced by the following new section 4 -

"Definition of Commonwealth

- 4. (1) A country, province or territory is for the purposes of any written law of the Falkland Islands to be regarded as a Commonwealth country if it is
  - (a) the United Kingdom or Great Britain and Northern Ireland;
  - (b) England, Scotland, Wales or Northern Ireland;
  - (c) one of the British Islands (that is to say one of the Channel Islands or the Isle of Man);
  - (d) a country mentioned in Schedule 3 to the British Nationality Act 1981;
  - (c) a territory mentioned in Schedule 6 to the British Nationality Act 1981; or
  - (f) any other country, province or territory, not being an integral part of the territory of any state or country mentioned in Schedule 3 to the British Nationality Act 1981, which, at least in respect of its external affairs, is subject to the control of the United Kingdom of Great Britain and Northern Ireland or of a state or country mentioned in the said Schedule 3.
- (2) A certificate under the hand of a Secretary of State or of the Governor stating that, at the time or times mentioned in the certificate and either in direct terms or by necessary implication that a country, province or territory is or was one falling within paragraph (f) of subsection (l) shall be conclusive as to that fact."

- 3. Section 28(e) is amended by replacing the words "two hundred pounds" appearing therein with the words "the maximum of level 4 on the standard scale".
- 4. Section 71 is amended -
  - (a) by replacing the word "Ordinance" with the words "any written law of the Falkland Islands";
  - (b) by replacing the words "public holiday", wherever they appear, with the words "non-business day".
- 5. Section 72 is amended by replacing the word "Ordinance" with the words "any written law of the Falkland Islands."
- 6. Section 73 is repealed and replaced by the following new section 73 -

"Public holidays and nonbusiness days.

- 73.(1) Good Friday and the first Monday in and non-business days. October in every year and, where they do not fall on a Saturday or Sunday, 1st January, 21st April, 14th June, 8th December, 25th December and 26th December are public holidays.
- (2) Where, in any year 1st January, 21st April, 14th June, 8th December, 25th December or 26th December fall on a Saturday or Sunday or (in the case of 26th December) a day which is a public holiday by the operation of this subsection in relation to the public holiday which would otherwise fall on 25th December, the next following day which is not a non-business day shall be a public holiday.
- (3) The Governor may by Notice in the Gazette appoint any other day to be a public holiday.
- (4) Except as provided by section 73A or by any other written law of the Falkland Islands it is not unlawful for any person to transact any business or do any other thing on a public holiday or other non-business day.
- 7. The following new section is inserted in the Ordinance immediately after section 73 —

"Power to suspend financial dealings...

- 73A. (1) It if appears to the Governor that it is necessary or expedient so to do in the national interest, he may by Order give, with respect to a day specified in the order, all or any of the following directions, namely
  - (a) a direction that, subject to any exceptions for which provision may be made by the order, no person carrying on the business of a banker shall, except with permission granted by or on behalf of the Governor effect on that day, in the course of that business, any transaction or, according as may be specified in the order, a transaction of such kind as may be so specified;
  - (b) a direction that, subject as aforesaid no person shall, on that day, except with permission so granted, deal in any foreign currency of such kind as may be so specified;
  - (c) a direction that, subject as aforesaid, no person shall on that day, except with permission so granted, deal in any gold;
  - (d) a direction that, subject as aforesaid, no person shall on that day, except with permission so granted, deal in silver bullion.
- (2) A person who knowingly or recklessly contravenes a direction given by an order under subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.
- (3) For the purposes of this section "banker" includes any person licensed as a financial institution under the Banking Ordinance 1987.
- (4) Where an Order under subsection (1) has been made any day specified therein shall, for the purposes of section 71, be a non-business day for any activity which is prohibited by that Order and is not permitted by any direction given pursuant to that Order but shall not otherwise by virtue only of the making of that Order be a non-business day for the purposes of section 71."

- 8. Section 74 is amended by replacing the word "Ordinance" with the words "any written law of the Falkland Islands except in so far as the context otherwise requires".
- 9. Section 91 is repealed.
- 10. Section 93 is repealed and replaced by the following new section 93 -

"Prosecution of offences.

- 93.(1) Subject to this section, where in any written law of the Falkland Islands it is provided that an offence shall not be prosecuted except by or with the consent of holder of some named office, other than the office of the Attorney General, the provision shall be read and construed as if it required that the offence shall not be prosecuted except by or with the consent of the Attorney General and the consent of the holder of the office named in that provision shall not be required.
- (2) Subsection (1) has effect without prejudice to any provision providing that an offence specified therein may be prosecuted only by or with the consent of either the holder of some office named therein or by or with the consent of the Attorney General.
- (3) Subsection (1) has effect without prejudice to any provision providing that an offence may only be prosecuted with the consent of both the Governor and the Attorney General?"

#### **OBJECTS AND REASONS**

The objects of this Bill are -

- (a) to insert new definitions of "age of majority" and "fishing waters" which are useful for general purposes;
- (b) to amend the definition of "arrestable offence" to one consistent with the relevant provisions of the Criminal Justice Ordinance 1989;
- (c) to amend the definition of "British subject" so that it is the reverse of the definition of alien";
- (d) to make more satisfactory provision as to public holidays;
- (e) to more satisfactorily define "Commonwealth";
- (f) when read together with the Bills of Exchange (Adopted Legislation) Bill 1991 to make provision related to public holidays and non-business days in the Falkland Islands, rather than in England, as to negotiation of bills of exchange in the Falkland Islands;
- (g) to repeal provisions which are related to the existence of "misdemeamours" and "felonies" (which are "offences" in the Falkland Islands, the distinctions between them having been abolished);
- (h) to make more satisfactory provision as to consents for prosecution.

# The Family Allowances (Amendment) (No. 2) Bill 1991

(No. of 1991)

#### 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) (No. 3) Ordinance Citation and 1991 and shall come into force on the first day of January 1992.

2. The Family Allowances Ordinance 1960 is amended by -

Ordinance No. 9

- (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 £38.50"; and
  - (b) by the repeal of section 3(3) and by the substitution thereof 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) below to whom he is paying an allowance or allowances under section 3(2) above an allowance of thirty two pounds in addition to the allowance or allowances being paid under that provision.

#### **OBJECTS AND REASONS**

To increase the sums payable under the Family Allowances Ordinance 1960 as follows:

	Present Allowance	Proposed Allowance	Incre £ %	
Child Allowance	£36.00	£38.50	2.50	6.94
Single Parent Allowance	£30.00	£32.00	2.00	6.66



# FALKLAND ISLANDS GAZETTE

# Supplement

**PUBLISHED BY AUTHORITY** 

No. 18

Vol. 2 28th AUGUST 1991

The following is published in this Supplement —

The Fishing Licences (Applications and Fees) Regulations Order 1991 (S.R. & O. No. 18 of 1991).

#### SUBSIDIARY LEGISLATION

#### **FISHERIES**

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

# The Fishing Licences (Applications and Fees) Regulations Order 1991

(S.R. & O. No. 18 of 1991)

Made: 28th August 1991

Coming into operation: 28th August 1991

Published: 28th August 1991

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) Regula- Citation and tions Order 1991 and shall come into operation on the date it is first published in the Gazette Commencement. and cease to have effect on the 30th June 1992.

- (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 -

"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 trawl or trawls;

"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;

"FICZ" means the interim conservation and management zone as defined in Section 2 of The Fisheries (Conservation and Management) Ordinance 1986;

"fishing licence" means a licence to catch or take fish within the fishing waters;

"jigger" means a fishing boat which is equipped so as to be able to catch or take fish by means of jigging machines:

"northern area" means all that part of the FICZ which lies to the north of latitude 51° 15' South, east of 60° West and north of latitude 51° 30' South, west of 60° West;

"southern area" means all that part of the FICZ which lies to the south of latitude 51° 15' South, east of 60° West and south of latitude 51° 30' South, west of 60° West; "the fishing season" means -

- in relation to an "A" Licence the period commencing on 1 January 1992 and ending 30th June 1992;
- (b) in relation to a "B" Licence the period commencing on 1 March 1992 and ending on 31st May 1992;
- in relation to a "C" Licence the period commencing on 1 February 1992 and ending on 31st May 1992:

"the principal Regulations" means the Fishing Regulations Order 1987; and

"trawler" means a fishing boat which is equipped so as to be able to catch or take fish by means of a trawl or trawls.

4. For so long as these Regulations are in force such of the provisions of the principal Suspension of Regulations as are inconsistent with these Regulations shall not be in force, but except as certain proviaforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of these Regulations.

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 of any finfish, that is to say vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case include squid of any kind.
- 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.

6. (1) Applications for licences in respect of the whole or any part of any fishing season Applications for shall be made to the Director of Fisheries at the Falkland Islands Fisheries Department Fishing Licences. P O Box 122, Stanley, Falkland Islands.

- (2) Any application to which paragraph (1) of this regulation relates shall be accompanied by an application fee of £200 (which shall not be returnable whether or not the application is granted) and shall be made so as to be received there by Monday 30th September 1991.
- (3) The Director of Fisheries in his discretion may consider an application lodged after the date mentioned in paragraph (2) of this regulation but shall not be bound to do so.
- 7. (1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable Fees for licences. for type "A" Licences.

- (2) Table 2 of the Schedule to these Regulations applies in respect of the fees payable for type "B" licences granted to any jigger.
- (3) Table 3 of the schedule to these Regulations applies in respect of the fees payable for type "B" licences granted to any trawler or combination vessel.
- (4) Table 4 of the Schedule to these Regulations applies in respect of type "C" licences.
- (5) All fees payable under this regulation shall be paid in pounds sterling and in accordance with the principal Regulations.
- (6) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and shall not have legislative effect.
- 8. (1) The Director of Fisheries may, if he thinks fit, grant a licence in respect of one Rotating or more vessels in rotation for one another.

- (2) Where a licence is granted under paragraph (1) the Director of Fisheries 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
  - (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 fleets waters appear therein.
- (3) The Director of Fisheries may require -
  - (a) that, where appropriate so as to take into consideration the overall fishing capacity of vessels as they are rotating for one another, a special licence fee calculated by reference to a formula approved by the Governor and published in the Gazette shall be paid in respect of a rotating licence; and
  - (b) that an administrative fee of such amounts 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.
- 9. (1) The Director of Fisheries may, if he thinks fit, grant a "B" licence for such period within the fishing season as he thinks fit.

Short term

(2) Where a licence is granted under paragraph (1) a special licence fee, calculated by reference to a formula approved by the Governor and published in the Gazette shall be paid.

#### **SCHEDULE**

Provision as to fishing licences in respect of the fishing season

#### TABLE 1

Finfish only - Type "A" Licences

#### (Explanatory notes:

- 1. These notes are not of legislative effect but are for guidance only.
- 2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take finfish only.
- 3. The season for this type of licence commences on 1st January 1992 and ends on 30th June 1992 and will be subject to closed areas and The Fishing (Nets and Supplementary Equipment) Regulations Order 1990.
- 4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

#### Effective text (of legislative effect)

In the following Formula, "GT" means "Gross Tonnage" as shown in Tonnage Certificates issued in accordance with the International Tonnage Measurement Rules.

#### **FORMULA**

Fee payable per licensed month of fishing is the result of £(3.89  $\times$  GT + 2730) per month

#### TABLE 2

Jiggers - Squid north - Type "B" 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 jiggers licensed to take squid in the northern area and not to trawlers or combination vessels.
- 3. The season for this type of licence commences on 1st March and ends on 31st May 1992.

4. Fees calculated by the Formula set out in this Table are for the full season only.)

#### Effective text (of legislative effect)

- A. In the following Formula, "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with International Tonnage Measurement Rules; "D" means the number of double jigging machines located upon the jigger to which the licence relates and "S" means the number of single jigging machines located upon the jigger to which the licence relates.
- B. A licence is not transferable.

#### **FORMULA**

Where crew is less than or equal to 19 in number

Fee payable is the result of  $f(0.725 \times GT \times (S+1.5D) + 103,627)$ 

Where crew is greater than 19 in number

Fee payable is the result of f(0.725 X GT X(S+1.5D) + (3502 (Crew - 19)) + 103,627)

#### TABLE 3

Trawlers - Squid north - Type "B" 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 and combination vessels licensed to take squid in the northern area and not to jiggers.
- 3. The season for this type of licence commences on 1st March 1992 and ends on 31st May 1992 and is exempt from The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990.
- 4. Fees calculated by the Formula set out in this Table are for the full season only).

#### Effective text (of legislative effect)

In the following Formula "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

#### **FORMULA**

Fee payable is the result of  $f((6.091 \times GT) + 83,160)$ 

#### TABLE 4

Trawlers - Squid south - Type "C" 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 squid in the southern
- 3. The season for this type of licence commences on 1st February 1992 and ends on 31st May 1992 and is exempt from The Fishing (Nets and Supplementary Equipment) Regulation Order 1990 in certain parts of the southern area.
- 4. Fees calculated by the Formula set out in this Table are for the full season only).

#### Effective text (of legislative effect)

In the following Formula "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement rules.

#### **FORMULA**

Fee payable is the result of £(19.32 X GT + 133,400)

However, if the available freezing capacity of the trawler to which the licence relates is in the range 80 to 120 tonnes per day, as determined by The Director of Fisheries, the fee payable is 15% higher than that resulting from the above Formula.

If the available freezing capacity of the trawler to which the licence relates is greater than 120 tonnes per day as determined by the Director of Fisheries, the fee payable is 30% higher than that resulting from the above Formula.

Made this 28th day of August 1991.

W. H. FULLERTON, Governor.





# FALKLAND ISLANDS GAZETTE Supplement

### **PUBLISHED BY AUTHORITY**

Vol. 2

10th SEPTEMBER 1991

No. 19

The following is published in this Supplement —

The Falkland Islands Defence Force Bill 1991.

#### Falkland Islands Defence Force Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

Clause

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- 6. Emergency reserve.

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9. Force to be a land force.

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- 11. Proof of citizenship.
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#### A Bill for

#### An Ordinance

#### to make new provision in relation to the Falkland Islands Defence Force

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

#### PART 1 INTRODUCTORY

1. This Ordinance may be cited as the Falkland Islands Defence Force Ordinance 1991 and Short title and shall come into operation on such date as is appointed by the Governor by notice publish- commencement. ed in the Gazette.

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

Interpretation.

"active member of the Force" has the meaning given by section 4(1) below;

"British subject" means a British citizen, British dependent territories citizen, a British overseas citizen or a Commonwealth citizen within the meaning of those expressions under the British Nationality Act 1981;

"Commander British Forces" means the officer for the time being commanding Her Majesty's Forces in the Falkland Islands;

"Commanding Officer" means the officer for the time being commanding the Force;

"Crown" means the Crown in right of the Government of the Falkland Islands;

"Governor" means the Governor acting after consultation with the Commander British Forces and in accordance with such advice he gives him;

"Her Majesty's armed forces" means all or any of the armed forces of Her Majesty to which any of the Services Acts apply;

"home defence service" means service in the Falkland Islands as a member of the Force;

"man" means a person of either gender who is a member of the Force and who is not an officer of the Force, and includes a warrant officer and a non-commissioned officer;

"maximum age" means the age of fifty-five years;

"minimum age" means the age of seventeen years;

"officer" means a person commissioned under the provisions of this Ordinance or the provisions of the repealed Ordinance as an officer of the Force and who continues to hold his commission as such:

"the repealed Ordinance" means the Falkland Islands Defence Force Ordinance 1954;

(No. 4 of 1954)

"rules and regulations" includes Standing Orders of the Force made under section 46(1) below;

"reserve member of the Force" has the meaning given by section 5(1) below;

"the Service Acts" means the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 and any statutory modification or re-enactment of any such Act for the time being in force.

- (2) The question as to whether the Governor has on any matter consulted with the Commander British Forces or has acted in accordance with his advice shall not be called into question or enquired into by any court of law.
- (3) Save as expressly provided by any rules or regulations under this Ordinance, any order or determination required or authorised under this Ordinance by the Governor, Commander British Forces, any officer of the Force or by any other authority whatsoever may be signified under the hand of any person authorised in that behalf by the person authorised in any provision of this Ordinance or any rules or regulations made under this Ordinance to make or give that order or determination; and any instrument signifying such an order or determination and purporting to be signed by a person stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by a person so authorised.
- (4) The Force is an active service for the purposes of this Ordinance if
  - (a) the Force has by Proclamation under section 55 below been called out for active service and that Proclamation has not been rescinded and has not lapsed;
  - (b) the Force, whether or not such a Proclamation has been made, is engaged in operations against an enemy engaged in operations for the protection of life or property.
- (5) A component or unit of the Force is on active service for the purposes of this Ordinance if
  - that component or unit has by Proclamation under section 54 below been called out for active service and that Proclamation has not been rescinded and has not lapsed;
  - (b) that component or unit whether or not a Proclamation under section 54 below is in force in relation to it, is engaged in operations against an enemy or engaged in operations for the protection of life or property.
- (6) A member of the Force is on active service if he is actually serving at the time in
  - with the Force at a time when, having regard to subsection (4) above, it is on active service:
  - with a component of the Force at a time when, having regard to subsection (5) above, it is on active service:
  - by virtue of his capacity as a member of the Force with any component or unit of Her Majesty's armed forces at a time when such of the members of that component or unit as are members of Her Majesty's armed forces are by virtue of any provision of the Services Acts regarded as being on active service.
- (7) Subject to subsection (8) below, a member of the Force shall not be deemed to be by reason only of his being a member of the Force and the receipt of any bounty allowance or other payment as a result of such membership, the holder of any public office for the purposes of any law providing for the disqualification of persons as candidates for election as members of the Legislative Council.
- (8) Subsection (7) above does not apply in respect of any member of the Force who, otherwise than when on active service, is in the whole time service of the Crown as a member of the Force.

#### PART II CONSTITUTION OF THE FORCE, RECRUITMENT AND DISCHARGE

### The Force and its classes of members

3. (1) There shall continue to be a force known as the Falkland Islands Defence Force. Continuation of

(2) All persons who, immediately prior to the commencement of this Ordinance, were members of the Force under the repealed Ordinance continue, subject to this Ordinance Force. to be members of the Force.

Islands Defence

- (3) The Force shall be divided into three classes -
  - (a) active members;
  - (b) reserve members; and
  - (c) emergency reserve members.
- 4. (1) Persons shall be active members of the Force who have enlisted therein as active Members. members and have not been discharged therefrom, and have not transferred to the reserve.

- (2) Active members are -
  - (a) subject to the training obligations;
  - (b) are liable for home defence service;
  - may, with their consent, or if a state of war exists between Her Majesty and any foreign power, be called upon by the Governor to serve overseas as a member of the Force.
- (3) The training obligations of an active member may vary in accordance with which component or unit of the Force he is for the time being attached.
- (4) The Commanding Officer shall determine to which component or unit of the Force an active member shall for the time being be attached.
- 5. (1) A person shall be a reserve member of the Force if he -

Reserve

- (a) was formerly an active member of the Force and has been transferred to the reserve under the provisions of this Ordinance; or
- (b) was formerly a member of Her Majesty's Regular or Reserve Forces and is
  - (i) under the maximum age;
- (ii) ordinarily resident in the Falkland Islands: and has enlisted in the Force as a reserve member.
- (2) Reserve members -
  - (a) are not subject to the training obligations unless the Force is called out for
  - (b) are liable to serve with the Force for home defence purposes when mustered by the Governor in accordance with section 54(2) below; and
  - (c) are not liable to serve with the Force overseas, except with their consent.
- 6. (1) There shall be no standing emergency reserve of the Force.

Emergency reserve.

- (2) Persons shall be emergency reserve members of the Force who -
  - (a) are over the minimum age;
  - (b) are under the maximum age;
  - (c) are ordinarily resident in the Falkland Islands; and
  - (d) have been mustered by the Governor under section 54(3) below to serve as members of the Force
    - for the period specified in the Proclamation under that section; or
    - (ii) for the duration of the emergency specified in that Proclamation,

and remain subject to that requirement.

- (3) Persons who are emergency reserve members are liable for home defence service. Aliens and women
- 7. No person who is not a British subject shall -

Aliens not to

- (a) be enlisted in the Force; or
- (b) be liable to be called upon to serve as an emergency reserve member of the

8. (1) Every provision of this Ordinance applies, unless the contrary is expressly stated, to women women as it does to men, and shall be construed accordingly.

(2) Nothing in subsection (1) above shall preclude different arrangements being made in respect of, and different requirements applying in respect of, women who are members of the Force when the Force, or any component or unit thereof, is on active service.

#### Force to be a land force

9. (1) The Force shall be a land force. Accordingly nothing in this Ordinance authorises Force to be a the maintenance and use at the expense of the Falkland Islands of vessels of war or shall constitute the Force a force for the naval defence of the Falkland Islands. (2) Subsection (i) above -

- (a) is without prejudice to the powers of the legislature under section 1(1) and (2) of the Colonial Naval Defence Act 1931;
- (b) shall not have effect if the legislature has made provision in accordance with the said section 1 applicable to the Force and that provision has been approved by Her Majesty in Council and vessels of war are maintained and used in connection with or by the Force by virtue of that provision;
- shall not be construed as preventing the Force or any part of the Force being deployed aboard any ship or other vessel, whether belonging to the Force or not or being deployed on, or as part of the crew of any aircraft, whether belonging to the Force or not.
- (3) Further to, and supplementary to, the provisions of subsection (2) above it is declared that every provision of this Ordinance, so far as it would otherwise derogate from any provision of or any law made under any provision of the Colonial Naval Defence Act 1931 shall have effect subject to that provision and the exercise of any power thereunder.

#### Recruitment

10. (1) A person offering to enlist in the Force shall be given a notice in the prescribed Enlistment. form setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him. The Commanding Officer shall not enlist any person as an active member of or as an reserve member of the Force unless satisfied by that person that he has been given such a notice, understands it and wishes to be enlisted.

3 & 4 Eliz 2

- (2) The procedure for enlistment shall be that set out in Schedule 1 below.
- (3) A person under the age of eighteen years shall not be enlisted unless the Commanding Officer is satisfied that consent to his enlistment has been given in writing -
  - (a) if the person offering to enlist is living with both or one of his parents; by the parent or parents;
  - (b) if he is not living with both or one of his parents, but any person (whether a parent or not) whose whereabouts are known or can after reasonable enquiry be ascertained has parental rights and powers in respect of him, by that
  - if there is no such person as is mentioned in paragraph above or after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

- (4) Where the Commanding Officer is satisfied, by the production of a certified copy of an entry in the registry of births or by any other evidence appearing to him to be sufficient that a person offering to enlist has or has not attained the age of eighteen years that person shall be deemed for the purpose of this Ordinance to have attained, or as the case may be not to have attained, that age.
- (5) A document purporting to be a certificate signed by the Commanding Officer, stating that he is satisfied as aforeraid shall be sufficient evidence, until the contrary is proved, that he is so satisfied.
- (6) The Commanding Officer shall not be bound unless so directed by the Governor, to enlist any person as a member of the Force.
- 11. (1) A person shall not be enlisted as an active member of or as a reserve member of Proof of the Force unless the Commanding Officer is satisfied that that person is a British subject. citizenship

- (2) Where the Commanding Officer is satisfied that a person was born in the Falkland Islands he may, unless he has, in the particular case, reason to believe that the person may not be a British subject, be satisfied without further enquiry that that person is a British
- (3) Where the Commanding Officer is satisfied, by the production of a passport relating to the person concerned, and issued by or on behalf of Her Majesty's Government in the United Kingdom or by or on behalf of the Government of any other country which is a member of the Commonwealth that the person is-
  - (a) a British citizen,
  - (b) a British dependent territories citizen;
  - (c) a British Overseas citizen:
  - a citizen of the Commonwealth country by or on behalf of the government of which the passport was issued,

he may accept that passport as sufficient evidence that the person concerned is a British

- (4) Subsections (2) and (3) above have effect without prejudice to any other means by which the Commanding Officer may be satisfied that the person concerned is a British
- 12. A person offering to enlist as an active member or as a reserve member of the Force Oath or Affirshall before being enlisted be required to make the Oath or Affirmation of Allegiance in mation of the form appearing in Schedule 2 below.

Allegiance

Entry of name

- 13. (1) Where the Commanding Officer is satisfied that
  - (a) a person offering to enlist ("the recruit") appears duly and properly to have completed the attestation paper;
  - (b) the recruit is of below the maximum age and is of or above the age of eighteen years or, if he is below that age, one of the requirements of section 10(3) above has been satisfied in respect of him;
  - (c) the recruit is a British subject or a British protected person;
  - (d) there is no good and sufficient reason why the recruit should not be enlisted; and
  - (e) the recruit has made the Oath or Affirmation of allegiance,

the Commanding Officer shall enrol his name upon the roll of active or as the case may be, of reserve members, of the Force. The recruit shall then be deemed to have been enlisted.

- (2) If the Commanding Officer refuses to enlist a recruit he shall, if so required to do, inform the person in writing of the reason or reasons he refused to do so.
- 14. (1) A person desiring to enlist as an active member of the Force may be required before Medical exhis name is enrolled under section 15(1) above to submit himself for medical examination by a Government medical officer.

amination of persons desiring to enlist.

- (2) If a person required to submit himself for medical examination appears as a result of such an examination not to be reasonably medically fit for useful service as an active member of the Force, the Commanding Officer shall refuse to enlist him and a refusal to enlist him for such a reason is, for the purposes of section 13(1)(d) above a good and sufficient reason why he should not be enlisted.
- (3) For the purposes of this section, "medical examination" includes examination as to the presence of or absence of any disorder of the mind or intellect and the acuity of sight and hearing as well as the presence or absence of any disease or affliction of body or limb and the physique of the person concerned and "medically fit" shall be construed accordingly.

15. Any oath or affirmation required or authorised to be administered under the provisions of this Ordinance may be administered -

Administration of Oaths and Affirmations.

- (a) by the Governor or other officer for the time being administering the government of the Falkland Islands;
- the Attorney General;
- the Commanding Officer;
- the Senior Magistrate;
- any justice of the peace, or
- where any provision of the Army Act 1955 applies, by any person authorised by the provisions of that Act for the purpose of the first-mentioned provision.

#### Discharge

16. (1) Subject to this Ordinance, a member of the Force shall be entitled to be discharged therefrom -

- (a) on the expiration of the period of notice referred to in section 21(1) below (but without prejudice to any obligation he may have under this Ordinance to continue as a reserve member of the Force);
- (b) on attaining the age of fifty-five years;
- if he is an emergency reserve member, at the expiration of the period for which he has been obliged under this Ordinance to serve as an emergency reserve member of the Force:
- (d) on satisfying the Commanding Officer -
  - (i) that he is about to leave the Falkland Islands for the purpose of becoming ordinarily resident overseas;
  - that he is ordinarily resident overseas and is unlikely, within the period of twelve months next following, to return to the Falkland Islands so as again to be ordinarily resident therein;
- (e) on satisfying the Commanding Officer that he has enlisted in the regular armed forces of Her Majesty or is about to so enlist;
- being a member of any of Her Majesty's Reserve Forces he has been called out in pursuance of any provision of the Reserve Forces Act 1950 to appear at any place for permanent service:
- being a member of the Territorial Army or the Royal Auxiliary Air Force has been called out for permanent service or home defence service under any provision of the said Act.
- (2) In subsection (1) above -

"regular forces of Her Majesty" means any of Her Majesty's military forces other than —

(a) the Army reserve;

- (b) Air Force Reserve;
- (c) the Royal Fleet Reserve;
- the Royal Marine Reserve;
- the Royal Navy Reserve;
- the Royal Auxiliary Air Force;
- the Ulster Defence Regiment;
- the Home Guard;
- (i) the Territorial Army;
- the Force; and
- any force raised under the law of any other colony,

and, for the purposes of this section any expression used in paragraphs (a) to (i) above of this definition has the meaning it has generally for the purposes of such of the Services Acts as principally regulates the force in question; and

"Reserve Forces" means any of the forces referred to in paragraphs (a) to (g) of the definition of "regular forces" above and the Territorial Army.

17. (1) The Governor, without assigning any reason, may require the Commanding Officer Discharge by the to discharge any member of the Force, but if a member is discharged under the provisions of this subsection, he is entitled to honourable discharge.

- (2) The Commanding Officer shall not discharge any member of the Force, other than at his own request -
  - (a) except with the consent or by direction of the Governor; or
  - (b) as provided by this Ordinance.
- 18. (1) The Commanding Officer shall discharge any emergency reserve member of the Force Discharge of at the expiration of the period for which he has been obliged under the provisions of this emergency Ordinance to serve as an emergency reserve member of the Force, but without prejudice to any obligation under this Ordinance to serve again as an emergency reserve member of the Force.

- (2) The Commanding Officer shall discharge any emergency reserve member of the Force who appears to him to be engaged in a reserved occupation.
- (3) A person who is discharged under the foregoing provisions of this section shall be deemed to be honourably discharged.
- 19. (1) The Commanding Officer shall discharge any member of the Force who he is satisfied Discharge for is not medically fit for further useful service as a member of the Force.

medical reasons.

- (2) Where the Commanding Officer proposes to discharge a member of the Force under subsection (1) above, he shall, unless that member consents to such discharge or has requested his discharge under that subsection, inform the member prior to his discharge of the grounds on which the Commanding Officer believes that the member is not reasonably medically fit for further useful service as a member of the Force.
- (3) A member of the Force who is informed pursuant to subsection (2) and who has not, within the two preceding months, been medically examined in accordance with section 20 below, is entitled to request that he be so examined pursuant to that section before he is discharged under subsection (1) and shall not be discharged pursuant to subsection (1) if that medical examination establishes that he is reasonably medically fit for further useful service as a member of the Force.
- (4) For the purposes of this section and section 20 below, "medical examination" and "medically fit" have the same meaning as they have for the purposes of section 14 above under subsection (3) of that section and correlatives of those expressions have corresponding meanings.
- (5) A person who is discharged under subsection (1) above shall be deemed to be honourably discharged.

- 20. (1) If the Commanding Officer reasonably believes that any member of the Force may Supplementary be medically unfit for further useful service as a member of the Force, he may require that member to present himself for medical examination before a Government medical officer on a date and at a time and place notified to him by or on behalf of the Commanding Officer or any Government medical officer.
- (2) A member of the Force who without reasonable excuse fails to comply with a requirement under subsection (1) commits an offence under this Ordinance.
- (3) Where a member of the Force has himself requested the Commanding Officer pursuant to section 19(3) above that he should be medically examined, the Commanding Officer shall in accordance with subsection (1) require that member to present himself for medical examination.
- (4) Upon the attendance of a member of the Force for medical examination pursuant to the provisions of this section, the Government medical officer before whom the member is required to attend shall carry out such tests and examinations of that member as, in his opinion sufficient to establish whether or not that member is reasonably medically fit for further useful service as a member of the Force.
- (5) As soon as possible, the Government medical officer shall send to the Commanding Officer a report in writing indicating his opinion, and in so far as may be appropriate, the reasons for it.
- (6) On receipt of a report under subsection (5) the Commanding Officer shall communicate its contents to the member concerned and, if so requested by that member, he shall permit him to take a copy of it.
- (7) For the purposes of this section, "reasonably medically fit for further useful service as a member of the Force" does not include service as a member of the force engaged only in light duties unless the Commanding Officer has notified the Government medical officer to the contrary and if any such notification has been made, the Government medical officer's report under subsection (6) above shall state
  - whether or not in his opinion the member is reasonably medically fit for future useful service as a member of the Force undertaking duties of which a reasonably fit man might believe to be at times of a physically strenuous nature: and
  - unless he has stated that the member is so fit, whether or not in his opinion the member is likely for the foreseeable future only to be reasonably medically fit for light duties.
- (8) The Commanding Officer shall not notify the Government medical officer to the effect specified in subsection (7) above unless he is satisfied that the member of the Force concerned if medically fit only for light duties, having regard to the needs of the Force, may with utility to the Force usefully be required only to perform light duties.
- (9) Where a member of the Force is as a result of a medical examination found medically fit only for light duties he is, unless any members of the Force are presently called out to active service under this Ordinance, entitled to require his discharge from the Force.
- 21. (1) An active member of the Force is, subject to the provisions of this section, entitled to be discharged from the Force on the expiry of one month's notice in writing given by him to the Commanding Officer requesting his discharge, but the Commanding Officer may waive the requirements of this subsection as to notice.
- (2) Subsection (1) above shall be of no effect if any members of the Force are currently called out for active service under the provisions of this Ordinance.
- (3) Where this subsection applies to him and the member of the Force giving notice under subsection (1) above is an active member (and subject to subsection (2)) then, if he will be under the age of 55 years on the date the notice would otherwise take effect, he shall be entitled on the expiry of that notice to be transferred so as to become a reserve member of the Force but shall not be entitled to be discharged from the Force.

Discharge of active members on

- (4) Subsection (3) applies to all persons who enlist as active members of the Force after the commencement of this Ordinance.
- (5) A member of the Force who is discharged under subsection (1) shall be deemed to be honourably discharged.
- 22. (1) A reserve member of the Force shall be discharged therefrom upon his attaining Discharge of the age of 55 years.

reserve member of the Force.

- (2) A member of the Force who is discharged under subsection (1) shall be deemed to be honourably discharged.
- 23. The discharge of an active member of the Force under section 21(1) above shall not affect his liability to service under this Ordinance as an emergency reserve member of the Force.

Discharge of active member not to affect liability to serve as an emergency reserve member

24. A member of the Force may be dishonourably discharged from the Force in the circumstances provided for in subsequent provisions of this Ordinance.

Dishonourable discharge.

#### Medical

25. A Government medical officer shall ignore for the purposes of any medical examination under section 14 or section 20 above any ailment, infection, disease, injury or affliction which the Government medical officer considers to be only of a temporary nature.

Further provisions as to medical examinations Government medical officers.

(2) Any physician holding Her Majesty's commission as an officer in any of Her Majesty's armed forces shall for the purposes of this Ordinance be deemed to be a Government medical officer at any time when members of the Force are called out under this Ordinance for active service.

26. (1) Every physician in the employment of the Crown for the purposes of its Govern-

ment of the Falklands is a Government medical officer for the purposes of this Ordinance.

#### Reports to Governor

27. (1) If the Commanding Officer has reason to believe that a member of the Force —

Reports to the

- (a) has by his own voluntary act come under any obligation of allegiance to a foreign power, and that allegiance to a foreign power is prejudicial to the interests of Her Majesty in so far as those interests have relevance to the Force;
- that a member of the Force is a national or citizen of a foreign power between which and Her Majesty a state of war currently exists or with which a state of war the Commanding Officer apprehends may possibly be imminent;
- that a member of the Force has by words or action exhibited disloyalty or disaffection towards Her Majesty or has been guilty of treasonous or traitorous behaviour or conduct,

the Commanding Officer shall forthwith report to the Governor the facts and circumstances known to him concerning that member and, pending the decision of the Governor under this section, shall suspend that member of the Force from all duties with the Force.

- (2) On receipt of a report under subsection (1) the Governor
  - (a) may cause such investigation into the matter to be undertaken as he sees fit by such person or persons as he sees fit;
  - shall, if in his opinion, the public interest reasonably so admits, afford to the member of the Force concerned a full and fair opportunity of answering any allegations of an unfavourable nature relating to him as have been made by the Commanding Officer or have come to light as a result of any investigation under paragraph (a) (but so that in no case where a state of war exists or warlike operations exists between Her Majesty and any foreign power of which the Governor believes the member of the Force to be a national or citizen shall the Governor be bound to afford the member any opportunity under this paragraph);

- (c) shall then direct the Commanding Officer to discharge the member of the Force or retain him as a member of the Force, as the case may be, and may give the Commanding Officer such further or consequential directions as may, in the opinion of the Governor, be necessary.
- (3) The Governor when giving directions under subsection (1)(c) above shall stipulate whether the member shall be treated as being honourably or dishonourably discharged and shall, unless the Governor is of opinion that the member is personally culpable for the circumstances giving rise to his discharge, stipulate that he shall be treated as being honourably discharged.
- (4) The Commanding Officer shall take such action as is necessary to give effect to a direction or stipulation of the Governor under this section.
- (5) The Governor may at any time, either of his own motion or at the request of any other person, vary any direction or stipulation of his or any predecessor of his under this section and direct the Commanding Officer to give effect to such variation and the Commanding Officer shall give effect to any direction made under this subsection.

#### Miscellaneous

- 28. (1) No decision or purported decision of the Commanding Officer
  - (a) to enlist or not to enlist any person as a member of the Force;
  - (b) to discharge any member of the Force,

shall be called into question or be the subject of review or appeal or in any other way be justiciable or give rise to any cause of action which any court has any jurisdiction to entertain consider or try or to allow or suffer to be raised, pleaded or argued in any civil proceedings whatsoever,

(2) No direction or stipulation of the Governor under section 27 above shall be called into question or be the subject of review or appeal or called into question in any civil proceedings whatsoever.

#### PART III ORGANISATION AND ADMINISTRATION OF THE FORCE

#### General

- 29. (1) The Force shall have an establishment of such number of officers, warrant officers, Establishment. non-commissioned officers and men as the Governor may from time to time approve.
- (2) Nothing in subsection (1) above or done thereunder shall have effect so as limit the number of persons who may be enlisted as reserve members of the Force or so as to prevent any person being called out to active service as an emergency reserve member.
- 30. (1) The Force shall be divided into such components or units, so composed, as the Governor may from time to time approve.
- (2) Except as below provided active members of the Force shall be attached to one or other of the units of the Force, but the Commanding Officer may at any time transfer any active member of the Force from one unit of the Force to another and shall so transfer him if so directed by the Governor,
- (3) The preceding provisions of this section shall apply to reserve members and emergency reserve members of the Force at any time they are called out under this Ordinance for active service.

Exclusion of jurisdiction of the courts.

Division of Force into com ponents or units.

# Appointment of The Commanding Officer and other officers

31. (1) The Commanding Officer of the Force shall be appointed by the Governor and may Commanding be removed from command by the Governor at any time.

Officer of the

- (2) The person who was Commanding Officer of the Force immediately prior to the coming into force of this Ordinance shall continue to be the Commanding Officer of the Force as if he had been appointed as such under subsection (1) above.
- (3) The Commanding Officer shall be an Officer holding such rank in the Force not lower than that of Major. Subject to this Ordinance, the Commanding Officer shall be responsible to the Governor for the discipline and training of the Force and for all Government moneys, property and stores committed to his charge and for such other things as may be prescribed by regulations under this Ordinance.
- 32. (1) The Governor may commission any member of the Force to be an officer of the Commissioned Force and any such commission shall not be vacated by reason only of the death, transfer officers. or retirement from office of the Governor by whom the officer's commission was issued.

- (2) An officer's commission in the Force ceases to be of any effect, unless the Governor otherwise determines in the circumstances of the particular case, in the event of the holder no longer being ordinarily resident in the Falkland Islands.
- (3) Every commission issued by the Governor under this section or under the corresponding provisions of the repealed Ordinance shall be held during the Governor's pleasure.
- (4) Any commission held by any person as an officer of the Force issued under the repealed Ordinance shall remain in force.
- (5) A commission continues to have effect notwithstanding any change in the person who is for the time being Governor.
- 33. (1) Every officer on being commissioned shall be appointed by the Governor to a rank. Appointment of
- (2) The Governor may promote any officer to a higher rank than that which he previously held.

(3) The ranks to which an officer may be appointed or promoted are those up to and including the rank of Major for the time being existing in Her Majesty's Regular Army.

34. (1) As between officers of the Force of the same rank, their seniority shall subject to Seniority of and subsection (2) be determined by relation to the date on which they were appointed or promoted to the rank which they for the time being hold and, if in any case that date is the same date, in accordance with their ages.

powers of com-

- (2) Notwithstanding subsection (1) the Commanding Officer shall always be the most senior officer of the Force while he continues to be the Commanding Officer.
- (3) Officers of any rank in the Force shall, in relation to any officer of a corresponding rank in Her Majesty's regular armed forces, be deemed to hold a rank immediately junior to that which that officer holds.
- (4) The power of command of any officer of the Force extends over -
  - (a) all other officers of the Force junior to him or lower in rank and serving in or attached for duty to the same unit of the Force as that in which that officer of the Force is for the time being serving; and
  - (b) all members of the Force who are not officers.

# Warrant officers and non-commissioned officers

35. (1) The Commanding Officer may appoint or promote any member of the Force who Warrant officers is not an officer to a warrant officer or a non-commissioned rank but may not appoint or promote a person to any warrant officer or non-commissioned rank that does not for the time being exist in Her Majesty's Regular Army.

- (2) A member of the Force who immediately prior to the commencement of this Ordinance held rank in the Force as a warrant officer or non-commissioned officer shall subject to this Ordinance continue to hold that rank.
- 36. (1) The Governor may appoint any person appearing to him to be a fit and proper person to assist the Commanding Officer with the training of the Force and the Commanding Officer shall at the request of the Governor appoint the person in question to such warrant officer or non-commissioned officer rank as the Governor may stipulate.

obligations.

(2) Active members of the Force shall be liable to attend for and undergo such training as they may be required by the Governor so to do, or as may be prescribed.

#### Uniforms, equipment etc.

37. (1) Every officer of the Force shall, as the Governor may determine after consultation Officers' with the Executive Council either -

uniforms.

- (a) provide his own uniform or uniforms;
- (b) be provided by the Crown with a uniform or uniforms;

but, in either case, the uniform or uniforms shall be of a pattern design and standard approved by the Governor.

- (2) Where an officer is required to provide his own uniform or uniforms, the Governor may, subject to the provision of the funds by the legislature, re-imburse him with such part of the cost of the uniforms as the Governor, on the advice of the Executive Council, shall
- (3) In any case where an officer is required to provide his own uniform or uniforms, the uniforms shall be the property of the officer but, if he has received pursuant to subsection (2) re-imbursement of any part of the cost, he may be required by the Governor to refund, without interest, the whole or part of the sum re-imbursed. Such a requirement may only be made if the officer ceases to be an officer of the Force within five years of the re- imbursement.
- (4) Where subsection (3) does not apply, the uniform remains the property of the Crown.
- 38. (1) Every man who is an active member of the Force shall be provided at the expense Men's uniforms. of the Crown with a uniform or uniforms of such a pattern design and standard as the Governor, on the advice of the Executive Council, may determine. Any such uniform remains the property of the Crown and section 40 below applies in respect of it.

(2) A man who is a reserve member of the Force who is called out to active service shall, if it is reasonably practicable in all the circumstances so to do, be provided at the expense of the Crown with a uniform or uniforms. Any such uniform remains the property

of the Crown and section 40 below applies in respect of it.

- (3) Subsection (2) above applies in respect of persons who as emergency reserve members of the Force called out for active service with the Force as it does in respect of reserve members of the Force.
- 39. (1) The application of The Uniforms Act 1894 to the Falkland Islands shall extend to Application of every uniform of the Force but with the following modifications -
  - (a) the reference in section 2(1) of that Act to "Her Majesty's permission" shall be replaced by a reference to the permission of the Governor;
  - the Force shall, for the purposes of the application of that Act in the Falkland Islands be deemed to be one of Her Majesty's Military Forces.
- (2) The application of section 185 of the Army Act 1955 to the Falkland Islands shall extend to arms, ammunition, equipment, instruments or clothing used by a member of the Force for military purposes as it does to the same things when used by a member of Her Majesty's military forces for military purposes.

Uniforms Act 1894 and s. 185 of the Army Act 1955

#### Application of disciplinary provisions

40. (1) Subject to subsections 41 and 42, such of the provisions of the Army Act 1955 as Certain proviby virtue of section 212(1) to (5) of that Act apply to the Home Guard apply to the Force and members of the Force but subject to the modifications set out in Part I of Schedule 3 to this Ordinance and to the modification set out in subsection (2) below.

ly subject to modifications.

(2) In its application by virtue of subsection (1) above, section 212(5) of the Army Act 1955 shall be modified by replacing the words "Home Guard" (where they first appear) up to the end of that subsection with the words -

"Falkland Islands Defence Force, he shall not have power to deal with a charge summarily except during a period during which the component or unit of the Force to which the accused belongs is on active service (as defined in section 2(5) of the Falkland Islands Defence Force Ordinance 1991):"

41. (1) Subject to subsections (3) and (4) below and with the exception of provisions of the Act mentioned in Part II of Schedule 3 to this Ordinance, the provisions of the Army Act 1955 referred to in section 40(1) above do not apply to any member of the Force unless —

Restriction on application of provisions applied by section

- (a) he is on active service or called out for full or part time active service under the provisions of this Ordinance; or
- (b) the component or unit of the force of which he is a member is attached to or is otherwise acting as part of any of Her Majesty's regular forces; or
- (c) he is, as a member of the Force, attached to or acting as a member or component or unit of any of Her Majesty's regular forces; or
- (d) he is, as a member of the Force, serving outside the Falkland Islands.
- (2) A member of the Force is not liable to be punished both under a provision of the Army Act 1955 and under a provision of this Ordinance other than this section and section
- (3) Nothing in section 41 above or in paragraphs (b) or (c) of subsection (1) above shall operate so as to derogate from the provisions of section 207(2) of the Army Act 1955 and section 40 of this Ordinance, subsection (1) of this section and Schedule 3 to this Ordinance shall have effect subject to the provisions of the said section 207(2).
- (4) Nothing in subsection (1) above shall be construed as limiting the operation in relation to members of the Force when not subject to military law of section 208A of the Army Act 1955 (which enables Her Majesty's Defence Council to apply Part II (sections 24 to 143) of the said Act to persons embarked as passengers on board Her Majesty's ships or aircraft to such extent and subject to such modifications as may be prescribed by regulations made by the said Council) or as limiting the operation of section 209 of the said Act (application of Act to civilians).
- 42. (1) When a provision of the Army Act 1955 mentioned in Part II of Schedule 3 to this Supplementary Ordinance applies to the Force or a member of the Force by virtue of this Ordinance and otherwise than by reason of one or more of the circumstances mentioned in paragraphs (a) to (d) of section 41(1) above any offence under any such provision shall be dealt with and punishable in accordance subsections (2) to (4) below.

- (2) When subsection (1) above applies -
  - (a) a member of the Force may not be dealt with for an offence against military law under a provision mentioned in Part II of Schedule 3 to this Ordinance
    - the Commander British Forces has requested the Governor in writing that he be so dealt with; and
    - (ii) the Attorney General has advised the Governor in writing -
    - (aa) that he is satisfied that the offence was committed by the member of the Force in question in the course of his service as a member of the Force or arises out of and is sufficiently connected with his membership of the Force; and

- (bb) that the member of the Force cannot in his opinion be more appropriately dealt with -
- (AA) under any subsequent provision of this Ordinance; or
- (BB) under any other provision of the law of the Falkland Islands;
- (b) the offence shall be a criminal offence under the law of the Falkland Islands and shall be dealt with in accordance with the general law of the Falkland Islands relating to the trial of and procedure in relation to such offences, the punishment of such offences and the enforcement of sentence and orders of the courts in relation to such offences to the exclusion of any law which might otherwise require the offence to be dealt with in any other way;
- (c) a person convicted of such an offence shall have the like rights of appeal and further appeal against conviction or sentence by virtue of paragraph (b) above as apply in respect of criminal offences generally.
- (3) On convicting a person of an offence by virtue of paragraph (b) of subsection (2) above the court may sentence him in any manner -
  - (a) to imprisonment for a term not exceeding two years;
  - (b) with dishonourable discharge from the Force;
  - (c) to forfeiture of seniority for a specified term or otherwise;
  - (d) to reduction to the ranks or any less reduction in rank;
  - to a fine not exceeding £5000;
  - severe reprimand;
  - reprimand;
  - (h) in the case of an offence which has occasioned any expense loss or damage to pay such sum to such person in compensation for or in reparation for such damage as the court thinks fit;
  - to such one or more of the foregoing punishments as the court thinks appropriate:

#### Provided that -

- (i) an offence under sections 24 to 26 and 30 to 32, 60 and 63A of the Army Act 1955, if dealt with under this section, shall be tried by the Supreme Court on indictment;
- (ii) an offender convicted of an offence under this section by a court inferior to the Supreme Court shall not be sentenced to a term of imprisonment exceeding six months or ordered to pay a fine exceeding £500.
- (4) The Commanding Officer shall give effect to any sentence to which paragraphs (b). (c), (d), (f) or (g) of subsection (3) relates.

# Offences and other disciplinary provisions

43. (1) This section has effect in addition to but without prejudice to the provisions of Miscellaneous the Army Act 1955 applying under section 40(1) above but no person shall be proceeded against both under those provisions or any of them and under any subsequent provision of this section.

members of the Force.

- (2) A member of the Force shall, when required by or on behalf of the Commanding Officer so to do produce any arms, ammunition, uniform, appointments or any other thing issued to him as a member of the Force.
- (3) A member of the Force shall not -
  - (a) other than as he may be authorised by or under this Ordinance so to do, pawn, pledge or otherwise part with possession of any thing to which subsection (2) applies:
  - (b) use, or permit any other person to use, anything to which subsection (2) applies in any manner or in any place other than he is authorised by or under this Ordinance so to do;
  - (c) knowing that no requisitioning order is in force under Part IV below authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, give directions for the provision of the vehicle or order or procure another person to give such directions;
  - (d) in purported exercise of powers conferred by a requisitioning order under Part IV below, take, or order or procure any other person to take, possession of a vehicle knowing that no requisitioning order is in force under the said Part IV under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised;
  - (e) take or agree to take, or demand, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken, or not being retained, under a requisitioning order under Part IV below;
  - knowing that no billeting requisition is in force under Part IV of this Ordinance authorising him to demand any billets or that he is otherwise not authorised to demand them, obtain those billets or order or procure another person to obtain them;
  - take or agree to take, or demand, from a person on whom he or any other person or any vehicle is to be billeted in pursuance of a billeting requisition under Part IV of this Ordinance any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle;
  - (h) wilfully or by wilful neglect damage, or cause or allow to be damaged, any premises in which he is billeted in pursuance of such a requisition, or any property being in such premises.
- (4) Paragraphs (c) and (d) to (g) of subsection (3) above apply in relation to horses, mules, food forage and stores as they apply in relation to vehicles.
- (5) A member of the Force who contravenes subsection (2) or (3) above (in the case of subsection (2) without reasonable excuse) commits and offence and on conviction is liable to a fine not exceeding £1000 or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.
- 44. (1) A member of the Force shall, on being required so to do by or on behalf of the Delivery up of Commanding Officer, deliver up to the Commanding Officer or such person as he may designate, all or any of the things to which section 44(2) applies as he may have been required by him to deliver up.
- (2) A member of the Force, on being discharged shall forthwith deliver up to the Commanding Officer or such person as he may designate all arms, ammunition, uniform, appointments and any other thing issued to him as a member of the Force except any uniform the Commanding Officer has authorised the member of the Force to retain notwithstanding his discharge.

equipment etc.

- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding £1000 or to imprisonment for a term not exceeding twelve months or both such fine and such imprisonment.
- 45. (1) The Commanding Officer may, with the approval of the Commander British Forces, Standing orders make standing orders, not inconsistent with the provisions of this Ordinance and may, with such approval, revoke or amend any standing orders previously made under the provisions of this subsection.

- (2) Standing Orders made under subsection (1) may provide -
  - (a) for the training obligations of active members of the Force or of members of any component or unit of the Force;
  - (b) as to the occasions on which members of the Force are required to or may wear the uniform or a uniform of the Force;
  - the care and maintenance of any uniform, arms ammunition or equipment belonging to the Force and the places and the circumstances in which they shall be kept;
  - the manner in which any ammunition or other expendable items belonging to the Force are to be accounted for:
  - generally as to the efficiency of the Force and the standards to be maintained by the Force;
  - any other matter in relation to which the Commander British Forces advises him standing orders ought to be made, and whether or not for any purpose similar to any of the foregoing purposes.

#### Offences and further disciplinary provisions

46. (1) A person who knowingly makes any false or misleading answer to any question False answers to in the form referred to in section 10(1) or any other question put to him by the Commanding Officer or any other person acting on the Commanding Officer's authority prior to and in connection with his enlistment in the Force commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

- (2) A person who -
  - (a) in connection with his application for enlistment in the Force produces any document which he knows to be false or misleading;
  - in connection with the application of another for enlistment provides any information produces or utters any document which he knows to be false or misleading,

commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

- (3) For the avoidance of doubt it is hereby declared that a person may be proceeded against under subsection (1) or (2) above notwithstanding that he has since become a member of the Force.
- (4) A person who has been convicted of an offence under this section may be discharged by the Commanding Officer with the consent of the Governor, provided that he shall not after the expiry of six months from the date of the conviction be discharged under this subsection. A person discharged under this section shall be deemed to have been dishonourably discharged.
- 47. (1) A person who, except as he may be lawfully authorised so to do, parts with posses- Unlawful parting sion of, or permits any person to use, any uniform, arms, ammunition or equipment or other thing to which section 44(1) above relates, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

with possession.

(2) A person commits an offence who pledges or charges by way of security anything to which subsection (1) above relates and any pledge or charge in contravention of that subsection is absolutely void.

48. (1) A member of the Force commits a disciplinary offence if -

disciplinary

- (a) he commits any offence under any provision of this Ordinance or any provision of any Act applying to him under this Ordinance (and whether or not proceedings for that criminal offence are instituted);
- (b) he disobeys any lawful order given to him as a member of the Force;
- (c) he does anything likely to bring the Force into disrepute;
- (d) he contravenes any provision of Standing Orders;
- while performing duties as a member of the Force (and whether or not he is on active service) he commits an offence under any written law of the Falkland Islands.
- (2) The Commanding Officer may, if he considers that a member of the Force may have committed a disciplinary offence, charge that member in writing with that offence, provided that the Commanding Officer shall not charge a member with an offence —
  - (a) after the expiry of six months from the apparent date of the offence; or
  - (b) after the expiry of six months from the date on which the Commanding Officer first became aware of the facts and circumstances leading him to suppose that the member may have committed that offence,

whichever is the later.

- (3) When the Commanding Officer charges a member of the Force with an offence he shall serve a copy of the charge upon him and shall transmit a copy of the charge to the Governor.
- (4) The copy of the charge served on a member of the Force shall be accompanied by a written statement which shall -
  - (a) set out succinctly the reasons why the Commanding Officer considers the member may have committed the offence;
  - inform the member that he may, within fourteen days after he receives the charge make representations in writing to the Governor concerning the alleged offence both as to his guilt of it or otherwise and in mitigation and request an oral hearing by the Governor in relation thereto, but if he does neither of those things within such period, the Governor may find him guilty of the charge and punish him in accordance with the subsequent provisions of this section.
- (5) If no written representations or requests are received by him made under subsection (4) above the Governor may (but is not obliged to do so if he is not satisfied that the offence has been committed) find the member guilty as charged and if he decides that any punishment is appropriate punish him in accordance with subsection (9) below.
- (6) If written representations are received by him under subsection (4) above the Governor shall take them fully into account before finding the member guilty of the offence and, if he finds him guilty of that offence, before deciding whether to punish him and, if he finds him guilty of that offence, before deciding what punishment under subsection (9) below to impose on him.
- (7) Where a member of the Force has requested under subsection (4) above an oral hearing the Governor shall accord to him a reasonable opportunity to be orally heard and, if he wishes, to call evidence in his own defence. A member of the Force may, if he wishes, be represented thereat by another person and the Commanding Officer shall be entitled to attend that oral hearing and, if he wishes to call evidence thereat. Any witness may be cross- examined by the party other than the party calling him. Subject to the foregoing, the procedure at such hearing shall be such as the Governor determines.
- (8) After considering the written representations or concluding the hearing, as the case may be the Governor shall decide the guilt or otherwise of the member charged and whether, if he decides to punish him, what punishment under subsection (9) below is appropriate.

- (9) Where a member of the Force is found guilty of a disciplinary offence pursuant to this section, one or other of the following punishments may be imposed on that member -
  - (a) reprimand;
  - (b) a deduction from bounty or other payment the member might otherwise receive, of such amount, not exceeding £50, as the Governor may determine;
  - (c) loss of seniority;
  - reduction in rank to a rank one lower than the member presently holds or enjoys; and
  - (e) dishonourable discharge from the Force.
- (10) The Governor shall notify the Commanding Officer and the member concerned of his finding in relation to a charge under this section and, if he finds the member guilty of the charge, what punishment, if any, he has decided to impose. The Commanding Officer shall take all necessary steps to give effect to any decision of the Governor under this section.
- (11) No appeal shall lie from any decision of the Governor under this section.

#### Use of land and property etc.

49. (1) The Force may with the consent of the Governor acting with the advice of the Land and Executive Council, use and enjoy any land or buildings belonging to the Crown and not buildings. in the exclusive occupation of any other person by virtue of a lease or otherwise.

- (2) It shall be lawful, subject to the necessary funds having been appropriated for the purpose by Ordinance, for the Crown to expend money -
  - (a) on the purchase of any land or building for use by the Force;
  - (b) on the lease or licence of any land or building for use by the Force;
  - on the construction, alteration, repair or maintenance of any building for the purpose of being used or more conveniently used by the Force.
- (3) It shall be lawful for any land or building not belonging to the Crown or in the occupation of another to be used by the Force in accordance with any permission given by the person presently entitled to use and occupation of the land.
- 50. (1) It shall be lawful for the Force to use anything belonging to the Crown and other- Equipment etc. wise than for the purpose of the Force -

- (a) with the consent of the Governor acting with the advice of the Executive Coun-
- in a case where there is an urgent defence need or the advice of the Executive Council cannot reasonably be speedily obtained, with the consent of the
- (2) It shall be the duty of every public officer to permit the use by the Force of anything in respect of which a consent to which subsection (1) relates has been given.
- (3) It shall be lawful for the Force to use with the consent of the person for the time being entitled to the possession and use of the same anything belonging to a person other than the Crown in right of the Government of the Falkland Islands.
- (4) Notwithstanding subsections (1) and (3) above, it is not lawful for any member of the Force to drive any motor vehicle contrary to (Cap. 60) any provision of the Road Traffic Ordinance.
- (5) It shall be lawful for the Crown to acquire for the use of the Force with moneys appropriated for the purpose by Ordinance -
  - (a) any motor vehicle, boat or aircraft;
  - (b) any arms, ammunition or equipment or other thing whatsoever,

but nothing in this subsection authorises acquisition contrary to the wishes of the owner of the thing in question.

51. (1) The Crown shall make good or pay for any damage or loss occasioned to the owner Liability of the of any land building or other thing used by the Force.

Crown

- (2) The Crown shall indemnify every member of the Force from and against all actions, claims, proceedings and demands arising out of anything done by him in his capacity as a member of the Force but provided that it was so done by him in good faith in the course of his duties as a member of the Force.
- 52. (1) If a member of the Force, in the course of his duties as a member of the Force Compensation and whether on active service or not, suffers death or any injury or suffers any wound or for death or injury resulting in his death within a year thereafter -

- (a) by reason of any act or action of an enemy;
- (b) by reason of any negligent act or omission of any other member of the Force:
- (c) by reason of any other act or event, other than any pre-existing medical condition not associated with his service as a member of the Force, and not attributable to his own default or neglect,

the Crown shall pay to him (in the case of his injury) or to the persons who would be entitled to claim under the Fatal Accidents Act 1976 if his death had been caused by the neglect of the Crown (in the case of his death) such sum or sums by way of damages compensation and otherwise as would have been payable had that injury or his death been attributable to the act, omission or default of the Crown.

- (2) Where the Crown is liable to pay any sum under subsection (1) above -
  - (a) the Workers Compensation Ordinance shall not apply so as to entitle any person to any payment under the provisions of that Ordinance;
  - the Crown shall not be liable to pay any sum in respect of the injury or death of the member of the Force under any other law;
  - the Crown shall be subrogated to the member of the Force or as the case may be any person who would otherwise be entitled to bring an action by reason of the member's death, so as to be able to bring in its name any action or proceedings that member or other person could otherwise have brought against any other person arising out of the injury or death of the member of the Force and so as to be able to recover in such action or proceedings any sum or sums which would have been recoverable therein by the member of the Force or person claiming by virtue of his death.
- 53. (1) Every member of the Force may be paid such sum by way of annual bounty as Payments to the Governor advised by the Executive Council may from time to time determine and subject to such conditions as may be so determined. A sum paid by way of bounty under this section shall not form part of the income subject to income tax of any member of the Force.

members of the

- (2) A member of the Force called out to active service may be paid such periodic sums as the Governor advised by the Executive Council determines and such part of any such sum as the Governor determines may be paid by the Crown to the wife or other dependents of the member of the Force concerned.
- (3) Payments under subsection (2) may differ from one member of the Force to another by relation to any of the following -
  - (a) whether the member of the Force is, or is not, being paid by his ordinary employer during his absence from his ordinary employment and, if so, how much he is being so paid;
  - (b) his family and other responsibilities;
  - any other factor the Governor advised by the Executive Council considers relevant.

- (4) The Commanding Officer and any person engaged whole time in training members of the Force may either in addition to, or in substitution for, any payment under subsection (1) be paid such sums by way of salary, allowances or honorarium as the Governor advised by the Executive Council may determine.
- (5) No sum payable under subsections (1) or (2) above shall be liable to be attached for debt or assignable for the benefit of the creditors of any member of the Force.
- (6) Sums payable under this section shall be paid out of moneys appropriated for the purpose by Ordinance.

#### PART IV CALL OUT, MUSTERING AND EMERGENCY POWERS

Call out, mustering etc.

54. (1) If it appears to the Governor that national danger is imminent or that a great Call out the emergency has arisen, he may by Proclamation call out the force for active service and do Force etc. anything provided for by subsections (2) and (3).

- (2) The Governor may by Proclamation pursuant to subsection (1) or by any later Proclamation pursuant to this subsection and made while a Proclamation pursuant to subsection (1) remains in force, muster reserve members of the Force.
- (3) The Governor may by Proclamation pursuant to subsection (1) or by any later Proclamation pursuant to this subsection made while a Proclamation pursuant to subsection (1) remains in force, and if reserve members of the Force remain mustered pursuant to subsection (2), require any British subject over the maximum age and under the maximum age and who is ordinarily resident in the Falkland Islands to serve as an emergency reserve member of the Force.
- (4) A Proclamation made pursuant to any provision of this section may be rescinded or varied by any subsequent Proclamation made under this subsection.
- (5) A Proclamation pursuant to any provision of this section shall have effect from the moment its making is made publicly known and notwithstanding that it has not yet been published in the Gazette, but any such Proclamation shall be published in the Gazette as soon as, in all the circumstances of the case, it may reasonably be so published.
- (6) Nothing in a Proclamation to which subsection (3) applies shall have effect in relation to a person who is in an occupation which by Order made under section 55(1) has been declared to be a reserved occupation or who is exempted under section 55(2).
- (7) It shall be the duty of every person to whom a Proclamation under any provision of this section calling him out for active service or mustering him applies to report to the Commanding Officer for active service (whole or part time as the Commanding Officer may determine) as a member of the Force and thereafter to do such things and perform such duties as a member of the Force as he is required to carry out.
- 55. (1) The Governor may by Order under his hand exempt persons in occupations specified in that Order (in this Ordinance called "reserved occupations") from any obligation he would otherwise have to serve as an emergency reserve member of the Force.

Reserved occupations and

- (2) The Governor may by writing under his hand exempt any person, not being a person in a reserved occupation, from any obligation he would otherwise have to serve as an emergency reserve member of the Force, either unconditionally or subject to such conditions (including conditions requiring him to perform work necessary for the good of the public to be performed) as the Governor thinks fit.
- (3) A person who without reasonable excuse neglects to comply with any condition of any exemption granted to him pursuant to subsection (2) 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 period not exceeding six months or both such a fine and such imprisonment.
- 56. (1) A person to whom section 54(7) applies is subject to military law and may be dealt Supplementary with in any manner authorised by section 40(1) (which applies, with modifications, certain to section 54. provisions of the Army Act 1955).

- (2) A police officer may arrest without warrant any person whom he has reasonable cause to believe has failed without reasonable excuse to report to the Commanding Officer for active service as required by section 54(7) and shall convey any person so arrested into the presence of the Commanding Officer or other officer of the Force and release him into his custody to be dealt with in accordance with military law.
- (3) Subsection (2) has effect without prejudice to section 190A of the Army Act 1955 in its application under any provision of this Ordinance.

#### Emergency powers

57. (1) This section and sections 58 is in operation so long only as a Proclamation made Commanding under section 54(1) is for the time being in force.

Officer to place Force at disposition of Commander British Forces.

(2) So long as this section is in operation, the Commanding Officer shall place the Force at the disposition of the Commander British Forces and the Force shall carry out such tasks and do such things as the Commander British Forces requires. 58. (1) At any time this section is in force and in the opinion of the Governor the public

interest render the same necessary he may by Order declare that, so long as that Order re-

mains in force sections 154 to 169 to 173 of the Army Act 1955 shall apply in the Falkland

Islands in relation to the needs of the Force subject to such exceptions and subject to such

Billeting and reauisitioning for Force.

modifications as he considers necessary. (2) An Order under subsection (1) unless earlier revoked shall expire one month after it is made but may from time to time be extended by further Order under this subsection for not longer than one month from the date of any such further Order.

#### PART V **GENERAL**

#### Social Clubs

59. (1) There shall continue to be a Falkland Islands Defence Force Club ("the Club").

Defence Force

- (2) The Commanding Officer shall ex officio be the Chairman of the Club.
- (3) All members of the Force shall be members of the Club, subject to payment of any annual subscription required by the rules of the Club. Such other persons as the Committee of the Club may determine shall be members of the Club except that no person who has been or is deemed to have been dishonourably discharged from the Force shall be a member of the Club.
- (4) The Committee of the Club shall consist of the Chairman and such other members of the Club as are elected by the members at an Annual General Meeting.
- (5) The Committee of the Club may from time to time make amend or revoke rules for the management or maintenance by annual subscription or otherwise of the Club. No such rules or amendment of revocation of any such rules shall have effect until they have been approved -
  - (a) by the members in a general meeting; and
  - (b) by the Governor,

and until any other rules have been so approved the rules in force immediately preceding the commencement of this Ordinance shall continue to have effect.

(6) Notwithstanding any other written law of the Falkland Islands a member of the Force under the age of eighteen years may enter and remain in any bar of the Club while other members are permitted to enter and remain therein, but he shall not be supplied therein with any intoxicating liquor.

# Courts of Inquiry

60. (1) The Governor may at any time convene a Court of Inquiry composed as he may Convening of determine to inquire into any matter relative to the Force or any unit or component of the Courts of Force or to any officer or other member of the Force. Any Court of Inquiry so convened shall report the facts it finds and conclusions it reaches in writing to the Governor.

- (2) The Commanding Officer shall have the like powers as the Governor has under subsection (1) but, before exercising the same on any occasion he shall first report his reasons for so doing to obtain the consent and in writing of, the Governor. A report of the facts found by any Court of Inquiry content under this subsection and conclusions reached by it shall be reported in writing to the Governor.
- (3) A report of a Court of Inquiry shall not be published without the consent in writing of the Governor.
- (4) A Court of Inquiry shall have the same powers to summon and examine witnesses as a Commission of Inquiry appointed under the Commissions of Inquiry Ordinance has and (Cap. 12) sections 6 to 17 of that Ordinance shall apply as if the Court of that Inquiry were a Commission of Inquiry appointed under that Ordinance.

#### Offences

61. (1) A person commits an offence who assaults or resists or aids or abets another in assaulting or resisting a member of the Force in the discharge of his duty.

Assault on member of Force.

- (2) If the member of the Force the subject of the alleged offence under subsection (1) was not in uniform at the material time it shall be a defence for the person charged to prove -
  - (a) that he did not know that that member of the Force was in fact a member of the Force; or
  - (b) if he did know it, that he had no reasonable cause to believe that that member was acting in the discharge of his duty as a member of the Force.
- (3) A person who is convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.
- 62. (1) A person commits an offence who by threats or otherwise wilfully prevents or Serious public endeavours to prevent another person from becoming or serving as a member of the Force.

- (2) A person commits an offence who by words or actions induces or incites or attempts to induce or incite disaffection or disloyalty to the Crown among members of the Force or in any member of the Force or to persuade or induce any member of the Force not to do his duty as a member of the Force.
- (3) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for a period not exceeding twelve months or both such a fine and such imprisonment.
- 63. A person convicted of an offence under any provision of this Ordinance or of regula- General penalty. tions made under this Ordinance in respect of which no penalty is specifically provided by that or any other provision of this Ordinance or those regulations, as the case may be, is liable to a fine not exceeding the maximum of level 2 on the standard scale.

#### Regulations

64. (1) The Governor may, with the advice of the Commander British Forces may make Regulations regulations -

- (a) as to the administration and discipline of the Force;
- (b) the appointment, promotion, transfer, leave, reduction, discharge from service of officers:
- the enrolment, transfer, leave, promotion, reduction, discharge, and dismissal of warrant officers, non-commissioned officers and men, and the disbandment of any unit;
- (d) the composition and proceedings of Courts of Inquiry;
- the exemption of officers and members from carrying out the full course of training for any year;
- (f) the issue and care of arms, uniforms and appointments;

- drill, training, the provision and use of targets, butts and shooting ranges;
- fixing standards of efficiency;
- the payment of capitation grants, and the amount thereof.
- (2) Any regulations made under subsection (1) or continued in force under section 65(2) may be revoked or amended by regulations made under subsection (i).

#### Repeal and saving

65, (1) The Defence Force Ordinance 1954 is repealed.

(2) Notwithstanding subsection (1) all rules, regulations and Standing Orders made under that Ordinance or under the Defence Force Ordinance (Cap. 19) Laws of the Falkland Islands 1950 Edition and which were in force immediately prior to the commencement of this Ordinance shall continue with such modifications as are required to bring them into conformity with this Ordinance in force until they are revoked or replaced under the relevant provisions of this Ordinance, or where appropriate, as amended under those provisions.

SCHEDULE 1 (section 10(2))

#### PROCEDURE FOR ENLISTMENT

- 1. The recruiting officer shall warn the person to be enlisted that if he makes any false answer to the questions to be read out to him he will be liable to be punished as provided by this Ordinance.
- 2. He shall then read, or cause to be read, to that person the questions set out in the attestation paper and satisfy himself that he understands each of those questions and that his answers thereto have been duly recorded in the attestation paper.
- 3. He shall then ask that person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance set out in Schedule 2 to this Ordinance:

Provided -

- (a) that if the recruiting officer is, for any reason, not satisfied with the answers to the questions set out in the attestation paper he may defer the administration of the oath of allegiance to some later time;
- (b) that if the person desiring to enlist is to be required to submit himself for medical examination under section 14(1) of this Ordinance, the recruiting officer shall defer administration of the oath of allegiance until such time as the Commanding Officer is satisfied, as a result of such medical examination, that the person is reasonably medically fit for useful service as an active member of the Force.

SCHEDULE 2

(section 12)

#### FORM OF OATH OR AFFIRMATION OF ALLEGIANCE

I (name of person making Oath of Affirmation) swear by Almighty God (or do solemnly and sincerely affirm, as the case may be) that I well and truly serve Her Majesty the Queen her heirs successors in the capacity of a member of the Falkland Islands Defence Force in accordance with law. So help me God. (The words "So help me God" are to be omitted in the case of an Affirmation).

Dated this

day of

19

(signature of person making Oath or Affirmation)

Sworn in the presence of -

(signature of person administering Oath or Affirmation)

(Name of person administering Oath or Affirmation in block capitals or typescript followed by capacity in which he administered the Oath or Affirmation)

#### SCHEDULE 3

(section 40(1))

# APPLICATION OF PROVISIONS OF THE ARMY ACT 1955

#### PART I

# Modifications of provisions of the Army Act 1955

- 1. The modifications specified in subsequent paragraphs of this Part of this Schedule, are hereby declared to have effect in relation to the Force and any member of the Force
  - (a) if and only if the provision or provisions of the Army Act 1955 to which they relate would not, otherwise than by virtue of section 40(1) above of this Ordinance apply to the Force or that member of the Force; and
  - (b) without prejudice to the generality of subparagraph (a) above, do not apply when those provisions or that provision of the said Act apply or applies in relation to the Force or that member of the Force under or by virtue of section 207(2), section 208A or section 207 of that Act.
- 2. In every subsequent paragraph of this Schedule (and unless where the contrary in expressly stated in the relevant paragraph)
  - (a) a reference to "the Act" is a reference to the Army Act 1955;
  - (b) a reference to a section is a reference to the section of that number of the said Act; and
  - (c) a reference to a subsection of a section is a reference to the subsection of that number of the relevant section of the Act.
- 3. Except where the contrary is expressly stated in any subsequent paragraph of this Schedule, a reference to the "United Kingdom" in any section of the Act is to be replaced by a reference to the Falkland Islands.
- 4. Section 24 is to be construed as if -
  - (a) the references to "Her Majesty's forces" in subsection (2)(c) included a reference to the Force;
  - (b) the reference in subsection (4) to section 33(2) were a reference to that section as modified by paragraph 7 of this Schedule.
- 5. Section 25(1)(e) is to be construed as if the reference therein to "reasonable steps to rejoin Her Majesty's service" included reasonable steps (in the case of a member of the Force) to rejoin with the Force.
- 6. Section 26(1) is to be construed as if the reference therein to "Her Majesty's forces" included a reference to the Force.
- 7. Section 33(2) is modified by the insertion, after the words "the regular forces" of the words "or of the Force" and by the insertion of the words "of those forces" of the words "or of the Force".
- 8. Section 36(2) shall apply to standing orders made under section 45 of this Ordinance as if the Force were a formation or unit or body of Her Majesty's forces.
- 9. The words "of England" and "in England" in section 70(2) are replaced by the words "of the Falkland Islands" and "in the Falkland Islands" respectively.
- 10. The words "in England and Wales" and "of England and Wales" in section 70(3) are replaced by the words "in the Falkland Islands" and "of the Falkland Islands" respectively.
- 11. The words "United Kingdom" in section 101 are not replaced by the words "the Falkland Islands".

PART II (section 41(1)

Disciplinary provisions of the Army Act 1955 applying when relevant member of the Force is not on active service and is not serving outside the Falkland Islands.

The following provisions of the Army Act 1955 are declared to apply by virtue of section 41(1) of this Ordinance —

- (a) sections 24 and 25 (and for the purposes of those sections, "enemy" has the same meaning as it has under section 225(1) of that Act);
- (b) sections 26, 29, 29A and 31 to 35 (and for the purposes of section 31(1)(a) "enemy" has the same meaning as it has under paragraph (a) above);
- (c) section 42, sections 44 to 46, section 50, section 55, section 60, section 62, section 63A, section 65, section 68, section 68A and section 69 (and for the purposes of section 60 "enemy" has the same meaning as it has under paragraph (a) above); and
- (d) sections 74 and 75, sections 131 and 132 and sections 193 to 197B.



# FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. 2 25th SEPTEMBER 1991 No. 20

The following is published in this Supplement —

The Extradition (Torture) Order 1991.

#### STATUTORY INSTRUMENTS

#### 1991 No. 1702

#### **EXTRADITION**

# The Extradition (Torture) Order 1991

Made

24th July 1991

Laid before Parliament

1st August 1991

Coming into force

22nd August 1991

At the Court at Buckingham Palace, the 24th day of July 1991 Present,

The Queen's Most Excellent Majesty in Council

Whereas the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention")(a) adopted by the General Assembly of the United Nations on 10th December 1984, the terms of which are set out in Schedule 1 to this Order, entered into force for the United Kingdom on 7th January 1989:

And whereas the States mentioned in Schedule 2 to this Order are foreign States in respect of which the Convention is for the time being in force and in relation to which Orders in Council under section 2 of the Extradition Act 1870(b) are in force:

And whereas the States mentioned in Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force and with which extradition arrangements are in force in relation to extradition between those States and one or more of the Territories specified in Schedule 5 to this Order:

And whereas the States mentioned in Part I of Schedule 4 to this Order are foreign States in respect of which the Convention is for the time being in force but with which no general extradition arrangements have been made:

And whereas section 22(3) of the Extradition Act 1989(c) provides that where general extradition arrangements have not been made with a State which is a party to the Convention, and no Order in Council under section 2 of the Extradition Act 1870 is in force in relation to that State, an Order in Council applying the 1989 Act may be made under section 4 of that Act as if the Convention constituted general extradition arrangements between the United Kingdom and the foreign State, or any foreign State, party to the Convention:

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 2 and 21 of the Extradition Act 1870 and sections 4(1), 22(3), 30(1) and 37(3) of the Extradition Act 1989 or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

- 1. This Order may be cited as the Extradition (Torture) Order 1991 and shall come into force on 22nd August 1991.
- 2. Schedule 1 to the Extradition Act 1989 ("the 1989 Act") shall apply in the case of a State mentioned in Schedule 2 to this Order under and in accordance with the extradition treaties listed in the second column of that Schedule as supplemented by Article 3 and paragraphs 1 and 4 of Article 8 of the Convention (set out in Schedule 1 to this Order) which entered into force for those States on the dates specified in the third column of the said Schedule 2; the Orders in Council which give effect to the said extradition treaties shall be construed accordingly.
- 3. Schedule 1 to the 1989 Act shall apply in the case of a State mentioned in Schedule 3 to this Order under and in accordance with the extradition treaties listed in the second column of that Schedule (being treaties which continue to apply in respect of extradition between that State and one or more of the Territories specified in Schedule 5) as supplemented by Article 3 and paragraphs 1 and 4 of Article 8 of the Convention (set out in Schedule 1 to this Order) which entered into force for those States on the dates specified in the third column of the said Schedule 3; the Orders in Council which give effect to the said extradition treaties shall be construed accordingly.
- 4. The 1989 Act, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State mentioned in Part I of Schedule 4 to this Order (being States in respect of which the Convention entered into force on the dates specified in the second column of Part I of that Schedule) subject to the limitations, restrictions, exceptions and qualifications contained in Part II of that Schedule.
- 5. The Extradition (Torture) Order 1988(a) is hereby revoked.
- 6. The operation of this Order is limited to the United Kingdom, and the Territories specified in Schedule 5 to this Order.

G. I. de Deney Clerk of the Privy Council

#### SCHEDULE 1

# CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

<sup>(</sup>a) Cmnd. 9593.

<sup>(</sup>b) 1870 c.52; the Act was repealed by the Extradition Act 1989 with the savings mentioned in section 37 of that Act.

<sup>(</sup>c) 1989 c.33.

<sup>(</sup>a) S.I. 1988/2247.

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world.

Have agreed as follows:

#### PART I

#### ARTICLE I

- 1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
- 2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

#### ARTICLE 2

- 1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
- 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
- 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

#### ARTICLE 3

- 1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
- 2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

#### ARTICLE 4

- 1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any persons which constitutes complicity or participation in torture.
- 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

#### ARTICLE 5

- 1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
  - (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
  - (b) When the alleged offender is a national of that State;
  - (c) When the victim is a national of that State if that State considers it appropriate.
- 2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
- 3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### ARTICLE 6

- 1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
- 2. Such State shall immediately make a preliminary inquiry into the fact.
- 3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
- 4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall prompty report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### ARTICLE 7

- 1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
- 2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
- 3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

#### ARTICLE 8

- 1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
- 2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
- 3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
- 4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

#### ARTICLE 9

- 1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
- 2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

#### ARTICLE 10

- 1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
- 2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

#### ARTICLE 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

#### ARTICLE 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

#### ARTICLE 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

#### ARTICLE 14

- 1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
- 2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

#### ARTICLE 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

#### ARTICLE 16

- 1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
- 2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

#### PART II

#### ARTICLE 17

- 1. There shall be established a Committee against Tortue (hereinafter referred to as the Committee) which shall carry out the functions hereinfter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
- 2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.
- 3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
- 4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
- 5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
- 6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
- 7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

#### ARTICLE 18

- 1. The Committee shall elect its officers for a term of two years. They may be re-elected.
- 2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
  - (a) Six members shall constitute a quorum:
  - (b) Decisions of the Committee shall be made by a majority vote of the members present.
- 3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
- 4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
- 5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

#### ARTICLE 19

- 1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
- 2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
- 3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
- 4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

#### ARTICLE 20

- 1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systmatically practised in the territory of a State Party, the Commmittee shall invite that State Party to co-operate in the examination of the information and to this end to submit observation with regard to the information concerned.
- 2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
- 3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
- 4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
- 5. All the proceedings of the Committee referred to in pararaphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

#### ARTICLE 21

- 1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
  - (a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- (c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
- (d) The Committee shall hold closed meetings when examining communications under this article;
- (e) Subject to the provisions of subparagraph (d), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;
- (f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
  - (i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
  - (ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

#### ARTICLE 22

- 1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
- 2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
- 3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
- 4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

- 5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
  - (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
  - (b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
- 6. The Committee shall hold closed meetings when examining communications under this article.
- 7. The Committee shall forward its views to the State Party concerned and to the individual.
- 8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such delarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

#### ARTICLE 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1(e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### ARTICLE 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

#### PART III

#### ARTICLE 25

- 1. This Convention is open for signature by all States.
- 2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### ARTICLE 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

#### ARTICLE 27

- 1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
- 2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

#### ARTICLE 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.

2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

#### ARTICLE 29

- 1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
- 2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
- 3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Paties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

#### ARTICLE 30

- 1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
- 2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.
- 3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

#### ARTICLE 31

- 1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
- 2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
- 3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

# ARTICLE 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

(a) Signatures, ratifications and accessions under articles 25 and 26;

- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

#### ARTICLE 33

This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

#### SCHEDULE 2

Article 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND FOR WHICH ORDERS UNDER THE EXTRADITION ACT 1870 ARE IN FORCE

	Date of Extradition	Date of entry into		
State	Treaty	force of Convention		
Argentina	22nd May 1889	26th June 1987		
Chile	26th January 1897	30th October 1988		
Colombia	27th October 1888	7th January 1988		
Czech and				
Slovak Federal				
Republic	11th November 1924	6th August 1988		
Ecuador	20th September 1880	29th April 1988		
Guatemala	4th July 1885	4th February 1990		
Hungary	3rd December 1873	26th June 1987		
Mexico	7th September 1886	26th June 1987		
Panama	25th August 1906	23rd September 1987		
Paraguay	12th September 1908	11th April 1990		
Реги	26th January 1904	6th August 1988		
Poland	11th January 1932	25th August 1989		
Romania	21st March 1893	17th January 1991		
Uruguay	26th March 1884	26th June 1987		

#### SCHEDULE 3

Article 3

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND WITH WHICH EXTRADITION TREATIES ARE IN FORCE IN RELATION TO EXTRADITION BETWEEN THOSE STATES AND ONE OR MORE OF THE TERRITORIES SPECIFIED IN SCHEDULE 5

State	Date of Extradition Treaty	Date of entry into force of Convention	
Austria	9th January 1963	28th August 1987	
Denmark	31st March 1873	26th June 1987	
France	14th August 1876	26th June 1987	
Germany	14th May 1872	31st October 1990	
Greece	24th September 1910	5th November 1988	
Italy	5th February 1873	11th February 1989	
Luxembourg	24th November 1880	29th October 1987	
Netherlands	26th September 1898	20th January 1989	
Norway	26th June 1873	26th January 1987	
Portugal	17th October 1892	11th March 1989	
Spain	22nd July 1985	20th November 1987	
Sweden	26th April 1963	26th June 1987	
Switzerland	26th November 1880	26th June 1987	

# SCHEDULE 4

Article 4

#### PART I

# FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND WITH WHICH NO EXTRADITION TREATIES ARE IN FORCE

State	Date of entry into force of Convention	
Afghanistan Algeria	26th June 1987 12th October 1989	
Brazil Bulgaria	28th October 1989 26th June 1987	
Cameroon China	26th June 1987 3rd November 1988	
Egypt Guinea	26th June 1987 9th November 1989	
Libya Philippines	15th June 1989 26th June 1987	12.
Senegal Somalia	26th June 1987 23rd February 1990	
Union of Soviet Socialist Republics (including the Byelorussian Soviet Socialist Republic and		
the Ukrainian Soviet Socialist Republic)	26th June 1987	
Togo Tunisia	18th December 1987 23rd September 1988	

#### PART II

## APPLICATION OF THE 1989 ACT IN THE CASE OF A STATE MENTIONED IN PART I

- 1. The 1989 Act shall have effect only in respect of-
  - (a) an offence mentioned in section 22(4)(g) of that Act;
  - (b) an attempt to commit such an offence;
  - (c) counselling, procuring, commanding, aiding or abetting such an offence; and
- (d) being an accessory before or after the fact to such an offence.
- 2. No proceeding shall be taken on an application for a provisional warrant issued under section 8(1)(b) of the 1989 Act, and no such warrant shall be issued, unless the application is made with the consent of the Secretary of State signified by an Order in the form set out in Part III of this Schedule or in a form to the like effect; but subject as aforesaid the signification of consent shall not affect the provisions of the said section 8.
- 3.—(1) Without prejudice to his so deciding on other grounds, the Secretary of State may, in the circumstances mentioned in the following sub-paragraph, decide not to make an order or issue a warrant-
  - (a) under section 7 of the 1989 Act (an authority to proceed), or
  - (b) under section 12 of the 1989 Act ordering the person to be returned, or
  - (c) for the purposes of paragraph 2 above signifying his consent to an application for a provisional warrant.
- (2) The circumstances referred to in the preceding sub-paragraph are-
  - (a) that the Secretary of State is not satisfied that provision is made by the law of the State requesting the return under which a person accused or convicted in the United Kingdom of the like offence as that with which the person whose return is sought is accused or convicted might be surrendered to the United Kingdom if found in that State, or
  - (b) that the person whose return is sought is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person.

#### PART III

FORM OF CONSENT OF SECRETARY OF STATE TO APPLICATION FOR A PROVISIONAL WARRANT

Whereas AB, a person recognised by the Secretary of State as a diplomatic or consular representative of , has requested consent to application being made for the issue of a provisional warrant for the arrest of CD, late of, who [is accused] [has been convicted] of the commission of an offence or attempt to commit an offence or counselling, procuring, commanding, aiding or abetting an offence or of being accessory before or after the fact to an offence, within the jurisdiction of the said State, being an offence which if committed in the United Kingdom would be an offence under section 134 of the Criminal Justice Act 1988.

By this Order the Secretary of State signifies to you his consent to the said application being made.

Given under the hand of the undersigned, [one of Her Majesty's Principal Secretaries of State]
[Minister of State at ] [Under-Secretary of State at ] this day of
19.

# SCHEDULE 5

Article 6

#### TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla
Cayman Islands
Falkland Islands
Gibraltar
Montserrat
Pitcairn, Henderson, Ducie and Oeno Islands
St Helena
St Helena Dependencies
Turks and Caicos Islands
Virgin Islands

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order applies the Extradition Act 1989 so as to make extraditable the offence described in section 134 of the Criminal Justice Act 1988 (c.33) and an attempt to commit such an offence in the case of States Parties to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10th December 1984; it does not apply to those States Parties (Commonwealth countries and Parties to the European Convention on Extradition) in relation to which the definition of extraditable offence already includes offences of the kind mentioned in the Order, except to the extent that extradition arrangements continue in force in respect of extradition between Parties to the European Convention and one or more of the territories specified in Schedule 5.

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# THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. XEX

12th NOVEMBER 1991

No. 21

The following are published in this supplement —

Driving Licences (Fees) Regulations 1991 (S.R. & O. No. 19 of 1991):

Stanley Airport (Amendment) Regulations 1991 (S.R. & O. No. 20 of 1991);

Coins (Her Majesty the Queen Mother's 90th Birthday) Order 1991 (S.R.& O. No. 21 of 1991);

Coins (Save the Children Fund) Order 1991 (S.R. & O. No. 22 of 1991);

The Pensionable Offices Order 1991 (S.R. & O. No. 23 of 1991);

Income Tax (Amendment) Ordinance 1991 and Income Tax (Amendment) (No. 2) Ordinance 1991 (Correction of Errors) Order 1991 (S.R. & O. No. 24 of 1991;

The Museum & National Trust Bill 1991;

The Supplementary Appropriation (1990-91) (No. 4) Bill 1991;

The Supplementary Appropriation (1991-92) (No. 5) Bill 1991;

The Income Tax (Amendment) (No. 4) Bill 1991;

The Falkland Islands Development Corporation (Amendment) Bill 1991.

# SUBSIDIARY LEGISLATION

## ROAD TRAFFIC

# Driving Licences (Fees) Regulations 1991

(S.R. & O. No. 19 of 1991)

Made: 1st November 1991 Published: 12th November 1991 Coming into operation: 1st October 1991

IN EXERCISE of my powers under section 18 of the Road Traffic Ordinance(a) I make the following Regulations -

- These Regulations may be cited as the Driving Licences (Fees) Regulations 1991 and Citation shall come into operation on 1st October 1991.
- In these Regulations, "1986 Regulations" means the Road Traffic (Provisional) Interpretation. Regulations Order 1986(b).
- The 1986 Regulations are amended -

Amendment of 1986 Regulations.

- (a) in regulation 5(3) (test fee) by replacing "£10" (the fee appearing therein) with
- (b) in regulation 5(4) by replacing "£10" (the fee in ordinary cases for a driver's licence) with "£15";
- (c) in regulation 5(7) by replacing the "£2.00" (the fee for a certificate or production under regulation 5(5)) with "£3.00" and by replacing "£3.00" (the fee for a temporary driver's licence under regulation 5(6)) with "£5.00".

Made this 1st day of November 1991.

R. SAMPSON. Acting Governor.

#### SUBSIDIARY LEGISLATION

#### AIRCRAFT AND AIRPORTS

# Stanley Airport (Amendment) Regulations 1991

(S.R. & O. No. 20 of 1991)

Made: 1st November 1991 Published 12th November 1991 Coming into operation: on Publication

IN EXERCISE of my powers under section 4 of the Stanley Airport (Regulations) Ordinance 1977 (a) I make the following Regulations —

1. These Regulations may be cited as the Stanley Airport (Amendment) Regulations 1991 Citation and and shall come into operation upon their first publication in the Gazette.

commencemen

2. In these Regulations, "the principal Regulations" means the Stanley Airport Regulations The principal 1978 (ь).

Regulations.

3. The principal Regulations are amended in the manner specified in the Schedule to the Regulations.

Amendment of principal Regulations.

4. The Stanley Airport (Amendment) Regulations 1980 (c) are revoked.

Revocation of 1980 Regulations.

#### SCHEDULE (regulation3)

#### Amendments to the principal Regulations

- 1. Wherever it appears in the principal Regulations, except in regulation 14(b) thereof, the word "Superintendent" is replaced by the words "Director of Civil Aviation".
- 2. Schedule B to the principal Regulations is amended -
- (a) by the deletion of subparagraph (a) of paragraph 1 (which relates to Passenger Service Charges);
- (b) by the replacement in subparagraph (b) of paragraph 1 of the words in the text thereof beginning with the words "LANDING CHARGES (aircraft)" and ending with the words "Exceeding 90,000 lbs. but not exceeding 120,000 lbs. £10.00" with the following words —

<sup>(</sup>a) Cap.60. Laws of the Falkland Islands 1950 Edition.

<sup>(</sup>b) No. 5 of 1986.

<sup>(</sup>a) No. 16 of 1978.

<sup>(</sup>b) No. 1 of 1978.

<sup>(</sup>c) No. 1 of 1980.

#### "LANDING CHARGES

The following charges are to be payable in relation to the maximum take-off weight authorised of aircraft, and "weight" is to be construed accordingly. "Tonne" is to be construed as meaning a metric tonne of one thousand kilograms.

Aircraft Weight

Charge

Not exceeding 3.5 tonnes

£6.03 for every 0.5 tonnes or part

thereof.

Exceeding 3.5 tonnes

£12.06 for every tonne or fraction

thereof.

#### PARKING CHARGES (Aircraft)

No charge payable where the aircraft is parked for a period not exceeding two hours but otherwise the following charges are payable (and the first two hours of parking are to be taken into account in reckoning the total period of parking). "Tonne" has the same meaning as it has for the purpose of Landing Charges. "Day" means a consecutive period of 24 hours.

Aircraft Weight	Charge
Not exceeding 5 tonnes	£1.00 per 0.5 tonne or part thereof for every day or part of a day.
Over 5 tonnes and not exceeding 10 tonnes	£13.27 per day or part of a day.
Over 10 tonnes but not exceeding 20 tonnes	£13.27 plus £0.66 per 0.5 tonne or part thereof per day or part thereof.
Over 20 tonnes but not exceeding 30 tonnes	£26.54 plus £0.49 per 0.5 tonne or part thereof per day or part thereof.
Over 30 tonnes but less than 100 tonnes	£36.50 plus £0.39 per 0.5 tonne or part thereof per day or part thereof.
100 tonnes or more	£92.93 plus £0.34 per tonne or part thereof."

Made this 1st day of November 1991.

R. SAMPSON,
Acting Governor.

EXPLANATORY NOTE (not part of above Regulations)

The principal effect of the above Regulations is to increase various charges in relation to aircraft at Stanley Airport.

## SUBSIDIARY LEGISLATION

## **CURRENCY**

# Coins (Her Majesty the Queen Mother's 90th Birthday) Order 1991

(S.R. & O. No. 21 of 1991)

Made: 11th November 1991
Published: 12th November 1991
Coming into operation: on publication

IN EXERCISE of my powers under section 25(a) of the Currency Ordinance 1987 and all other powers me enabling in that behalf I make the following Order -

- 1. This Order may be cited as the Coins (Her Majesty the Queen Mother's 90th Birthday) Order Citation 1991.
- 2.(1) The following new coins being coins of standard weight 28.2759 grammes, a standard New coins. diameter of 38.608 millimetres and a circular shape, shall be made -
  - (a) a silver coin of millesimal fineness 925 ("the silver £5 coin"); and
  - (b) a cupro-nickel coin of standard composition of 75 per centum copper and 25 per centum nickel ("the cupro-nickel £5 coin").
- (2) No more than 10,000 of the silver £5 coin and no more than 100,000 of the cupro-nickel £5 coin shall be made.
- (3) The following further new coins shall be made -
  - (a) a gold coin of standard weight 31.21 grammes, standard diameter of 32.69 millimetres and a circular shape ("the gold £100 coin");
  - (b) a gold coin of standard weight of 15.60 grammes standard diameter of 27 millimetres and a circular shape ("the gold £50 coin");
  - (c) a gold coin of standard weight of 7.81 grammes, standard diameter of 22 millimetres and a circular shape ("the gold £25 coin"); and
  - (d) a gold coin of standard weight 3.13 grammes, standard diameter of 16.5 millimetres and a circular shape ("the gold £10 coin").

Each of the said gold coins shall be not less than a millesimal fineness 999. No more than 750 of each of the said gold coins shall be made.

<sup>(</sup>a) No. 14 of 1987.

- 3.(1) In the making of the silver £5 coin a remedy (that is, a variation from the standard weight, diameter or composition specified in paragraph 2.(1) in relation to the said coin) shall be allowed of an amount not exceeding the following, that is to say -
  - (a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1296 grammes);
  - (b) a variation from the said diameter of 0.125 millimetres per coin; and
  - (c) a variation from the said standard composition of millesimal fineness of 5.
- (2) In the making of the cupro-nickel £5 coin, a remedy shall be allowed of an amount not exceeding the following, that is to say -
  - (a) a variation from the standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1296 grammes; and
  - (b) a variation from the said standard diameter of 0.125 millimetres per coin; and
  - (c) a variation from the said standard composition of two per centum.
- (3) In the making of any of the gold coins a variation from the standard weight and diameter shall be permitted as follows -
  - (a) as to the gold £100 coin -
    - (i) a variation from the standard weight mentioned in paragraph 2.(3)(a) (measured as the average of a sample of not more than one kilogramme of the new coin) of 0.36 grammes per coin; and
    - (ii) a variation from the standard diameter mentioned in paragraph 2.(3)(a) of 0.1 millimetres per coin;
  - (b) as to the gold £50 coin -
    - (i) a variation from the standard weight mentioned in paragraph 2.(3)(b) of 0.213 grammes per coin; and
    - (ii) a variation from the standard diameter mentioned in paragraph 2.(3)(b) of 0.1 millimetres per coin;
  - (c) as to the gold £25 coin -
    - (i) a variation from the standard weight mentioned in paragraph 2.(3)(c) (measured as a sample of not more than one kilogramme of the coin) of 0.128 grammes per coin; and
    - (ii) a variation from the standard diameter mentioned in paragraph 2.(3)(c) of 0.1 millimetres per coin; and

Remedy permitted.

- (d) as to the gold £10 coin -
  - (i) a variation from the standard weight mentioned in paragraph 2.(3)(d) (measured as the average of a sample of not more than one kilogramme of the coin) of 0.065 grammes per coin; and
  - (ii) a variation from the standard diameter mentioned in paragraph 2.(3)(d) of 0.1 millimetres per coin.
- 4. The design for the coins mentioned in paragraphs 2(1) and (3) shall be -

Design of the coins.

- (a) as to the obverse impression of all the said coins the effigy of Her Majesty the Queen with the inscription "QUEEN ELIZABETH II" to the left of the portrait with "FALKLAND ISLANDS" to the right and the denomination of the coin at the bottom:
- (b) as to the reverse impression of the £5 silver coin and cupro-nickel coins, a representation of the flowers the Vanilla Daisy (*Leuceria Suaveolens*) and the Sweet Perfumed Pale Maiden (*Sisyrinchium Filifolium*) surrounded by the inscription "QUEEN ELIZABETH THE QUEEN MOTHER 1900 1990":
- (c) as to the reverse impression of the £100 gold coin and the £25 gold coin, a cameo portrait of Her Majesty the Queen Mother surrounded by flowers and further surrounded by the inscription "QUEEN ELIZABETH THE QUEEN MOTHER 1900 1990"; and
- (d) as to the reverse impression of the £50 gold coin and the £10 gold coin, a representation of the Arms (including supporters and surmounted by the Crown) of Her Majesty the Queen Mother surrounded by the inscription "QUEEN ELIZABETH THE QUEEN MOTHER 1900 1990".

All of the coins shall have a graining upon the edge.

5. All the new coins authorised by this Order shall be current within the Falkland Islands.

Made this 11th day of November 1991

W.H.FULLERTON, Governor

# EXPLANATORY NOTE (not part of above Order)

This Order relates to the commemorative coins issued to commemorate the 90th anniversary

of the birth of Her Majesty Queen Elizabeth the Queen Mother.

## SUBSIDIARY LEGISLATION

#### **CURRENCY**

# Coins (Save the Children Fund) Order 1991

(S.R. & O. No. 22 of 1991)

Made: 11th November 1991
Published: 12th November 1991
Coming into operation: on publication 1991

IN EXERCISE of my powers under section 25(a) of the Currency Ordinance 1987 and all other powers me enabling in that behalf I make the following Order -

1. This Order may be cited as the Coins (Save the Children Fund) Order 1991.

Citation

- 2.(1) The following new coins, being coins of standard weight 28.2759 grammes, a standard New Coins. diameter of 38.608 millimetres and a circular shape, shall be made -
  - (a) a silver coin of millesimal fineness 925; and
  - (b) a cupro-nickel coin of a standard composition of 75 per centum copper and 25 per centum nickel.
- (2) No more than 20,000 of the said silver coin and no more than 25,000 of the said cupro-nickel coin shall be made.
- (3) In the making of the said silver coin a remedy (that is, a variation from the standard weight, diameter or composition specified in sub-paragraph (1) of this paragraph) shall be allowed of an amount not exceeding the following, that is to say -
  - (a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1296 grammes; and
  - (b) a variation from the said standard diameter of 0.125 millimetres per coin; and
  - (c) a variation from the said standard composition of millesimal fineness of 5.
- (4) In the making of the said cupro-nickel coin, a remedy shall be allowed of an amount not exceeding the following, that is to say -
- (a) No. 14 of 1987

- (a) a variation from the standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1296 grammes; and
- (b) a variation from the said standard diameter of 0.125 millimetres per coin; and
- (c) a variation from the said standard composition of two per centum.
- 3. The design for the said coins shall be as follows -

Design of the coins.

- (a) For the obverse impression the effigy of Her Majesty the Queen with the inscription "QUEEN ELIZABETH THE SECOND".
- (b) For the reverse impression a representation of a young girl on horseback taking part in gathering sheep with the inscription "FALKLAND ISLANDS 1990" and "50"; and
- (c) Every silver and cupro-nickel coin shall have a graining upon the edge.
- 4. The said coins shall be current within the Falkland Islands as coins of a value or denomination Coins to be currency. of 50 pence each.

Made this 11th day of November 1991

W.H.FULLERTON, Governor

# EXPLANATORY NOTE (not part of above Order)

This Order relates to the Save the Children Commemorative coins issued to commemorate the 70th Anniversary of the Save the Children Fund.

# SUBSIDIARY LEGISLATION

## **PUBLIC SERVICE**

#### Pensions

# The Pensionable Offices Order 1991

(S.R. & 0. No. 23 of 1991)

Made: 11th November 1991
Published: 12th November 1991
Coming into operation: 1st October 1991

IN EXERCISE of my powers under section 2(1) of the Pensions Ordinance 1965(a), I make the following Order -

1. This Order may be cited as the Pensionable Offices Order 1991.

Citation.

2. The offices specified in the Schedule to this Order are declared to be pensionable offices for the purposes of the Pensions Ordinance 1965, but nothing in this paragraph shall render an officer pensionable if he is serving under a contract of engagement for a fixed period.

Pensionable

3. The Pensionable Offices Order 1965(b) is revoked.

Revocation.

#### SCHEDULE (paragraph 2)

#### Pensionable Offices

Department

Office

The Governor

Steward/Chauffeur Head Gardener Gardener Cook/Housekeeper

Agriculture

Director

Veterinary Officer Agricultural Economist Senior Scientist

Scientist (Sheephusbandry) Scientist (Agronomy) Training Officer Adviser (Wool)

Adviser (Farm Business Management)
Adviser (Economics & Training)
Senior Laboratory Technician
Laboratory Technician

Agricultural Assistant
Junior Agricultural Assistant

Senior Clerk

Senior Agricultural Assistant

Clerk

Civil Aviation

Director

Assistant Air Traffic Controller

Customs and Harbour

Collector of Customs Customs Officer

Assistant Customs Officer
Jnr Assistant Customs Officer

Senior Clerk

Education

Director Education Officer Certificated Teacher Teacher's Assistant

Community Education Officer

Senior Clerk

Deputy Head of Hostel

Hostel Matron Houseparent

Superintendent Swimming Pool

Senior Pool Attendant

Pool Attendant

Clerk

FIGAS General Manager

Chief Pilot Chief Engineer Pilot

Engineer

Assistant Engineer
Senior Clerk
Storekeeper/Clerk
Aircraft Fitter
Clerk

FIGO

Representative

Office Manager

Administrative Assistant (Recruitment)

Personal Assistant Travel Co-ordinator Secretary/Receptionist

**Fisheries** 

Director Marine Officer Computer Technician Senior Clerk Licensing Officer

Personal Assistant Senior Fisheries Protection Officer Fisheries Protection Officer Senior Fisheries Scientist

Data Manager

Fisheries Scientific Officer/Observer

<sup>(</sup>a) No. 5 of 1965.

<sup>(</sup>b) No. 5 of 1975.

Harbour Control Officer Trainee Harbour Control Officer

Clerk

Attorney General Justice

Senior Crown Counsel Senior Magistrate Registrar General Legal Assistant

Clerk

Clerk of Councils Legislature

Research Assistant

Clerk

Chief Medical Officer Medical

Dental Surgeon Medical Officer Chief Nursing Officer

Administrator

Environmental Health Officer

Laboratory Technician

**Nursing Sister** Social Worker

Senior Technician (Hospital Engineer)

Pharmacy Technician Physiotherapist Health Visitor Dental Technician Assistant Engineer Senior Nurse Nurse

Nursing Auxiliary

Warden Sheltered Accommodation

Laboratory Assistant Receptionist/Dental Nurse

Senior Clerk Clerk

Police, Fire & Rescue Service and Immigration

Chief Police Officer

Inspector Station Sergeant Detective Sergeant Constable Cadet Constable Gaoler/Handyman

Senior Clerk Chief Fire Officer Sub Officer Fireman

Immigration Officer

Assistant Immigration Officer

Clerk

Posts and Tels.

Superintendent Senior Clerk Chief Clerk Clerk

**Public Works** 

Director Deputy Director Chief Clerk

Senior Clerk Design Engineer

Assistant Design Engineer/Snr Draughtsman

**Building Adviser** Draughtsman Technical Assistant Junior Technical Assistant

Foreman Tradesman

Superintendent Power & Electrical Assistant Superintendent P & E

Engineman

Watchkeeper/Handyman Meter Reader/Clerk Works Manager

Supervisor Water Supply

Senior Foreman Handyman

Senior Filtration Plant Operator Assistant Filtration Plant Operator Superintendent Construction & Plant General Foreman/Engineer

Housing Officer

Clerk

Secretariat, Treasury & Central Store, Printing and Broadcasting

Chief Executive

Senior Assistant Secretary Establishments Secretary

Planning Officer

Assistant Secretary (General)

Assistant Secretary (Establishments)

Chief Clerk Curator Archivist

Computer Co-ordinator

Assistant Computer Co-ordinator Trainee Computer Co-ordinator

Financial Secretary

Deputy Financial Secretary Economic & Financial Adviser

Income Tax Officer Chief Accountant Internal Auditor Accounting Officer Personal Assistant

Assistant Income Tax Officer

Senior Clerk **Head Printer** Assistant Printer Trainee Printer Machine Operator Supplies Officer Senior Storeman

Storeman **Broadcasting Officer** Assistant Producer **Broadcasting Assistant** Clerk

Made this 11th day of November 1991.

W.H. FULLERTON, Acting Governor.

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

This Order specifies the posts which are pensionable posts for the purposes of the Pensions Ordinance 1965 ("established posts"). A person occupying such a post will be a pensionable officer if, and only if, he has been appointed to the public service on "permanent and pensionable terms" and, of course, he satisfies the conditions set out in the Pensions Ordinance. It does not, of course, affect the rights of persons who occupied posts which, in the past, were "pensionable offices" and are not included in the list of offices specified in the Schedule to the Order.

## SUBSIDIARY LEGISLATION

#### INCOME TAX

Income Tax (Amendment) Ordinance 1991 and Income Tax (Amendment) (No. 2) Ordinance 1991 (Correction of Errors) Order 1991

(S.R. & O. No. 24 of 1991)

Made: 7th November 1991 Published: 12th November 1991 Coming into operation: 1st January 1991

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977 I make the following Order -

This Order may be cited as the Income Tax (Amendment) Ordinance 1991 and Income Citation and Tax (Amendment) (No. 2) Ordinance 1991 (Correction of Errors) Order 1991 and shall be deemed commencement. to have come into operation on 1st January 1991.

2.(1) In the Income Tax (Amendment) Ordinance (a) the words "(Cap. 15)" appearing in the Correction marginal note to section 2 and in the cross-heading immediately below the word "SCHEDULE" of errors. are replaced by the words "(Cap. 32)";

(2) In the Income Tax (Amendment) (No. 2) Ordinance 1991 (b) the words "(Cap. 15)" appearing in the marginal note to section 2 and in the cross-heading immediately below the words "SCHEDULE 1" are replaced by the words "(Cap. 32)".

Made this 7th day of November 1991

D.G. LANG, Attorney General.

(a) No. 10 of 1991.

(b) No. 11 of 1991.

#### **EXPLANATORY NOTE** (not part of above Order)

This Order corrects references to the Income Tax Ordinance as being "Cap.15" (which is incorrect) to "Cap.32" (which is correct) in both the Ordinances mentioned in the Order.

# The Museum and National Trust Bill 1991

(No: of 1991)

# ARRANGEMENT OF PROVISIONS

# Introductory

Clause	
1	Short title.
2.	Interpretation.
	Establishment and membership of the Trust
3.	The Trust.
4.	Membership of the Trust.
	Functions, funds, accounts and budget of the Trust
5.	Functions of the Trust.
6.	Funds of the Trust.
7.	Accounts of the Trust.
8.	Annual budget.
	Property, gifts and tax
9.	Disposal of Trust Property.
10.	Grants out of Government funds.
11.	Tax exemption.
12.	Transfer of Fakland Islands Museum.
13.	Transfer of other property.
	Gifts.
14.	Oils.

# Chairman, secretary, meetings and business of the Trust

- Chairman of the Trust.
   Secretary.
   Quorum.
   Attendance of other persons at meetings of the Trust.
   Calling of meetings of the Trust.
   Other provisions as to business of the Trust.

  General
  - Contracts by the Trust.
- 23. Notices etc.

22.

24. Regulations.

# SCHEDULE

Additional regulation of the Trust.

#### A Bill

for

#### An Ordinance

#### to establish and regulate a Museum and National Trust for the Falkland Islands

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

#### Introductory

1. This Ordinance may be cited as the Museum and National Trust Ordinance 1991.

Short title.

2.(1) In this Ordinance -

Interpretation.

"ancient monument" means -

- (a) any building or structure which has been designated as a building of architectural or historic importance under the provisions of the Planning and Building Ordinance 1991;
- (b) any building or structure which, in the opinion of the Trust, by reason of its historic, architectural, traditional, artistic or archaeological interest attaching thereto is worthy of preservation;
- "archaeological object" means any chattel, including any object in a manufactured or partly manufactured state which by reason of the archaeological interest or historic interest attaching thereto or its association with any person in or at any time in or associated with the Falkland Islands is in the opinion of the Trust worthy of preservation or display to the public;

"site of interest" means any land in the Falkland Islands which by reason of its archaeological or historical associations, the presence of wildlife upon it, its scenic attractions or natural beauty is, in the opinion of the Trust, worthy of preservation;

"the Trust" means the Museum and National Trust for the Falkland Islands established by section 3.

# Establishment and membership of the Trust

3.(1) There is established the Museum and National Trust for the Falkland Islands.

The Trust

- (2) The Trust is a body corporate and may sue or be sued in its own name.
- (3) The Trust shall have a common seal.
- 4.(1) The Trust shall have not less than five and not more than seven members each of whom Membership of shall be appointed by, and may be removed by instrument signed by the Governor on the advice of the Trust. the Executive Council.

- (2) Each member of the Trust shall hold office as such for the period specified in his appointment or the earlier occurrence of one of the following events -
  - (a) his removal from office in accordance with subsection (1);
  - (b) his resignation by writing delivered to the Governor;
  - (c) his being sentenced to imprisonment for a period of three months or more, either immediately or suspended for a period or until the happening of some other event;
  - (d) his being adjudicated bankrupt.
- (3) A former member of the Trust is eligible for reappointment under subsection (1).

Functions, funds, accounts and budget of the Trust

5.(1) Subject to subsection (2), the Trust may -

Functions of the Trust.

- (a) operate any museum at any place in the Falkland Islands on any land or in any vessel which it owns or the right to occupation of which it has;
- (b) purchase or accept a gift, lease of any land or licence of any building which, in its opinion can conveniently be operated as a museum;
- (c) purchase or accept a gift of any object or thing whatsoever which, in the opinion of the Trust is worthy of exhibition either immediately or at any future time;
- (d) establish and maintain an archive of any material which, in the opinion of the Trust is now or may in the future be of historical or other interest and may purchase or accept a gift of any material for the purpose of that archive;

- (e) purchase, lease or take a gift of any ancient monument, archaeological object or site of interest:
- (f) accept the loan by any person of any archaeological object or other thing worthy, in the opinion of the Trust, of public exhibition;
- (g) accept gifts of money;
- (h) employ on such terms as it thinks fit, any person for the purposes of any of the foregoing purposes;
- (i) engage persons, whether or not for reward, on such terms as the Trust thinks fit, to advise it in relation to any of the foregoing purposes;
- (j) accept the services of any person upon secondment by his employer on such terms as may be agreed between the Trust and that employer;
- (k) maintain, repair or improve any thing in its ownership or, subject to the permission of the owner thereof, any thing in its possession;
- (1) with the consent of the Governor in writing, borrow money for any of the foregoing purposes;
- (m) open and maintain bank accounts in the Falkland Islands and, with the consent of the Governor, overseas;
- (n) provide advice to the Government and others as to archaeological monuments, archaeological objects and sites of interest; and
- (o) promote interest in and knowledge of the history of the Falkland Islands and its inhabitants and in the flora and fauna of the Falkland Islands.
- (2) The Trust shall not expend or commit the expenditure for any of the purposes set out in subsection (1) beyond funds currently available to it or which will, to the knowledge of the Trust, be available to it before the expenditure in question falls to be met.
- (3) The Trust may with the consent of the Governor borrow money for any of the purposes set out in subsection (1) but only upon terms and conditions approved by the Governor.
- (4) The Trust shall not, otherwise than is permitted by section 9, sell, dispose of, mortgage charge or pledge any of its property without the prior consent of the Governor.
- 6.(1) The funds of the Trust shall consist of -

Funds of the

- (a) such moneys as are granted to the Trust by the Government or by any other
- (b) such sums as are received by it by way of gift from any person;
- (c) the income received by it in relation to any investment of any part of its funds;
- (d) the proceeds of sale of any investments referred to in paragraph (c);

- (e) income received by the Trust from admission and other charges made by it and the proceeds of sale of any books or other publications of the Trust;
- (f) any other income received by the Trust from any source whatsoever.
- (2) The Trust may place any of its funds which, in its opinion, are surplus to its current expenditure requirements upon an interest-bearing deposit at a bank in the Falkland Islands.
- (3) The Trust may, with the consent of the Governor, invest any of its funds which could be (No. 11 of 1988) placed on interest bearing deposit under subsection (2) in any manner in which the Consolidated Fund may be invested under the (No. 11 of 1988) provisions of the Finance and Audit Ordinance

7.(1) The Trust shall keep such books of account as are required to record the income. Accounts of the expenditure, source of funds, assets and liabilities of the Trust in a manner acceptable to the Trust Principal Auditor.

- (2) Where the Trust has received any gift of money subject to a condition that it be expended in a particular manner or for a particular purpose ("special funds") the Trust shall in its books of account keep such records as are necessary to separate such money from funds available for expenditure on the functions of the Trust generally and from other funds of the Trust expendable in another particular manner or for another particular purpose and shall record expenditure of moneys to which this subsection applies in such manner as to enable the expenditure attributable to special funds to be readily identified.
- (3) The accounts of the Trust shall be made up to the 30th June in each year and shall be audited by the Principal Auditor.
- (4) So soon as the accounts have been audited a copy of them as so audited, together with the Principal Auditor's report thereon shall be forwarded to the Governor who shall cause the same to be laid on the table at the next convenient meeting of the Legislative Council.
- 8.(1) No later than the 31st March in each year the Trust shall forward to the Financial Secretary Annual budget. its estimates of its expenditure and income in respect of the year commencing on the following 1st July ("the estimates").

- (2) The estimates shall be in a form acceptable to the Financial Secretary but, without prejudice to the foregoing, shall contain or be accompanied by a sufficient explanation of the expenditure proposals and revenue expended during the financial year and shall state what grant or other financial assistance is requested by the Trust from the Falkland Islands Government during that
- (3) The Financial Secretary shall on receipt of the estimates cause the same to be considered by the Executive Council.

#### Property, gifts and tax

9.(1) The Trust may enter into any arrangement with any museum, gallery or learned institution Disposal of Trust whereby any archaeological object owned by the Trust is lent by the Trust for the purpose of being property. exhibited or being studied by that museum, gallery or learned institution. No arrangement whereby any archaeological object is likely to be outside the Falkland Islands for a period exceeding two years shall be made without the consent of the Governor.

- (2) Subject to subsection (3), the Trust shall not sell, barter, exchange, lease, mortgage, charge or pledge any of its property without the consent of the Governor.
- (3) Subsection (2) does not apply in respect of the sale of any investments made by the Trust pursuant to section 6(3).
- 10. There may be granted or lent to the Trust out of the Consolidated Fund such sums as are Grants out of appropriated in accordance with law for the purpose.

Government Fund

11. The income of the Trust is exempt from any form of taxation in the Falkland Islands.

Tax Exemption.

12.(1) The archaeological objects presently in the Falkland Islands Museum and belonging to the Transfer of Falkland Islands Government are by this subsection vested in the Trust, which shall hold the same Falkland Islands as its property in accordance with the provisions of this Ordinance.

Museum

- (2) In so far as any archaeological object presently in Falkland Islands Museum is not the property of the Falkland Islands Government but is the subject of any loan or other arrangement with the owner thereof, possession and custody of the same, to the extent not requiring the consent of the owner, is transferred to the Trust as agent for the Falkland Islands Government and the Trust shall comply with any agreement or arrangement made by the Government with the owner
- 13.(1) The Governor may if the Trust is willing to accept the same, by instrument under his hand, Transfer of other transfer to the Trust without payment -

property.

- (a) the ownership of any archaeological object, not being presently in Falkland Islands Museum, owned by the Falkland Islands Government:
- (b) any wreck or hulk belonging to the Falkland Islands Government:
- (c) any land or buildings belonging to the Falkland Islands Government.
- (2) A transfer under subsection (1) may be made subject to conditions to be performed or observed by the Trust.
- (3) The Attorney General may by instrument under his hand transfer to the Trust the ownership of certain prints and antique furniture at Government House and being subject to a trust created by the donor thereof whereby the said prints and antique furniture were to be held at Government House for the benefit of the people of the Falkland Islands. Upon such transfer the said prints and antique furniture shall be held by the Trust upon the same trusts as the Attorney General held the same prior to the said transfer and the Trust shall be bound by the said trusts and shall not, in particular, remove the said prints and antique furniture from Government House otherwise than is permitted thereby.
- (4) The Trust shall on any property being transferred under the provisions of this section hold the same as its property in accordance with the provisions of this Ordinance.
- 14.(1) The Trust may accept a gift of any money or property.

Gifts.

(2) Subject to subsection (3), the Trust may accept the gift of any money or property subject to any conditions approved by the Trust and not inconsistent with this Ordinance and, if it does so, shall perform and comply with those conditions.

- (3) The Trust shall not, without the consent of the Governor, accept any gift of any money or property -
  - (a) subject to a condition that the Trust shall expend any money not forming part of the gift or the income or proceeds of sale thereof;
  - (b) subject to any condition which, in the opinion of the Trust; is unduly onerous or in any way inconsistent with the proper performance of functions of the Trust or otherwise contrary to the public interest.
- (4) The Trust is not obliged to accept any gift.
- 15. The Trust may, with the consent of the owner of ancient monument which is of historical Placing of tablets interest, place or cause to be placed on such ancient monument a tablet, plate, inscription or other etc. notice, stating the facts in relation to such ancient monument which give rise to the historical or other interest thereof.

#### Chairman, secretary, meetings and business of the Trust

16.(1) The Governor may designate one of the members of the Trust as the chairman of the Trust Chairman of the and in default of any such designation the members of the Trust shall elect one of their number to Trust. be the chairman of the Trust.

- (2) The Chairman of the Trust shall preside at all meetings of the Trust at which he is present.
- (3) If at any meeting of the Trust the votes of the members there present are equally divided upon any matter, the Chairman shall have and shall exercise a second or casting vote and that matter shall be deemed to be decided in accordance with the manner in which that vote is cast.
- (4) If the Chairman is absent from the whole or any part of any meeting of the Trust the members there present, if constituting a quorum, shall elect one of their number to be the chairman of that meeting, or such part thereof from which the Chairman is absent, and the person so elected shall, during the absence of the Chairman from that meeting, preside thereat and shall during such absence have and shall exercise the powers of the Chairman under subsection (3).
- 17.(1) The Trust shall appoint a person to be Secretary of the Trust. That person may be a Secretary. member of the Trust other than the Chairman.
- (2) The Secretary is entitled to attend all meetings of the Trust and to speak thereat but shall not vote upon any matter at any such meeting unless he is a member of the Trust.
- (3) The Secretary shall have custody of and be responsible for the safe keeping of all records of the Trust and shall prepare or cause to be prepared Minutes of all meetings of the Trust.
- 18.(1) Three members of the Trust personally present shall constitute a quorum at any meeting of Quorum. the Trust and provided that such a quorum be present the Trust may act notwithstanding any vacancy for the time being in its membership.
- (2) No business shall be transacted at any meeting of the Trust at which a quorum is not present save to adjourn that meeting.

19. Any person may attend a meeting of the Trust with the permission of the Chairman and, at the Attendance of invitation of the members there present, may speak but not vote in relation to any matter of other persons at business thereat.

meetings of the meetings of the

20.(1) Meetings of the Trust shall be convened by the Secretary on the instructions of the Calling of Chairman -

- (a) at least twice in every year;
- (b) subject to (a) and (c) whenever, in his opinion, the business of the Trust so
- (c) within fourteen days of the receipt by the Secretary of a requisition in writing so to do -
  - (i) signed by the Governor, or
  - (ii) signed by not less than three members of the Trust.
- (2) Meetings of the Trust may be convened as to be held at any place in the Falkland Islands.
- 21.(1) The Schedule to this Ordinance has effect for the purpose of additional regulation of the Other provisions business of the Trust and transactions to which the Trust is a party.

as to busines of the Trust

(2) Subject to this Ordinance the Trust may determine its own procedure at meetings of the Trust.

#### General

22.(1) Any instrument required by law to be under seal is sufficiently executed if it is executed Contracts by the under the common seal of the Trust in the presence of two members or one member and the Trust Secretary.

- (2) Any contract which, if made between private persons, would by law be required to be in writing and signed by the parties to be charged therewith or would by law be valid although made by parol only shall be valid if made by the Trust by writing signed by a member of the Trust or the Secretary, authorised in that behalf by the Trust.
- 23.(1) Any notice, legal process or other document required to be served upon the Trust is validly Notices etc. served if served upon or sent by post to the Secretary at his usual address or place of business and, if sent by post, addressed to him in his capacity as Secretary of the Trust.

- (2) Any notice of other document expressed to be sent by or on behalf of the Trust may be signed by any member of the Trust or by the Secretary.
- 24. The Governor after consulting the Trust may make regulations for any of the following Regulations.
  - (a) to prescribe the forms of records and other documents to be kept by the Trust;
  - (b) to prescribe the manner of establishment of, maintenance of and access to any documentary archive maintained by the Trust and the rights of any person to have access thereto and any restrictions upon any such right of access;
  - (c) to prescribe allowances and expenses payable to members of the Trust in connection with the business of the Trust;
  - (d) to amend the Schedule to this Ordinance.

# SCHEDULE (section 21(1))

# Additional regulation of the Trust

- 1. Subject to paragraph 2, all cheques and other bills of exchange drawn by or on behalf of the Trust shall be signed by two members of the Trust or by one member and the Secretary.
- 2. A cheque or other bill of exchange drawn by the Trust in a sum not exceeding £500 may be signed by one member of the Trust or by the Secretary.
- 3. The Financial Secretary or any public officer authorised by him shall be entitled to examine and take copies of any books of account of the Trust at any reasonable time.
- 4. A copy of all minutes of meetings of the Trust shall be sent to the Chief Executive within fourteen days of any such meeting.

#### **OBJECTS AND REASONS**

To establish a Museum and National Trust for the Falkland Islands, to regulate the Trust, to make such provision as is necessary in relation thereto and to enable property to be vested in the Trust.

# The Supplementary Appropriation (1990-1991)(No. 4) Bill 1991

(No. of 1991)

# ARRANGEMENT OF PROVISIONS

Clause

- Short title.
- Appropriation of £7,910 for the services of the year 1990-1991. 2.

#### A Bill

#### for

# An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £7,910 for the service of the financial year which ended on 30 June 1991

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

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) (No. 4) Short title Ordinance 1991.
- 2. The issue by the Financial Secretary and appropriation out of the Consolidated Fund and the Appropriation of application to the service of the year which commenced on 1 July 1990 and ended on 30 June £7,910 for the 1991 ("the Financial Year") of the (and in addition to any sum already granted and appropriated year 1990-91. for the service of the financial year) sum of SEVEN THOUSAND NINE HUNDRED AND TEN POUNDS, for the purposes of the service expressed and particularly mentioned in the Schedule hereto and which came in course of payment during the financial year is hereby authorised as if this Ordinance had been in force at the time or times of the issue out of the Consolidated Fund of any sums to which this section relates.

## **SCHEDULE**

Number	Head of Service	£
520	Mineral Resources	7,910

#### **OBJECTS AND REASONS**

To provide for supplementary expenditure approved by the Standing Finance Committee on 11 July 1990.

# The Supplementary Appropriation (1991-1992)(No. 5) Bill 1991

(No. of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Clause

- Short title.
- 2. Appropriation of £620,400 for the services of the year 1991-1992.

#### A Bill

#### for

#### An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £620,400 for the service of the financial year ending on 30 June 1992.

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

- 1. This Ordinance may be cited as the Supplementary Appropriation (1991 1992) (No.5) Short title. Ordinance 1991.
- 2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the Appropriation of service of the year commencing 1st July 1991 and ending on 30th June 1992 ("the financial year") £620,400 for the additional sums not exceeding in aggregate the sum of SIX HUNDRED AND TWENTY services of the THOUSAND FOUR HUNDRED POUNDS, which sum is granted and shall be appropriated for year 1991-1992. the purposes of the Heads of Service mentioned in the Schedule hereto and which will come in course of payment during the Financial Year.

#### **SCHEDULE**

Head of Service	£	
RATING BUDGET		
Aviation	21,200	
Medical and Dental	48,000	
Education and Training	9,620	
Fisheries	26,060	
Public Works	16,730	
Fox Bay Village	5,000	
Agriculture	18,600	
Justice	9,530	
Police, Fire & Rescue and		
Immigration	1,700	
Secretariat, Treasury, Central Store		
and Broadcasting	211,770	
Social Welfare	700	
Falkland Islands Government		
Office, London	4,600	
FIDC Funding	2,060	
Supplementary Expenditure	375,570	
PITAL BUDGET		
Expenditure to be met from		
Local Funds	244.830	
LEMENTARY EXPENDITURE	£620,400	
	Aviation Medical and Dental Education and Training Fisheries Public Works Fox Bay Village Agriculture Justice Police, Fire & Rescue and Immigration Secretariat, Treasury, Central Store and Broadcasting Social Welfare Falkland Islands Government Office, London FIDC Funding Supplementary Expenditure  PITAL BUDGET  Expenditure to be met from Local Funds	Aviation   21,200   Medical and Dental   48,000   Education and Training   9,620   Fisheries   26,060   Public Works   16,730   Fox Bay Village   5,000   Agriculture   18,600   Justice   9,530   Police, Fire & Rescue and   Immigration   1,700   Secretariat, Treasury, Central Store   and Broadcasting   211,770   Social Welfare   700   Falkland Islands Government   Office, London   4,600   FIDC Funding   2,060   Supplementary Expenditure   375,570   PITAL BUDGET   Expenditure to be met from   Local Funds   244,830

#### **OBJECTS AND REASONS**

To provide for supplementary expenditure approved by the Standing Finance Committee during the period 17 July - 18 September 1991.

# The Income Tax (Amendment) (No. 4) Bill 1991

(No. of 1991)

# ARRANGEMENT OF PROVISIONS

- Short title.
- Amendment of Cap. 32.

#### **SCHEDULE**

#### A Bill

# for

#### An Ordinance

# to amend the Income Tax Ordinance

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

- 1. This Ordinance may be cited as the Income Tax (Amendment) (No. 3) Ordinance 1991 Short title and shall come into operation on 1st January 1992.
- 2. The Income Tax Ordinance is amended in the manner specified in the Schedule.

Amendment Cap. 32.

# SCHEDULE (section 2) Amendments to Cap. 32

- 1. Section 14(1) is amended by replacing "£3,000" with "£3,200".
- 2. Section 15(1) is amended by replacing "£1,900" with "£2,050".
- 3. Section 15(2) is amended by replacing "£1,020" with "£1,100".
- 4. Section 15(3) is amended by replacing "£1,020" with "£1,100".
- 5. Section 15(4) is amended by replacing "£3,000" with "£3,200".

## OBJECTS AND REASONS

To increase various deductions from income allowable for tax purposes.

# The Falkland Islands Development Corporation (Amendment) Bill 1991

of 1991) (No.

#### ARRANGEMENT OF PROVISIONS

Clause

- Short title. 1.
- Amendment of Falkland Islands Development Corporation Ordinance 1983 (No. 1 of

#### **SCHEDULE**

#### A Bill

#### for

#### An Ordinance

# to amend the Falkland Islands Development Corporation Ordinance 1983

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

- 1. This Ordinance may be cited as the Falkland Islands Development Corporation (Amendment) Short title. Ordinance 1991 and comes into operation on 1st January 1992.
- 2. The Falkland Islands Development Corporation Ordinance 1983 is amended in the manner Amendment of specified in the Schedule to this Ordinance.

Falkland Islands Development Corporation Ordinance 1983. (No. 1 of 1983)

#### SCHEDULE (section 2)

Amendment of the Falkland Islands Development Corporation Ordinance 1983.

- 1. Section 2 of the Ordinance is amended -
  - (a) by inserting the following definition as the first definition appearing therein -
    - ""Board" means the Executive Board to which section 7(1) relates;"
  - (b) by the repeal of the definitions of "Chief Accountant" and "the Executive" appearing therein;
  - (c) by inserting the following definition immediately after the definition of "Corporation" appearing therein -
    - ""the Financial Controller" means the person appointed as Financial Controller under section 10(1); and

- (d) by replacing the definition of "financial year" with the following definition -
  - "the financial year" means a period of twelve calendar months expiring on the thirtieth day of June"; and
- (e) by replacing the words "section 8" in the definition of "General Manager" appearing therein with the words "section 9(1)";
- (f) by inserting immediately before the end of the section the following definitions
  - ""the Manual" means the Policies and Procedures Manual provided for by section 6(4):
  - "Principal Auditor" has the same meaning as it has under the Constitution;
  - "Secretary" means the person appointed or deemed to have been appointed under section 14(1)."
- 2. Section 5(2) of the Ordinance is amended by replacing paragraph (k) with the following new paragraph (k) -
  - "(k) to subscribe for or purchase shares in any company incorporated in the Falkland Islands;".
- 3. Sections 6 to 16 of the Ordinance are repealed and replaced by the following sections -
  - "6.(1) The Corporation shall in the exercise of its functions under section 4 be Corporation to answerable to the Executive Council of the Falkland Islands Government.

be responsible to the Executive

- (2) In exercise of its functions the Corporation shall have regard to, and so far as may be Council. possible so to do, act in accordance with, such policies as the Governor on the advice of the Executive Council may notify to the General Manager.
- (3) The General Manager shall make such written and other reports to the Executive Council as to the activities and intended or proposed activities of the Corporation in the pursuance of its functions under section 4 and as to any other matter, whether or not related to the foregoing, as the Governor acting in his discretion or on the advice of the Executive Council may require him to make.
- (4) Without prejudice to the foregoing subsections, there shall be a Policies and Procedures Manual in relation to the Corporation and such manual shall be approved, and any amendments to such manual, shall be approved, by the Governor with the advice of the Executive Council.
- (5) The Corporation, the Board and all officers of the Corporation shall comply with the Manual but the question as to whether it has been complied with in any particular instance or respect shall not be enquired into by any court and a failure to comply with that Manual shall not, in relation to any person dealing with the Corporation, invalidate any act or thing done by the Corporation or any of its employees.

- (6) The Corporation shall not -
  - (a) guarantee any loan;
  - (b) borrow any money;
  - (c) issue any Letter of Comfort in relation to a loan or financing of any kind to the Corporation or any other person;
  - (d) mortgage, charge, pledge, any of its property by way of security for the repayment of any loan or interest thereon or the performance of any obligation,

without the consent in writing of the Governor on the advice of the Executive Council.

(7) Subsection (6) has effect without prejudice to any requirement under section 5(2)(d) that the prior consent of the Secretary of State be obtained in relation to any borrowing to which that provision relates.

7.(1) There shall be an Executive Board of the Corporation consisting of -

Executive Board.

- (a) The Chief Executive of the Falkland Islands Government;
- (b) The General Manager;
- (c) two elected members of the Legislative Council;
- (d) three persons appointed by the Governor on the advice of the Executive Council as being persons appearing to it to be suitable persons to represent the interests of the business community in the Falkland Islands; and
- (e) one person appointed by the Governor on the advice of the Executive Council as being a person appearing to it to be a suitable person to represent the interests of the farming community in the Falkland Islands.
- (2) The persons appointed under paragraphs (c), (d) and (e) of subsection (1) shall be appointed by instrument under the hand of the Governor and subject to subsections (5) and (6) shall hold office for such period as may be specified in the instrument appointing them.
- (3) The elected members of the Legislative Council to whom paragraph (c) of subsection (1) relates shall be selected by the elected members of the Legislative Council in such manner as they may determine and shall be appointed and hold office for such period (subject to subsection (5)) as the elected members of the Legislative Council may determine.
- (4) The period of appointment (subject to subsection (6)) of persons to whom paragraphs (d) and (e) of subsection (1) relate shall be such as the Executive Council may advise the Governor.
- (5) An elected member of the Legislative Council appointed pursuant to subsection (3) ceases to be a member of the Board -

- (a) on ceasing for any reason to be an elected member of the Legislative
- (b) on his appointment being revoked by the Governor on the advice of the majority of the elected members of the Legislative Council;
- (c) on his tendering his resignation in writing to the Governor; or
- (d) on the expiration of the period for which he is appointed.
- (6) A person to whom subsection (4) relates ceases to be a member of the Board -
  - (a) on his appointment being revoked by the Governor on the advice of the Executive Council;
  - (b) on his tendering his resignation in writing to the Governor;
  - (c) on his becoming a public officer or being employed by the Corporation;
  - (d) on the expiration of his period for which he was appointed.
- (7) A person who ceases to be a member of the Board by reason of the expiration of the period for which he was appointed is eligible for re-appointment to the Board.
- 8.(1) The Chief Executive shall be the Chairman of the Corporation and shall preside at Chairman and Viceall meetings of the Board at which he is present or during such time as he is present at Chairman of the any such meeting.

Corporation.

- (2) In the absence of the Chief Executive from a meeting of the Executive Board, or part thereof, the General Manager shall preside thereat during such absence.
- 9.(1) There shall be a General Manager of the Corporation who shall be appointed, and General Manager. may be removed from office, by the Governor acting on the advice of the Executive Council.

- (2) The person who immediately prior to the commencement of this section held the office of General Manager shall be deemed to have been appointed under subsection (1).
- 10.(1) There shall be a Financial Controller of the Corporation who shall be appointed Financial by and may be removed from office by the Governor on the advice of the Executive Controller. Council.

- (2) A person appointed as Financial Controller shall hold such qualifications or experience in accountancy as the Governor on the advice of the Executive Council considers appropriate in relation to the needs of the Corporation.
- (3) The person who immediately prior to the commencement of this section held the office of Financial Controller of the Corporation shall be deemed to have been appointed under subsection (1).
- (4) The Financial Controller is entitled to attend all meetings of the Board and may speak, but shall not vote, in relation to any matter under consideration by the Board at any such meeting.

11.(1) The Board shall be responsible for the management and direction of the Functions of Corporation's affairs in accordance with -

- (a) policies and objectives approved by the Executive Council from time to time and;
- (b) the Manual.
- (2) The Board may delegate, subject to the provisions of this Ordinance, the doing or performance of any act matter or thing it has power to do to the General Manager or other employee of the Corporation and any act matter or thing so done or performed shall be as valid and effectual as if it had been done by the Board directly.
- (3) The common seal of the Corporation shall not be affixed to any instrument except in accordance with a resolution of the Board.
- 12.(1) Subject to this section, the quorum of the Board shall be four or more members Quorum calling personally present of whom at least half shall be persons appointed under paragraphs (d) (e) and (f) of section 7(1).

of meeting and procedure of the Board

- (2) Subject to this section no business shall be transacted at a meeting of the Board at which there is not a quorum present except to adjourn the meeting.
- (3) A member of the Board who has any direct or indirect financial interest in any matter considered at a meeting of the Board at which he is present shall declare that interest and shall not vote in respect of that matter and, if he is so required by the remaining members of the Board, shall withdraw from the meeting during consideration of that matter. The Board shall not be inquorate by reason of any such withdrawal unless the number of members remaining present is less than three.
- (4) A person commits an offence who contravenes subsection (3) and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard
- (5) The Board shall meet as often as may be necessary for the transaction of its business, provided that -
  - (a) the General Manager shall convene a meeting of the Board when called upon by the Governor so to do;
  - (b) no greater interval than three months shall elapse between a meeting of the Board and the next following meeting.

Meetings of the Board shall be convened by the General Manager -

- (i) in accordance with resolutions of the Board: and
- (ii) otherwise, by the General Manager after consultation with the Chief Executive, except in a case to which paragraph (a) relates.

- (6) Any person may, by invitation of the Board, attend any meeting of the Board and may, with the permission of the Board, speak in relation to any matter of business thereat, but shall not vote.
- (7) The Board may meet at any place in the Falkland Islands but shall not meet outside Stanley except with the consent of the Governor.
- (8) Subject to this Ordinance and to the Manual, the Board shall determine its own procedure.
- 13.(1) Except in respect of the General Manager and the Financial Controller, all Appointment of employees of the Corporation shall be appointed and may be dismissed by or with the staff. authority of the Board.

- (2) The terms and conditions of service of all staff of the Corporation (including the General Manager and the Financial Controller) shall be determined by the Board acting in accordance with such guidelines as it may have received from the Governor advised by the Executive Council.
- (3) The terms and conditions of service of all staff of the Corporation in its employ immediately before the commencement of this section shall, until first varied under subsection (2), be those existing immediately before such commencement.
- (4) Nothing in subsection (2) authorises the variation without the consent of the employee of the Corporation concerned of terms and conditions of his service which are incorporated in a continuing contract with the Corporation.
- 14.(1) The Board shall appoint an employee of the Corporation to be the Secretary of the Secretary. Corporation.

- (2) The Secretary, or a person appointed by the General Manager to act in the place of the Secretary if the Secretary is for any reason unavailable, shall attend all meetings of the Board and shall prepare minutes of those meetings.
- (3) The Secretary shall have custody of the seal of the Corporation and all documents of the Corporation, receive all legal process and notices served on the Corporation and carry out such other duties as the Board or General Manager direct.
- (4) The person holding office as Secretary immediately preceding the commencement of this section shall be deemed to have been appointed under subsection (1).
- 15.(1) Appointed members of the Board shall be entitled to such sums by way of fees, Honoraria and honoraria and allowances as the Governor on the advice of the Executive Council may allowances of approve.

Board members.

(2) The Corporation may pay to any member of the Board in addition to any sum payable under subsection (1), such sums by way of re- imbursement of expenses as it is satisfied were actually and reasonably incurred by him in relation to attendance at meetings of the Board or otherwise in connection with the business of the Corporation.

16. Subject to section 12, no vacancy in the membership of the Board shall invalidate its proceedings."

Vacancy in membership of the Board

- 4. Section 19(2) of the Ordinance is repealed and replaced by the following new section 19(2) -
  - "(2) The accounts of the Corporation shall, in accordance with the Finance and Audit Ordinance 1988 be audited by the Principal Auditor."
- 5. Section 19(3) is amended by -
  - (a) replacing the words "the Civil Commissioner and the Secretary of State" appearing therein with the words "the Governor and all elected members of the Legislative Council";
  - (b) replacing of the words "the auditors" appearing therein with the words "the Principal Auditor"; and
  - (c) deleting all words appearing therein after the word "appropriate."
- 6. Section 20(1) is amended by -
  - (a) replacing the words "the Civil Commissioner and the Secretary of State" appearing therein with the words "the Governor and the elected members of the Legislative Council"; and
  - (b) replacing the words "not less than thirty days before the annual budget session of the Legislative Council" appearing therein with the words "the thirtieth day of April in each year and the Governor shall cause the same to be considered by the Executive Council at its next meeting following its receipt".
- 7. Section 20(3) is repealed.
- 8. Section 20(4) is renumbered so as to become section 20(3) and is amended by deleting the words "the Civil Commissioner and the Secretary of State".
- 9. By replacing section 21(1) with the following -
  - "21.(1) The Corporation shall not later than 31st March preceding the commencement of any financial year submit to the Financial Secretary estimates of its expenditures and receipts for that year and of unexpended funds carried forward to it and the Financial Secretary shall cause the same to be considered by the Executive Council."
- 10. Section 23 is amended by replacing the word "Corporation" with the word "Board".
- 11. Section 25 is amended by replacing the words "Civil Commissioner in Council" with the words "The Governor".

#### **OBJECTS AND REASONS**

To make such amendments to the Falkland Islands Development Corporation Ordinance 1983 as are appropriate consequent upon the Corporation's funding from 1 July 1992 being principally the responsibility of the Falkland Islands Government.



# THE FALKLAND ISLANDS GAZETTE Supplement

**PUBLISHED BY AUTHORITY** 

Vol. XCX 15th NOVEMBER 1991 No. 22

The following are published in this supplement —

The Air Navigation (Overseas Territories) (Amendment ) Order 1991;

The Air Navigation (Overseas Territories) (Amendment) (No. 2) Order 1991.

# STATUTORY INSTRUMENTS

# 1991 No. 189

# **CIVIL AVIATION**

# The Air Navigation (Overseas Territories) (Amendment) Order 1991

Made -

5th February 1991

Laid before Parliament

13th February 1991

Coming into force

5th March 1991

At the Court at Buckingham Palace, the 5th day of February 1991

Present.

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949 (a), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969 (b), as amended by the Civil Aviation Act 1971 (Overseas Territories) Order 1976 (c), and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

#### Citation and commencement

- 1.—(1) This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 1991.
- (2) This Order shall come into force on 5th March 1991.

# Amendment of the Air Navigation (Overseas Territories) Order 1989

- 2. The Air Navigation (Overseas Territories) Order 1989(d) shall be amended as follows:
- (1) In article 3(1) for the proviso at (i)(b) there shall be substituted the following
  - "(b) is not for the purpose of public transport or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members;".
- (2) In article 4(13) the words "if he is" in the fifth line thereof shall be deleted and the words "within two months of being" shall be inserted.

- (3) In article 7 at the end of proviso (a) to paragraph (1) there shall be added—
  "other than aerial work which consists of the giving of instruction in flying or the
  conducting of flying tests in a glider owned or operated by a flying club of which the
  person giving the instruction or conducting the test and the person receiving the
  instruction or undergoing the test are both members;".
- (4) In article 18-
- (a) for paragraph (3)(b)(iv) there shall be substituted the following sub-paragraph—
  "(iv) two or more turbine propeller engines and certificated to carry fewer than
  ten passengers and not provided with a means of pressurising the personnel
  compartments, unless it is equipped with an auto-pilot which has been
  approved by the Governor for the purposes of this Article and which is
  serviceable on take-off; or";
- (b) for paragraph 3(b)(v) there shall be substituted the following sub-paragraph— "(v) two or more piston engines, unless it is equipped with an auto-pilot which has been approved by the Governor for the purposes of this Article and which is serviceable on take-off;".
- (5) In article 19(8) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
  - "(b) the flight is for the purpose of public transport or aerial work, other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests in a glider owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving the instruction or undergoing the test are both members.".
- (6) In article 20-
- (a) for the first sentence of paragraph (1)(d) there shall be substituted the following sentence-

"Subject to paragraph (2) of this Article and to the provisions of Article 62 of this Order, a licence shall remain in force for the period indicated in the licence, not exceeding the period specified in respect of a licence of that class in the said Schedule, and may be renewed by the Governor from time to time upon his being satisfied that the applicant is a fit person and qualified as aforesaid.";

- (b) after paragraph (1) there shall be added a new paragraph, to be referred to as paragraph (1A), as follows:
  - "(1A)(a) The Governor shall not on or after 5th March 1991 grant a Senior Commercial Pilot's Licence (Aeroplanes) to any person who was not on 4th March 1991 the holder of such a licence.
    - (b) A Senior Commercial Pilot's Licence (Aeroplanes) shall remain in force until either:
      - (i) the end of the period indicated in the licence, such period not exceeding 10 years; or
      - (ii) 30th November 1995; whichever is the earlier.".
- (7) In article 28 at the end of paragraph (6) there shall be added-
- "unless carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.".
- (8) In article 34-
- (a) in paragraph (2)(a) the words "and life jackets" shall be deleted and the words and punctuation ", life jackets and the floor path lighting system" shall be substituted;
- (b) in paragraph (2)(e)(ii) after the words "such baggage is" there shall be inserted the word "either";
- (c) at the end of paragraph 2(e)(ii) there shall be added-
  - "of stowing baggage or carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.".

<sup>(</sup>a) 1949 c.67.

<sup>(</sup>b) S.I. 1969/592.

<sup>(</sup>c) S.I. 1976/1912.

<sup>(</sup>d) S.I. 1989/2395.

- (9) In article 37-
- (a) in paragraph (3) after the words "cockpit voice recorder" there shall be inserted the words "or a flight data recorder or a combined cockpit voice recorder/flight data recorder";
- (b) after paragraph (3) there shall be added the following three new paragraphs-
- "(4) The operator of the helicopter shall at all times, subject to Article 61 of this Order, preserve:—
  - (a) the last 8 hours of recording made by any flight data recorder specified at sub-paragraph (i) or (ii) of Scale SS of paragraph 5 of Schedule 4 to this Order and required by or under this Order to be carried in the helicopter;
  - (b) in the case of a combined cockpit voice recorder/flight data recorder specified at sub-paragraph (iii) of the said Scale SS and required by or under this Order to be carried in a helicopter either:-
    - (i) the last 8 hours of recording, or
    - (ii) the last 5 hours of recording or the duration of the last flight, whichever is the greater, together with an additional period of recording for either:-
      - (aa) the period immediately preceding the recording required to be retained pursuant to sub-paragraph (b)(ii) above, or
      - (bb) such period or periods as the Governor may permit in any particular case or class of cases or generally.
- (5) The additional recording retained pursuant to sub-paragraphs (b)(ii)(aa) and (bb) of paragraph (4) above shall, together with the recording required to be retained pursuant to sub-paragraph (b)(ii) thereof, total a period of 8 hours and shall be retained in accordance with arrangements approved by the Governor.
- (6) An approval granted by the Governor for the purposes of this article shall be in writing and may be subject to such conditions as the Governor thinks fit.".
- (10) In article 99-
- (a) in paragraph (1) after the definition of "parascending parachute" there shall be added the following definition-
  - ""Passenger" means a person other than a member of the crew;";
- (b) in paragraph (7) after sub-paragraph (a)(iii) the following additional proviso shall be added-
  - "Provided also that a glider shall not be deemed to fly for the purpose of public transport for the purposes of part III of this Order by virtue of sub-paragraph (a)(iii) of this paragraph if the hire or reward given or promised for the primary purpose of conferring on a particluar person the right to fly the glider on that flight is given or promised by a member of a flying club and the glider is owned or operated by that flying club."
- (11) In article 101 the figure "5" in paragraph (c) shall be deleted and the figure "7" shall be substituted;
- (12) After article 101 there shall be added the following new Article-
- "102. In relation to any of his functions pursuant to any of the provisions of this Order the Governor may, either absolutely or subject to such conditions as he thinks fit, approve a person as qualified to furnish reports to him and may accept such reports."
- (13) In Schedule 4-
- (a) in paragraph 4:
  - (i) in Table (8) the figure "3" in paragraph (c) under the column headed "Description of Aircraft" shall be deleted and the figure "2" shall be inserted;
  - (ii) in Table (8) after paragraph (c) under the column headed "Description of Aircraft" there shall be added the following three new paragraphs—
    - "(d) having a maximum total weight authorised exceeding 5,700 kg. and which conform to a type for which a certificate of airworthiness was first applied for (whether in the Territory or elsewhere) after 30th April

1972 but not including an aeroplane which in the opinion of the Governor is identical in all matters affecting the provision of emergency evacuation facilities to an aeroplane for which a certificate of airworthiness was first applied for before that date; or

(e) which are a turbo-jet and which have a maximum total weight

authorised exceeding 22,700 kg; or

f) first issued with a type certificate (whether in the Territory or elsewhere) on or after 1st January 1958 and which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 19 passengers.";

(iii) in Table (8) after paragraph (c) under the column headed "Circumstances of Flight" there shall be added opposite each of paragraphs (d), (e) and (f)

the following-

"when flying for the purpose of the public transport of passengers";

(iv) in Table (8) after paragraph (c) in the column headed "Scale of Equipment Required" there shall be added opposite each of paragraphs (d), (e) and (f) the following-

"Z (iii)";

- (b) in Table (10):
  - (i) in paragraph (c) under the column headed "Circumstances of Flight" after the words "1st January 1991" there shall be added the words "until 31st July 1992";

(ii) after paragraph (c) in the column headed "Description of Aircraft" there

shall be added the following new paragraph-

- "(d) in respect of which there is in force a certificate of airworthiness issued in the Transport Category (Passenger or Cargo) and helicopters and gyroplanes in respect of which application has been made and not withdrawn or refused for such a certificate of airworthiness and which fly under the "A" conditions or which have a certificate of airworthiness in the Special Category and
  - (i) which have a maximum weight authorised exceeding 2,730 kg. but not exceeding 7,000 kg. or which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 9 passengers or both
  - (ii) which have a maximum total weight authorised exceeding 7,000 kg.";
- (iii) in paragraph (d) in the column headed "Circumstances of Flight" opposite each of sub-paragraphs (i) and (ii) there shall be added the following—
  "when flying on any flight on or after 31st July 1992";
- (iv) in paragraph (d) in the column headed "Scale of Equipment Required" opposite sub-paragraph (i) there shall be added the following"SS(i) or (iii)";
- (v) in paragraph (d) in the column headed "Scale of Equipment Required" opposite sub-paragraph (ii) there shall be added the following"SS(ii) or (iii)";
- (c) in paragraph 5 after Scale S there shall be added the following new Scale—"SCALE SS
  - (i) A 4 channel cockpit voice recorder capable of recording and retaining the data recorded during at least the last 30 minutes of its operation and a flight data recorder capable of recording and retaining the data recorded during at least the last 8 hours of its operation being the data required to determine by reference to a time scale the following matters accurately in respect of the helicopter or gyroplane:
    - (a) flight path;
    - (b) speed;
    - (c) attitude;
    - (d) engine power;
    - (e) main rotor speed;
    - (f) outside air temperature;

- (g) position of pilot's primary flight controls;
- (h) use of VHF transmitters;
- (j) use of automatic flight controls (if any);
- (k) use of stability augmentation system (if any);
- (1) cockpit warnings relating to the master warning system; and
- (m) selection of hydraulic system and cockpit warnings of failure of essential hydraulic systems.
- (ii) A 4 channel cockpit voice recorder capable of recording and retaining the data recorded during at least the last 30 minutes of its operation and a flight data recorder capable of recording and retaining the data recorded during at least the last 8 hours of its operation being the data required to determine by reference to a time scale the information specified in paragraph (i) of this Scale together with the following matters accurately in respect of the helicopter or gyroplane:
  - (n) landing gear configuration;
  - (p) indicated sling load force if an indicator is provided in the helicopter or gyroplane of such a nature as to enable this information to be recorded with reasonable practicability;
  - (q) radio altitude;
  - (r) instrument landing system deviations;
  - (s) marker beacon passage;
  - (t) ground speed/drift angle or latitude/longitude if the navigational equipment provided in the helicopter or gyroplane is of such a nature as to enable this information to be recorded with reasonable practicability; and
  - (u) main gear box oil temperature and pressure.
- (iii) (a) A combined cockpit voice recorder/flight data recorder which meets the following requirements—
  - (aa) in respect of a helicopter or gyroplane which is otherwise required to carry a flight data recorder specified at paragraph
    (i) of this Scale the flight data recorder shall be capable of recording the data specified therein and retaining it for the duration therein specified;
  - (bb) in the case of a helicopter or gyroplane which is otherwise required to carry a flight data recorder specified at paragraph (ii) of this Scale, the flight data recorder shall be capable of recording the data specified therein and retaining it for the duration therein specified;
  - (cc) the cockpit voice recorder shall be capable of recording and retaining at least the last hour of cockpit voice recording information on not less that three separate channels.
  - (b) In any case when a combined cockpit voice recorder/flight data recorder specified at paragraph (iii)(a) of this Scale is required to be carried by or under this Order, the flight data recorder shall be capable of retaining as protected data the data recorded during at least the last 5 hours of its operation or the maximum duration of the flight, whichever is the greater. It shall also be capable of retaining additional data as unprotected data for a period which together with the period for which protected data is required to be retained amounts to a total of 8 hours:

Provided that the flight data recorder need not be capable of retaining the said additional data if additional data is retained which relates to the period immediately preceding the period to which the required protected data relates or for such other period or periods as the Governor may permit pursuant to Article 37 of this Order and the additional data is retained in accordance with arrangements approved by the Governor.

With the exception of flight data which it is expressly stated above may be unprotected, the cockpit voice recorder, flight data recorder or combined

cockpit voice recorder and flight data recorder, as the case may be, shall be so constructed and installed that the record (herein referred to as "protected data") would be likely to be preserved in the event of an accident and each cockpit voice recorder, flight data recorder or combined cockpit voice recorder/flight data recorder required to be carried on the helicopter or gyroplane shall have attached an automatically activated underwater sonar location device or an emergency locator radio transmitter as appropriate:

Provided that a helicopter or gyroplane shall not be required to carry the said equipment if, before take-off, the equipment is found to be unserviceable and the aircraft flies in accordance with arrangements approved by the Governor.";

(d) in paragraph 5 after paragraph (ii) of Scale Z there shall be added the following

new paragraph-

- "(iii) An emergency floor path lighting system in the passenger compartments sufficient to facilitate the evacuation of the aircraft notwithstanding the failure of the lighting systems specified in paragraph (ii) of Scale G. Provided that if the equipment becomes unserviceable the aircraft may fly or continue to fly in accordance with arrangements approved by the Governor."
- (14) In Schedule 8-
  - (a) for paragraph (4) of the Privileges of Basic Commercial Pilot's Licence (Aeroplanes) there shall be substituted the following paragraph—
    - "(4) (a) In the case of a person who is the holder of such a licence on 4th March 1991 then for so long as that licence or a renewal thereof is valid but not after 30th November 1995 he shall be entitled to fly as co-pilot of any aeroplane of a type specified in the aircraft rating included in the licence when the aeroplane is engaged on a flight for any purpose whatsoever, provided that he shall not be entitled to fly as co-pilot of an aeroplane which is engaged on a flight for the purpose of public transport unless he has more than 400 hours of flying experience as pilot in command of aeroplanes other than self-launching motor gliders and microlight aircraft and the maximum total weight authorised of the aeroplane does not exceed 5,700 kg.
      - (b) On and after 1st December 1995 and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall be entitled to fly as co-pilot of any aeroplane of a type specified in the aircraft rating included in the licence when the aeroplane is engaged on a flight for any purpose whatsoever, provided that he shall not be entitled to fly as co-pilot of an aeroplane which is engaged on a flight for the purpose of public transport unless he has more that 400 hours of flying experience as pilot in command of aeroplanes other than self-launching motor gliders and microlight aircraft and the aeroplane is certificated for single pilot operation.";

(b) for sub-paragraph (d) of paragraph (2) the Privileges of Commercial Pilot's Licence (Aeroplanes) there shall be substituted in the following sub-paragraph—

- "(d) (i) in the case of a person who is the holder of such a licence on 4th March 1991 then for so long as that licence or a renewal thereof is valid but not after 30th November 1995 he shall not fly such an aeroplane on a flight for the purpose of public transport if its maximum total weight authorised exceeds 5,700 kg;
  - (ii) on and after 1st December 1995, and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall not fly such an aeroplane on a flight for the purpose of public transport unless it is certified for single pilot operation;";
- (c) under the heading Senior Commercial Pilot's Licence (Aeroplanes)-
  - (i) after the words "Maximum Period of Validity 10 years" there shall be

- inserted the words "or until 30th November 1995 (whichever is the earlier)":
- (ii) for the sentence concerning Privileges there shall be substituted the following sentence—"The holder of the licence shall be entitled to exercise the privileges of a Commercial Pilot's Licence (Aeroplanes) except that proviso (d) to paragraph (2) of those privileges shall not apply and he shall not act as pilot in command of an aeroplane on a flight for the purpose of public transport if its maximum total weight exceeds 20,000 kg.";

(d) for sub-paragraph (b) of paragraph (2) of the Privileges of Commercial Pilot's Licence (Helicopters and Gyroplanes) there shall be substituted the following-

- "(b) (i) in the case of a person who is the holder of such a licence on 4th March 1991, then for so long as that licence or a renewal thereof is valid but not after 30th November 1995, he shall not fly such a helicopter or gyroplane on a flight for the purpose of public transport if its maximum total weight authorised exceeds 5,700 kg.;
  - (ii) on and after 1st December 1995, and in the case of a person who is the holder of such a licence granted on or after 5th March 1991 (not being a renewal of such a licence held on 4th March 1991) forthwith upon the grant of the licence, he shall not fly such a helicopter or gyroplane on a flight for the purpose of public transport unless it is certificated for single pilot operation;".
- (15) In Schedule 9 after paragraph 2(6) there shall be added the following new sub-paragraph-
  - "(7) Area Radar Control (Aerodrome) Rating shall entitle the holder of the licence, at any aerodrome for which the rating is valid, to provide air traffic control service with the aid of any type of surveillance radar equipment for which the rating is valid.".

G. 1. de Deney Clerk of the Privy Council

#### **EXPLANATORY NOTE**

# (This note is not part of the Order)

This Order amends the Air Navigation (Overseas Territories) Order 1989. In addition to minor and drafting amendments the following changes are made-

- (1) A glider, flying for the purpose of aerial work consisting of the giving of instruction in flying or the conduct of flying tests in circumstances where the glider is owned or operated by a flying club of which the person giving the instruction or conducting the test and the person receiving such instruction or undergoing such test are both members, does not now need to be registered or have a certificate of airworthiness. (Article 3(1) proviso (i)(b) and article 7(1) proviso (a)).
- (2) The Governor is now required to cancel the registration of an aircraft within two months of being satisfied that there has been a change of ownership thereof. (Article 4(13)).
- (3) A flight crew licence is no longer required by a member of the crew of a glider flying for the purpose of aerial work which consists of the conducting of flying tests in the same circumstances as outlined in (1) above. (Article 19(8)(b)).
- (4) With effect from 5th March 1991, no further Senior Commercial Pilot's Licences (Aeroplanes) will be granted by the Governor except renewals for persons holding such a licence on 4th March 1991. Any such licences which would not otherwise expire on or before 30th November 1995 will be deemed to expire on that date. (Article 20(2)).
- (5) On flights for the purpose of public transport of passengers by aircraft registered in the Territory capable of seating more than thirty passengers, certain items of accompanied baggage may be carried in the passenger cabin, with the permission of the Governor, secured to seats rather than being stowed in approved stowage spaces. (Article 28(6), article 34(2)(e)(ii)).
- (6) Specified categories of aircraft registered in the Territory flying for the purpose of public transport of passengers must now be equipped in the passenger compartment with an emergency floor path lighting system able to facilitate the evacuation of the aircraft notwithstanding the failure of any other required emergency lighting system in the passenger compartment. An aircraft commander is now required to familiarise passengers with the position and use of the system when it is required to be fitted. (Article 34(2)(a), Schedule 4 paragraph 4 Table (8)(c) and paragraph 5 Scale Z).
- (7) Requirements are established with effect from 1st February 1992 for the carriage of flight data recorders and cockpit voice recorders by helicopters and gyroplanes registered in the Territory which have a certificate of airworthiness in the Transport Category. Different requirements are established for specified categories of helicopters and gyroplanes based on their weight and/or passenger carrying capacity. Requirements are also established for the duration and protection of the data which must now be retained. (Article 37(3), (4), (5) and (6), Schedule 4 paragraph 4 Table (10)(d) and Schedule 4 paragraph 5 Scale SS).
- (8) If hire or reward is given or promised for the purpose of conferring on a member of a flying club the right to fly a glider owned or operated by the flying club it is not now deemed to be a flight for the purpose of public transport for airworthiness purposes. (Article 99(7)(a)(iii)).
- (9) Apart from certain specified provisions the Order no longer applies to very small aircraft falling below a specified weight limit. (Article 101(c)).
- (10) The Governor may now approve persons as qualified to furnish reports to him and to accept such reports in relation to any of the Governor's functions under the Order. (Article 102).
- (11) The privileges of certain categories of pilot's licence are altered. The previous aircraft weight criterion required to be satisfied before certain licensed pilots were permitted to act as co-pilots or pilots in command is replaced by the criterion of whether or not the relevant aircraft is certificated for single pilot operation. Different time limits are established for the applicability of the altered privileges. The Governor can now

permit a person to act as pilot of an aircraft certificated for single pilot operation although that aircraft was not included in that person's aircraft rating when he was tested for the purposes of certain provisions of the Order. (Schedule 8).

(12) An Area Radar Control (Aerodrome) Rating is now introduced entitling the holder of an Air Traffic Controller's Licence at an aerodrome for which the new rating is valid to provide a radar service for aircraft whether or not they are within forty nautical miles of the aerodrome. (Schedule 9 paragraph 2(7)).

# STATUTORY INSTRUMENTS

# 1991 No. 1697

# **CIVIL AVIATION**

The Air Navigation (Overseas Territories) (Amendment)
(No. 2) Order 1991

Made - - - -

24th July 1991

Laid before Parliament

1st August 1991

Coming into force

22nd August 1991

At the Court at Buckingham Palace, the 24th day of July 1991

Present.

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949(a), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b), as amended by section 62 of the Civil Aviation Act 1971(c) as so extended by the Civil Aviation Act 1971 (Overseas Territories) Order 1976(d), and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:

#### Citation and commencement

- 1.—(1) This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) (No. 2) Order 1991.
- (2) This Order shall come into force on 22nd August 1991.

## Amendment of the Air Navigation (Overseas Territories) Order 1989

- 2. The Air Navigation (Overseas Territories) Order 1989(e) as amended by the Air Navigation (Overseas Territories) (Amendment) Order 1991(f) shall be further amended as follows:
- (1) In Article 5(3) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
  - "(a) that the aircraft is registered in a country in which it is not in fact registered, provided that marks approved by the Governor for the purposes of flight in accordance with the 'B Conditions' contained in Schedule 2 to this Order shall be deemed not to indicate that the aircraft is so registered; or ".
- (2) In Article 8 for paragraph (8) there shall be substituted the following paragraph—
- "(8) Nothing in this Order shall oblige the Governor to accept an application for the issue of a certificate of airworthiness or validation or for the variation or renewal of any such certificate when the application is not supported by such reports from such approved persons as the Governor may specify (either generally or in a particular case or class of cases)."
- (3) In Article 20(1)(d) for the words "paragraph (2)" there shall be substituted the words "paragraph (1A)".

<sup>(</sup>a) 1949 c.67.

**<sup>(</sup>b)** S.I. 1969/592.

<sup>(</sup>c) 1971 c.75.

<sup>(</sup>d) S.I. 1976/1912.

<sup>(</sup>e) S.I. 1989/2395.

<sup>(</sup>f) S.I. 1991/189.

- (4) After Article 31 there shall be added the following new Article—
  - "Non-public transport aircraft—aerodrome operating minima
  - 31A.—(1) This Article shall apply to any aircraft which is not a public transport aircraft.
    - (2) An aircraft to which this Article applies when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure shall not descend below 1000 feet above the height of the aerodrome if the relevant runway visual range for that runway is at the time less than the specified minimum for landing.
    - (3) An aircraft to which this Article applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not:
      - (a) continue an approach to landing on such a runway by flying below the relevant specified decision height; or
      - (b) descend below the relevant specified minimum descent height; unless in either case the specified visual reference for landing is established from such height and is maintained.
    - (4) In this Article 'specified' in relation to aerodome operating minima means such particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating aerodrome operating minima.".
- (5) In Article 37—
- (a) in paragraph (4) for sub-paragraph (b)(ii) there shall be substituted the following sub-paragraph—
- "(ii) the last 5 hours of recording or the duration of the last flight, whichever is the greater (together hereinafter referred to in this Article as the 'required recording'), together with an additional period of recording for either:—
  - (aa) the period immediately preceding the required recording, or
  - (bb) such period or periods as the Governor may permit in any particular case or class of cases generally.";
- (b) for paragraph (5) there shall be substituted the following paragraph—
  - "(5) The additional recording retained pursuant to sub-paragraphs (b)(ii) (aa) or (bb) of paragraph (4) above shall, together with the required recording, total a period of 8 hours and shall be retained in accordance with arrangements approved by the Governor."
- (6) For the heading to Article 64 there shall be substituted the following—"Rules of the air".
- (7) In Article 64
- (a) for paragraph (1) there shall be substituted the following paragraph—
  - "(1) The Governor may make rules of the air supplementary to, but not inconsistent with, the Rules of the Air contained in Schedule 13 to this Order.";
- (b) in paragraph (2) for the words "and Air Traffic Control" there shall be substituted the words "contained in Schedule 13 to this Order.";
- (c) in paragraphs (3), (4) and (5) respectively the words "and Air Traffic Control" shall be deleted:
- (d) paragraph (6) shall be deleted.
- (8) After Article 64 there shall be added the following new Articles—
  - " Provision of air traffic services
  - 64A.—(1) No person shall provide an air traffic control service otherwise than under and in accordance with the terms of an approval granted to him by the Governor, and the Governor shall grant an approval to any person applying therefore if he is satisfied that the person is competent, having regard to his organisation, staffing, equipment, maintenance and other arrangements, to provide a service which is safe for use by aircraft.

- (2) The person in charge of an aerodrome (other than a Government aerodrome) in respect of which there is equipment for providing holding aid, let-down aid or approach aid by radio or radar shall:
  - (a) inform the Governor in advance of periods during and times at which any such equipment is to be in operation for the purpose of providing such aid as is specified by the said person; and
  - (b) during any period and at such times as so notified, cause an air traffic control service to be provided for any aircraft which is flying in, or in the vicinity of, the aerodrome traffic zone whether or not it is flying by visual reference to the surface.
- (3) The Governor may direct that there shall be provided in respect of any aerodrome (other than a Government aerodrome) such air traffic control service, aerodrome flight information service or means of two-way radio communication as the Governor considers appropriate in respect thereof. The Governor may specify in his direction the periods during and the times at which such a service or such means shall be provided and the person in charge of the aerodrome shall cause such a service or such means to be provided in accordance with any such direction.
- (4) Obligations to cause an air traffic control service to be provided arising under paragraphs (2) or (3) are without prejudice to each other.

# Use of radio call signs at aerodromes

- 64B. The person in charge of an aerodrome provided with means of two-way radio communication shall not cause or permit any call sign to be used for a purpose other than a purpose for which that call sign has been notified."
- (9) In Article 99(7) for sub-paragraph (a)(iii) and the provisos thereto there shall be substituted the following—
  - "(iii) for the purposes of Part III of this Order, if hire or reward is given or promised for the right to fly the aircraft on that flight (not being a single-seater aircraft of which the maximum total weight authorised does not exceed 910 kg. and in respect of which a certificate of airworthiness of the Special Category is in force) otherwise than under a hire-purchase or conditional sale agreement;
  - and the expression "public transport of Passengers" shall be construed accordingly:

Provided that, notwithstanding that an aircraft may be flying for the purpose of public transport by reason of sub-paragraph (a)(iii) of this paragraph, it shall not be deemed to be flying for the purpose of the public transport of Passengers unless hire or reward is given for the carriage of those Passengers.

Provided also that a glider shall not be deemed to fly for the purpose of public transport for the purposes of Part III of this Order by virtue of sub-paragraph (a)(iii) of this paragraph if the hire or reward given or promised for the primary purpose of conferring on a particular person the right to fly the glider on that flight is given or promised by a member of a flying club and the glider is owned or operated by that flying club.".

- (10) In Schedule 4—
- (a) in paragraph 4 for the part of the Table numbered (8) there shall be substituted the following—
  - "(8) Aeroplanes-
  - (a) which are turbo-jets and which have a maximum total weight authorised exceeding 22,700 kg.; or
  - (b) having a maximum total weight authorised exceeding 5,700 kg. and which conform to a type for which a certificate of

when flying by night for the purpose of the public transport of Passengers

when flying by night for the purpose of the public transport of Passengers Z(i) and (ii)

Z(i) and (ii)

airworthiness was first applied for (whether in the Territory or elsewhere) after 30th April 1972 but not including any aeroplane which in the opinion of the Governor is identical in all matters affecting the provision of emergency evacuation facilities to an aeroplane for which a certificate of airworthiness was first applied for before that date; or

(c) which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 19 Passengers; or

when flying by night for the purpose of the public transport of Passengers

Z(i)

(d) having a maximum total weight authorised exceeding 5,700 kg. and which conform to a type for which a certificate of airworthiness was first applied for (whether in the Territory or elsewhere) after 30th April 1972 but not including an aeroplane which in the opinion of the Governor is identical in all matters affecting the provision of emergency evacuation facilities to an aeroplane for which a certificate of airworthiness was first applied for before that date; or

when flying for the purpose of Z(iii) the public transport of **Passengers** 

(e) which are turbo-jets and which have a maximum total weight authorised exceeding 22,700 kg.; or

when flying for the purpose of Z(iii) the public transport of **Passengers** 

(f) first issued with a type certificate (whether in the Territory or elsewhere) on or after 1st January 1958 and which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 19 Passengers.

when flying for the purpose of Z(iii)"; the public transport of **Passengers** 

- (b) in paragraph 4 for the part of the Table numbered (10) there shall be substituted the following-
  - "(10) Helicopters and Gyroplanes-

(a) having a maximum total weight authorised exceeding 5,700 kg., and which conform to a type for which a certificate of airworthiness was first applied for (whether in the Territory or elsewhere) after 30th April 1972 but not including any helicopter or gyroplane which in the opinion of the Governor is identical in all matters affecting the provision of emergency evacuation facilities to a helicopter or gyroplane for which a certificate of airworthiness was first applied for before that date; or

when flying by night for the purpose of the public transport of Passengers

Z(i) and (ii)

(b) which, in accordance with the certificate of airworthiness in force in respect thereof, may carry more than 19 Passengers; or

when flying by night for the purpose of the public transport of Passengers

(c) which have a certificate of airworthiness issued in the Transport Category (Passenger or Cargo) and which have either a maximum total weight authorised exceeding 2,730 kg., or which may carry more than 9 Passengers; or

when flying on any flight beginning on or after 1st January 1991 but before 1st August 1992

(d) in respect of which there is in force a certificate of airworthiness issued in the Transport Category (Passenger or Cargo) and helicopters and gyroplanes in respect of which application has been made and not withdrawn or refused for such a certificate of airworthiness and which fly under the "A" conditions or which have a certificate of airworthiness in the Special Category and

(i) which have a maximum weight authorised exceeding 2,730 kg. but not exceeding 7,000 kg. or which in accordance with the certificate of airworthiness in force in respect thereof may carry more than 9 Passengers or both; or

when flying on any flight on or SS(i) or (iii) after 31st July 1992

(ii) which have a maximum total weight authorised exceeding  $7,000 \, \text{kg}$ .

when flying on any flight on or after 31st July 1992 (iii) ";

- (c) in paragraph 5 in Scale SS the words "as appropriate" appearing before the proviso at the end of sub-paragraph (iii) shall be deleted.
- (11) For Schedule 7 there shall be substituted the following new Schedule—

#### "SCHEDULE 7

Article 18(4)

#### AREAS SPECIFIED IN CONNECTION WITH THE CARRIAGE OF FLIGHT NAVIGATORS AS MEMBERS OF THE FLIGHT CREWS OR APPROVED NAVIGATIONAL EQUIPMENT ON PUBLIC TRANSPORT AIRCRAFT

The following areas are hereby specified for the purposes of Article 18(4) of this Order:—

#### Area A-Arctic

All that area north of latitude 68° north, but excluding any part thereof within the area enclosed by rhumb lines joining successively the following points:

- 68° north latitude 00° east/west longitude
- 73° north latitude 15° east longitude
- 73° north latitude 30° east longitude
- 68° north latitude 45° east longitude
- 68° north latitude 00° east/west longitude

#### Area B-Antarctic

All that area south of latitude 55° south.

#### Area C-Sahara

All that area enclosed by rhumb lines joining successively the following points:

- 30° north latitude 05° west longitude
- 24° north latitude 11° west longitude
- 14° north latitude 11° west longitude
- 14° north latitude 28° east longitude
- 24° north latitude 28° east longitude
- 28° north latitude 23° east longitude
- 30° north latitude 15° east longitude
- 30° north latitude 05° west longitude

## Area D-(deleted)(a)

#### Area E-South America

All that area enclosed by rhumb lines joining successively the following points:

- 04° north latitude 72° west longitude
- 04° north latitude 60° west longitude
- 08° south latitude 42° west longitude
- 18° south latitude 54° west longitude
- 18° south latitude 60° west longitude
- 14° south latitude 72° west longitude
- 05° south latitude 76° west longitude
- 04° north latitude 72° west longitude

#### Area F-Pacific Ocean

All that area enclosed by rhumb lines joining successively the following points:

- 60° north latitude 180° east/west longitude
- 20° north latitude 128° east longitude
- 04° north latitude 128° east longitude
- 04° north latitude 180° east/west longitude
- 55° south latitude 180° east/west longitude
- 55° south latitude 82° west longitude
- 25° south latitude 82° west longitude
- 60° north latitude 155° west longitude
- 60° north latitude 180° east/west longitude

#### Area G-Australia

All that area enclosed by rhumb lines joining successively the following points:

- 18° south latitude 123° east longitude
- 30° south latitude 118° east longitude
- 30° south latitude 135° east longitude
- 18° south latitude 123° east longitude

#### Area H-Indian Ocean

All that area enclosed by rhumb lines joining successively the following points:

- 35° south latitude 110° east longitude
- 55° south latitude 180° east/west longitude
- 55° south latitude 10° east longitude
- 40° south latitude 10° east longitude
- 25° south latitude 60° east longitude
- 20° south latitude 60° east longitude
- 05° south latitude 43° east longitude
- 10° north latitude 55° east longitude
- 10° north latitude 73° east longitude
- 04° north latitude 77° east longitude
- 04° north latitude 92° east longitude
- 10° south latitude 100° east longitude
- 10° south latitude 110° east longitude
- 35° south latitude 110° east longitude

#### Area I-North Atlantic Ocean

All that area enclosed by rhumb lines joining successively the following points:

- 55° north latitude 15° west longitude
- 68° north latitude 28° west longitude
- 68° north latitude 60° west longitude
- 45° north latitude 45° west longitude
- 40° north latitude 60° west longitude
- 40° north latitude 19° west longitude
- 55° north latitude 15° west longitude

#### Area J-South Atlantic Ocean

All that area enclosed by rhumb lines joining successively the following points:

- 40° north latitude 60° west longitude
- 18° north latitude 60° west longitude
- 05° south latitude 30° west longitude
- 55° south latitude 55° west longitude
- 55° south latitude 10° east longitude
- 40° south latitude 10° east longitude
- 02° north latitude 05° east longitude
- 02° north latitude 10° west longitude
- 15° north latitude 25° west longitude
- 40° north latitude 19° west longitude
- 40° north latitude 60° west longitude

<sup>(</sup>a) The former Area D was an area in the Arabian Desert.

#### Area K-Northern Canada

All that area enclosed by rhumb lines joining successively the following points:

- 68° north latitude 130° west longitude
- 55° north latitude 115° west longitude
- 55° north latitude 70° west longitude
- 68° north latitude 60° west longitude
- 68° north latitude 130° west longitude

#### Area L-Northern Asia

All that area enclosed by rhumb lines joining successively the following points:

- 68° north latitude 56° east longitude
- 68° north latitude 160° east longitude
- 50° north latitude 125° east longitude
- 50° north latitude 56° east longitude
- 68° north latitude 56° east longitude

#### Area M-Southern Asia

All that area enclosed by rhumb lines joining successively the following points:

- 50° north latitude 56° east longitude
- 50° north latitude 125° east longitude
- 40° north latitude 110° east longitude
- 30° north latitude 110° east longitude
- 30° north latitude 80° east longitude
- 35° north latitude 80° east longitude
- 35° north latitude 56° east longitude
- 50° north latitude 56° east longitude".
- (12) In Schedule 8 under the heading Senior Commercial Pilot's Licence (Aeroplanes) for the words "(whichever is the earlier)" shall be substituted the words "(whichever period is the shorter)".
  - (13) In Schedule 13-
  - (a) in the heading the words "AND AIR TRAFFIC CONTROL" shall be deleted;
  - (b) at the end of paragraph 2(b) of Rule 9 for the full stop there shall be substituted a colon and the following proviso shall be added thereafter—
    - "Provided that a helicopter to which Article 25 of the Order applies may, when stationary on an offshore installation, switch off such an anti-collision light in accordance with a procedure contained in the operations manual of the helicopter as a signal to ground personnel that it is safe to approach the helicopter for the purpose of embarkation or disembarkation of Passengers or the loading or unloading of Cargo.";
  - (c) Section IX shall be deleted.
  - (14) For Schedule 15 there shall be substituted the following Schedule—

#### "SCHEDULE 15

Article 44

## THE AIR NAVIGATION (DANGEROUS GOODS) REGULATIONS

#### Citation

1. These Regulations may be cited as the Air Navigation (Dangerous Goods) Regulations.

#### Interpretation

- 2.—(1) In these Regulations:—
- "consignment" means one or more packages of dangerous goods accepted by an operator from one shipper at one time and at one address receipted for in one lot and moving to one consignee at one destination address;
- "dangerous goods" means any article or substance which is capable of posing significant risk to health, safety or property when carried by air and which is classified in Part 2 of the Technical Instructions;

- "dangerous goods transport document" means a document, not being an air waybill, which is required by Regulation 4 of these Regulations to accompany a consignment of dangerous goods;
- "package" means the packaging and the articles and substances contained therein including one or more packages which have been consolidated by one shipper into one container or enclosure for convenience in handling;
- "packing" means the art and operation whereby articles and substances are wrapped up, enclosed in containers or otherwise secured, and "packed" shall be construed accordingly;
- "Technical Instructions" means the 1991-1992 English language edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by decision of the Council of the International Civil Aviation Organisation;
- "unit load device" means any type of freight container including any container designed for loading on an aircraft.
- (2) For the avoidance of doubt, any instructions or limitations contained in the Technical Instructions for the carriage of dangerous goods on Passenger or Cargo aircraft, as therein defined, shall for the purpose of these Regulations be interpreted as applying also to the carriage of such goods beneath Passenger or Cargo aircraft respectively.

#### Carriage of dangerous goods

- 3.—(1) An aircraft shall not carry or have loaded therein or suspended thereunder any dangerous goods, unless such goods are carried, loaded or suspended:
  - (a) with the written permission of the Governor and in accordance with any conditions to which such permission may be subject; and
  - (b) in accordance with the Technical Instructions and any conditions specified therein.
- (2) A person shall not:
  - (a) take or cause to be taken on board,
  - (b) suspend or cause to be suspended beneath, or
  - (c) deliver or cause to be delivered for loading on or suspension beneath

an aircraft any goods which he knows or ought to know or suspect to be goods capable of posing significant risk to health, safety or property when carried by air, unless the provisions of these Regulations are complied with.

- (3) These Regulations shall not apply to dangerous goods of a type specified in Chapters 1.1.2(a), 1.1.2(b) and 2.3 of Part 1 and Chapter 1.2 of Part 9 of the Technical Instructions which are carried, loaded or suspended in accordance with the provisions of the aforesaid Chapters 1.1.2(a), 1.1.2(b) and 2.3 of Part 1 and Chapter 1.2 of Part 9 and which are:
  - (a) articles and equipment which are required to be carried on an aircraft by or under the Order or are otherwise intended for use on an aircraft for the purpose of the good order of the flight in accordance with normal practice whether or not, in either case, such articles and equipment are required to be carried or intended to be used on that particular flight;
  - (b) solely intended for the use of Passengers or crew members or for sale to the Passengers or crew members of the aircraft during the flight in question;
  - (c) to provide during the flight veterinary aid or a humane killer for an animal; or
  - (d) to provide during the flight medical aid to a person:

Provided that goods specified in sub-paragraphs (c) and (d) shall only be carried if:

- (i) they are or may be required for use during the flight;
- (ii) they are or may be required for use during a subsequent flight by the same aircraft and it will not be practicable to load the goods on the aircraft in the intervening period before the commencement of that subsequent flight, or
- (iii) they were used or might have been required for use during a previous flight by the same aircraft and it has not been practicable to unload them from the aircraft since that flight.
- (4) Save for Regulations 3(1)(a), 7(1) (but only to the extent that it refers to the provisions in Chapter 2.1 of Part 5 of the Technical Instructions) and 7(2) and 8(3) of these Regulations, these Regulations shall not apply to dangerous goods of the classifications specified in Chapter 2.5 of Part 1 of the Technical Instructions provided that:
  - (a) the dangerous goods do not exceed the appropriate quantity limitations specified therein;
  - (b) such other conditions as are specified therein are complied with.

#### Documentation

- 4.—(1) An aircraft shall not carry dangerous goods as Cargo unless the shipper of the goods has furnished the operator of the aircraft with a dangerous goods transport document, except that such a document shall not be required in respect of such categories of dangerous goods as may be specified in the Technical Instructions as being goods in respect of which a dangerous goods transport document is not required.
- (2) The dangerous goods transport document shall be completed in duplicate by the shipper and shall-
  - (a) describe the dangerous goods in accordance with and contain such information as is required by the provisions of Chapter 4.1 of Part 4 of the Technical Instructions;
  - (b) contain a signed declaration that the Technical Instructions have been complied with in that the dangerous goods—
    - (i) are fully and accurately described, and
    - (ii) are correctly classified, packed, marked and labelled, and
    - (iii) are in a proper condition for carriage by air.
- (3) The shipper of dangerous goods shall furnish the operator of the aircraft with such other documents in respect of dangerous goods as are required by Part 3 and Chapter 4.5 of Part 4 of the Technical Instructions.
- (4) The operator of an aircraft shall preserve for not less than six months any dangerous goods transport document or other document in respect of dangerous goods which has been furnished to him in accordance with this Regulation.

#### Shipper's responsibilities

- 5. Before consigning any package containing dangerous goods for carriage by air the shipper shall ensure that:
  - (a) the goods are not of a category whose carriage by air is prohibited by the provisions of Chapters 2.1 and 2.2 of Part 1 of the Technical Instructions;
  - (b) the goods are classified and packed in accordance with Chapter 2.6 of Part 1 and Parts 2, 3 and 8 of the Technical Instructions and the packagings used are in accordance with such provisions of Part 7 of the Technical Instructions as apply to the goods;
  - (c) the package is marked and labelled in accordance with such provisions of Chapter 11 of Part 2 and Part 3 as relate to marking and labelling and in accordance with Chapters 2 and 3 of Part 4 of the Technical Instructions;
  - (d) the package is in a fit condition for carriage by air;
  - (e) the dangerous goods transport document required by Regulation 4 of these Regulations has been completed and that the declaration therein has been signed by him or on his behalf.

#### Operator's responsibilities

- 6.—(1) The operator of an aircraft in which any package or unit load device containing dangerous goods is to be carried shall satisfy himself by making an inspection:
  - (a) that the package is marked and labelled in accordance with the provisions of these Regulations, such provisions of Chapter 11 of Part 2 and Part 3 as relate to marking and labelling and Chapters 2 and 3 of Part 4 of the Technical Instructions before accepting the package;
  - (b) that the package is not leaking or damaged so that the contents may escape
    - (i) before accepting the package,
    - (ii) before loading or causing the package to be loaded on board the aircraft or before suspending or causing the package to be suspended beneath the aircraft, as the case may be,
    - (iii) upon loading the package from or from beneath the aircraft:
  - (c) that the unit load device is free from any evidence of leakage from or damage to any dangerous goods contained therein before loading or causing the unit load device to be loaded on board the aircraft or before suspending or causing the unit load device to be suspended beneath the aircraft, as the case may be.

- (2) (a) For the purpose of each of the inspections required by paragraph (1)(a) and (1)(b)(i) of this Regulation, an acceptance check list shall be used and the results of that inspection shall be recorded in accordance with the form thereof.
  - (b) The acceptance check list shall be in such form and shall provide for the entry of such details as will enable the relevant inspection to be fully and accurately made by reference to and completion of that list.
  - (c) The operator of an aircraft shall preserve for not less than six months a record of any acceptance check list completed in accordance with this Regulation. The record shall be in a legible or a non-legible form so long as the recording is capable of being reproduced in legible form.
- (3) The operator shall not load or cause to be loaded on an aircraft or suspend or cause to be suspended beneath an aircraft any package or unit load device containing dangerous goods which on inspection is found to be leaking or damaged so that the contents or the dangerous goods therein may escape or be damaged.
- (4) The operator shall unload or cause to be unloaded any package containing dangerous goods which appears to be leaking or damaged on board or beneath an aircraft and shall ensure that other Cargo or baggage loaded or suspended beneath that aircraft is in a fit state for carriage by air and has not been contaminated.
- (5) The operator shall after unloading inspect for signs of damage or contamination in any part of the aircraft, or any sling or other apparatus which has been used to suspend goods beneath the aircraft, in which:
  - (a) a unit load device containing dangerous goods was stowed, or
- (b) any damaged or leaking package containing dangerous goods was loaded, and the operator shall remove or repair any contamination or damage.
- (6) The operator of an aircraft shall not permit it to fly for the purpose of carrying Passengers or Cargo if he knows or suspects radioactive materials to have leaked in or contaminated the aircraft or any sling or other apparatus attached to the aircraft unless the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination are not more than the values specified in Chapter 3.2 of Part 5 of the Technical Instructions.

#### Method of loading by operator

- 7.—(1) The operator shall ensure that any package containing dangerous goods is loaded, stowed and unloaded from or from beneath an aircraft in accordance with the provisions in Chapter 2 of Part 5 of the Technical Instructions which apply to that category of dangerous goods.
- (2) An aircraft shall not carry any dangerous goods either in any compartment occupied by Passengers or in the flight crew compartment, except in circumstances permitted by the provisions of Chapter 2.1 of Part 5 of the Technical Instructions.

# Provision of information and training programmes by operators and shippers

- 8.—(1) The operator of an aircraft in which dangerous goods are to be carried shall, before the flight begins, provide the commander of the aircraft with written information specifying the matters required by the provisions of Chapter 4.1 of Part 5 of the Technical Instructions and shall preserve a copy thereof for not less than six months.
- (2) The operator of an aircraft in which Passengers are to be carried or his agent shall notify them of the categories of dangerous goods which may not be taken on board an aircraft either as checked baggage or accompanying a Passenger by the provision of information with each Passenger ticket which shall be sufficient in prominence for this purpose and by displaying notices, sufficient in number and prominence for this purpose, at each of the places at an airport where the operator or his agent issues tickets, checks in baggage or maintains areas to assemble Passengers to board the
- (3) The operator of an aircraft and a shipper of dangerous goods by air and, in each case, any agent thereof shall inform any of their respective employees whose duties include a function connected with the carriage of Passengers or Cargo by air of the provisions of the Technical Instructions and for this purpose shall establish and undertake training programmes, as required by Chapter 1 of Part 6 of the Technical Instructions, which shall be submitted to the Governor for approval on such occasions as the Governor may require and which shall be amended as the Governor may require.

#### Production of documents and records

- 9. The operator of an aircraft shall, within a reasonable time after being requested so to do by an authorised person, cause to be produced to that person such of the following documents as may have been requested by that person:
  - (a) the written permission referred to in Regulation 3(1) of these Regulations;
  - (b) the dangerous goods transport document or other document in respect of any dangerous goods referred to in Regulation 4 of these Regulations;
  - (c) the completed acceptance check list in a legible form in respect of any dangerous goods, referred to in Regulation 6(2) of these Regulations;
  - (d) a copy of the written information provided to the commander of the aircraft in respect of any dangerous goods, referred to in Regulation 8(1) of these Regulations.

Dropping articles for agricultural, horticultural, forestry or pollution control purposes

10. Subject to the provisions of Regulation 3(1)(a) of these Regulations, nothing in these Regulations shall apply to any aircraft flying in order to drop articles for the purpose of agriculture, horticulture, forestry or pollution control.".

G. I. de Deney Clerk of the Privy Council

# **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order further amends the Air Navigation (Overseas Territories) Order 1989 as amended by the Air Navigation (Overseas Territories) (Amendment) Order 1991. In addition to minor and drafting amendments the following changes are made—

- (1) Non-public transport aircraft approaching to land on a runway in respect of which there is a notified instrument approach procedure must comply with any relevant aerodrome operating minima in relation to that runway. (Article 2(4)).
- (2) Several matters concerning the provision of air traffic services have been transferred from their original location in Schedule 13 to the 1989 Order to the main body thereof. In addition, a person may not provide any air traffic control services unless he has the approval of the Governor and complies with the terms of that approval. (Article 2(8)).
- (3) In order to take account of changes to Soviet and Chinese airspace parameters the co-ordinates of the flight navigation areas have been amended. (Article 2(11)).
- (4) The established practice, at offshore installations, for helicopters to switch off anti-collision lights with engines running to indicate when it is clear for personnel to approach the aircraft is now permitted. (Article 2(13)(b)).
- (5) In order to meet the requirements of amendments to Annex 18 to the Chicago Convention and generally update the Air Navigation (Dangerous Goods) Regulations a new consolidated set of Regulations is enacted. (Article 2(14)).



# THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. XEX

22nd NOVEMBER 1991

No. 23

#### PROCLAMATION

No. 1 of 1991

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, COMPANION OF THE ORDER OF SAINT MICHAEL AND SAINT GEORGE, Governor of the Falkland Islands,

WHEREAS for the purposes of international law the continental shelf around the Falkland Islands extends beyond the outer limit of the territorial sea of the Falkland Islands to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured or to such other limit as prescribed by the rules of international law, including rules for the delimitation of maritime jurisdiction between neighbours,

WHEREAS the Falkland Islands (Continental Shelf) Order 1950 applies to the inner part of the continental shelf as prescribed by the rules of international law,

AND WHEREAS there is a need to regulate activity on the entire continental shelf around the Falkland Islands, subject to the rules of international law,

NOW THEREFORE I, WILLIAM HUGH FULLERTON, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do HEREBY PROCLAIM as follows:

- 1. Any rights exercisable over the seabed and subsoil of the continental shelf, including the natural resources thereof, beyond and adjacent to the territorial sea around the Falkland Islands are hereby vested in Her Majesty.
- 2. In addition to that area of the continental shelf described in Article 2 of the Falkland Islands (Continental Shelf) Order 1950, the areas of the continental shelf around the Falkland Islands within which the rights mentioned in section 1 above are exercisable comprise:
  - (a) the area defined in section 2 of Proclamation No. 4 of 1986;
  - (b) the area defined in section 2 of and the schedule to Proclamation No. 2 of 1990; and
  - (c) any such area designated by a further Proclamation as an area within which any such rights are exercisable.

All such areas are hereafter referred to as designated areas.

- 3. Her Majesty will exercise the same jurisdiction in respect of the exploration and exploitation of designated areas, including the natural resources thereof, as She has in respect of those matters in the territorial sea of the Falkland Islands subject to such provision as may hereafter be made by law for the exploration and exploitation of the designated areas, including the natural resources thereof.
- 4. This Proclamation becomes effective forthwith.

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, Falkland Islands, this 22nd day of November in the year of Our Lord One Thousand Nine Hundred and Ninety One.



W H FULLERTON, Governor

**GOD SAVE THE QUEEN** 



# THE FALKLAND ISLANDS GAZETTE Supplement

#### PUBLISHED BY AUTHORITY

Vol. XCX 28th NOVEMBER 1991 No. 24

The following are published in this Supplement —

The Continental Shelf Ordinance 1991 (No. 19 of 1991);

Prohibition of Vehicles on Beaches Order 1991 (S. R. & O. No. 25 of 1991);

Stanley Nurseries and Garden Centre (Various Exemptions) Order 1991 (S. R. & O. No. 26 of 1991).

#### The Continental Shelf Ordinance 1991

(No. 19 of 1991)

#### ARRANGEMENT OF PROVISIONS

# Short title commencement and application. Interpretation. Prohibition of certain acts. Licences. Revocation of licences and variation of licence conditions. Offences by licensees and bodies corporate. Regulations. Jurisdiction in respect of offences.

Mining Ordinance to cease to apply to the continental shelf.

Section

9.

#### ELIZABETH II



#### Colony of the Falkland Islands

RONALD SAMPSON, Acting Governor.

#### The Continental Shelf Ordinance 1991

(No. 19 of 1991)

#### An Ordinance

to make further and better provision in relation to the continental shelf of the Falkland Islands.

(assented to: 27th November 1991) (commencement: see section 1(2)) (published: 28th November 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1.(1) This Ordinance may be cited as the Continental Shelf Ordinance 1991.

Short title

(2) This Ordinance shall come into force on such date as the Governor may appoint by notice and published in the Gazette.

and application,

- (3) This Ordinance applies to the designated areas of the continental shelf.
- 2.(1) In this Ordinance -

Interpretation.

"the continental shelf" has the meaning ascribed to that phrase for the purposes of international law in the first recital to Proclamation No. 1 of 1991;

"designated area" means any of the following areas of the continental shelf -

- (a) the area described and delineated in Article 2 of the Falkland Islands (Continental Shelf) Order in Council 1950;
- (b) the area defined in section 2 of Proclamation No. 4 of 1986;
- (c) the area defined in section 2 of and the Schedule to Proclamation No. 2 of 1990;
- (d) any other area designated by Proclamation as an area within which the rights of Her Majesty over the seabed and subsoil of the continental shelf, including the natural resources, are exercisable;

"explore" means to search or explore for any mineral and to carry out such work as may be necessary in relation to any such search or exploration and without prejudice to the generality of the foregoing includes -

- (a) field observations, geological and geophysical investigations and the use of remote sensing techniques, and
- (b) the obtaining of any sample;

"mineral" means any substance, other than water, and whether that substance is in solid, liquid or gaseous form, formed by or subject to geological process and being in or on the sea-bed of or in the subsoil of the continental shelf;

"person" includes a body corporate;

"the Secretary of State" means Her Majesty's Secretary of State for Foreign and Commonwealth Affairs.

- (2) In this Ordinance the masculine includes the feminine and neuter and the singular includes the plural and vice versa.
- 3.(1) No person shall explore for any mineral in any designated area except under the authority Prohibition of a licence granted under section 4.

of certain acts

- (2) No person shall extract or remove any mineral in or from any designated area except in so far as a licence granted under section 4 authorises him so to do (and such a licence shall not authorise him to remove any minerals in any greater quantity than is reasonably necessary for the purpose of inspection or analysis of any mineral or testing for the presence of any mineral in a commercially exploitable quantity).
- (3) A person who contravenes subsection (1) or subsection (2) commits an offence and is liable on conviction to a fine not exceeding £250,000.
- 4.(1) The Governor may with the consent of the Secretary of State grant to any person a licence. Licences. authorising him to explore for any mineral or minerals in a designated area or in any part of a designated area specified in the licence.

- (2) A licence granted under this section -
  - (a) shall specify the period or periods of its validity;
  - (b) shall not be capable of assignment without the prior consent of the Governor acting on the advice of the Secretary of State, and shall so specify;
  - (c) may be granted on payment of such fee as the Governor, with the consent of the Secretary of State, shall specify;
  - (d) may be granted on such terms and subject to such conditions to be performed by the licensee and specified in the licence as the Governor after consultation with the Secretary of State may think fit.

- (3) Any licensee who contravenes any term or condition of the licence granted to him under this section commits an offence and is liable on conviction to a fine not exceeding £100,000.
- (4) Any person who for the purpose of inducing the Governor to grant a licence under this section to him or any other person or for the purpose of inducing the Governor to believe that the terms and conditions of any licence are being or have been observed and performed by the licensee -
  - (a) makes any statement which he knows is false in a material particular or issues or utters any document which he knows is false in a material particular;
  - (b) recklessly makes a statement which is false in a material particular or recklessly issues or utters any document which is false in a material particular;

commits an offence and is liable on conviction to a fine not exceeding £250,000.

5.(1) The Governor may at any time revoke any licence granted under section 4.

Revocation of licence conditions

- (2) The Governor may at any time in writing vary or add to the terms and conditions of a licence variation of granted under section 4 but, unless the licensee consents thereto, shall not do so with effect retrospective from the date of such variation or addition.
- (3) Where the Governor has under subsection (2) varied or added to the conditions of a licence, section 4(3) shall apply thenceforth in respect of any contravention by the licensee thereafter of the terms and conditions of the licence as so varied or added to.
- (4) No appeal shall lie to any court, tribunal or authority from any decision of the Governor -
  - (a) to revoke a licence; or
  - (b) to vary or add to the terms and conditions of a licence.
- 6.(1) Where any thing is done or omitted which would constitute an offence by the licensee if Offences by done or omitted by the licensee, it shall constitute that offence by the licensee if it is proved that licensees and that thing was done or omitted by any employee, agent or contractor of the licensee with the bodies corporate, consent or connivance of the licensee, but nothing in this subsection shall operate so as to prevent the person who did or omitted that thing being proceeded against, in addition to or instead of the licensee, in respect of that offence.

- (2) Without prejudice to subsection (1), where any offence under any provision of this Ordinance has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or 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 has committed that offence and is liable to be proceeded against and punished accordingly.
- 7.(1) The Governor may make regulations under this section -

Regulations.

- (a) for all or any of the following purposes -
  - (i) of prescribing the manner in which and the time or times within which applications for licences under this Ordinance may be made;

- (ii) of prescribing the form in which any application for a licence shall be made and the information which shall be supplied in connection with any such application, whether upon any such form or otherwise;
- (iii) of prescribing model clauses which shall be inserted in every licence granted under this Ordinance;
- (iv) of preventing accidents collisions or hazards to navigation or fishing operations arising out of or in connection with the operations of any person under the authority of a licence granted under this Ordinance;
- (v) of preventing interference or obstruction by the operations of a licensee with the operations of any other licensee;
- (b) for any other purpose for which the Governor considers it necessary or convenient that regulations should be made for the purposes of this Ordinance and whether or not for a purpose similar to or related to any purpose mentioned in (a) of this paragraph of this subsection.
- (2) Regulations made under this section may provide that a contravention of any regulation specified therein shall constitute an offence punishable on conviction by a fine of such amount, not exceeding £100,000, specified in such regulations in relation to that offence.
- 8. The Magistrate's Court and the Summary Court shall each have jurisdiction to try and Jurisdiction determine any proceedings for an offence under this Ordinance or under any regulations made in respect of under this Ordinance and to impose any fine provided for by this Ordinance or by any such offences. regulations in respect of that offence.

9. On the commencement of this Ordinance the Mining Ordinance shall cease to apply to the Mining Ordinance continental shelf.

to cease to apply to the continental Cap. 48

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE. Clerk of Councils.

#### SUBSIDIARY LEGISLATION

#### ROAD TRAFFIC

#### Prohibition of Vehicles on Beaches Order 1991

(S.R. & O. No. 25 of 1991)

Made 27th November 1991 Published 28th November 1991 Coming into force on publication

IN EXERCISE of my powers under section 2 and 18(1) of the Road Traffic Ordinance(a) and of all other powers me enabling in that behalf I make the following Order -

1. This Order may be cited as the Prohibition of Vehicles on Beaches Order 1991 and shall come into force on the date upon which it is first published in the Gazette.

Citation and commencement

2.(1) Subject to subparagraph (2) the driving of any motor vehicle onto along or across any beach which is a road for the purposes of the Road Traffic Ordinance(a) (that is to say any beach which is within Stanley or within four miles of the boundary thereof or which is declared to be a road by paragraph 3 of this Order) is prohibited.

Prohibition of driving on beaches.

- (2) Subparagraph (1) does not prohibit the driving of a motor vehicle onto along or across a beach if, and to the extent only that, the motor vehicle is so driven for the purpose of saving the life or attending or obtaining attention to the injuries of any person (the proof of which shall lie upon the driver of the vehicle).
- (3) A person who contravenes subparagraph (1) commits an offence and is liable on conviction to a fine not exceeding £500 and to imprisonment for a period not exceeding three months.
- (4) For the purposes of this paragraph and of paragraph 3 "beach" means the aggregate of -
  - (a) that portion of the foreshore which is covered and uncovered alternately in the action of the tides: and
  - (b) all that lies to the landward of the portion of the foreshore described in (a), is in apparent continuity with it and does not constitute the hinterland lying beyond.
- 3. Every beach lying within Cape Pembroke Peninsula and which is not already a road for the purposes of the Road Traffic Ordinance(a) is declared to be a road for the purposes of that Ordinance.

Designation of further beaches as roads

Made this 27th day of November 1991.

R. SAMPSON, Acting Governor.

(a) Cap 60 Laws of the Falkland Islands 1950 Edition.

#### **EXPLANATORY NOTE** (Not part of above Order)

This Order renders it an offence to drive a motor vehicle on beaches which are within Stanley, within four miles of the boundary of Stanley or within Cape Pembroke Peninsula.

#### SUBSIDIARY LEGISLATION

#### INCOME TAX

#### Tax Exemption

#### Stanley Nurseries and Garden Centre (Various Exemptions) Order 1991

(S.R. & O. No. 26 of 1991)

Made 27th November 1991 Published 28th November 1991 Coming into operation: on publication

IN EXERCISE of my powers under section 3(1) of the Taxes and Duties (Special Exemptions) Ordinance 1987(a), I make the following Order -

1. This Order may be cited as the Stanley Nurseries and Garden Centre (Various Tax Citation. Exemptions) Order 1991.

2. In this Order -

Interpretation.

"the core business" means the business, excluding the landscaping business, of Stanley Nurseries and Garden Centre, which was the subject of the expired Order and was formerly carried on under the name of Manybranch Nurseries and Garden Centre;

"the expired Order" means the Order (which expired on 31 December 1990) under section 8A (repealed) of the Income Tax Ordinance and which related to the core business:

"the landscaping business" means the landscaping business established as an adjunct to the core business during the year 1987 subsequent to (and not within the scope of) the expired Order.

3.(1) The core business is for a period commencing on 1 January 1991 and ending on 30 June Further tax 1991 to the full extent permissible under the Taxes and Duties (Special Exemptions) Ordinance 1987 granted the same exemptions it enjoyed under the expired Order.

exemption.

- (2) The landscaping business is for a period commencing at its inception and expiring on 30 June 1991 exempted from all liability to tax on its profits.
- (3) The core business and the landscaping business shall in respect of all periods up to 30 June 1991 be treated for all tax purposes as one business.

Made this 27th day of November 1991.

R. SAMPSON, Acting Governor.

(a) No. 26 of 1987.		
	Printed by the Government Printer, Stanley, Falkland Islands.  Price: Three Pounds.	



# THE FALKLAND ISLANDS GAZETTE Supplement

#### PUBLISHED BY AUTHORITY

2

Vol. XEX

19th DECEMBER 1991

No. 25

The following are published in this Supplement —

The Criminal Justice (Amendment) Ordinance 1991 (No. 20 of 1991):

The Family Allowances (Amendment) (No. 2) Ordinance 1991 (No. 21 of 1991);

The Family Allowances (Amendment) (No. 3) Ordinance 1991 (No. 22 of 1991);

The Bills of Exchange (Adopted Legislation) Ordinance 1991 (No. 23 of 1991);

The Interpretation and General Clauses (Amendment) (No. 2) Ordinance 1991 (No. 24 of 1991);

The Road Traffic (Amendment) (No. 2) Ordinance 1991 (No. 25 of 1991);

The Falkland Islands Defence Force Ordinance 1991 (No. 26 of 1991);

The Falkland Islands Development Corporation (Amendment) Ordinance 1991 (No. 27 of 1991);

The Supplementary Appropriation (1990 - 1991) (No. 4) Ordinance 1991 (No. 28 of 1991);

The Supplementary Appropriation (1991 - 1992) Ordinance 1991 (No. 29 of 1991):

The Income Tax (Amendment) (No. 4) Ordinance 1991 (No. 30 of 1991):

The Museum and National Trust Ordinance 1991 (No. 31 of 1991).

# The Criminal Justice (Amendment) Ordinance 1991

(No. 20 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### PART I: INTRODUCTORY

#### Section

- 1. Short title.
- 2. Interpretation.

#### PART II: CRIMINAL PROCEEDINGS AND INVESTIGATIONS

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#### Mutual provision of evidence

- 5. Overseas evidence for use in the Falkland Islands.
- 6. Falkland Islands evidence for use overseas.
- 7. Transfer of Falkland Islands prisoner to give evidence or assist investigation overseas.
- 8. Transfer of overseas prisoner to give evidence or assist investigation in the Falkland Islands.

#### Additional co-operation powers

- 9. Search etc. for material relevant to overseas investigation.
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#### Supplementary

11. Rules of court.

#### PART III: THE VIENNA CONVENTION

#### Interpretation of this Part

- 12. Interpretation of Part III.
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#### Proceeds of drug trafficking

- 15. Concealing or transferring proceeds of drug trafficking.
- 16. Interest on sums unpaid under confiscation orders.
- 17. Increase in realisable property.

#### Offences at sea

- 18. Offences on British ships.
- 19. Ships used for illicit traffic.
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#### Supplementary

22. Amendment of Misuse of Drugs Ordinance 1987.

# PART IV: DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

- 23. Interpretation of Part IV.
- 24. Seizure and detention.
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- 26. Interest.
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#### PART V: GENERAL

- 28. Expenses.
- 29. Consequential and other amendments.

#### SCHEDULES:

#### SCHEDULE 1:

FALKLAND ISLANDS EVIDENCE FOR USE OVERSEAS: PROCEEDINGS OF NOMINATED COURT

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SUBSTANCES USEFUL FOR MANUFACTURING CONTROLLED DRUGS

#### SCHEDULE 3:

ENFORCEMENT POWERS IN RESPECT OF SHIPS

#### SCHEDULE 4:

CONSEQUENTIAL AND OTHER AMENDMENTS

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G. Governor.

#### The Criminal Justice (Amendment) Ordinance 1991

(No. 20 of 1991)

#### An Ordinance

to enable the Falkland Islands to co-operate with other countries in criminal proceedings and investigations; to enable the Falkland Islands, in the event that the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is ratified by Her Majesty's Government in the United Kingdom in such manner that the provisions of the Convention are applicable to the Falkland Islands, to enable the Falkland Islands to join with other countries in implementing that Convention; to provide for the seizure, detention and forfeiture of drug trafficking money imported or exported in cash; and to amend the Criminal Justice Ordinance 1989 for purposes connected with the above purposes and for other purposes.

> (assented to: 10th December 1991) (commencement: see section 1) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows —

#### PART I

#### **INTRODUCTORY**

1. This Ordinance may be cited as the Criminal Justice (Amendment) Ordinance 1991 and Short title. shall come into operation on such date as the Governor on the advice of the Executive Council may by Order appoint.

2. (1) In this Ordinance except where the context otherwise requires —

Interpretation

"Governor" means the Governor acting in his discretion, or, where he has received instructions from the Secretary of State, the Governor acting in accordance with such instructions:

"judge" includes the Senior Magistrate and any judge of the Supreme Court:

"the Secretary of State" means Her Majesty's Secretary of State for Foreign and Commonwealth Affairs.

- (2) It shall not be competent for any court or tribunal in any proceedings whatsoever, whether the proceedings arise out of or in connection with any provision of this Ordinance or otherwise, to inquire into or determine any question as to whether
  - the Governor has received any instructions from the Secretary of State as to or in connection with the exercise of any of his functions under this Ordinance;
  - (b) if he has, whether he has acted in accordance with those instructions.

#### PART II

#### CRIMINAL PROCEEDINGS AND INVESTIGATIONS Mutual Service of Process

3. (1) This section has effect where the Governor receives from the government of, or Service of authority in, a country or territory outside the Falkland Islands

in the Falkland 1990 c5 s.l

- a summons or other process requiring a person to appear as defendant or Islands. attend as a witness in criminal proceedings in that country or territory; or
- (b) a document issued by a court exercising criminal jurisdiction in that country or territory and recording a decision of the court made in the exercise of that jurisdiction,

together with a request for it to be served on a person in the Falkland Islands.

- (2) The Governor may cause the process or document to be served by post or, if the request is for personal service, direct the chief police officer to cause it to be personally served on the person to be served.
- (3) Service by virtue of this section of any such process as is mentioned in subsection (1)(a) above shall not impose any obligation under the law of the Falkland Islands to comply with it.
- (4) Any such process served by virtue of this section shall be accompanied by a notice
  - (a) stating the effect of subsection (3) above;
  - (b) indicating that the person on whom it is served may wish to seek advice as to the possible consequences of his failing to comply with the process under the law of the country or territory where it was issued; and
  - indicating that under that law he may not, as a witness, be accorded the same rights and privileges as would be accorded to him in criminal proceedings in the Falkland Islands.
- (5) Where the chief police officer is directed under this section to cause any process or document to be served he shall after it has been served forthwith inform the Governor when and how it was served and (if possible) furnish him with a receipt signed by the person on whom it was served; and if the chief police officer has been unable to cause the process or document to be served he shall forthwith inform the Governor of that fact and of the reason.
- 4. (1) Process of the following descriptions, that is to say
  - (a) a summons requiring a person charged with an offence to appear before a court in the Falkland Islands; and
  - (b) a summons or order requiring a person to attend before a court in the Falkland Islands for the purpose of giving evidence in criminal proceedings,

may be issued or made notwithstanding that the person in question is outside the Falkland Islands and may be served outside the Falkland Islands in accordance with arrangements made in relation to the Falkland Islands by Her Majesty's Government in the United Kingdom.

- (2) Service of any process outside the Falkland Islands by virtue of this section shall not impose any obligation under the law of any part of the Falkland Islands to comply with it and accordingly failure to do so shall not constitute contempt of any court or be a ground for issuing a warrant to secure the attendance of the person in question.
- (3) Subsection (2) above is without prejudice to the service of any process (with the usual consequences for non-compliance) on the person in question if subsequently effected in the Falkland Islands.

#### Mutual provision of evidence

5. (1) Where on an application made in accordance with subsection (2) below it appears Overseas to a justice of the peace or a judge -

evidence for use in the Falkland Islands. 1990 دے 3

Service of

Falkland Islands

process overseas

1990 c.5 s.2

- that an offence has been committed or that there are reasonable grounds for suspecting that an offence has been committed; and
- (b) that proceedings in respect of the offence have been instituted or that the offence is being investigated,

he may issue a letter ("a letter of request") requesting assistance in obtaining outside the Falkland Islands such evidence as is specified in the letter for use in the proceedings or investigation.

- (2) An application under subsection (1) above may be made by or on behalf of the Attorney General, or the chief police officer or, if proceedings have been instituted, by the person charged in those proceedings.
- (3) The Attorney General may himself, with the consent of the Governor, issue a letter of request if -
  - (a) he is satisfied as to matters mentioned in subsection (1)(a) above; and
  - the offence in question is being investigated or he or the chief police officer has instituted proceedings in respect of it.
- (4) Subject to subsection (5) below, a letter of request shall be sent to the Governor for transmission either -
  - (a) to a court or tribunal specified in the letter and exercising jurisdiction in the place where the evidence is to be obtained; or
  - (b) to any authority recognised by the government of the country or territory in question as the appropriate authority for receiving requests for assistance of the kind to which this section applies.
- (5) In cases of urgency a letter of request may with the consent of the Governor be sent direct to such a court or tribunal as is mentioned in subsection (4)(a) above.
- (6) In this section "evidence" includes documents and other articles.
- (7) Evidence obtained by virtue of a letter of request shall not without the consent of such an authority as is mentioned in subsection (4)(b) above be used for any purpose other than that specified in the letter; and when any document or other article obtained pursuant to a letter of request is no longer required for that purpose (or for any other purpose for which such consent has been obtained), it shall be returned to such an authority unless that authority indicates that the document or article need not be returned.
- (8) In exercising the discretion conferred by section 25 of the Criminal Justice Act 1988 in its application to the Falkland Islands (exclusion of evidence otherwise admissible) in relation to a statement contained in evidence taken pursuant to a letter of request the court shall have regard -
  - (a) to whether it was possible to challenge the statement by questioning the person who made it; and
  - if proceedings have been instituted, to whether the local law allowed the parties to the proceedings to be legally represented when the evidence was being
- 6. (1) This section has effect where the Governor receives
  - (a) from a court or tribunal exercising criminal jurisdiction in a country or territory outside the Falkland Islands or a prosecuting authority in such a country or territory; or

(b) from any other authority in such a country or territory which appears to him to have the function of making requests of the kind to which this section applies,

a request for assistance in obtaining evidence in the Falkland Islands in connection with criminal proceedings that have been instituted, or a criminal investigation that is being carried on, in that country or territory.

Falkland Islands evidence for use overseas.

- (2) If the Governor is satisfied -
  - (a) that an offence under the law of the country or territory in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed; and
  - that proceedings in respect of that offence have been instituted in that country or territory or that an investigation into that offence is being carried on

he may, if he thinks fit, by a notice in writing nominate a court in the Falkland Islands, to receive such of the evidence to which the request relates as may appear to the court to be appropriate for the purpose of giving effect to the request.

- (3) Where it appears to the Governor that the request relates to a fiscal offence in respect of which proceedings have not yet been instituted he shall not exercise his powers under subsection (2) above unless -
  - (a) the request is from a country or territory which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party and which extends to the Falkland Islands; or
  - (b) he is satisfied that the conduct constituting the offence would constitute an offence of the same or similar nature if it had occurred in the Falkland Islands.
- (4) For the purposes of satisfying himself as to the matters mentioned in subsection (2)(a) and (b) above the Governor shall regard as conclusive a certificate issued by such authority in the country or territory in question as appears to him to be appropriate.
- (5) In this section "evidence" includes documents and other articles.
- (6) Schedule 1 to this Ordinance shall have effect with respect to the proceedings before a nominated court in pursuance of a notice under subsection (2) above.
- 7. (1) The Governor may, if he thinks fit, issue a warrant providing for a person ("a Tranfer of prisoner") serving a sentence in a prison or other institution to which the Prison Ordinance 1966 applies to be transferred to a country or territory outside the Falkland Islands for the purpose -
  - (a) of giving evidence in criminal proceedings there; or
  - (b) of being identified in, or otherwise by his presence assisting, such proceedings or the investigation of an offence.

(No. 5 of 1966)

prisoner to give

assist investiga

tion overseas.

1990 c5 s.5

- (2) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being transferred as mentioned in subsection (1) above and that consent may be given either -
  - (a) by the prisoner himself; or
  - (b) in circumstances in which it appears to the Governor inappropriate, by reason of the prisoner's physical or mental condition or his youth, for him to act for himself, by a person appearing to the Governor to be an appropriate person to act on his behalf;

but a consent once given shall not be capable of being withdrawn after the issue of the

- (3) The effect of a warrant under this section shall be to authorise
  - the taking of the prisoner to a place in the Falkland Islands and his delivery at a place of departure from the Falkland Islands into the custody of a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred; and
  - the bringing of the prisoner back to the Falkland Islands and his transfer in custody to the place where he is liable to be detained under the sentence to which he is subject.
- (4) Where a warrant has been issued in respect of a prisoner under this section he shall be deemed to be in legal custody at any time when, being in the Falkland Islands or on board a British ship, British aircraft or British hovercraft, he is being taken under the warrant to or from any place or place being kept in custody under the warrant.

- (5) A person authorised by or for the purposes of the warrant to take the prisoner to or from any place or to keep him in custody shall have all the powers, authority, protection and privileges of a police officer and whether the prisoner is within the Falkland Islands for the time being or outside the Falkland Islands for the time being.
- (6) If the prisoner escapes or is unlawfully at large, he may be arrested without warrant by a police officer and taken to any place to which he may be taken under the warrant issued under this section.
- (7) In subsection (4) above -

"British Aircraft" means a British-controlled aircraft with the meaning of section 1 (application of Criminal law to aircraft) of the Tokyo Convention Act 1967 (Overseas Territories) Order 1968 (which Order remains in force in relation to the Falkland Islands notwithstanding the repeal of the Tokyo Convention Act 1967 by section 109(3) of and Schedule 16 to the Civil Aviation Act 1982 and which Order under section 17(2)(b) of the Interpretation and Act 1978 has effect as if made under, or partly made under section 108 of the Civil Aviation Act 1982):

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

"British ship" means a British ship for the purposes of the Merchant Shipping Acts or one of Her Majesty's ships:

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

- (8) In subsection (6) above "police officer" means any person who is a police officer in the Falkland Islands or any person who, at the place in question has, under any enactment including subsection (5) above, the powers of such a police officer.
- (9) This section applies to a person in custody awaiting trail or sentence and a person committed to prison for default in paying a fine as it applies to a prisoner and the reference in subsection (3)(b) above to a sentence shall be construed accordingly.
- (10) The reference in subsection (7) above to the Hovercraft Act 1968 shall be construed as a reference to that Act to the extent that, at the time in question it applies to the Falkland Islands by virtue of -
  - (a) an Order or Orders of Her Majesty in Council under section 1(1) of that Act; or
  - (b) by legislation made in the Falkland Islands for the time being in force.
- 8. (1) This section has effect where -
  - (a) a witness order has been made or a witness summons or citation issued in criminal proceedings in the Falkland Islands in respect of a person ("a prisoner") who is detained in custody in a country or territory outside the Falkland Islands by virtue of a sentence or order of a court or tribunal exercising criminal jurisdiction in that country or territory; or
  - it appears to the Governor that it is desirable for a prisoner to be identified in, or otherwise by his presence to assist, such proceedings or the investigation in the Falkland Islands of an offence.
- (2) If the Governor is satisifed that the appropriate authority in the country or territory where the prisoner is detained will make arrangements for him to come to the Falkland Islands to give evidence pursuant to the witness order or witness summons or, as the case may be, for the purpose mentioned in subsection (1)(b) above, he may issue a warrant under this section.

Transfer of overseas prisoner to give evidence to assist investigation in the Falkland Islands. 1990 c.5 s.6

- (3) No warrant shall be issued under this section in respect of any prisoner unless he has consented to being brought to the Falkland Islands to give evidence as aforesaid or, as the case may be, for the purpose mentioned in subsection (1)(b) above but a consent once given shall not be capable of being withdrawn after the issue of the warrant.
- (4) The effect of the warrant shall be to authorise -
  - (a) the bringing of the prisoner to the Falkland Islands:
  - (b) the taking of the prisoner to, and his detention in custody at, such place or places in the Falkland Islands as specified in the warrant; and
  - the returning of the prisoner to the country or territory from which he has
- (5) Subsections (4) to (8) of section 7 above shall have effect in relation to a warrant issued under this section as they have effect in relation to a warrant issued under that section.
- (6) A person shall not be subject to the Immigration Ordinance 1987 in respect of his entry into or presence in the Falkland Islands pursuance of a warrant under this section but if the warrant ceases to have effect while he is still in the Falkand Islands -
  - (a) he shall be treated for the purposes of that Ordinance as if he has then illegally entered the Falkland Islands; and
  - (b) the provisions of that Ordinance shall have effect accordingly except that a carrier shall not be liable for expenses of custody or passage in relation to directions for his removal given by virtue of this subsection.
- (7) This section applies to a person detained in custody in a country or territory outside the Falkland Islands in consequence of having been transferred there -
  - (a) from the Falkland Islands under the Repatriation of Prisoners Act 1984 in its application to the Falkland Islands; or
  - (b) under any similar provision or arrangement from any other country or territory.

as it applies to a person detained as mentioned in subsection (1) above.

#### Additional co-operation powers

9. (1) Part VIII of the Criminal Justice Ordinance 1989 (powers of entry search and seizure) shall have effect as if references to serious arrestable offences in section 112 of Schedule 4 to that Ordinance included any conduct which is an offence under the law of a country or territory outside the Falkland Islands and would constitute a serious arrestable offence if it had occurred in the Falkland Islands.

material relevant to overseas investigation.

1990 c5 s.7 (No.

17 of 1989)

(2) If, on an application made by a police officer, a justice of the peace or the Senior Magistrate is satisifed -

- (a) that criminal proceedings have been instituted against a person in a country or territory outside the Falkland Islands or that a person has been arrested in the course of a criminal investigation carried on there;
- that the conduct constituting the offence which is the subject of the proceedings or investigation would constitute an arrestable offence within the meaning of the Criminal Justice Ordinance 1989 if it had occurred in the Falkland Islands; and
- (c) that there are reasonable grounds for suspecting that there is on premises in the Falkland Islands occupied or controlled by that person evidence relating to the offence other than items subject to legal privilege within the meaning of that Ordinance.

he may issue a warrant authorising a constable to enter and search those premises and to seize any such evidence found there.

(3) The power to search conferred by subsection (2) above is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence as is there mentioned.

- (4) No application for a warrant or order shall be made by virtue of subsection (1) or (2) above except in pursuance of a direction given by the Governor in response to a request received
  - from a court or tribunal exercising criminal jurisdiction in the overseas country or territory in question or a prosecuting authority in that country or territory;
  - (b) from any other authority in that country or territory which appears to him to have the function of making requests for the purposes of this section;

and any evidence seized by a constable by virtue of this section shall be furnished by him to the Governor for transmission to that court, tribunal or authority.

- (5) If in order to comply with the request it is necessary for any such evidence to be accompanied by any certificate, affidavit or other verifying document the constable shall also furnish for transmission such document of that nature as may be specified in the direction given by the Governor.
- (6) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.
- 10. (1) The Governor may by Order made with the advice of the Executive Council provide for the enforcement in the Falkland Islands of any order which -

(a) is made by a court in a country or territory outside the Falkland Islands designated for the purposes of this section by the Order; and

- (b) is for the forfeiture and destruction, or the forfeiture and other disposal, of anything in respect of which an offence to which this section applies has been committed or which was used in connection with the commission of such an offence.
- (2) Without prejudice to the generality of subsection (1) above an Order under this section may provide for the registration by a court in the Falkland Islands of any order as a condition of its enforcement and prescribe requirements to be satisfied before an order can be registered.
- (3) An Order under this section may include such supplementary and incidental provisions as appear to the Governor to be necessary or expedient and may apply for the purposes of the Order (with such modifications as appear to the Governor to be appropriate) any provisions relating to confiscation or forfeiture orders under any other enactment.
- (4) An Order under this section may make different provision for different cases.
- (5) This section applies to any offence which corresponds to or is similar to an offence under the Misuse of Drugs Ordinance 1987, a drug trafficking offence as defined in section 2(1) of the Drug Trafficking Offences Ordinance 1989 or an offence to which sections 49 to 65 (confiscation of the proceeds of an offence and enforcement etc of confiscation orders) of the Criminal Justice Ordinance 1989 apply.

#### Supplementary

11. (1) Provision may be made by rules of court for any purpose for which it appears Rules of court. to the authority having power to make the rules that it is necessary or expedient that provision should be made in connection with any of the provisions of this Part of this Ordinance.

Enforcement of

forfeiture orders

1990 c.5 s.9

overseas

- (2) Rules made for the purposes of Schedule 1 to this Ordinance may, in particular, make provision with respect to the persons entitled to appear or take part in the proceedings to which that Schedule applies and for excluding the public from any such proceedings.
- (3) An Order under section 10 above may authorise the making of rules of court for any purpose specified in the Order.

(4) This section is without prejudice to the generality of any existing power to make rules.

#### PART III THE VIENNA CONVENTION

## Interpretation of this Part

12. (1) In this Part of this Ordinance —

"British ship" means a ship registered in the United Kingdom, the Isle of Man, the Channel Islands, the Falkland Islands or any other colony of the United Kingdom;

1990 c5 s.24

"Convention state" means a state other than the United Kingdom which is a party to the Vienna Convention and any country or territory of such a state to which it has applied that Convention;

"scheduled substance" has the meaning given in section 13(4) below;

"ship" includes any vessel used in navigation;

"the territorial sea of the Falkland Islands" means the territorial sea of the Falkland Islands existing under the Falkland Islands (Territorial Sea) Order 1989;

"the Vienna Convention" means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Pyschotropic Substances which was signed in Vienna on 20th December 1988.

- (2) Any expression used in this Part of this Ordinance which is also used in the Drug Trafficking Offences Ordinance 1989 has the same meaning as in that Ordinance.
  - (3) If in any proceedings under this Ordinance any question arises
    - (a) as to whether any country or territory is a state;
  - (b) whether any state, country or territory is a Convention State,

a certificate issued by or under the authority of the Governor shall be conclusive upon that question.

#### Substances useful for manufacture of controlled drugs

13. (1) It is an offence for a person -

(a) to manufacture a scheduled substance; or

and supply of scheduled substances.

Manufacture

(b) to supply such a substance to another person,

knowing or suspecting that the substance is to be used in or for the unlawful production 1990 = 5.12 of a controlled drug.

(2) A person who commits an offence under subsection (1) above is liable on conviction to imprisonment for a term not exceeding fourteen years or a fine (with no limit on the amount of the fine which may be imposed) or both.

- (3) In this section "a controlled drug" has the same meaning as in the Misuse of Drugs Ordinance 1987 and 'unlawful production of a controlled drug' means the production of such a drug which is unlawful by virtue of a section of that Ordinance.
- (4) In this section and elsewhere in this Part of this Ordinance "a scheduled substance" means a substance for the time being specified in Schedule 2 to this Ordinance.
- (5) The Governor may by Order amend that Schedule (whether by addition, deletion or transfer from one Table to the other) but -
  - (a) no such Order shall add any substance to the Schedule unless
    - it appears to the Governor to be frequently used in or for the unlawful production of a controlled drug; or
    - (ii) it has been added to the Annex to the Vienna Convention under Article 12 of that Convention.

14. (1) The Governor with the advice of the Executive Council may by regulations make Regulations provision —

about scheduled

(a) imposing requirements as to the documentation of transactions involving scheduled substances;

- (b) requiring the keeping of records and the furnishing of information with respect to such substances;
- for the inspection of records kept pursuant to the regulations;
- (d) for the labelling of consignments of scheduled substances.
- (2) Regulations made by virtue of subsection (1)(b) above may, in particular, require
  - the notification of the proposed exportation of substances specified in Table 1 in Schedule 2 to this Ordinance to such countries as may be specified in the regulations; and
  - (b) the production, in such circumstances as may be so specified, of evidence that the required notification has been given;

and for the purposes of sections 35 and 36 of the Customs Ordinance (offences relating (Cap. 16) to exportation of prohibited or restricted goods) any such substance shall be deemed to be exported contrary to a prohibition for the time being in force with respect to it under this Ordinance if it is exported without the requisite notification having been given.

- (3) Regulations under this section may make different provision in relation to substances specified in Table I and Table II in Schedule 2 to this Ordinance respectively and in relation to different cases or circumstances.
- (4) Any person who fails to comply with any requirement imposed by the regulations or, in purported compliance with any such requirement, furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular is guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding the maximum of level 7 on the standard scale.
- (5) No information obtained pursuant to the regulations shall be disclosed except for (No 20 of 1989) the purposes of criminal proceedings or of proceedings under the provisions of the Drug Trafficking Offences Ordinance 1989.

Concealing or

ceeds of draw

trafficking.

1990 c5 s.14

transferring pro-

#### Proceeds of drug trafficking

- 15. (1) A person commits an offence if he
  - (a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, his proceeds of drug trafficking; or

(b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order.

- (2) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he -
  - (a) conceals or disguises that property; or
  - (b) converts or transfers that property or removes it from the jurisdiction,

for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order.

- (3) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires that property for no, or for inadequate, consideration.
- (4) In subsections (1)(a) and (2)(a) above the references to concealing or disguising any property include references to concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
- (5) For the purposes of subsection (3) above consideration given for any property is inadequate if its value is significantly less than the value of that property, and there shall not be treated as consideration the provision for any person of services or goods which are of assistance to him in drug trafficking.

(6) A person convicted of an offence under this section is liable on conviction to imprisonment for a term not exceeding fourteen years or a fine (without limit on the amount of the fine which may be imposed) or both.

16. (1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid (whether forthwith on the making of the order or at a time specified under section 42(1) of the Criminal Justice Ordinance 1989) that person shall be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.

confiscation 1990 c.5 s.15

(2) The rate of interest under subsection (1) above shall be that for the time being applying to a civil judgment debt under section 17 of the Judgments Act 1838 in its application to the Falkland Islands.

17. (1) This section has effect where by virtue of section 7(3) of the Drug Trafficking Offences Ordinance 1989 (insufficient realisable property) the amount which a person is ordered to pay by a confiscation order is less than the amount assessed by the value of his proceeds of drug trafficking.

1990 c5 s 16

(2) If on an application made in accordance with subsection (3) below, the court is satisfied that the amount that might be realised in the case of the person in question is greater than the amount taken into account in making the confiscation order (whether it was greater than was thought when the order was made or has subsequently increased) the court shall issue a certificate to that effect, giving the court's reasons.

- (3) An application under subsection (2) above may be made either by or on behalf of the Attorney General or by a receiver appointed under the said Ordinance in relation to the realisable property of the person in question.
- (4) Where a certificate has been issued under subsection (2) above the Attorney General or a person on his behalf may apply to the Court for an increase in the amount to be recovered under the confiscation order; and on that application the court may -
  - (a) substitute for that amount such amount (not exceeding the amount assessed as the value referred to in subsection (1) above) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and
  - increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 42 of the Criminal Justice Ordinance 1989 (imprisonment in default of payment) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (4) of that section.

#### Offences at sea

18. (1) Anything which would constitute a drug trafficking offence if done on land in Offences on the Falkland Islands shall constitute that offence if done on a British ship, but if done British ships. on a British ship which is a British ship registered at a port of registry outside the Falkland Islands only if that thing would also constitute a drug trafficking offence in the United Kingdom.

- (2) For the purposes of subsection (1) above, an offence is a drug trafficking offence in the United Kingdom if it is a drug trafficking offence for the purposes of Part II of the Criminal Justice (International Co-operation) Act 1990 (which Part of that Act makes provision corresponding to the provisions of this Part of this Ordinance).
- (3) Subsections (1) and (2) above have effect without prejudice to the application to British ships in accordance with its terms of section 18 of the Criminal Justice (International Co-operation) Act 1990.
- 19. (1) This section applies to a British ship, a ship registered in a Convention state and a ship not registered in any country or territory.

Ships used for illicit traffic.

1990 c.5 s.19

- (2) A person commits an offence if on a ship to which this section applies, wherever it may be, he -
  - (a) has a controlled drug in his possession; or
  - (b) is in any way knowingly concerned in the carrying or concealing of a controlled drug on the ship,

knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 3(1) of the Misuse of Drugs Ordinance 1987 or the law of any country or territory other than the Falkland Islands.

- (3) A certificate purporting to be issued by or on behalf of the government of any country or territory other than the Falkland Islands to the effect that the importation or export of a controlled drug is prohibited by the law of that country or territory shall be evidence of the matters stated.
- (4) A person who commits an offence under this section is liable
  - (a) in a case where the controlled drug is a Class A drug on conviction, to imprisonment for life or a fine (without limit on the amount of fine which may be imposed) or both:
  - (b) in a case where the controlled drug is a Class B drug on conviction of indictment, to imprisonment for a term not exceeding fourteen years or a fine or both: (without limit on the amount of the fine which may be imposed)
  - (c) in a case where the controlled drug is a Class C drug on conviction, to imprisonment for a term not exceeding five years or a fine or both.
- (5) In this section "a controlled drug" and the references to controlled drugs of a specified class have the same meaning as they have under the Misuse of Drugs Ordinance 1987; and an offence under this section shall be included in the offences to which section 25 of that Ordinance (defence) applies.
- 20. (1) The powers conferred on an enforcement officer by Schedule 3 to this Ordinance Enforcement shall be exercisable in relation to any ship to which section 18 or 19 above applies for the powers. purpose of detecting and the taking of the appropriate action in respect of the offences mentioned in those sections.

1990 c.5 s.20

- (2) Those powers shall not be exercised outside the landward limits of the territorial sea of the Falkland Islands in relation to a ship registered in a Convention state except with the authority of the Governor and he shall not give his authority in relation to a ship registered in a Convention state unless that state has in relation to that ship —
  - (a) requested the assistance of the United Kingdom or the Falkland Islands for the purpose mentioned in subsection (1) above; or
  - (b) authorised the United Kingdom or the Falkland Islands to act for that purpose.
- (3) In giving his authority pursuant to a request or authorisation from a Convention state the Governor shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.
- (4) The powers conferred by Schedule 3 to this Ordinance shall not be exercised in the territorial sea of any other country or territory.
- (5) The Governor shall not authorise under subsection (3) above the exercise of powers conferred by Schedule 3 to this Ordinance in relation to a ship registered in a Convention state other than the United Kingdom except -
  - (a) upon the instructions of the Secretary of State: or
  - (b) after consulting the Secretary of State and in accordance with such instructions, if any, as he may then receive.

21. (1) Proceedings under this Part of this Ordinance or Schedule 3 in respect of an of- Jurisdiction and fence on a ship may be taken as if they were offences to which section 23 of the Misuse prosecutions. of Drugs Ordinance 1987 related and the offence may for all incidental purposes be treated as having been committed in the Falkland Islands.

1990 c.5 s.21

- (2) No such proceedings shall be instituted except by or with the consent of the Attorney General.
- (3) Without prejudice to subsection (2) above, no proceedings for an offence under section 19 above alleged to have been committed outside the landward limits of the territorial sea of the Falkland Islands on a ship registered in a Convention state shall be instituted except with the consent of the Governor and (so far as is applicable) in accordance with the requirement for his consent under section 3 of the Territorial Waters Jurisdiction Act 1878.

1878 c.73

#### Supplementary

22. (1) The Misuse of Drugs Ordinance 1987 (in this section called "the 1987 Ordinance") is amended in accordance with this section.

Amendment of

- (2) In section 13(1) (prohibition direction on practitioners etc in consequence of a conviction) -
  - (a) after paragraph (b) thereof there shall be inserted "(c) an offence under section 14 or 15 of the Criminal Justice Ordinance
  - (b) the word "or" at the end of paragraph (a) thereof shall be deleted;
  - (c) the word "or" at the end of paragraph (b) thereof shall be deleted;
- (3) In section 19 (offences by corporations) there shall be inserted the words "or Part III of the Criminal Justice Ordinance 1991".
- (4) In section 21 (powers to search and obtain evidence)
  - (a) in subsection (3) after the words "Justice of the Peace" there shall be inserted the words "or the Senior Magistrate";
  - (b) after subsection (3) there shall be inserted —

"(3A) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part III of the Criminal Justice Ordinance 1991 and subsection (3) above (excluding paragraph (a)) shall apply also to offences under section 13 or 14 of that Ordinance, taking references in those provisions to controlled drugs as references to scheduled substances within the meaning of that Part."

(5) In the Schedule (controlled drugs) -

1991:"

there shall be added at the end of sub-paragraph (a) of paragraph 1 of Part 1 (Class A drugs) the words "and any other substance or product which is a Class A drug within the meaning of and for the purposes of the Misuse of Drugs Act 1971";

(b) there shall be added at the end of paragraph 1 of Part 2 (Class B drugs) the following -

> "(c) any other substance or product which is a Class B drug within the 1971 c.38 meaning of and for the purposes of the Misuse of Drugs Act 1971.",

and the full stop at the end of sub- paragraph (b) of that paragraph is replaced by a comma: and

(c) there shall be added at the end of paragraph 1 of Part 3 (Class C Drugs) the words "and any other substance or product which is a Class C drug within the meaning of and for the purposes of the Misuse of Drugs Act 1971.".

#### PART IV

#### DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

23. In this Part of this Ordinance "cash" includes coins and notes in any currency; "customs officer" means an officer appointed by the Governor to be a customs officer;

1990 c.5 s.29(1)

Interpretation of

"drug trafficking" has the same meaning as in the Drug Trafficking Offences Ordinance 1989;

"exported", in relation to any cash, includes its being brought to any place in the Falkland Islands for the purpose of being exported;

"the proceeds of drug trafficking" has the same meaning as in the said Ordinance of 1989 and includes proceeds received by an person before as well as after the coming into force of this Part of this Ordinance.

24. (1) A customs officer or police officer may seize and, in accordance with this section, detain any cash which is being imported into or exported from the Falkland Islands if its amount is not less than the prescribed sum and he has reasonable grounds for supsecting that it directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

Seizure and 1990 c.5 s.25

- (2) Cash seized by virtue of this section shall not be detained for more than forty-eight hours unless its continued detention is authorised by an order made by a justice of the peace or the Senior Magistrate; and no such order shall be made unless the justice or, as the case may be, the Senior Magistrate is satisfied -
  - (a) that there are reasonable grounds for the suspicion mentioned in subsection (1) above; and
  - (b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in the Falkland Islands or elsewhere) of criminal proceedings against any person for an offence with which the cash is connected.
- (3) Any order under subsection (2) above shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order; and the Magistrate's Court or the Summary Court, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that -
  - (a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and
  - (b) the total period of detention shall not exceed two years from the date of the order under subsection (2) above.
- (4) Any application for an order under subsection (2) or (3) above shall be made by or on behalf of the Attorney General.
- (5) At any time while cash is detained by virtue of the foregoing provisions of this section -
  - (a) the Senior Magistrate may direct its release if satisfied -
    - (i) on an application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2) above; or
    - (ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and

- (b) a customs officer or police officer, if so authorised in writing by the Attorney General, may release the cash but first shall notify the court under whose order it is being detained, and the Attorney General shall not authorise the release of the cash unless he is satisfied that its detention is no longer justified.
- (6) If at a time when any cash is being detained by virtue of the foregoing provisions of this section -
  - (a) an application for its forfeiture is made under section 25 below; or
  - proceedings are instituted (whether in the Falkland Islands or elsewhere) against any person for an offence with which the cash is connected,

the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

(7) In subsection (1) above "the prescribed sum" means £5000 or such greater sum in 1990 c5 s.29(2) sterling as may for the time being be prescribed for the purposes of that section by an Order made by the Governor and in determining under this section whether an amount of currency other than sterling is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.

25. (1) The Supreme Court may order the forfeiture of any cash which has been seized under section 24 above if satisfied, on an application made while the cash is detained under that section, that the cash directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

Forfeiture

- (2) Any application under this section shall be made by or on behalf of the Attorney General.
- (3) The standard of proof in proceedings on an application under this section shall be that applicable to civil proceedings, and an order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.
- 26. Cash seized under this Part of this Ordinance and detained for more than forty-eight hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

1990 c.5 s.27

27. (1) An order under section 24(2) above shall provide for notice to be given to persons Procedure. affected by the order.

1990 c.5 s.28

- (2) The Chief Justice may make rules of court with respect to applications to any court under this Part of this Ordinance, for the giving of notice of such applications to persons affected, for the joinder, of such persons as parties and generally with respect to the procedure under this Part of this Ordinance before any court.
- (3) Subsection (2) above is without prejudice to the generality of any existing power of the Chief Justice to make rules.

#### PART V GENERAL

28. (1) Any expenses incurred by the Governor or any public officer under this Ordinance Expenses. shall be defrayed out of money appropriated by Ordinance.

1990 65 530

- (2) Any money representing cash forfeited under Part IV of this Ordinance shall be paid into the Consolidated Fund.
- 29. (1) The enactments mentioned in Schedule 4 to this Ordinance shall have effect with the amendments there specified.

Consequentia and other amendments.

(2) For the avoidance of doubt it is hereby declared that the amendment by that Schedule of the definition of "drug trafficking offence" in section 2(1) of the Drug Trafficking Offences Ordinance 1989 applies to that definition as applied by any other enactment, including this Ordinance.

#### SCHEDULE 1 (section 6(6))

#### EVIDENCE FOR USE OVERSEAS: PROCEEDINGS OF NOMINATED COURT

#### Securing attendance of witnesses

1. The court shall have the like powers for securing the attendance of a witness for the purpose of the proceedings as it has for the purpose of other proceedings before the court.

#### Power to administer oaths

2. The court may in the proceedings take evidence on oath.

#### Privilege of witnesses

- 3.(1) A person shall not be compelled to give in the proceedings any evidence which he could not be compelled to give
  - (a) in criminal proceedings in the Falkland Islands; or
- (b) subject to sub-paragraph (2) below, in criminal proceedings in the country or territory from which the request for the evidence has come.
- (2) Sub-paragraph (1)(b) above shall not apply unless the claim of the person questioned to be exempt from giving the evidence is conceded by the court, tribunal or authority which made the request.
- (3) Where such a claim made by any person is not conceded as aforesaid he may (subject to the other provisions of this paragraph) be required to give the evidence to which the claim relates but the evidence shall not be transmitted to the court, tribunal or authority which requested it if a court in the country or territory in question, on the matter being referred to it, upholds the claim.
- (4) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence if his doing so would be prejudicial to the security of the United Kingdom or of the Falkland Islands; and a certificate signed by or on behalf of the Governor to the effect that it would be so prejudicial for that person to do so shall be conclusive evidence of that fact.
- (5) Without prejudice to sub-paragraph (1) above a person shall not be compelled under this Schedule to give any evidence in his capacity as an officer or servant of the Crown.
- (6) In this paragraph references to giving evidence include references to answering any question and to producing any document or other article and the reference in sub-paragraph (3) above the transmission of evidence given by a person shall be construed accordingly.

#### Transmission of evidence

- 4. (1) The evidence received by the court shall be furnished to the Governor for transmission to the court, tribunal or authority that made the request.
- (2) If in order to comply with the request it is necessary for the evidence to be accompanied by a certificate, an affidavit or other verifying document, the court shall also furnish for transmission such document of that nature as may be specified in the notice nominating the court.
- (3) Where the evidence consists of a document the original or a copy shall be transmitted, and where it consists of a document the original or a copy shall be transmitted, and where it consists of any other article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request.

#### Supplementary

- 5. For the avoidance of doubt it is hereby declared that the Bankers' Books Evidence Act
  1879 in its application to the Falkland Islands applies to the proceedings as it applies to
  other proceedings before the court.
- 6. No order for costs shall be made in the proceedings.

#### **SCHEDULE 2**

(sections 13 and 14)

# SUBSTANCES USEFUL FOR MANUFACTURING CONTROLLED DRUGS

TABLE I

EPHEDRINE
ERGOMETRINE
ERGOTAMINE
LYSERGIC ACID
PHENLYPROPANONE
PSEUDOEPHEDRINE

The salts of the substances listed in this Table whenever the existence of such salts is possible.

TABLE II

ACETIC ANHYDRIDE ACETONE ANTHRANILIC ACID ETHYLETHER PHENYLACETIC ACID PIPERIDINE

The salts of the substances listed in this Table whenever the existence of such salts is possible.

#### **SCHEDULE 3**

#### **ENFORCEMENT POWERS IN RESPECT OF SHIPS**

#### Preliminary

- 1. (1) In this Schedule "an enforcement officer" means
  - (a) a police officer;
  - (b) a customs officer;
  - (c) any other public officer or other person appointed by the Governor for the purposes of this Schedule.
- (2) In this Schedule "the ship" means the ship in relation to which the powers conferred by this Schedule are exercised.

#### Power to stop, board, divert and retain

- 2. (1) An enforcement officer may stop the ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to a port in the Falkland Islands and detain it there.
- (2) Where an enforcement officer is exercising his powers with the authority of the Governor given under section 20(2) of this Ordinance the officer may require the ship to be taken to a port in the Convention state in question or, if that state has so requested, in any other country or territory willing to receive it.
- (3) For any of those purposes he may require the master or any member of the crew to take such action as may be necessary.
- (4) If an enforcement officer detains a vessel he shall serve on the master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an enforcement officer.

#### Power to search and obtain information

- 3. (1) An enforcement officer may search the ship, anyone on it and anything on it including its cargo.
- (2) An enforcement officer may require any person on the ship to give information concerning himself or anything on the ship.
- (3) Without prejudice to the generality of those powers an enforcement officer may
  - (a) open any containers;

- (b) make tests and take samples of anything on the ship;
- (c) require the production of documents, books or records relating to the ship or anything on it;
- (d) make photographs or copies of anything whose production he has power to require.

#### Powers in respect of suspected offence

- 4. If an enforcement officer has reasonable grounds to suspect that an offence mentioned in section 18 or 19 of this Ordinance has been committed on a ship to which that section applies he may —
- (a) arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of an offence; and
  - (b) seize and detain anything found on the ship which appears to him to be evidence of the offence.

#### Assistants

- 5. (1) An enforcement officer may take with him, to assist him in exercising his powers
  - (a) any other persons; and
  - (b) any equipment or materials.
- (2) A person whom an enforcement officer takes with him to assist him may perform any of the officer's functions but only under the officer's supervision.

#### Use of reasonable force

6. An enforcement officer may use reasonable force, if necessary, in the performance of his functions.

#### Evidence of authority

7. An enforcement officer shall, if required, produce evidence of his authority.

#### Protection of officers

8. An enforcement officer shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Schedule if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

#### Offences

- 9. (1) A person commits an offence if he -
- (a) intentionally obstructs an enforcement officer in the performance of any of his functions under this Schedule;
- (b) fails without reasonable excuse to comply with a requirement made by an enforcement officer in the performance of those functions; or
  - (c) in purporting to give information required by an officer for the performance of those functions
    - makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
    - (ii) intentionally fails to disclose any material particular.
- (2) A person who commits an offence under this paragraph is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

#### **SCHEDULE 4**

(section 29(1))

#### CONSEQUENTIAL AND OTHER AMENDMENTS

The Drug Trafficking Offences Ordinance 1989

1. The Drug Trafficking Offences Ordinance 1989 is amended as follows -

- (a) in section 5(4) after the words "section 23 of this Ordinance" the words "or section 15 of the Criminal Justice (Amendment) Ordinance 1991" shall be inserted;
  - (b) in the definition of "drug trafficking" in section 2(1) after paragraph (c) there is inserted —

"(d) manufacturing or supplying a scheduled substance within the meaning of section 13 of the Criminal Justice (Amendment) Ordinance 1991 where the manufacture or supply is an offence under that section

(c) in the definition of "drug trafficking offence" in section 2(1) after paragraph (c) there is inserted —

"(cc) an offence under section 13, 15 or 19 of the Criminal Justice (Amendment) Ordinance 1991;"

#### The Criminal Justice Ordinance

2. The Criminal Justice Ordinance 1989 is amended by the insertion of the following new Parts IIIA and IIIB —

#### "PART IIIA

#### DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

Introductory to Part IIIA. 70A. This Part of this Ordinance shall have effect in conjuction with the provisions Part II of the Criminal Justice Act 1988 in its application to the Falkland Islands under section 139 of and Schedule 9 to this Ordinance.

Interpretation of Part IIIA.

70B. (1) In this Part of this Ordinance -

"document" has the same meaning as it has under section 2(1) above; "proceedings" means criminal proceedings;

of. 1984 c.60 s.72 & 1968 c.64 s.10

"statement" includes any representation of fact, whether made in words or otherwise.

- (2) In this Part of this Ordinance any reference to a copy of a document includes -
  - (a) in the case of a document falling within paragraph (c) but not (d) of the definition of "document" in section 2(1) above, a transcript of the sounds or other data embodied therein;
  - (b) in the case of a document falling within paragraph (d) but not (c) of that definition, a reproduction or still reproduction of the image or images embodied therein, whether enlarged or not;
  - (c) in the case of a document falling within both those paragraphs, such a transcript together with a still reproduction; and
  - (d) in the case of a document not falling within the said paragraph (d) of which a visual image is embodied in a document falling within paragraph, a reproduction of that image, whether enlarged or not,

and any reference to a copy of a material part of a document shall be construed accordingly.

(3) Nothing in this Part of this Ordinance shall prejudice any power of a court to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

Evidence from computer records. 70C. (1) In any proceedings, a statement in a document produced by a computer shall not be admissible as evidence of any fact stated therein unless it is shown —

1984 c.60 s.69

(a) that there are no reasonable grounds for believing that the statement is inaccurate because of improper use of the computer;

- (b) that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents;
- (c) that any relevant conditions specified in rules made under subsection (2) below are satisfied.
- (2) The Chief Justice may make rules requiring that in any proceedings where it is desired to give a statement in evidence by virtue of this section such information concerning the statement as may be required by the rules shall be provided and at such time as may be so required.
- (3) If it should happen that no rules made under subsection (2) above are in force and that rules of court are in force in England under section 69(2) of the Police and Criminal Evidence Act 1984 (a provision corresponding to subsection (2) above) or under any provision for the time being replacing that provision then those rules of court shall apply in the Falkland Islands with such modifications only as are necessary in the circumstances of the case.
- (4) In this section "computer" means any device for storing and processing information.

Supplementary to section 70C. 70D. Schedule 2A to this Ordinance shall have effect for the purpose of supplementing section 70C above.

#### PART IIIB

#### **EVIDENCE IN CRIMINAL PROCEEDINGS - GENERAL**

#### Introductory

Interpretation of Part IIIB.

70E. (1) In this Part of this Ordinance -

1984 c.60 s.82

"clerk of the court" or "clerk to the court" means the Registrar General unless another person has been appointed clerk of or to the court in question;

"confession" includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

"proceedings" means criminal proceedings.

(2) Nothing in this Part of this Ordinance shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

#### Convictions and acquittals

Proof of conviction and acquittals.

70F. (1) Where in any proceedings the fact that a person has in the Falkland Islands been convicted or acquitted of an offence is admissible in evidence, it may be proved by producing a certificate of conviction or, as the case may be, of acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.

1984 c.60 s.73

- (2) For the purposes of this section a certificate of conviction or of acquittal
  - (a) shall, as regards a conviction or acquittal on indictment, consist of a certificate, signed by the clerk of the court where the conviction or acquittal took place, giving the substance and effect (omitting the formal parts) of the indictment and of the conviction or acquittal; and

(b) shall, as regards a conviction or acquittal on a summary trial, consist of a copy of the conviction or of the dismissal of the information, signed by the clerk of the court where the conviction or acquittal took place or by the clerk of the court, if any, to which a memorandum of the conviction or acquittal was sent;

and a document purporting to be a duly signed certificate of conviction or acquittal under this section shall be taken to be such a certiciate unless the contrary is proved.

- (3) References in this section to the clerk of a court include references to his deputy and to any other person having the custody of the court record.
- (4) The method of proving a conviction or acquittal authorised by this section shall be in addition to and not to the exclusion of any other authorised manner of proving a conviction or acquittal.

Conviction as evidence of commission of an offence.

1984 c.60.s.74

- 70G. (1) In any proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the Falkland Islands shall be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that that person committed that offence, whether or not any other evidence of his having committed that offence is given.
- (2) In any proceedings in which by virtue of this section a person other than the accused is proved to have been convicted of an offence by or before any court in the Falkland Islands he shall be taken to have committed that offence unless the contrary is proved.
- (3) In any proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which he is charged, if the accused is proved to have been convicted of the offence before any court in the Falkland Islands, he shall be taken to have committed that offence unless the contrary is proved.
- (4) Nothing in this section shall prejudice
  - (a) the admissibility in evidence of any conviction which would be admissible apart from this section; or
  - (b) the operation of any enactment whereby a conviction or a finding of act in any proceedings is for the purpose of any other proceedings made conclusive evidence of any fact.

Provisions supplementary to section 70G.

1984 c.60 s.

70H.(1) Where evidence that a person has been convicted of an offence is admissible by virtue of section 70G above, then without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based —

- (a) the contents of any document which is admissible as evidence of the conviction; and
- (b) the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted,

shall be admissible in evidence for that purpose.

(2) Where in any proceedings the contents of any document are admissible in evidence by virtue of subsection (1) above, a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

- (3) Nothing in any of the following section 18 of this Ordinance (under which a conviction mentioned in that section); and shall affect the operation of section 70G above.
- (4) Nothing in section 70G above shall be construed as rendering admissible in any proceedings evidence of any conviction other than a subsisting one.

#### Confessions

#### Confessions.

1984 c.60 s.76

- 70I. (1) In any proceedings a confession made by an accused person may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.
- (2) If, in any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained
  - (a) by oppression of the person who made it;
  - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.

- (3) In any proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in subsection (2) above.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence
  - (a) of any facts discovered as a result of the confession; or
  - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies -
  - (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
  - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) In this section "oppression" includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).
- 70J. (1) Without prejudice to the general duty of the court at a trial on indictment to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial
  - (a) the case against the accused depends wholly or substantially on a confession by him; and

Confessions by mentally handicapped persons. 1984 c.60 s.77

- (b) the court is satisfied -
  - (i) that he is mentally handicapped; and
  - (ii) that the confession was not made in the presence of an independent person.

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in paragraphs (a) and (b) above.

- (2) In any case where at the summary trial of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.
- (3) In this section -

"independent person" does not include a police officer or a person employed for, or engaged on, police purposes;

"mentally handicapped", in relation to a person, means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

"police purposes", includes the purposes of reserve police officers, of police cadets or other persons undergoing training with a view to becoming members of the police force or of any such reserve constables, cadets or other persons.

#### Miscellaneous

Exclusion of unfair evidence.

1984 c.60 s.78

- 70K. (1) In any proceedings the court may refuse to allow evidence on which the prosecution purposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.
- (2) Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.

Time for taking accused's evidence.

1984 c.60 s.79

70L. If at the trial of any person for an offence -

- (a) the defence intends to call two or more witnesses to the facts of the case; and
- (b) those witnesses include the accused,

the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

Competence and compellability of accused's spouse.

- 70M. (1) In any proceedings the wife or husband of the accused shall be competent to give evidence
  - (a) subject to subsection (4) below, for the prosecution; and
  - (b) on behalf of the accused or any person jointly charged with the accused.
- (2) In any proceedings the wife or husband of the accused shall, subject to subsection (4) below, be compellable to give evidence on behalf of the accused.
- (3) In any proceedings the wife or husband of the accused shall, subsection to subsection (4) below, be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if and only if —

- (a) the offence involves an assault, or injury or threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of sixteen; or
- (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
- (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling with paragraph (a) or (b) above.
- (4) Where a husband and wife are jointly charged with an offence neither spouse shall at the trial be competent or compellable by virtue of subsection (1)(a), (2) or (3) above to give evidence in respect of that offence unless that spouse is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any proceedings a person who has been but is no longer married to the accused shall be competent and compellable to give evidence as if that person and the accused had never been married.
- (6) Where in any proceedings the age of any person at any time at any time is material for the purposes of subsection (3) above, his age at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or to have been his age at that time.
- (7) In subsection (3)(b) above "sexual offence" means an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967 section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978 in their respective application to the Falkland Islands.
- (8) The failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (9) For the sake of avoidance of doubt, it is declared that section 1(d) of the Criminal Evidence Act 1898 (which related to communications between spouses) and section 43(1) of the Matrimonial Causes Act 1965 (evidence as to marital intercourse) ceased to have effect in the Falkland Islands on 1st January 1986 (which is the date upon which the provisions of English law corresponding to this section came into effect in England).

70N. (1) The rules for the time being in force in England under section 81 of the Police and Criminal Evidence Act 1984 (which makes provision corresponding to subsections (2) and (3) below) shall, until and unless rules made under those subsections come into force in the Falkland Islands, have effect in the Falkland Islands with such modifications as are necessary (including in particular the substitution of a reference to the Supreme Court for every reference to the Crown Court or a Crown Court).

cf. 1984 c.60

Advance

in the

Supreme

Court.

s.81

notice of ex-

nert evidence

(2) The Chief Justice may by rules make provision —

- (a) requiring any party to proceedings before the Supreme Court to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings; and
- (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of paragraph (a) above from adducing that evidence without the leave of the court.
- (2) Rules made by virtue of this section may specify the kinds of expert evidence to which they apply and may exempt facts or matters of any description specified in the rules.

Paris VII and VIII of the Police and Criminal Evidence Act 1984 etc.

- 70.0 (1) Nothing in the enactment of this Part of this Ordinance or of Part IIIA of this Ordinance is to be construed as affecting the application to the Falkland Islands, prior to the commencement of this Part and of Part IIIA of this Ordinance, of Parts VII and VIII of the Police and Criminal Evidence Act 1984 in so far as they so applied by virtue of Part XI of the Interpretation and General Clauses Ordinance 1977, but for the avoidance of doubt it is declared that those Parts of that Act cease so to apply on the commencement of this section.
- (2) It is further declared that in so far as any of the enactments repealed by section 119 of and Schedule 7 to the Police and Criminal Evidence Act 1984 previously applied to the Falkland Islands by virtue of the Application of Enactments Ordinance 1954, Part XI of the Interpretation and General Clauses Ordinance 1977 or any other written law of the Falkland Islands, such enactments ceased to apply to the Faikland Islands on the respective dates on which their repeal took effect in England?"
- 3. The Criminal Justice Ordinance 1989 is further amended by the addition of the following new Schedule -

"SCHEDULE 2A (section 70D)

#### PROVISIONS SUPPLEMENTARY TO SECTION 70C

- 1. In any proceedings where it is desired to give a statement in evidence in accordance with section 70C above, a certificate -
  - (a) identifying the document containing the statement and describing the manner in which it was produced;
  - (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced or by a computer;
  - (c) dealing with any of the matters mentioned in subsection
  - (1) of section 70C above; and
  - (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be evidence of anything stated in it; and for the purposes of this paragraph it shall be sufficient for a matter to be stated to be best of the knowledge and belief of the person stating it.

- 2. Notwithstanding paragraph 1 above, a court may require oral evidence to be given of anything of which evidence could be given by a certificate under that paragraph.
- 3. A person commits an offence who in a certificate tendered under paragraph 1 above in the Summary Court, the Magistrate's Court, the Crown Court or the Court of the Appeal makes a statement which he knows to be false or does not believe to be true and a person convicted of such an offence is liable to imprisonment for a term not exceeding two years or to a fine not exceeding the maximum of level 8 on the standard scale or both.
- 4. In estimating the weight, if any, to be attached to a statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular -
  - (a) to the question whether or not the information which the information contained in the statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information; and

- (b) to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts.
- 5. For the purposes of paragraph 4 above information shall be taken to be supplied to a computer whether it is supplied directly (with or without human intervention) by means of any appropriate equipment.
- 6. Where in any proceedings a statement contained in a document is admissible in evidence in accordance with section 70C above it may be proved
  - (a) by the production of a document; or
  - (b) (whether or not that document is still in existence) by the production of a copy of that document, or of the material part of it;

authenticated in such manner as the court may approve.

- 7. For the purpose of deciding whether or not a statement is so admissible the court may draw any reasonable inference
  - (a) from the circumstances in which the statement was made or otherwise came into being; or
  - (b) from any other circumstances, including the form and contents of the document in which the statement is contained.
- 8. The Chief Justice may make rules for supplementing the provisions of section 70C above or this Schedule."
- 4. The Criminal Justice Ordinance 1989 is further amended by the addition thereto of the following new section and Schedule —

"Adoption of Parts II and III of Schedule 2 to the Criminal Justice Act 1988 (1988 c.33)

- 139 (1) Part II (documentary evidence in criminal proceedings), Part II (other provisions about evidence in criminal proceedings) of and Schedule 2 (documentary evidence supplementary) to the Criminal Justice Act 1988 are adopted as law of the Falkland Islands with the modifications set out in Schedule 9 to this Ordinance.
- (2) Nothing in subsection (1) above or in Schedule 9 to this Ordinance shall be construed as affecting the application to the Falkland Islands of the said Parts II and III of and Schedule 2 to the Criminal Justice Act 1988 under Part XI of the Interpretation and General Clauses Ordinance prior to the commencement of this section, but after such commencement they shall apply to the Falkland Islands only by virtue of subsection (1) above.

#### SCHEDULE 9

(Section 139)

# MODIFICATION OF PARTS II AND III OF AND SCHEDULE 2 TO THE CRIMINAL JUSTICE ACT 1988 IN THEIR APPLICATION TO THE FALKLAND ISLANDS

- 1. In section 23 (first-hand hearsay) -
- (a) paragraph (b) of subsection (1) is replaced by -
  - "(b) subject to any requirement of or under any written law that evidence given orally at an original trial shall be given orally at any retrial";
- (b) in paragraph (c) of subsection (l) the words "section 69 of the Police and Criminal Evidence Act 1984" shall be replaced by the words "section 70C of the Criminal Justice Ordinance 1989";
- (c) in paragraph (b) of subsection (2) the words "United Kingdom" are replaced by the words "Falkland Islands"; and

- (d) in subsection 4 the words "section 76 of the Police and Criminal Evidence Act 1984" are replaced by the words "section 70I of the Criminal Justice Ordinance 1989".
- 2. In section 24 (business etc. documents) -
- (a) paragraph (b) of subsection (l) is replaced by -

"(b) subject to any requirement of or under any written law that evidence given orally at an original trial shall be given orally at any retrial"; (b) paragraph (c) of subsection (l) shall be omitted;

- (b) in subsection (3) the words "section 76 of the Police and Criminal Evidence Act 1984" are replaced by the words "section 70I of the Criminal Justice Ordinance 1989"; and
- 3. In section 25 (principles to be followed by court) subsection (1) is replaced by the following "(1) If, having regard to all the circumstances
  - (a) the Supreme Court
    - (i) on a trial on indictment;
    - (ii) on an appeal from the Magistrate's Court or the Summary Court;
  - (b) the Court of Appeal; or
  - (c) the Magistrate's Court or the Summary Court on a trial of an information,

is of opinion that in the interests of justice a statement which is admissible by virtue of section 23 or 24 above nevertheless ought not to be admitted, it may direct that the statement shall not be admitted."

- 4. In section 29 (issue of letters of request) -
  - (a) in subsection (1) after the words "justice of the peace" are inserted the words, "the Senior Magistrate";
- (b) in paragraph (b) of subsection (1) the words "United Kingdom" are replaced by the words "Falkland Islands";
- (c) in subsection (3) the words "a prosecuting authority" are replaced by the words "the Attorney General, the Chief Police Officer or any person acting on the authority of either of them"; and
- (d) subsection (5) is replaced by -
  - "(5) Without prejudice to the generality of any written law of the Falkland Islands conferring upon him power to make them, the Chief Justice may by rules make such provision as appears to him to be necessary or convenient for the purposes of this section and in particular for the appointment of a person before whom evidence may be taken in pursuance to a letter of request.".
- 5. In section 31 the words "Crown Court Rules may make provision?" are replaced by the words "the Chief Justice may by rules make provision?".
- 6. Section 32 is omitted.
- 7. Paragraphs 4, 5 and 6 of Schedule 2 are replaced by the following -
  - "4. Without prejudice to the generality of any written law of the Falkland Islands conferring power upon him to make them, the Chief Justice may make rules making such provision as appears to him necessary or expedient for the purpose of the purposes of Part II of this Act in its application to the Falkland Islands.
  - 5. Where an expression is used both in Part II of this Act and in Part I of the Civil Evidence Act 1968 that expression in Part II of this Act is to be construed in accordance with section 10 of that Act.
  - 6. In Part II of this Act "confession" has the same meaning as it has under section 70E(1) of the Criminal Justice Ordinance 1989."
- 8. Part I of Schedule 6 to the Criminal Justice Ordinance 1989 (preserved powers of arrest) is amended by inserting after "Customs Ordinance (Cap. 16)" the words "Fisheries (Conservation and Management) Ordinance 1986."

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Family Allowances (Amendment) (No. 2) Ordinance 1991

(No. 21 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title.
- Amendment of the Family Allowances Ordinance 1960.

## ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

The Family Allowances (Amendment) (No. 2) Ordinance 1991

(No. 21 of 1991)

An Ordinance to amend the Family Allowances Ordinance 1960

(assented to: 10th December 1991) (commencement: on publication) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Family Allowances (Amendment) (No. 2) Ordinance 1991. Short title.

2. The Family Allowances Ordinance 1960 is amended -

Amendment of the Family Allowances Ordinance 1960. (No. 9 of 1960)

- (a) by replacing paragraph (c) of section 4(1) with the following new paragraph (c) -
  - "(c) subject to subsection (2) below if he is -
  - (i) unmarried;
  - (ii) has not yet attained the age of nineteen years; and
  - (iii) one of the following conditions is satisfied in relation to him -
    - (aa) he is awaiting admission to any university, college, school or other educational establishment for the purpose of undergoing thereat a course of full-time instruction;
    - (bb) he is undergoing a course of full-time instruction at any university, college, school or other educational establishment,

it being immaterial for the purposes of this paragraph whether the educational establishment in question is in the Falkland Islands or overseas."; and

(b) by the repeal of paragraph (a) of section 4(2).

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, 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.

# The Family Allowances (Amendment) (No. 3) Ordinance 1991

(No. 22 of 1991)

### ARRANGEMENT OF PROVISIONS

#### Section

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

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

The Family Allowances (Amendment) (No. 3) Ordinance 1991

(No. 22 of 1991)

An Ordinance to amend the Family Allowances Ordinance 1960.

(assented to: 10th December 1991) (commencement: 1st January 1992) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Family Allowances (Amendment) (No. 3) Ordinance 1991 and shall come into force on the first day of January 1992.
- 2. The Family Allowances Ordinance 1960 is amended by -
  - (a) the repeal of section 3(2) and by the substitution therefor of the following -
    - "(2) The Superintendent shall each month pay for each child of a family an allowance at the rate of £38.50"; and

Citation and

commencement.

Amendment of Ordinance No. 9

of 1960.

- (b) by the repeal of section 3(3) and by the substitution thereof 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) below to whom he is paying an allowance or allowances under section 3(2) above an allowance of thirty two pounds in addition to the allowance or allowances being paid under that provision".

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, 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.

# The Bills of Exchange (Adopted Legislation) Ordinance 1991

(No. 23 of 1991)

#### ARRANGEMENT OF PROVISIONS

Section

- Short title.
- Application of Bills of Exchange Act 1882. 2.

**SCHEDULE** 

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Bills of Exchange (Adopted Legislation) Ordinance 1991

(No. 23 of 1991)

An Ordinance

to end the application of the Bills of Exchange Act 1882 to the Falkland Islands by virtue of section 81A of the Interpretation and General Clauses Ordinance 1977 and to apply it to the Falkland Islands subject to the modifications and adaptations specified in this Ordinance.

> (assented to: 10th December 1991) (commencement: on publication) (publication: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Bills of Exchange (Adopted Legislation) Ordinance 1991.

Short title

- 2.(1) On the enactment of this Ordinance the Bills of Exchange Act 1882 ceases to apply to the Falkland Islands by virtue of section 81A of the Interpretation and General Clauses Ordinance 1977 and so applies by virtue of this subsection and subject to the modifications and adaptations set out in the Schedule to this Ordinance.
- (2) Nothing in subsection (1) affects the application of the Bills of Exchange Act 1882 to the Falkland Islands prior to the enactment of this Ordinance, or the continued application of the Cheques Act 1957 by virtue of section 78 of the Interpretation and General Clauses Ordinance 1977.

Application of Bills

of Exchange Act 1882. (45 & 46 Vict.c.61) (No. 14 of 1977)

#### **SCHEDULE**

(section 2(1))

Modifications and adaptations of the Bills of Exchange Act 1882 in its application to the Falkland

- 1. Every reference in the Act to "the British Islands" is replaced by a reference to the Falkland Islands and the definition of "British Islands" in section 4(1) of the Act is omitted.
- 2. Section 53(2) of the Act (which applies to Scotland) is omitted.
- 3. Section 92 is replaced by the following section -

"Computation of time. 92. Where by this Act, the time limited for doing any act or thing is less than three days, in reckoning time, any day which is a non-business day (as defined by section 3 of the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands) is excluded."

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, 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.

# The Interpretation and General Clauses (Amendment) (No. 2) Ordinance 1991 (No. 24 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- Short title.
- 2. Amendment of the Interpretation and General Clauses Ordinance 1977.

#### **SCHEDULE**

#### ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor,

# The Interpretation and General Clauses (Amendment) (No. 2) Ordinance 1991

(No. 24 of 1991)

An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

(assented to: 10th December 1991) (commencement: on publication) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) (No.2) Ordinance 1991.
- 2. The Interpretation and General Clauses Ordinance 1977 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of the Interpretation and General Clauses Ordinance 1977. (No. 14 of 1977.)

#### **SCHEDULE**

(section 2)

## AMENDMENT OF INTERPRETATION AND GENERAL CLAUSES ORDINANCE

- 1. Section 3 of the Ordinance is amended -
  - (a) by inserting therein, immediately before the definition of "aircraft", the following new definition -
  - ""age of majority", in relation to a person, means the age of eighteen years;"
  - (b) by replacing the definition of "alien" appearing therein with the following definition -
  - "alien" means a person who is not a British subject;
  - (c) by repealing the definition of "arrestable offence" appearing therein and replacing it with the following definition -

- ""arrestable offence" has the same meaning as it has for the purposes of the Criminal Justice Ordinance 1989;"
- (d) by repealing the definition of "British subject" appearing therein and by replacing it with the following definition -
- ""British subject" means -
- (a) in relation to any time before 1st January 1983, means any person who was, at that time -
  - (i) a British subject or 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;
- (b) in relation to any time after 31st December 1982, means any person who was, at that time -
  - (i) a British citizen, a British Dependent Territories citizen, a British National (Overseas) 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);"
- (e) by inserting immediately before the definition of "folio" appearing therein the following new definition -
- ""fishing waters" has the same meaning as it has under the Fisheries (Conservation and Management) Ordinance 1986;"
- (f) by inserting therein, immediately before the definition of "oath" and "affidavit" the following new definition -
- ""non-business day" means -
  - (i) every Saturday and Sunday, Good Friday, and each of the following dates in every year which does not fall on a Saturday or a Sunday -
  - 1st January, 14th June, 8th December, 25th December and 26th December;
  - (ii) any other day which in section 73(2) is declared to be a public holiday;
  - (iii) any other day appointed under section 73(3) to be a public holiday;
  - (iv) any day appointed in exercise of the Royal Prerogative to be a day of public fast or thanksgiving;"

- (g) by repealing the definition of "offence" appearing therein, and by replacing it with the following definition -
- ""offence" means an act, other than an act constituting a contempt of court, in respect of which a person on being convicted or found guilty thereof by a court, is liable to be sentenced to suffer death, to be sentenced to a term of imprisonment or to be sentenced to pay a fine or one or more of the foregoing;"
- (h) by repealing the definition of "public holiday" appearing therein and by replacing it with the following definition -
- ""public holiday" means any day stated in section 73(1), declared in section 73(2) or appointed under section 73(3) to be a public holiday;".
- 2. Section 4 of the Ordinance is repealed and replaced by the following new section 4 -

"Definition of Commonwealth.

- 4.(1) A country, province or territory is for the purposes of any written law of the Falkland Islands to be regarded as a Commonwealth country if it is -
  - (a) the United Kingdom or Great Britain and Northern Ireland;
  - (b) England, Scotland, Wales or Northern Ireland;
  - (c) one of the British Islands (that is to say one of the Channel Islands or the Isle of Man);
  - (d) a country mentioned in Schedule 3 to the British Nationality Act 1981;
  - (e) a territory mentioned in Schedule 6 to the British Nationality Act 1981; or
  - (f) any other country, province or territory, not being an integral part of the territory of any state or country mentioned in Schedule 3 to the British Nationality Act 1981, which, at least in respect of its external affairs, is subject to the control of the United Kingdom of Great Britain and Northern Ireland or of a state or country mentioned in the said Schedule 3.
- (2) A certificate under the hand of a Secretary of State or of the Governor stating that, at the time or times mentioned in the certificate and either in direct terms or by necessary implication that a country, province or territory is or was one falling within paragraph (f) of subsection (1) shall be conclusive as to that fact."
- 3. Section 28(e) is amended by replacing the words "two hundred pounds" appearing therein with the words "the maximum of level 4 on the standard scale".

#### 4. Section 71 is amended -

- (a) by replacing the word "Ordinance" with the words "any written law of the Faikland Islands";
- (b) by replacing the words "public holiday", wherever they appear, with the words "non-business day".
- 5. Section 72 is amended by replacing the word "Ordinance" with the words "any written law of the Falkland Islands."
- 6. Section 73 is repealed and replaced by the following new section 73 -

"Public holidays and non-business days.

- 73.(1) Good Friday and, where they do not fall on a Saturday or Sunday, 1st January, 21st April, 14th June, 14th August, 8th December, 25th December and 26th December are public holidays.
- (2) Where, in any year 1st January, 21st April, 14th June, 8th December, 25th December or 26th December fall on a Saturday or Sunday or (in the case of 26th December) a day which is a public holiday by the operation of this subsection in relation to the public holiday which would otherwise fall on 25th December, the next following day which is not a non-business day shall be a public holiday.
- (3) The Governor may by Notice in the Gazette appoint any other day to be a public holiday.
- (4) Except as provided by section 73A or by any other written law of the Falkland Islands it is not unlawful for any person to transact any business or do any other thing on a public holiday or other non-business day.
- 7. The following new section is inserted in the Ordinance immediately after section 73 -

"Power to suspend financial dealings.

- 73A.(1) If it appears to the Governor that it is necessary or expedient so to do in the national interest, he may by Order give, with respect to a day specified in the order, all or any of the following directions, namely -
  - (a) a direction that, subject to any exceptions for which provision may be made by the order, no person carrying on the business of a banker shall, except with permission granted by or on behalf of the Governor effect on that day, in the course of that business, any transaction or, according as may be specified in the order, a transaction of such kind as may be so specified;

- (b) a direction that, subject as aforesaid no person shall, on that day, except with permission so granted, deal in any foreign currency of such kind as may be so specified;
- (c) a direction that, subject as aforesaid, no person shall on that day, except with permission so granted, deal in any gold;
- (d) a direction that, subject as aforesaid, no person shall on that day, except with permission so granted, deal in silver bullion.
- (2) A person who knowingly or recklessly contravenes a direction given by an order under subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.
- (3) For the purposes of this section "banker" includes any person licensed as a financial institution under the Banking Ordinance 1987.
- (4) Where an Order under subsection (1) has been made, any day specified therein shall, for the purposes of section 71, be a non-business day for any activity which is prohibited by that Order and is not permitted by any direction given pursuant to that Order but shall not otherwise by virtue only of the making of that Order be a non-business day for the purposes of section 71."
- 8. Section 74 is amended by replacing the word "Ordinance" with the words "any written law of the Falkland Islands except in so far as the context otherwise requires".
- 9. Section 91 is repealed.
- 10. Section 93 is repealed and replaced by the following new section 93 -

"Prosecution of offences.

93.(1) Subject to this section, where in any written law of the Falkland Islands it is provided that an offence shall not be prosecuted except by or with the consent of holder of some named office, other than the office of the Attorney General, the provision shall be read and construed as if it required that the offence shall not be prosecuted except by or with the consent of the Attorney General and the consent of the holder of the office named in that provision shall not be required.

(2) Subsection (1) has effect without prejudice to any provision providing that an offence specified therein may be prosecuted only by or with the consent of either the holder of some office named therein or by or with the consent of the Attorney General.

(3) Subsection (1) has effect without prejudice to any provision providing that an offence may only be prosecuted with the consent of both the Governor and the Attorney General."

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Road Traffic (Amendment) (No. 2) Ordinance 1991

(No. 25 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title and commencement.
- 2. Amendment of section 4 of the Road Traffic Ordinance.

#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

#### The Road Traffic (Amendment) (No. 2) Ordinance 1991

(No. 25 of 1991)

An Ordinance to amend the Road Traffic Ordinance.

> (assented to: 10th December 1991) (commencement: 1st January 1992) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1991 and Short title shall come into operation on 1st January 1992.

and commencement

2.(1) Section 4(1), (2) and (3) of the Road Traffic Ordinance is repealed and replaced by the Amendment of following section -

section 4 of the Road Traffic Ordinance. (Cap. 60) Motor Vehicle

and Trailer

Licences.

"4.(1) Subject to subsection (3) there shall be charged, levied and paid in respect of every motor vehicle or trailer used on a road, duty at the following annual rates -

Trailer £ 3.00 Motorcyle £11.00 Cars, landrovers, £27.00 Vans, lorries

tractors and other

heavy vehicles £43.00

- (2) A licence may be taken out in respect of any vehicle mentioned in subsection (1) for a period of three months, six months or nine months on payment of the appropriate fraction of the annual duty in respect of that vehicle.
- (3) Subsections (1) and (2) do not apply to vehicles which are -

- (a) the property of the Crown (whether in right of the Falkland Islands or of the United Kingdom of Great Britain and Northern Ireland) or of the British Antarctic Survey;
- (b) vehicles usually kept in the Falkland Islands at a place not in East Falkland,"
- (2) Section 4(5) of the Road Traffic Ordinance is renumbered so as to become section 4(4) (there being presently no section 4(4)).

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, 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

#### Falkland Islands Defence Force Ordinance 1991 (No. 26 of 1991)

#### ARRANGEMENT OF PROVISIONS

Section

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- 1. Short title and commencement.
- 2. Interpretation.

#### PART II

#### CONSTITUTION OF THE FORCE, RECRUITMENT AND DISCHARGE

#### The Force and its classes of members

- 3. Continuation of the Falkland Islands Defence Force.
- 4. Active members.
- 5. Reserve members.
- 6. Emergency reserve.

#### Aliens and women

- 7. Aliens.
- 8. Women.

#### Force to be a land force

9. Force to be a land force.

#### Recruitment

- 10. Enlistment.
- 11. Proof of citizenship.
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#### Discharge

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- 21. Discharge of active members on resignation.
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Regulations.

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65. Repeal and saving.

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#### ELIZABETH II



#### Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G. Governor.

#### The Falkland Islands Defence Force Ordinance 1991 (No. 26 of 1991)

#### An Ordinance

to make new provision in relation to the Falkland Islands Defence Force

> (assented to: 10th December 1991) (commencement: see section 1) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows —

#### PART 1 INTRODUCTORY

1. This Ordinance may be cited as the Falkland Islands Defence Force Ordinance 1991 and Short title and shall come into operation on such date as is appointed by the Governor by notice published in the Gazette.

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

Interpretation

"active member of the Force" has the meaning given by section 4(1) below;

"British subject" means a British citizen, British dependent territories citizen, a British overseas citizen or a Commonwealth citizen within the meaning of those expressions under the British Nationality Act 1981;

"Commander British Forces" means the officer for the time being commanding Her Majesty's Forces in the Falkland Islands;

"Commanding Officer" means the officer for the time being commanding the Force;

"Crown" means the Crown in right of the Government of the Falkland Islands;

"Governor" means the Governor acting after consultation with the Commander British Forces and in accordance with such advice he gives him;

"Her Majesty's armed forces" means all or any of the armed forces of Her Majesty to which any of the Services Acts apply;

"home defence service" means service in the Falkland Islands as a member of the Force;

"man" means a person of either gender who is a member of the Force and who is not an officer of the Force, and includes a warrant officer and a non-commissioned officer;

"maximum age" means the age of fifty-five years;

"minimum age" means the age of seventeen years;

"officer" means a person commissioned under the provisions of this Ordinance or the provisions of the repealed Ordinance as an officer of the Force and who continues to hold his commission as such;

"the repealed Ordinance" means the Falkland Islands Defence Force Ordinance 1954;

"rules and regulations" includes Standing Orders of the Force made under section 46(1)

(No. 4 of 1954)

"reserve member of the Force" has the meaning given by section 5(1) below;

below:

"the Service Acts" means the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 and any statutory modification or re-enactment of any such Act for the time being in force.

- (2) The question as to whether the Governor has on any matter consulted with the Commander British Forces or has acted in accordance with his advice shall not be called into question or enquired into by any court of law.
- (3) Save as expressly provided by any rules or regulations under this Ordinance, any order or determination required or authorised under this Ordinance by the Governor, Commander British Forces, any officer of the Force or by any other authority whatsoever may be signified under the hand of any person authorised in that behalf by the person authorised in any provision of this Ordinance or any rules or regulations made under this Ordinance to make or give that order or determination; and any instrument signifying such an order or determination and purporting to be signed by a person stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by a person so authorised.
- (4) The Force is an active service for the purposes of this Ordinance if -
  - (a) the Force has by Proclamation under section 54 below been called out for active service and that Proclamation has not been rescinded and has not lapsed;
  - the Force, whether or not such a Proclamation has been made, is engaged in operations against an enemy engaged in operations for the protection of life or property.
- (5) A component or unit of the Force is on active service for the purposes of this Ordinance if
  - that component or unit has by Proclamation under section 54 below been called out for active service and that Proclamation has not been rescinded and has not lapsed;
  - (b) that component or unit whether or not a Proclamation under section 54 below is in force in relation to it, is engaged in operations against an enemy or engaged in operations for the protection of life or property.
- (6) A member of the Force is on active service if he is actually serving at the time in question
  - with the Force at a time when, having regard to subsection (4) above, it is on active service:
  - with a component of the Force at a time when, having regard to subsection (5) above, it is on active service;
  - by virtue of his capacity as a member of the Force with any component or unit of Her Majesty's armed forces at a time when such of the members of that component or unit as are members of Her Majesty's armed forces are by virtue of any provision of the Services Acts regarded as being on active
- (7) Subject to subsection (8) below, a member of the Force shall not be deemed to be by reason only of his being a member of the Force and the receipt of any bounty allowance or other payment as a result of such membership, the holder of any public office for the purposes of any law providing for the disqualification of persons as candidates for election as members of the Legislative Council.
- (8) Subsection (7) above does not apply in respect of any member of the Force who, otherwise than when on active service, is in the whole time service of the Crown as a member of the Force.

#### PART II CONSTITUTION OF THE FORCE, RECRUITMENT AND DISCHARGE

The Force and its classes of members 3. (1) There shall continue to be a force known as the Falkland Islands Defence Force. Continuation of (2) All persons who, immediately prior to the commencement of this Ordinance, were members of the Force under the repealed Ordinance continue, subject to this Ordinance Force. to be members of the Force. (3) The Force shall be divided into three classes -(a) active members: (b) reserve members; and (c) emergency reserve members. 4. (1) Persons shall be active members of the Force who have enlisted therein as active members. members and have not been discharged therefrom, and have not transferred to the reserve.

Active members are —

- (a) subject to the training obligations:
- (b) are liable for home defence service:
- may, with their consent, or if a state of war exists between Her Majesty and any foreign power, be called upon by the Governor to serve overseas as a member of the Force.
- (3) The training obligations of an active member may vary in accordance with which component or unit of the Force he is for the time being attached.
- (4) The Commanding Officer shall determine to which component or unit of the Force an active member shall for the time being be attached.
- 5. (1) A person shall be a reserve member of the Force if he -

members.

- (a) was formerly an active member of the Force and has been transferred to the reserve under the provisions of this Ordinance; or
- (b) was formerly a member of Her Majesty's Regular or Reserve Forces and is
  - under the maximum age;
- (ii) ordinarily resident in the Falkland Islands; and has enlisted in the Force as a reserve member.
  - (2) Reserve members -
    - (a) are subject to such training obligations as may be prescribed in relation to reserve members:
    - (b) are liable to serve with the Force for home defence purposes when mustered by the Governor in accordance with section 54(2) below; and
    - (c) are not liable to serve with the Force overseas, except with their consent.
- 6. (1) There shall be no standing emergency reserve of the Force.

- (2) Persons shall be emergency reserve members of the Force who -
  - (a) are over the minimum age;
  - (b) are under the maximum age;
  - are ordinarily resident in the Falkland Islands; and
  - have been mustered by the Governor under section 54(3) below to serve as members of the Force -
    - (i) for the period specified in the Proclamation under that section; or
    - (ii) for the duration of the emergency specified in that Proclamation,

and remain subject to that requirement.

(3) Persons who are emergency reserve members are liable for home defence service.

#### Aliens and women

7. No person who is not a British subject shall -

Aliens not to

- (a) be enlisted in the Force; or
- be liable to be called upon to serve as an emergency reserve member of the
- 8. (1) Every provision of this Ordinance applies, unless the contrary is expressly stated, to Women. women as it does to men, and shall be construed accordingly.

(2) Nothing in subsection (1) above shall preclude different arrangements being made in respect of, and different requirements applying in respect of, women who are members of the Force when the Force, or any component or unit thereof, is on active service.

#### Force to be a land force

9. (1) The Force shall be a land force. Accordingly nothing in this Ordinance authorises Force to be a the maintenance and use at the expense of the Falkland Islands of vessels of war or shall land force constitute the Force a force for the naval defence of the Falkland Islands.

- (2) Subsection (1) above -
  - (a) is without prejudice to the powers of the legislature under section 1(1) and (2) of the Colonial Naval Defence Act 1931;
  - (b) shall not have effect if the legislature has made provision in accordance with the said section 1 applicable to the Force and that provision has been approved by Her Majesty in Council and vessels of war are maintained and used in connection with or by the Force by virtue of that provision;
  - shall not be construed as preventing the Force or any part of the Force being deployed aboard any ship or other vessel, whether belonging to the Force or not or being deployed on, or as part of the crew of any aircraft, whether belonging to the Force or not.
- (3) Further to, and supplementary to, the provisions of subsection (2) above it is declared that every provision of this Ordinance, so far as it would otherwise derogate from any provision of or any law made under any provision of the Colonial Naval Defence Act 1931 shall have effect subject to that provision and the exercise of any power thereunder.

#### Recruitment

10. (1) A person offering to enlist in the Force shall be given a notice in the prescribed Enlistment form setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him. The Commanding Officer shall not enlist any person as an active member of or as a reserve member of the Force unless satisfied by that person that he has been given such a notice, understands it and wishes to be enlisted.

3 & 4 Eliz 2 c. 18 s.2

- (2) The procedure for enlistment shall be that set out in Schedule 1 below.
- (3) A person under the age of eighteen years shall not be enlisted unless the Commanding Officer is satisfied that consent to his enlistment has been given in writing -
  - (a) if the person offering to enlist is living with both or one of his parents; by the parent or parents;
  - (b) if he is not living with both or one of his parents, but any person (whether a parent or not) whose whereabouts are known or can after reasonable enquiry be ascertained has parental rights and powers in respect of him, by that person;
  - if there is no such person as is mentioned in paragraph above or after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

- (4) Where the Commanding Officer is satisfied, by the production of a certified copy of an entry in the registry of births or by any other evidence appearing to him to be sufficient that a person offering to enlist has or has not attained the age of eighteen years that person shall be deemed for the purpose of this Ordinance to have attained, or as the case may be not to have attained, that age.
- (5) A document purporting to be a certificate signed by the Commanding Officer, stating that he is satisfied as aforesaid shall be sufficient evidence, until the contrary is proved, that he is so satisfied.
- (6) The Commanding Officer shall not be bound unless so directed by the Governor, to enlist any person as a member of the Force.
- 11. (1) A person shall not be enlisted as an active member of or as a reserve member of Proof of the Force unless the Commanding Officer is satisfied that that person is a British subject.

- (2) Where the Commanding Officer is satisfied that a person was born in the Falkland Islands he may, unless he has, in the particular case, reason to believe that the person may not be a British subject, be satisfied without further enquiry that that person is a British subject.
- (3) Where the Commanding Officer is satisfied, by the production of a passport relating to the person concerned, and issued by or on behalf of Her Majesty's Government in the United Kingdom or by or on behalf of the Government of any other country which is a member of the Commonwealth that the person is-
  - (a) a British citizen,
  - (b) a British dependent territories citizen:
  - a British Overseas citizen;
  - a citizen of the Commonwealth country by or on behalf of the government of which the passport was issued,

he may accept that passport as sufficient evidence that the person concerned is a British subject.

- (4) Subsections (2) and (3) above have effect without prejudice to any other means by which the Commanding Officer may be satisfied that the person concerned is a British subject.
- 12. A person offering to enlist as an active member or as a reserve member of the Force Oath or Affirshall before being enlisted be required to make the Oath or Affirmation of Allegiance in the form appearing in Schedule 2 below.

Allegiance.

Entry of name on roll

- 13. (1) Where the Commanding Officer is satisfied that -
  - (a) a person offering to enlist ("the recruit") appears duly and properly to have completed the attestation paper;
  - the recruit is of below the maximum age and is of or above the age of eighteen years or, if he is below that age, one of the requirements of section 10(3) above has been satisfied in respect of him;
  - the recruit is a British subject or a British protected person;
  - there is no good and sufficient reason why the recruit should not be enlisted; and
  - (e) the recruit has made the Oath or Affirmation of allegiance,
- the Commanding Officer shall enrol his name upon the roll of active or as the case may be, of reserve members, of the Force. The recruit shall then be deemed to have been enlisted.
- (2) If the Commanding Officer refuses to enlist a recruit he shall, if so required to do, inform the person in writing of the reason or reasons he refused to do so.
- 14. (1) A person desiring to enlist as an active member of the Force may be required before his name is enrolled under section 15(1) above to submit himself for medical examination by a Government medical officer.

amination of persons desiring

- (2) If a person required to submit himself for medical examination appears as a result of such an examination not to be reasonably medically fit for useful service as an active member of the Force, the Commanding Officer shall refuse to enlist him and a refusal to enlist him for such a reason is, for the purposes of section 13(1)(d) above a good and sufficient reason why he should not be enlisted.
- (3) For the purposes of this section, "medical examination" includes examination as to the presence of or absence of any disorder of the mind or intellect and the acuity of sight and hearing as well as the presence or absence of any disease or affliction of body or limb and the physique of the person concerned and "medically fit" shall be construed accordingly.

15. Any oath or affirmation required or authorised to be administered under the provisions of this Ordinance may be administered -

Administration of Oaths and **Affirmations** 

- (a) by the Governor or other officer for the time being administering the government of the Falkland Islands;
- (b) the Attorney General;
- (c) the Commanding Officer;
- (d) the Senior Magistrate;
- (e) any justice of the peace, or
- where any provision of the Army Act 1955 applies, by any person authorised by the provisions of that Act for the purpose of the first-mentioned provision.

#### Discharge

16. (1) Subject to this Ordinance, a member of the Force shall be entitled to be discharged therefrom -

- on the expiration of the period of notice referred to in section 21(1) below (but without prejudice to any obligation he may have under this Ordinance to continue as a reserve member of the Force);
- (b) on attaining the age of fifty-five years or such greater age as may be prescribed by Regulations;
- if he is an emergency reserve member, at the expiration of the period for which he has been obliged under this Ordinance to serve as an emergency reserve member of the Force:
- (d) on satisfying the Commanding Officer
  - that he is about to leave the Falkland Islands for the purpose of becoming ordinarily resident overseas:
  - that he is ordinarily resident overseas and is unlikely, within the period of twelve months next following, to return to the Falkland Islands so as again to be ordinarily resident therein;
- on satisfying the Commanding Officer that he has enlisted in the regular armed forces of Her Majesty or is about to so enlist;
- being a member of any of Her Majesty's Reserve Forces he has been called out in pursuance of any provision of the Reserve Forces Act 1950 to appear at any place for permanent service;
- being a member of the Territorial Army or the Royal Auxiliary Air Force has been called out for permanent service or home defence service under any provision of the said Act.
- (2) In subsection (1) above -

"regular forces of Her Majesty" means any of Her Majesty's military forces other than -

(a) the Army reserve:

- (b) Air Force Reserve;
- (c) the Royal Fleet Reserve:
- (d) the Royal Marine Reserve;
- (e) the Royal Navy Reserve;
- (f) the Royal Auxiliary Air Force;
- (g) the Ulster Defence Regiment;
- the Home Guard;
- the Territorial Army;
- (j) the Force: and
- (k) any force raised under the law of any other colony,

and, for the purposes of this section any expression used in paragraphs (a) to (i) above of this definition has the meaning it has generally for the purposes of such of the Services Acts as principally regulates the force in question; and

"Reserve Forces" means any of the forces referred to in paragraphs (a) to (g) of the definition of "regular forces" above and the Territorial Army.

17. (1) The Governor, without assigning any reason, may require the Commanding Officer Discharge by the to discharge any member of the Force, but if a member is discharged under the provisions Governor. of this subsection, he is entitled to honourable discharge.

- (2) The Commanding Officer shall not discharge any member of the Force, other than at his own request -
  - (a) except with the consent or by direction of the Governor; or
  - (b) as provided by this Ordinance.
- 18. (1) The Commanding Officer shall discharge any emergency reserve member of the Force Discharge of at the expiration of the period for which he has been obliged under the provisions of this emergency Ordinance to serve as an emergency reserve member of the Force, but without prejudice to any obligation under this Ordinance to serve again as an emergency reserve member of the Force.

- (2) The Commanding Officer shall discharge any emergency reserve member of the Force who appears to him to be engaged in a reserved occupation.
- (3) A person who is discharged under the foregoing provisions of this section shall be deemed to be honourably discharged.
- 19. (1) The Commanding Officer shall discharge any member of the Force who he is satisfied Discharge for is not medically fit for further useful service as a member of the Force.

medical reasons

- (2) Where the Commanding Officer proposes to discharge a member of the Force under subsection (1) above, he shall, unless that member consents to such discharge or has requested his discharge under that subsection, inform the member prior to his discharge of the grounds on which the Commanding Officer believes that the member is not reasonably medically fit for further useful service as a member of the Force.
- (3) A member of the Force who is informed pursuant to subsection (2) and who has not, within the two preceding months, been medically examined in accordance with section 20 below, is entitled to request that he be so examined pursuant to that section before he is discharged under subsection (1) and shall not be discharged pursuant to subsection (1) if that medical examination establishes that he is reasonably medically fit for further useful service as a member of the Force.
- (4) For the purposes of this section and section 20 below, "medical examination" and "medically fit" have the same meaning as they have for the purposes of section 14 above under subsection (3) of that section and correlatives of those expressions have corresponding meanings.
- (5) A person who is discharged under subsection (1) above shall be deemed to be honourably discharged.

- 20. (1) If the Commanding Officer reasonably believes that any member of the Force may Supplementary be medically unfit for further useful service as a member of the Force, he may require that member to present himself for medical examination before a Government medical officer on a date and at a time and place notified to him by or on behalf of the Commanding Officer or any Government medical officer.
- (2) A member of the Force who without reasonable excuse fails to comply with a requirement under subsection (1) commits an offence under this Ordinance.
- (3) Where a member of the Force has himself requested the Commanding Officer pursuant to section 19(3) above that he should be medically examined, the Commanding Officer shall in accordance with subsection (1) require that member to present himself for medical examination.
- (4) Upon the attendance of a member of the Force for medical examination pursuant to the provisions of this section, the Government medical officer before whom the member is required to attend shall carry out such tests and examinations of that member as, in his opinion sufficient to establish whether or not that member is reasonably medically fit for further useful service as a member of the Force.
- (5) As soon as possible, the Government medical officer shall send to the Commanding Officer a report in writing indicating his opinion, and in so far as may be appropriate, the reasons for it.
- (6) On receipt of a report under subsection (5) the Commanding Officer shall communicate its contents to the member concerned and, if so requested by that member, he shall permit him to take a copy of it.
- (7) For the purposes of this section, "reasonably medically fit for further useful service as a member of the Force" does not include service as a member of the force engaged only in light duties unless the Commanding Officer has notified the Government medical officer to the contrary and if any such notification has been made, the Government medical officer's report under subsection (6) above shall state —
  - (a) whether or not in his opinion the member is reasonably medically fit for future useful service as a member of the Force undertaking duties of which a reasonably fit man might believe to be at times of a physically strenuous nature: and
  - unless he has stated that the member is so fit, whether or not in his opinion the member is likely for the foreseeable future only to be reasonably medically fit for light duties.
- (8) The Commanding Officer shall not notify the Government medical officer to the effect specified in subsection (7) above unless he is satisfied that the member of the Force concerned if medically fit only for light duties, having regard to the needs of the Force, may with utility to the Force usefully be required only to perform light duties.
- (9) Where a member of the Force is as a result of a medical examination found medically fit only for light duties he is, unless any members of the Force are presently called out to active service under this Ordinance, entitled to require his discharge from the Force.
- 21. (1) An active member of the Force is, subject to the provisions of this section, entitled to be discharged from the Force on the expiry of one month's notice in writing given by him to the Commanding Officer requesting his discharge, but the Commanding Officer may waive the requirements of this subsection as to notice.
- (2) Subsection (1) above shall be of no effect if any members of the Force are currently called out for active service under the provisions of this Ordinance.
- (3) Where this subsection applies to him and the member of the Force giving notice under subsection (1) above is an active member (and subject to subsection (2)) then, if he will be under the age of 55 years on the date the notice would otherwise take effect, he shall be entitled on the expiry of that notice to be transferred so as to become a reserve member of the Force but shall not be entitled to be discharged from the Force.

Discharge of ac-

tive members on

- (4) Subsection (3) applies to all persons who enlist as active members of the Force after the commencement of this Ordinance.
- (5) A member of the Force who is discharged under subsection (1) shall be deemed to be honourably discharged.
- 22. (1) A reserve member of the Force shall be discharged therefrom upon his attaining Discharge of

reserve member of the Force.

- (2) A member of the Force who is discharged under subsection (1) shall be deemed to be honourably discharged.
- 23. The discharge of an active member of the Force under section 21(1) above shall not Discharge of acaffect his liability to service under this Ordinance as an emergency reserve member of the Force.

tive member not to affect liability to serve as an emergency reserve member

24. A member of the Force may be dishonourably discharged from the Force in the circumstances provided for in subsequent provisions of this Ordinance.

Dishonourable discharge.

#### Medical

25. A Government medical officer shall ignore for the purposes of any medical examination under section 14 or section 20 above any ailment, infection, disease, injury or affliction which the Government medical officer considers to be only of a temporary nature.

sions as to medical Government medical officers

26. (1) Every physician in the employment of the Crown for the purposes of its Government of the Falklands is a Government medical officer for the purposes of this Ordinance.

(2) Any physician holding Her Majesty's commission as an officer in any of Her Majesty's armed forces shall for the purposes of this Ordinance be deemed to be a Government medical officer at any time when members of the Force are called out under this Ordinance for active service.

#### Reports to Governor

27. (1) If the Commanding Officer has reason to believe that a member of the Force —

- (a) has by his own voluntary act come under any obligation of allegiance to a foreign power, and that allegiance to a foreign power is prejudicial to the interests of Her Majesty in so far as those interests have relevance to the Force;
- that a member of the Force is a national or citizen of a foreign power between which and Her Majesty a state of war currently exists or with which a state of war the Commanding Officer apprehends may possibly be imminent;
- that a member of the Force has by words or action exhibited disloyalty or disaffection towards Her Majesty or has been guilty of treasonous or traitorous behaviour or conduct,

the Commanding Officer shall forthwith report to the Governor the facts and circumstances known to him concerning that member and, pending the decision of the Governor under this section, shall suspend that member of the Force from all duties with the Force.

- (2) On receipt of a report under subsection (1) the Governor
  - may cause such investigation into the matter to be undertaken as he sees fit by such person or persons as he sees fit;
  - (b) shall, if in his opinion, the public interest reasonably so admits, afford to the member of the Force concerned a full and fair opportunity of answering any allegations of an unfavourable nature relating to him as have been made by the Commanding Officer or have come to light as a result of any investigation under paragraph (a) (but so that in no case where a state of war exists or warlike operations exists between Her Majesty and any foreign power of which the Governor believes the member of the Force to be a national or citizen shall the Governor be bound to afford the member any opportunity under this paragraph);

- shall then direct the Commanding Officer to discharge the member of the Force or retain him as a member of the Force, as the case may be, and may give the Commanding Officer such further or consequential directions as may, in the opinion of the Governor, be necessary.
- (3) The Governor when giving directions under subsection (1)(c) above shall stipulate whether the member shall be treated as being honourably or dishonourably discharged and shall, unless the Governor is of opinion that the member is personally culpable for the circumstances giving rise to his discharge, stipulate that he shall be treated as being honourably discharged.
- (4) The Commanding Officer shall take such action as is necessary to give effect to a direction or stipulation of the Governor under this section.
- (5) The Governor may at any time, either of his own motion or at the request of any other person, vary any direction or stipulation of his or any predecessor of his under this section and direct the Commanding Officer to give effect to such variation and the Commanding Officer shall give effect to any direction made under this subsection.

#### Miscellaneous

- 28. (1) No decision or purported decision of the Commanding Officer -
  - (a) to enlist or not to enlist any person as a member of the Force;
  - (b) to discharge any member of the Force,

shall be called into question or be the subject of review or appeal or in any other way be justiciable or give rise to any cause of action which any court has any jurisdiction to entertain, consider or try or to allow or suffer to be raised, pleaded or argued in any civil proceedings whatsoever.

(2) No direction or stipulation of the Governor under section 27 above shall be called into question or be the subject of review or appeal or called into question in any civil proceedings whatsoever.

### PART III ORGANISATION AND ADMINISTRATION OF THE FORCE

#### General

29. (1) The Force shall have an establishment of such number of officers, warrant officers, Establishment. non-commissioned officers and men as the Governor may from time to time approve.

(2) Nothing in subsection (1) above or done thereunder shall have effect so as limit the number of persons who may be enlisted as reserve members of the Force or so as to prevent any person being called out to active service as an emergency reserve member.

30. (1) The Force shall be divided into such components or units, so composed, as the Governor may from time to time approve.

(2) Except as below provided active members of the Force shall be attached to one or other of the units of the Force, but the Commanding Officer may at any time transfer any active member of the Force from one unit of the Force to another and shall so transfer him if so directed by the Governor.

(3) The preceding provisions of this section shall apply to reserve members and emergency reserve members of the Force at any time they are called out under this Ordinance for active service.

Exclusion of

the courts.

jurisdiction of

Division of Force into com nonents or units.

# Appointment of The Commanding Officer and other officers

31. (1) The Commanding Officer of the Force shall be appointed by the Governor and may be removed from command by the Governor at any time.

Officer of the

- (2) The person who was Commanding Officer of the Force immediately prior to the coming into force of this Ordinance shall continue to be the Commanding Officer of the Force as if he had been appointed as such under subsection (1) above.
- (3) The Commanding Officer shall be an Officer holding a rank in the Force not lower than that of Major. Subject to this Ordinance, the Commanding Officer shall be responsible to the Governor for the discipline and training of the Force and for all Government moneys, property and stores committed to his charge and for such other things as may be prescribed by regulations under this Ordinance.
- 32. (1) The Governor may commission any member of the Force to be an officer of the Force and any such commission shall not be vacated by reason only of the death, transfer or retirement from office of the Governor by whom the officer's commission was issued.

- (2) An officer's commission in the Force ceases to be of any effect, unless the Governor otherwise determines in the circumstances of the particular case, in the event of the holder no longer being ordinarily resident in the Falkland Islands.
- (3) Every commission issued by the Governor under this section or under the corresponding provisions of the repealed Ordinance shall be held during the Governor's pleasure.
- (4) Any commission held by any person as an officer of the Force issued under the repealed Ordinance shall remain in force.
- (5) A commission continues to have effect notwithstanding any change in the person who is for the time being Governor.
- 33. (1) Every officer on being commissioned shall be appointed by the Governor to a rank. Appointment of
- The Governor may promote any officer to a higher rank than that which he previously held.

34. (1) As between officers of the Force of the same rank, their seniority shall subject to subsection (2) be determined by relation to the date on which they were appointed or promoted to the rank which they for the time being hold and, if in any case that date is the same date, in accordance with their ages.

officers to ranks. Seniority of and

powers of command officers of

the Force.

- (2) Notwithstanding subsection (1) the Commanding Officer shall always be the most senior officer of the Force while he continues to be the Commanding Officer.
- (3) Officers of any rank in the Force shall, in relation to any officer of a corresponding rank in Her Majesty's regular armed forces, be deemed to hold a rank immediately junior to that which that officer holds.
- (4) The power of command of any officer of the Force extends over -
  - (a) all other officers of the Force junior to him or lower in rank and serving in or attached for duty to the same unit of the Force as that in which that officer of the Force is for the time being serving; and
  - (b) all members of the Force who are not officers.

# Warrant officers and non-commissioned officers

35. (1) The Commanding Officer may appoint or promote any member of the Force who Warrant officers is not an officer to a warrant officer or a non-commissioned rank but may not appoint or promote a person to any warrant officer or non-commissioned rank that does not for the time being exist in Her Majesty's Regular Army.

- (2) A member of the Force who immediately prior to the commencement of this Ordinance held rank in the Force as a warrant officer or non-commissioned officer shall subject to this Ordinance continue to hold that rank.
- 36. (1) The Governor may appoint any person appearing to him to be a fit and proper person to assist the Commanding Officer with the training of the Force and the Commanding Officer shall at the request of the Governor appoint the person in question to such warrant officer or non-commissioned officer rank as the Governor may stipulate.

(2) Active members of the Force shall be liable to attend for and undergo such training as they may be required by the Governor so to do, or as may be prescribed.

#### Uniforms, equipment etc.

37. (1) Every officer of the Force shall, as the Governor may determine after consultation with the Executive Council either -

Officers uniforms

- (a) provide his own uniform or uniforms;
- (b) be provided by the Crown with a uniform or uniforms;

but, in either case, the uniform or uniforms shall be of a pattern design and standard approved by the Governor.

- (2) Where an officer is required to provide his own uniform or uniforms, the Governor may, subject to the provision of the funds by the legislature, re-imburse him with such part of the cost of the uniforms as the Governor, on the advice of the Executive Council, shall determine.
- (3) In any case where an officer is required to provide his own uniform or uniforms, the uniforms shall be the property of the officer but, if he has received pursuant to subsection (2) re-imbursement of any part of the cost, he may be required by the Governor to refund, without interest, the whole or part of the sum re-imbursed. Such a requirement may only be made if the officer ceases to be an officer of the Force within five years of the re- imbursement.
- (4) Where subsection (3) does not apply, the uniform remains the property of the Crown.
- 38. (1) Every man who is an active member of the Force shall be provided at the expense Men's uniforms. of the Crown with a uniform or uniforms of such a pattern design and standard as the Governor, on the advice of the Executive Council, may determine. Any such uniform remains the property of the Crown and section 40 below applies in respect of it.

(2) A man who is a reserve member of the Force who is called out to active service shall, if it is reasonably practicable in all the circumstances so to do, be provided at the expense of the Crown with a uniform or uniforms. Any such uniform remains the property of the Crown and section 40 below applies in respect of it.

- (3) Subsection (2) above applies in respect of persons who as emergency reserve members of the Force are called out for active service with the Force as it does in respect of reserve members of the Force.
- 39. (1) The application of The Uniforms Act 1894 to the Falkland Islands shall extend to every uniform of the Force but with the following modifications -
  - (a) the reference in section 2(1) of that Act to "Her Majesty's permission" shall be replaced by a reference to the permission of the Governor;
  - the Force shall, for the purposes of the application of that Act in the Falkland Islands be deemed to be one of Her Majesty's Military Forces.
- (2) The application of section 185 of the Army Act 1955 to the Falkland Islands shall extend to arms, ammunition, equipment, instruments or clothing used by a member of the Force for military purposes as it does to the same things when used by a member of Her Majesty's military forces for military purposes.

Application of Uniforms Act 1894 and s. 185 of the Army Act 1955.

# Application of disciplinary provisions

40. (1) Subject to subsections 41 and 42, such of the provisions of the Army Act 1955 as Certain proviby virtue of section 212(1) to (5) of that Act apply to the Home Guard apply to the Force and members of the Force but subject to the modifications set out in Part I of Schedule 3 to this Ordinance and to the modification set out in subsection (2) below.

sions of Army Act 1955 to app ly subject to modifications.

(2) In its application by virtue of subsection (1) above, section 212(5) of the Army Act 1955 shall be modified by replacing the words "Home Guard" (where they first appear) up to the end of that subsection with the words -

"Falkland Islands Defence Force, he shall not have power to deal with a charge summarily except during a period during which the component or unit of the Force to which the accused belongs is on active service (as defined in section 2(5) of the Falkland Islands Defence Force Ordinance 1991)?'

41. (1) Subject to subsections (3) and (4) below and with the exception of provisions of the Act mentioned in Part II of Schedule 3 to this Ordinance, the provisions of the Army Act 1955 referred to in section 40(1) above do not apply to any member of the Force unless -

Restriction on application of provisions applied by section

- he is on active service or called out for full or part time active service under the provisions of this Ordinance; or
- the component or unit of the force of which he is a member is attached to or is otherwise acting as part of any of Her Majesty's regular forces; or
- (c) he is, as a member of the Force, attached to or acting as a member or component or unit of any of Her Majesty's regular forces; or
- (d) he is, as a member of the Force, serving outside the Falkland Islands.
- (2) A member of the Force is not liable to be punished both under a provision of the Army Act 1955 and under a provision of this Ordinance other than this section and section
- (3) Nothing in section 40 above or in paragraphs (b) or (c) of subsection (1) above shall operate so as to derogate from the provisions of section 207(2) of the Army Act 1955 and section 40 of this Ordinance and subsection (1) of this section and Schedule 3 to this Ordinance shall have effect subject to the provisions of the said section 207(2).
- (4) Nothing in subsection (1) above shall be construed as limiting the operation in relation to members of the Force when not subject to military law of section 208A of the Army Act 1955 (which enables Her Majesty's Defence Council to apply Part II (sections 24 to 143) of the said Act to persons embarked as passengers on board Her Majesty's ships or aircraft to such extent and subject to such modifications as may be prescribed by regulations made by the said Council) or as limiting the operation of section 209 of the said Act (application of Act to civilians).
- 42. (1) When a provision of the Army Act 1955 mentioned in Part II of Schedule 3 to this Supplementary Ordinance applies to the Force or a member of the Force by virtue of this Ordinance and otherwise than by reason of one or more of the circumstances mentioned in paragraphs (a) to (d) of section 41(1) above any offence under any such provision shall be dealt with and punishable in accordance subsections (2) to (4) below.

- (2) When subsection (1) above applies -
  - (a) a member of the Force may not be dealt with for an offence against military law under a provision mentioned in Part II of Schedule 3 to this Ordinance unless
    - the Commander British Forces has requested the Governor in writing that he be so dealt with; and
    - the Attorney General has advised the Governor in writing -
    - (aa) that he is satisfied that the offence was committed by the member of the Force in question in the course of his service as a member of the Force or arises out of and is sufficiently connected with his membership of the Force; and

- (bb) that the member of the Force cannot in his opinion be more appropriately dealt with -
- (AA) under any subsequent provision of this Ordinance; or
- (BB) under any other provision of the law of the Falkland Islands;
- (b) the offence shall be a criminal offence under the law of the Falkland Islands and shall be dealt with in accordance with the general law of the Falkland Islands relating to the trial of and procedure in relation to such offences, the punishment of such offences and the enforcement of sentence and orders of the courts in relation to such offences to the exclusion of any law which might otherwise require the offence to be dealt with in any other way;
- (c) a person convicted of such an offence shall have the like rights of appeal and further appeal against conviction or sentence by virtue of paragraph (b) above as apply in respect of criminal offences generally.
- (3) On convicting a person of an offence by virtue of paragraph (b) of subsection (2) above the court may sentence him in any manner -
  - (a) to imprisonment for a term not exceeding two years;
  - with dishonourable discharge from the Force;
  - (c) to forfeiture of seniority for a specified term or otherwise;
  - (d) to reduction to the ranks or any less reduction in rank;
  - (e) to a fine not exceeding £5000;
  - to severe reprimand;
  - to reprimand;
  - (h) in the case of an offence which has occasioned any expense loss or damage to pay such sum to such person in compensation for or in reparation for such damage as the court thinks fit:
  - to such one or more of the foregoing punishments as the court thinks appropriate:

#### Provided that -

- (i) an offence under sections 24 to 26 and 30 to 32, 60 and 63A of the Army Act 1955, if dealt with under this section, shall be tried by the Supreme Court on indictment:
- (ii) an offender convicted of an offence under this section by a court inferior to the Supreme Court shall not be sentenced to a term of imprisonment exceeding six months or ordered to pay a fine exceeding £500.
- (4) The Commanding Officer shall give effect to any sentence to which paragraphs (b), (c), (d), (f) or (g) of subsection (3) relates.

# Offences and other disciplinary provisions

43. (1) This section has effect in addition to but without prejudice to the provisions of the Army Act 1955 applying under section 40(1) above but no person shall be proceeded against both under those provisions or any of them and under any subsequent provision of this section.

- (2) A member of the Force shall, when required by or on behalf of the Commanding Officer so to do produce any arms, ammunition, uniform, appointments or any other thing issued to him as a member of the Force.
- (3) A member of the Force shall not -
  - (a) other than as he may be authorised by or under this Ordinance so to do, pawn, pledge or otherwise part with possession of any thing to which subsection (2) applies;
  - use, or permit any other person to use, anything to which subsection (2) applies in any manner or in any place other than he is authorised by or under this Ordinance so to do;
  - knowing that no requisitioning order is in force under Part IV below authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, give directions for the provision of the vehicle or order or procure another person to give such directions;
  - (d) in purported exercise of powers conferred by a requisitioning order under Part IV below, take, or order or procure any other person to take, possession of a vehicle knowing that no requisitioning order is in force under the said Part IV under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised;
  - (e) take or agree to take, or demand, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken, or not being retained, under a requisitioning order under Part IV below;
  - knowing that no billeting requisition is in force under Part IV of this Ordinance authorising him to demand any billets or that he is otherwise not authorised to demand them, obtain those billets or order or procure another person to obtain them;
  - (g) take or agree to take, or demand, from a person on whom he or any other person or any vehicle is to be billeted in pursuance of a billeting requisition under Part IV of this Ordinance any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle;
  - (h) wilfully or by wilful neglect damage, or cause or allow to be damaged, any premises in which he is billeted in pursuance of such a requisition, or any property being in such premises.
- (4) Paragraphs (c) and (d) to (g) of subsection (3) above apply in relation to horses, mules, food, forage and stores as they apply in relation to vehicles.
- (5) A member of the Force who contravenes subsection (2) or (3) above (in the case of subsection (2) without reasonable excuse) commits and offence and on conviction is liable to a fine not exceeding £1000 or to imprisonment for a term not exceeding two years or both such fine and such imprisonment.
- 44. (1) A member of the Force shall, on being required so to do by or on behalf of the Delivery up of Commanding Officer, deliver up to the Commanding Officer or such person as he may designate, all or any of the things to which section 44(2) applies as he may have been required by him to deliver up.
- (2) A member of the Force, on being discharged shall forthwith deliver up to the Commanding Officer or such person as he may designate all arms, ammunition, uniform, appointments and any other thing issued to him as a member of the Force except any uniform the Commanding Officer has authorised the member of the Force to retain notwithstanding his discharge.

- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding £1000 or to imprisonment for a term not exceeding twelve months or both such fine and such imprisonment.
- 45. (1) The Commanding Officer may, with the approval of the Commander British Forces, Standing orders make standing orders, not inconsistent with the provisions of this Ordinance and may, with of the Force. such approval, revoke or amend any standing orders previously made under the provisions of this subsection.

- (2) Standing Orders made under subsection (1) may provide -
  - (a) for the training obligations of active members of the Force or of members of any component or unit of the Force;
  - (b) as to the occasions on which members of the Force are required to or may wear the uniform or a uniform of the Force;
  - the care and maintenance of any uniform, arms, ammunition or equipment belonging to the Force and the places and the circumstances in which they shall be kept:
  - (d) the manner in which any ammunition or other expendable items belonging to the Force are to be accounted for;
  - (e) generally as to the efficiency of the Force and the standards to be maintained by the Force:
  - any other matter in relation to which the Commander British Forces advises him standing orders ought to be made, and whether or not for any purpose similar to any of the foregoing purposes.

#### Offences and further disciplinary provisions

46. (1) A person who knowingly makes any false or misleading answer to any question False answers to in the form referred to in section 10(1) or any other question put to him by the Commanding Officer or any other person acting on the Commanding Officer's authority prior to and in connection with his enlistment in the Force commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale

#### (2) A person who —

- (a) in connection with his application for enlistment in the Force produces any document which he knows to be false or misleading;
- (b) in connection with the application of another for enlistment provides any information produces or utters any document which he knows to be false or misleading,

commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

- (3) For the avoidance of doubt it is hereby declared that a person may be proceeded against under subsection (1) or (2) above notwithstanding that he has since become a member of the Force.
- (4) A person who has been convicted of an offence under this section may be discharged by the Commanding Officer with the consent of the Governor, provided that he shall not after the expiry of six months from the date of the conviction be discharged under this subsection. A person discharged under this section shall be deemed to have been dishonourably discharged.
- 47. (1) A person who, except as he may be lawfully authorised so to do, parts with possession of, or permits any person to use, any uniform, arms, ammunition or equipment or other thing to which section 44(1) above relates, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.
- (2) A person commits an offence who pledges or charges by way of security anything to which subsection (1) above relates and any pledge or charge in contravention of that subsection is absolutely void.

Unlawful parting

48. (1) A member of the Force commits a disciplinary offence if -

disciplinary

- (a) he commits any offence under any provision of this Ordinance or any provision of any Act applying to him under this Ordinance (and whether or not proceedings for that criminal offence are instituted);
- (b) he disobeys any lawful order given to him as a member of the Force;
- (c) he does anything likely to bring the Force into disrepute;
- (d) he contravenes any provision of Standing Orders;
- while performing duties as a member of the Force (and whether or not he is on active service) he commits an offence under any written law of the Falkland Islands.
- (2) The Commanding Officer may, if he considers that a member of the Force may have committed a disciplinary offence, charge that member in writing with that offence, provided that the Commanding Officer shall not charge a member with an offence
  - after the expiry of six months from the apparent date of the offence; or
  - (b) after the expiry of six months from the date on which the Commanding Officer first became aware of the facts and circumstances leading him to suppose that the member may have committed that offence,

whichever is the later.

- (3) When the Commanding Officer charges a member of the Force with an offence he shall serve a copy of the charge upon him and shall transmit a copy of the charge to the Governor.
- (4) The copy of the charge served on a member of the Force shall be accompanied by a written statement which shall -
  - (a) set out succinctly the reasons for the Commanding Officer's belief that the member may have committed the offence;
  - inform the member that he may, within fourteen days after he receives the charge make representations in writing to the Governor concerning the alleged offence both as to his guilt of it or otherwise and in mitigation and request an oral hearing by the Governor in relation thereto, but if he does neither of those things within such period, the Governor may find him guilty of the charge and punish him in accordance with the subsequent provisions of this section.
- (5) If no written representations or requests are received by him made under subsection (4) above the Governor may (but shall not do so if he is not satisfied that the offence has been committed) find the member guilty as charged and if he decides that any punishment is appropriate punish him in accordance with subsection (9) below.
- (6) If written representations are received by him under subsection (4) above the Governor shall take them fully into account before finding the member guilty of the offence and, if he finds him guilty of that offence, before deciding whether to punish him and, if he finds him guilty of that offence, before deciding what punishment under subsection (9) below to impose on him.
- (7) Where a member of the Force has requested under subsection (4) above an oral hearing the Governor shall accord to him a reasonable opportunity to be orally heard and, if he wishes, to call evidence in his own defence. A member of the Force may, if he wishes, be represented thereat by another person and the Commanding Officer shall be entitled to attend that oral hearing and, if he wishes to call evidence thereat. Any witness may be cross- examined by the party other than the party calling him. Subject to the foregoing, the procedure at such hearing shall be such as the Governor determines.
- (8) After considering the written representations or concluding the hearing, as the case may be the Governor shall decide the guilt or otherwise of the member charged and whether, if he decides to punish him, what punishment under subsection (9) below is appropriate.

- (9) Where a member of the Force is found guilty of a disciplinary offence pursuant to this section, one or other of the following punishments may be imposed on that member —
  - (a) reprimand;
  - (b) a deduction from bounty or other payment the member might otherwise receive, of such amount, not exceeding £50, as the Governor may determine;
  - (c) loss of seniority;
  - (d) reduction in rank to a rank one lower than the member presently holds or enjoys; and
  - (e) dishonourable discharge from the Force.
- (10) The Governor shall notify the Commanding Officer and the member concerned of his finding in relation to a charge under this section and, if he finds the member guilty of the charge, what punishment, if any, he has decided to impose. The Commanding Officer shall take all necessary steps to give effect to any decision of the Governor under this section.
- (11) No appeal shall lie from any decision of the Governor under this section.

#### Use of land and property etc.

49. (1) The Force may with the consent of the Governor acting with the advice of the Land and Executive Council, use and enjoy any land or buildings belonging to the Crown and not buildings. in the exclusive occupation of any other person by virtue of a lease or otherwise.

- (2) It shall be lawful, subject to the necessary funds having been appropriated for the purpose by Ordinance, for the Crown to expend money —
  - (a) on the purchase of any land or building for use by the Force:
  - (b) on the lease or licence of any land or building for use by the Force;
  - on the construction, alteration, repair or maintenance of any building for the purpose of being used or more conveniently being used by the Force.
- (3) It shall be lawful for any land or building not belonging to the Crown or in the occupation of another to be used by the Force in accordance with any permission given by the person presently entitled to use and occupation of the land.
- 50. (1) It shall be lawful for the Force to use anything belonging to the Crown and other- Equipment etc. wise than for the purpose of the Force -

- (a) with the consent of the Governor acting with the advice of the Executive Coun-
- (b) in a case where there is an urgent defence need or the advice of the Executive Council cannot reasonably be speedily obtained, with the consent of the Governor.
- (2) It shall be the duty of every public officer to permit the use by the Force of anything in respect of which a consent to which subsection (1) relates has been given.
- (3) It shall be lawful for the Force to use with the consent of the person for the time being entitled to the possession and use of the same anything belonging to a person other than the Crown in right of the Government of the Falkland Islands.
- (4) Notwithstanding subsections (1) and (3) above, it is not lawful for any member of the Force to drive any motor vehicle contrary to (Cap. 60) any provision of the Road Traffic Ordinance.
- (5) It shall be lawful for the Crown to acquire for the use of the Force with moneys appropriated for the purpose by Ordinance -
  - (a) any motor vehicle, boat or aircraft;
  - (b) any arms, ammunition or equipment or other thing whatsoever,

but nothing in this subsection authorises acquisition contrary to the wishes of the owner

51. (1) The Crown shall make good or pay for any damage or loss occasioned to the owner Liability of the of any land building or other thing used by the Force.

Crown.

- (2) The Crown shall indemnify every member of the Force from and against all actions, claims, proceedings and demands arising out of anything done by him in his capacity as a member of the Force but provided that it was so done by him in good faith in the course of his duties as a member of the Force.
- 52. (1) If a member of the Force, in the course of his duties as a member of the Force Compensation and whether on active service or not, suffers death or any injury or suffers any wound or injury resulting in his death within a year thereafter -

- (a) by reason of any act or action of an enemy;
- (b) by reason of any negligent act or omission of any other member of the Force;
- by reason of any other act or event, other than any pre-existing medical condition not associated with his service as a member of the Force, and not attributable to his own default or neglect,

the Crown shall pay to him (in the case of his injury) or to the persons who would be entitled to claim under the Fatal Accidents Act 1976 if his death had been caused by the neglect of the Crown (in the case of his death) such sum or sums by way of damages compensation and otherwise as would have been payable had that injury or his death been attributable to the act, omission or default of the Crown.

- (2) Where the Crown is liable to pay any sum under subsection (1) above
  - (a) the Workers Compensation Ordinance shall not apply so as to entitle any person to any payment under the provisions of that Ordinance;
  - (b) the Crown shall not be liable to pay any sum in respect of the injury or death of the member of the Force under any other law;
  - the Crown shall be subrogated to the member of the Force or, as the case may be, to any person who would otherwise be entitled to bring an action by reason of the member's death, so as to be able to bring in its name any action or proceedings that member or other person could otherwise have brought against any other person arising out of the injury or death of the member of the Force and so as to be able to recover in such action or proceedings any sum or sums which would have been recoverable from that other person by the member of the Force or person claiming by virtue of his death.
- 53. (1) Every member of the Force may be paid such sum by way of annual bounty as Payments to the Governor advised by the Executive Council may from time to time determine and subject to such conditions as may be so determined. A sum paid by way of bounty under this section shall not form part of the income subject to income tax of any member of the Force.

- (2) A member of the Force called out to active service may be paid such periodic sums as the Governor advised by the Executive Council determines and such part of any such sum as the Governor determines may be paid by the Crown to the wife or other dependents of the member of the Force concerned.
- (3) Payments under subsection (2) may differ from one member of the Force to another by relation to any of the following -
  - (a) whether the member of the Force is, or is not, being paid by his ordinary employer during his absence from his ordinary employment and, if so, how much he is being so paid;
  - (b) his family and other responsibilities;
  - (c) any other factor the Governor advised by the Executive Council considers relevant.

- (4) The Commanding Officer and any person engaged whole time in training members of the Force may either in addition to, or in substitution for, any payment under subsection (1) be paid such sums by way of salary, allowances or honorarium as the Governor advised by the Executive Council may determine.
- (5) No sum payable under subsections (1) or (2) above shall be liable to be attached for debt or assignable for the benefit of the creditors of any member of the Force.
- (6) Sums payable under this section shall be paid out of moneys appropriated for the purpose by Ordinance.

### PART IV CALL OUT, MUSTERING AND EMERGENCY POWERS

#### Call out, mustering etc.

54. (1) If it appears to the Governor that national danger is imminent or that a great Call out the emergency has arisen, he may by Proclamation call out the force for active service and do anything provided for by subsections (2) and (3).

- (2) The Governor may by Proclamation pursuant to subsection (1) or by any later Proclamation pursuant to this subsection and made while a Proclamation pursuant to subsection (1) remains in force, muster reserve members of the Force.
- (3) The Governor may by Proclamation pursuant to subsection (1) or by any later Proclamation pursuant to this subsection made while a Proclamation pursuant to subsection (1) remains in force, and if reserve members of the Force remain mustered pursuant to subsection (2), require any British subject over the minimum age and under the maximum age and who is ordinarily resident in the Falkland Islands to serve as an emergency reserve member of the Force.
- (4) A Proclamation made pursuant to any provision of this section may be rescinded or varied by any subsequent Proclamation made under this subsection.
- (5) A Proclamation pursuant to any provision of this section shall have effect from the moment its making is made publicly known and notwithstanding that it has not yet been published in the Gazette, but any such Proclamation shall be published in the Gazette as soon as, in all the circumstances of the case, it may reasonably be so published.
- (6) Nothing in a Proclamation to which subsection (3) applies shall have effect in relation to a person who is in an occupation which by Order made under section 55(1) has been declared to be a reserved occupation or who is exempted under section 55(2).
- (7) It shall be the duty of every person to whom a Proclamation under any provision of this section calling him out for active service or mustering him applies to report to the Commanding Officer for active service (whole or part time as the Commanding Officer may determine) as a member of the Force and thereafter to do such things and perform such duties as a member of the Force as he is required to carry out.
- 55. (1) The Governor may by Order under his hand exempt persons in occupations specified in that Order (in this Ordinance called "reserved occupations") from any obligation he would otherwise have to serve as an emergency reserve member of the Force.

cupations and exemptions.

- (2) The Governor may by writing under his hand exempt any person, not being a person in a reserved occupation, from any obligation he would otherwise have to serve as an emergency reserve member of the Force, either unconditionally or subject to such conditions (including conditions requiring him to perform work necessary for the good of the public to be performed) as the Governor thinks fit.
- (3) A person who without reasonable excuse neglects to comply with any condition of any exemption granted to him pursuant to subsection (2) 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 period not exceeding six months or both such a fine and such imprisonment.
- 56. (1) A person to whom section 54(7) applies is subject to military law and may be dealt Supplementary with in any manner authorised by section 40(1) (which applies, with modifications, certain to section 54. provisions of the Army Act 1955).

- (2) A police officer may arrest without warrant any person whom he has reasonable cause to believe has failed without reasonable excuse to report to the Commanding Officer for active service as required by section 54(7) and shall convey any person so arrested into the presence of the Commanding Officer or other officer of the Force and release him into his custody to be dealt with in accordance with military law.
- (3) Subsection (2) has effect without prejudice to section 190A of the Army Act 1955 in its application under any provision of this Ordinance.

#### Emergency powers

- 57. (1) This section and sections 58 is in operation so long only as a Proclamation made Commanding under section 54(1) is for the time being in force.
- (2) So long as this section is in operation, the Commanding Officer shall place the Force at the disposition of the Commander British Forces and the Force shall carry out such tasks and do such things as the Commander British Forces requires.

Officer to place Force at disposition of Commander British Forces.

58. (1) At any time this section is in force and in the opinion of the Governor the public interest render the same necessary he may by Order declare that, so long as that Order remains in force sections 154 to 169 to 173 of the Army Act 1955 shall apply in the Falkland Islands in relation to the needs of the Force subject to such exceptions and subject to such modifications as he considers necessary.

Billeting and reneeds of the Force.

(2) An Order under subsection (1) unless earlier revoked shall expire one month after it is made but may from time to time be extended by further Order under this subsection for not longer than one month from the date of any such further Order.

#### PART V GENERAL

#### Social Clubs

59. (1) There shall continue to be a Falkland Islands Defence Force Club ("the Club"). Defence Force

- (2) The Commanding Officer shall ex officio be the Chairman of the Club.
- (3) All members of the Force shall be members of the Club, subject to payment of any annual subscription required by the rules of the Club. Such other persons as the Committee of the Club may determine shall be members of the Club except that no person who has been or is deemed to have been dishonourably discharged from the Force shall be a member of the Club.
- (4) The Committee of the Club shall consist of the Chairman and such other members of the Club as are elected by the members at an Annual General Meeting.
- (5) The Committee of the Club may from time to time make amend or revoke rules for the management or maintenance by annual subscription or otherwise of the Club. No such rules or amendment of revocation of any such rules shall have effect until they have been approved -
  - (a) by the members in a general meeting; and
  - (b) by the Governor,

and until any other rules have been so approved the rules in force immediately preceding the commencement of this Ordinance shall continue to have effect.

(6) Notwithstanding any other written law of the Falkland Islands a member of the Force under the age of eighteen years may enter and remain in any bar of the Club while other members are permitted to enter and remain therein, but he shall not be supplied therein with any intoxicating liquor.

# Courts of Inquiry

60. (1) The Governor may at any time convene a Court of Inquiry composed as he may Convening of determine to inquire into any matter relative to the Force or any unit or component of the Force or to any officer or other member of the Force. Any Court of Inquiry so convened shall report the facts it finds and conclusions it reaches in writing to the Governor.

- (2) A report of a Court of Inquiry shall not be published without the consent in writing of the Governor.
- (3) A Court of Inquiry shall have the same powers to summon and examine witnesses as a Commission of Inquiry appointed under the Commissions of Inquiry Ordinance has and (Cap. 12) sections 6 to 17 of that Ordinance shall apply as if the Court of that Inquiry were a Commission of Inquiry appointed under that Ordinance.

### Offences

61. (1) A person commits an offence who assaults or resists or aids or abets another in assaulting or resisting a member of the Force in the discharge of his duty.

Assault on member of Force

- (2) If the member of the Force the subject of the alleged offence under subsection (1) was not in uniform at the material time it shall be a defence for the person charged to prove -
  - (a) that he did not know that that member of the Force was in fact a member of the Force; or
  - (b) if he did know it, that he had no reasonable cause to believe that that member was acting in the discharge of his duty as a member of the Force.
- (3) A person who is convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.
- 62. (1) A person commits an offence who by threats or otherwise wilfully prevents or Serious public endeavours to prevent another person from becoming or serving as a member of the Force.

- (2) A person commits an offence who by words or actions induces or incites or attempts to induce or incite disaffection or disloyalty to the Crown among members of the Force or in any member of the Force or to persuade or induce any member of the Force not to do his duty as a member of the Force.
- (3) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 5 on the standard scale or to imprisonment for a period not exceeding twelve months or both such a fine and such imprisonment.
- 63. A person convicted of an offence under any provision of this Ordinance or of regulations made under this Ordinance in respect of which no penalty is specifically provided by that or any other provision of this Ordinance or those regulations, as the case may be, is liable to a fine not exceeding the maximum of level 2 on the standard scale.

#### Regulations

64. (1) The Governor may, with the advice of the Commander British Forces may make Regulations regulations --

- as to the administration and discipline of the Force;
- the appointment, promotion, transfer, leave, reduction, discharge from service of officers;
- the enrolment, transfer, leave, promotion, reduction, discharge, and dismissal of warrant officers, non-commissioned officers and men, and the disbandment of any unit;
- (d) the composition and proceedings of Courts of Inquiry;
- the exemption of officers and members from carrying out the full course of training for any year;
- (f) the issue and care of arms, uniforms and appointments;

- drill, training, the provision and use of targets, butts and shooting ranges;
- (h) fixing standards of efficiency;
- the payment of capitation grants, and the amount thereof.
- (2) Any regulations made under subsection (1) or continued in force under section 65(2) may be revoked or amended by regulations made under subsection (1).

#### Repeal and saving

65. (1) The Defence Force Ordinance 1954 is repealed.

Reneal and

(2) Notwithstanding subsection (1) all rules, regulations and Standing Orders made under that Ordinance or under the Defence Force Ordinance (Cap. 19) Laws of the Falkland Islands 1950 Edition and which were in force immediately prior to the commencement of this Ordinance shall continue with such modifications as are required to bring them into conformity with this Ordinance in force until they are revoked or replaced under the relevant provisions of this Ordinance, or where appropriate, as amended under those provisions.

#### SCHEDULE 1

(section 10(2))

# PROCEDURE FOR ENLISTMENT

- 1. The recruiting officer shall warn the person to be enlisted that if he makes any false answer to the questions to be read out to him he will be liable to be punished as provided by this Ordinance.
- 2. He shall then read, or cause to be read, to that person the questions set out in the attestation paper and satisfy himself that he understands each of those questions and that his answers thereto have been duly recorded in the attestation paper.
- 3. He shall then ask that person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance set out in Schedule 2 to this Ordinance:

#### Provided -

- that if the recruiting officer is, for any reason, not satisfied with the answers to the questions set out in the attestation paper are true, he may defer the administration of the oath of allegiance to some later time:
- that if the person desiring to enlist is to be required to submit himself for medical examination under section 14(1) of this Ordinance, the recruiting officer shall defer administration of the oath of allegiance until such time as the Commanding Officer is, as a result of such medical examination satisfied that that person is reasonably medically fit for useful service as an active member of the Force.

### **SCHEDULE 2**

(section 12)

#### FORM OF OATH OR AFFIRMATION OF ALLEGIANCE

I (name of person making Oath of Affirmation) swear by Almighty God (or do solemnly and sincerely affirm, as the case may be) that I well and truly serve Her Majesty the Queen her heirs successors in the capacity of a member of the Falkland Islands Defence Force in accordance with law. So help me God. (The words "So help me God" are to be omitted in the case of an Affirmation).

Dated this

day of

(signature of person making Oath or Affirmation)

Sworn in the presence of -

(signature of person administering Oath or Affirmation)

(Name of person administering Oath or Affirmation in block capitals or typescript followed by capacity in which he administered the Oath or Affirmation)

### SCHEDULE 3

(section 40(1))

# APPLICATION OF PROVISIONS OF THE ARMY ACT 1955

#### PART I

# Modifications of provisions of the Army Act 1955

- 1. The modifications specified in subsequent paragraphs of this Part of this Schedule, are hereby declared to have effect in relation to the Force and any member of the Force —
  - (a) if and only if the provision or provisions of the Army Act 1955 to which they relate would not, otherwise than by virtue of section 40(1) above of this Ordinance apply to the Force or that member of the Force; and
  - without prejudice to the generality of subparagraph (a) above, do not apply when those provisions or that provision of the said Act apply or applies in relation to the Force or that member of the Force under or by virtue of section 207(2), section 208A or section 207 of that Act.
- 2. In every subsequent paragraph of this Schedule (and unless where the contrary in expressly stated in the relevant paragraph) -
  - (a) a reference to "the Act" is a reference to the Army Act 1955;
  - (b) a reference to a section is a reference to the section of that number of the said Act; and
  - a reference to a subsection of a section is a reference to the subsection of that number of the relevant section of the Act.
- 3. Except where the contrary is expressly stated in any subsequent paragraph of this Schedule, a reference to the "United Kingdom" in any section of the Act is to be replaced by a reference to the Falkland Islands.
- 4. Section 24 is to be construed as if -
  - (a) the references to "Her Majesty's forces" in subsection (2)(c) included a reference to the Force;
  - (b) the reference in subsection (4) to section 33(2) were a reference to that section as modified by paragraph 7 of this Schedule.
- 5. Section 25(1)(e) is to be construed as if the reference therein to "reasonable steps to rejoin Her Majesty's service" included reasonable steps (in the case of a member of the Force) to rejoin with the Force.
- 6. Section 26(1) is to be construed as if the reference therein to "Her Majesty's forces" included a reference to the Force.
- 7. Section 33(2) is modified by the insertion, after the words "the regular forces" of the words "or of the Force" and by the insertion of the words "of those forces" of the words "or of the Force".
- 8. Section 36(2) shall apply to standing orders made under section 45 of this Ordinance as if the Force were a formation or unit or body of Her Majesty's forces.
- 9. The words "of England" and "in England" in section 70(2) are replaced by the words "of the Falkland Islands" and "in the Falkland Islands" respectively.
- 10. The words "in England and Wales" and "of England and Wales" in section 70(3) are replaced by the words "in the Falkland Islands" and "of the Falkland Islands" respectively.
- 11. The words "United Kingdom" in section 101 are not replaced by the words "the Falkland Islands".

Disciplinary provisions of the Army Act 1955 applying when relevant member of the Force is not on active service and is not serving outside the Falkland Islands.

The following provisions of the Army Act 1955 are declared to apply by virtue of section 41(1) of this Ordinance -

- (a) sections 24 and 25 (and for the purposes of those sections, "enemy" has the same meaning as it has under section 225(1) of that Act);
- (b) sections 26, 29, 29A and 31 to 35 (and for the purposes of section 31(1)(a) "enemy" has the same meaning as it has under paragraph (a) above);
- section 42, sections 44 to 46, section 50, section 55, section 60, section 62, section 63A, section 65, section 68, section 68A and section 69 (and for the purposes of section 60 "enemy" has the same meaning as it has under paragraph (a) above); and
- (d) sections 74 and 75, sections 131 and 132 and sections 193 to 197B.

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Falkland Islands Development Corporation (Amendment) Ordinance 1991 (No. 27 of 1991)

### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title.
- 2. Amendment of Falkland Islands Development Corporation Ordinance 1983.

# **SCHEDULE**

### ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Falkland Islands Development Corporation (Amendment) Ordinance 1991

(No. 27 of 1991)

An Ordinance to amend the Falkland Islands Development Corporation Ordinance 1983.

(assented to: 10th December 1991) (commencement: 1st January 1992) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Falkland Islands Development Corporation (Amendment) Short title. Ordinance 1991 and comes into operation on 1st January 1992.
- 2. The Falkland Islands Development Corporation Ordinance 1983 is amended in the manner specified in the Schedule to this Ordinance.

  Amendment of Falkland Islands

Amendment of Falkland Islands Development Corporation Ordinance 1983. (No. 1 of 1983)

### SCHEDULE (section 2)

Amendment of the Falkland Islands Development Corporation Ordinance 1983.

- 1. Section 2 of the Ordinance is amended -
  - (a) by inserting the following definition as the first definition appearing therein -
    - ""Board" means the Executive Board to which section 7(1) relates;"
  - (b) by the repeal of the definitions of "Chief Accountant" and "the Executive" appearing therein;
  - (c) by inserting the following definition immediately after the definition of "Corporation" appearing therein -
    - ""the Financial Controller" means the person appointed as Financial Controller under section 10(1); and

- (d) by replacing the definition of "financial year" with the following definition -
- "the financial year" means a period of twelve calendar months expiring on the thirtieth day of June"; and
- (e) by replacing the words "section 8" in the definition of "General Manager" appearing therein with the words "section 9(1)";
- (f) by inserting immediately before the end of the section the following definitions-
  - ""the Manual" means the Policies and Procedures Manual provided for by section 6(4);
  - "Principal Auditor" has the same meaning as it has under the Constitution;
  - "Secretary" means the person appointed or deemed to have been appointed under section 14(1)."
- 2. Section 5(2) of the Ordinance is amended by replacing paragraph (k) with the following new paragraph (k) -
  - "(k) to subscribe for or purchase shares in any company incorporated in the Falkland Islands;"
- 3. Sections 6 to 16 of the Ordinance are repealed and replaced by the following sections -
  - "6.(1) The Corporation shall in the exercise of its functions under section 4 be Corporation to answerable to the Executive Council of the Falkland Islands Government.

    \*\*Description\*\*

    \*\*Corporation\*\*

    \*\*Description\*\*

    \*\*Descr

be responsible to the Executive

- (2) In exercise of its functions the Corporation shall have regard to, and so far as may be possible so to do, shall act in accordance with, such policies as the Governor on the advice of the Executive Council may notify to the General Manager.
- (3) The General Manager shall make such written and other reports to the Executive Council as to the activities and intended or proposed activities of the Corporation in the pursuance of its functions under section 4 and as to any other matter, whether or not related to the foregoing, as the Governor acting in his discretion or on the advice of the Executive Council may require him to make.
- (4) Without prejudice to the foregoing subsections, there shall be a Policies and Procedures Manual in relation to the Corporation and such manual shall be approved, and any amendments to such manual shall be approved, by the Governor with the advice of the Executive Council.
- (5) The Corporation, the Board and all officers of the Corporation shall comply with the Manual but the question as to whether it has been complied with in any particular instance or respect shall not be enquired into by any court and a failure to comply with that Manual shall not, in relation to any person dealing with the Corporation, invalidate any act or thing done by the Corporation or any of its employees.

- (6) The Corporation shall not -
  - (a) guarantee any loan;
  - (b) borrow any money;
  - (c) issue any Letter of Comfort in relation to a loan or financing of any kind to the Corporation or any other person;
  - (d) mortgage, charge, pledge, any of its property by way of security for the repayment of any loan or interest thereon or the performance of any obligation.

without the consent in writing of the Governor on the advice of the Executive Council.

- (7) Subsection (6) has effect without prejudice to any requirement under section 5(2)(d) that the prior consent of the Secretary of State be obtained in relation to any borrowing to which that provision relates.
- 7.(1) There shall be an Executive Board of the Corporation consisting of -

Executive Board

- (a) The Chief Executive of the Falkland Islands Government:
- (b) The General Manager;
- (c) two elected members of the Legislative Council;
- (d) three persons appointed by the Governor on the advice of the Executive Council as being persons appearing to it to be suitable persons to represent the interests of the business community in the Falkland Islands; and
- (e) one person appointed by the Governor on the advice of the Executive Council as being a person appearing to it to be a suitable person to represent the interests of the farming community in the Falkland Islands.
- (2) The persons appointed under paragraphs (c), (d) and (e) of subsection (1) shall be appointed by instrument under the hand of the Governor and subject to subsections (5) and (6) shall hold office for such period as may be specified in the instrument appointing them.
- (3) The elected members of the Legislative Council to whom paragraph (c) of subsection (1) relates shall be selected by the elected members of the Legislative Council in such manner as they may determine and shall be appointed and hold office for such period (subject to subsection (5)) as the elected members of the Legislative Council may determine.
- (4) The period of appointment (subject to subsection (6)) of persons to whom paragraphs (d) and (e) of subsection (1) relate shall be such as the Executive Council may advise the Governor.
- (5) An elected member of the Legislative Council appointed pursuant to subsection (3) ceases to be a member of the Board -

- (a) on ceasing for any reason to be an elected member of the Legislative Council:
- (b) on his appointment being revoked by the Governor on the advice of the majority of the elected members of the Legislative Council;
- (c) on his tendering his resignation in writing to the Governor; or
- (d) on the expiration of the period for which he is appointed.
- (6) A person to whom subsection (4) relates ceases to be a member of the Board -
  - (a) on his appointment being revoked by the Governor on the advice of the Executive Council:
  - (b) on his tendering his resignation in writing to the Governor;
  - (c) on his becoming a public officer or being employed by the Corporation;
  - (d) on the expiration of his period for which he was appointed.
- (7) A person who ceases to be a member of the Board by reason of the expiration of the period for which he was appointed is eligible for re-appointment to the Board.
- 8.(1) The Chief Executive shall be the Chairman of the Corporation and shall preside at Chairman and Viceall meetings of the Board at which he is present or during such time as he is present at Chairman of the any such meeting.

Corporation.

- (2) In the absence of the Chief Executive from a meeting of the Executive Board, or part thereof, the General Manager shall preside thereat during such absence.
- 9.(1) There shall be a General Manager of the Corporation who shall be appointed and General Manager. may be removed from office by the Governor acting on the advice of the Executive Council.

- (2) The person who immediately prior to the commencement of this section held the office of General Manager shall be deemed to have been appointed under subsection (1).
- 10.(1) There shall be a Financial Controller of the Corporation who shall be appointed Financial by and may be removed from office by the Governor on the advice of the Executive Controller. Council.

- (2) A person appointed as Financial Controller shall hold such qualifications or experience in accountancy as the Governor on the advice of the Executive Council considers appropriate in relation to the needs of the Corporation.
- (3) The person who immediately prior to the commencement of this section held the office of Financial Controller of the Corporation shall be deemed to have been appointed under subsection (1).
- (4) The Financial Controller is entitled to attend all meetings of the Board and may speak, but shall not vote, in relation to any matter under consideration by the Board at any such meeting.

11.(1) The Board shall be responsible for the management and direction of the Functions of Corporation's affairs in accordance with -

Board

- (a) policies and objectives approved by the Executive Council from time to time; and
- (b) the Manual.
- (2) The Board may delegate, subject to the provisions of this Ordinance, the doing or performance of any act matter or thing it has power to do to the General Manager or another employee of the Corporation and any act matter or thing so done or performed shall be as valid and effectual as if it had been done by the Board directly.
- (3) The common seal of the Corporation shall not be affixed to any instrument except in accordance with a resolution of the Board.
- 12.(1) Subject to this section, the quorum of the Board shall be four or more members Quorum calling personally present of whom at least half shall be persons appointed under paragraphs (c) (d) and (e) of section 7(1).

of meeting and procedure of the Board.

- (2) Subject to this section no business shall be transacted at a meeting of the Board at which there is not a quorum present except to adjourn the meeting.
- (3) A member of the Board who has any direct or indirect financial interest in any matter considered at a meeting of the Board at which he is present shall declare that interest and shall not vote in respect of that matter and, if he is so required by the remaining members of the Board, shall withdraw from the meeting during consideration of that matter. The Board shall not be inquorate by reason of any such withdrawal unless the number of members remaining present is less than three.
- (4) A person commits an offence who contravenes subsection (3) and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard scale.
- (5) The Board shall meet as often as may be necessary for the transaction of its business, provided that -
  - (a) the General Manager shall convene a meeting of the Board when called upon by the Governor so to do;
  - (b) no greater interval than three months shall elapse between a meeting of the Board and the next following meeting.

Meetings of the Board shall be convened by the General Manager -

- (i) in accordance with resolutions of the Board; and
- (ii) otherwise, by the General Manager after consultation with the Chief Executive, except in a case to which paragraph (a) relates.

- (6) Any person may, by invitation of the Board, attend any meeting of the Board and may, with the permission of the Board, speak in relation to any matter of business thereat, but shall not vote.
- (7) The Board may meet at any place in the Falkland Islands but shall not meet outside Stanley except with the consent of the Governor.
- (8) Subject to this Ordinance and to the Manual, the Board shall determine its own procedure.
- 13.(1) Except in respect of the General Manager and the Financial Controller, all Appointment of employees of the Corporation shall be appointed and may be dismissed by or with the staff. authority of the Board.

- (2) The terms and conditions of service of all staff of the Corporation (including the General Manager and the Financial Controller) shall be determined by the Board acting in accordance with such guidelines as it may have received from the Governor advised by the Executive Council.
- (3) The terms and conditions of service of all staff of the Corporation in its employ immediately before the commencement of this section shall, until first varied under subsection (2), be those existing immediately before such commencement.
- (4) Nothing in subsection (2) authorises the variation without the consent of the employee of the Corporation concerned of terms and conditions of his service which are incorporated in a continuing contract with the Corporation.
- 14.(1) The Board shall appoint an employee of the Corporation to be the Secretary of the Secretary. Corporation.

- (2) The Secretary, or a person appointed by the General Manager to act in the place of the Secretary if the Secretary is for any reason unavailable, shall attend all meetings of the Board and shall prepare minutes of those meetings.
- (3) The Secretary shall have custody of the seal of the Corporation and all documents of the Corporation, receive all legal process and notices served on the Corporation and carry out such other duties as the Board or General Manager direct.
- (4) The person holding office as Secretary immediately preceding the commencement of this section shall be deemed to have been appointed under subsection (1).
- 15.(1) Appointed members of the Board shall be entitled to such sums by way of fees, Honoraria and honoraria and allowances as the Governor on the advice of the Executive Council may allowances of approve.

**Board members** 

(2) The Corporation may pay to any member of the Board in addition to any sum payable under subsection (1), such sums by way of re- imbursement of expenses as it is satisfied were actually and reasonably incurred by him in relation to attendance at meetings of the Board or otherwise in connection with the business of the Corporation.

16. Subject to section 12, no vacancy in the membership of the Board shall invalidate its Vacancy in proceedings."

membership of the Board

- 4. Section 19(2) of the Ordinance is repealed and replaced by the following new section 19(2) -
  - "(2) The accounts of the Corporation shall, in accordance with the Finance and Audit Ordinance 1988 be audited by the Principal Auditor."
- 5. Section 19(3) is amended by -
  - (a) replacing the words "the Civil Commissioner and the Secretary of State" appearing therein with the words "the Governor and all elected members of the Legislative Council";
  - (b) replacing of the words "the auditors" appearing therein with the words "the Principal Auditor"; and
  - (c) deleting all words appearing therein after the word "appropriate."
- 6. Section 20(1) is amended by -
  - (a) replacing the words "the Civil Commissioner and the Secretary of State" appearing therein with the words "the Governor and the elected members of the Legislative Council"; and
  - (b) replacing the words "not less than thirty days before the annual budget session of the Legislative Council" appearing therein with the words "not later than the thirtieth day of April in each year and the Governor shall cause the same to be considered by the Executive Council at its next meeting following its receipt".
- 7. Section 20(3) is repealed.
- 8. Section 20(4) is renumbered so as to become section 20(3) and is amended by deleting the words "the Civil Commissioner and the Secretary of State".
- 9. By replacing section 21(1) with the following -
  - "21.(1) The Corporation shall not later than 31st March preceding the commencement of any financial year submit to the Financial Secretary estimates of its expenditures and receipts for that year and of unexpended funds carried forward to it and the Financial Secretary shall cause the same to be considered by the Executive Council."
- 10. Section 23 is amended by replacing the word "Corporation" with the word "Board".
- 11. Section 25 is amended by replacing the words "Civil Commissioner in Council" with the words "The Governor".

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE. Clerk of Councils.

# The Supplementary Appropration (1990 - 1991) (No. 4) Ordinance 1991 (No. 28 of 1991)

#### ARRANGEMENT OF PROVISIONS

#### Section

- 1. Short title.
- 2. Appropriation of £7,910 for the service of the year 1990 - 1991.

#### **SCHEDULE**

# **ELIZABETH II**



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

The Supplementary Appropriation (1990 - 1991) (No. 4) Ordinance 1991

(No. 28 of 1991)

An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £7,910 for the service of the financial year which ended on 30 June 1991.

> (assented to: 10th December 1991) (commencement: on publication) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Supplementary Appropriation (1990 1991) (No. 4) Short title. Ordinance 1991.
- 2. The issue by the Financial Secretary and appropriation out of the Consolidated Fund and the Appropriation of application to the service of the year which commenced on 1 July 1990 and ended on 30 June £7,910 for the 1991 ("the Financial Year") of the (and in addition to any sum already granted and appropriated service of the for the service of the financial year) sum of SEVEN THOUSAND NINE HUNDRED AND TEN year 1990 - 1991. POUNDS, for the purposes of the service expressed and particularly mentioned in the Schedule hereto and which came in course of payment during the financial year is hereby authorised as if this Ordinance had been in force at the time or times of the issue out of the Consolidated Fund of any sums to which this section relates.

#### SCHEDULE

Number	Head of Service	3
520	Mineral Resources	7,910 ====

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.

# The Supplementary Appropriation (1991 - 1992) Ordinance 1991

(No. 29 of 1991)

### ARRANGEMENT OF PROVISIONS

Section

- Short title. 1.
- Appropriation of £620,400 for the service of the year 1991 1992. 2.

**SCHEDULE** 

### ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

The Supplementary Appropriation (1991-1992) Ordinance 1991

(No. 29 of 1991)

An Ordinance

to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £620,400 for the service of the financial year ending on 30 June 1992.

> (assented to: 10th December 1991) (commencement: on publication) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Supplementary Appropriation (1991 1992) Ordinance Short title. 1991.
- 2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the Appropriation of service of the year commencing 1st July 1991 and ending on 30th June 1992 ("the financial year") £620,400 for the additional sums not exceeding in aggregate the sum of SIX HUNDRED AND TWENTY service of the THOUSAND FOUR HUNDRED POUNDS, which sum is granted and shall be appropriated for year 1991-1992. the purposes of the Heads of Service mentioned in the Schedule hereto and which will come in course of payment during the Financial Year.

# SCHEDULE

Number	Head of Service	3
PART I - OPE	RATING BUDGET	
100	Aviation	21,200
200	Medical and Dental	48,000
250 250	Education and Training	9,620
250 320	Fisheries	26,060
350	Public Works	16,730
390	Fox Bay Village	5,000
400	Agriculture	18,600
400 450	Justice	9,530
450 550	Police, Fire & Rescue and	
330	Immigration	1,700
600	Secretariat, Treasury, Central Store	
000	and Broadcasting	211,770
700	Social Welfare	700
850	Falkland Islands Government	
930	Office, London	4,600
880	FIDC Funding	2.060
Total Operatin	g Supplementary Expenditure	375,570
PART II - CA	PITAL BUDGET	
951	Expenditure to be met from	
	Local Funds	244.830
TOTAL SUP	PLEMENTARY EXPENDITURE	£620,400

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Income Tax (Amendment) (No. 4) Ordinance 1991

(No. 30 of 1991)

### ARRANGEMENT OF PROVISIONS

Section

- 1. Short title.
- 2. Amendment of Cap. 32.

SCHEDULE

# ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Income Tax (Amendment) (No. 4) Ordinance 1991

(No. 30 of 1991)

# An Ordinance to amend the Income Tax Ordinance

ENACTED by the Legislature of the Falkland Islands as follows -

(assented to: 10th December 1991) (commencement: 1st January 1992) (published: 19th December 1991)

- 1. This Ordinance may be cited as the Income Tax (Amendment) (No. 3) Ordinance 1991 Short title and shall come into operation on 1st January 1992.
- The Income Tax Ordinance is amended in the manner specified in the Schedule.

Amendment of Cap. 32.

SCHEDULE (section 2)

Amendments to Cap. 32

- 1. Section 14(1) is amended by replacing "£3,000" with "£3,200".
- 2. Section 15(1) is amended by replacing "£1,900" with "£2,050".
- 3. Section 15(2) is amended by replacing "£1,020" with "£1,100".
- 4. Section 15(3) is amended by replacing "£1,020" with "£1,100".
- 5. Section 15(4) is amended by replacing "£3,000" with "£3,200".

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

A. LIVERMORE, Clerk of Councils.

# The Museum and National Trust Ordinance 1991

(No. 31 of 1991)

# ARRANGEMENT OF PROVISIONS

# Introductory

Section	
1.	Short title.
2.	Interpretation.
	Establishment and membership of the Trust
3.	The Trust.
4.	Membership of the Trust.
	Functions, funds, accounts and budget of the Trust
5.	Functions of the Trust.
6.	Funds of the Trust.
7.	Accounts of the Trust.
8.	Annual budget.
	Property, gifts and tax
9.	Disposal of Trust Property.
10.	Grants out of Government funds.
11.	Tax exemption.
12.	Transfer of Fakland Islands Museum.
13.	Transfer of other property.
14.	Gifts.
15.	Placing of tablets etc.

# Chairman, secretary, meetings and business of the Trust

16.	Chairman of the Trust.
17.	Secretary.
18.	Quorum.
19.	Attendance of other persons at meetings of the Trust.
20.	Calling of meetings of the Trust.
21.	Other provisions as to business of the Trust.
	General
22.	Contracts by the Trust.
23.	Notices etc.
24.	Regulations,

# SCHEDULE

Additional regulation of the Trust.

# ELIZABETH II



# Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, C.M.G., Governor.

# The Museum and National Trust Ordinance 1991

(No. 31 of 1991)

An Ordinance to establish and regulate a Museum and National Trust for the Falkland Islands.

(assented to: 10th December 1991) (commencement: on publication) (published: 19th December 1991)

ENACTED by the Legislature of the Falkland Islands as follows -

#### Introductory

1. This Ordinance may be cited as the Museum and National Trust Ordinance 1991.

Short title.

2.(1) In this Ordinance -

Interpretation.

"ancient monument" means -

- (a) any building or structure which has been designated as a building of architectural or historic importance under the provisions of the Planning and Building Ordinance 1991;
- (b) any building or structure which, in the opinion of the Trust, by reason of the historic, architectural, traditional, artistic or archaeological interest attaching thereto is worthy of preservation;

"archaeological object" means any chattel, including any object in a manufactured or partly manufactured state which by reason of the archaeological interest or historic interest attaching thereto or its association with any person in or at any time in or associated with the Falkland Islands is in the opinion of the Trust worthy of preservation or display to the public;

"site of interest" means any land in the Falkland Islands which by reason of its archaeological or historical associations, the presence of wildlife upon it, its scenic attractions or natural beauty is, in the opinion of the Trust, worthy of preservation;

"the Trust" means the Museum and National Trust for the Falkland Islands established by section 3.

# Establishment and membership of the Trust

3.(1) There is established the Museum and National Trust for the Falkland Islands.

The Trust.

- (2) The Trust is a body corporate and may sue or be sued in its own name.
- (3) The Trust shall have a common seal.
- 4.(1) The Trust shall have not less than five and not more than seven members each of whom shall be appointed by, and may be removed by, instrument signed by the Governor on the advice the Trust.

(2) Each member of the Trust shall hold office as such for the period specified in his appointment or the earlier occurrence of one of the following events -

- (a) his removal from office in accordance with subsection (1);
- (b) his resignation by writing delivered to the Governor;
- (c) his being sentenced to imprisonment for a period of three months or more, either immediately or suspended for a period or until the happening of some other event;
- (d) his being adjudicated bankrupt.
- (3) A former member of the Trust is eligible for reappointment under subsection (1).

Functions, funds, accounts and budget of the Trust

5.(1) Subject to subsection (2), the Trust may -

Functions of the

- (a) operate any museum at any place in the Falkland Islands on any land or in any vessel which it owns or the right to occupation of which it has;
- (b) purchase or accept a gift or lease of any land or licence of any building which, in its opinion, can conveniently be operated as a museum;
- (c) purchase or accept a gift of any object or thing whatsoever which, in the opinion of the Trust, is worthy of exhibition either immediately or at any future time;
- (d) establish and maintain an archive of any material which, in the opinion of the Trust is now or may in the future be of historical or other interest and may purchase or accept a gift of any material for the purpose of that archive;

- (e) purchase, lease or take a gift of any ancient monument, archaeological object or site of interest;
- (f) accept the loan by any person of any archaeological object or other thing worthy, in the opinion of the Trust, of public exhibition;
- (g) accept gifts of money;
- (h) employ on such terms as it thinks fit, any person for the purposes of any of the foregoing purposes;
- (i) engage persons, whether or not for reward, on such terms as the Trust thinks fit, to advise it in relation to any of the foregoing purposes;
- (j) accept the services of any person upon secondment by his employer on such terms as may be agreed between the Trust and that employer;
- (k) maintain, repair or improve any thing in its ownership or, subject to the permission of the owner thereof, any thing in its possession;
- (1) with the consent of the Governor in writing, borrow money for any of the foregoing purposes;
- (m) open and maintain bank accounts in the Falkland Islands and, with the consent of the Governor, overseas:
- (n) provide advice to the Government and others as to archaeological monuments. archaeological objects and sites of interest; and
- (o) promote interest in and knowledge of the history of the Falkland Islands and its inhabitants and in the flora and fauna of the Falkland Islands.
- (2) The Trust shall not expend or commit the expenditure for any of the purposes set out in subsection (1) beyond funds currently available to it or which will, to the knowledge of the Trust, be available to it before the expenditure in question falls to be met.
- (3) The Trust may with the consent of the Governor borrow money for any of the purposes set out in subsection (1) but only upon terms and conditions approved by the Governor.
- (4) The Trust shall not, otherwise than is permitted by section 9, sell, dispose of, mortgage, charge or pledge any of its property without the prior consent of the Governor.
- 6.(1) The funds of the Trust shall consist of -

Funds of the

- (a) such moneys as are granted to the Trust by the Government or by any other authority;
- (b) such sums as are received by it by way of gift from any person;
- (c) the income received by it in relation to any investment of any part of its funds;
- (d) the proceeds of sale of any investments referred to in paragraph (c);

- (e) income received by the Trust from admission and other charges made by it and the proceeds of sale of any books or other publications of the Trust;
- (f) any other income received by the Trust from any source whatsoever.
- (2) The Trust may place any of its funds which, in its opinion, are surplus to its current expenditure requirements upon an interest-bearing deposit at a bank in the Falkland Islands.
- (3) The Trust may, with the consent of the Governor, invest any of its funds which could be (No. 11 of 1988) placed on interest bearing deposit under subsection (2) in any manner in which the Consolidated Fund may be invested under the provisions of the Finance and Audit Ordinance 1988.

7.(1) The Trust shall keep such books of account as are required to record the income, expenditure, source of funds, assets and liabilities of the Trust in a manner acceptable to the Accounts of the Principal Auditor.

- (2) Where the Trust has received any gift of money subject to a condition that it be expended in a particular manner or for a particular purpose ("special funds") the Trust shall in its books of account keep such records as are necessary to separate such money from funds available for expenditure on the functions of the Trust generally and from other funds of the Trust expendable in another particular manner or for another particular purpose and shall record expenditure of moneys to which this subsection applies in such manner as to enable the expenditure attributable to special funds to be readily identified.
- (3) The accounts of the Trust shall be made up to the 30th June in each year and shall be audited by the Principal Auditor.
- (4) So soon as the accounts have been audited a copy of them as so audited, together with the Principal Auditor's report thereon shall be forwarded to the Governor who shall cause the same to be laid on the table at the next convenient meeting of the Legislative Council.
- 8.(1) No later than the 31st March in each year the Trust shall forward to the Financial Secretary its estimates of its expenditure and income in respect of the year commencing on the following 1st Annual budget July ("the estimates").

- (2) The estimates shall be in a form acceptable to the Financial Secretary but, without prejudice to the foregoing, shall contain or be accompanied by a sufficient explanation of the expenditure proposals and revenue expected during the financial year and shall state what grant or other financial assistance is requested by the Trust from the Falkland Islands Government during that
- (3) The Financial Secretary shall on receipt of the estimates cause the same to be considered by the Executive Council.

### Property, gifts and tax

9.(1) The Trust may enter into any arrangement with any museum, gallery or learned institution whereby any archaeological object owned by the Trust is lent by the Trust for the purpose of being Disposal of Trust exhibited or being studied by that museum, gallery or learned institution. No arrangement property. whereby any archaeological object is likely to be outside the Falkland Islands for a period exceeding two years shall be made without the consent of the Governor.

- (2) Subject to subsection (3), the Trust shall not sell, barter, exchange, lease, mortgage, charge or pledge any of its property without the consent of the Governor.
- (3) Subsection (2) does not apply in respect of the sale of any investments made by the Trust pursuant to section 6(3),
- 10. There may be granted or lent to the Trust out of the Consolidated Fund such sums as are Grants out of appropriated in accordance with law for the purpose.

Government Fund

11. The income of the Trust is exempt from any form of taxation in the Falkland Islands.

Tax Exemption

12.(1) The archaeological objects presently in the Falkland Islands Museum and belonging to the Transfer of Falkland Islands Government are by this subsection vested in the Trust, which shall hold the same as its property in accordance with the provisions of this Ordinance.

Falkland Islands Museum

- (2) In so far as any archaeological object presently in Falkland Islands Museum is not the property of the Falkland Islands Government but is the subject of any loan or other arrangement with the owner thereof, possession and custody of the same, to the extent not requiring the consent of the owner, is transferred to the Trust as agent for the Falkland Islands Government and the Trust shall comply with any agreement or arrangement made by the Government with the owner of that object.
- 13.(1) The Governor may if the Trust is willing to accept the same, by instrument under his hand. Transfer of other transfer to the Trust without payment -

property.

- (a) the ownership of any archaeological object, not being presently in Falkland Islands Museum, owned by the Falkland Islands Government;
- (b) any wreck or hulk belonging to the Falkland Islands Government:
- (c) any land or buildings belonging to the Falkland Islands Government.
- (2) A transfer under subsection (1) may be made subject to conditions to be performed or observed by the Trust.
- (3) The Attorney General may by instrument under his hand transfer to the Trust the ownership of certain prints and antique furniture at Government House and being subject to a trust created by the donor thereof whereby the said prints and antique furniture were to be held at Government House for the benefit of the people of the Falkland Islands. Upon such transfer the said prints and antique furniture shall be held by the Trust upon the same trusts as the Attorney General held the same prior to the said transfer and the Trust shall be bound by the said trusts and shall not, in particular, remove the said prints and antique furniture from Government House otherwise than is permitted thereby.
- (4) The Trust shall on any property being transferred under the provisions of this section hold the same as its property in accordance with the provisions of this Ordinance.
- 14.(1) The Trust may accept a gift of any money or property.

Gifts.

(2) Subject to subsection (3), the Trust may accept the gift of any money or property subject to any conditions approved by the Trust and not inconsistent with this Ordinance and, if it does so, shall perform and comply with those conditions.

- (3) The Trust shall not, without the consent of the Governor, accept any gift of any money or property -
  - (a) subject to a condition that the Trust shall expend any money not forming part of the gift or the income or proceeds of sale thereof;
  - (b) subject to any condition which, in the opinion of the Trust; is unduly onerous or in any way inconsistent with the proper performance of functions of the Trust or otherwise contrary to the public interest.
- (4) The Trust is not obliged to accept any gift.
- 15. The Trust may, with the consent of the owner of ancient monument which is of historical Placing of tablets interest, place or cause to be placed on such ancient monument a tablet, plate, inscription or other etc. notice, stating the facts in relation to such ancient monument which give rise to the historical or other interest thereof.

#### Chairman, secretary, meetings and business of the Trust

16.(1) The Governor may designate one of the members of the Trust as the chairman of the Trust Chairman of the and in default of any such designation the members of the Trust shall elect one of their number to Trust be the chairman of the Trust.

- (2) The Chairman of the Trust shall preside at all meetings of the Trust at which he is present.
- (3) If at any meeting of the Trust the votes of the members there present are equally divided upon any matter, the Chairman shall have and shall exercise a second or casting vote and that matter shall be deemed to be decided in accordance with the manner in which that vote is cast.
- (4) If the Chairman is absent from the whole or any part of any meeting of the Trust the members there present, if constituting a quorum, shall elect one of their number to be the chairman of that meeting, or such part thereof from which the Chairman is absent, and the person so elected shall, during the absence of the Chairman from that meeting, preside thereat and shall during such absence have and shall exercise the powers of the Chairman under subsection (3).
- 17.(1) The Trust shall appoint a person to be Secretary of the Trust. That person may be a Secretary. member of the Trust other than the Chairman.
- (2) The Secretary is entitled to attend all meetings of the Trust and to speak thereat but shall not vote upon any matter at any such meeting unless he is a member of the Trust.
- (3) The Secretary shall have custody of and be responsible for the safe keeping of all records of the Trust and shall prepare or cause to be prepared Minutes of all meetings of the Trust.
- 18.(1) Three members of the Trust personally present shall constitute a quorum at any meeting of Quorum. the Trust and provided that such a quorum be present the Trust may act notwithstanding any vacancy for the time being in its membership.
- (2) No business shall be transacted at any meeting of the Trust at which a quorum is not present save to adjourn that meeting.

19. Any person may attend a meeting of the Trust with the permission of the Chairman and, at the Attendance of invitation of the members there present, may speak but not vote in relation to any matter of other persons at business thereat.

meetings of the Trust meetings of the

Trust

20.(1) Meetings of the Trust shall be convened by the Secretary on the instructions of the

- (a) at least twice in every year;
- (b) subject to (a) and (c) whenever, in his opinion, the business of the Trust so
- (c) within fourteen days of the receipt by the Secretary of a requisition in writing so
  - (i) signed by the Governor, or
  - (ii) signed by not less than three members of the Trust.
- (2) Meetings of the Trust may be convened as to be held at any place in the Falkland Islands.
- 21.(1) The Schedule to this Ordinance has effect for the purpose of additional regulation of the Other provisions business of the Trust and transactions to which the Trust is a party.

as to husines of the Trust

(2) Subject to this Ordinance the Trust may determine its own procedure at meetings of the Trust.

#### General

22.(1) Any instrument required by law to be under seal is sufficiently executed if it is executed Contracts by the under the common seal of the Trust in the presence of two members or one member and the Trust

- (2) Any contract which, if made between private persons, would by law be required to be in writing and signed by the parties to be charged therewith or would by law be valid although made by parol only shall be valid if made by the Trust by writing signed by a member of the Trust or the Secretary, authorised in that behalf by the Trust.
- 23.(1) Any notice, legal process or other document required to be served upon the Trust is validly Notices etc. served if served upon or sent by post to the Secretary at his usual address or place of business and, if sent by post, addressed to him in his capacity as Secretary of the Trust.

- (2) Any notice of other document expressed to be sent by or on behalf of the Trust may be signed by any member of the Trust or by the Secretary.
- 24. The Governor after consulting the Trust may make regulations for any of the following Regulations. purposes -
  - (a) to prescribe the forms of records and other documents to be kept by the Trust;
  - (b) to prescribe the manner of establishment of, maintenance of and access to any documentary archive maintained by the Trust and the rights of any person to have access thereto and any restrictions upon any such right of access:
  - (c) to prescribe allowances and expenses payable to members of the Trust in connection with the business of the Trust;
  - (d) to amend the Schedule to this Ordinance.

# SCHEDULE (section 21(1))

# Additional regulation of the Trust

- 1. Subject to paragraph 2, all cheques and other bills of exchange drawn by or on behalf of the Trust shall be signed hy two members of the Trust or by one member and the Secretary.
- 2. A cheque or other bill of exchange drawn by the Trust in a sum not exceeding £500 may be signed by one member of the Trust or by the Secretary.
- 3. The Financial Secretary or any public officer authorised by him shall be entitled to examine and take copies of any books of account of the Trust at any reasonable time.
- 4. A copy of all minutes of meetings of the Trust shall be sent to the Chief Executive within fourteen days of any such meeting.

Passed by the Legislature of the Falkland Islands this 22nd day of November 1991.

A. LIVERMORE, Clerk of Councils.

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

> A. LIVERMORE, Clerk of Councils.