



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

30th January 1998

No. 1

Appointments

Mrs. Cherry Rose Ford, Clerk, Public Service, 2.1.98.

Miss Hilary Pauline Keith-Miller, Clerk, Public Service, 2.1.98.

Mrs. Alison Catherine Liddle, Reception Class Teacher, Education Department, 3.1.98.

Miss Wendy Mackney-Mills, Teacher, Education Department, 3.1.98.

Dr. David John Edmund Farrand, Medical Officer, Medical Department, 3.1.98.

Stephen Bruce Shillitoe, Designer/Draughtsman, Design & Contracts Section, Public Works Department, 3.1.98.

James Gregory Woodward, Settlement Teacher, Education Department, 3.1.98.

Mrs. Diana Mary Berntsen-McGill, Veterinary Assistant, Department of Agriculture, 5.1.98.

Mrs. Dinah May Kilmartin, Clerk, Public Service, 5.1.98.

Alexander Charles Blake, Oil Statistics Manager, Oil Department, 5.1.98.

Jason Lennard Mercury, Plant Operator, Quarry Section, Public Works Department, 5.1.98.

Grant Mackintosh Munro, Agricultural Assistant (Forestry), Department of Agriculture, 5.1.98.

Miss Katrina Maud Palmer Davidson, Travelling Teacher, Education Department, 6.1.98.

Miss Caroline Natasha Tilyard Gunn, Teacher (Physics), Education Department, 6.1.98.

Miss Clare Marie Slater, Travelling Teacher, Education Department, 6.1.98.

Miss Megan Alma Walker, Travelling Teacher, Education Department, 6.1.98.

Michael Richard Barton, Teacher (Spanish), Education Department, 6.1.98.

Peter Donald Naylor, Travelling Teacher, Education Department, 6.1.98.

Robert James Bullen, Asphalt Laying Foreman, Asphalt Section, Public Works Department, 9.1.98.

Miss Susan Maureen Higgin, Radio/Telephone Teacher, Education Department, 9.1.98.

Miss Heather Norman, Travelling Teacher, Education Department, 10.1.98.

Mrs. Daphne Arthur-Almond, Supply Teacher, Infant and Junior School, Education Department, 12.1.98.

Miss Karen Lucetta Steen, Teacher, Infant and Junior School, Education Department, 12.1.98.

Miss Ainslie Sinclair Wilson, Travelling Teacher, Education Department, 12.1.98.

John Currie Thom, Foreman, Property & Municipal Section, Public Works Department, 12.1.98.

Donald William Betts, Mechanic, Power & Electrical Section, Public Works Department, 15.1.98.

Stephen Dent, Travelling Teacher, Education Department, 17.1.98.

Mark Andrew Waite, Resident Engineer, Public Works Department, 17.1.98.

Keith Mason Watson, Senior Magistrate, Justice Department, 17.1.98.

Suzanna Clarke, Police Constable, Royal Falkland Islands Police Force, 23.1.98.

Steven Waugh, Fishery Protection Officer, Fisheries Department, 23.1.98.

Promotions

Michael Neil Johnson, from Plant Operator, Quarry Section, Public Works Department, to Filtration Plant Operator, Water Section, Public Works Department, 12.1.98

Mrs. Anne Susan Murphy, from Clerk, Post and Telecommunications Department, to Senior Clerk, Post and Telecommunications Department, 14.1.98.

Miss Cherilyn Julie King, from Clerk, Court & Registry to Legal Secretary, Attorney-General's Department, 27.1.98.

Transfers

Mrs. Jane Clement, from Clerk, Public Service, to Aerodrome Flight Information Officer, Civil Aviation Department, 1.1.98.

Miss Jennifer Ethel Smith, from Travel Co-ordinator, Falkland Islands Government Office, London, to Immigration Officer, Customs/Immigration Department, 1.1.98.

Bernard Leslie Eccles, from Immigration Officer, Customs/Immigration Department, to Customs Officer, Customs/Immigration Department, 1.1.98.

Boyd Edward Harold Watson, from Customs Officer, Customs/Immigration Department, to Customs/Immigration Officer, Customs/Immigration Department, 1.1.98.

Completion of Contracts

Miss Judith Hope Palmer, Settlement Teacher, Education Department, 5.12.98.

Miss Caroline Sarah Lamb, Veterinary Officer, Department of Agriculture, 7.1.98.

Dr. Elizabeth Claire Seakins, Medical Officer, Medical Department, 8.1.98.

Graham Fisher, Teacher, Falkland Islands Community School, Education Department, 11.1.98.

Re-Appointment

Graham Fisher, Teacher, Falkland Islands Community School, Education Department, 12.1.98.

Retirement

Mrs. Marjorie May McPhee, Senior Clerk, Posts & Telecommunications Department, 14.1.98.

Resignations

Mrs. Gina Ruth Mary Smith, Sports Attendant, Leisure Centre, Education Department, 3.1.98.

Mrs. Cynthia Kay O'Shea, Teacher, Infant & Junior School, Education Department, 11.1.98.

Miss Jane McGill, Aerodrome Flight Information Officer, Civil Aviation Department, 20.1.98.

NOTICES

No. 1

6th January 1998

ORDER discharging bankrupt unconditionally

Case No: SC/CIV/9/93

IN THE SUPREME COURT OF THE FALKLAND ISLANDS

In Bankruptcy

Re: Vanda Joan Johnson

Ex parte the Official Receiver

UPON THE APPLICATION of Vanda Joan Johnson of 1 Callaghan Road, Stanley, Falkland Islands, adjudged bankrupt on 28 May 1993 and upon taking into consideration the report of the Official Receiver as to the Bankrupt's conduct and affairs including the Bankrupt's conduct during the proceedings under her bankruptcy

AND UPON HEARING the Official Receiver and Mr. Keith Biles the Trustee

AND WHEREAS it has not been proved that the Bankrupt has committed any of the offences mentioned in Section 26 of the Bankruptcy Act 1914 nor has proof been made of any facts under Section 26(3)(b) to (l) as amended by Section 1 of the Bankruptcy (Amendment) Act 1926, or Section 27 of the Bankruptcy Act 1914 nor that she has been guilty of misconduct in relation to her property and affairs; the Bankrupt's assets are not equal to 50p in the £ on the amount of her unsecured liabilities but the Court is satisfied that this has arisen from circumstances for which she cannot justly be held responsible

IT IS ORDERED that she be and she is hereby discharged.

Dated this 6th day of January 1998.

By the Court

L. Titterington,
Registrar.

No. 2

6th January 1998

BERKELEY SOUND MANAGEMENT LIMITED COMPANY No. 8685

TAKE NOTICE that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falklands 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 6th day of January 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 3 8th January 1998

STANLEY ELECTRICAL LTD.

TAKE NOTICE that in accordance with the provisions of section 353 of the Companies Act 1948 in it's application to the Falklands 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 8th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 4 8th January 1998

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 **INSURANCE BROKERS (FALKLANDS) LIMITED** is struck off the Register and the Company is dissolved subject to the provisio to subsection (5) of section 353 aforesaid.

Dated this 8th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 5 9th January 1998

PLANNING ORDINANCE 1991

Section 5(2)

APPOINTMENT OF MEMBER OF THE PLANNING AND BUILDING COMMITTEE

IN EXERCISE of my powers under section 5(2) of the Planning Ordinance 1991, I **ANDREW MURRAY GURR**, Acting Governor of the Falkland Islands, **APPOINT BRIAN SUMMERS** to be a member of the Planning and Building Committee.

Dated this 9th day of January 1998.

A.M. Gurr,
Acting Governor

No. 6

9th January 1998

HYDATID ERADICATION (DOGS) ORDER 1981 article 3

APPOINTMENT OF INSPECTOR

IN EXERCISE of my powers under article 3 of the Hydatid Eradication (Dogs) Order 1981, I **ANDREW MURRY GURR** Acting Governor of the Falkland Islands **APPOINT DIANA MARY BERNTSEN-McGILL** an Inspector.

Dated this 9th day of January 1998.

A.M. Gurr,
Acting Governor.

No. 7 14th January 1998

DARTREST (FALKLAND ISLANDS) LIMITED

TAKE NOTICE that in accordance with the provisions of section 353 of the Companies Act 1948 in it's application to the Falklands 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 14th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 8 14th January 1998

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 **MARR (FALKLANDS) LIMITED** is struck off the Register and the Company is dissolved subject to the provisio to subsection (5) of section 353 aforesaid.

Dated this 14th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 9 14th January 1998

DANGEROUS GOODS ORDINANCE 1987

APPOINTMENT OF LICENSING AUTHORITY

IN EXERCISE of my powers under section 3 of the Dangerous Goods Ordinance 1987, I appoint the holder for the time being of the post of Government Secretary to be the Licensing Authority for the purposes of the Ordinance.

Dated this 14th day of January 1998.

R.P. Ralph,
Governor.

No. 10

20th January 1998

**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 SCOTIA MARITIME LIMITED is struck off the Register and the Company is dissolved subject to the proviso to subsection (5) of section 353 aforesaid.

Dated this 20th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 11

22nd January 1998

ROSS ROAD (DROP OFF POINT) REGULATIONS 1998

**REGULATION 1(2)
COMMENCEMENT NOTICE**

IN EXERCISE of my powers under regulation 1(2) of the Ross Road (Drop Off Point) Regulations 1998, I hereby notify that the Regulations shall come into force on 1st February 1998.

Dated this 22nd day of January 1998.

R.P. Ralph,
Governor.

No. 12

26th January 1998

**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 ARGOS ONE VESSELS LIMITED is struck off the Register and the Company is dissolved subject to the proviso to subsection (5) of section 353 aforesaid.

Dated this 26th day of January 1998.

J.C. Rowland,
Registrar of Companies.

No. 13

27th January 1998

MORADINA FISHING COMPANY LIMITED

TAKE NOTICE that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falklands 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 27th day of January 1998.

J.C. Rowland,
Registrar of Companies.

Appointment of Temporary Customs Officer

Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL S. N. PINNEGAR S8290915

to be a Temporary Customs Officer from 17th November 1997 until 17th February 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer

Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

SGT P. C. WARD S8125964

to be a Temporary Customs Officer from 14th November 1997 until 13th March 1998.

R.J. King,
Collector of Customs.



THE FALKLAND ISLANDS GAZETTE

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27th February 1998

No. 2

Appointments

Mrs. Loretto Ivonne Short, Cleaner, Community School, Education Department, 26.1.98.

Shane David Blackley, Tradesman Carpenter, Public Works Department, 27.1.98.

Michael Floyd, Trainee Pilot, Falkland Islands Government Air Service, 31.1.98.

Barry Charles O'Dean, Handyman/Plant Operator's Assistant, Public Works Department, 2.2.98.

Derek Clelland, Laboratory Technician, Department of Agriculture, 6.2.98.

Miss Lindsay Bonner, Clerk, Post Office, 9.2.98.

Miss Barbara Cheek, Stores Assistant/Clerk, Plant and Vehicle Section, Public Works Department, 11.2.98.

Miss Corina Rose Goss, Trainee Computer Technician, Computer Section, 16.2.98.

Mrs. Sharon Collier, Legal Secretary, Attorney-General's Chambers, 23.2.98.

Promotions

Gordon Carnie Lennie, from Laboratory Technician, Department of Agriculture, to Senior Laboratory Technician, Department of Agriculture, 20.12.97.

Mrs. Christine Susan Davies, from Clerk, Public Service, to Office Manager, Secretariat, 1.1.98.

Miss Sarah Jane Gilding, from Sports Attendant, Leisure Centre, Education Department, to Sports Attendant Supervisor, Leisure Centre, Education Department, 16.2.98.

Transfer

Miss Helen Jean Blades, from Legal Secretary, Attorney General's Chambers, to Senior Clerk, Royal Falkland Islands Police Force, 27.1.98.

Resignations

Mrs. Christine Ruth Lindsey, Staff Nurse, Medical Department, 6.2.98.

Glen Williams, Steward/Chauffeur, Government House, 13.2.98.

NOTICES

No. 14

5th February 1998

**APPOINTMENT OF COMMISSIONER
FOR OATHS**

In accordance with section 2(2) of the Commissioners for Oaths Ordinance 1969, **ALISON ANNE MACKENZIE INGLIS** is appointed a Commissioner for Oaths.

Dated this 5th day of February 1998.

R.P. RALPH,
Governor.

No. 15

5th February 1998

**APPOINTMENT OF COMMISSIONER
FOR OATHS**

In accordance with section 2(2) of the Commissioners for Oaths Ordinance 1969, **BRETT GERALD PHILLIPS** is appointed a Commissioner for Oaths.

Dated this 5th day of February 1998.

R.P. RALPH,
Governor.

No. 16

16th February 1998

**THE FALKLAND ISLANDS
SAN CARLOS SHEEP FARMING
COMPANY LIMITED**

TAKE NOTICE that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falklands 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 16th day of February 1998.

J.C. Rowland,
Registrar of Companies.

No. 17

17th February 1998

**FINES (INCREASE IN STANDARD SCALE)
ORDER 1997****ARTICLE 1****COMMENCEMENT NOTICE**

IN EXERCISE of my powers under article 1 of the Fines (Increase in Standard Scale) Order 1997, I hereby notify that the Order shall come into force on 1st March 1998.

Dated this 17th day of February 1998.

R.P. RALPH,
Governor.

Appointment of Temporary Customs Officer**Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

Sgt. C. O'BRIEN D8203640

to be a Temporary Customs Officer from 10th February 1998 until 30th April 1998.

R.J. King,
Collector of Customs.



THE FALKLAND ISLANDS GAZETTE

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31st March 1998

No. 3

Appointments

Mrs. Carolyn Normand, Laboratory Technician, Falkland Islands Community School, Department of Education, 5.3.98.

Terence Bonner, Plant Operator, Highways Section, Public Works Department, 9.3.98.

Kevin Ormond, Chauffeur/Steward, Government House, 9.3.98.

Mrs. Sally-anne Butler, Assistant Taxation Officer, Treasury, 16.3.98.

Owen Betts, Firefighter, Fire and Rescue Department, 16.3.98.

Miss Angela Clarke, Stores Assistant/Clerk, Plant and Vehicle Section, Public Works Department, 16.3.98.

Confirmation of Appointment

Miss Tracey Chamberlain, Personal Assistant, Falkland Islands Government Office, London, 16.3.94.

Leslie Biggs, Carpenter, Public Works Department, 26.2.98.

Mrs. Jill Roberts, Police Constable, Royal Falkland Islands Police Force, 28.2.98.

Acting Appointments

David Ford, Acting Chief Fire Officer, Fire and Rescue Department, 1.2.98.

Gardner Walker Fiddes, Acting Sub-Fire Officer, Fire and Rescue Department, 1.3.98.

Promotions

Miss Paula Jane Robinson, from Staff Nurse, Medical Department, to Nursing Sister, Medical Department, 2.3.98.

Graham Middleton, from Firefighter, Fire and Rescue Department, to Foreman, Highways Section, Public Works Department, 16.3.98.

Miss Barbara Cheek, from Stores Clerk, Public Works Department, to Customs & Immigration Officer, Customs & Immigration Department, 23.3.98.

Transfers

Marvin Thomas Clarke, from Chief Fire Officer, Fire & Rescue Department, to Permanent Staff Administration Officer, Falkland Islands Defence Force, 1.3.98.

Joseph Clarke, from Plant Operator, Public Works Department, to Sports Attendant, Education Department, 2.3.98.

Retirement

Mrs. Vera Bonner, Clerk, Public Service, 11.03.98.

Resignation

Mrs. Patricia Hanlon, Special Needs Assistant, Falkland Islands Community School, Department of Education, 31.3.98.

NOTICES

No. 18 27th February 1998

APPOINTMENT OF ADMIRALTY MARSHAL

Section 76 of the Constitution 1985 and section 76 of the Administration of Justice Ordinance 1977

IN EXERCISE of my powers under section 76 of the Constitution and section 76 of the Administration of Justice Ordinance 1977 and of all other powers enabling me, I, Richard Peter Ralph Companion of the Most Distinguished Order of St. Michael and St. George, Commander of the Royal Victorian Order, Governor of the Falkland Islands hereby confirm the appointment with effect from the twenty-sixth day of February 1998 of John Christopher Rowland as Admiralty Marshal.

Given under my hand this 27th day of February 1998.

R.P. RALPH,
Governor.

No. 19 2nd March 1998

WITTE BOYD (FALKLANDS) LIMITED COMPANY NUMBER: 8128

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 27th day of February 1998.

Dated this 2nd day of March 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 20 3rd March 1998

OFFSHORE INSTALLATIONS (PREVENTION OF FIRE AND EXPLOSION AND EMERGENCY RESPONSE) ORDER 1998

Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995 in their application to the Falkland Islands

COMMENCEMENT OF REGULATION 11(2)

Monday 30th March 1998 is hereby appointed as the date with effect from which regulation 11(2) of the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995 in their application under the law of the Falkland Islands shall apply.

Dated this 3rd day of March 1998.

J.C. Rowland,
Registrar of Companies.

No. 21 3rd March 1998

SCHOOL MANAGERS AS AT 3 MARCH 1998

The following is a list of School Managers as at 3 March 1998:

Infant/Junior School Committee of Managers:

Chairman	Dr Barry Elsby	Education Board Rep.
	Mrs. L. Titterton	Parent Representative
	Mr. A. Brownlee	Parent Representative
	Hon. J. Birmingham	Parent Representative
	Mrs. J. Smith	Headteacher
	Mrs. L. May	Teacher Representative
Secretary	Mrs. K. Stephenson	

Camp Education and School Hostel Committee of Managers:

Chairman	Hon. R. Cockwell	Education Board Rep.
	Miss D. Towersey	Parent Representative
	Mrs. J. Smith	Parent Representative
	Mr. R. Fogerty	Camp Education Supervisor
	Mrs. L. McGill	Head of Hostel
	Miss H. Norman	Teacher Representative
	Mrs. A. Robertson	Farmers' Representative
Secretary	Miss L. McMullen	

Falkland Islands Community School Committee of Managers:

Chairman	Mr. T. Burnett	Education Board Rep.
	Mrs. M. McLeod	Parent Representative
	Mr. A. Cordeiro	Parent Representative
	D. A. Clausen	Chamber of Commerce Representative
	Mr. D. Higgins	Headteacher
	Mrs. J. Shorrocks	Teacher Representative
Secretary	Mrs. M. Biggs	

Dated this 3rd day of March 1998.

No. 22 10th March 1998

CLANWOOD (FALKLANDS) LIMITED COMPANY NUMBER: 8030

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 10th day of March 1998.

Dated this 10th day of March 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 23 31st March 1998

SIERRA LEONE: LIFTING OF OIL EMBARGO

The Seirra Leona (United Nations Sanctions)
(Dependent Territories) Order 1997 (No. 2593)

Pursuant to the provisions of Article 1(2) of the above-mentioned Order, the Secretary of State for Foreign and Commonwealth Affairs hereby gives notice that, by Resolution 1156 (1998) adopted on 16 March 1998, the Security Council of the United Nations has decided to terminate, with immediate effect, the prohibitions on the sale or supply to Sierra Leone of petroleum and petroleum products referred to in paragraph 6 of Resolution 1132 (1997), which imposed certain measures in relation to Sierra Leone.

In accordance with the provisions of the said Article 1(2), the operation of the above-mentioned Order therefore ceased to have effect on 16 March 1998 to the extent required by the above-mentioned decision of the Security Council in Resolution 1156 (1998).

The Security Council decided also in Resolution 1156 to review the other prohibitions referred to in Resolution 1132 (1997) in accordance with paragraph 17 of that Resolution and in the light of developments and further discussion with the Government of Sierra Leone. These prohibitions remain in place at the present time.

No. 24

31st March 1998

ROAD TRAFFIC ORDINANCE

Road Traffic (Removal of Vehicles) Regulations 1979 (Regulation 4)

In pursuance of regulation 4 of the Road Traffic (Removal of Vehicles) Regulations 1979 notice is hereby given that, in respect of two vehicles abandoned at the Police Station being index number F388A, a lightweight Land Rover belonging to Mr. A. Hobman and index number F387C, a long wheelbase truckcab Land Rover belonging to Mr. R. Whitney, it is the intention of the Chief Police Officer that the vehicles may be destroyed or sold or disposed of if after the expiration of two days after the date of publication of this notice in the Gazette these vehicles have not been removed forthwith.

No. 25

31st January 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mr. German Guillermo Lazo Sanchez of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and 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 Customs & Immigration Department, Stanley, within two weeks of this notice.

J.E. SMITH,
Immigration Officer.

No. 25

31st January 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mrs. Cynthia Kay O'Shea of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and 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 Customs & Immigration Department, Stanley, within two weeks of this notice.

J.E. SMITH,
Immigration Officer.

Appointment of Temporary Customs Officer Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. M. WAKEFIELD -8251919

to be a Temporary Customs Officer from 19th January 1998 until 20th May 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

WO2 J. WOODLAND W0470990

to be a Temporary Customs Officer from 11th March 1998 until 26th September 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. A. McGINLEY P8284861

to be a Temporary Customs Officer from 11th March 1998 until 6th July 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

SGT. W. NEWBIGGING K8118996

to be a Temporary Customs Officer from 11th March 1998 until 6th July 1998.

R.J. King,
Collector of Customs.



THE FALKLAND ISLANDS GAZETTE Extraordinary

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2nd April 1998

No. 4

The following are published in this Gazette:-

Corrigendum

In Gazette CVVII No. 3, of 31st March 1998:

- Notice No. 20, 3rd March 1998, Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Order 1998 - this notice is incorrectly printed as having been signed "J.C. Rowland, Registrar of Companies", where it should have been printed as having been signed "R.P. Ralph, Governor".
- Notice No. 25, 31st January 1998, Application for Naturalisation by Mrs. Cynthia Kay O'Shea, is incorrectly numbered and should be No. 26.



THE FALKLAND ISLANDS GAZETTE

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30th April 1998

No. 5

Appointments

Mrs. Susan Goss, Cook, Medical Department, 1.4.98.

Mrs. Jane Whitcombe, Travelling Teacher, Department of Education, 21.4.98.

Transfers

Timothy Minto, from Assistant Foreman, Fox Bay Village, to Assistant Foreman, Quarry, 16.4.98.

Donald Naylor, from Travelling Teacher, Education Department, to Settlement Teacher, Education Department, 27.4.98.

Completion of Contracts

Dr. Conor Nolan, Senior Fisheries Scientist, Fisheries Department, 31.1.97.

Captain John Addinall, Senior Fisheries Protection Officer, Fisheries Department, 9.4.98.

Richard Carl Wagner, Economic Adviser, Treasury Department, 13.4.98.

Renewal of Contract

Dr. Conor Nolan, Senior Fisheries Scientist, Fisheries Department, 1.2.97.

Captain John Addinall, Senior Fisheries Protection Officer, Fisheries Department, 17.4.98.

Richard Carl Wagner, Economic Adviser, Treasury Department, 14.4.98.

Resignations

Boyd Watson, Customs & Immigration Officer, Customs & Immigration Department, 31.3.98.

Kevin George, Watchkeeper/Handyman, Power Station, Public Works Department, 9.4.98.

NOTICES

No. 27

SECTION 11A OF THE LAND ORDINANCE Cap 36

TAKE NOTICE That Michael James Murphy and Bessie Murphy of 68 Davis Street, Stanley, Falkland Islands has applied in accordance with section 11A (1) of the Land Ordinance to have executed in favour of them a Vesting Deed of certain land on East Falkland comprising of the property of 68 Davis Street, Stanley, Falkland Islands.

The applicant's statutory declaration may be inspected by any person at the Registrar General's office during normal working hours.

NOTICE IS HEREBY given that unless any objection has been received within 30 days following the publication of this notice the Registrar General under the terms of section 11A of the Land Ordinance will execute in favour of Michael James Murphy and Bessie Murphy a Vesting Deed of the said land.

J.C. ROWLAND,
Registrar of Companies.

FALKLAND ISLANDS GOVERNMENT

MEDICAL CHARGES FOR NON-ENTITLED PATIENTS

Introduction

The following is a list of charges which shall be levied in respect of medical services provided to persons who are neither *normally resident in the Falkland Islands* nor *entitled patients*. The charges are approved by the Governor pursuant to the provisions of Section 56 of the Public Health Ordinance, as amended in 1990.

The definitions of *normally resident in the Falkland Islands* and *entitled patients* are included in the Medical Charges Guidance Notes published with this list of charges.

<u>Nature of Charge</u>	<u>Amount of Charge</u>
Inpatient care inclusive charge plus two weeks discharge supply of drugs	£350 per day
Casualty/Outpatient charge per attendance -	
Up to 15 minutes	£42
Over 15 minutes	£84
Casualty/Outpatient charge is inclusive of all treatment except for laboratory tests, ECG, X-rays and more than 2 weeks supply of medication	
ECG	£45
Drug charges - drugs will be charged at cost price plus 10% with minimum charge of	£20
X-rays per film	£75
Specialist X-rays and scans	at cost
Laboratory tests	£20
Physiotherapy per 10 minute session	£35

Nature of Charge	Amount of Charge
Mortuary charge	initial £300 plus £20/day
Certificate of Death	£84
Certification of Repatriation of Remains	£84
Visits to ships in Port William/Stanley Harbour	£275
Visits to ships at FIPASS	£200
Visits to ships elsewhere in Colony	£120 per hour
Inspection/Issue of De-Ratting Certificate to vessel If inspection made in Port William or Stanley Harbour If inspection made outside territorial waters	£275 plus £84 plus at cost
Each patient seen on visit to ships	as casualty/outpatient
Use of ambulance in vicinity of Stanley per patient	£100
Use of ambulance outside the vicinity of Stanley per patient	£200
Public Health Inspection (Insurance Claim)	£50
House Calls Surcharge on Consultation Rate	£25
Dental charge inclusive of course of treatment Up to 15 minute appointment Over 15 minute appointment	£42 £84
Vaccination/Certification	£20

The Treasury
STANLEY

19 February 1998

Ref: 8/B

FALKLAND ISLANDS GOVERNMENT

MEDICAL CHARGES GUIDANCE NOTES

Definitions

1. A person is “**normally resident in the Falkland Islands**” if he is liable to Falkland Islands income tax and occupies a home in the Falkland Islands -
 - (a) as owner; or
 - (b) as tenant; or
 - (c) as a member of the household of an owner or tenant.

But a person who lives aboard a yacht moored in Falkland Islands waters or is a member of the crew of a vessel registered in the Falkland Islands is to be regarded as having a home in the Falkland Islands if he is liable to Falkland Islands tax.

2. “**Entitled patient**” means a person -
 - (a) who falls within the definition of *normally resident in the Falkland Islands* (see paragraph 1 above); or
 - (b) who is normally resident in the United Kingdom or is a person to who, for any other reason, a Reciprocal Health Services Agreement applies; or
 - (c) is a member of Her Majesty’s Armed Services serving in the Falkland Islands; or
 - (d) is employed in a civilian capacity by the Ministry of Defence or by any contractor contracted to supply services in the Falkland Islands to the Ministry of Defence or by the British Forces Broadcasting Service or the Navy, Army and Air Force Institute.

Charges

3. Generally there shall be no charges levied in respect of medical services provided to persons who are *normally resident in the Falkland Islands* or *entitled patients*.
4. Charges shall be levied in respect of medical services provided to persons who are neither normally resident in the Falkland Islands nor entitled patients. The charges to be levied are those in force as approved by the Governor and specified by a notice published in the Gazette pursuant to the provisions of Section 56 of the Public Health Ordinance, as amended in 1990.

Medical Treatment Overseas

5. The Chief Medical Officer is authorised to recommend to a patient who is liable to Falkland Islands income tax or a member (not himself or herself exempt from Falkland Islands income tax on his or her earnings) of household of a person who is liable to Falkland Islands income tax that he or she should proceed overseas for specialist treatment the cost of which shall be paid by the Falkland Islands Government.
6. The cost of such treatment shall be limited to -
 - (a) return overseas passages;
 - (b) essential travel expenses;
 - (c) charges raised by any hospitals, consultants and nursing homes;
 - (d) where the patient is not an in-patient a subsistence allowance will be provided by the Falkland Islands Government. The rate of the allowance will be a rate approved by the Governor;
 - (e) where authorised by the Chief Medical Officer, the Falkland Islands Government will meet the costs of (a), (b) and (d) above for a person to accompany a patient in exceptional circumstances, eg: terminally ill, extreme young or old age, handicapped.
7. The decision as to whether or not a patient should be recommended to seek specialist advice or treatment abroad rests with the Chief Medical Officer, and patients seeking such advice or treatment without his recommendation are not entitled to any assistance from public funds.

The Treasury
STANLEY

19 February 1998

Ref: 8/B (498.14)

No. 29

26th March 1998

INCREASE IN PASSPORT FEES

It is notified for public information that with effect from 26 March 1998 the following fees will apply for passport services provided in the Falkland Islands.

Type of Service**New Fee**

Issuing a passport of not more than 32 pages which includes replacing an expired passport and issuing a new passport of full validity when an original passport of restricted validity is unavailable:

- a) where the applicant is aged 16 years and over £31.00
- b) where the applicant is under 16 years
(for a passport valid for 5 years) £21.00

Amending an existing passport by adding the particulars of a child or children: £21.00

Amending an existing passport by amending the holder's name at the request of the holder or issuing a replacement passport which contains an amendment: £21.00

Amending an existing passport by adding a fresh photograph or amending the holders description, or issuing a replacement passport which contains such addition or amendment except where the holder was under 16 years at the date of issue of the existing passport and the passport was issued before 26 March 1998: £21.00

J.E. SMITH,
Immigration Officer.

No. 30

6th April 1998

BERKELEY SOUND SHIPPING**Company Number: 8685**

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 6th day of April 1998.

Dated this 6th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 31

8th April 1998

INSURANCEBROKERS (FALKLANDS) LIMITED
COMPANY NUMBER: 8109

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 8th day of April 1998.

Dated this 8th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 32

14th April 1998

MARR (FALKLANDS) LIMITED
COMPANY NUMBER: 8113

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the

Companies Act 1948 in its application to the Falkland Islands on the 14th day of April 1998.

Dated this 14th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 33

14th April 1998

DARETREST (FALKLAND ISLANDS) LIMITED
COMPANY NUMBER: 9724

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 14th day of April 1998.

Dated this 14th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 34

20th April 1998

SCOTIA MARITIME LIMITED
COMPANY NUMBER: 9437

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 20th day of April 1998.

Dated this 20th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 35

27th April 1998

MORADINA FISHING COMPANY LIMITED
COMPANY NUMBER: 10243

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 27th day of April 1998.

Dated this 27th day of April 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 36

30th April 1998

NOTICE is hereby given that Mr. Michael Charles Bingham is applying for a Permanent Residence Permit for the Falkland Islands, and that any person who knows why a Permanent Residence permit should not be granted should send a written and signed statement of the facts to the Principal Immigration Officer, The Secretariat, Stanley, to reach him before the expiry of 14 days from the date of this notice.

P.T. KING,
Principal Immigration Officer.

CORRIGENDUM

In Gazette CVII No. 3, of 31st March 1998, Notice No. 21, School Managers: FICS - D.A. Clausen, should read Dr. A. Clausen.



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

29th May 1998

No. 6

Appointments

Sarah Bowe, Fisheries Observer, Fisheries Department, 24.4.98.

Amanda Browning, Trainee Printer, Printing Office, 4.5.98.

Peter Crowie, Labourer, Public Works Department, 4.5.98.

Roy Goss, Apprentice Plumber, Public Works Department, 4.5.98.

Mervyn Lee, Painter/Handyman, Public Works Department, 18.5.98.

Grant Budd, Electrician, Public Works Department, 25.5.98.

Acting Appointment

Mrs. Leona Roberts, Acting Head Printer, 16.5.98. to 23.6.98.

Confirmation of Appointments

Wendy Kultschar, Assistant Customs/Immigration Officer, Customs/Immigration Department, 6.5.98.

Gary Webb, Police Constable, Royal Falkland Islands Police, 20.5.98.

Completion of Contract

Michael John Forrest, Director, Public Works, 27.4.98.

Renewal of Contract

Michael John Forrest, Director, Public Works, 28.4.98.

Resignations

Peter Burnard, Teacher, Infant/Junior School, 27.4.98.

Mrs. Linda May Burnard, Teacher, Falkland Islands Community School, 27.4.98.

Mrs. Sheena Cox, Special Needs Teacher, Infant/Junior School, 11.5.98.

NOTICES

No. 37

30th April 1998

SUPREME COURT OF THE FALKLAND ISLANDS

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

TAKE NOTICE THAT Sigrid Geraldine Wells Barnes deceased of Stanley, Falkland Islands died at K.E.M.H., Stanley, Falkland Islands on the 8th day of April 1998.

WHEREAS Xenia Mary Fleming, daughter of the deceased, has applied for Letters of Administration (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.

L. A. TITTERINGTON,
Registrar, Supreme Court.

Stanley
Falkland Islands
30 April 1998
Ref: PRO/1/1998

No. 38 7th May 1998
SUPREME COURT OF THE FALKLAND ISLANDS
Notice under the Administration of Estates
Ordinance (Cap. 1)

TAKE NOTICE THAT Ernest Reive deceased of Stanley, Falkland Islands died at Stanley, Falkland Islands on the 21st day of October 1994 intestate.

WHEREAS Roma Eudora Mary Reive, wife 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.

L.A. TITTERINGTON,
Registrar, Supreme Court.

Stanley
 Falkland Islands
 7th May 1998
 Ref: PRO/2/1998

No. 39 11th May 1998
FALKLAND ISLANDS CONSTITUTION ORDER 1985
THE CONSTITUTION OF THE FALKLAND
ISLANDS
Section 79(1)

Appointment of Chief Justice

IN EXERCISE of my powers under section 79(1) of the Constitution and in pursuance of instructions given by Her Majesty through the Secretary of State for Foreign and Commonwealth Affairs I **APPOINT** JAMES ARTHUR WOOD ESQUIRE to be the Chief Justice of the Falkland Islands.

GIVEN under the Public Seal of the Falkland Islands this eleventh day of May 1998.

R.P. RALPH,
Governor.

No. 40 14th May 1998
ADMINISTRATION OF ESTATES ORDINANCE
(section 13)

APPOINTMENT OF OFFICIAL ADMINISTRATOR

IN EXERCISE of my powers under section 13 of the Administration of Estates Ordinance, I appoint LESLEY ANN TITTERINGTON to be the Official Administrator and to exercise the rights, powers and duties and to be subject to the liabilities of the Public Trustee established under the Public Trustee Act 1906, in respect of the administration of estates in the application

of that Act to the Falkland Islands under the provisions of that section.

Dated this 14th day of May 1998.

R.P. RALPH,
Governor.

No. 41 18th May 1998

SAN CARLOS SHEEP FARMING LIMITED
COMPANY NUMBER: 2825

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 18th day of May 1998.

Dated this 18th day of May 1998.

J.C. ROWLAND,
Registrar of Companies.

No. 42 27th May 1998

It is hereby notified for information that JOAN MAY BUTLER has changed her name to JOAN MAY McLEOD by **Deed Poll**.

Dated this 27th day of May 1998.

J.C. ROWLAND,
Registrar General.

No. 43 27th May 1998

It is hereby notified for information that TERESA STEVENS has changed her name to TERESA MCGILL by **Deed Poll**.

Dated this 27th day of May 1998.

J.C. ROWLAND,
Registrar General.

No. 44 29th May 1998

THE BANKING ORDINANCE 1987 Section 19(1).
THE BANKING (AMENDMENT) ORDINANCE 1996.

NOTICE IS HEREBY GIVEN pursuant to Section 19(1) of the Banking Ordinance 1987, as amended, that the audited accounts of Standard Chartered Bank for the year ended 31st December 1997 are available for inspection at the bank branch office, Ross Road, Stanley, or a copy will be supplied on application to the Manager.

K.R. Biles BSc. ACIB.
Manager, Standard Chartered Bank,
P.O. Box 166,
Stanley, Falkland Islands

CORRIGENDUM

In Gazette CVII No. 5, of 30th April 1998, Notice No. 33, Daretrest (Falkland Islands) Limited, should read Dartrest (Falkland Islands) Limited.



**THE
FALKLAND ISLANDS GAZETTE
Extraordinary**

PUBLISHED BY AUTHORITY

Vol. CVII

12th June 1998

No. 7

The following is published in this Gazette:-

The Register of Electors - Preliminary List 1998.

15th May 1998

REGISTER OF ELECTORS - PRELIMINARY LIST

The Registration Officer has prepared the preliminary list of all persons who, on the qualifying date (15 May 1998), 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 Registry, 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

Deceased Electors - Stanley

Anderson Edward Bernard
Barnes Sigrid Geraldine Wells
Howatt Frank Derby
Lyse Reginald Sturdee
Roberts William Henry
Thompson George Henry
Whitney Agnes Kathleen

Electors who have changed Constituency - Camp to Stanley

Morrison Patrick

Electors who have changed Constituency - Stanley to Camp

McLeod Joan May

Electors who are no longer resident - Camp

Morrison Patrick

Electors who are no longer resident - Stanley

McLeod Joan May

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

Berntsen Diana Mary
 McLeod Joan May
 Tellez Charlotte Melizza

Electors who have changed name by deed poll or by marriage - Stanley

Alazia Colleen
 Battersby Margaret Mary
 Clarke Amelia
 Dobbys Kathleen Gay
 Duncan Delsha Vanessa Jane
 Duvall Kenneth William
 Gisby Annie
 Jaffray Nichola Jane
 May Lucinda Vikki
 McGill Teresa
 McGinness Janice
 Short Dilys Margaret Ann
 Steen - Macdonald Vanda Joan
 Stewart - Reid Carol Ellen Eva
 Summers Deborah

Electors entitled to vote for the first time - Camp

Alazia Jason Neville
 Clarke Jan Michael
 McKay Gerard
 Taylor Christopher John
 Tellez Rudolfo
 Velasquez Oscar Hernan

Electors entitled to vote for the first time - Stanley

Bonner Alan Paul
 Anderson Stanley John
 Blyth Paz Neri
 Coulter Donald Mark
 Desborough Gladys Malvina
 Donnelly Derek
 Ferguson Lynn Ann
 Ford Darrel
 Forrest Michael John
 Goodwin Christopher Sturdee
 Higgins Dawn
 Jackson Mark Malcolm
 Jaffray Tanya Fiona
 Jones David Richard
 Jones Deena Marie
 Jones Doreen Evelyn Margaret
 McKay Jennifer Coral
 Olmedo Apablaza Hector Alejandro
 Payne StJohn Peter

Pollard Mark John
 Rozée Tamara Collette
 Toase Aidan Edward

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.

“Resident” is defined in section 3 of the Electoral Ordinance 1988 as follows”

“Meaning of “resident” for the purpose of qualification to be registered as an elector

3. (1) Subject to subsection (3), for the purpose of qualification to be registered as an elector, a person is to be treated as being resident in the Falkland Islands-

(a) during such part or parts of the period of twelve months ending on the qualifying date as he was in the Falkland Islands; and

(b) during such part or parts of the period of twelve months ending on the qualifying date as his absence from the Falkland Islands was by reason of subsection (2) a permitted absence for the purposes of this section.

(2) Subject to subsection (3), a person’s absence from the Falkland Islands shall for the purposes of subsection (1) be regarded as a permitted absence to the extent that it was occasioned by one or more of the following-

(a) the performance of duties as a public officer in the employment of the Falkland Islands Government;

(b) the performance of duties as a member of the Legislative Council or as a member or an employee of the Corporation;

(c) service in the Her Majesty’s regular armed forces;

(d) service as a member of the Falkland Islands Defence Force;

(e) undergoing a course of education or training overseas;

(f) undergoing a course of medical treatment overseas;

(g) accompanying a spouse absent overseas for a reason mentioned in paragraphs (a) to (e) of this subsection;

(h) any other absence for a period or periods not exceeding six months in the period of twelve months immediately preceding the qualifying date.

(3) A person's absence from the Falkland Islands shall not be regarded as a permitted absence if he has not had a home in the Falkland Islands at any time during the five years preceding the qualifying date.

The "qualifying period" is prescribed by section 4 of the Electoral Ordinance 1988 as follows

"Meaning of "resident for the qualifying period"

4. (1) Subject to the provisions of this subsection, for the purposes of the provisions of this Ordinance as to the qualification of a person to be registered as an elector, a person is to be regarded as being resident in the Falkland Islands for the qualifying period if under the provisions of section 3 he is to be treated as being resident in the Falkland Islands for the period of twelve months immediately preceding the qualifying date. Notwithstanding the foregoing, a person not born in the Falkland Islands shall not, in respect of any electoral register prepared in relation to the qualifying date in 1998 (that is to be say, 15th May 1998), be treated as resident in the Falkland Islands for the qualifying period unless on that date he had been ordinarily resident in the Falkland Islands for a period of not less than seven years expiring on that date. For the purposes of this subsection, "ordinarily resident" has the same meaning as it has at common law."

1	Adams	John Harvey	21 Ross Rd. East
2	Adams	Marjorie Rose	21 Ross Rd. East
3	Alazia	Andrew	66 Davis St.
4	Alazia	Anita Jayne	Government House
5	Alazia	Colleen	11 Fitzroy Rd. East
6	Alazia	Freda	2 Fitzroy Rd.
7	Alazia	Freda Evelyn	33 Ross Rd. West
8	Alazia	James Andrew	2 Fitzroy Rd.
9	Alazia	Keith	4 James St.
10 *	Alazia	Maggie Ann	6 John St.
11	Alazia	Stuart John	31 Fitzroy Rd.
12	Alazia	Yvonne	Flat 2, 1A Moody St.
13	Aldridge	Caroline Mary	2 H Jones Rd.
14	Aldridge	Kenneth John	2 H Jones Rd.
15	Aldridge	Nina Ann	2 H Jones Rd.
16 *	Allan	John	28 John St.
17	Allan	Joyce Ena	28 John St.
18	Allan	Michael Charles	3 Philomel Place
19	Almonacid	Orlando	1 Villiers St.
20	Anderson	Carol Anne	22 Endurance Ave.
21	Anderson	Claudette	56 John St.
22	Anderson	Eddie	22 Endurance Ave.
23 *	Anderson	Elizabeth Nellie	42 Davis St.
24 *	Anderson	Gloria	Jersey Est.
25 *	Anderson	Helen	88 Davis St.
26	Anderson	Jamie Falkland	Stanley
27	Anderson	Margaret Kathleen	21 John St.
28 *	Anderson	Mildred Nessie	8 St. Marys Walk
29	Anderson	Paul James	39 Eliza Cres.
30	Anderson	Reginald Stanford	21 John St.
31	Anderson	Richard Louis	88 Davis St.
32	Anderson	Rupert William	Stanley
33	Anderson	Stanley John	Stanley
34	Anderson	Stephen Robert	Stanley
35	Anthony	Enid Elizabeth	6 Dairy Paddock Rd
36	Anthony	Geraldine Sylvia	Flat 6, 6 Jersey Rd.
37	Anthony	Malcolm James	17 Brandon Rd.
38	Backhouse	Cheryl Paulette	19 Scoresby Close
39	Backhouse	Nicholas	19 Scoresby Close
40	Ballard	Wanda Rose	1 Fieldhouse Close
41 *	Barnes	Ernest	70 Davis St.
42 *	Barnes	Molly Stella	70 Davis St.
43	Barnes	Trevor Marshall	1 Auster Place
44	Barton	Alison Mary	6 Villiers St.
45	Barton	Arthur John	6 Villiers St.
46	Battersby	Jon Alan	16 Fieldhouse Close
47	Battersby	Margaret Mary	16 Fieldhouse Close
48	Bedford	Carole Anne	16 Scoresby Close
49	Bedford	Kita Muriel	2 Drury St.
50 *	Bennett	Harold	14 Alardyce St.
51 *	Bennett	Lena Grace Gertrude	14 Alardyce St.
52	Berntsen	Benjamin John	31 Ross Rd. West
53	Berntsen	Cecilia Del Rosario	14 St Marys Walk
54	Berntsen	Christian Olaf Alexander	32 Eliza Cres.
55	Berntsen	Iain Kenneth	9 Eliza Cres.

56 *	Berntsen	Kathleen Gladys	1 St Marys Walk, Stanley
57	Berntsen	Kenneth Frederick	20 Ross Road West, Stanley
58 *	Berntsen	Lavinia Maud	KEMH
59	Berntsen	Matthew John	39 Davis St.
60	Berntsen	Olaf Christian Alexander	Eliza Cres.
61	Berntsen	Patrick	10 James St.
62	Berntsen	Saphena Anya Jane	Flat 7, 6 Jersey Rd.
63	Berntsen	Valdamar Lars	14 St. Marys Walk
64	Berntsen	Valorie Marcela	14 St. Marys Walk
65 *	Bertrand	Catherine Gladys	11 Ross Rd. East
66	Besley-Clark	Barbara June	53 Callaghan Rd.
67	Besley-Clark	Craig Norman Leigh	53 Callaghan Rd.
68	Besley-Clark	Douglas James	53 Callaghan Rd.
69	Besley-Clark	Norman	53 Callaghan Rd.
70	Betts	Arlette	Lafone House, Ross Rd. East
71	Betts	Donald William	7 Jeremy Moore Ave.
72 *	Betts	Ellen Alma	21 Fitzroy Rd.
73	Betts	George Winston Charles	35 Ross Rd. West
74	Betts	Ian	1 Villiers St.
75	Betts	Lucia Elizabeth	35 Ross Rd. West
76	Betts	Owen	Flat 4, Church House
77	Betts	Severine	2B Jeremy Moore Ave. East
78	Betts	Shirley Rose	7 Jeremy Moore Ave.
79	Betts	Terence Severine	Lafone House, Ross Rd. East
80	Biggs	Alastair Gordon	Trehayle, 50 John St.
81	Biggs	Althea Maria	3 Dairy Paddock Rd.
82 *	Biggs	Betty Josephine	9 Moody St.
83 *	Biggs	Edith Joan	Trehayle, 50 John St.
84	Biggs	Frances	16 Endurance Ave.
85 *	Biggs	Frederick James	KEMH
86 *	Biggs	Irene Mary	Harbour View, 4 Ross Rd. East
87	Biggs	Leslie Frederick	3 Dairy Paddock Rd.
88	Biggs	Michael Elfed	21 Fitzroy Rd.
89	Biggs	Peter Julian Basil	16 Endurance Ave.
90	Binnie	Juliet Ann	33 Eliza Cres.
91	Binnie	Susan	3 Brandon Rd.
92	Birmingham	John	4 Drury St.
93	Birmingham	Susan Jane	4 Drury St.
94	Blackley	Candy Joy	4 Barrack St.
95	Blackley	Hilda	11 Thatcher Drive
96	Blackley	John David	4 Barrack St.
97	Blackley	Maurice	The Lodge, Market Garden
98	Blackley	Shane David	4 Barrack St.
99	Blades	Helen Jean	10 John St.
100	Blake	Thomas Patrick	90 Davis St.
101 *	Blizard	Lawrence Gordon	51 Fitzroy Rd.
102 *	Blizard	Malvina Mary	51 Fitzroy Rd.
103 *	Blyth	Agnes Ruth	2 Brandon Rd.
104 *	Blyth	Alfred John	2 Brandon Rd.
105	Blyth	Paz Neri	5 St Mary's Walk, Stanley
106 *	Bonner	Alan Paul	5 John Street, Stanley
107	Bonner	Angela Jane	5 John St.
108	Bonner	Cheryl Anne	4a Ross Road West
109 *	Bonner	Donald William	Chaffeurs Cottage
110	Bonner	Hayley Trina	41 Ross Rd. West

111 Bonner	Linda Jane	4A Ross Rd. West
112 Bonner	Nicholas	4A Ross Rd. West
113 Bonner	Paul Roderick	5 John St.
114 Bonner	Timothy	41 Ross Rd. West
115 Bonner	Vera Ann	5 John St.
116 Bonner	Vera Joan	Chaffeurs Cottage
117 * Bonner	Violet	40 Ross Rd.
118 * Booth	Jessie	Racecourse Cottage
119 * Booth	Joseph Bories	7 Philomel St.
120 Booth	Myriam Margaret Lucia	7 Philomel St.
121 * Booth	Stuart Alfred	Racecourse Cottage
122 * Bound	Joan	Barrack St.
123 Bowles	Norma Evangeline	1A Villiers St.
124 Bowles	William Edward	1A Villiers St.
125 Bowles	William George Troyd	1A Villiers St.
126 Bragger	Edward Laurence	14 Jeremy Moore Ave.
127 Bragger	Olga	14 Jeremy Moore Ave.
128 Brock	Juanita Lois	Flat5, 1 Jeremy Moore Ave East
129 Brooks	Cheryl Rose	25 Callaghan Rd.
130 Brooks	Peter William	25 Callaghan Rd.
131 Browning	Colin George	1 Moody St.
132 Browning	Edwina	Davis St.
133 Browning	Rex	35 Davis St.
134 Browning	Richard William	33 Davis St
135 Browning	Trevor Osneth	Rose Hotel
136 Brownlee	Andrew Samuel	19 Ross Rd East
137 Brownlee	Lynn Frances	19 Ross Rd East
138 Buckett	Ronald Peter	49 Fitzroy Rd.
139 Buckett	Susan Vera	49 Fitzroy Rd.
140 Buckland	Colin Michael	13 Murray Heights
141 Buckland	Darlene Joanna	11 James St.
142 Buckland	Peter John	9 Callaghan Rd.
143 * Bundes	Robert John Christian	17 Fitzroy Rd.
144 Burnard	Eleanor Jane	3 Jeremy Moore Ave.
145 Burnard	Jennifer	3 Jeremy Moore Ave.
146 Burnard	Linda May	3 Jeremy Moore Ave.
147 Burnard	Peter	3 Jeremy Moore Ave.
148 Burnett	Anthony	59 Fitzroy Rd.
149 Burnett	Elizabeth Ann	59 Fitzroy Rd.
150 * Burns	Mary Anne	34 Davis St.
151 Bury	Ian Thomas	63 Davis St.
152 Butcher	Michael George	3A Dairy Paddock Rd.
153 Butcher	Trudi	3A Dairy Paddock Rd.
154 * Butler	Elsie Maud	8 John St.
155 * Butler	Frederick Lowther Edward Olai	8 John St.
156 * Butler	George Joseph	1A Moody St.
157 Butler	Laurence Jonathan	2 Davis St East
158 Butler	Margaret Orlanda	15A James St.
159 Butler	Orlanda Betty	2 Davis St. East
160 Cameron	Jane Diana Mary Keith	Old Bakery, Fitzroy Rd.
161 Cant	Carol Rosine	Stanley
162 Cant	Martin Ronald	Stanley
163 Card	Patricia Collette	7 Ian Campbell Drive
164 * Carey	Anthony Michael	19 Ross Rd. West
165 Carey	Bonita Colleen	19 Ross Rd. West

166 *	Carey	Gladys	19 Ross Rd. West
167	Carey	Martin Rex	21 Eliza Cove Cres.
168 *	Carey	Mary Ann Margaret	18 Ross Rd. West
169 *	Carey	Terence James	18 Ross Rd. West
170	Cartwright	Stephen	39 Ross Road West
171	Castle	David Peter	26 John St.
172	Castle	Isobel	26 John St.
173	Ceballos	Eulogio Gabriel	28 Endurance Ave.
174	Chaloner	Sheila Catherine	2 Racecourse Rd
175	Chapman	Helen	6 Fitzroy Rd. East
176	Chapman	Paul	6 Fitzroy Rd. East
177	Chater	Anthony Richard	33 Fitzroy Rd.
178	Chater	Thomas Frederick	33 Fitzroy Rd.
179	Chater	William John	33 Fitzroy Rd.
180	Cheek	Barbara	10 Ross Rd.
181	Cheek	Gerald Winston	10 Ross Rd.
182	Cheek	Janet Linda	25 Ross Rd. West
183	Cheek	Marie	10 Ross Rd.
184	Cheek	Miranda	25 Ross Rd. West
185	Cheek	Rosalind Catriona	25 Ross Rd. West
186	Clapp	Kevin Christopher	1 Murray Heights
187 *	Clark	Ector	27 Eliza Cres.
188	Clark	Jonathan Andrew	Flat 10, Jersey Rd
189 *	Clark	Joyce Kathleen	27 Eliza Cres.
190	Clarke	Amelia	1 Callaghan Rd.
191	Clarke	Camilla Marie	8 Drury St.
192	Clarke	Christopher	Stanley
193	Clarke	David James	17 Ross Rd. West
194	Clarke	Derek Simon	23 Jeremy Moore Ave.
195 *	Clarke	Doreen	17 Ross Rd. West
196	Clarke	Gwynne Edwina	17 Jeremy Moore Ave.
197	Clarke	Ian	17 Ross Rd. West
198 *	Clarke	James Martin	4B Ross Rd. West
199	Clarke	Jan Michael	5 Allardyce Street
200	Clarke	Jonathan Terence	17 Jeremy Moore Ave.
201	Clarke	Julie Ann	Globe Tavern
202	Clarke	Marvin Thomas	7 Fitzroy Rd.
203	Clarke	Paul Ian	Stanley
204	Clarke	Petula Jane	Stanley
205	Clarke	Rachel Ena	32 Eliza Cres.
206 *	Clarke	Ronald John	17 Ross Rd. West
207	Clarke	Rudy Thomas	8 Drury St.
208	Clarke	Sasha Michelle	Stanley
209	Clarke	Shane Adrian	1 Callaghan Rd.
210	Clarke	Suzanna	YMCA
211	Clarke	Terence John	17 Jeremy Moore Ave.
212	Clarke	Trudi Ann	7 Fitzroy Rd.
213	Clarke	Violet Rose	31 Ross Rd. West
214	Clasen	Wayne Ian Summers James	9 Fitzroy Rd.
215	Clausen	Andrea Patricia	3 St. Marys Walk
216	Clausen	Denzil George Gustavius	3 St. Marys Walk
217	Clausen	Melanie Florence	1 Hebe St.
218	Clausen	Sophie Marina	Stanley
219 *	Claxton	Frank Brian	28 Ross Rd. East
220	Claxton	Margaret	28 Ross Rd. East

221	Clayton	Brian	16 St. Marys Walk
222	Clayton	Susan	16 St. Marys Walk
223	Clement	Gary	9 Snake St.
224	Clement	Jane	9 Snake St.
225	Cletheroe	Kenneth Stanley	45 Fitzroy Rd.
226 *	Clifton	Charles	3 Ross Rd. West
227	Clifton	Darwin Lewis	53 Davis St.
228	Clifton	Doreen	3 Ross Rd. West
229	Clifton	Kevin	20 Davis St.
230	Clifton	Marie	6 Discovery Close
231	Clifton	Neil	20 Davis St.
232	Clifton	Stephen Peter	61 Fitzroy Rd.
233	Clifton	Terence Charles	3 Ross Rd. West
234	Clifton	Teresa Ann	12 Callaghan Rd.
235	Clifton	Valerie Ann	61 Fitzroy Rd.
236	Clingham	Leslie George	2 Brisbane Rd.
237	Clingham	Yvonne Helen	2 Brisbane Rd.
238	Cockwell	Maurice Adam	90 Davis St.
239	Cofre	Anya Evelyn	6A Ross Rd. West
240	Cofre	Elvio Miguel	6A Ross Rd. West
241	Collier	Mark Walter	11 Campbell Drive
242	Collier	Sharon	11 Campbell Drive
243	Collins	Shiralee	Flat 9, 6 Jersey Rd.
244	Connolly	Kevin Barry	1 King St.
245	Coombe	Peter	12 Ross Rd. West
246	Coombe	Robert	8 Murray Heights
247	Coombe	Shirley Anne	12 Ross Rd. West
248	Cotter	Mary Jane	9 Jeremy Moore Ave.
249	Cotter	Timothy Stewart	9 Jeremy Moore Ave.
250	Coulter	Donald Mark	9 Fieldhouse Close, Stanley
251	Coulter	Paula	9 Fieldhouse Close
252	Courtney	Anthony Clive	Lady Hunt House, John St.
253	Courtney	Julie Doris	Lady Hunt House, John St.
254	Coutts	Charles	12 Endurance Ave.
255 *	Coutts	Charles Lindsay	33 Ross Rd.
256	Coutts	Diana Marion	6B Ross Rd. West
257	Coutts	John	36 Ross Rd. West
258 *	Coutts	Olga	33 Ross Rd.
259	Coutts	Peter	13 Campbell Drive
260	Crabb	Elizabeth Ann	38 Eliza Cres.
261	Crowie	Alan John	3 Fitzroy Rd. East
262	Crowie	Ana Bonita	3 Fitzroy Rd. East
263	Crowie	Breda Marie	35 Callaghan Rd.
264	Crowie	David Sean	Stanley
265	Crowie	Nicola Jane	35 Callaghan Rd.
266	Crowie	Robert John	35 Callaghan Rd.
267	Curtis	Alfred William Hamilton	6 Brandon Rd. West
268	Curtis	Barbara Joan	6 Brandon Rd. West
269	Curtis	James William Hamilton	6 Ross Rd.
270	Davies	Andrew Liam	Flat 7, 6 Jersey Rd.
271	Davies	Anthony Warren	7 Callaghan Rd.
272	Davies	Christine Susan	8 Fitzroy Rd. East
273	Davies	Colin George	15 Ross Rd. West
274	Davies	Eileen Wynne	15 Ross Rd. West
275	Davies	Jacqueline Nancy	7 Callaghan Rd.

276	Davies	Stephen Andrew	7 Callaghan Rd.
277	Davies	William	8 Fitzroy Rd. East
278	Davis	Ellen Rose	39 Davis St.
279	Davis	Mandy John	15 James St.
280	Davis	Maurice	39 Davis St.
281	Davis	Nicholas	15 James St.
282	Davis	Roy George Victor	6 Narrows View
283	Davis	Sharon Sandra Evelyn	6 Narrows View
284	Davy	Patrick Alex Field	Flat3, 3 Jeremy Moore Ave East
285	Decroliere	Carrie Madeline Helen	5 Discovery Close
286 *	Desborough	Gladys Malvina	14 Allardyce Street
287 *	Dickson	Caroline Christine Bird	108 Davis St.
288	Dickson	Michael Keith	C/o Tamar
289	Didlick	Fiona Margaret	13 Jeremy Moore Ave
290	Didlick	Graham John	13 Jeremy Moore Ave
291	Didlick	Rhiannon Elinore	13 Jeremy Moore Ave
292	Diggle	Katherine Elizabeth	12 Jersey Rd.
293	Diggle	Roger John	12 Jersey Rd.
294	Dobbys	Kathleen Gay	60 Davis St.
295	Dodd	Alison	1 Pioneer Row
296	Dodd	Nigel Keith	1 Pioneer Row
297	Doherty	Ian	12 McKay Close
298	Donnelly	Derek	YMCA, Stanley
299	Drysdale	Karen Margaret	Stanley
300	Duncan	Delsha Vanessa Jane	18 Jeremy Moore Ave.
301 *	Duncan	Doreen	Tenacres
302 *	Duncan	William	Tenacres
303	Duvall	Kenneth William	Stanley
304	Earnshaw	Jacqueline Elizabeth	32 Ross Rd. West
305	East	Justin Clive Richard	1 Fieldhouse Close
306	Eccles	Bernard Leslie	18 Jeremy Moore Ave.
307	Eccles	Moiria Cameron	18 Jeremy Moore Ave.
308	Elliott	Elizabeth Rose	15 Callaghan Rd
309	Elliott	Henry James	15 Callaghan Rd.
310 *	Ellis	Cyril	24 Ross Rd. East
311	Ellis	Lucy	Stanley
312	Ellis	Valerie	24 Ross Rd. East
313	Elsby	Barry	Moody Brook House.
314	Ericksen	Michelle	1B Capricorn Rd.
315	Evans	Donna Newell	By-Pass Rd.
316 *	Evans	Gladys Alberta	6 Barrack St.
317	Evans	Michael David	By-Pass Rd.
318	Evans	Russel	Fieldhouse Close
319	Ewing	Gordon	4 Jeremy Moore Ave
320	Ewing	Irene	4 Jeremy Moore Ave
321	Eynon	Carol	8 Villiers St.
322	Eynon	Christopher Huntlee	8 Villiers St.
323	Eynon	David John	8 Villiers St.
324	Faria	Basil Harry	3A Brisbane Rd.
325	Faria	Maria Anne	3A Brisbane Rd.
326 *	Faria	Mary Ann	6A Jeremy Moore Ave
327	Faria	Paul	Whyteways, James St.
328	Faria	Susana Caroline Berntsen	Whyteways, James St.
329	Felton	Sonia Ellen	Stanley
330 *	Felton	Violet Regina Margaret	German Camp, Callaghan Rd.

331	Ferguson	Lynn Ann	9 Eliza Cove Crescent
332	Ferguson	Marie Anne	Stanley
333 *	Ferguson	Robert John	4 Capricorn Rd.
334	Ferguson	Rose	Flat 7, 1 Jeremy Moore Ave East
335	Ferguson	Thelma	4 Capricorn Rd.
336	Fiddes	Douglas Graham	18 Ross Rd. East
337	Fiddes	Gardner Walker	8 Endurance Ave
338	Fiddes	Julia Bertrand	18 Ross Rd. East
339	Fiddes	Mary McKinnon Livingstone	4 Moody St.
340	Fiddes	Melody Christine	8 Endurance Ave
341	Fiddes	Robert	4 Moody St.
342	Fiddes	Shona Mary	Sir Rex Hunt House.
343 *	Finlayson	Iris Dwenda Margaret	7 John St.
344	Finlayson	Peter	6 Brandon Rd.
345 *	Finlayson	Phyllis	6 Brandon Rd.
346	Fisher-Smith	Julie Ann	8 Fieldhouse Close
347	Fleming	Richard Ian	7 Ian Campbell Drive
348	Fogerty	Philip John	Stone Cottage
349	Fogerty	Richard Edwin John	Stone Cottage
350	Ford	Alison Jane Marie	5 Jersey Rd.
351 *	Ford	Arthur Henry	6 Drury St.
352	Ford	Caroline	2 Philomel Place
353	Ford	Cherry Rose	1 James St.
354	Ford	Christopher James	11 Fieldhouse Close
355	Ford	Colin Stewart	15 Kent Rd.
356	Ford	Colleen Mary	Lady Hunt House John St.
357 *	Ford	Darrel	1 James Stree, Stanley
358	Ford	David	1 Davis St.
359	Ford	Frederick James	Lady Hunt House John St.
360	Ford	Gerard Allan	Flat 1, 3 Jeremy Moore Ave
361	Ford	Jonathan	11 Beaver Rd.
362	Ford	Julie Ann	11 Beaver Rd.
363	Ford	Leann Caroline	15 Kent Rd.
364	Ford	Leonard	5 Jersey Rd.
365	Ford	Marilyn Christina	24 James St.
366	Ford	Michael	1 James St.
367	Ford	Paul Edward	2 Philomel Place
368	Ford	Robert	1 Davis St.
369	Ford	Sara	11 Fieldhouse Close.
370	Ford	Simon	1 James St.
371	Forrest	Jennifer Carol	16 Kent Rd.
372	Forrest	Michael John	16 Kent Road, Stanley
373	Forster	Amanda	39 Eliza Cres.
374	Forster	Lynne	Stanley
375	France	Graham Brian	7 Snake St.
376	France	Jane Aileen Marie	7 Snake St.
377	Freeman	Carl Francis	10 James St.
378	Freeman	Dianne May	10 James St.
379 *	Fullerton	Mary Ellen	Government House
380	Geach	Alan John	Sir Rex Hunt House.
381	George	Magnus John Alexander	14 Ross Rd. West
382	Gilbert	Christopher Paul	22 Jeremy Moore Ave.
383	Gilbert	Judith Elizabeth	22 Jeremy Moore Ave.
384	Gilbert	Robert Ernest	22 Jeremy Moore Ave.
385	Gilding	Sara Jane	11 Pioneer Row.

386	Gisby	Annie	33 Fitzroy Rd.
387 *	Gooch	Dudley Frederick	34 John St.
388	Goodwin	Angela Jane	27 Callaghan Rd
389	Goodwin	Colin Valentine	86 Davis St.
390	Goodwin	Derek Samuel	3 Police Cottages, 7 Ross Rd.
391 *	Goodwin	Emily Rose	7 Brisbane Rd.
392	Goodwin	Gareth Kevin	86 Davis St.
393	Goodwin	Hazel Rose	3 Police Cottages, 7 Ross Rd.
394	Goodwin	June Elizabeth	86 Davis St.
395 *	Goodwin	Kathleen Edith Marguerite	6 Thatcher Drive
396	Goodwin	Margaret Ann	3 H Jones Rd.
397	Goodwin	Robin Christopher	27 Callaghan Rd.
398	Goodwin	Simon James	Flat 3, 2 Eliza Place
399	Goodwin	Una	27 Callaghan Rd.
400	Goodwin	William John Maurice	7 Brisbane Rd.
401	Goss	Amara Theresa	7 Brandon Rd.
402	Goss	Annagret	16 Jeremy Moore Ave.
403	Goss	Corina Rose	15 Callaghan Rd.
404	Goss	Dorothy Ellen	4 Discovery Close
405	Goss	Errol Barry Gordon	Flat 3, 7 Jeremy Moore Ave East
406 *	Goss	Grace Elizabeth	5 Ross Rd. East
407	Goss	Ian Ernest Earle	Fieldhouse Close
408	Goss	Morgan Edmund	16 Jeremy Ave.
409	Goss	Odette Ellen May	Flat 1, 30 Jersey Rd.
410 *	Goss	Roderick Jacob	Fitzroy Rd.
411	Goss	Sandra Kathleen	11 Kent Rd.
412	Goss	Simon Peter Miller	11 Kent Rd.
413	Goss	Susan Diann	Fieldhouse Close
414	Goss	William Henry (jnr)	7 Brandon Rd.
415 *	Goss	William Henry (snr)	5 Ross Rd. East
416	Gough	Phyllis Candy	11 Callaghan Rd.
417	Gould	Arthur William	Moody St.
418 *	Grant	Lennard John	3 Moody St.
419 *	Grant	Milly	3 Moody St.
420	Gray	Johan	5 Philomel St.
421	Green	David William	5 Police Cottages, Ross Rd.
422	Greenland	Bonita Doreen	3 Racecourse Rd.
423	Greenland	Kenneth David	3 Racecourse Rd.
424	Grimmer	Keith	15 Pioneer Row
425	Grimmer	Marilyn	15 Pioneer Row
426 *	Hadden	Alexander Burnett	27 Fitzroy Rd.
427 *	Hadden	Sheila Peggy	27 Fitzroy Rd.
428	Halford	Rodney John	Tenacres
429	Halford	Sharon	Tenacres
430	Hall	David Albert	56 Davis St.
431	Hall	Marilyn Joyce	56 Davis St.
432 *	Halliday	Evelyn Edna	9 Brisbane Rd.
433	Halliday	Gerald	Flat 1, 6 Racecourse Rd.
434	Halliday	Jeffrey James	Fieldhouse Close
435 *	Halliday	John Arthur Leslie	108 Davis St.
436 *	Halliday	Leslie John	5 Villiers St.
437	Halliday	Raynor	9 Brisbane Rd.
438	Hancox	Rachel Mary	9 Ross Rd. West
439	Hancox	Robert James	9 Ross Rd. West
440	Hanlon	Michael John	19 Jeremy Moore Ave.

441	Hanlon	Patricia	19 Jeremy Moore Ave.
442	Hansen	Douglas John	6 Fitzroy Rd.
443	Hansen	Keva Elizabeth	1 Dairy Paddock Rd.
444	Hansen	Terence Joseph	1 Dairy Paddock Rd.
445	Harris	Christopher James	8 Pioneer Row
446	Harris	Heather	3 Ross Rd. East
447	Harris	Jill Yolanda Elizabeth Miller	19 Fitzroy Rd.
448	Harris	Karl Henry	19 Fitzroy Rd.
449	Harris	Leeann Watson	10 Dairy Paddock Rd.
450	Harris	Leslie Sidney	19 Fitzroy Rd.
451	Harris	Michael Ronald	3 Ross Rd. East
452	Harris	Ralph Aaron	10 Dairy Paddock Rd.
453	Harris	Roslyn	19 Fitzroy Rd.
454 *	Harvey	Muriel Elizabeth Elsie	2 King St.
455	Harvey	Sheila	Flat 3, 5 Jeremy Moore Ave.
456	Harvey	William	21 Fitzroy Rd.
457	Hawksworth	Christopher	29 Fitzroy Rd.
458	Hawksworth	David	29 Fitzroy Rd.
459	Hawksworth	Jeanette	29 Fitzroy Rd.
460	Hawksworth	Mary Catherine	5 A Brisbane Rd.
461	Hawksworth	Pauline May	29 Fitzroy Rd.
462	Hawksworth	Terence	5A Brisbane Rd.
463	Hayward	Marjorie	30 Eliza Rd.
464	Hayward	Neville	Flat 2, Church House
465 *	Hayward	Peter Dennis	30 Eliza Rd.
466	Heathman	Malcolm Keith	15 Eliza Cove Rd.
467	Heathman	Mandy Gail	15 Eliza Cove Rd.
468	Henry	Alan Richard	8 Beaver Rd.
469	Henry	Patricia Denise	8 Beaver Rd.
470	Hewitt	Alison Denise	23 Shackleton Drive
471	Hewitt	Frances Agnes	Stanley
472	Hewitt	Gary George	3 Hebe Place
473	Hewitt	Kevin John	14 Jeremy Moore Ave
474	Hewitt	Margaret Ann	3 Hebe Place
475	Hewitt	Neil George	Stanley
476 *	Hewitt	Rachel Catherine Orissa	4 St. Marys Walk
477 *	Hewitt	Robert John David	3 Thatcher Drive
478	Higgins	Dawn	2 Dean Street, Stanley
479	Hill	Brian Jarvis	1 Kent Rd.
480	Hill	Penelope Ann	1 Kent Rd.
481 *	Hills	Heather Margaret	5 Davis St.
482 *	Hills	Richard William	5 Davis St.
483	Hirtle	Christine	5 Capricorn Rd.
484	Hirtle	Leonard Lloyd	20 Jeremy Moore Ave.
485 *	Hirtle	Mary Ann	12 Drury St.
486	Hirtle	Michael Barry	20 Jeremy Moore Ave.
487	Hirtle	Rose Ann Shirley	4 Villiers St.
488	Hirtle	Sandra May Winifred	Eliza Cove Rd.
489	Hirtle	Shirley	20 Jeremy Moore Ave.
490	Hirtle	Zane Eric	Eliza Cove Rd.
491	Hobman	Anilda Marilu	34 Ross Rd. West Flat
492	Hobman	Carol Margaret	Stanley
493	Hobman	David Consalo	34 Ross Rd. West Flat
494	Hobman	Luis Alfonzo	34 Ross Rd. West Flat
495 *	Hoggarth	Agnes Christina	2 James St.

496	Horne-MacDonald	John Alexander	2 Dairy Paddock Rd.
497	Horne-MacDonald	Myriam Beatriz	2 Dairy Paddock Rd.
498	Howatt	Derek Frank	4 Racecourse Rd.
499	Howatt	Suzanna Margaret	4 Racecourse Rd.
500	Howe	Alison Delia	36 Davis St.
501	Howe	Paul Anthony	36 Davis St.
502	Howells	Anne Stephanie	112 Davis St.
503	Howells	Lorna Marie	112 Davis St.
504	Howells	Melissa Louise	112 Davis St.
505	Howells	Roger	112 Davis St.
506	Humphreys	Dennis James	7 Dean St.
507	Humphreys	Margaret Anne	7 Dean St.
508 *	Hutton	Elizabeth Isabella	3 John St.
509 *	Hutton	Philip	3 John St.
510	Igao	Pauline Lynx	15 Scoresby Close
511	Irwin	Rhoda De Felton	Eliza Cove Rd.
512	Jackson	Mark Malcolm	23 Fitzroy Road
513	Jacobsen	Alistair	1A Philomel St.
514	Jacobsen	Catherine Joan	1A Philomel St.
515	Jaffray	Donald	15 Brandon Rd.
516	Jaffray	Eileen	5 Hebe St.
517	Jaffray	Elaine Michele	8 Discovery Close
518	Jaffray	Estelle Anita	Snake Hill
519	Jaffray	Frank Alexander	8 Discovery Close
520	Jaffray	Gerard Alan	5 Hebe St.
521	Jaffray	Helen Rose	84 Davis St.
522	Jaffray	Ian	5 Hebe St.
523	Jaffray	Ingrid Joyce	5 Hebe St.
524	Jaffray	Jacqueline Ann	Flat 3, Church House
525	Jaffray	Janet	40 Eliza Cres.
526	Jaffray	Janice Vanessa	3C Jersey Est.
527	Jaffray	John	40 Eliza Cres.
528	Jaffray	John Summers	84A Davis St.
529	Jaffray	June Elizabeth	17 Ross Rd. East
530	Jaffray	Kenneth Ian	2 Dean St.
531	Jaffray	Lisa Jane	Flat 3, 1 Jeremy Moore Ave.
532	Jaffray	Marina Morrison	15 Brandon Rd.
533	Jaffray	Nichola Jane	84a Davis St.
534	Jaffray	Robin George	Rose Hotel
535	Jaffray	Stephen James	11 James St.
536 *	Jaffray	Tanya Fiona	5 Hebe Street, Stanley
537	Jaffray	Terence Roy	Flat 3, 1 Jeremy Moore Ave
538	Jaffray	Terri-Ann	24 Endurance Ave.
539	Jaffray	Tony	84 Davis St.
540	Jaffray	Wayne Neil	5 Hebe St.
541	Jennings	Neil	Flat 4, 30 Jersey Rd.
542	Jennings	Stephen	5 Fitzroy Rd.
543	Johnson	Jacqueline	5 Kent Rd.
544 *	Johnson	Lily Ann	5 Hebe St
545	Johnson	Michael Neil	5 Kent Rd.
546	Jones	Alan Smith	26 Ross Rd. West
547	Jones	David Richard	6 Allardyce Street
548	Jones	Deena Marie	YMCA, Stanley
549	Jones	Doreen Evelyn Margaret	6 Allardyce Street
550	Jones	Jennifer	26 Ross Rd. West

551	Jones	John Hugh	1 Brandon Rd.
552	Jones	Kevin Richard	Callaghan Rd
553	Jones	Michelle	1 Brandon Rd.
554	Jones	Yvonne Malvina	3 Discovery Close
555	Keane	Alva Rose Marie	18 Davis St.
556	Keane	Olaf James	18 Davis St.
557	Keane	Thomas James	18 Davis St.
558 *	Keenleyside	Charles Desmond	3 Pioneer Row
559 *	Keenleyside	Dorothy Maud	3 Pioneer Row
560	Keenleyside	Manfred Michael Ian	2 Snake Hill
561	Keenleyside	Nanette Barbara	2 Snake Hill
562	Kenny	Erling	20 James St.
563	Kiddle	Robert Karl	Flat 3. 6 Racecourse Rd.
564	King	Anna Constance Eve	38 Davis St.
565	King	Cherilyn Julie	Lafone House, Ross Rd. East
566 *	King	Desmond George Buckley	38 Davis St.
567 *	King	Gladys Evelyn	39 Fitzroy Rd.
568	King	Glynis Margaret	2 B Jeremy Moore Ave. East
569	King	Michelle Beverley	69 Fitzroy Rd.
570	King	Peter Thomas	10 Jeremy Moore Ave.
571	King	Robert John	1D Jersey Est.
572	King	Rosemarie	10 Jeremy Moore Ave
573 *	King	Vernon Thomas	39 Fitzroy Rd.
574	Kirkham	Campbell Joseph	5 Capricorn Rd.
575 *	Kluzniak	Beulah	26 Ross Rd. East
576 *	Kluzniak	Boguslaw Sylvester	26 Ross Rd. East
577	Kultschar	Carolyn Wendy	2 Moody St.
578	Kultschar	John William	4 Davis St. East
579	Kultschar	Richard Paul	4 Davis St. East
580	Kultschar	Yvonne Rosina	4 Davis St. East
581	Laffi	Atilio Segundo	3 Brisbane Rd.
582	Laffi	Kathleen Mary	3 Brisbane Rd.
583	Lang	David Geoffrey	45 Callaghan Rd.
584	Lang	James Patrick	Flat2, 3 Jeremy Moore Ave East
585	Lang	Marie-Bernard Therese	45 Callaghan Rd.
586	Lang	Sandra Shirleen	2 Allardyce St.
587	Lang	Theresa Margaret	45 Callaghan Rd.
588	Lang	William Frank	3 James St.
589	Larsen	Ellen	74 Davis St.
590 *	Lee	Alfred Leslie	11 Drury St.
591	Lee	Angela Audrey	8 Jersey Rd.
592	Lee	Anthony John	8 Jersey Rd.
593	Lee	Beverley Christina	10 Allardyce St.
594	Lee	Derek William	2 Davis St.
595	Lee	Gladys	11 Drury St.
596	Lee	Leslie James	10 Allardyce St.
597 *	Lee	Mervyn Richard	10 Allardyce Street, Stanley
598	Lee	Owen Henry	Stanley
599	Lee	Tanya	15 Campbell Drive
600	Lee	Trudi Dale	10 Allardyce St.
601	Lennie	Gordon Carnie	9 Narrows View
602	Lewis	David James	3 Campbell Drive
603 *	Lewis	James	2 St. Marys Walk
604	Lewis	Jason	3 Campbell Drive
605 *	Lewis	Jean	2 St. Marys Walk

606	Lewis	Pamela Irene	3 Campbell Drive
607	Leyland	Frank	10 Brandon Rd.
608	Leyland	Vera	10 Brandon Rd.
609	Livermore	Anton	33 Callaghan Rd.
610	Livermore	Darren	Stanley
611	Lowe	Anthony Trevor	54 Davis St.
612	Lowe	Fiona Alison	54 Davis St.
613 *	Luxton	Ernest Falkland	38 John St.
614	Luxton	Jennifer Mary	4 Hebe Place
615	Luxton	Michael	1A Pioneer Row
616	Luxton	Nicola	1A Pioneer Row
617	Luxton	Stephen Charles	7 Narrows View
618 *	Luxton	Sybil Grace	38 John St.
619 *	Luxton	Winifred Ellen	15 Fitzroy Rd.
620	Luxton	Zoe	1A Pioneer Row
621	Lyse	Ethel Malvina	65 Fitzroy Rd.
622 *	Lyse	George Walter	8 Moody St.
623	Lyse	Linda Margaret	65 Fitzroy Rd.
624	Macaskill	Angus Lindsay	8 Jeremy Moore Ave.
625	Macaskill	Jeanette May	8 Jeremy Moore Ave.
626	Macaskill	John	34 Ross Rd. West
627	MacBeth	Phyllis Elizabeth Grace	17 Brandon Rd.
628	MacDonald	Colin George	26 Endurance Ave.
629	MacDonald	Derek George	26 Endurance Ave.
630	MacDonald	Irene	26 Endurance Ave.
631 *	Malcolm	Velma	7 Allardyce St.
632	Marsden	Hugh	Flat 2, 7 Jeremy Moore Ave.
633	May	Brian Roy	21 Jeremy Moore Ave.
634	May	Bruce Raymond	Wardens House, KEMH
635	May	Connie	Wardens House, KEMH
636	May	Heather	1 Glasgow Rd.
637	May	Jonathan Roy	33 Davis St
638	May	Lucinda Vikki	33 Davis St.
639	May	Monica	21 Jeremy Moore Ave.
640	May	Roger	33 Eliza Cres.
641 *	May	William Albert	1 Glasgow Rd.
642	McCallum	Bettina Kay	14 Drury St.
643	McCallum	Christopher John	8A Jeremy Moore Ave.
644	McCallum	Timothy Andrew	14A Drury St.
645	McCormick	Dale Ronald	29 Callaghan Rd.
646	McCormick	Pauline Margaret Ruth	29 Callaghan Rd.
647	McCormick	Richard Paul	29 Callaghan Rd.
648	McCormick	Wayne Stanley James	29 Callaghan Rd.
649	McEachern	Gloria Jane	2 H Jones Rd.
650	McEachern	James	2 H Jones Rd.
651	McGill	Coral Elizabeth	6 Ross Rd.
652	McGill	Darrel Ian	2 Campbell Drive
653	McGill	David William	17 James St.
654	McGill	Diane Beverley	2 James St.
655 *	McGill	Doris Mary	32 Davis St.
656	McGill	Glenda	Barrack St.
657	McGill	Ian Peter	Barrack St.
658	McGill	Jane	10 Ross Rd. East
659	McGill	Len Stanford	2 James St.
660	McGill	Lorraine Iris	10 Ross Rd. East

661	McGinness	Janice	10 Beaver Rd.
662 *	McKay	Clara Mary	20 Ross Rd. West
663	McKay	Ellen Rose	51 Callaghan Rd.
664	McKay	Heather Valerie	16 Eliza Cres.
665 *	McKay	James John	7 Villiers St.
666 *	McKay	Jane Elizabeth	7 Villiers St.
667	McKay	Jeannie Paullina	64 Davis St.
668 *	McKay	Jennifer Coral	Stanley
669	McKay	Josephine Ann	5 James St.
670	McKay	Kenneth Andrew	5 James St.
671	McKay	Kevin Derek Charles	Stanley
672	McKay	Michael John	64 Davis St.
673	McKay	Neil	62 Davis St.
674	McKay	Paul Anthony	3 Nutt Cartmel Drive
675	McKay	Peter John	21 Ross Rd. West
676	McKay	Rex	16 Eliza Cres.
677	McKay	Shelley Jane	7 Villiers St.
678 *	McKay	Stephen John	8 Thatcher Drive
679	McKay	Trudi Ann	3 Nutt Cartmel Drive
680	McKay	Wayne Lawrence Kenneth	Stanley
681 *	McKay	William Robert	20 Ross Rd. West
682	McKenzie	Alice Maude	Moody Brook Homestead
683	McKenzie	Charles Alexander Albert John	Moody Brook Homestead
684	McLaren	Caroline Mary	12 Allardyce St.
685	McLaren	Tony Eugene Terence	12 Allardyce St.
686	McLeod	David	49 Callaghan Rd.
687	McLeod	Dawn	2 Brandon Rd. West
688 *	McLeod	Donald Henry	1B Jersey Est.
689	McLeod	Henry Donald Alexander	36 Eliza Cres.
690	McLeod	Ian	9 Fitzroy Rd.
691	McLeod	Ian James	YMCA
692	McLeod	Jane Elizabeth Diana	36 Eliza Cres.
693	McLeod	Janet Wensley	75 Davis St.
694	McLeod	Janice	2 Ross Rd. West
695	McLeod	John (1)	1 Campbell Drive
696	McLeod	John (2)	Flat 1, Jeremy Moore Ave
697	McLeod	Kenneth Benjamin John	2 Brandon Rd. West
698	McLeod	Madeline Jean	1 Campbell Drive
699	McLeod	Mally	9 Fitzroy Rd.
700 *	McLeod	Margaret Ann	Fitzroy Rd. East
701	McLeod	Michael William	15A James St.
702 *	McLeod	Pearl Mary Ann	3 Brisbane Rd.
703	McLeod	Robert	75 Davis St.
704	McLeod	Robert John	2 Ross Rd. West
705	McMullen	Lucille Anne	8 Brandon Rd.
706	McNally	Patricia Jayne	18 Ross Rd. East
707	McPhee	Denise	4 Brandon Rd. West
708 *	McPhee	Iris Blanche	14 Davis St.
709	McPhee	Justin Owen	4 Brandon Rd. West
710	McPhee	Majorie May	14 John St.
711 *	McPhee	Owen Horace	14 John St.
712 *	McPhee	Patrick	14 Davis St.
713	McRae	Michael	C/o MV Tamar
714	McRae	Richard Winston	Flat 2, 6 Racecourse Rd.
715	Middleton	Brian	13 McKay Close

716	Middleton	Caroline Ann	7 James St.
717	Middleton	Dennis Michael	Dolphin Cottage
718 *	Middleton	Ellen	50 Davis St.
719	Middleton	Graham Cyril	50 Davis St.
720	Middleton	Joan Eliza	8 James St.
721	Middleton	Leonard	67 Fitzroy Rd.
722	Middleton	Phillip John	5 St. Marys Walk
723	Middleton	Sharon Elizabeth	Dolphin Cottage
724	Middleton	Shirley	Stanley
725	Middleton	Stephanie Anne	13 McKay Close
726	Miller	Andrew Nigel	2 Fieldhouse Close
727 *	Miller	Betty Lois	6 St. Marys Walk
728	Miller	Bruce Graham	10 Pioneer Row
729	Miller	Carol	Kent Rd.
730 *	Miller	Florence Roberta	5 Moody St.
731	Miller	Gail Marie	2 Police Cottages, 8 Ross Rd.
732	Miller	Janet Mary	Market Gdn. Stly Airport Rd.
733	Miller	Jayne Elizabeth	2 Fieldhouse Close
734	Miller	Jeanette	10 Pioneer Row
735	Miller	Simon Roy	Kent Rd.
736	Miller	Timothy John Durose	Market Gdn. Stly Airport Rd.
737	Mills	Terence Kenneth	43 Callaghan Rd.
738	Minto	Alistair Daen	Flat 5, 6 Racecourse Rd.
739	Minto	Graham Stewart	12 Brisbane Rd.
740	Minto	May Doreen	Flat 5, 6 Racecourse Rd.
741 *	Miranda	Augusto	31 Davis St.
742	Miranda	Carmen	Globe Tavern
743	Miranda	Ramon	3 Drury St.
744 *	Miranda	Winifred Dorothy	3 Drury St.
745	Mitchell	Leon John	6 Discovery Close.
746	Moffatt	Angela	20 Ross Rd East
747	Moffatt	James	20 Ross Rd East
748 *	Monti	Elizabeth Ellen	4 Fitzroy Rd.
749	Morris	Alana Marie	4 Callaghan Rd.
750	Morris	David	4 Callaghan Rd.
751	Morris	Jason Paul	4 Callaghan Rd.
752	Morris	Michelle Jane	6 McKay Close
753	Morris	Trevor Alan	6 McKay Close
754	Morrison	Doreen	82 Davis St.
755	Morrison	Edgar Ewen	5 Racecourse Rd.
756	Morrison	Fayan	54 John St.
757	Morrison	Graham Stewart	46 Davis St.
758	Morrison	Joan Margaret	Flat 6, 1 Jeremy Moore Ave.
759	Morrison	Lewis Ronald	82 Davis St.
760 *	Morrison	Marcus Lewis	82 Davis Street, Stanley
761	Morrison	Michael John	Stanley
762 *	Morrison	Muriel Eliza Ivy	40 Eliza Cres.
763	Morrison	Nanette Rose	46 Davis St.
764	Morrison	Nigel Peter	7 James St.
765	Morrison	Patrick	1 Brandon Road West
766	Morrison	Paul Roderick	1 Brandon Rd.
767 *	Morrison	Ronald Terence	5 Racecourse Rd.
768	Morrison	Stewart	46 Davis St.
769	Morrison	Susan Margaret	Stanley
770	Morrison	Trevor	6A Jeremy Moore Ave.

771	Morrison	Valerie Anne	6A Jeremy Moore Ave.
772	Morrison	Violet Sarah	5 Racecourse Rd.
773	Morrison	William Roderick Halliday	54 John St.
774	Morrison-Betts	Priscilla Violet	82 Davis St.
775	Murphy	Ann Susan	2 King St.
776 *	Murphy	Bessie	68 Davis St.
777 *	Murphy	Michael James	68 Davis St.
778	Neal	Richard John	1 Dean St.
779	Neilson	Barry Marwood	23 Ross Rd.
780	Neilson	Margaret	23 Ross Rd.
781	Newell	Cara Jane	3 Villiers St.
782	Newell	Joseph Orr	3 Villiers St.
783	Newell	Paula Michelle	6 Pioneer Row
784	Newell	Trudi Malvina	3 Villiers St.
785	Newman	Andrew Raymond	17 Ross Rd. East
786	Newman	Clive Alexander	5 Brandon Rd.
787	Newman	Dwenda Rose	5 Brandon Rd.
788	Newman	Glynis Karen	4 James St.
789 *	Newman	Ingrid Helen	5 Brandon Road, Stanley
790	Newman	Joyce Noreen	80 Davis St.
791	Newman	Lisa Jeraine	Flat 5, 6 Jersey Rd.
792	Newman	Marlene	11 Jeremy Moore Ave.
793	Newman	Raymond Winston	11 Jeremy Moore Ave.
794	Newman	Tansy Fiona	Jersey Rd.
795	Newman	Terence	24 Endurance Ave.
796	Nutter	Arthur Albert	9 Brandon Rd.
797	Nutter	Josephine Lesley	9 Brandon Rd.
798	O'Shea	Desmond	9 Campbell Drive
799	Olmedo Apablaza	Hector Alejandro	Malvina Flat, Ross Rd, Stanley
800	Ormond	Christina Helen	10 Fitzroy Rd. East
801	Paice	Craig Arthur	90 Davis St.
802 *	Parrin	Norman George	108 Davis St.
803	Patterson-Smith	Ian Colin	19 Davis St.
804 *	Pauloni	Hilary Maud	63 Fitzroy Rd.
805 *	Pauloni	Ronolo Vittorio	63 Fitzroy Rd.
806	Paver	Bernadette Marguerite	Moody Brook House.
807	Payne	Dilys Agnes	Stanley
808	Payne	St.John Peter	2 Racecourse Road East
809	Peake	Arthur	19 James St.
810	Peake	Clair Linda	19 James St.
811	Peck	Burned Brian	22 James St.
812	Peck	Carol Margaret	2 Discovery Close
813	Peck	David Patrick	78 Davis St.
814	Peck	Eleanor Margaret	26 Shackleton Drive
815	Peck	Evelyn Elizabeth	22 James St.
816 *	Peck	Gordon Pedro James	17 Brandon Rd.
817	Peck	Harwood John Charles	C/o Tamar
818	Peck	James	2 Discovery Close
819	Peck	Maureen Heather	78 Davis St.
820 *	Peck	Patrick William	78 Davis St.
821	Peck	Shirley	2 Barrack St.
822	Peck	Terence John	26 Shackleton Drive
823	PERD		6 Beaver Rd.
824	Perkins	Vivienne Esther Mary	33 John St.
825 *	Perry	Augustave Walter	9 Villiers St.

826 *	Perry	Beatrice Annie Jane	25 Ross Rd. East
827 *	Perry	Hilda Blanche	10 Campbell Drive
828	Perry	Robert Juan Carlos	5 Brisbane Rd
829 *	Perry	Thomas George	10 Campbell Drive
830 *	Perry	Thora Virginia	17 Fitzroy Rd.
831	Pettersson	Derek Richard	21 Eliza Cres.
832	Pettersson	Eileen Heather	30 Davis St.
833	Pettersson	Tony	30 Davis St.
834	Pettersson	Trudi Ann	21 Eliza Cres.
835	Phillips	Albert James	16 Brandon Rd.
836	Phillips	David Dawson	35 Fitzroy Rd.
837	Phillips	Gillian Carol	Stanley
838	Phillips	Lynda	16 Brandon Rd.
839	Phillips	Paul David	Drury St.
840	Platt	Veronica Shirley	Stanley
841	Plumb	Christopher Philip	12 Scoresby Close
842	Plumb	Elaine Margaret	2A Brisbane Rd.
843	Plumb	Jason Alan	34 Ross Rd. East Flat
844	Plumb	Norman Phillip	2A Brisbane Rd.
845	Pole-Evans	Amy Rose	4 Harbour View
846	Pole-Evans	John	4 Harbour View
847	Pole-Evans	Michael Anthony	4 Harbour View
848	Pollard	Andrew Keith	4 Hebe Place
849	Pollard	Elizabeth Eve	23 Ross Rd. East
850	Pollard	John	23 Ross Rd. East
851	Pollard	Mark John	23 Ross Road East
852	Pompert	Joost Herman Willem	11 Ross Rd. West
853 *	Poole	Evelyn May	31 Fitzroy Rd.
854	Poole	Nancy Margaret	52 John St.
855	Poole	Raymond John	52 John St.
856 *	Poole	William John	31 Fitzroy Rd.
857 *	Porter	Charles	11 Fitzroy Rd.
858	Porter	Geoffrey Bell	5 Jeremy Moore Ave.
859	Porter	Jean Lavinia	11 Fitzroy Rd.
860	Porter	Tracy	5 Jeremy Moore Ave.
861	Pratlett	Patricia Carol Ann	10 James St.
862	Purvis	Alan	3 Narrows View
863 *	Purvis	Marion Louise	3 Narrows View
864	Reddick	Keith John	By-Pass Rd.
865	Reeves	Jill Edith	Flat 3, 30 Jersey Rd
866	Reeves	Michael	2 Moody St.
867	Reid	Ann	5 Police Cottages, Ross Rd.
868	Reid	Colleen Rose	9 Fitzroy Rd. East
869	Reid	John Alexander	7 Ross Rd.
870	Reid	Reynold Gus	9 Fitzroy Rd. East
871 *	Reive	Roma Endora Mary	St Marys Walk
872	Rendell	Michael	8 Ross Rd. West
873	Rendell	Phyllis Mary	8 Ross Rd. West
874	Riddell	Lisa Marie	9 Discovery Close
875	Riddell	Paul Robert	9 Discovery Close
876	Roberts	Cheryl Ann Spencer	57 Fitzroy Rd.
877	Roberts	Diana Christine	7 Kent Rd.
878	Roberts	Jill Christine	98 Davis St.
879	Roberts	Joselynn Lynette Margaret	Flat 3, 6 Jersey Rd
880 *	Roberts	Laura May	7 Kent Rd.

881	Roberts	Peter James	57 Fitzroy Rd.
882	Roberts	Simon Theodore Nathaniel	98 Davis St.
883	Robertson	Sally Jean	Flat 1, 2 Eliza Rd.
884	Robertson Pompert	Janet	11 Ross Rd. West
885	Robson	Alison Emily	15 Villiers St.
886	Robson	Anna Jenine	6 Brisbane Rd.
887	Robson	Gerard Michael	1 Philomel Place
888 *	Robson	Gladys Mary	5 Philomel St.
889	Robson	Miranda Gay	6 Brisbane Rd.
890	Robson	Phyllis Ann	1 Philomel Place
891	Robson	Raymond Nigel	6 Brisbane Rd.
892	Robson	William Charles	18 Ross Rd. East
893	Rogers	Ralph	14 Endurance Ave
894	Rogers	Roger Neil	14 Endurance Ave
895 *	Ross	Colin	40 Eliza Cres.
896	Ross	Glenn Stephen	22 Shackleton Drive
897	Ross	Janet	22 Shackleton Drive
898	Ross	Lachlan Neil	7 Discovery Close
899	Ross	Marie	21 John St.
900	Ross	Roy	21 John St.
901	Ross	Sheena Margaret	12 Jeremy Moore Ave.
902	Rowland	Charlene Rose	5A Ross Rd. West
903	Rowland	John Christopher	5A Ross Rd. West
904 *	Rowlands	Catherine Annie	3 Hebe St.
905 *	Rowlands	Daisy Malvina	106 Davis St.
906 *	Rowlands	Harold Theodore	8 Ross Rd. East
907 *	Rowlands	John Richard	106 Davis St.
908	Rowlands	Neil	3A Hebe St.
909	Rowlands	Robert John	13 Callaghan Rd.
910	Rozee	Betty Ellen	16 Davis St.
911 *	Rozee	Derek Robert Thomas	16 Davis St.
912	Rozee	Shona Mary	5 Narrows View
913 *	Rozee	Tamara Colette	16 Davis Street, Stanley
914	Sackett	Albert John	25 Ross Rd. East
915	Sackett	Michael John Carlos	25 Ross Rd. East
916	Sackett	Pauline	25 Ross Rd. East
917 *	Sarney	Harry	1 Thatcher Drive
918	Saunders	Tracey Clare	23 Jeremy Moore Ave.
919	Sawle	Judith Margaret	Seaview Cottage, Ross Rd.
920	Sawle	Richard	Seaview Cottage, Ross Rd.
921	Seron	Jose Segundo	M/V Tamar, C/o Bryon Marine
922	Shepherd	Colin David	11 Narrows View
923	Shepherd	David Samuel Dick	30 Endurance Ave.
924	Shepherd	Elizabeth	30 Endurance Ave.
925	Shepherd	Ramsey	Discovery Close
926	Shorrock	Joyce	5 McKay Close
927	Shorrock	Nigel Arthur	5 McKay Close
928	Short	Andrez Peter	9 Pioneer Row
929	Short	Brenda	Barrack St.
930	Short	Celia Soledad	1 Racecourse Rd.
931 *	Short	Christina Ethel	12 Brandon Rd.
932	Short	Derek Patrick	42 Eliza Cres.
933	Short	Dilys Margaret Ann	6A Pioneer Row.
934	Short	Donald Robert Gordon	Eliza Cove Rd.
935	Short	Ellen Mary	12 Brandon Rd.

936	Short	Emily Christina	1 Fitzroy Rd. East
937	Short	Gavin Phillip	14 Pioneer Row
938	Short	Isobel Rose	42 Eliza Cres.
939 *	Short	Joseph Leslie	12 Brandon Rd.
940	Short	Marc Peter	1 Racecourse Rd.
941	Short	Marlene Cindy	58 Davis St.
942	Short	Montana Tyrone	4 Dairy Paddock Rd.
943	Short	Patrick Warburton	42 Eliza Cres.
944	Short	Peter Robert	1 Fitzroy Rd. East
945	Short	Richard Edward	58 Davis St.
946	Short	Riley Ethroe	Barrack St.
947	Short	Robert Charles	12A Brandon Rd.
948	Short	Vilma Alicia	4 Dairy Paddock Rd.
949	Simpson	Bertha Veronica	6 Police Cottages, 4 Ross Rd.
950	Simpson	James Alexander Bruce	7 Racecourse Rd.
951	Simpson	James Garry	7 Racecourse Rd.
952	Simpson	John Frederick	6 Police Cottages, 4 Ross Rd.
953	Simpson	Mirabelle Hermoine	7 Racecourse Rd.
954	Sinclair	Veronica Joyce	21 Ross Rd. West
955	Skene	Greta Winnora Miller	22 Ross Rd. East
956	Smallwood	Kio Mikhailovich	105 Davis St.
957	Smallwood	Margo Anee	105 Davis St.
958	Smallwood	Michael Anthony	105 Davis St.
959 *	Smith	Adeline Jane	2 Thatcher Drive
960	Smith	Alexander Gordon	16 Jersey Rd.
961	Smith	Anthony David	10 Fieldhouse Close.
962	Smith	Bruce Dennis	Stanley
963	Smith	Colin David	6 James St.
964	Smith	Derek	8 Eliza Cres.
965 *	Smith	Elenore Olive	3 Brisbane Rd.
966	Smith	Eric	3 Allardyce St.
967	Smith	Gerard Alexander	8 Barrack St.
968 *	Smith	Gwenifer May	8 Barrack St.
969	Smith	Ian Lars	2 Ross Rd. West
970	Smith	Ileen Rose	28 Ross Rd. West
971 *	Smith	James Terence	3 Fitzroy Rd. West
972	Smith	Jean Waddell	16 Jersey Rd.
973	Smith	Jennifer Ethel	Stanley
974	Smith	Jeremy	1A Jersey Rd.
975	Smith	Joan Lucy Ann	6A Pioneer Row
976	Smith	John	28 Ross Rd. West
977	Smith	Julia Trinidad	8 Eliza Cres.
978	Smith	Martyn James	28 Ross Rd. West
979	Smith	Natalie Marianne	6 James St.
980	Smith	Nora Kathleen	5 Fitzroy Rd. East
981 *	Smith	Osmund Raymond	3 Brisbane Rd.
982 *	Smith	Owen Archibald	3 Fitzroy Rd.
983	Smith	Patricia Anne	6A Moody St.
984	Smith	Paulette Rose	KEMH
985	Smith	Rhona	8 Fitzroy Rd.
986	Smith	Russell James	8 Fieldhouse Close
987	Smith	Shula Louise	Flat 4, 5 Jeremy Moore Ave.
988	Smith	Sidney Frederick	Jersey Rd.
989	Smith	Susan	1 Hebe Place
990	Smith	Tyssen John Richard	9 Nutt Cartmel Close

991 *	Sollis	Sarah Emma Maude	20 Drury St.
992	Spall	Christopher Richard	German Camp West, Callaghan Rd
993	Spink	Roger Kenneth	4 Hebe St.
994 *	Spinks	Malvina Ellen	Flat6, 7Jeremy Moore Ave East
995	Spruce	Helena Joan	29 Ross Rd. West
996	Spruce	Mark Felton	29 Ross Road West
997	Spruce	Terence George	29 Ross Rd. West
998	Stedman	Dianne Audrey	Jersey Rd
999	Stedman	Robin Geoffrey	Jersey Rd
1000	Steen	Allan Graham	11 Brandon Rd.
1001	Steen	Barbara Ingrid	39 Ross Rd. West
1002 *	Steen	Emma Jane	36 Ross Rd.
1003	Steen	Gail	7 St. Marys Walk
1004	Steen	Karen Lucetta	7 St. Marys Walk
1005	Steen	Vernon Robert	7 St Marys Walk
1006	Steen MacDonald	Vanda Joan	38 Ross Rd.
1007	Stenning	Anna Russalka	5b Ross Rd. West
1008	Stephenson	James	Moody Valley
1009	Stephenson	Joan Margaret	Moody Valley
1010	Stephenson	Katrina	4 Davis St.
1011	Stephenson	Zachary	4 Davis St.
1012	Stevens	Paul Theodore	9 Drury St.
1013	Stevens	Teresa Rose	9 Drury St.
1014	Stewart	Aarron Stephen	6 Pioneer Row
1015	Stewart	Celia Joyce	12 St. Marys Walk
1016 *	Stewart	David William	55 Davis St.
1017	Stewart	Hulda Fraser	24 Ross Rd. West
1018	Stewart	Ian Bremner	9 McKay Close
1019	Stewart	Irene Anne	Racecourse Rd.
1020	Stewart	Kenneth Barry	3 Discovery Close
1021	Stewart	Pan Ellen	18 Endurance Ave.
1022	Stewart	Robert	12 St. Marys Walk
1023	Stewart	Robert William	Racecourse Rd.
1024	Stewart	Sheila Olga	9 McKay Close
1025 *	Stewart	Sylvia Rose	7 Ross Rd. West
1026	Stewart-Reid	Carol Ellen Eva	7 Ross Rd. West
1027	Strange	Ian John	The Dolphins, Snake St.
1028	Strange	Maria Marta	The Dolphins, Snake St.
1029	Strange	Shona Marguerite	36 Ross Rd. West
1030	Summers	Alastair Peter	1 Ross Rd. East
1031	Summers	Brian	1 Ross Rd. East
1032	Summers	Colin Owen	5 Brandon Rd.
1033	Summers	Deborah	Murray Heights
1034	Summers	Dennis David	18 Endurance Ave.
1035	Summers	Donna	15 Ross Rd. East
1036 *	Summers	Edith Catherine	5 Dean St.
1037	Summers	Irvin Gerard	Sir Rex Hunt House.
1038	Summers	Jacqueline	11 Pioneer Row
1039	Summers	Joanna Rose	7 Eliza Cres.
1040	Summers	Jonathan Derek	5 Allardyce St.
1041	Summers	Judith Orissa	1 Ross Rd.
1042	Summers	Lynn Jane	2 Campbell Drive
1043	Summers	Melvyn Mark	Stanley
1044	Summers	Michael Kenneth	6A Brisbane Rd.
1045	Summers	Michael Victor	11 Pioneer Row

1046	Summers	Naomi Christine	Sir Rex Hunt House
1047 *	Summers	Nigel Clive	32 Fitzroy Rd.
1048	Summers	Owen William	5 Brandon Rd.
1049	Summers	Pamela Rosemary Cheek	32 Fitzroy Rd.
1050	Summers	Rowena Elsie	5 Allardyce St.
1051	Summers	Roy	9 Murray Heights
1052	Summers	Sandra Marie	66 Davis St.
1053	Summers	Sheila	Sir Rex Hunt House, John St.
1054	Summers	Sybella Catherine Ann	1 Ross Rd. West
1055	Summers	Sylvia Jean	8 Racecourse Rd.
1056	Summers	Terence	1 Ross Rd. West.
1057	Summers	Tony	8 Racecourse Rd.
1058	Summers	Veronica	5 Brandon Rd.
1059	Summers	Yona	37 Davis St.
1060	Sutherland	Elizabeth Margaret	13/14 Eliza Cove Rd.
1061	Sutherland	James David	Reflections Flat, Dean St.
1062	Sutherland	John Gall	3B Jersey Est.
1063	Sutherland	William John Munro	13/14 Eliza Cove Rd.
1064	Teale	Colin Edwin	8 Brisbane Rd.
1065	Teale	Jeannette	8 Brisbane Rd.
1066	Teggart	Carol Wendy	9 Callaghan Rd.
1067	Teggart	John Patrick	9 Callaghan Rd
1068	Tellez	Jose Hector	2 Hodson Villa West
1069	Thain	John	8 Davis St.
1070	Thain	Stephanie Ann	8 Davis St.
1071 *	Thom	David Anderson	47 Fitzroy Rd.
1072	Thom	Dorothy Irene	47 Fitzroy Rd.
1073	Thom	Norma Ann	92 Davis St.
1074 *	Thompson	William John	Flat 2, 1 Moody St.
1075	Titterington	Lesley Ann	55 Fitzroy Rd.
1076	Titterington	Robert Mark	55 Fitzroy Rd.
1077 *	Toase	Aidan Edward	7 Ross Road East
1078 *	Toase	Cora Agnes	7 Ross Rd. East
1079	Triggs	Diane	3 Fieldhouse Close
1080	Triggs	Michael David	3 Fieldhouse Close
1081	Tuckwood	John Rodney	1 Drury St.
1082	Tuckwood	Phyllis Majorie	1 Drury St.
1083	Turner	Melvyn George	36 John St.
1084	Tyrrell	Garry Bernard	1 Beaver Rd.
1085	Tyrrell	Gina Michelle	1 Beaver Rd.
1086	Valler	Robert Hugh	9 Philomel St.
1087 *	Vidal	Eileen Nora	12 Jeremy Moore Ave.
1088	Vidal Roberts	Leona Lucila	7 Jersey Rd
1089	Vincent	Janette Mary	10 Endurance Ave.
1090	Vincent	Stephen Lawrence	10 Endurance Ave.
1091	Wade	Donald Harold	41 Fitzroy Rd.
1092	Wade	June Rose Elizabeth	41 Fitzroy Rd.
1093	Wagner	Mary Elizabeth	6 Jeremy Moore Ave.
1094	Wagner	Richard Karl	6 Jeremy Moore Ave.
1095	Wallace	Fiona Alice	38 Ross Rd. West
1096	Wallace	Fraser Barrett	10 John St.
1097	Wallace	Maria Lilian	38 Ross Rd. West
1098	Wallace	Michael Ian	23 Callaghan Rd.
1099	Wallace	Stuart Barrett	38 Ross Rd. West
1100	Wallace	Una	23 Callaghan Rd.

1101	Watson	Ben	7 Moody St.
1102	Watson	Boyd Edward Harold	Flat 4, 6 Jersey Rd.
1103 *	Watson	Hannah Maud	7 Moody St.
1104	Watson	Paul	20 Endurance Ave.
1105	Watson	Ruth Jane	20 Endurance Ave.
1106	Watt	Stephen Robert	11 Narrows View
1107	Watt	Sylvia Ann	11 Narrows View
1108	Watts	Patrick James	13 Brisbane Rd.
1109	Webb	Loretta Isobel	1C Capricorn Rd.
1110 *	White	Kathleen Elizabeth	9 Thatcher Drive
1111	Whitney	Frederick William	1 Police Cottages, 9 Ross Rd.
1112 *	Whitney	Henry Leslie	3 St. Marys Walk
1113	Whitney	Jason	15 Ross Rd. East
1114	Whitney	Kurt Ian	2 Pioneer Row
1115	Whitney	Lana Rose	22 Eliza Cres.
1116	Whitney	Robert Michael	Stanley
1117	Whitney	Susan Joan	1 Police Cottages, 9 Ross Rd.
1118	Wilkinson	Alistair Graham	5 Philomel St.
1119	Wilkinson	Dorothy Ruth	5 Philomel St.
1120	Wilkinson	Robert John	YMCA
1121 *	Williams	Gene	23 Ross Rd. West
1122	Williams	Margaret Elizabeth	Gardeners Cottage
1123	Williams	Marlene Rose	23 Ross Rd. West
1124	Winter	Teresa Irene	4A Jeremy Moore Ave. East
1125	Wood	Nicholas Paul Thomas	12 Scoresby Close
1126	Wylie	Julian Richard	1 McKay Close
1127	Wylie	Wendy Jennifer	1 Jersey Rd.
1128	Zuvic-Bulic	Kuzma Mario	16 Ross Rd. West
1129	Zuvic-Bulic	Sharon Marie	16 Ross Rd. West

1 *	Alazia	George Robert	Hope Cottage, East Falkland
2	Alazia	Hazel	Mullet Creek, East Falkland
3	Alazia	Jason Neville	Goose Green, East Falkland
4	Alazia	Mandy Gwyneth	Port Edgar Farm, West Falkland
5	Alazia	Michael Robert	Port Edgar Farm, West Falkland
6 *	Alazia	Thora Lilian	North Arm, East Falkland
7	Aldridge	Brian George	Goose Green, East Falkland
8 *	Aldridge	Olive Elizabeth	Hill Cove, West Falkland
9	Aldridge	Terence William	Hill Cove, West Falkland
10	Anderson	Andrew Ronald	Port Howard, West Falkland
11	Anderson	Jenny	Port San Carlos, East Falkland
12	Anderson	Lynda June	Blue Beach Lodge, East Falkland
13	Anderson	Tony James	Port San Carlos, East Falkland
14	Anderson	William John Stanley	Blue Beach Lodge, East Falkland
15	Ashworth	Glennis	Beckside Farm, East Falkland
16	Ashworth	Iain	Beckside Farm, East Falkland
17	Ashworth	Malcolm	Beckside Farm, East Falkland
18	Bagley	Jacqueline Elizabeth	Riverview Farm, East Falkland
19	Barnes	Dierdre	Dunbar Farm, West Falkland
20	Barnes	Marshall	Dunbar Farm, West Falkland
21	Barnes	Paul	Hope Harbour, West Falkland
22	Beattie	Ian Robert Ewen	North Arm, East Falkland
23	Benjamin	Raymond John	Turners, MPA, East Falkland
24	Benjamin	Walter George	Turners, MPA, East Falkland
25	Berntsen	Arina Janis	Pebble Island, West Falkland
26	Berntsen	Diana Mary	Goose Green, East Falkland
27	Berntsen	John Alexander	Goose Green, East Falkland
28	Berntsen	Leon	Albermarle Stn. West Falkland
29	Berntsen	Pamela Margaret	Albermarle Stn. West Falkland
30	Betts	Bernard Keith	Boundary Farm, West Falkland
31	Betts	Diane Joan	Boundary Farm, West Falkland
32	Betts	Irene Marion	Boundary Farm, West Falkland
33 *	Binnie	Horace James	Fox Bay Village, West Falkland
34	Binnie	Linda Rose	Fitzroy Farm, East Falkland
35	Binnie	Ronald Eric	Fitzroy Farm, East Falkland
36	Blake	Alexander Charles	The Peaks Farm, West Falkland
37	Blake	Anthony Thomas	Little Chartres, West Falkland
38	Blake	Lionel Geoffrey	The Peaks Farm, West Falkland
39	Blake	Lyndsay Rae	Little Chartres, West Falkland
40	Blake	Sally Gwynfa	The Peaks Farm, West Falkland
41	Bober	John	Turners, MPA, East Falkland
42	Bonner	Avril Margaret Rose	Salvador, East Falkland
43	Bonner	Keith James	Salvador, East Falkland
44	Bonner	Simon	Port Howard, West Falkland
45	Bonner	Susan Anne	Port Howard, West Falkland
46	Browning	Gavin	Fitzroy, East Falkland
47	Buckett	Roy Peter	Leicester Falls, West Falkland
48	Butler	Doreen Susan	Fitzroy, East Falkland
49	Butler	James Donald	Fitzroy, East Falkland
50	Chandler	Ann Beatrice	Port Howard, West Falkland
51	Chandler	Edward	Port Howard, West Falkland
52	Chandler	Lee	Port Howard, West Falkland
53	Clark	Frederick Thomas	Hawkbit, MPA, Rd. East Falkland
54	Clarke	Jeanette	Kings Ridge, East Falkland
55	Clarke	Michael Jan	Kings Ridge, East Falkland

56	Clausen	Denzil	Weddell Is. West Falkland
57	Clausen	Henry Edward	Port Louis, East Falkland
58	Clifton	Leonard	North Arm, East Falkland
59	Clifton	Thora Janeene	North Arm, East Falkland
60	Cockwell	Benjamin William	Fox Bay Village, West Falkland
61	Cockwell	Grizelda Susan	Fox Bay Village, West Falkland
62	Cockwell	John Richard	Fox Bay Village, West Falkland
63	Coleman	Anthony Hugh John	Bristows, MPA, East Falkland
64	Collins	Bernard	Turners, MPA. East Falkland
65	Coutts	Frederick George	Fitzroy, East Falkland
66	Davis	Aase	Evelyn Station, East Falkland
67	Davis	Ian John	Evelyn Station, East Falkland
68	Davis	Reginald John	Evelyn Station, East Falkland
69	Davis	William James	Goose Green, East Falkland
70	Decroliere	Eric Ernest Albert	Fox Bay Village, West Falkland
71	Dickson	Charles George	Brookfield, East Falkland
72	Dickson	Doreen	Wreck Point, East Falkland
73	Dickson	Gerald William	Wreck Point, East Falkland
74	Dickson	Iris	Goose Green, East Falkland
75	Dickson	Ronald Edward	Goose Green, East Falkland
76	Dickson	Steven Charles	Goose Green, East Falkland
77	Donnelly	Daniel	Crooked Inlet, West Falkland
78	Donnelly	Joyce Elizabeth	Crooked Inlet, West Falkland
79 *	Duncan	Peter Ree Howard	Hill Cove, West Falkland
80	Dunford	David Philip	The Saddle, West Falkland
81	Edwards	Emma Jane	Lake Sullivan, West Falkland
82	Edwards	Norma	Lake Sullivan, West Falkland
83	Edwards	Rebecca Elizabeth	Lake Sullivan, West Falkland
84	Edwards	Roger Anthony	Lake Sullivan, West Falkland
85	Evans	Michelle Paula	Fitzroy, East Falkland
86	Evans	Raymond	Pebble Island, West Falkland
87	Evans	Richard Gregory	Fitzroy, East Falkland
88	Evans	Tracy	Saunders Is. West Falkland
89 *	Fairley	John	Port Stephens, West Falkland
90 *	Felton	Anthony Terence	North Arm, East Falkland
91 *	Felton	Walter Arthur	North Arm, East Falkland
92	Ferguson	Finlay James	Bleaker Island, East Falkland
93	Ferguson	John William	Weddell Island, West Falkland
94	Ferguson	Stephanie Janet	Weddell Island, West Falkland
95	Findlay	Andrew John	Fox Bay Village, West Falkland
96	Findlay	Cathy Ann	Fox Bay Village, West Falkland
97 *	Finlayson	Barry Donald	North Arm, East Falkland
98 *	Finlayson	Iris Heather	North Arm, East Falkland
99	Finlayson	Neil Roderick	North Arm, East Falkland
100	Ford	Neil Fraser	Mossvale, West Falkland
101	Ford	Penelope Rose	Mossvale, West Falkland
102	Forster	Gwyneth May	Bold Cove, West Falkland
103	Forster	James	Bold Cove, West Falkland
104	Forsyth	Gordon	M.P.A. East Falkland
105	Gilding	Melanie Carol	Port Louis, East Falkland
106	Gilding	Peter Bernard	Port Louis, East Falkland
107	Giles	Gilbert	Walker Creek, East Falkland
108	Giles	Theresa Kathleen	Walker Creek, East Falkland
109	Gleadell	Ian Keith	East Bay, West Falkland
110	Gleadell	Marklin John	East Bay, West Falkland

111	Goodwin	Christopher Sturdee	Swan Inlet, East Falkland
112	Goodwin	Mandy Hazel	Greenfield, East Falkland
113	Goodwin	Margo Jane	Elephant Beach, East Falkland
114	Goodwin	Neil Alexander William	Elephant Beach, East Falkland
115	Goodwin	Robin	Greenfield, East Falkland
116	Goss	Eric Miller	North Arm, East Falkland
117	Goss	Margaret Rose	Horseshoe Bay, East Falkland
118	Goss	Peter	Horseshoe Bay, East Falkland
119	Goss	Shirley Ann	North Arm, East Falkland
120	Gray	David Edward	Sea Lion Island, East Falkland
121	Gray	Patricia May	Sea Lion Island, East Falkland
122	Halliday	Joyce Isabella Patience	Fox Bay Village, West Falkland
123	Halliday	Kenneth William	Fox Bay Village, West Falkland
124	Hansen	Ian	Main Point, West Falkland
125 *	Hansen	Lionel Raymond	Hill Cove, West Falkland
126 *	Hansen	Rose Idina	Hill Cove, West Falkland
127	Hansen	Susan Ann	Main Point, West Falkland
128 *	Hardcastle	Brook	Darwin, East Falkland
129 *	Hardcastle	Eileen Beryl	Darwin, East Falkland
130	Harvey	Jen	Hill Cove, West Falkland
131	Harvey	Valerie Ann	Hill Cove, West Falkland
132	Hayles	Robert Jack	M.P.A. East Falkland
133	Heathman	Ailsa	Estancia, East Falkland
134	Heathman	Ewart Tony	Estancia, East Falkland
135	Hewitt	Brian David	North Arm, East Falkland
136	Higgins	Stephen Sheamus	M.P.A. East Falkland
137	Hill	Jennifer Eileen	Pebble Island, West Falkland
138	Hirtle	Anthony	Pebble Island, West Falkland
139	Hirtle	Doris Linda	Port Howard, West Falkland
140	Hirtle	Odette Susan	Port Howard, West Falkland
141	Hirtle	Susan Mary	Pebble Island, West Falkland
142	Hobman	Juan Jose Eleuterio	Chartres, West Falkland
143	Hobman	Vivien	Chartres, West Falkland
144	Hooper	Peter Bernard	Mount Alice, West Falkland
145	Hoy	Dawn	Travellers Rest, East Falkland
146	Jaffray	Alexander	Lively Island, East Falkland
147	Jaffray	Brian	Walker Creek, East Falkland
148	Jaffray	Dereck Charles	Walker Creek, East Falkland
149	Jaffray	Elliott Jessie	Lively Island, East Falkland
150	Jaffray	John Willie	Walker Creek, East Falkland
151	Jaffray	Phyllis	Walker Creek, East Falkland
152	Jones	Michael David	Port Louis, East Falkland
153	Jones	Sheila Janice	Port Louis, East Falkland
154	Jonson	Carl	Bombilla, East Falkland
155	Jonson	Rita Elizabeth	Bombilla, East Falkland
156	Keeley	John Gabriel	Turners, MPA. East Falkland
157	Kidd	John Nathan	Burntside, East Falkland
158	Kidd	Lillian Rose Orissa	Burntside, East Falkland
159	Kilmartin	Dinah May	Bluff Cove, East Falkland
160	Kilmartin	Kevin Seaton	Bluff Cove, East Falkland
161	King	Edward Robert	Bristows, MPA. East Falkland
162	Knight	Justin Robert Campbell	Coast Ridge, West Falkland
163	Knight	Keith Andrew	Port Howard, West Falkland
164	Knight	Nigel Arthur	Coast Ridge, West Falkland
165	Knight	Shirley Louvain Patricia	Coast Ridge, West Falkland

166	Lakin	Bernard	Turners, MPA. East Falkland
167 *	Lang	Patrick Andrew	North Arm, East Falkland
168	Lang	Velma Emily	North Arm, East Falkland
169	Larsen	Josephine Mary	Speedwell Island, East Falkland
170	Larsen	Ronald Ivan	Speedwell Island, East Falkland
171	Larsen	Yvonne	Speedwell Island, East Falkland
172	Lee	Carole	Port Howard, West Falkland
173	Lee	Elizabeth	Goose Green, East Falkland
174	Lee	John Alfred	Goose Green, East Falkland
175	Lee	Myles	Port Howard, West Falkland
176	Lee	Robin Myles	Port Howard, West Falkland
177	Lee	Rodney William	Port Howard, West Falkland
178	Leo	Brenda May	NAAFI, MPA. East Falkland
179	Limond	Alexander Buchanan	KIS. MPA. East Falkland
180 *	Lloyd	John Moelwyn	Port Edgar, West Falkland
181	Lloyd	Melvyn John	Swan Inlet, East Falkland
182	Lloyd	Valerie Ann	Swan Inlet, East Falkland
183	Lowe	Adrian Stewart	Murrel, East Falkland
184	Lowe	Lisa Helen	Murrel, East Falkland
185	Luxton	William Robert	Chartres, West Falkland
186	MacBeth	Raymond John	Narrows Farm, West Falkland
187	MacKay	James	Turners, MPA. East Falkland
188	Maddocks	Robert Charles	Saunders Island, West Falkland
189	Marsh	Alastair Roy	Shallow Harbour, West Falkland
190	Marsh	Anna Dierdre	Fox Bay Village, West Falkland
191	Marsh	Arlette Sharon	Rincon Ridge, West Falkland
192	Marsh	Gavin Nicholas	Fox Bay Village, West Falkland
193 *	Marsh	June Helen	Rincon Ridge, West Falkland
194	Marsh	Leon Peter	Rincon Ridge, West Falkland
195	Marsh	Marlane Rose	Shallow Harbour, West Falkland
196	Marsh	Patricia Ann	Lakelands, West Falkland
197	Marsh	Robin Frank	Lakelands, West Falkland
198	May	Christopher Raymond	New House, East Falkland
199	May	Lindsey Olga	New House, East Falkland
200	McBain	Arthur	Saladero, East Falkland
201	McBain	Rhoda Margaret	Saladero, East Falkland
202 *	McDougall	James Gilfillan Stewart	Turners, MPA. East Falkland
203	McGhie	James	Pebble Island, West Falkland
204	McGhie	Roy	Port North, West Falkland
205	McGill	Gary	Goose Green, East Falkland
206	McGill	Robin Perry	Carcass Island, West Falkland
207	McKay	Christine	Teal River, West Falkland
208	McKay	Frazer Roderick	Teal River, West Falkland
209	McKay	Gerard	Goose Green
210	McKay	Isabella Alice	Westley, West Falkland
211 *	McKay	Margaret	KIS, MPA. East Falkland
212 *	McKay	Richard	Westley, West Falkland
213	McLeod	Albert John	Goose Green, East Falkland
214	McLeod	Isabella Diana Frances	Weddell Is. West Falkland
215 *	McLeod	Joan May	North Arm, East Falkland
216	McLeod	Sarah Rose	Goose Green, East Falkland
217	McMullen	June	Goose Green, East Falkland
218	McMullen	Tony	Goose Green, East Falkland
219 *	McPhee	June Iris	Brookfield, East Falkland
220 *	McPhee	Kenneth John	Brookfield, East Falkland

221	McPhee	Sheila Margaret	Kingsford Valley, East Falkland
222	McPhee	Terence Owen	Kingsford Valley, East Falkland
223	McPhee	Trudi Lynette	Brookfield, East Falkland
224	McRae	Charlotte Melize	North Arm, East Falkland
225	McRae	David Michael	South Harbour, West Falkland
226	McRae	Gloria Linda	South Harbour, West Falkland
227	McRae	Mandy	Home Farm, East Falkland
228	* McRae	Robert George Hector	Estancia, East Falkland
229	Miller	Betty	Walker Creek, East Falkland
230	Miller	James Albert	Fox Bay Village, West Falkland
231	Miller	Phillip Charles	Cape Dolphin, East Falkland
232	Minnell	Adrian James	Blue Beach, East Falkland
233	Minnell	Benjamin James	Moss Side, East Falkland
234	Minnell	Donna Marie	Moss Side, East Falkland
235	Minnell	Hazel Eileen	Moss Side, East Falkland
236	Minnell	Michael Robert	Moss Side, East Falkland
237	Minnell	Michelle Rose	Blue Beach, East Falkland
238	Minto	Dilys Rose	Fox Bay Village, West Falkland
239	Minto	Patrick Andrew	Goose Green, East Falkland
240	Minto	Timothy Ian	Fox Bay Village, West Falkland
241	Morrison	Eric George	Goose Green, East Falkland
242	Morrison	Gerald	Goose Green, East Falkland
243	Morrison	Jacqueline Denise Anita	Port Howard, West Falkland
244	Morrison	John	Port Howard, West Falkland
245	Morrison	Kathleen Iris	Goose Green, East Falkland
246	Morrison	Kenneth	Port Howard, West Falkland
247	Morrison	Lena	Port Howard, West Falkland
248	Morrison	Leslie Theodore Norman	Port Howard, West Falkland
249	Morrison	Timothy	West Lagoons, West Falkland
250	Murphy	Roy David	Port Howard, West Falkland
251	Napier	Lily	West Point, West Falkland
252	* Napier	Roderick Bertrand	West Point, West Falkland
253	Newman	Sheena Melanie	Cape Dolphin, East Falkland
254	Nightingale	Charlene	West Lagoons, West Falkland
255	Nightingale	Peter Richard	West Lagoons, West Falkland
256	Oxley	Brian	Bristows, MPA. East Falkland
257	Parkinson	Allen	Turners, MPA. East Falkland
258	Peck	Christine	Leicester Falls, West Falkland
259	Peck	Davina Margaret	Shallow Bay, West Falkland
260	Peck	Paul	Shallow Bay, West Falkland
261	Phillips	Carol Joan	Hope Cottage, East Falkland
262	Phillips	Terence	Hope Cottage, East Falkland
263	* Pitaluga	Jene Ellen	Salvador, East Falkland
264	Pitaluga	Nicholas Alexander R.	Salvador, East Falkland
265	Pitaluga	Robin Andreas McIntosh	Salvador, East Falkland
266	Pitt	Myra May	Goose Green, East Falkland
267	* Pole-Evans	Anthony Reginald	Saunders Island, West Falkland
268	Pole-Evans	David Llewellyn	Saunders Island, West Falkland
269	Pole-Evans	Ian	Manybranch, West Falkland
270	Pole-Evans	Lisa	Port Howard, West Falkland
271	Pole-Evans	Shirley Helen	Manybranch, West Falkland
272	Pole-Evans	Suzan	Saunders Island, West Falkland
273	Pole-Evans	William Reginald	Manybranch, West Falkland
274	Poncet	Dion Michael	Beaver Island, West Falkland
275	Poncet	Jerome Pierre	Beaver Island, West Falkland

276	Poncet	Sally Elizabeth	Beaver Island, West Falkland
277	Poole	Ella Josephine	Port San Carlos, East Falkland
278	Poole	Steven Charles	Port San Carlos, East Falkland
279	Porter	Joan	Shallow Harbour, West Falkland
280	Porter	William Kenneth	Fox Bay Village, West Falkland
281	Reeves	Ronald James	Port Howard, West Falkland
282	Robertson	Ann	Port Stephens, West Falkland
283	Robertson	Paul Jonathan	Port Stephens, West Falkland
284	* Robertson	Peter Charles	Port Stephens, West Falkland
285	Ross	William Henry	Rincon Grande, East Falkland
286	Rozee	Fiona	Spring Point, West Falkland
287	Rozee	Ronald David	Spring Point, West Falkland
288	Saunders	Felicity Joan Carlie	Hawkbit, East Falkland
289	Short	Lindsay Marie	Goose Green, East Falkland
290	Short	Robert George	Goose Green, East Falkland
291	Simpson	John	Fitzroy, East Falkland
292	Sinclair	Serena Samantha	North Arm, East Falkland
293	Sinclair	Simon Keith	Goose Green, East Falkland
294	Smith	Andrew John	Port San Carlos, East Falkland
295	Smith	George Patterson	Johnsons Harbour, East Falkland
296	Smith	Georgina Carol Anderson	Port San Carlos, East Falkland
297	Smith	Heather	Harps Farm, West Falkland
298	Smith	Jacqueline	Stoney Ridge, West Falkland
299	Smith	Jenny Lorraine	Johnsons Harbour, East Falkland
300	Smith	Marlaine Rose	North Arm, East Falkland
301	* Smith	Michael Edmund	Johnsons Harbour, East Falkland
302	Smith	Robert William	North Arm, East Falkland
303	Smith	Robin Charles	Harps Farm, West Falkland
304	Smith	Roy Alan	Stoney Ridge, West Falkland
305	Smith	Terence George	North Arm, East Falkland
306	Stearn	Michael Thomas	M.P.A. East Falkland
307	Stevens	Richard James	Port Sussex, East Falkland
308	Stevens	Toni Donna	Port Sussex, East Falkland
309	Taylor	Christopher John	Goose Green, East Falkland
310	Tellez	Arturo	North Arm, East Falkland
311	Tellez	Rudolfo	North Arm, East Falkland
312	Thorsen	David Moller	Teal Inlet, East Falkland
313	Thorsen	Gloria Penelope	Teal Inlet, East Falkland
314	Tolo	Fatulatetele Tile	Port Howard, West Falkland
315	Towersey	Diane	Port Stephens, West Falkland
316	Turner	Arthur Leonard Pitaluga	Rincon Grande, East Falkland
317	* Turner	Diana Jane	Rincon Grande, East Falkland
318	Turner	Elaine Ellen	Rincon Grande, East Falkland
319	Turner	Ronald	Rincon Grande, East Falkland
320	Tuson	Olwyn Carol	Saunders Island, West Falkland
321	Velasquez	Arleen	North Arm, East Falkland
322	Velasquez	Oscar Hernan	North Arm, East Falkland
323	Watson	Glenda Joyce	Long Island, East Falkland
324	Watson	Neil	Long Island, East Falkland
325	Whitney	Daneila Grace	Mount Kent, East Falkland
326	Whitney	Dennis	Fitzroy, East Falkland
327	Whitney	Keith	Home Farm, East Falkland
328	Whitney	Leona Ann	Home Farm, East Falkland
329	Whitney	Patrick George	Mount Kent, East Falkland
330	Whitney	Tyrone	Home Farm, East Falkland

331	Wilkinson	David Clive Walter	Dunnose Head, West Falkland
332	Wilkinson	Rosemary	Dunnose Head, West Falkland
333	Yon	Gillian Rose	KIS. MPA. East Falkland
334	Youde	Maxin Arthur	Turners, MPA. East Falkland
335	Young	Julie	Bristows, MPA. East Falkland
336	Young	Nigel Anthony	Turners, MPA. East Falkland



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

30th June 1998

No. 8

Appointments

Mrs. Myrian Horne-Macdonald, Special Needs Assistant, Education Department, 28.5.98.

Nicholas Bonner, Painter/Handyman, Public Works Department, 1.6.98.

Miss Tanya Autunovic, Staff Nurse, Medical Department, 6.6.98

Patrick Short, Maintenance Technician, Education Department, 8.6.98

Micheal Ford, Handyman/Storeman, Public Works Department, 17.6.98

Mrs. Nichola Jane Jaffray, Clerk, Secretariat, 22.6.98

Transfer

Mrs Trudi Lee, Senior Clerk, Legislature, Senior Clerk, Public Works Department, 8.6.98

Termination of Probationary Appointment

Terrence Kenneth Mills, Driver/ Handyman, Medical Department, 4.6.98

NOTICES

No. 45 31st May 1998

SUPREME COURT OF THE FALKLAND ISLANDS

Workmens' Compensation Ordinance 1960 (section 23)

Appointment of Commissioner

TAKE NOTICE that in exercise of his powers under section 23(1) of the Workmens Compensation Ordinance 1960, the Governor on 31st May 1998 appointed Keith Watson Esquire to be Commissioner for Workmens Compensation.

No. 46 1st June 1998

SUPREME COURT OF THE FALKLAND ISLANDS

Vesting deed - 68 Davis Street Stanley

Futher to an application made by **MICHAEL JAMES MURPHY** and **BESSIE MURPHY** of 68 Davis Street Stanley Falkland Islands pursuant to Section 11A of the Land Ordinance (Notice of which application was published in the Gazette of 30th April 1998) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter

J. C. Rowland,
Registrar General.

Dated this 1st day of June 1998

WHEREAS on application made to me **JOHN CHRISTOPHER ROWLAND Registrar General** pursuant to subsection 11A of the Land Ordinance **MICHAEL JAMES MURPHY** and **BESSIE MURPHY** of 68 Davis Street Stanley Falkland Islands. I am satisfied that **MICHAEL JAMES MURPHY** and **BESSIE MURPHY** should be registered as the owners of the property in fee simple absolute in possession of the land described in the schedule to this Deed **NOW THEREFORE** by this Deed I do declare that the estate in fee simple absolute in possession of the said land is vested **MICHAEL JAMES MURPHY** and **BESSIE MURPHY** **SUBJECT** only to such matters as are mentioned in Crown Grant 464 relating to the land or have effect by virtue of the Crown grant and to such easements rights privileges and encumbrances as it may have created prior to the date of this Deed

SCHEDULE
(description of land)

ALL THAT land and property known as 68 Davis Street in Stanley forming part of Crown Grant 464 and more particularly described in a conveyance made on 22 June 1976 Between **SARAH MARIA PECK (1)** and **MICHAEL JAMES MURPHY** and **BESSIE MURPHY (2)**

J.C. Rowland,
Registrar General.

Any person aggrieved by the decision of the Registrar General to execute a Vesting deed under this Ordinance may appeal to the Supreme Court Within 30 days of the publication in the Gazette of this Notice in accordance with the provisions of Subsection 11A of The Land Ordinance

Dated 1st June 1998

No. 47 9th June 1998

The Index Of Retail Prices for the quarter ended 31 March 1998 has now been calculated.

The Index increased by 1.92% during the quarter, from 137.604 to 140.246.

C. S. Davies,
for Government Secretary.

9 June 1998
Ref: INT 2/2

No. 48

22nd June 1998

SAFCO (FALKLANDS) LIMITED
COMPANY NUMBER 8832

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 22nd day of June 1998.

Dated this 22nd day of June 1998.

J.C. Rowland,
Registrar of Companies.

Appointment of Temporary Customs Officer
Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. D. W. REMBLENCE L8285095

to be a Temporary Customs Officer from 28th May 1998 until 15th September 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer
Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. B. S. HART F8284346

to be a Temporary Customs Officer from 28th May 1998 until 22nd July 1998.

R.J. King,
Collector of Customs.

Appointment of Temporary Customs Officer
Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

SGT. B. J. MAIN R8115967

to be a Temporary Customs Officer from 23rd June 1998 until 26th October 1998.

R.J. King,
Collector of Customs.



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

31st July 1998

No. 9

Appointments

Mrs. Shirley Rose Betts, Auxiliary Nurse, Medical Department, 28.6.98.

Derek Charles Jaffray, Plant Operator, Public Works Department, 29.6.98.

Ishmael Llewellyn Stevens, Power Station Operator, Public Works Department, 29.6.98.

Larry Paul Williams, Driver/Handyman, Medical Department, 30.6.98.

Kenneth Duval, Labourer, Public Works Department, 1.7.98.

Nicholas Charles Ellick, Plant Operator, Public Works Department, 1.7.98.

Kevin Derek Charles McKay, Handyman/Roadcleaner, Public Works Department, 1.7.98.

Brian Williams, Handyman/Driver, Public Works Department, 1.7.98.

Derek Muhl, General Manager Health Care, Medical Department, 7.7.98.

Miss Delsha Vanessa Jane Duncan, Trainee Printer, Printing Office, 14.7.98.

Daniel Poulding, Fisheries Observer, Fisheries Department, 24.7.98.

Darren Richard Plato, Power Station Operator, Public Works Department, 27.7.98.

Confirmation of Appointment

Miss Jennifer Coral McKay, Auxiliary Nurse, Medical Department, 4.7.98.

Promotion

Kurt Ian Whitney, from Licenced Aircraft Engineer, FIGAS, to Deputy Chief Engineer, FIGAS, 8.7.98.

Transfer

Miss Tamara Colette Lang, from Stores Clerk, Central Store, to Auxiliary Nurse, Medical Department, 1.7.98.

Completion of Contracts

Zdzislaw Cielniaszek, Data Analyst, Fisheries Department, 18.6.98.

John Philip Roxburgh, Fisheries Observer, Fisheries Department, 30.6.98.

David Alexander Edgar Smith, Fisheries Observer, Fisheries Department, 10.7.98.

Douglas Michael Edwin Cartridge, Wool Adviser, Department of Agriculture, 15.7.98.

Renewal of Contract

Douglas Michael Edwin Cartridge, Wool Adviser, Department of Agriculture, 16.7.98.

Retirements

Miss Rose Ann Shirley Hirtle, Assistant Taxation Officer, Treasury, 6.7.98.

Orlando Almonacid, Carpenter, Property & Municipal Section, Public Works Department, 29.7.98.

Rudy Thomas Clarke, Foreman, Plant & Vehicles Section, Public Works Department, 31.7.98.

Resignations

William John Chater, Trainee Printer, Printing Office, 30.6.98.

Mrs. Phyllis Gough, Senior Housekeeper, Government House, 3.7.98.

Tyssen John Richard Smith, Plant Operator, Public Works Department, 17.7.98.

NOTICES

No. 49 8th July 1998

SUPREME COURT OF THE FALKLAND ISLANDS

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

TAKE NOTICE THAT Stanley William Cletheroe deceased of Stanley, Falkland Islands died at Stanley, Falkland Islands on the 17th day of December 1991.

WHEREAS Chalmers Nominee Company (Falklands) Limited, has applied for Letters of Administration with 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.

L.A. TITTERINGTON,
Registrar, Supreme Court.

No. 50 9th July 1998

PLANNING ORDINANCE 1991

Section 5(2)

APPOINTMENT OF MEMBER OF THE PLANNING AND BUILDING COMMITTEE

IN EXERCISE of my powers under section 5(2) of the Planning Ordinance 1991 **I ANDREW MURPHY GURR**, Acting Governor of the Falkland Islands,

APPOINT FRANK BRIAN CLAXTON to be a member of the Planning and Building Committee.

Dated this 9th day of July 1998.

A.M. GURR,
Acting Governor.

No. 51 9th July 1998

PLANNING ORDINANCE 1991

Section 5(2)

APPOINTMENT OF MEMBER OF THE PLANNING AND BUILDING COMMITTEE

IN EXERCISE of my powers under section 5(2) of the Planning Ordinance 1991 **I ANDREW MURPHY GURR**, Acting Governor of the Falkland Islands, **APPOINT ROBERT HUGH VALLER** to be a member of the Planning and Building Committee.

Dated this 9th day of July 1998

A.M. GURR,
Acting Governor.

No. 52 15th July 1998

It is hereby notified for information that **HECTOR ALEJANDRO OLMEDO APABLAZA** of **STANLEY** has changed his name to **ALEX OLMEDA** by Deed Poll

Dated this 15th day of July 1998

J.C. ROWLAND,
Registrar General.

No. 53 20th July 1998

It is hereby notified for information that **ROANNA EILEEN BONNER** has changed her name to **ROANNA EILEEN LLYOD** by Deed Poll

Dated this 20th day of July 1998

J.C. ROWLAND,
Registrar General.

No. 54 23rd July 1998

APPOINTMENT TO CAMP EDUCATION MANAGERS

It is hereby notified for general information that His Excellency the Governor has appointed Mrs. Day Peck to be one of the Camp Education Managers.

Dated this 23rd day of July 1998

No. 55 24th July 1998

**FISHERIES PRODUCTS (HYGIENE)
ORDINANCE 1998**

**SECTION 1
COMMENCEMENT NOTICE**

IN EXERCISE of my powers under section 1 of the Fishery Products (Hygiene) Ordinance 1998, I hereby notify that the Ordinance shall come into force on the 31st July 1998.

Dated this 24th day of July 1998

R.P. RALPH,
Governor.

No. 56 24th July 1998

ABATTOIRS ORDINANCE 1997

**SECTION 1
COMMENCEMENT NOTICE**

IN EXERCISE of my powers under section 1 of the Abattoirs Ordinance 1997, I hereby notify that the Ordinance shall come into force on 1st August 1998.

Dated this 24th day of July 1998.

R.P. RALPH,
Governor.

No. 57 24th July 1998

**REVISED EDITION OF THE LAWS
ORDINANCE 1991**

SECTION 4(4)

**COMMENCEMENT NOTICE OF
LAW REVISION ORDER NO 1 OF 1997**

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991 and of all other powers enabling me in that behalf, I hereby notify that the Law Revision Order No 1 of 1997 shall come into force on 1st August 1998.

Dated this 24th day of July 1998

R.P. RALPH,
Governor.

No. 58 9th July 1998

APPLICATION FOR PERMANENT RESIDENCE

Notice is hereby given that Mr. Stephen Paul Freer and family of Stanley, Falklands Islands are applying to the

Principal Immigration Officer for permanent residence permits. If anyone knows of any reason why these permits should not be issued please send a written statement of the facts to the Principal Immigration Officer, Secretariat, Stanley within 15 days of the publication of this notice.

B.ECCLES,
for Principal Immigration Officer.

No. 59 9th July 1998

APPLICATION FOR PERMANENT RESIDENCE

Notice is hereby given that Ms. Patricia Anne Lewis and family of Stanley, Falkland Islands are applying to the Principal Immigration Officer for permanent residence permits. If anyone knows of any reason why these permits should not be issued please send a written statement of the facts of the Principal Immigration Officer, Secretariat, Stanley within 15 days of the publication of this notice.

B.ECCLES,
for Principal Immigration Officer.

No. 60 31st July 1998

**SECTION 11A OF THE LAND ORDINANCE
Cap 36**

TAKE NOTICE that Heather Margaret Hills of 5 Davis Street Stanley Falkland Islands has applied in accordance with 11A (1) of the Land Ordinance to have executed in favour of her a Vesting Deed of certain land on East Falkland comprising of the property being part of Crown Grant 107 at Brisbane Road Stanley Falkland Islands.

The applicant's statutory declaration may be inspected by any person at the Registrar General's office during normal working hours.

NOTICE IS HEREBY given that unless any objection has been received within 30 days following the publication of this notice the Registrar General under the terms of Section 11A of the Land Ordinance will execute in favour of Heather Margaret Hills a Vesting Deed of the said land.

J.C. ROWLAND,
Registrar General.



**THE
FALKLAND ISLANDS GAZETTE
Extraordinary**

PUBLISHED BY AUTHORITY

Vol. CVII

12th August 1998

No. 10

The following is published in this Gazette:-

The Register of Electors - 1998.

1	Adams	John Harvey	21 Ross Rd. East
2	Adams	Marjorie Rose	21 Ross Rd. East
3	Alazia	Andrew	66 Davis St.
4	Alazia	Anita Jayne	Government House
5	Alazia	Colleen	11 Fitzroy Rd. East
6	Alazia	Freda	2 Fitzroy Rd.
7	Alazia	Freda Evelyn	33 Ross Rd. West
8	Alazia	James Andrew	2 Fitzroy Rd.
9	Alazia	Keith	4 James St.
10	Alazia	Maggie Ann	6 John St.
11	Alazia	Stuart John	31 Fitzroy Rd.
12	Alazia	Yvonne	Flat 2, 1A Moody St.
13	Aldridge	Caroline Mary	2 H Jones Rd.
14	Aldridge	Kenneth John	2 H Jones Rd.
15	Aldridge	Nina Ann	2 H Jones Rd.
16	Allan	John	28 John St.
17	Allan	Joyce Ena	28 John St.
18	Allan	Michael Charles	3 Philomel Place
19	Almonacid	Orlando	1 Villiers St.
20	Anderson	Carol Anne	22 Endurance Ave.
21	Anderson	Claudette	56 John St.
22	Anderson	Eddie	22 Endurance Ave.
23	Anderson	Elizabeth Nellie	42 Davis St.
24	Anderson	Gloria	Jersey Est.
25	Anderson	Helen	88 Davis St.
26	Anderson	Jamie Falkland	Stanley
27	Anderson	Margaret Kathleen	21 John St.
28	Anderson	Mildred Nessie	8 St. Marys Walk
29	Anderson	Paul James	39 Eliza Cres.
30	Anderson	Reginald Stanford	21 John St.
31	Anderson	Richard Louis	88 Davis St.
32	Anderson	Rupert William	Stanley
33	Anderson	Stanley John	Stanley
34	Anderson	Stephen Robert	Stanley
35	Anthony	Enid Elizabeth	6 Dairy Paddock Rd
36	Anthony	Geraldine Sylvia	Flat 6, 6 Jersey Rd.
37	Anthony	Malcolm James	17 Brandon Rd.
38	Backhouse	Cheryl Paulette	19 Scoresby Close
39	Backhouse	Nicholas	19 Scoresby Close
40	Ballard	Wanda Rose	1 Fieldhouse Close
41	Barnes	Ernest	70 Davis St.
42	Barnes	Molly Stella	70 Davis St.
43	Barnes	Trevor Marshall	1 Auster Place
44	Barton	Alison Mary	6 Villiers St.
45	Barton	Arthur John	6 Villiers St.
46	Battersby	Jon Alan	16 Fieldhouse Close
47	Battersby	Margaret Mary	16 Fieldhouse Close
48	Bedford	Carole Anne	16 Scoresby Close
49	Bedford	Kita Muriel	2 Drury St.
50	Bennett	Harold	14 Alardyce St.
51	Bennett	Lena Grace Gertrude	14 Allardyce St.
52	Berntsen	Benjamin John	31 Ross Rd. West
53	Berntsen	Cecilia Del Rosario	14 St Marys Walk
54	Berntsen	Christian Olaf Alexander	32 Eliza Cres.
55	Berntsen	Iain Kenneth	9 Eliza Cres.

56	Berntsen	Kathleen Gladys	1 St Marys Walk, Stanley
57	Berntsen	Kenneth Frederick	20 Ross Road West, Stanley
58	Berntsen	Matthew John	39 Davis St.
59	Berntsen	Olaf Christian Alexander	Eliza Cres.
60	Berntsen	Patrick	10 James St.
61	Berntsen	Saphena Anya Jane	Flat 7, 6 Jersey Rd.
62	Berntsen	Valdamar Lars	14 St. Marys Walk
63	Berntsen	Valorie Marcela	14 St. Marys Walk
64	Bertrand	Catherine Gladys	11 Ross Rd. East
65	Besley-Clark	Barbara June	53 Callaghan Rd.
66	Besley-Clark	Craig Norman Leigh	53 Callaghan Rd.
67	Besley-Clark	Douglas James	53 Callaghan Rd.
68	Besley-Clark	Norman	53 Callaghan Rd.
69	Betts	Arlette	Lafone House, Ross Rd. East
70	Betts	Donald William	7 Jeremy Moore Ave.
71	Betts	Ellen Alma	21 Fitzroy Rd.
72	Betts	George Winston Charles	35 Ross Rd. West
73	Betts	Ian	1 Villiers St.
74	Betts	Lucia Elizabeth	35 Ross Rd. West
75	Betts	Owen	Flat 4, Church House
76	Betts	Severine	2B Jeremy Moore Ave. East
77	Betts	Shirley Rose	7 Jeremy Moore Ave.
78	Betts	Simon Keith	Reflections Flat Stanley
79	Betts	Terence Severine	Lafone House, Ross Rd. East
80	Biggs	Alastair Gordon	Trehayle, 50 John St.
81	Biggs	Althea Maria	3 Dairy Paddock Rd.
82	Biggs	Betty Josephine	9 Moody St.
83	Biggs	Edith Joan	Trehayle, 50 John St.
84	Biggs	Frances	16 Endurance Ave.
85	Biggs	Frederick James	KEMH
86	Biggs	Irene Mary	Harbour View, 4 Ross Rd. East
87	Biggs	Leslie Frederick	3 Dairy Paddock Rd.
88	Biggs	Michael Elfed	21 Fitzroy Rd.
89	Biggs	Peter Julian Basil	16 Endurance Ave.
90	Binnie	Juliet Ann	33 Eliza Cres.
91	Binnie	Susan	3 Brandon Rd.
92	Birmingham	John	4 Drury St.
93	Birmingham	Susan Jane	4 Drury St.
94	Blackley	Candy Joy	4 Barrack St.
95	Blackley	Hilda	11 Thatcher Drive
96	Blackley	John David	4 Barrack St.
97	Blackley	Maurice	The Lodge, Market Garden
98	Blackley	Shane David	4 Barrack St.
99	Blades	Helen Jean	10 John St.
100	Blake	Thomas Patrick	90 Davis St.
101	Blizard	Lawrence Gordon	51 Fitzroy Rd.
102	Blizard	Malvina Mary	51 Fitzroy Rd.
103	Blyth	Agnes Ruth	2 Brandon Rd.
104	Blyth	Alfred John	2 Brandon Rd.
105	Blyth	Paz Neri	5 St Mary's Walk, Stanley
106	Bonner	Alan Paul	5 John Street, Stanley
107	Bonner	Angela Jane	5 John St.
108	Bonner	Cheryl Anne	4a Ross Road West
109	Bonner	Donald William	Chaffeurs Cottage
110	Bonner	Hayley Trina	41 Ross Rd. West

111	Bonner	Linda Jane	4A Ross Rd. West
112	Bonner	Nicholas	4A Ross Rd. West
113	Bonner	Paul Roderick	5 John St.
114	Bonner	Timothy	41 Ross Rd. West
115	Bonner	Vera Ann	5 John St.
116	Bonner	Vera Joan	Chaffeurs Cottage
117	Bonner	Violet	40 Ross Rd.
118	Booth	Jessie	Racecourse Cottage
119	Booth	Joseph Bories	7 Philomel St.
120	Booth	Myriam Margaret Lucia	7 Philomel St.
121	Booth	Stuart Alfred	Racecourse Cottage
122	Bound	Joan	Barrack St.
123	Bowles	Norma Evangeline	1A Villiers St.
124	Bowles	William Edward	1A Villiers St.
125	Bowles	William George Troyd	1A Villiers St.
126	Bragger	Edward Laurence	14 Jeremy Moore Ave.
127	Bragger	Olga	14 Jeremy Moore Ave.
128	Brock	Juanita Lois	Flat5, 1 Jeremy Moore Ave East
129	Brooks	Cheryl Rose	25 Callaghan Rd.
130	Brooks	Peter William	25 Callaghan Rd.
131	Browning	Colin George	1 Moody St.
132	Browning	Edwina	Davis St.
133	Browning	Rex	35 Davis St.
134	Browning	Richard William	33 Davis St
135	Browning	Trevor Osneth	Rose Hotel
136	Brownlee	Andrew Samuel	19 Ross Rd East
137	Brownlee	Lynn Frances	19 Ross Rd East
138	Buckett	Ronald Peter	49 Fitzroy Rd.
139	Buckett	Susan Vera	49 Fitzroy Rd.
140	Buckland	Colin Michael	13 Murray Heights
141	Buckland	Darlene Joanna	11 James St.
142	Buckland	Peter John	9 Callaghan Rd.
143	Bundes	Robert John Christian	17 Fitzroy Rd.
144	Burnard	Eleanor Jane	3 Jeremy Moore Ave.
145	Burnard	Jennifer	3 Jeremy Moore Ave.
146	Burnard	Linda May	3 Jeremy Moore Ave.
147	Burnard	Peter	3 Jeremy Moore Ave.
148	Burnett	Anthony	59 Fitzroy Rd.
149	Burnett	Elizabeth Ann	59 Fitzroy Rd.
150	Burns	Mary Anne	34 Davis St.
151	Bury	Ian Thomas	63 Davis St.
152	Butcher	Michael George	3A Dairy Paddock Rd.
153	Butcher	Trudi	3A Dairy Paddock Rd.
154	Butler	Elsie Maud	8 John St.
155	Butler	Frederick Lowther Edward Olai	8 John St.
156	Butler	George Joseph	1A Moody St.
157	Butler	Jonathan Jeffers	3 Jeremy Moore Ave
158	Butler	Laurence Jonathan	2 Davis St East
159	Butler	Margaret Orlanda	15A James St.
160	Butler	Orlanda Betty	2 Davis St. East
161	Cameron	Jane Diana Mary Keith	Old Bakery, Fitzroy Rd.
162	Cant	Carol Rosine	Stanley
163	Cant	Martin Ronald	Stanley
164	Cantlie	Derek William	27 Callaghan Rd
165	Card	Patricia Collette	7 Ian Campbell Drive

166	Carey	Anthony Michael	19 Ross Rd. West
167	Carey	Bonita Colleen	19 Ross Rd. West
168	Carey	Gladys	19 Ross Rd. West
169	Carey	Martin Rex	21 Eliza Cove Cres.
170	Carey	Mary Ann Margaret	18 Ross Rd. West
171	Carey	Terence James	18 Ross Rd. West
172	Cartwright	Stephen	39 Ross Road West
173	Castle	David Peter	26 John St.
174	Castle	Isobel	26 John St.
175	Ceballos	Eulogio Gabriel	28 Endurance Ave.
176	Chaloner	Sheila Catherine	2 Racecourse Rd
177	Chapman	Helen	6 Fitzroy Rd. East
178	Chapman	Paul	6 Fitzroy Rd. East
179	Chater	Anthony Richard	33 Fitzroy Rd.
180	Chater	Thomas Frederick	33 Fitzroy Rd.
181	Chater	William John	33 Fitzroy Rd.
182	Cheek	Barbara	10 Ross Rd.
183	Cheek	Gerald Winston	10 Ross Rd.
184	Cheek	Janet Linda	25 Ross Rd. West
185	Cheek	Marie	10 Ross Rd.
186	Cheek	Miranda	25 Ross Rd. West
187	Cheek	Rosalind Catriona	25 Ross Rd. West
188	Clapp	Kevin Christopher	1 Murray Heights
189	Clark	Hector	27 Eliza Cres.
190	Clark	Jonathan Andrew	Flat 10, Jersey Rd
191	Clark	Joyce Kathleen	27 Eliza Cres.
192	Clarke	Amelia	1 Callaghan Rd.
193	Clarke	Camilla Marie	8 Drury St.
194	Clarke	Christopher	Stanley
195	Clarke	David James	17 Ross Rd. West
196	Clarke	Derek Simon	23 Jeremy Moore Ave.
197	Clarke	Doreen	17 Ross Rd. West
198	Clarke	Gwynne Edwina	17 Jeremy Moore Ave.
199	Clarke	Ian	17 Ross Rd. West
200	Clarke	Isabel Joan	12 Fieldhouse Close
201	Clarke	James Martin	4B Ross Rd. West
202	Clarke	Jan Michael	5 Allardyce Street
203	Clarke	Jonathan Terence	17 Jeremy Moore Ave.
204	Clarke	Julie Ann	Globe Tavern
205	Clarke	Marvin Thomas	7 Fitzroy Rd.
206	Clarke	Paul Ian	Stanley
207	Clarke	Petula Jane	Stanley
208	Clarke	Rachel Ena	32 Eliza Cres.
209	Clarke	Ronald John	17 Ross Rd. West
210	Clarke	Rudy Thomas	8 Drury St.
211	Clarke	Sasha Michelle	Stanley
212	Clarke	Shane Adrian	1 Callaghan Rd.
213	Clarke	Suzanna	YMCA
214	Clarke	Terence John	17 Jeremy Moore Ave.
215	Clarke	Trudi Ann	7 Fitzroy Rd.
216	Clarke	Violet Rose	31 Ross Rd. West
217	Clasen	Wayne Ian Summers James	9 Fitzroy Rd.
218	Clausen	Andrea Patricia	3 St. Marys Walk
219	Clausen	Denzil George Gustavius	3 St. Marys Walk
220	Clausen	Melanie	1 Hebe St.

221	Clausen	Sophie Marina	Stanley
222	Claxton	Frank Brian	28 Ross Rd. East
223	Claxton	Margaret	28 Ross Rd. East
224	Clayton	Brian	16 St. Marys Walk
225	Clayton	Susan	16 St. Marys Walk
226	Clement	Gary	9 Snake St.
227	Clement	Jane	9 Snake St.
228	Clement	Lee	9 Snake Hill
229	Clement	Wayne	9 Snake Hill
230	Cletheroe	Kenneth Stanley	45 Fitzroy Rd.
231	Clifton	Charles	3 Ross Rd. West
232	Clifton	Darwin Lewis	53 Davis St.
233	Clifton	Doreen	3 Ross Rd. West
234	Clifton	Kevin	20 Davis St.
235	Clifton	Marie	6 Discovery Close
236	Clifton	Neil	20 Davis St.
237	Clifton	Stephen Peter	61 Fitzroy Rd.
238	Clifton	Terence Charles	3 Ross Rd. West
239	Clifton	Teresa Ann	12 Callaghan Rd.
240	Clifton	Valerie Ann	61 Fitzroy Rd.
241	Clingham	Leslie George	2 Brisbane Rd.
242	Clingham	Yvonne Helen	2 Brisbane Rd.
243	Cockwell	Maurice Adam	90 Davis St.
244	Cofre	Anya Evelyn	6A Ross Rd. West
245	Cofre	Elvio Miguel	6A Ross Rd. West
246	Collier	Mark Walter	Flat 2 Church House
247	Collins	Shiralee	Flat 9, 6 Jersey Rd.
248	Connolly	Kevin Barry	1 King St.
249	Coombe	Peter	12 Ross Rd. West
250	Coombe	Robert	8 Murray Heights
251	Coombe	Shirley Anne	12 Ross Rd. West
252	Cotter	Mary Jane	9 Jeremy Moore Ave.
253	Cotter	Timothy Stewart	9 Jeremy Moore Ave.
254	Coulter	Donald Mark	9 Fieldhouse Close
255	Coulter	Paula	9 Fieldhouse Close
256	Courtney	Anthony Clive	Lady Hunt House, John St.
257	Courtney	Julie Doris	Lady Hunt House, John St.
258	Coutts	Charles	12 Endurance Ave.
259	Coutts	Charles Lindsay	33 Ross Rd.
260	Coutts	Diana Marion	6B Ross Rd. West
261	Coutts	John	36 Ross Rd. West
262	Coutts	Olga	33 Ross Rd.
263	Coutts	Peter	13 Campbell Drive
264	Crabb	Elizabeth Ann	38 Eliza Cres.
265	Crowie	Alan John	3 Fitzroy Rd. East
266	Crowie	Ana Bonita	3 Fitzroy Rd. East
267	Crowie	Breda Marie	35 Callaghan Rd.
268	Crowie	David Sean	Stanley
269	Crowie	Nicola Jane	35 Callaghan Rd.
270	Crowie	Robert John	35 Callaghan Rd.
271	Curtis	Alfred William Hamilton	6 Brandon Rd. West
272	Curtis	Barbara Joan	6 Brandon Rd. West
273	Curtis	James William Hamilton	6 Ross Rd.
274	Davies	Andrew Liam	Flat 7, 6 Jersey Rd.
275	Davies	Anthony Warren	7 Callaghan Rd.

276	Davies	Christine Susan	8 Fitzroy Rd. East
277	Davies	Colin George	15 Ross Rd. West
278	Davies	Eileen Wynne	15 Ross Rd. West
279	Davies	Jacqueline Nancy	7 Callaghan Rd.
280	Davies	Stephen Andrew	7 Callaghan Rd.
281	Davies	William	8 Fitzroy Rd. East
282	Davis	Ellen Rose	39 Davis St.
283	Davis	Mandy John	15 James St.
284	Davis	Maurice	39 Davis St.
285	Davis	Nicholas	15 James St.
286	Davis	Roy George Victor	6 Narrows View
287	Davis	Sharon Sandra Evelyn	6 Narrows View
288	Davy	Patrick Alex Field	Flat3, 3 Jeremy Moore Ave East
289	Decroliere	Carrie Madeline Helen	5 Discovery Close
290	Desborough	Gladys Malvina	14 Allardyce Street
291	Dickson	Caroline Christine Bird	108 Davis St.
292	Dickson	Michael Keith	C/o Tamar
293	Didlick	Fiona Margaret	13 Jeremy Moore Ave
294	Didlick	Graham John	13 Jeremy Moore Ave
295	Didlick	Rhiannon Elinore	13 Jeremy Moore Ave
296	Diggie	Katherine Elizabeth	12 Jersey Rd.
297	Diggie	Roger John	12 Jersey Rd.
298	Dobbyns	Kathleen Gay	60 Davis St.
299	Dodd	Alison	1 Pioneer Row
300	Dodd	Nigel Keith	1 Pioneer Row
301	Doherty	Ian	12 McKay Close
302	Donnelly	Derek	YMCA, Stanley
303	Drysdale	Karen Margaret	Stanley
304	Duncan	Delsha Vanessa Jane	18 Jeremy Moore Ave.
305	Duncan	Doreen	Tenacres
306	Duncan	William	Tenacres
307	Duvall	Kenneth William	Stanley
308	Earnshaw	Jacqueline Elizabeth	32 Ross Rd. West
309	East	Justin Clive Richard	1 Fieldhouse Close
310	Eccles	Bernard Leslie	18 Jeremy Moore Ave.
311	Eccles	Moirra Cameron	18 Jeremy Moore Ave.
312	Elliot	Elizabeth Rose	15 Callaghan Rd
313	Elliot	Henry James	15 Callaghan Rd.
314	Ellis	Cyril	24 Ross Rd. East
315	Ellis	Lucy	Stanley
316	Ellis	Valerie	24 Ross Rd. East
317	Elsby	Barry	Moody Brook House.
318	Ericksen	Michelle	1B Capricorn Rd.
319	Evans	Donna Newell	By-Pass Rd.
320	Evans	Gladys Alberta	6 Barrack St.
321	Evans	Michael David	By-Pass Rd.
322	Evans	Russel	Fieldhouse Close
323	Ewing	Gordon	4 Jeremy Moore Ave
324	Ewing	Irene	4 Jeremy Moore Ave
325	Eynon	Carol	8 Villiers St.
326	Eynon	Christopher Huntlee	8 Villiers St.
327	Eynon	David John	8 Villiers St.
328	Faria	Basil Harry	3A Brisbane Rd.
329	Faria	Maria Anne	3A Brisbane Rd.
330	Faria	Mary Ann	6A Jeremy Moore Ave

331	Felton	Sonia Ellen	Stanley
332	Felton	Violet Regina Margaret	German Camp, Callaghan Rd.
333	Ferguson	Lynn Ann	9 Eliza Cove Crescent
334	Ferguson	Marie Anne	Stanley
335	Ferguson	Robert John	4 Capricorn Rd.
336	Ferguson	Rose	Flat7, 1 Jeremy Moore Ave East
337	Ferguson	Thelma	4 Capricorn Rd.
338	Fiddes	Douglas Graham	18 Ross Rd. East
339	Fiddes	Gardner Walker	8 Endurance Ave
340	Fiddes	Julia Bertrand	18 Ross Rd. East
341	Fiddes	Mary McKinnon Livingstone	4 Moody St.
342	Fiddes	Melody Christine	8 Endurance Ave
343	Fiddes	Robert	4 Moody St.
344	Fiddes	Shona Mary	Sir Rex Hunt House.
345	Finlayson	Iris Dwenda Margaret	7 John St.
346	Finlayson	Peter	6 Brandon Rd.
347	Finlayson	Phyllis	6 Brandon Rd.
348	Fisher-Smith	Julie Ann	8 Fieldhouse Close
349	Fleming	Richard Ian	7 Ian Campbell Drive
350	Floyd	Amanda Susan	12 Davis St
351	Fogerty	Philip John	Stone Cottage
352	Fogerty	Richard Edwin John	Stone Cottage
353	Ford	Alison Jane Marie	5 Jersey Rd.
354	Ford	Arthur Henry	6 Drury St.
355	Ford	Caroline	2 Philomel Place
356	Ford	Cherry Rose	1 James St.
357	Ford	Christopher James	11 Fieldhouse Close
358	Ford	Colin Stewart	15 Kent Rd.
359	Ford	Colleen Mary	Lady Hunt House John St.
360	Ford	Darrel	1 James Stree, Stanley
361	Ford	David	1 Davis St.
362	Ford	Frederick James	Lady Hunt House John St.
363	Ford	Gerard Allan	Flat 1, 3 Jeremy Moore Ave
364	Ford	Jonathan	11 Beaver Rd.
365	Ford	Julie Ann	11 Beaver Rd.
366	Ford	Leann Caroline	15 Kent Rd.
367	Ford	Leonard	5 Jersey Rd.
368	Ford	Marilyn Christina	24 James St.
369	Ford	Michael	1 James St.
370	Ford	Paul Edward	2 Philomel Place
371	Ford	Robert	1 Davis St.
372	Ford	Sara	11 Fieldhouse Close.
373	Ford	Simon	1 James St.
374	Forrest	Jennifer Carol	16 Kent Rd.
375	Forrest	Michael John	16 Kent Road, Stanley
376	Forster	Amanda	39 Eliza Cres.
377	Forster	Lynne	Stanley
378	France	Graham Brian	7 Snake St.
379	France	Ian Peter	7 Snake Hill Stanley
380	France	Jane Aileen Marie	7 Snake St.
381	Freeman	Carl Francis	10 James St.
382	Freeman	Dianne May	10 James St.
383	Fullerton	Mary Ellen	Government House
384	Geach	Alan John	Sir Rex Hunt House.
385	George	Magnus John Alexander	14 Ross Rd. West

386	Gilbert	Christopher Paul	22 Jeremy Moore Ave.
387	Gilbert	Judith Elizabeth	22 Jeremy Moore Ave.
388	Gilbert	Robert Ernest	22 Jeremy Moore Ave.
389	Gilding	Sara Jane	11 Pioneer Row.
390	Gilson Clarke	Dustin James	1 Discovery Close
391	Gisby	Annie	33 Fitzroy Rd.
392	Gooch	Dudley Frederick	34 John St.
393	Goodwin	Angela Jane	27 Callaghan Rd
394	Goodwin	Colin Valentine	86 Davis St.
395	Goodwin	Derek Samuel	3 Police Cottages, 7 Ross Rd.
396	Goodwin	Emily Rose	7 Brisbane Rd.
397	Goodwin	Gareth Kevin	86 Davis St.
398	Goodwin	Hazel Rose	3 Police Cottages, 7 Ross Rd.
399	Goodwin	June Elizabeth	86 Davis St.
400	Goodwin	Kathleen Edith Marguerite	6 Thatcher Drive
401	Goodwin	Margaret Ann	3 H Jones Rd.
402	Goodwin	Margo Jane	31 Ross Rd West
403	Goodwin	Neil Alexander William	31 Ross Rd West
404	Goodwin	Robin Christopher	27 Callaghan Rd.
405	Goodwin	Simon James	Flat 3, 2 Eliza Place
406	Goodwin	Una	27 Callaghan Rd.
407	Goodwin	William John Maurice	7 Brisbane Rd.
408	Goss	Anara Theresa	7 Brandon Rd.
409	Goss	Annagret	16 Jeremy Moore Ave.
410	Goss	Corina Rose	15 Callaghan Rd.
411	Goss	Dorothy Ellen	4 Discovery Close
412	Goss	Errol Barry Gordon	Flat3, 7 Jeremy Moore Ave East
413	Goss	Grace Elizabeth	5 Ross Rd. East
414	Goss	Ian Ernest Earle	Fieldhouse Close
415	Goss	Morgan Edmund	16 Jeremy Ave.
416	Goss	Odetta Ellen May	Flat 1, 30 Jersey Rd.
417	Goss	Roderick Jacob	Fitzroy Rd.
418	Goss	Sandra Kathleen	11 Kent Rd.
419	Goss	Simon Peter Miller	11 Kent Rd.
420	Goss	Susan Diann	Fieldhouse Close
421	Goss	William Henry (jnr)	7 Brandon Rd.
422	Goss	William Henry (snr)	5 Ross Rd. East
423	Gough	Phyllis Candy	11 Callaghan Rd.
424	Gould	Arthur William	Moody St.
425	Grant	Lennard John	3 Moody St.
426	Grant	Milly	3 Moody St.
427	Gray	Johan	22 Ross Rd West
428	Green	David William	5 Police Cottages, Ross Rd.
429	Greenland	Bonita Doreen	3 Racecourse Rd.
430	Greenland	Kenneth David	3 Racecourse Rd.
431	Grimmer	Keith	15 Pioneer Row
432	Grimmer	Marilyn	15 Pioneer Row
433	Hadden	Alexander Burnett	27 Fitzroy Rd.
434	Hadden	Sheila Peggy	27 Fitzroy Rd.
435	Halford	Rodney John	Tenacres
436	Halford	Sharon	Tenacres
437	Hall	David Albert	56 Davis St.
438	Hall	Marilyn Joyce	56 Davis St.
439	Halliday	Evelyn Edna	9 Brisbane Rd.
440	Halliday	Gerald	Flat 1, 6 Racecourse Rd.

441	Halliday	Jeffrey James	Fieldhouse Close
442	Halliday	John Arthur Leslie	108 Davis St.
443	Halliday	Leslie John	5 Villiers St.
444	Halliday	Raynor	9 Brisbane Rd.
445	Hancox	Rachel Mary	9 Ross Rd. West
446	Hancox	Robert James	9 Ross Rd. West
447	Hansen	Douglas John	6 Fitzroy Rd.
448	Hansen	Keva Elizabeth	1 Dairy Paddock Rd.
449	Hansen	Terence Joseph	1 Dairy Paddock Rd.
450	Harris	Christopher James	8 Pioneer Row
451	Harris	Heather	3 Ross Rd. East
452	Harris	Jill Yolanda Elizabeth Miller	19 Fitzroy Rd.
453	Harris	Karl Henry	19 Fitzroy Rd.
454	Harris	Leeann Watson	10 Dairy Paddock Rd.
455	Harris	Leslie Sidney	19 Fitzroy Rd.
456	Harris	Michael Ronald	3 Ross Rd. East
457	Harris	Ralph Aaron	10 Dairy Paddock Rd.
458	Harris	Roslyn	19 Fitzroy Rd.
459	Harvey	Muriel Elizabeth Elsie	2 King St.
460	Harvey	Sheila	Flat 3, 5 Jeremy Moore Ave.
461	Harvey	William	21 Fitzroy Rd.
462	Hawksworth	Christopher	29 Fitzroy Rd.
463	Hawksworth	David	29 Fitzroy Rd.
464	Hawksworth	Jeanette	29 Fitzroy Rd.
465	Hawksworth	Mary Catherine	5 A Brisbane Rd.
466	Hawksworth	Pauline May	29 Fitzroy Rd.
467	Hawksworth	Terence	5A Brisbane Rd.
468	Hayward	Marjorie	30 Eliza Rd.
469	Hayward	Neville	Flat 2, Church House
470	Hayward	Peter Dennis	30 Eliza Rd.
471	Heathman	Malcolm Keith	15 Eliza Cove Rd.
472	Heathman	Mandy Gail	15 Eliza Cove Rd.
473	Henry	Alan Richard	8 Beaver Rd.
474	Henry	Patricia Denise	8 Beaver Rd.
475	Hewitt	Alison Denise	23 Shackleton Drive
476	Hewitt	Frances Agnes	Stanley
477	Hewitt	Gary George	3 Hebe Place
478	Hewitt	Kevin John	14 Jeremy Moore Ave
479	Hewitt	Margaret Ann	3 Hebe Place
480	Hewitt	Neil George	Stanley
481	Hewitt	Rachel Catherine Orissa	4 St. Marys Walk
482	Hewitt	Robert John David	3 Thatcher Drive
483	Higgins	Dawn	2 Dean Street, Stanley
484	Hill	Brian Jarvis	1 Kent Rd.
485	Hill	Penelope Ann	1 Kent Rd.
486	Hills	Heather Margaret	5 Davis St.
487	Hills	Richard William	5 Davis St.
488	Hirtle	Christine	5 Capricorn Rd.
489	Hirtle	Debbie Ann	Flat 7 Jeremy Moore Ave
490	Hirtle	Leonard John	20 Jeremy Moore Ave
491	Hirtle	Leonard Lloyd	20 Jeremy Moore Ave.
492	Hirtle	Mary Ann	12 Drury St.
493	Hirtle	Michael Barry	20 Jeremy Moore Ave.
494	Hirtle	Rose Ann Shirley	4 Villiers St.
495	Hirtle	Sandra May Winifred	Eliza Cove Rd.

496	Hirtle	Shirley	20 Jeremy Moore Ave.
497	Hirtle	Zane Eric	Eliza Cove Rd.
498	Hobman	Anilda Marilu	34 Ross Rd. West Flat
499	Hobman	Carol Margaret	Stanley
500	Hobman	David Gonsalo	34 Ross Rd. West Flat
501	Hobman	Luis Alfonso	34 Ross Rd. West Flat
502	Hoggarth	Agnes Christina	2 James St.
503	Horne-MacDonald	John Alexander	2 Dairy Paddock Rd.
504	Horne-MacDonald	Myriam Beatriz	2 Dairy Paddock Rd.
505	Howatt	Derek Frank	4 Racecourse Rd.
506	Howatt	Suzanna Margaret	4 Racecourse Rd.
507	Howe	Alison Delia	36 Davis St.
508	Howe	Paul Anthony	36 Davis St.
509	Howells	Anne Stephanie	112 Davis St.
510	Howells	Lorna Marie	112 Davis St.
511	Howells	Martin Edward Derek	112 Davis St.
512	Howells	Melissa Louise	112 Davis St.
513	Howells	Roger	112 Davis St.
514	Hoy	Dawn	7 Murray Heights
515	Humphreys	Dennis James	7 Dean St.
516	Humphreys	Margaret Anne	7 Dean St.
517	Hutton	Elizabeth Isabella	3 John St.
518	Hutton	Philip	3 John St.
519	Igao	Noel Neri	15 Scoresby Close
520	Igao	Pauline Lynx	15 Scoresby Close
521	Irwin	Rhoda De Felton	Eliza Cove Rd.
522	Jackson	Mark Malcolm	23 Fitzroy Road
523	Jacobsen	Alistair	1A Philomel St.
524	Jacobsen	Catherine Joan	1A Philomel St.
525	Jaffray	Donald	15 Brandon Rd.
526	Jaffray	Eileen	5 Hebe St.
527	Jaffray	Elaine Michele	8 Discovery Close
528	Jaffray	Estelle Anita	Snake Hill
529	Jaffray	Frank Alexander	8 Discovery Close
530	Jaffray	Gerard Alan	5 Hebe St.
531	Jaffray	Helen Rose	84 Davis St.
532	Jaffray	Ian	5 Hebe St.
533	Jaffray	Ingrid Joyce	5 Hebe St.
534	Jaffray	Jacqueline Ann	Flat 3, Church House
535	Jaffray	Janet	40 Eliza Cres.
536	Jaffray	Janice Vanessa	3C Jersey Est.
537	Jaffray	John	40 Eliza Cres.
538	Jaffray	John Summers	84A Davis St.
539	Jaffray	June Elizabeth	17 Ross Rd. East
540	Jaffray	Kenneth Ian	2 Dean St.
541	Jaffray	Lisa Jane	Flat 3, 1 Jeremy Moore Ave.
542	Jaffray	Marina Morrison	15 Brandon Rd.
543	Jaffray	Nichola Jane	84a Davis St.
544	Jaffray	Robin George	Rose Hotel
545	Jaffray	Stephen James	11 James St.
546	Jaffray	Tanya Fiona	5 Hebe Street, Stanley
547	Jaffray	Terence Roy	Flat 3, 1 Jeremy Moore Ave
548	Jaffray	Terri-Ann	24 Endurance Ave.
549	Jaffray	Tony	84 Davis St.
550	Jaffray	Wayne Neil	5 Hebe St.

551	Jennings	Neil	Flat 4, 30 Jersey Rd.
552	Jennings	Stephen	5 Fitzroy Rd.
553	Johnson	Jacqueline	5 Kent Rd.
554	Johnson	Lily Ann	5 Hebe St
555	Johnson	Michael Neil	5 Kent Rd.
556	Jones	Alan Smith	26 Ross Rd. West
557	Jones	David Richard	6 Allardyce Street
558	Jones	Deena Marie	YMCA, Stanley
559	Jones	Doreen Evelyn Margaret	6 Allardyce Street
560	Jones	Jennifer	26 Ross Rd. West
561	Jones	John Hugh	1 Brandon Rd.
562	Jones	Kevin Richard	Callaghan Rd
563	Jones	Michelle	1 Brandon Rd.
564	Jones	Yvonne Malvina	3 Discovery Close
565	Keane	Alva Rose Marie	18 Davis St.
566	Keane	Olaf James	18 Davis St.
567	Keane	Thomas James	18 Davis St.
568	Keenleyside	Charles Desmond	3 Pioneer Row
569	Keenleyside	Dorothy Maud	3 Pioneer Row
570	Keenleyside	Manfred Michael Ian	2 Snake Hill
571	Keenleyside	Nanette Barbara	2 Snake Hill
572	Kenny	Erling	20 James St.
573	Kiddle	Robert Karl	Flat 3. 6 Racecourse Rd.
574	King	Anna Constance Eve	38 Davis St.
575	King	Desmond George Buckley	38 Davis St.
576	King	Gladys Evelyn	39 Fitzroy Rd.
577	King	Glynis Margaret	2 B Jeremy Moore Ave. East
578	King	Michelle Beverley	69 Fitzroy Rd.
579	King	Peter Thomas	10 Jeremy Moore Ave.
580	King	Robert John	1D Jersey Est.
581	King	Rosemarie	10 Jeremy Moore Ave
582	King	Vernon Thomas	39 Fitzroy Rd.
583	Kirkham	Campbell Joseph	5 Capricorn Rd.
584	Kluzniak	Beulah	26 Ross Rd. East
585	Kluzniak	Boquslaw Sylvester	26 Ross Rd. East
586	Kultschar	Carolyn Wendy	2 Moody St.
587	Kultschar	John William	4 Davis St. East
588	Kultschar	Richard Paul	4 Davis St. East
589	Kultschar	Yvonne Rosina	4 Davis St. East
590	Laffi	Atilio Segundo	3 Brisbane Rd.
591	Laffi	Kathleen Mary	3 Brisbane Rd.
592	Lang	Alexander Peter	45 Callaghan Rd
593	Lang	David Geoffrey	45 Callaghan Rd.
594	Lang	James Patrick	Flat2, 3 Jeremy Moore Ave East
595	Lang	Marie-Bernard Therese	45 Callaghan Rd.
596	Lang	Sandra Shirleen	2 Allardyce St.
597	Lang	Theresa Margaret	45 Callaghan Rd.
598	Lang	William Frank	3 James St.
599	Larsen	Ellen	74 Davis St.
600	Lee	Alfred Leslie	11 Drury St.
601	Lee	Angela Audrey	8 Jersey Rd.
602	Lee	Anthony John	8 Jersey Rd.
603	Lee	Beverley Christina	10 Allardyce St.
604	Lee	Derek William	2 Davis St.
605	Lee	Gladys	11 Drury St.

606	Lee	Leslie James	10 Allardyce St.
607	Lee	Mervyn Richard	10 Allardyce Street, Stanley
608	Lee	Owen Henry	Stanley
609	Lee	Tanya	15 Campbell Drive
610	Lee	Trudi Dale	10 Allardyce St.
611	Lennie	Gordon Carnie	9 Narrows View
612	Lewis	David James	3 Campbell Drive
613	Lewis	James	2 St. Marys Walk
614	Lewis	Jason	3 Campbell Drive
615	Lewis	Jean	2 St. Marys Walk
616	Lewis	Pamela Irene	3 Campbell Drive
617	Lewis	Sharon	11 Campbell Drive
618	Leyland	Frank	10 Brandon Rd.
619	Leyland	Vera	10 Brandon Rd.
620	Livermore	Anton	33 Callaghan Rd.
621	Livermore	Darren	Stanley
622	Lowe	Anthony Trevor	54 Davis St.
623	Lowe	Fiona Alison	54 Davis St.
624	Luxton	Ernest Falkland	38 John St.
625	Luxton	Jennifer Mary	4 Hebe Place
626	Luxton	Michael	1A Pioneer Row
627	Luxton	Nicola	1A Pioneer Row
628	Luxton	Stephen Charles	7 Narrows View
629	Luxton	Sybil Grace	38 John St.
630	Luxton	Winifred Ellen	15 Fitzroy Rd.
631	Luxton	Zoe	1A Pioneer Row
632	Lyse	Ethel Malvina	65 Fitzroy Rd.
633	Lyse	George Walter	8 Moody St.
634	Lyse	Linda Margaret	65 Fitzroy Rd.
635	Macaskill	Angus Lindsay	8 Jeremy Moore Ave.
636	Macaskill	Jeanette May	8 Jeremy Moore Ave.
637	Macaskill	John	34 Ross Rd. West
638	MacBeth	Phyllis Elizabeth Grace	17 Brandon Rd.
639	MacDonald	Colin George	26 Endurance Ave.
640	MacDonald	Derek George	26 Endurance Ave.
641	MacDonald	Irene	26 Endurance Ave.
642	Malcolm	Velma	7 Allardyce St.
643	May	Brian Roy	21 Jeremy Moore Ave.
644	May	Bruce Raymond	Wardens House, KEMH
645	May	Connie	Wardens House, KEMH
646	May	Donna Monica	13 Murray Heights
647	May	Heather	1 Glasgow Rd.
648	May	Jonathan Roy	33 Davis St
649	May	Lucinda Vikki	33 Davis St.
650	May	Monica	21 Jeremy Moore Ave.
651	May	Roger	33 Eliza Cres.
652	May	William Albert	1 Glasgow Rd.
653	McCallum	Bettina Kay	14 Drury St.
654	McCallum	Christopher John	8A Jeremy Moore Ave.
655	McCallum	Timothy Andrew	14A Drury St.
656	McCormick	Dale Ronald	29 Callaghan Rd.
657	McCormick	Pauline Margaret Ruth	29 Callaghan Rd.
658	McCormick	Richard Paul	29 Callaghan Rd.
659	McCormick	Wayne Stanley James	29 Callaghan Rd.
660	McEachern	Gloria Jane	2 H Jones Rd.

661	McEachern	James	2 H Jones Rd.
662	McGill	Coral Elizabeth	6 Ross Rd.
663	McGill	Darrel Ian	2 Campbell Drive
664	McGill	David William	17 James St.
665	McGill	Diane Beverley	2 James St.
666	McGill	Doris Mary	32 Davis St.
667	McGill	Glenda	Barrack St.
668	McGill	Ian Peter	Barrack St.
669	McGill	Jane	10 Ross Rd. East
670	McGill	Len Stanford	2 James St.
671	McGill	Lorraine Iris	10 Ross Rd. East
672	McGinness	Janice	10 Beaver Rd.
673	McKay	Clara Mary	20 Ross Rd. West
674	McKay	Ellen Rose	51 Callaghan Rd.
675	McKay	Heather Valerie	16 Eliza Cres.
676	McKay	James John	7 Villiers St.
677	McKay	Jane Elizabeth	7 Villiers St.
678	McKay	Jeannie Paullina	64 Davis St.
679	McKay	Jennifer Coral	Stanley
680	McKay	Josephine Ann	5 James St.
681	McKay	Kenneth Andrew	5 James St.
682	McKay	Kevin Derek Charles	Stanley
683	McKay	Michael John	64 Davis St.
684	McKay	Neil	62 Davis St.
685	McKay	Paul Anthony	3 Nutt Cartmel Drive
686	McKay	Peter John	21 Ross Rd. West
687	McKay	Rex	16 Eliza Cres.
688	McKay	Shelley Jane	7 Villiers St.
689	McKay	Stephen John	8 Thatcher Drive
690	McKay	Trudi Ann	3 Nutt Cartmel Drive
691	McKay	Wayne Lawrence Kenneth	Stanley
692	McKay	William Robert	20 Ross Rd. West
693	McKenzie	Alice Maude	Moody Brook Homestead
694	McKenzie	Charles Alexander Albert John	Moody Brook Homestead
695	McKinley	Melissa Jane	Flat 3,2 Eliza Place
696	McLaren	Caroline Mary	12 Allardyce St.
697	McLaren	Tony Eugene Terence	12 Allardyce St.
698	McLeod	David	49 Callaghan Rd.
699	McLeod	Dawn	2 Brandon Rd. West
700	McLeod	Donald Henry	1B Jersey Est.
701	McLeod	Henry Donald Alexander	36 Eliza Cres.
702	McLeod	Ian	9 Fitzroy Rd.
703	McLeod	Ian James	YMCA
704	McLeod	Jane Elizabeth Diana	36 Eliza Cres.
705	McLeod	Janet Wensley	75 Davis St.
706	McLeod	Janice	2 Ross Rd. West
707	McLeod	John (1)	1 Campbell Drive
708	McLeod	John (2)	Flat 1, Jeremy Moore Ave
709	McLeod	Kenneth Benjamin John	2 Brandon Rd. West
710	McLeod	Madeline Jean	1 Campbell Drive
711	McLeod	Mally	9 Fitzroy Rd.
712	McLeod	Margaret Ann	Fitzroy Rd. East
713	McLeod	Michael William	15A James St.
714	McLeod	Pearl Mary Ann	3 Brisbane Rd.
715	McLeod	Robert	75 Davis St.

716	McLeod	Robert John	2 Ross Rd. West
717	McMullen	Lucille Anne	8 Brandon Rd.
718	McNally	Patricia Jayne	18 Ross Rd. East
719	McPhee	Denise	4 Brandon Rd. West
720	McPhee	Iris Blanche	14 Davis St.
721	McPhee	Justin Owen	4 Brandon Rd. West
722	McPhee	Majorie May	14 John St.
723	McPhee	Owen Horace	14 John St.
724	McPhee	Patrick	14 Davis St.
725	McRae	Michael	C/o MV Tamar
726	McRae	Richard Winston	Flat 2, 6 Racecourse Rd.
727	Middleton	Brian	13 McKay Close
728	Middleton	Caroline Ann	7 James St.
729	Middleton	Dennis Michael	Dolphin Cottage
730	Middleton	Ellen	50 Davis St.
731	Middleton	Graham Cyril	50 Davis St.
732	Middleton	Joan Eliza	8 James St.
733	Middleton	Leonard	67 Fitzroy Rd.
734	Middleton	Phillip John	5 St. Marys Walk
735	Middleton	Sharon Elizabeth	Dolphin Cottage
736	Middleton	Shirley	Stanley
737	Middleton	Stephanie Anne	13 McKay Close
738	Miller	Andrew Nigel	2 Fieldhouse Close
739	Miller	Betty Lois	6 St. Marys Walk
740	Miller	Bruce Graham	10 Pioneer Row
741	Miller	Carol	Kent Rd.
742	Miller	Florence Roberta	5 Moody St.
743	Miller	Gail Marie	2 Police Cottages, 8 Ross Rd.
744	Miller	Janet Mary	Market Gdn. Stly Airport Rd.
745	Miller	Jayne Elizabeth	2 Fieldhouse Close
746	Miller	Jeanette	10 Pioneer Row
747	Miller	Simon Roy	Kent Rd.
748	Miller	Timothy John Durose	Market Gdn. Stly Airport Rd.
749	Mills	Terence Kenneth	43 Callaghan Rd.
750	Minto	Alistair Daen	Flat 5, 6 Racecourse Rd.
751	Minto	Dilys Rose	18 Endurance Ave
752	Minto	Graham Stewart	12 Brisbane Rd.
753	Minto	May Doreen	Flat 5, 6 Racecourse Rd.
754	Minto	Timothy Ian	18 Enurance Ave
755	Miranda	Augusto	31 Davis St.
756	Miranda	Carmen	Globe Tavern
757	Miranda	Ramon	3 Drury St.
758	Miranda	Winifred Dorothy	3 Drury St.
759	Mitchell	Cherilyn Julie	Lafone House, Ross Rd. East
760	Mitchell	Leon John	6 Discovery Close.
761	Moffatt	Angela	20 Ross Rd East
762	Moffatt	James	20 Ross Rd East
763	Monti	Elizabeth Ellen	4 Fitzroy Rd.
764	Morris	Alana Marie	4 Callaghan Rd.
765	Morris	David	4 Callaghan Rd.
766	Morris	Jason Paul	4 Callaghan Rd.
767	Morris	Michelle Jane	6 McKay Close
768	Morris	Trevor Alan	6 McKay Close
769	Morrison	Doreen	82 Davis St.
770	Morrison	Edgar Ewen	5 Racecourse Rd.

771	Morrison	Fayan	54 John St.
772	Morrison	Graham Stewart	46 Davis St.
773	Morrison	Joan Margaret	Flat 6, 1 Jeremy Moore Ave.
774	Morrison	Lewis Ronald	82 Davis St.
775	Morrison	Marcus Lewis	82 Davis Street, Stanley
776	Morrison	Michael John	Stanley
777	Morrison	Muriel Eliza Ivy	40 Eliza Cres.
778	Morrison	Nanette Rose	46 Davis St.
779	Morrison	Nigel Peter	7 James St.
780	Morrison	Patrick	1 Brandon Road West
781	Morrison	Paul Roderick	1 Brandon Rd.
782	Morrison	Ronald Terence	5 Racecourse Rd.
783	Morrison	Russell John Allan	6A Jeremy Moore Ave
784	Morrison	Stewart	46 Davis St.
785	Morrison	Susan Margaret	Stanley
786	Morrison	Trevor	6A Jeremy Moore Ave.
787	Morrison	Valerie Anne	6A Jeremy Moore Ave.
788	Morrison	Violet Sarah	5 Racecourse Rd.
789	Morrison	William Roderick Halliday	54 John St.
790	Morrison-Betts	Priscilla Violet	82 Davis St.
791	Murphy	Ann Susan	2 King St.
792	Murphy	Bessie	68 Davis St.
793	Murphy	Michael James	68 Davis St.
794	Neal	Richard John	1 Dean St.
795	Neilson	Barry Marwood	23 Ross Rd.
796	Neilson	Harold Ian	23 Ross Road
797	Neilson	Margaret	23 Ross Rd.
798	Newell	Cara Jane	3 Villiers St.
799	Newell	Joseph Orr	3 Villiers St.
800	Newell	Paula Michelle	6 Pioneer Row
801	Newell	Trudi Malvina	3 Villiers St.
802	Newman	Andrew Raymond	17 Ross Rd. East
803	Newman	Clive Alexander	5 Brandon Rd.
804	Newman	Dwenda Rose	5 Brandon Rd.
805	Newman	Glynis Karen	4 James St.
806	Newman	Ingrid Helen	5 Brandon Road, Stanley
807	Newman	Joyce Noreen	80 Davis St.
808	Newman	Lisa Jeraine	Flat 5, 6 Jersey Rd.
809	Newman	Marlene	11 Jeremy Moore Ave.
810	Newman	Raymond Winston	11 Jeremy Moore Ave.
811	Newman	Tansy Fiona	Jersey Rd.
812	Newman	Terence	24 Endurance Ave.
813	Nutter	Arthur Albert	9 Brandon Rd.
814	Nutter	Josephine Lesley	9 Brandon Rd.
815	O'Shea	Desmond	9 Campbell Drive
816	Olmedo	Alex	3D Jersey Estate
817	Ormond	Christina Helen	10 Fitzroy Rd. East
818	Paice	Craig Arthur	90 Davis St.
819	Parrin	Norman George	108 Davis St.
820	Patterson-Smith	Ian Colin	19 Davis St.
821	Pauloni	Hilary Maud	63 Fitzroy Rd.
822	Pauloni	Romolo Vittorio	63 Fitzroy Rd.
823	Paver	Bernadette Marguerite	Moody Brook House.
824	Payne	Dilys Agnes	2 Racecourse Road East
825	Payne	St. John Peter	2 Racecourse Road East

826	Peake	Arthur	19 James St.
827	Peake	Clair Linda	19 James St.
828	Peck	Burned Brian	22 James St.
829	Peck	Carol Margaret	2 Discovery Close
830	Peck	David Patrick	78 Davis St.
831	Peck	Eleanor Margaret	26 Shackleton Drive
832	Peck	Evelyn Elizabeth	22 James St.
833	Peck	Gordon Pedro James	17 Brandon Rd.
834	Peck	Harwood John Charles	C/o Tamar
835	Peck	James	2 Discovery Close
836	Peck	Maureen Heather	78 Davis St.
837	Peck	Patrick William	78 Davis St.
838	Peck	Shirley	2 Barrack St.
839	Peck	Terence John	26 Shackleton Drive
840	PED		6 Beaver Rd.
841	Perkins	Vivienne Esther Mary	33 John St.
842	Perry	Augustave Walter	9 Villiers St.
843	Perry	Beatrice Annie Jane	25 Ross Rd. East
844	Perry	Hilda Blanche	10 Campbell Drive
845	Perry	Robert Juan Carlos	5 Brisbane Rd
846	Perry	Thomas George	10 Campbell Drive
847	Perry	Thora Virginia	17 Fitzroy Rd.
848	Pettersson	Derek Richard	21 Eliza Cres.
849	Pettersson	Eileen Heather	30 Davis St.
850	Pettersson	Tony	30 Davis St.
851	Pettersson	Trudi Ann	21 Eliza Cres.
852	Phillips	Albert James	16 Brandon Rd.
853	Phillips	David Dawson	35 Fitzroy Rd.
854	Phillips	Gillian Carol	Stanley
855	Phillips	Linda	16 Brandon Rd.
856	Phillips	Paul David	Drury St.
857	Plumb	Christopher Philip	12 Scoresby Close
858	Plumb	Elaine Margaret	2A Brisbane Rd.
859	Plumb	Jason Alan	34 Ross Rd. East Flat
860	Plumb	Norman Phillip	2A Brisbane Rd.
861	Pole-Evans	Amy Rose	4 Harbour View
862	Pole-Evans	John	4 Harbour View
863	Pole-Evans	Michael Anthony	4 Harbour View
864	Pollard	Andrew Keith	4 Hebe Place
865	Pollard	Elizabeth Eve	23 Ross Rd. East
866	Pollard	John	23 Ross Rd. East
867	Pollard	Mark John	23 Ross Road East
868	Pompert	Joost Herman Willem	11 Ross Rd. West
869	Poole	Evelyn May	31 Fitzroy Rd.
870	Poole	Nancy Margaret	52 John St.
871	Poole	Raymond John	52 John St.
872	Poole	William John	31 Fitzroy Rd.
873	Porter	Charles	11 Fitzroy Rd.
874	Porter	Geoffrey Bell	5 Jeremy Moore Ave.
875	Porter	Jean Lavinia	11 Fitzroy Rd.
876	Porter	Tracy	5 Jeremy Moore Ave.
877	Pratlett	Patricia Carol Ann	10 James St.
878	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
879	Purvis	Alan	3 Narrows View
880	Purvis	Marion Louise	3 Narrows View

881	Reddick	Keith John	By-Pass Rd.
882	Reeves	Jill Edith	Flat 3, 30 Jersey Rd
883	Reeves	Michael	2 Moody St.
884	Reid	Ann	5 Police Cottages, Ross Rd.
885	Reid	Colleen Rose	9 Fitzroy Rd. East
886	Reid	John Alexander	7 Ross Rd.
887	Reid	Reynold Gus	9 Fitzroy Rd. East
888	Reive	Roma Endora Mary	St Marys Walk
889	Rendell	Michael	8 Ross Rd. West
890	Rendell	Phyllis Mary	8 Ross Rd. West
891	Riddell	Lisa Marie	9 Discovery Close
892	Riddell	Paul Robert	9 Discovery Close
893	Roberts	Cheryl Ann Spencer	57 Fitzroy Rd.
894	Roberts	Diana Christine	7 Kent Rd.
895	Roberts	Jill Christine	98 Davis St.
896	Roberts	Joselynn Lynette Margaret	Flat 3, 6 Jersey Rd
897	Roberts	Laura May	7 Kent Rd.
898	Roberts	Peter James	57 Fitzroy Rd.
899	Roberts	Simon Theodore Nathaniel	98 Davis St.
900	Robertson	Sally Jean	Flat 1, 2 Eliza Rd.
901	Robertson Pompert	Janet	11 Ross Rd. West
902	Robson	Alison Emily	15 Villiers St.
903	Robson	Anna Jenine	6 Brisbane Rd.
904	Robson	Gerard Michael	1 Philomel Place
905	Robson	Gladys Mary	5 Philomel St.
906	Robson	Miranda Gay	6 Brisbane Rd.
907	Robson	Phyllis Ann	1 Philomel Place
908	Robson	Raymond Nigel	6 Brisbane Rd.
909	Robson	William Charles	18 Ross Rd. East
910	Rogers	Ralph	14 Endurance Ave
911	Rogers	Roger Neil	14 Endurance Ave
912	Ross	Andrea Joanna Ampuero	Cemetery Cottage
913	Ross	Colin	40 Eliza Cres.
914	Ross	Glenn Stephen	22 Shackleton Drive
915	Ross	Janet	22 Shackleton Drive
916	Ross	Kevin John	21 John St
917	Ross	Lachlan Neil	7 Discovery Close
918	Ross	Marie	21 John St.
919	Ross	Roy	21 John St.
920	Ross	Sheena Margaret	12 Jeremy Moore Ave.
921	Rowland	Charlene Rose	5A Ross Rd. West
922	Rowland	John Christopher	5A Ross Rd. West
923	Rowlands	Catherine Annie	3 Hebe St.
924	Rowlands	Daisy Malvina	106 Davis St.
925	Rowlands	Harold Theodore	8 Ross Rd. East
926	Rowlands	John Richard	106 Davis St.
927	Rowlands	Neil	3A Hebe St.
928	Rowlands	Robert John	13 Callaghan Rd.
929	Roze	Betty Ellen	16 Davis St.
930	Roze	Derek Robert Thomas	16 Davis St.
931	Roze	Shona Mary	5 Narrows View
932	Roze	Tamara Colette	16 Davis Street, Stanley
933	Sackett	Albert John	25 Ross Rd. East
934	Sackett	Michael John Carlos	25 Ross Rd. East
935	Sackett	Pauline	25 Ross Rd. East

936	Sarney	Harry	1 Thatcher Drive
937	Saunders	Tracey Clare	23 Jeremy Moore Ave.
938	Sawle	Judith Margaret	Seaview Cottage, Ross Rd.
939	Sawle	Richard	Seaview Cottage, Ross Rd.
940	Seron	Jose Segundo	M/V Tamar, C/o Bryon Marine
941	Shepherd	Colin David	11 Narrows View
942	Shepherd	David Samuel Dick	30 Endurance Ave.
943	Shepherd	Elizabeth	30 Endurance Ave.
944	Shepherd	Ramsey	Discovery Close
945	Shorrock	Joyce	5 McKay Close
946	Shorrock	Nigel Arthur	5 McKay Close
947	Short	Andrez Peter	9 Pioneer Row
948	Short	Brenda	Barrack St.
949	Short	Celia Soledad	1 Racecourse Rd.
950	Short	Christina Ethel	12 Brandon Rd.
951	Short	Derek Patrick	42 Eliza Cres.
952	Short	Dilys Margaret Ann	6A Pioneer Row.
953	Short	Donald Robert Gordon	Eliza Cove Rd.
954	Short	Ellen Mary	12 Brandon Rd.
955	Short	Emily Christina	1 Fitzroy Rd. East
956	Short	Gavin Phillip	14 Pioneer Row
957	Short	Isobel Rose	42 Eliza Cres.
958	Short	Joseph Leslie	12 Brandon Rd.
959	Short	Marc Peter	1 Racecourse Rd.
960	Short	Marlene Cindy	58 Davis St.
961	Short	Montana Tyrone	4 Dairy Paddock Rd.
962	Short	Patrick Warburton	42 Eliza Cres.
963	Short	Peter Robert	1 Fitzroy Rd. East
964	Short	Richard Edward	58 Davis St.
965	Short	Riley Ethroe	Barrack St.
966	Short	Robert Charles	12A Brandon Rd.
967	Short	Vilma Alicia	4 Dairy Paddock Rd.
968	Simpson	Bertha Veronica	6 Police Cottages, 4 Ross Rd.
969	Simpson	James Alexander Bruce	7 Racecourse Rd.
970	Simpson	James Garry	7 Racecourse Rd.
971	Simpson	John Frederick	6 Police Cottages, 4 Ross Rd.
972	Simpson	Mirabelle Hermoine	7 Racecourse Rd.
973	Sinclair	Serena Samantha	5 Fieldhouse Close
974	Sinclair	Veronica Joyce	21 Ross Rd. West
975	Skene	Greta Winnora Miller	22 Ross Rd. East
976	Smallwood	Margo Anee	105 Davis St.
977	Smallwood	Michael Anthony	105 Davis St.
978	Smith	Adeline Jane	2 Thatcher Drive
979	Smith	Alexander Gordon	16 Jersey Rd.
980	Smith	Anthony David	10 Fieldhouse Close.
981	Smith	Bruce Dennis	Stanley
982	Smith	Colin David	6 James St.
983	Smith	Derek	8 Eliza Cres.
984	Smith	Elenore Olive	3 Brisbane Rd.
985	Smith	Eric	3 Allardyce St.
986	Smith	Gerard Alexander	8 Barrack St.
987	Smith	Gwenifer May	8 Barrack St.
988	Smith	Ian Lars	2 Ross Rd. West
989	Smith	Ileen Rose	28 Ross Rd. West
990	Smith	James Terence	3 Fitzroy Rd. West

991	Smith	Jean Waddell	16 Jersey Rd.
992	Smith	Jennifer Ethel	Stanley
993	Smith	Jeremy	7 Fitzroy Rd East
994	Smith	Joan Lucy Ann	6A Pioneer Row
995	Smith	John	28 Ross Rd. West
996	Smith	Julia Trinidad	8 Eliza Cres.
997	Smith	Martyn James	28 Ross Rd. West
998	Smith	Natalie Marianne	6 James St.
999	Smith	Nora Kathleen	5 Fitzroy Rd. East
1000	Smith	Osmund Raymond	3 Brisbane Rd.
1001	Smith	Owen Archibald	3 Fitzroy Rd.
1002	Smith	Patricia Anne	6A Moody St.
1003	Smith	Paulette Rose	KEMH
1004	Smith	Rhona	8 Fitzroy Rd.
1005	Smith	Russell James	8 Fieldhouse Close
1006	Smith	Shula Louise	Flat 4, 5 Jeremy Moore Ave.
1007	Smith	Sidney Frederick	Jersey Rd.
1008	Smith	Susan	1 Hebe Place
1009	Smith	Tyssen John Richard	9 Nutt Cartmel Close
1010	Sollis	Sarah Emma Maude	20 Drury St.
1011	Spall	Christopher Richard	German Camp West, Callaghan Rd
1012	Spink	Roger Kenneth	4 Hebe St.
1013	Spinks	Malvina Ellen	Flat6, 7Jeremy Moore Ave East
1014	Spruce	Helena Joan	29 Ross Rd. West
1015	Spruce	Mark Felton	29 Ross Road West
1016	Spruce	Terence George	29 Ross Rd. West
1017	Stedman	Dianne Audrey	Jersey Rd
1018	Stedman	Robin Geoffrey	Jersey Rd
1019	Steen	Allan Graham	11 Brandon Rd.
1020	Steen	Barbara Ingrid	39 Ross Rd. West
1021	Steen	Emma Jane	36 Ross Rd.
1022	Steen	Gail	7 St. Marys Walk
1023	Steen	Karen Lucetta	7 St. Marys Walk
1024	Steen	Vernon Robert	7 St Marys Walk
1025	Steen MacDonald	Vanda Joan	38 Ross Rd.
1026	Stenning	Anna Russalka	5b Ross Rd. West
1027	Stephenson	James	Moody Valley
1028	Stephenson	Joan Margaret	Moody Valley
1029	Stephenson	Katrina	4 Davis St.
1030	Stephenson	Zachary	4 Davis St.
1031	Stevens	Paul Theodore	9 Drury St.
1032	Stevens	Teresa Rose	9 Drury St.
1033	Stewart	Aarron Stephen	6 Pioneer Row
1034	Stewart	Celia Joyce	12 St. Marys Walk
1035	Stewart	David William	55 Davis St.
1036	Stewart	Hulda Fraser	24 Ross Rd. West
1037	Stewart	Ian Bremner	9 McKay Close
1038	Stewart	Irene Anne	Racecourse Rd.
1039	Stewart	Kenneth Barry	3 Discovery Close
1040	Stewart	Pam Ellen	18 Endurance Ave.
1041	Stewart	Robert	12 St. Marys Walk
1042	Stewart	Robert William	Racecourse Rd.
1043	Stewart	Sheila Olga	9 McKay Close
1044	Stewart	Sylvia Rose	7 Ross Rd. West
1045	Stewart-Reid	Carol Ellen Eva	7 Ross Rd. West

1046	Strange	Ian John	The Dolphins, Snake St.
1047	Strange	Maria Marta	The Dolphins, Snake St.
1048	Strange	Shona Marguerite	36 Ross Rd. West
1049	Summers	Alastair Peter	1 Ross Rd. East
1050	Summers	Brian	1 Ross Rd. East
1051	Summers	Colin Owen	5 Brandon Rd.
1052	Summers	Deborah	Murray Heights
1053	Summers	Dennis David	18 Endurance Ave.
1054	Summers	Donna	15 Ross Rd. East
1055	Summers	Edith Catherine	5 Dean St.
1056	Summers	Irvin Gerard	Sir Rex Hunt House.
1057	Summers	Jacqueline	11 Pioneer Row
1058	Summers	Joanna Rose	7 Eliza Cres.
1059	Summers	Jonathan Derek	5 Allardyce St.
1060	Summers	Judith Orissa	1 Ross Rd.
1061	Summers	Lynn Jane	2 Campbell Drive
1062	Summers	Melvyn Mark	Stanley
1063	Summers	Michael Kenneth	6A Brisbane Rd.
1064	Summers	Michael Victor	11 Pioneer Row
1065	Summers	Naomi Christine	Sir Rex Hunt House
1066	Summers	Nigel Clive	32 Fitzroy Rd.
1067	Summers	Owen William	5 Brandon Rd.
1068	Summers	Pamela Rosemary Cheek	32 Fitzroy Rd.
1069	Summers	Rowena Elsie	5 Allardyce St.
1070	Summers	Roy	9 Murray Heights
1071	Summers	Sandra Marie	66 Davis St.
1072	Summers	Sheila	Sir Rex Hunt House, John St.
1073	Summers	Sybella Catherine Ann	1 Ross Rd. West
1074	Summers	Sylvia Jean	8 Racecourse Rd.
1075	Summers	Terence	1 Ross Rd. West.
1076	Summers	Tony	8 Racecourse Rd.
1077	Summers	Veronica	5 Brandon Rd.
1078	Summers	Yona	37 Davis St.
1079	Sutherland	Elizabeth Margaret	13/14 Eliza Cove Rd.
1080	Sutherland	James David	Reflections Flat, Dean St.
1081	Sutherland	John Gall	3B Jersey Est.
1082	Sutherland	William John Munro	13/14 Eliza Cove Rd.
1083	Teale	Colin Edwin	8 Brisbane Rd.
1084	Teale	Jeannette	8 Brisbane Rd.
1085	Teggart	Carol Wendy	9 Callaghan Rd.
1086	Teggart	John Patrick	9 Callaghan Rd
1087	Tellez	Jose Hector	2 Hodson Villa West
1088	Thain	John	8 Davis St.
1089	Thain	Stephanie Ann	8 Davis St.
1090	Thom	David Anderson	47 Fitzroy Rd.
1091	Thom	Dorothy Irene	47 Fitzroy Rd.
1092	Thom	Norma Ann	92 Davis St.
1093	Thompson	William John	Flat 2, 1 Moody St.
1094	Titterington	Lesley Ann	55 Fitzroy Rd.
1095	Titterington	Robert Mark	55 Fitzroy Rd.
1096	Toase	Aidan Edward	7 Ross Road East
1097	Toase	Cora Agnes	7 Ross Rd. East
1098	Triggs	Diane	3 Fieldhouse Close
1099	Triggs	Michael David	3 Fieldhouse Close
1100	Tuckwood	John Rodney	1 Drury St.

1101	Tuckwood	Phyllis Majorie	1 Drury St.
1102	Turner	Melvyn George	36 John St.
1103	Tyrrell	Garry Bernard	1 Beaver Rd.
1104	Tyrrell	Gina Michelle	1 Beaver Rd.
1105	Valler	Robert Hugh	9 Philomel St.
1106	Vidal	Eileen Nora	12 Jeremy Moore Ave.
1107	Vidal Roberts	Leona Lucila	7 Jersey Rd
1108	Vincent	Janette Mary	10 Endurance Ave.
1109	Vincent	Stephen Lawrence	10 Endurance Ave.
1110	Wade	Donald Harold	41 Fitzroy Rd.
1111	Wade	June Rose Elizabeth	41 Fitzroy Rd.
1112	Wagner	Mary Elizabeth	6 Jeremy Moore Ave.
1113	Wagner	Richard Karl	6 Jeremy Moore Ave.
1114	Wallace	Fiona Alice	38 Ross Rd. West
1115	Wallace	Fraser Barrett	10 John St.
1116	Wallace	Maria Lilian	38 Ross Rd. West
1117	Wallace	Michael Ian	23 Callaghan Rd.
1118	Wallace	Stuart Barrett	38 Ross Rd. West
1119	Wallace	Una	23 Callaghan Rd.
1120	Watson	Ben	7 Moody St.
1121	Watson	Boyd Edward Harold	Flat 4, 6 Jersey Rd.
1122	Watson	Hannah Maud	7 Moody St.
1123	Watson	Paul	20 Endurance Ave.
1124	Watson	Ruth Jane	20 Endurance Ave.
1125	Watt	Stephen Robert	11 Narrows View
1126	Watt	Sylvia Ann	11 Narrows View
1127	Watts	Patrick James	13 Brisbane Rd.
1128	Webb	Loretta Isobel	1C Capricorn Rd.
1129	White	Kathleen Elizabeth	9 Thatcher Drive
1130	Whitney	Frederick William	1 Police Cottages, 9 Ross Rd.
1131	Whitney	Henry Leslie	3 St. Marys Walk
1132	Whitney	Jason	15 Ross Rd. East
1133	Whitney	Kurt Ian	2 Pioneer Row
1134	Whitney	Lana Rose	22 Eliza Cres.
1135	Whitney	Robert Michael	Stanley
1136	Whitney	Susan Joan	1 Police Cottages, 9 Ross Rd.
1137	Wilkinson	Alistair Graham	5 Philomel St.
1138	Wilkinson	Dorothy Ruth	5 Philomel St.
1139	Wilkinson	Robert John	YMCA
1140	Williams	Gene	23 Ross Rd. West
1141	Williams	Margaret Elizabeth	Gardeners Cottage
1142	Williams	Marlene Rose	23 Ross Rd. West
1143	Winter	Teresa Irene	4A Jeremy Moore Ave. East
1144	Wood	Nicholas Paul Thomas	12 Scoresby Close
1145	Wylie	Julian Richard	1 McKay Close
1146	Wylie	Wendy Jennifer	1 Jersey Rd.
1147	Zuvic-Bulic	Kuzma Mario	16 Ross Rd. West
1148	Zuvic-Bulic	Sharon Marie	16 Ross Rd. West

1	Alazia	George Robert	Hope Cottage, East Falkland
2	Alazia	Hazel	Mullet Creek, East Falkland
3	Alazia	Jason Neville	Goose Green, East Falkland
4	Alazia	Mandy Gwyneth	Port Edgar Farm, West Falkland
5	Alazia	Michael Robert	Port Edgar Farm, West Falkland
6	Alazia	Thora Lilian	North Arm, East Falkland
7	Aldridge	Brian George	Goose Green, East Falkland
8	Aldridge	Olive Elizabeth	Hill Cove, West Falkland
9	Aldridge	Terence William	Hill Cove, West Falkland
10	Anderson	Andrew Ronald	Port Howard, West Falkland
11	Anderson	Jenny	Port San Carlos, East Falkland
12	Anderson	Lynda June	Blue Beach Lodge, East Falkland
13	Anderson	Marina Rose	North Arm
14	Anderson	Ronald	North Arm
15	Anderson	Tony James	Port San Carlos, East Falkland
16	Anderson	William John Stanley	Blue Beach Lodge, East Falkland
17	Ashworth	Glennis	Beckside Farm, East Falkland
18	Ashworth	Iain	Beckside Farm, East Falkland
19	Ashworth	Malcolm	Beckside Farm, East Falkland
20	Bagley	Jacqueline Elizabeth	Riverview Farm, East Falkland
21	Barnes	Dierdre	Dunbar Farm, West Falkland
22	Barnes	Marshall	Dunbar Farm, West Falkland
23	Barnes	Paul	Hope Harbour, West Falkland
24	Beattie	Ian Robert Ewen	North Arm, East Falkland
25	Benjamin	Raymond John	Turners, MPA, East Falkland
26	Benjamin	Walter George	Turners, MPA, East Falkland
27	Berntsen	Arina Janis	Pebble Island, West Falkland
28	Berntsen	Diana Mary	Goose Green, East Falkland
29	Berntsen	John Alexander	Goose Green, East Falkland
30	Berntsen	Leon	Albermarle Stn. West Falkland
31	Berntsen	Pamela Margaret	Albermarle Stn. West Falkland
32	Betts	Bernard Keith	Boundary Farm, West Falkland
33	Betts	Diane Joan	Boundary Farm, West Falkland
34	Betts	Irene Marion	Boundary Farm, West Falkland
35	Binnie	Horace James	Fox Bay Village, West Falkland
36	Binnie	Linda Rose	Fitzroy Farm, East Falkland
37	Binnie	Ronald Eric	Fitzroy Farm, East Falkland
38	Blake	Alexander Charles	The Peaks Farm, West Falkland
39	Blake	Anthony Thomas	Little Chartres, West Falkland
40	Blake	Lionel Geoffrey	The Peaks Farm, West Falkland
41	Blake	Lyndsay Rae	Little Chartres, West Falkland
42	Blake	Sally Gwynfa	The Peaks Farm, West Falkland
43	Bober	John	Turners, MPA, East Falkland
44	Bonner	Avril Margaret Rose	Salvador, East Falkland
45	Bonner	Keith James	Salvador, East Falkland
46	Bonner	Simon	Port Howard, West Falkland
47	Bonner	Susan Anne	Port Howard, West Falkland
48	Browning	Gavin	Fitzroy, East Falkland
49	Buckett	Roy Peter	Leicester Falls, West Falkland
50	Butler	Doreen Susan	Goose Green East Falkland
51	Butler	James Donald	Goose Green East Falkland
52	Chandler	Ann Beatrice	Port Howard, West Falkland
53	Chandler	Edward	Port Howard, West Falkland
54	Chandler	Lee	Port Howard, West Falkland
55	Clark	Frederick Thomas	Hawkbit, MPA, Rd. East Falkland

56	Clarke	Jeanette	Kings Ridge, East Falkland
57	Clarke	Michael Jan	Kings Ridge, East Falkland
58	Clausen	Denzil	Weddell Is. West Falkland
59	Clausen	Henry Edward	Port Louis, East Falkland
60	Clifton	Leonard	North Arm, East Falkland
61	Clifton	Thora Janeene	North Arm, East Falkland
62	Cockwell	Benjamin William	Fox Bay Village, West Falkland
63	Cockwell	Grizelda Susan	Fox Bay Village, West Falkland
64	Cockwell	John Richard	Fox Bay Village, West Falkland
65	Coleman	Anthony Hugh John	Bristows, MPA, East Falkland
66	Collins	Bernard	Turners, MPA. East Falkland
67	Coutts	Frederick George	Fitzroy, East Falkland
68	Davis	Aase	Evelyn Station, East Falkland
69	Davis	Ian John	Evelyn Station, East Falkland
70	Davis	Reginald John	Evelyn Station, East Falkland
71	Davis	William James	Goose Green, East Falkland
72	Decroliere	Eric Ernest Albert	Fox Bay Village, West Falkland
73	Dickson	Charles George	Brookfield, East Falkland
74	Dickson	Doreen	Wreck Point, East Falkland
75	Dickson	Gerald William	Wreck Point, East Falkland
76	Dickson	Iris	Goose Green, East Falkland
77	Dickson	Ronald Edward	Goose Green, East Falkland
78	Dickson	Steven Charles	Goose Green, East Falkland
79	Donnelly	Daniel	Crooked Inlet, West Falkland
80	Donnelly	Joyce Elizabeth	Crooked Inlet, West Falkland
81	Duncan	Peter Ree Howard	Hill Cove, West Falkland
82	Dunford	David Philip	The Saddle, West Falkland
83	Edwards	Emma Jane	Lake Sullivan, West Falkland
84	Edwards	Norma	Lake Sullivan, West Falkland
85	Edwards	Rebecca Elizabeth	Lake Sullivan, West Falkland
86	Edwards	Roger Anthony	Lake Sullivan, West Falkland
87	Evans	Michelle Paula	Fitzroy, East Falkland
88	Evans	Raymond	Pebble Island, West Falkland
89	Evans	Richard Gregory	Fitzroy, East Falkland
90	Evans	Tracy	Saunders Is. West Falkland
91	Fairley	John	Port Stephens, West Falkland
92	Faria	Paul	North Arm East Falkland
93	Faria	Susana Caroline Berntsen	North Arm East Falkland
94	Felton	Anthony Terence	North Arm, East Falkland
95	Felton	Walter Arthur	North Arm, East Falkland
96	Ferguson	Finlay James	Bleaker Island, East Falkland
97	Ferguson	John William	Weddell Island, West Falkland
98	Ferguson	Stephanie Janet	Weddell Island, West Falkland
99	Findlay	Andrew John	Fox Bay Village, West Falkland
100	Findlay	Cathy Ann	Fox Bay Village, West Falkland
101	Finlayson	Barry Donald	North Arm, East Falkland
102	Finlayson	Iris Heather	North Arm, East Falkland
103	Finlayson	Neil Roderick	North Arm, East Falkland
104	Ford	Neil Fraser	Mossvale, West Falkland
105	Ford	Penelope Rose	Mossvale, West Falkland
106	Forster	Gwyneth May	Bold Cove, West Falkland
107	Forster	James	Bold Cove, West Falkland
108	Forsyth	Gordon	M.P.A. East Falkland
109	Gilding	Melanie Carol	Port Louis, East Falkland
110	Gilding	Peter Bernard	Port Louis, East Falkland

111	Giles	Gilbert	Walker Creek, East Falkland
112	Giles	Theresa Kathleen	Walker Creek, East Falkland
113	Gleadell	Ian Keith	East Bay, West Falkland
114	Gleadell	Marklin John	East Bay, West Falkland
115	Goodwin	Christopher Sturdee	Swan Inlet, East Falkland
116	Goodwin	Mandy Hazel	Greenfield, East Falkland
117	Goodwin	Robin	Greenfield, East Falkland
118	Goss	Eric Miller	North Arm, East Falkland
119	Goss	Margaret Rose	Horseshoe Bay, East Falkland
120	Goss	Peter	Horseshoe Bay, East Falkland
121	Goss	Shirley Ann	North Arm, East Falkland
122	Gray	David Edward	Sea Lion Island, East Falkland
123	Gray	Patricia May	Sea Lion Island, East Falkland
124	Halliday	Joyce Isabella Patience	Fox Bay Village, West Falkland
125	Halliday	Kenneth William	Fox Bay Village, West Falkland
126	Hansen	Ian	Main Point, West Falkland
127	Hansen	Lionel Raymond	Hill Cove, West Falkland
128	Hansen	Rose Idina	Hill Cove, West Falkland
129	Hansen	Susan Ann	Main Point, West Falkland
130	Hardcastle	Brook	Darwin, East Falkland
131	Hardcastle	Eileen Beryl	Darwin, East Falkland
132	Harvey	Jen	Hill Cove, West Falkland
133	Harvey	Valerie Ann	Hill Cove, West Falkland
134	Hayles	Robert Jack	M.P.A. East Falkland
135	Heathman	Ailsa	Estancia, East Falkland
136	Heathman	Ewart Tony	Estancia, East Falkland
137	Hewitt	Brian David	North Arm, East Falkland
138	Hill	Jennifer Eileen	Pebble Island, West Falkland
139	Hirtle	Anthony	Pebble Island, West Falkland
140	Hirtle	Doris Linda	Port Howard, West Falkland
141	Hirtle	Odette Susan	Port Howard, West Falkland
142	Hirtle	Susan Mary	Pebble Island, West Falkland
143	Hobman	Juan Jose Eleuterio	Chartres, West Falkland
144	Hobman	Vivien	Chartres, West Falkland
145	Hooper	Peter Bernard	Mount Alice, West Falkland
146	Jaffray	Alexander	Lively Island, East Falkland
147	Jaffray	Brian	Walker Creek, East Falkland
148	Jaffray	Dereck Charles	Walker Creek, East Falkland
149	Jaffray	Elliott Jessie	Lively Island, East Falkland
150	Jaffray	John Willie	Walker Creek, East Falkland
151	Jaffray	Phyllis	Walker Creek, East Falkland
152	Jones	Michael David	Port Louis, East Falkland
153	Jones	Sheila Janice	Port Louis, East Falkland
154	Jonson	Carl	Bombilla, East Falkland
155	Jonson	Rita Elizabeth	Bombilla, East Falkland
156	Keeley	John Gabriel	Turners, MPA. East Falkland
157	Kidd	John Nathan	Burntside, East Falkland
158	Kidd	Lillian Rose Orissa	Burntside, East Falkland
159	Kilmartin	Dinah May	Bluff Cove, East Falkland
160	Kilmartin	Kevin Seaton	Bluff Cove, East Falkland
161	Knight	Justin Robert Campbell	Coast Ridge, West Falkland
162	Knight	Keith Andrew	Port Howard, West Falkland
163	Knight	Nigel Arthur	Coast Ridge, West Falkland
164	Knight	Shirley Louvain Patricia	Coast Ridge, West Falkland
165	Lakin	Bernard	Turners, MPA. East Falkland

166	Lang	Patrick Andrew	North Arm, East Falkland
167	Lang	Velma Emily	North Arm, East Falkland
168	Larsen	Josephine Mary	Speedwell Island, East Falkland
169	Larsen	Ronald Ivan	Speedwell Island, East Falkland
170	Larsen	Yvonne	Speedwell Island, East Falkland
171	Lee	Carole	Port Howard, West Falkland
172	Lee	Elizabeth	Goose Green, East Falkland
173	Lee	John Alfred	Goose Green, East Falkland
174	Lee	Myles	Port Howard, West Falkland
175	Lee	Robin Myles	Port Howard, West Falkland
176	Lee	Rodney William	Port Howard, West Falkland
177	Leo	Brenda May	NAAFI, MPA, East Falkland
178	Lloyd	John Moelwyn	Port Edgar, West Falkland
179	Lloyd	Melvyn John	Swan Inlet, East Falkland
180	Lloyd	Valerie Ann	Swan Inlet, East Falkland
181	Lowe	Adrian Stewart	Murrel, East Falkland
182	Lowe	Lisa Helen	Murrel, East Falkland
183	Luxton	William Robert	Chartres, West Falkland
184	MacBeth	Raymond John	Narrows Farm, West Falkland
185	Maddocks	Robert Charles	Saunders Island, West Falkland
186	Marsh	Alastair Roy	Shallow Harbour, West Falkland
187	Marsh	Anna Dierdre	Fox Bay Village, West Falkland
188	Marsh	Arlette Sharon	Rincon Ridge, West Falkland
189	Marsh	Gavin Nicholas	Fox Bay Village, West Falkland
190	Marsh	June Helen	Rincon Ridge, West Falkland
191	Marsh	Leon Peter	Rincon Ridge, West Falkland
192	Marsh	Marlane Rose	Shallow Harbour, West Falkland
193	Marsh	Patricia Ann	Lakelands, West Falkland
194	Marsh	Robin Frank	Lakelands, West Falkland
195	May	Christopher Raymond	New House, East Falkland
196	May	Lindsey Olga	New House, East Falkland
197	McBain	Arthur	Saladero, East Falkland
198	McBain	Rhoda Margaret	Saladero, East Falkland
199	McGhie	James	Pebble Island, West Falkland
200	McGhie	Roy	Port North, West Falkland
201	McGill	Gary	Goose Green, East Falkland
202	McGill	Robin Perry	Carcass Island, West Falkland
203	McKay	Christine	Teal River, West Falkland
204	McKay	Frazer Roderick	Teal River, West Falkland
205	McKay	Gerard	Goose Green
206	McKay	Isabella Alice	Westley, West Falkland
207	McKay	Richard	Westley, West Falkland
208	McLeod	Albert John	Goose Green, East Falkland
209	McLeod	Isabella Diana Frances	Weddell Is. West Falkland
210	McLeod	Joan May	North Arm, East Falkland
211	McLeod	Sarah Rose	Goose Green, East Falkland
212	McMullen	June	Goose Green, East Falkland
213	McMullen	Tony	Goose Green, East Falkland
214	McPhee	June Iris	Brookfield, East Falkland
215	McPhee	Kenneth John	Brookfield, East Falkland
216	McPhee	Sheila Margaret	Kingsford Valley, East Falkland
217	McPhee	Terence Owen	Kingsford Valley, East Falkland
218	McPhee	Trudi Lynette	Brookfield, East Falkland
219	McRae	David Michael	South Harbour, West Falkland
220	McRae	Gloria Linda	South Harbour, West Falkland

221	McRae	Mandy	Home Farm, East Falkland
222	McRae	Robert George Hector	Estancia, East Falkland
223	Miller	Betty	Walker Creek, East Falkland
224	Miller	James Albert	Fox Bay Village, West Falkland
225	Miller	Phillip Charles	Cape Dolphin, East Falkland
226	Minnell	Adrian James	Blue Beach, East Falkland
227	Minnell	Benjamin James	Moss Side, East Falkland
228	Minnell	Donna Marie	Moss Side, East Falkland
229	Minnell	Hazel Eileen	Moss Side, East Falkland
230	Minnell	Michael Robert	Moss Side, East Falkland
231	Minnell	Michelle Rose	Blue Beach, East Falkland
232	Minto	Patrick Andrew	Goose Green, East Falkland
233	Morrison	Eric George	Goose Green, East Falkland
234	Morrison	Gerald	Goose Green, East Falkland
235	Morrison	Jacqueline Denise Anita	Port Howard, West Falkland
236	Morrison	John	Port Howard, West Falkland
237	Morrison	Kathleen Iris	Goose Green, East Falkland
238	Morrison	Kenneth	Port Howard, West Falkland
239	Morrison	Lena	Port Howard, West Falkland
240	Morrison	Leslie Theodore Norman	Port Howard, West Falkland
241	Morrison	Timothy	West Lagoons, West Falkland
242	Murphy	Roy David	Port Howard, West Falkland
243	Napier	Lily	West Point, West Falkland
244	Napier	Roderick Bertrand	West Point, West Falkland
245	Newman	Sheena Melanie	Cape Dolphin, East Falkland
246	Nightingale	Charlene	West Lagoons, West Falkland
247	Nightingale	Peter Richard	West Lagoons, West Falkland
248	Oxley	Brian	Bristows, MPA. East Falkland
249	Parkinson	Allen	Turners, MPA. East Falkland
250	Peck	Christine	Leicester Falls, West Falkland
251	Peck	Davina Margaret	Shallow Bay, West Falkland
252	Peck	Paul	Shallow Bay, West Falkland
253	Phillips	Carol Joan	Hope Cottage, East Falkland
254	Phillips	Terence	Hope Cottage, East Falkland
255	Pitaluga	Jene Ellen	Salvador, East Falkland
256	Pitaluga	Nicholas Alexander R.	Salvador, East Falkland
257	Pitaluga	Robin Andreas McIntosh	Salvador, East Falkland
258	Pitt	Myra May	Goose Green, East Falkland
259	Pole-Evans	Anthony Reginald	Saunders Island, West Falkland
260	Pole-Evans	David Llewellyn	Saunders Island, West Falkland
261	Pole-Evans	Ian	Manybranch, West Falkland
262	Pole-Evans	Lisa	Port Howard, West Falkland
263	Pole-Evans	Shirley Helen	Manybranch, West Falkland
264	Pole-Evans	Suzan	Saunders Island, West Falkland
265	Pole-Evans	William Reginald	Manybranch, West Falkland
266	Poncet	Dion Michael	Beaver Island, West Falkland
267	Poncet	Jerome Pierre	Beaver Island, West Falkland
268	Poncet	Sally Elizabeth	Beaver Island, West Falkland
269	Poole	Ella Josephine	Port San Carlos, East Falkland
270	Poole	Steven Charles	Port San Carlos, East Falkland
271	Porter	Joan	Shallow Harbour, West Falkland
272	Porter	William Kenneth	Fox Bay Village, West Falkland
273	Reeves	Ronald James	Port Howard, West Falkland
274	Robertson	Ann	Port Stephens, West Falkland
275	Robertson	Paul Jonathan	Port Stephens, West Falkland

276	Robertson	Peter Charles	Port Stephens, West Falkland
277	Ross	William Henry	Rincon Grande, East Falkland
278	Rozee	Fiona	Spring Point, West Falkland
279	Rozee	Ronald David	Spring Point, West Falkland
280	Saunders	Felicity Joan Carlie	Hawkbit, East Falkland
281	Short	Lindsay Marie	Goose Green, East Falkland
282	Short	Robert George	Goose Green, East Falkland
283	Sinclair	Simon Keith	Goose Green, East Falkland
284	Smith	Andrew John	Port San Carlos, East Falkland
285	Smith	George Patterson	Johnsons Harbour, East Falkland
286	Smith	Georgina Carol Anderson	Port San Carlos, East Falkland
287	Smith	Heather	Harps Farm, West Falkland
288	Smith	Jacqueline	Stoney Ridge, West Falkland
289	Smith	Jenny Lorraine	Johnsons Harbour, East Falkland
290	Smith	Marlaine Rose	North Arm, East Falkland
291	Smith	Michael Edmund	Johnsons Harbour, East Falkland
292	Smith	Robert William	North Arm, East Falkland
293	Smith	Robin Charles	Harps Farm, West Falkland
294	Smith	Roy Alan	Stoney Ridge, West Falkland
295	Smith	Terence George	North Arm, East Falkland
296	Stearn	Michael Thomas	M.P.A. East Falkland
297	Stevens	Richard James	Port Sussex, East Falkland
298	Stevens	Toni Donna	Port Sussex, East Falkland
299	Taylor	Christopher John	Goose Green, East Falkland
300	Tellez	Arturo	North Arm, East Falkland
301	Tellez	Charlotte Melize	North Arm, East Falkland
302	Tellez	Rodolfo	Port San Carlos East Falkland
303	Thorsen	David Moller	Teal Inlet, East Falkland
304	Thorsen	Gloria Penelope	Teal Inlet, East Falkland
305	Towersey	Diane	Port Stephens, West Falkland
306	Turner	Arthur Leonard Pitaluga	Rincon Grande, East Falkland
307	Turner	Diana Jane	Rincon Grande, East Falkland
308	Turner	Elaine Ellen	Rincon Grande, East Falkland
309	Turner	Ronald	Rincon Grande, East Falkland
310	Tuson	Olwyn Carol	Saunders Island, West Falkland
311	Velasquez	Arleen	North Arm, East Falkland
312	Velasquez	Oscar Hernan	North Arm, East Falkland
313	Watson	Glenda Joyce	Long Island, East Falkland
314	Watson	Neil	Long Island, East Falkland
315	Whitney	Daneila Grace	Mount Kent, East Falkland
316	Whitney	Dennis	Fitzroy, East Falkland
317	Whitney	Keith	Home Farm, East Falkland
318	Whitney	Leona Ann	Home Farm, East Falkland
319	Whitney	Patrick George	Mount Kent, East Falkland
320	Whitney	Tyrone	Home Farm, East Falkland
321	Wilkinson	David Clive Walter	Dunnose Head, West Falkland
322	Wilkinson	Rosemary	Dunnose Head, West Falkland
323	Yon	Gillian Rose	KIS. MPA. East Falkland
324	Youde	Maxin Arthur	Turners, MPA. East Falkland
325	Young	Julie	Bristows, MPA. East Falkland
326	Young	Nigel Anthony	Turners, MPA. East Falkland



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

31st August 1998

No. 11

Appointments

Adrian Stewart Lowe, Night Security Officer, Medical Department, 4.8.98.

Miss Lisa Margaret Smith, Staff Nurse, Medical Department, 4.8.98.

Miss Michelle King, Legal Secretary, Attorney General's Chambers, 7.8.98.

Andrew Barnes, History Teacher, Education Department, 26.8.98.

Confirmation of Appointment

John Christopher Rowlands, Registrar General, Court and Registry Department, 17.7.98.

Promotions

Miss Melisa McKinley, from Clerk, Secretariat, to Clerk, Legislature, 8.6.98

Mrs Ann Reid, from Housekeeper, Government House, to Senior Housekeeper, Government House, 4.7.98.

Ralph Aaron Harris, from Mechanic, Plant and Vehicles Section, Public Works Department, to Foreman, Plant and Vehicles Section, Public Works Department, 1.8.98.

Miss Sharon Lewis, from Legal Secretary, Attorney General's Chambers, to Assistant Taxation Officer, Income Tax Office, Treasury, 10.8.98.

Andrew Nigel Miller, Plant Operator, Highways Section, Public Works Department, to Fire-fighter, Fire and Rescue Department, 17.8.98.

Transfer

Stuart Dave Duncan, from Watchkeeper/Handyman, Power and Electrical Section, Public Works Department, to Handyman, Property and Municipal Section, Public Works Department, 2.8.98.

Completion of Contracts

Peter Woodward, Deputy Financial Secretary, Treasury, 29.5.98.

Graham Brian France, Building Adviser, Public Works Department, 31.7.98

Mrs Karen Wilma Graham, Staff Nurse (Casualty), Medical Department, 18.8.98.

Renewal of Contracts

Peter Woodward, Deputy Financial Secretary, Treasury, 28.7.98

Renewal of Contracts (continued)

Graham Brian France, Building Adviser, Public Works Department, 1.8.98.

Mrs Karen Wilma Graham, Staff Nurse (Casualty), Medical Department, 19.8.98.

Resignations

Donald Jaffray, Night Security Officer, Fisheries Department, 31.7.98.

Dr. Conor Nolan, Senior Fisheries Scientist, Fisheries Department, 31.7.98.

NOTICES

No. 61 31st July 1998

It is hereby notified for information that **SHARON COLLIER** of **STANLEY** has changed her name to **SHARON LEWIS** by Deed Poll.

Dated this 31st day of July 1998.

J. C. ROWLAND,
Registrar General.

No. 62 5th August 1998

The Index of Retail Prices for the quarter ended 30 June 1998 has now been calculated.
The Index decreased by 0.023% during the quarter, from 140.246 to 140.213.

C. S. DAVIES,
for Government Secretary.

No. 63 7th August 1998

CONSTITUTION OF THE FALKLAND ISLANDS Section 33(1)(c)

APPOINTMENT OF ANDREW MURRAY GURR ESQUIRE TO PRESIDE AT MEETINGS OF THE LEGISLATIVE COUNCIL IN THE ABSENCE OF THE GOVERNOR

IN EXERCISE of my powers under section 33(1)(c) of the Constitution and of all other powers enabling me in that behalf, **I, RICHARD PETER RALPH**, Companion of the Most Distinguished Order of St. Michael and St. George, Commander of the Royal Victorian Order, Governor of the Falkland Islands, **APPOINT** Andrew Murray Gurr Esquire to preside at any meeting of the Legislative Council during a period commencing on 12 August 1998 or other date on which

I next depart the Falkland Islands and ending on 26 September 1998 or other date next following my departure from the Falkland Islands as aforesaid on which I return to the Islands.

Dated this 7th day of August 1998.

R. P. RALPH,
Governor.

No. 64 20th August 1998

It is hereby notified for information that **TYE DAMON JAFFRAY** of **STANLEY** has changed his name to **TYE DAMON STASHYSKY** by Deed Poll.

Dated this 20th day of August 1998.

J. C. ROWLAND,
Registrar General.

Appointment of Temporary Customs Officer Customs Ordinance 1943

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. D. J. MORRIS C8252719

to be a Temporary Customs Officer from 26th June 1998 until 31st October 1998.

R.J. King,
Collector of Customs.

Corrigenda

Gazette notice number 46 in Gazette number 8 dated 30th June should be amended by the deletion of the headline 'Supreme Court of the Falkland Islands'.

The following amendments should be made to Gazette number 9 dated 31st July 1998:-

In Gazette notice numbers 50 and 51 the name Andrew Murphy Gurr should read Andrew Murray Gurr.

In Gazette notice number 52 the name Alex Olmeda should read Alex Olmedo.

In Gazette notice number 53 the name Roanna Eileen Llyod should read Roanna Eileen Lloyd.

The heading of Gazette notice number 55 should read Fishery Products (Hygiene) Ordinance 1998 and not Fisheries Products (Hygiene) Ordinance 1998.



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

30th September 1998

No. 12

Appointments

Miss Karen Jane Armstrong, Travelling Teacher, Education Department, 25.8.98.

Mrs. Celia Jane Hill, Primary Teacher, Education Department, 28.8.98.

Miss Jeanette Hawksworth, Primary Teacher, Education Department, 31.8.98.

Miss Corrinne Parke, Apprentice Aircraft Engineer, Falkland Islands Government Air Service, 31.8.98.

Mrs. Catherine Burston, Trainee Computer Technician, Computer Department, 1.9.98.

Russell Morrison, Sports Attendant, Leisure Centre, Education Department, 1.9.98.

Miss Linda Strachan, Nurse/Midwife, Medical Department, 1.9.98.

Mrs. Valerie Watson, Clerk, Education Department, 7.9.98.

Alan Cruickshank, Plant and Vehicle Manager, Public Works Department, 8.9.98.

St John Payne, Recreation Manager, Education Department, 14.9.98

Zachary Stephenson, Firefighter, Fire and Rescue Department, 14.9.98.

Ryszard Grzebielec, Data Analyst, Fisheries Department, 18.9.98.

Miss Natalie Finn, Clerk, Public Works Department, 22.9.98.

Confirmation of Appointments

Simon Roberts, Projects Foreman, Public Works Department, 1.9.98.

Mrs. Susan Clayton, Assistant Teacher, Education Department, 9.9.98.

Promotion

Miss Lorna Howells, from Trainee Assistant Producer, FIBS, to Assistant Producer, FIBS, 14.9.98.

Completion of Contract

Miss Paula Jane Robinson, Nursing Sister, Medical Department, 24.9.98.

Renewal of Contract

Miss Paula Jane Robinson, Nursing Sister, Medical Department, 25.9.98.

Resignation

Miss Shula Louise Smith, Cook, Highways Section, Public Works Department, 6.9.98.

NOTICES

No. 65

7th September 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mr. Miguel Angel Hernandez Manterola and Mrs. Maria Elena Hernandez Trevello of Stanley, Falkland Islands are applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs and Immigration Department, Stanley within 14 days of the date of this notice.

J. E. SMITH,
Immigration Officer.

No. 66

14 September 1998

**SECTION 11A OF THE LAND ORDINANCE
Cap 36**

TAKE NOTICE that on 14th September 1998 **JOHN CHRISTOPHER ROWLAND Registrar General** executed a vesting deed in favour of Heather Margaret Hills of 5 Davies Street Stanley in accordance with section 11A of the Land Ordinance in respect of an area of land situated in East Falkland forming a private roadway leading east from Dairy Paddock Road, Stanley and bounded on the north by land owned by the said Heather Margaret Hills which area of land forms part of the subjects described in Crown Grant 107 and also forms part of the subjects described in a conveyance between John Halliday as administrator of the late Andrew Halliday and Alexander Martin dated 13 January 1902 and registered in the Land Register on 22 January 1902 under deed number 768 volume number 1 folio 107.

NOTICE IS HEREBY GIVEN that any person aggrieved by the execution of the said Vesting Deed should appeal to the Supreme Court within 30 days following the publication of this notice under section 11A(9) of the Land Ordinance and the Supreme Court may, upon determination of the appeal, annul or confirm the Vesting Deed as it thinks fit.

J. C. ROWLAND,
Registrar General.

No. 67

21 September 1998

SUPREME COURT OF THE FALKLAND ISLANDS**Notice under the Administration of Estates
Ordinance (Cap. 1)**

TAKE NOTICE THAT Dwenifer May Smith deceased of Stanley, Falkland Islands died at Stanley, Falkland Islands on the 12th day of September 1998.

WHEREAS Gerard Alexander Smith has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to Section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

L. A. TITTERINGTON
Registrar, Supreme Court.

No. 68

21st September 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mrs. Sally Elizabeth Poncet of Beaver Island, Falkland Islands is applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 14 days of the date of this notice.

J. E. SMITH,
Immigration Officer.

**Appointment of Temporary Customs Officer
Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. M. HARRIS R8288196

to be a Temporary Customs Officer from 17th July 1998 until 14th November 1998.

J. E. SMITH,
Ag. Collector of Customs.

**Appointment of Temporary Customs Officer
Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. M. GIBSON B8189429

to be a Temporary Customs Officer from 11th September 1998 until 11th January 1998.

J. E. SMITH,
Ag. Collector of Customs.



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CVII

30th October 1998

No. 13

Appointments

Stephen William Pointing, Senior Veterinary Officer,
Agriculture Department, 29.9.98.

Mrs. Ellen Rose Davis, Head Cook, Stanley Hostel,
Education Department, 1.10.98.

Gary Fuller, Maintenance Manager, Public Works
Department, 2.10.98.

Dennis Bolt, Painter/Handyman, Public Works
Department, 12.10.98.

Miss Wendy Benjamin, Stores Clerk, Central Store,
26.10.98.

Confirmation of Appointments

Miss Dorothy Wilkinson, Police Constable, Royal
Falkland Islands Police, 9.10.98.

Mrs. Mila Ped, Data Entry Clerk, Fisheries Department,
14.10.98.

Lee Clement, Plant Operator/Handyman, Public Works
Department, 23.10.98.

Alan Crowie, Aircraft Fitter, Falkland Islands
Government Air Service, 28.10.98.

Promotion

Gerard Alan Jaffray, from Police Constable, Royal
Falkland Islands Police, to Leading Police Constable,
Royal Falkland Islands Police, 9.10.98.

Transfers

Mrs. Julie Anne Fisher-Smith, from Senior Clerk,
Agriculture Department, to Administrative Officer,
Customs & Immigration Department, 1.10.98.

Mrs. Monica May, from Cook, Stanley Hostel,
Education Department, to Cook, Highways Section,
Public Works Department, 5.10.98.

Resignations

Nigel Shorrocks, Civil Servant, Education Department,
6.10.98.

Leeann Watson Harris, Administrative Officer,
Secretariat, 12.10.98.

Termination of Appointments

John Hirtle, Labourer, Public Works Department,
29.9.98.

Andrew Davis, Leading Constable, Royal Falkland
Islands Police, 9.10.98.

NOTICES

No. 69

30 September 1998

SUPREME COURT OF THE FALKLAND ISLANDS**Notice under the Administration of Estates Ordinance (Cap. 1)**

TAKE NOTICE THAT Ellen Mary Short deceased of 12 Brandon Road, Stanley, Falkland Islands died at Stanley, Falkland Islands on the 19th day of September 1998.

WHEREAS Joseph Leslie Short and Christina Ethel Short 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 Petitioners will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

L. A. TITTERINGTON
Registrar, Supreme Court.

No. 70

1st October 1998

FALKLAND ISLANDS**APPOINTMENT OF ACTING REGISTRAR**

I RICHARD PETER RALPH Companion of the Most Distinguished Order of Saint Michael and Saint George Commander of the Royal Victorian Order Governor of the Falkland Islands

HEREBY APPOINT

ALISON ANNE MACKENZIE INGLIS Acting Registrar General for the period 1 October to 11 October 1998

Given under my hand at Stanley this 1st day of October 1998.

R.P. RALPH,
Governor.

No. 71

2nd October 1998

ADMINISTRATION OF JUSTICE ORDINANCE (Section 42)**APPOINTMENT OF REGISTRAR OF SUPREME COURT**

IN EXERCISE of my powers under section 42 of the Administration of Justice Ordinance, I the Honourable Mr. Justice Wood Chief Justice appoint LESLEY ANN

TITTERINGTON to be the Registrar of the Supreme Court and to exercise the rights, powers and duties in respect of the administration of justice in the Falkland Islands.

Dated this 2nd day of October 1998.

The Honourable Mr. Justice Wood
Chief Justice.

No. 72

8th October 1998

PRISON ORDINANCE 1966**APPOINTMENT OF PRISON VISITORS**

IN EXERCISE of my powers under section 7(2) of the Prison Ordinance 1966, I, Richard Peter Ralph, Governor of the Falkland Islands, appoint the following to be members of the Board of Visitors for a period expiring on 31st December 2000 -

Terence George Spruce JP
Bridie Fareilly

Dated this eighth day of October 1998.

R.P. RALPH,
Governor.

No. 73

8th October 1998

COMMUNITY SCHOOL MANAGERS COMMITTEE

Notice is hereby given that His Excellency the Governor has approved the appointment of the following persons to the Community School Managers Committee with effect from 8 October 1998:

Mrs. U. Wallace Parent Representative
Mr. K. Ormand Parent Representative

Dated this 8th day of October 1998.

No. 74

13th October 1998

FISHERY PRODUCTS (HYGIENE) REGULATIONS 1998**MFV SIL****CERTIFICATE OF ECONOMIC CONNECTION WITH THE FALKLAND ISLANDS**

I CERTIFY pursuant to regulation 3(1)(b) of the Fishery Products (Hygiene) Regulations 1998 that I am satisfied that MFV Sil, a vessel registered under the flag of the Commonwealth of Australia, has a close economic connection with the Falkland Islands and,

consequently, is a vessel for which an application for approval pursuant to those Regulations may be made.

Dated this thirteenth day of October 1998.

R.P. RALPH,
Governor.

No. 75

20th October 1998

APPLICATION FOR PERMANENT RESIDENCE

Notice is hereby given that Mrs. Shirley Peters of Stanley, Falkland Islands is applying for a Permanent Residence permit. Anyone who knows of any reason why this permit should not be issued is invited to send a written statement of the facts to the Principal Immigration Officer, Secretariat, Stanley within 15 days of the publication of this notice.

J. E. SMITH,
Immigration Officer.

No. 76

20th October 1998

APPLICATION FOR PERMANENT RESIDENCE

Notice is hereby given that Mr. Dennis Bolt of Stanley, Falkland Islands is applying for a Permanent Residence permit. Anyone who knows of any reason why this permit should not be issued is invited to send a written statement of the facts to the Principal Immigration Officer, Secretariat, Stanley within 15 days of the publication of this notice.

J. E. SMITH,
Immigration Officer.

No. 77

20th October 1998

APPLICATION FOR PERMANENT RESIDENCE

Notice is hereby given that Mr. Richard Johns of Stanley, Falkland Islands is applying for a Permanent Residence permit. Anyone who knows of any reason why this permit should not be issued is invited to send

a written statement of the facts to the Principal Immigration Officer, Secretariat, Stanley within 15 days of the publication of this notice.

J. E. SMITH,
Immigration Officer.

No. 78

22nd October 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mrs. Marlene Estela Barnes of Hope Harbour Farm, Falkland Islands is applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs and Immigration Department, Stanley within 14 days of the date of this notice.

J. E. SMITH,
Immigration Officer.

No. 79

22nd October 1998

APPLICATION FOR NATURALISATION

Notice is hereby given that Mr. Alfred William Hamilton Curtis of Stanley, Falkland Islands is applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs and Immigration Department, Stanley within 14 days of the date of this notice.

J. E. SMITH,
Immigration Officer.

Corrigendum

The following amendment should be made to Gazette No. 11 of August 31st 1998: Under the heading Confirmation of Appointment - John Christopher Rowlands should read John Christopher Rowland.



THE FALKLAND ISLANDS GAZETTE

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30th November 1998

No. 14

Appointments

Alan Paul Bonner, Apprentice Carpenter, Public Works Department, 2.1.96.

Claudio Ross, Apprentice Carpenter, Public Works Department, 24.3.97.

Derek Donnelly, Plant Operator/Handyman, Public Works Department, 9.11.98.

Dr. David Alexander John Middleton, Stock Assessment Scientist, Fisheries Department, 16.11.98.

Christopher McCallum, Plant Operator/Handyman, Public Works Department, 19.11.98.

Confirmation of Appointments

Mrs. Margaret Anne Hewitt, Cook, Education Department, 14.10.98.

Miss Karen Lucetta Steen, Infant/Junior Teacher, Education Department, 14.10.98.

Miss Jennifer Stashinsky, Staff Nurse, Medical Department, 4.11.98.

Promotions

Michael Floyd, from Customs & Immigration Officer, Customs & Immigration Department, to Customs Officer, Customs & Immigration Department, 9.11.98.

Russell John Allan Morrison, from Sports Attendant, Leisure Centre, to Customs & Immigration Officer, Customs & Immigration Department, 9.11.98.

Resignation

Grant Budd, Electrician, Public Works Department, 9.11.98.

NOTICES

No. 80

13 October 1998

PRISON ORDINANCE 1966

APPOINTMENT OF PRISON VISITOR

IN EXERCISE of my powers under section 7(2) of the Prison Ordinance 1966, I, Richard Peter Ralph, Governor of the Falkland Islands, appoint the following to be a member of the Board of Visitors for a period expiring on 31st December 2000 -

Cheryl Ann Spencer Roberts

Dated this thirteenth day of October 1998

R.P. Ralph,
Governor

No. 81

24th November 1998

Index of Retail Prices

The Index of Retail Prices for the quarter ended 30 September 1998 has now been calculated.

The Index increased by 1.145% during the quarter, from 140.213 to 141.818.

F.B. Wallace,
for Government Secretary.

Appointment of Temporary Customs Officer**Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. I.A. NEWBY R8247462

to be a Temporary Customs Officer from 17th October 1998 until 17th February 1999.

R.J. KING,
Collector of Customs.

Appointment of Temporary Customs Officer**Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

Sgt. G. ROBB, B8192459

to be a Temporary Customs Officer from 17th October 1998 until 17th February 1999.

R.J. KING,
Collector of Customs.

Appointment of Temporary Customs Officer**Customs Ordinance 1943**

In exercise of the powers conferred by Section 4 of the Customs Ordinance 1943,

I hereby appoint:

CPL. D.J. DONALD S8215069

to be a Temporary Customs Officer from 11th November 1998 until 11th March 1999.

R.J. KING,
Collector of Customs.



THE FALKLAND ISLANDS GAZETTE

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24th December 1998

No. 15

Appointments

Miss Karen Rose Constantine, Housekeeper,
Government House, 18.9.98.

John Summers Jaffray, Plant Operator/Handyman,
Highways Section, Public Works Department, 21.9.98.

Mark David Porter, Plant Operator/Handyman,
Highways Section, Public Works Department, 28.9.98.

Mrs. Una Goodwin, Cleaner, Education Department,
12.10.98.

Kevin Jon Symonds, Plant Operator/Handyman,
Public Works Department, 23.11.98.

Alexandre Ivanovich Arkhipkine, Senior Fisheries
Scientist, Fisheries Department, 24.11.98.

Yan De Fu, Handyman, Highways Section, Public
Works Department, 25.11.98.

John Robinson Parker, Deputy Financial Secretary,
Treasury, 27.11.98.

Miss Rachael Freeman, Sports Attendant, Leisure
Centre, Education Department, 30.11.98.

Donald Mark Coulter, Night Security Officer, Medical
Department, 1.12.98.

Jeremy Henry, Handyman/Roadcleaner, Public Works
Department, 3.12.98.

Colin David Paterson, Electrician, Public Works
Department, 7.12.98.

Glen Williams, Housing Officer, Public Works
Department, 7.12.98.

Callum David McRae, Police Constable, Royal
Falkland Islands Police, 14.12.98.

Acting Appointment

Richard Edwin John Fogerty, Acting Director of
Education, Education Department, 14.9.98.-20.10.98.

Promotion

Mrs. Josephine McInnis, from Clerk, Human Resources
Department, to Administrative Officer, Human
Resources Department, 1.12.98.

Transfers

Bernard Leslie Eccles, from Customs Officer, Customs
& Immigration Department, to Licensing Officer,
Fisheries Department, 1.12.98.

Miss Glynis King, from Licensing Officer, Fisheries
Department, to Senior Clerk, Department of
Agriculture, 1.12.98.

Elvio Miguel Cofre, from Housing Officer, Public Works Department, to Customs/Immigration Officer, Customs & Immigration Department, 21.12.98.

Completion of Contracts

Horacio Romero, Fisheries Observer, Fisheries Department, 30.11.98.

Graham Fisher, Teacher, Education Department, 3.12.98.

Andrew James Coe, Senior Veterinary Officer, Department of Agriculture, 4.12.98.

Mark Nedd, Fisheries Observer, Fisheries Department, 19.12.98.

Retirement

Kenneth Benjamin John McLeod, Customs & Immigration Officer, Customs & Immigration Department, 30.11.98.

Resignations

Miss Sandra Shirleen Lang, Cook, Medical Department, 20.10.98.

Mrs. Michelle Morris, Data Entry Clerk, Fisheries Department, 4.11.98.

Miss Corrine Parke, Apprentice Aircraft Engineer, Falkland Islands Government Air Service, 27.11.98.

PED, Night Security Officer, Medical Department, 30.11.98.

Termination of Appointment

Paul Anthony McKay, Plant Operator/Handyman, Highways Section, Public Works Department, 19.11.98.

NOTICES

No. 82

18 December 1998

COMMENCEMENT NOTICE

Building Control (Transfer of Functions) Ordinance 1991

Pursuant to section 1 of the Building Control (Transfer of Functions) Ordinance 1991 I notify that the Ordinance shall be deemed to have come into force on 1st March 1991.

Dated this eighteenth day of December 1998

R.P. Ralph,
Governor.

EXPLANATORY NOTE

In the course of the preparation of the Revised Edition of the Laws for publication the Commissioner for the Revision of the Laws has noticed that no notice appears to have been published in the Gazette bringing the Building Control (Transfer of Functions) Ordinance 1991 into force. The purpose and effect of that Ordinance was to transfer the functions as to building by-laws of the Building Committee of the Board of Health to the Planning and Building Committee which came into existence on 1st March 1991 on the commencement of the Planning Ordinance 1991. That Committee has been exercising powers of approval and rejection of building by-laws in place of the Building Committee of the Board of Health since that date. The retrospective commencement of the Ordinance does not adversely affect any person's rights.

No. 83

21st December 1998

TAX DEDUCTIONS IN RESPECT OF DONATIONS TO CHARITIES

It is hereby notified that pursuant to section 57B(2) of the Taxes Ordinance 1997 His Excellency the Governor has approved the charities listed below as eligible charities.

Christ Church Cathedral Trust
Roman Catholic Church in the Falkland Islands
Tabernacle Church
Spiritual Assembly of the Baha'is of Stanley
Stanley Congregation of Jehovah's Witnesses
Falkland Islands Museum and National Trust
South Georgia Museum
Falkland Islands Scout Association
Falkland Islands Guides Association
Falkland Islands Branch of the British Red Cross
Stephen Jaffray Memorial Fund
Cancer Support Group
Colonic Cancer Screening Fund
King Edward Memorial Hospital Fund
KEMH Children's Fund
KEMH Geriatric Day Centre Fund
KEMH Foreign Fishermen's Fund
Friends of the King Edward Memorial Hospital
Stanley Hospital Fund
Alazia Memorial Fund
Falkland Islands Community Trust
Alastair Cameron Fund
Haig Fund
RNLI
Wireless for the Blind
Great Ormond Street Hospital
Shackleton Fund
Falklands Conservation

Dated 21st December 1998.

EXPLANATORY NOTE

"Eligible charities" are bodies of persons or trusts established for charitable purposes only which are not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and which are not required to be so registered. "Eligible charities" are ones, in addition to charities registered under the Charities Act 1960 donations to which qualify for tax deduction under section 57A of the Taxes Ordinance 1997. "Eligible charities" and charities so registered together constitute charities which are approved charities for the purpose of allowance of deductions of donations under section 57A of the Taxes Ordinance 1997.

No. 84

22nd December 1998

CURRENCY NOTE 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 the following persons as Currency Officers with effect from 9 December 1998 -

Mr. John Robinson Parker
Mr. Nigel Keith Dodd

The appointment of Ms. Rose Ann Shirley Hirtle and Mr. Peter Woodward is hereby cancelled.

The following is a full list of Currency Officers

Mr. Peter Julian Basil Biggs
Mrs. Marie Cheek
Mr. Nigel Keith Dodd
Mr. Terence Hawksworth
Mr. Michael Luxton
Miss Linda Margaret Lyse
Mrs. Valerie Ann Morrison

Mr. John Robinson Parker
Miss Alison Emily Robson.

Commissioners of Currency.

No. 85

22nd December 1998

PUBLIC NOTICE

OF PROPOSED LEGISLATION IN RELATION TO TAXATION OF BUNKERING ACTIVITIES

The Falkland Islands Government intend to introduce in Legislative Council early in 1999 legislation which will have the effect that any person who provides bunkering services in the internal waters or the territorial sea of the Falkland Islands will be deemed to be carrying on a business in the Falkland Islands.

The legislation would take the form of an Ordinance to amend the Taxation Ordinance 1997 and it is intended that the Ordinance when enacted will have retrospective effect from 1st January 1999, but will not apply to profits and losses from bunkering services before 1st January 1999.

It is intended that the legislation will also contain provisions whereby the holder of a licence granted under the Petroleum Products Ordinance 1973 will be liable to pay any tax that has been assessed on any other supplier in respect of profits or gains of any business providing bunkering services carried out under the authority of the licensee's licence, if the tax remains unpaid later than 30 days after it becomes due and payable. It is also intended that the legislation will contain provision for exceptions to that obligation.

Financial Secretary.



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Supplement**

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13th January 1998

No. 1

The following is published in this Supplement -

**Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998, S.R. & O.
No. 1 of 1998).**

SUBSIDIARY LEGISLATION

ANTARCTICA

Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998

(S. R. & O. No. 1 of 1998)

Made..... 12 January 1998

Published..... 13 January 1998

Coming into force on publication

IN EXERCISE of my powers under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1995(a) and all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998 and comes into force upon its publication in the *Gazette*.

Commencement of sections 3, 4 and 6 of the Antarctic Act 1994

2. Sections 3, 4 and 6 of the Antarctic Act 1994(b) shall come into force in respect of the Falkland Islands on 14th January 1998.

Made this 12th day of January 1998

A M Gurr
Acting Governor

EXPLANATORY NOTE

(not forming part of the above Order)

The Environmental Protocol to the Antarctic Treaty comes into force in relation to the Falkland Islands on 14th January 1998 and it is therefore necessary to bring into force sections 3, 4 and 6 of the Antarctic Act 1994 on that date. This Order does so.

(a) SI 1995/1030

(b) 1994 c.15



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

16th January 1998

No. 2

The following are published in this Supplement -

Charging Orders Ordinance 1997;

Damages Ordinance 1997;

Drug Trafficking Offences Ordinance 1997.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Charging Orders Ordinance 1997

(No: 23 of 1997)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Charging orders
4. Property which may be charged
5. Provisions supplementing sections 3 and 4
6. Stop orders and notices

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

CHARGING ORDERS ORDINANCE 1997

(No. 23 of 1997)

AN ORDINANCE

(assented to: 16 December 1997)
(commencement: in accordance with section 1)
(published: 16 January 1998)

To make provision for imposing charges to secure payment of money due under judgments or orders of court and for connected purposes.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

Preliminary

1. This Ordinance may be cited as the Charging Orders Ordinance 1997 and shall come into force on such date as is notified by the Governor by notice published in the Gazette.

Interpretation (1979 c.53 s.6)

2.(1) In this Ordinance—

“charging order” means as order made under section 3(1) of this Ordinance;

“debt” and “debtor” have the meaning given by section 3(1) of this Ordinance;

“dividend” includes any distribution in respect of a security;

“maintenance order” has the same meaning as it has under section 2(a) of the Attachment of Earnings Act 1971;

“stock” includes shares, debentures and any securities of the body concerned whether or not constituting a charge on the assets of that body.

(2) For the purposes of section 3 of this Ordinance, references to a judgment or order of the Supreme Court, shall be taken to include references to a judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or arbitrator) which is or has become enforceable as if it were a judgment or order of the Supreme Court or the Magistrate's Court.

Charging orders (1979 c.53 s.1)

3.(1) Where, under a judgment or order of the Supreme Court or the Magistrate's Court, a person (the “debtor”) is required to pay a sum of money to another person (the “creditor”) then, for the purpose of enforcing that judgment or order, the appropriate court may make an order in accordance with the provisions of this Ordinance imposing on any such property of the debtor as may be specified in the order a charge for securing the payment of any money due or to become due under the judgment or order.

(2) The appropriate court is—

(a) in a case where the property to be charged is fund in court, the court in which that fund is lodged;

(b) in a case where paragraph (a) above does not apply and the order to be enforced is a maintenance order of the Supreme Court, the Supreme Court or the Magistrate's Court;

(c) in a case where neither paragraph (a) nor paragraph (b) above applies and the judgment or order to be enforced is a judgment or order of the Supreme Court for a sum exceeding jurisdiction of the Magistrate's Court, the Supreme Court or the Magistrate's Court; and

(d) in any other case, the Magistrate's Court.

(3) An order under subsection (1) above is referred to in this Ordinance as a “charging order”.

(4) Where a person applies to the Supreme Court for a charging order to enforce more than one judgment or order, that court shall be the appropriate court in relation to the application if it would be the appropriate court, apart from this subsection, on an application relating to one or more of the judgments or orders concerned.

(5) In deciding whether to make a charging order the court shall consider all the circumstances of the case and, in particular, any evidence before it as to—

(a) the personal circumstances of the debtor, and

- (b) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.

Property which may be charged (1979 c.53 s.2)

4.(1) Subject to subsection (3) of this section, a charge may be imposed by a charging order only on—

- (a) any interest held by the debtor beneficially—

- (i) in any asset of a kind mentioned in subsection (2) of this section, or

- (ii) under any trust; or

- (b) any interest held by a person as trustee of a trust ("the trust"), if the interest is in such an asset or is an interest under another trust and—

- (i) the judgment or order in respect of which a charge is to be imposed was made against that person as trustee of the trust, or

- (ii) the whole beneficial interest under the trust is held by the debtor unencumbered and for his own benefit, or

- (iii) in a case where there are two or more debtors all of whom are liable to the creditor for the same debt, they together hold the whole beneficial interest under the trust unencumbered and for their own benefit.

(2) The assets referred to in subsection (1) of this section, are—

- (a) land,

- (b) securities of any of the following kinds—

- (i) stock of any body incorporated within the Falkland Islands;

- (ii) stock of any body incorporated outside the Falkland Islands or of any state or territory outside the Falkland Islands, being stock registered in a register kept at any place within the Falkland Islands,

- (c) funds in court.

(3) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in paragraph (b) or (c) of subsection (2) of this section, the court making the order may provide for the charge to extend to any interest or dividend payable in respect of the asset.

Provisions supplementing sections 3 and 4 (1979 c.53 s.3)

5.(1) A charging order may be made either absolutely or subject to conditions as to notifying the debtor or as to the time when the charge is to become enforceable, or as to other matters.

(2) The Land Charges Ordinance 1996 shall apply in relation to charging orders as it applies in relation to other orders or writs issued or made for the purpose of enforcing judgments.

(3) Subject to the provisions of this Ordinance, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand.

(4) The court by which a charging order was made may at any time, on the application of the debtor or of any person interested in any property to which the order relates, make an order discharging or varying the charging order.

(5) Where a charging order has been protected by an entry registered under the Land Charges Ordinance 1996, an order under subsection (4) of this section discharging the charging order may direct that the entry be cancelled.

(6) The Governor may by Order amend section 4(2) of this Ordinance by adding to, or removing from, the kinds of asset for the time being referred to there, any asset of a kind which in his opinion ought to be so added or removed.

Stop orders and notices (1979 c.53 s.4)

6.(1) In this section—

“stop order” means an order of the court prohibiting the taking, in respect of any of the securities specified in the order, of any of the steps mentioned in subsection (5) of this section;

“stop notice” means a notice requiring any person or body on whom it is duly served to refrain from the taking, in respect of any of the securities specified in the notice of any of the steps mentioned in subsection (5) of this section, without first notifying the person by whom or on whose behalf, the notice was served;

“prescribed securities” means securities (including funds in court) of a kind prescribed by rules of court.

(2) The power to make rules of court under section 69 of the Administration of Justice Ordinance shall include power by any such rules—

(a) to make provision for the court to make a stop order on the application of any person claiming to be entitled to an arrest in prescribed securities;

(b) to make provision for the service of a stop notice by any person claiming to be entitled to an interest in prescribed securities;

(c) to include such incidental, supplemental and consequential provisions as may be considered necessary or expedient, and to make different provision in relation to different cases or classes of case.

(3) The steps mentioned in subsection (1) are—

(a) the registration of any transfer of securities;

(b) in the case of funds in court, the transfer, sale, delivery out, payment or other dealing with the funds, or of the income thereon; and

(c) the making of any payment by way of dividend, interest or otherwise in respect of the securities.

Passed by the Legislature of the Falkland Islands this 12th day of December 1997.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Damages Ordinance 1997

(No: 24 of 1997)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Adoption of the Damages Act 1996 (1996 c.48)

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

DAMAGES ORDINANCE 1997

(No: 24 of 1997)

AN ORDINANCE

(assented to: 16 December 1997)
(commencement: in accordance with section 1)
(published: 16 January 1998)

To adopt the Damages Act 1996 as law of the Falkland Islands

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Damages Ordinance 1997 and shall come into force one month after it is first published in the *Gazette*.

Adoption of the Damages Act 1996 (1996 c.48)

2. The Damages Act 1996 applies in the Falkland Islands with the exceptions and subject to the modifications specified in the Schedule to this Ordinance and in accordance with the other provisions of that Schedule.

SCHEDULE

Application of Damages Act 1996

Excepted provisions

Sections 1(5), 3(7), 4, 5, 6 and 8(2) and(3) do not apply in the Falkland Islands

Modifications

Sections 1(1) to (4) apply in relation to and in courts in the Falkland Islands as if they were courts in England and accordingly without the modifications which would otherwise have effect under the provisions of section 76 of the Interpretation and General Clauses Ordinance 1977.

Passed by the Legislature of the Falkland Islands this 12th day of December 1997.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor

Drug Trafficking Offences Ordinance 1997

(No: 25 of 1997)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Meaning of "drug trafficking" and "drug trafficking offence"
4. Confiscation orders
5. Postponed determinations
6. Assessing the proceeds of drug trafficking
7. Amount to be recovered under confiscation order
8. Meaning of "amount that might be realised" and "realisable property"
9. Value of property etc
10. Gifts caught by this Ordinance
11. Application of procedure for enforcing fines
12. Interest on sums unpaid under confiscation orders
13. Statements relating to drug trafficking

14. Provision of information by defendant
15. Reconsideration of case where court has not proceeded under section 4
16. Re-assessment of whether defendant has benefited from drug trafficking
17. Revised assessment of proceeds of drug trafficking
18. Increase in realisable property
19. Inadequacy of realisable property
20. Compensation
21. Powers of Supreme Court where defendant has absconded or died
22. Effect of conviction where Supreme Court has acted under section 21
23. Variation of confiscation orders made by virtue of section 21
24. Compensation etc where absconder is acquitted
25. Power to discharge confiscation order and order compensation where absconder returns
26. Provisions supplementary to sections 23, 24 and 25
27. Cases in which restraint orders and charging orders may be made
28. Restraint orders
29. Charging orders in respect of land, securities etc
30. Charging orders: supplementary provisions
31. Realisation of property
32. Application of proceeds of realisation and other sums
33. Exercise by Supreme Court, Magistrate's Court or receiver of powers for the realisation of property
34. Bankruptcy of defendant etc
35. Winding up of company holding realisable property
36. Insolvency officers dealing with property subject to restraint order
37. Receivers: supplementary provisions

38. Enforcement of external confiscation orders
39. Registration of external confiscation orders
40. Interpretation of Part II
41. Seizure and detention
42. Forfeiture
43. Appeal against forfeiture order made by a Magistrate's Court
44. Rules of court
45. Receipts
46. Interpretation of Part III
47. Concealing or transferring proceeds of drug trafficking
48. Assisting another person to retain the benefit of drug trafficking
49. Acquisition, possession or use of proceeds of drug trafficking
50. Failure to disclose knowledge or suspicion of money laundering
51. Tipping-off
52. Penalties
53. Order to make material available
54. Authority for search
55. Provisions supplementary to sections 53 and 54
56. Offence of prejudicing investigation
57. Disclosure of information held by the Falkland Islands Government
58. Consequential amendments and modifications of other Acts
59. Transitional provisions and savings
60. Repeals etc

Schedule 1

Schedule 2

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

DRUG TRAFFICKING OFFENCES ORDINANCE 1997

(No. 25 of 1997)

AN ORDINANCE

(assented to: 16 December 1997)
(commencement: in accordance with section 1)
(published: 16 January 1998)

To consolidate, with amendments, the Drug Trafficking Ordinance 1989 and certain provisions of the Criminal Justice (Amendment) Ordinance 1991 relating to drug trafficking.

ENACTED by the Legislature of the Falkland Islands as follows—

PART I
INTRODUCTORY

Short title, citation, commencement and general interpretation

Short title and commencement

1. This Ordinance may be cited as the Drug Trafficking Offences Ordinance 1997 and shall come into force on the first day of the second month next following its publication in the *Gazette*.

Interpretation

2.—(1) In this Ordinance “property” includes money and all other property, real or personal, including things in action and other intangible or incorporeal property.

(2) This Ordinance applies to property whether it is situated in the Falkland Islands or elsewhere.

(3) In this Ordinance “interest”, in relation to property, includes right.

(4) In this Ordinance—

(a) references to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator; and

(b) references to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.

(5) For the purposes of this Ordinance—

(a) property is held by any person if he holds any interest in it; and

(b) property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(6) In this Ordinance—

“defendant” means a person against whom proceedings have been instituted (within the meaning given in section 40(2) of this Ordinance) for a drug trafficking offence (whether or not he has been convicted);

“modifications” includes additions, alterations and omissions;

“the 1989 Ordinance” means the Criminal Justice Ordinance 1989.

(7) In this Ordinance references to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection.

(8) Subject to section 59(2) and (6) of this Ordinance—

(a) any reference in this Ordinance to an offence includes a reference to an offence committed before the commencement of this Ordinance; and

(b) any reference in this Ordinance to “drug trafficking” includes a reference to drug trafficking carried out before the commencement of this Ordinance.

(9) In this Ordinance the expressions listed below are defined by, or otherwise fall to be construed in accordance with, the provisions of this Ordinance indicated below—

amount that might be realised	section 8(1)
amount to be recovered	section 7(1)
benefited from drug trafficking	section 4(3)
charging order	section 29(2)
conclusion of an application	
—under section 13, 14 or 19	section 40(4)
—under section 15 or 16	section 40(5)

conclusion of proceedings for a drug trafficking offence	section 40(3)
confiscation order	section 4(8)
police officer	section 2(6)
defendant	section 2(6)
drug trafficking	
—generally	section 3(1) and (2)
drug trafficking offence	section 3(3)
gift caught by this Ordinance	section 10(1)
“held”, in relation to property	section 2(5)(a)
institution of proceedings for an offence	section 40(2)
“interest”, in relation to property	section 2(3)
making a gift	section 10(2)
modifications	section 2(6)
the 1989 Ordinance	section 2(6)
proceeds of drug trafficking	
—generally	section 6(1)(a)
property	section 2(1)
realisable property	section 8(2)
restraint order	section 28(1)
“satisfied”, in relation to a confiscation order	section 40(6) and (7)
“subject to appeal”, in relation to an order	section 40(8)
“transferred” in relation to property	section 2(5)(b)
value of gift, payment or reward	section 9(2)
value of proceeds of drug	section 8(1)(b)
trafficking	section 11(1)
value of property	section 9(1)

PART II

CONFISCATION ORDERS

Introductory

Meaning of “drug trafficking” and “drug trafficking offence”

3.—(1) In this Ordinance “drug trafficking” means, subject to subsection (2), doing or being concerned in any of the following, whether in the Falkland Islands or elsewhere—

(a) producing or supplying a controlled drug where the production or supply contravenes section 4 of Misuse of Drugs Ordinance 1987 or a corresponding law;

(b) transporting or storing a controlled drug where possession of the drug contravenes section 5 of that Ordinance or a corresponding law;

(c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Ordinance or a corresponding law;

(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 or would be such an offence if it took place in the Falkland Islands;

(e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Ordinance;

(f) conduct which is an offence under section 47, 48 or 49 of this Ordinance or which would be such an offence if it took place in the Falkland Islands;

(g) acquiring, having possession of or using property in circumstances which amount to the commission of an offence under section 50 of this Ordinance or which would amount to such an offence if it took place in the Falkland Islands.

(2) "Drug trafficking" also includes a person doing the following, whether in the Falkland Islands or elsewhere, that is to say, entering into or being otherwise concerned in an arrangement whereby—

(a) the retention or control by or on behalf of another person of the other person's proceeds of drug trafficking is facilitated; or

(b) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment.

(3) In this Ordinance "drug trafficking offence" means any of the following—

(a) an offence under section 4 or 5 of the Misuse of Drugs Ordinance 1987 (production, supply and possession for supply of controlled drugs);

(b) an offence under section 18 of that Ordinance (assisting in or inducing commission outside the Falkland Islands of offence punishable under a corresponding law);

(c) an offence under the Customs Ordinance in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987;

(d) an offence under section 13 of the Criminal Justice (Amendment) Ordinance 1991 (manufacture or supply of substance specified in Schedule 2 to that Ordinance);

(e) an offence under section 19 of that Ordinance (using ship for illicit traffic in controlled drugs);

(f) an offence under section 48, 49 or 50 of this Ordinance;

(g) an offence under section 1 of the Criminal Law Act 1977, in its application to the Falkland Islands, of conspiracy to commit any of the offences in paragraphs (a) to (f) above;

(h) an offence under section 1 of the Criminal Attempts Act 1981, in its application to the Falkland Islands, of attempting to commit any of those offences; and

(i) an offence of inciting another person to commit any of those offences, whether under section 17 of the Misuse of Drugs Ordinance 1987 or at common law;

and includes aiding, abetting, counselling or procuring the commission of any of the offences in paragraphs (a) to (f) above.

(4) In this section "corresponding law" has the same meaning as in the Misuse of Drugs Ordinance 1987.

Confiscation orders

Confiscation orders

4.—(1) Where a defendant appears before a court to be sentenced in respect of one or more drug trafficking offences (and has not previously been sentenced or otherwise dealt with in respect of his conviction for the offence or, as the case may be, any of the offences concerned), then—

(a) if the prosecutor asks the court to proceed under this section, or

(b) if the court considers that, even though the prosecutor has not asked it to do so, it is appropriate for it to proceed under this section,

it shall act as follows.

(2) The court shall first determine whether the defendant has benefited from drug trafficking.

(3) For the purposes of this Ordinance, a person has benefited from drug trafficking if he has at any time (whether before or after the commencement of this Ordinance) received any payment or other reward in connection with drug trafficking carried on by him or another person.

(4) If the court determines that the defendant has so benefited, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 7 of this Ordinance the amount to be recovered in his case by virtue of this section.

(5) The court shall then, in respect of the offence or offences concerned—

(a) order the defendant to pay that amount;

(b) take account of the order before—

(i) imposing any fine on him;

(ii) making any order involving any payment by him; or

(iii) making any order under section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders) or section 67 of the 1989 Ordinance (deprivation orders); and

(c) subject to paragraph (b) of this subsection, leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(6) No enactment restricting the power of a court dealing with an offender in a particular way from dealing with him also in any other way shall by reason only of the making of an order under this section restrict a court from dealing with an offender in any way the court considers appropriate in respect of a drug trafficking offence.

(7) The standard of proof required to determine any question arising under this Ordinance as to—

(a) whether a person has benefited from drug trafficking, or

(b) the amount to be recovered in his case by virtue of this section,

shall be that applicable in civil proceedings.

(8) In this Ordinance "confiscation order" means an order under this section and includes, in particular, such an order made by virtue of section 15, 16 or 21 of this Ordinance.

Postponed determinations

5.—(1) Where a court is acting under section 4 of this Ordinance but considers that it requires further information before—

(a) determining whether the defendant has benefited from drug trafficking, or

(b) determining the amount to be recovered in his case by virtue of that section,

it may, for the purpose of enabling that information to be obtained, postpone making the determination for such period as it may specify.

(2) More than one postponement may be made under subsection (1) in relation to the same case.

(3) Unless it is satisfied that there are exceptional circumstances, the court shall not specify a period under subsection (1) which—

(a) by itself, or

(b) where there have been one or more previous postponements under subsection (1) or (4), when taken together with the earlier specified period or periods,

exceeds six months beginning with the date of conviction.

(4) Where the defendant appeals against his conviction, the court may, on that account—

(a) postpone making either or both of the determinations mentioned in subsection (1) for such period as it may specify; or

(b) where it has already exercised its powers under this section to postpone, extend the specified period.

(5) A postponement or extension under subsection (1) or (4) may be made—

(a) on application by the defendant or the prosecutor; or

(b) by the court of its own motion.

(6) Unless the court is satisfied that there are exceptional circumstances, any postponement or extension under subsection (4) shall not exceed the period ending three months after the date on which the appeal is determined or otherwise disposed of.

(7) Where the court exercises its power under subsection (1) or (4), it may nevertheless proceed to sentence, or otherwise deal with, the defendant in respect of the relevant offence or any of the relevant offences.

(8) Where the court has so proceeded, section 4 of this Ordinance shall have effect as if—

(a) in subsection (4), the words “before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned” were omitted; and

(b) in subsection (5)(c), after “determining” there were inserted “in relation to any offence in respect of which he has not been sentenced or otherwise dealt with”.

(9) In sentencing, or otherwise dealing with, the defendant in respect of the relevant offence or any of the relevant offences at any time during the specified period, the court shall not—

(a) impose any fine on him; or

(b) make any such order as is mentioned in section 4(5)(b)(ii) or (iii) of this Ordinance.

(10) Where the court has sentenced the defendant under subsection (7) during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned in section 4(5)(b)(ii) or (iii) of this Ordinance, so long as it does so within any period prescribed by any law applying to

the court in question as the time allowed for varying a sentence but beginning with the end of the specified period.

(11) In this section—

“the date of conviction” means—

- (a) the date on which the defendant was convicted; or
- (b) where he appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions; and

“the relevant offence” means the drug trafficking offence in respect of which the defendant appears (as mentioned in section 4(1) of this Ordinance) before the court.

Assessing the proceeds of drug trafficking

6.—(1) For the purposes of this Ordinance—

- (a) any payments or other rewards received by a person at any time (whether before or after the commencement of this Ordinance) in connection with drug trafficking carried on by him or another person are his proceeds of drug trafficking; and
- (b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

(2) Subject to subsections (4) and (5), the court shall, for the purpose—

- (a) of determining whether the defendant has benefited from drug trafficking, and
- (b) if he has, of assessing the value of his proceeds of drug trafficking,

make the required assumptions.

(3) The required assumptions are—

- (a) that any property appearing to the court—
 - (i) to have been held by the defendant at any time since his conviction, or
 - (ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him;

(b) that any expenditure of his since the beginning of that period was met out of payments received by him in connection with drug trafficking carried on by him; and

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interests in it.

(4) The court shall not make any required assumption in relation to any particular property or expenditure if—

(a) that assumption is shown to be incorrect in the defendant's case; or

(b) the court is satisfied that there would be a serious risk of injustice in the defendant's case if the assumption were to be made;

and where, by virtue of this subsection, the court does not make one or more of the required assumptions, it shall state its reasons.

(5) Subsection (2) above does not apply if the only drug trafficking offence in respect of which the defendant appears before the court to be sentenced is an offence under section 48, 49 or 50 of this Ordinance.

(6) For the purpose of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the court shall leave out of account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

(7) References in subsection (6) to a confiscation order include reference to a confiscation order within the meaning of the Drug Trafficking Offences Ordinance 1989.

Amount to be recovered under confiscation order

7.—(1) Subject to subsection (3) of this section, the amount to be recovered in the defendant's case under the confiscation order shall be the amount the court assesses to be the value of the defendant's proceeds of drug trafficking.

(2) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made (whether by reason of the acceptance of an allegation made in a statement given under section 13 of this Ordinance or made in the giving of information under section 14 of this Ordinance, or otherwise) the court may issue a certificate giving the court's opinion as to the matters concerned, and shall do so if satisfied as mentioned in subsection (3) below.

(3) If the court is satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the court assesses to be the value of his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be—

(a) the amount appearing to the court to be the amount that might be so realised; or

(b) a nominal amount, where it appears to the court (on the information available to it at the time) that the amount that might be so realised is nil.

Meaning of “amount that might be realised” and “realisable property”

8.—(1) For the purposes of this Ordinance the amount that might be realised at the time a confiscation order is made against the defendant is—

(a) the total of the values at that time of all the realisable property held by the defendant, less

(b) where there are obligations having priority at that time, the total amount payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Ordinance.

(2) In this Ordinance “realisable property” means, subject to subsection (3)—

(a) any property held by the defendant; and

(b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance.

(3) Property is not realisable property if there is in force in respect of it an order under any of the following enactments, namely—

(a) section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders);

(b) section 67 of the 1989 Ordinance;

(4) For the purposes of subsection (1), an obligation has priority at any time if it is an obligation of the defendant—

(a) to pay an amount due in respect of a fine, or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or the order was made before the confiscation order; or

(b) to pay any sum which would be included among the preferential debts (for the purposes of Part II of the Bankruptcy Act 1914 or in the case of a company, the Companies Act 1948 in its application to the Falkland Islands) in the defendant's

bankruptcy commencing on the date of the confiscation order for winding up under an order of the court made on that date.

Value of property etc

9.—(1) Subject to the following provisions of this section and to section 10 of this Ordinance, for the purposes of this Ordinance the value of property (other than cash) in relation to any person holding the property is the market value of the property, except that, where any other person holds an interest in the property, the value is—

(a) the market value of the first-mentioned person's beneficial interest in the property, less

(b) the amount required to discharge any encumbrance (other than a charging order) on that interest.

(2) Subject to section 10(2) of this Ordinance, references in this Ordinance to the value at any time (referred to in subsection (3) of this section as "the material time") of a gift caught by this Ordinance or of any payment or reward are references to—

(a) the value of the gift, payment or reward to the recipient when he received it, adjusted to take account of subsequent changes in the value of money, or

(b) where subsection (3) applies, the value there mentioned,

whichever is the greater.

(3) Subject to section 10(2) of this Ordinance, if at the material time the recipient holds—

(a) the property which he received (not being cash), or

(b) property which, in whole or in part, directly or indirectly represents in his hands the property which he received,

the value referred to in subsection (2)(b) is the value to him at the material time of the property mentioned in paragraph (a) of this subsection or, as the case may be, of the property mentioned in paragraph (b) of this subsection so far as it so represents the property which he received, but disregarding in either case any charging order.

(4) References in this section to a charging order include a reference to a charging order within the meaning of the Drug Trafficking Offences Ordinance 1989.

Gifts caught by this Ordinance

10.—(1) A gift (including a gift made before the commencement of this Ordinance) is caught by this Ordinance if—

(a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him; or

(b) it was made by the defendant at any time and was a gift of property—

(i) received by the defendant in connection with drug trafficking carried on by him or another person; or

(ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(2) For the purposes of this Ordinance—

(a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and

(b) in those circumstances, the provisions of subsection (1) and of section 9 of this Ordinance shall apply as if the defendant has made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the defendant.

Application of procedure for enforcing fines

11.—(1) Where the court orders the defendant to pay any amount under section 4 of this Ordinance, sections 42(1) to (6) of the 1989 Ordinance (powers of courts in relation to fines) shall have effect as if that amount were a fine imposed on him by the Supreme Court.

(2) Where—

(a) a warrant of commitment is issued for a default in payment of an amount ordered to be paid under section 4 of this Ordinance in respect of an offence or offences, and

(b) at the time the warrant is issued, the defendant is liable to serve a term of custody in respect of the offence or offences,

the term of imprisonment or of detention under section 28 of the 1989 Ordinance (detention of persons aged 18 to 20 for default) to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b) of this subsection.

(3) The reference in subsection (2) to the term of custody which the defendant is liable to serve in respect of the offence or offences is a reference to the term of imprisonment, detention in a young offender institution, or detention which he is liable to serve in respect of the offence or offences; and for the purposes of this subsection—

(a) consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term; and

(b) there shall be disregarded—

(i) any sentence suspended under section 33(1) of the 1989 Ordinance (power to suspend sentence of imprisonment) which has not taken effect at the time the warrant is issued;

(ii) in the case of a sentence of imprisonment passed with an order under section 33(7) of the 1989 Ordinance (sentences of imprisonment partly served and partly suspended) any part of the sentence which the defendant has not at that time been required to serve in prison; and

(iii) any term of imprisonment or detention fixed under section 53 of the 1989 Ordinance (termed to be served in default of payment of fine etc) for which a warrant of commitment has not been issued at that time.

(4) In the application of Part III of the Magistrate's Courts Act 1980 in its application to the Falkland Islands to amounts payable under confiscation orders—

(a) such an amount is not a sum adjudged to be paid by a conviction for the purposes of section 81 (enforcement of fines imposed on young offenders), or a fine for the purposes of section 85 (remission of fines), of that Act; and

(b) in section 87 of that Act (enforcement by Supreme Court or Magistrate's Court), subsection (3) shall be omitted.

(5) Where the defendant serves a term of imprisonment or detention in default of paying any amount due under a confiscation order, his serving that term does not prevent the confiscation order from continuing to have effect, so far as any other method of enforcement is concerned.

(6) This section applies in relation to confiscation orders made by—

(a) the Supreme Court, or

(b) the Court of Appeal on appeal from that division,

as it applies in relation to confiscation orders made by the Summary Court or the Magistrate's Court, and the last reference in subsection (1) of this section to the court shall be construed accordingly.

Interest on sums unpaid under confiscation orders

12.—(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 53 of the 1989 Ordinance) 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.

(2) A court may, on the application of the prosecutor, increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 42 of the 1989 Ordinance (as it has effect by virtue of section 11 of this Ordinance) if the effect of subsection (1) of this section is to increase the maximum period applicable in relation to the order under subsection (4) of that section.

(3) The rate of interest under subsection (1) shall be the same rate as that specified in section 17 of the Judgments Act 1838 in its application to the Falkland Islands (interest on civil judgment debts).

Statements etc in connection with confiscation orders

Statements relating to drug trafficking

13.—(1) Where the prosecutor asks the court to proceed under section 4 of this Ordinance he shall give the court, within such period as it may direct, a statement of matters which he considers relevant in connection with—

- (a) determining whether the defendant has benefited from drug trafficking; or
- (b) assessing the value of his proceeds of drug trafficking.

(2) In this section such a statement is referred to as a "prosecutor's statement".

(3) Where the court proceeds under section 4 of this Ordinance without the prosecutor having asked it to do so, it may require him to give it a prosecutor's statement, within such period as it may direct.

(4) Where the prosecutor has given a prosecutor's statement—

- (a) he may at any time give the court a further such statement; and
- (b) the court may at any time require him to give it a further such statement, within such period as it may direct.

(5) Where any prosecutor's statement has been given and the court is satisfied that a copy of the statement has been served on the defendant, it may require the defendant—

- (a) to indicate to it, within such period as it may direct, the extent to which he accepts each allegation in the statement; and
- (b) so far as he does not accept any such allegation, to give particulars of any matters on which he proposes to rely.

(6) Where the court has given a direction under this section it may at any time vary it by giving a further direction.

(7) Where the defendant accepts to any extent any allegation in any prosecutor's statement, the court may, for the purposes of—

- (a) determining whether the defendant has benefited from drug trafficking, or
- (b) assessing the value of his proceeds of drug trafficking,

treat his acceptance as conclusive of the matters to which it relates.

(8) If the defendant fails in any respect to comply with a requirement under subsection (5) he may be treated for the purposes of this section as accepting every allegation in the prosecutor's statement in question apart from—

- (a) any allegation in respect of which he has complied with the requirement; and
- (b) any allegation that he has benefited from drug trafficking or that any payment or other reward received by him in connection with drug trafficking carried on by him or another person.

(9) Where—

- (a) there is given to a court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made, and
- (b) the prosecutor accepts to any extent any allegation in the statement,

the court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(10) An allegation may be accepted, or particulars of any matter may be given, for the purposes of this section in such manner as may be prescribed by rules of court or as the court may direct.

(11) No acceptance by the defendant under this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or another person shall be admissible in evidence in any proceedings for an offence.

Provision of information by defendant

14.—(1) This section applies where—

- (a) the prosecutor has asked the court to proceed under section 4 of this Ordinance; or
- (b) no such request has been made but the court is nevertheless proceeding, or considering whether to proceed, under section 4.

(2) For the purpose of obtaining information to assist it in carrying out its functions, the court may at any time order the defendant to give it such information as may be specified in the order.

(3) An order under subsection (2) may require all, or any specified part, of the required information to be given to the court in such manner, and before such date, as may be specified in the order.

(4) Rules of court may make provision as to the maximum or minimum period that may be allowed under subsection (3).

(5) If the defendant fails, without reasonable excuse, to comply with any order under this section, the court may draw such inference from that failure as it considers appropriate.

(6) Where the prosecutor accepts to any extent any allegation made by the defendant in giving to the court information required by an order under this section, the court may treat that acceptance as conclusive of the matters to which it relates.

(7) For the purposes of this section, an allegation may be accepted in such manner as may be prescribed by rules of court or as the court may direct.

Further proceedings in connection with confiscation orders

Reconsideration of case where court has not proceeded under section 4

15.—(1) This section applies where the defendant has appeared before a court to be sentenced in respect of one or more drug trafficking offences but the court has not proceeded under section 4 of this Ordinance.

(2) If the prosecutor has evidence—

(a) which was not available to him when the defendant appeared to be sentenced (and accordingly was not considered by the court), but

(b) which the prosecutor believes would have led the court to determine that the defendant had benefited from drug trafficking if—

(i) the prosecutor had asked the court to proceed under section 4 of this Ordinance, and

(ii) the evidence had been considered by the court,

he may apply to the court before which the defendant appeared to be sentenced for it to consider the evidence.

(3) The court shall proceed under section 4 of this Ordinance if, having considered the evidence, it is satisfied that it is appropriate to do so.

(4) In considering whether it is appropriate to proceed under that section, the court shall have regard to all the circumstances of the case.

(5) Where, having decided to proceed under that section, the court proposes to make a confiscation order against the defendant, it shall order the payment of such amount as it thinks just in all the circumstances of the case.

(6) In considering the circumstances of any case the court shall have regard, in particular, to the amount of any fine or fines imposed on the defendant in respect of the offence or offences in question.

(7) Where the court is proceeding under section 4 of this Ordinance by virtue of this section, subsection (4) of that section shall have effect as if the words “before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned” were omitted.

(8) The court may take into account any payment or other reward received by the defendant on or after the date of conviction, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(9) In considering under this section any evidence which relates to any payment or reward to which subsection (8) applies, the court shall not make the assumptions which would otherwise be required by section 4 of this Ordinance.

(10) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(11) Sections 13 and 14 of this Ordinance shall apply where the prosecutor makes an application under this section as they apply where the prosecutor asks the court to proceed under section 4 of this Ordinance.

(12) In this section “the date of conviction” means—

(a) the date on which the defendant was convicted; or

(b) where he appeared to be sentenced in respect of more than one conviction, and those convictions were not all on the same date, the date of the latest of those convictions.

Re-assessment of whether defendant has benefited from drug trafficking

16.—(1) This section applies where the court has made a determination under section 4(2) of this Ordinance (“the section 4(2) determination”) that the defendant has not benefited from drug trafficking.

(2) If the prosecutor has evidence—

(a) which was not considered by the court in making the section 4(2) determination, but

(b) which the prosecutor believes would have led the court to determine that the defendant had benefited from drug trafficking if it had been considered by the court,

he may apply to the court for it to consider that evidence.

(3) If, having considered the evidence, the court is satisfied that it would have determined that the defendant had benefited from drug trafficking if that evidence had been available to it, the court—

(a) shall make—

(i) a fresh determination under subsection (2) of section 4 of this Ordinance; and

(ii) a determination under subsection (4) of that section of the amount to be recovered by virtue of that section; and

(b) may make an order under that section.

(4) Where the court is proceeding under section 4 of this Ordinance by virtue of this section, subsection (4) of that section shall have effect as if the words “before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned” were omitted.

(5) The court may take into account any payment or other reward received by the defendant on or after the date of the section 4(2) determination, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(6) In considering under this section any evidence which relates to any payment or reward to which subsection (5) above applies, the court shall not make the assumptions which would otherwise be required by section 6 of this Ordinance.

(7) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction; and in this subsection “the date of conviction” has the same meaning as in section 15 of this Ordinance.

(8) Sections 13 and 14 of this Ordinance shall apply where the prosecutor makes an application under this section as they apply where the prosecutor asks the court to proceed under section 4 of this Ordinance.

Revised assessment of proceeds of drug trafficking

17.—(1) This section applies where the court has made a determination under subsection (4) of section 4 of this Ordinance of the amount to be recovered in a particular case by virtue of that section (“the current section 4(4) determination”).

(2) Where the prosecutor is of the opinion that the real value of the defendant’s proceeds of drug trafficking was greater than their assessed value, the prosecutor may apply to the court for the evidence on which the prosecutor has formed his opinion to be considered by the court.

(3) Sections 13 and 14 of this Ordinance shall apply where the prosecutor makes such an application as they apply where the prosecutor asks the court to proceed under section 4 of this Ordinance, but subject (in the case of section 13) to subsection (9)(a) of this section.

(4) If, having considered the evidence, the court is satisfied that the real value of the defendant’s proceeds of drug trafficking is greater than their assessed value (whether because the real value at the time of the current section 4(4) determination was higher than was thought or because the value of the proceeds in question has subsequently increased), the court shall make a fresh determination under subsection (4) of section 4 of this Ordinance of the amount to be recovered by virtue of that section.

(5) In subsections (2) and (4) of this section—

“assessed value” means the value of the defendant’s proceeds of drug trafficking as assessed by the court in accordance with section 7(1) of this Ordinance; and

“real value” means the value of the defendant’s proceeds of drug trafficking which took place—

(a) in the period by reference to which the current section 4(4) determination was made; or

(b) in any earlier period.

(6) Where the court is proceeding under section 4 of this Ordinance by virtue of this section, subsection (4) of that section shall have effect as if the words “before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned” were omitted.

(7) Any determination under section 4(4) of this Ordinance by virtue of this section shall be by reference to the amount that might be realised at the time when the determination is made.

(8) In the case of any determination under section 4(4) of this Ordinance by virtue of this section, section 6(6) of this Ordinance shall not apply in relation to any of the defendant’s proceeds of drug trafficking taken into account in respect of the current section 4(4) determination.

(9) In relation to any such determination by virtue of this section—

(a) sections 7(2), 8(4) and 13(9)(a) of this Ordinance shall have effect as if for “confiscation order” there were substituted “determination”;

(b) section 7(3) shall have effect as if for “confiscation order is made” there were substituted “determination is made”; and

(c) section 8(1) of this Ordinance shall have effect as if for “confiscation order is made against the defendant” there were substituted “of the determination”.

(10) The court may take into account any payment or other reward received by the defendant on or after the date of the current section 4(4) determination, but only if the prosecutor shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.

(11) In considering under this section any evidence which relates to any payment or reward to which subsection (10) applies, the court shall not make the assumptions which would otherwise be required by section 6 of this Ordinance.

(12) If, as a result of making the fresh determination required by subsection (4), the amount to be recovered exceeds the amount set by the current section 4(4) determination, the court may substitute for the amount to be recovered under the confiscation order which was made by reference to the current section 4(4) determination such greater amount as it thinks just in all the circumstances of the case.

(13) Where the court varies a confiscation order under subsection (12) above it shall substitute for the term of imprisonment or of detention fixed under section 42(1) to (6) as applied by section 53 of the 1989 Ordinance in respect of the amount to be recovered under the order a longer term determined in accordance with that section (as it has effect by virtue of section 11 of this Ordinance) in respect of the greater amount substituted under subsection (12).

(14) Subsection (13) shall apply only if the effect of the substitution is to increase the maximum period applicable in relation to the order under section 42(1) to (6) of the 1989 Ordinance.

(15) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date of conviction; and in this subsection “the date of conviction” has the same meaning as in section 15 of this Ordinance.

Increase in realisable property

18.—(1) This section applies where, by virtue of section 7(3) of this Ordinance, the amount which a person is ordered to pay by a confiscation order is less than the amount assessed to be the value of his proceeds of drug trafficking.

(2) If, on an application made in accordance with subsection (3), the Supreme 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 Supreme Court shall issue a certificate to that effect, giving the court's reasons.

(3) An application under subsection (2) may be made either by the prosecutor or by a receiver appointed in relation to the realisable property of the person in question under section 28 or 31 of this Ordinance or in pursuance of a charging order.

(4) Where a certificate has been issued under subsection (2) the prosecutor 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)) as appears to the court to be appropriate having regard to the amount now shown to be realisable; and

(b) increase the term of imprisonment or detention fixed in respect of the confiscation order under subsection (2) of section 42 of the 1989 Ordinance (as it has effect by virtue of section 11 of this Ordinance) if the effect of the substitution is to increase the maximum period applicable in relation to the order under subsection (4) of that section.

Inadequacy of realisable property

19.—(1) If, on an application made in respect of a confiscation order by—

(a) the defendant, or

(b) a receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order,

the Supreme Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, the court shall issue a certificate to that effect, giving the court's reasons.

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

(a) in the case of realisable property held by a person who has been adjudged bankrupt or whose estate has been sequestrated the court shall take into account the extent to which any property held by him may be distributed among creditors; and

(b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the

defendant had directly or indirectly made a gift caught by this Ordinance from any risk of realisation under this Ordinance.

(3) Where a certificate has been issued under subsection (1), the person who applied for it may apply to the court for the amount to be recovered under the confiscation order to be reduced.

(4) The court shall, on an application under subsection (3)—

(a) substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case; and

(b) substitute for the term of imprisonment or of detention fixed under subsection (2) of section 42 of the 1989 Ordinance in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 11 of this Ordinance) in respect of the lesser amount.

(5) Rules of court may make provision—

(a) for the giving of notice of any application under this section; and

(b) for any person appearing to the court to be likely to be affected by any exercise of its powers under this section to be given an opportunity to make representations to the court.

Compensation

20.—(1) If proceedings are instituted against a person for any drug trafficking offence or offences and either—

(a) the proceedings do not result in his conviction for any drug trafficking offence, or

(b) he is convicted of one or more drug trafficking offences but—

(i) the conviction or convictions concerned are quashed, or

(ii) he is pardoned by the Governor in exercise of his powers under the Constitution in respect of the conviction or convictions concerned,

the Supreme Court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Supreme Court shall not order compensation to be paid in any case unless the court is satisfied—

(a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned, being a person mentioned in subsection (5) of this section; and

(b) that the applicant has suffered loss in consequence of anything done in relation to the property by or in pursuance of an order of a court under sections 28 to 31 of this Ordinance.

(3) The Supreme Court shall not order compensation to be paid in any case where it appears to the court that the proceedings would have been instituted or continued even if the serious default had not occurred.

(4) The amount of compensation to be paid under this section shall be such as the Supreme Court thinks just in all the circumstances of the case.

(5) Compensation payable under this section shall be charged upon the Consolidated Fund and shall be paid thereout.

Confiscation orders where defendant has absconded or died

Powers of Supreme Court where defendant has absconded or died

21.—(1) Subsection (2) of this section applies where a person has been convicted of one or more drug trafficking offences.

(2) If the prosecutor asks it to proceed under this section, the Supreme Court may exercise the powers of a lower court under this Ordinance to make a confiscation order against the defendant if satisfied that the defendant has died or absconded.

(3) Subsection (4) of this section applies where proceedings for one or more drug trafficking offences have been instituted against a person but have not been concluded.

(4) If the prosecutor asks it to proceed under this section, the Supreme Court may exercise the powers of the lower court to make a confiscation order against the defendant if satisfied that the defendant has absconded.

(5) The power conferred by subsection (4) may not be exercised at any time before the end of the period of two years beginning with the date which is, in the opinion of the court, the date on which the defendant absconded.

(6) In any proceedings on an application under this section—

(a) section 6(2) of this Ordinance shall not apply;

(b) section 13 of this Ordinance shall apply as it applies where the prosecutor asks the court to proceed under section 4 of this Ordinance, but with the omission of subsections (5), (7) and (8);

(c) the court shall not make a confiscation order against a person who has absconded unless it is satisfied that the prosecutor has taken reasonable steps to contact him; and

(d) any person appearing to the court to be likely to be affected by the making of a confiscation order by the court shall be entitled to appear before the court and make representations.

(7) Subject to subsection (8) below, section 11 of this Ordinance applies in relation to confiscation orders made by the Supreme Court by virtue of this section as it applies in relation to confiscation orders made by the lower court and for that purpose references to the lower court in the provisions of the 1989 Ordinance referred to in subsection (1) of that section shall be construed as references to the Supreme Court.

(8) Where the Supreme Court makes a confiscation order by virtue of this section in relation to a defendant who has died, section 11(1) of this Ordinance shall be read as referring only to section 42(1) of the 1989 Ordinance.

(9) Where the Supreme Court—

(a) has been asked to proceed under this section in relation to a defendant who has absconded, but

(b) has decided not to make a confiscation order against him,

section 16 of this Ordinance shall not apply at any time while he remains an absconder.

(10) Where a confiscation order has been made in relation to any defendant by virtue of this section, section 17 of this Ordinance shall not apply at any time while he is an absconder.

Effect of conviction where Supreme Court has acted under section 21

22.—(1) Where, in the case of any defendant, the Supreme Court has made a confiscation order by virtue of section 21 of this Ordinance, the Magistrate's Court or Summary Court (as the case may be) shall, in respect of the offence or, as the case may be, any of the offences concerned—

(a) take account of the order before—

(i) imposing any fine on the defendant;

(ii) making any order involving any payment by him; or

(iii) making any order under section 24 of the Misuse of Drugs Ordinance 1987 (forfeiture orders) or section 67 of the 1989 Ordinance (deprivation orders); and

(b) subject to paragraph (a), leave the order out of account in determining the appropriate sentence or other manner of dealing with him.

(2) Where the Supreme Court has made a confiscation order by virtue of section 21 of this Ordinance and the defendant subsequently appears before the Magistrate's Court or the Summary Court to be sentenced in respect of one or more of the offences concerned, section 4(1) of this Ordinance shall not apply so far as his appearance is in respect of that offence or those offences.

Variation of confiscation orders made by virtue of section 21

23.—(1) This section applies where—

(a) the Supreme Court has made a confiscation order by virtue of section 21(4) of this Ordinance, and

(b) the defendant has ceased to be an absconder.

(2) If the defendant alleges that—

(a) the value of his proceeds of drug trafficking in the period by reference to which the determination in question was made (the “original value”), or

(b) the amount that might have been realised at the time the confiscation order was made,

was less than the amount ordered to be paid under the confiscation order, he may apply to the Supreme Court for it to consider his evidence.

(3) If, having considered that evidence, the court is satisfied that the defendant's allegation is correct, it—

(a) shall make a fresh determination under subsection (4) of section 4 of this Ordinance; and

(b) may, if it considers it just in all the circumstances, vary the amount to be recovered under the confiscation order.

(4) In the case of any determination under section 4 of this Ordinance by virtue of this section, section 6(6) of this Ordinance shall not apply in relation to any of the defendant's proceeds of drug trafficking taken into account in determining the original value.

(5) Where the court varies a confiscation order under this section—

(a) it shall substitute for the term of imprisonment or of detention fixed under section 42(2) of the 1989 Ordinance in respect of the amount to be recovered under the order a shorter term determined in accordance with that section (as it has effect by virtue of section 21 of this Ordinance) in respect of the lesser amount; and

(b) on the application of a person who held property which was realisable property, it may order compensation to be paid to the applicant in accordance with section 26 of this Ordinance if—

(i) it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order; and

(ii) having regard to all the circumstances of the case, the court considers it to be appropriate.

(6) No application shall be entertained by the court under this section if it is made after the end of the period of six years beginning with the date on which the confiscation order was made.

Compensation etc where absconder is acquitted

24.—(1) This section applies where—

(a) the Supreme Court has made a confiscation order by virtue of section 21(4) of this Ordinance, and

(b) the defendant is subsequently tried for the offence or offences concerned and acquitted on all counts.

(2) The court by which the defendant is acquitted shall cancel the confiscation order.

(3) The Supreme Court may, on the application of a person who held property which was realisable property, order compensation to be paid to the applicant in accordance with section 26 of this Ordinance if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order.

Power to discharge confiscation order and order compensation where absconder returns

25.—(1) This section applies where—

(a) the Supreme Court has made a confiscation order by virtue of section 21(4) of this Ordinance in relation to an absconder;

(b) the defendant has ceased to be an absconder; and

(c) section 24 of this Ordinance does not apply.

(2) The Supreme Court may, on the application of the defendant, cancel the confiscation order if it is satisfied that—

(a) there has been undue delay in continuing the proceedings in respect of which the power under section 21(4) of this Ordinance was exercised; or

(b) the prosecutor does not intend to proceed with the prosecution.

(3) Where the Supreme Court cancels a confiscation order under this section it may, on the application of a person who held property which was realisable property, order compensation to be paid to the applicant in accordance with section 26 of this Ordinance if it is satisfied that the applicant has suffered loss as a result of the making of the confiscation order.

Provisions supplementary to sections 23, 24 and 25

26.—(1) Where the Supreme Court orders compensation to be paid under section 23, 24 or 25 of this Ordinance, the amount of that compensation shall be such as the court considers just in all the circumstances of the case.

(2) Rules of court may make provision—

(a) for the giving of notice of any application under sections 23, 24 or 25 of this Ordinance; and

(b) for any person appearing to the court to be likely to be affected by any exercise of its powers under any of those sections to be given an opportunity to make representations to the court.

(3) Any payment of compensation under any of those sections shall be made by the Financial Secretary out of the Consolidated Fund.

(4) Where the court cancels a confiscation order under section 24 or 25 of this Ordinance it may make such consequential or incidental order as it considers appropriate in connection with the cancellation.

Restraint orders and charging orders

Cases in which restraint orders and charging orders may be made

27.—(1) The powers conferred on the Supreme Court by sections 28(1) and 29(1) of this Ordinance are exercisable where—

(a) proceedings have been instituted in the Falkland Islands against the defendant for a drug trafficking offence or an application has been made by the prosecutor in respect of the defendant under section 15, 16, 17, 18 or 21 of this Ordinance;

(b) the proceedings have not, or the application has not, been concluded; and

(c) the court is satisfied that there is reasonable cause to believe—

(i) in the case of an application under section 17 or 18 of this Ordinance, that the court will be satisfied as mentioned in section 17(4) or, as the case may be, 18(2) of this Ordinance; or

- (ii) in any other case, that the defendant has benefited from drug trafficking.
- (2) The court shall not exercise those powers by virtue of subsection (1) of this section if it is satisfied—
- (a) that there has been undue delay in continuing the proceedings or application in question; or
 - (b) that the prosecutor does not intend to proceed.
- (3) The powers mentioned in subsection (1) are also exercisable where—
- (a) the court is satisfied that, whether by the laying of an information or otherwise, a person is to be charged with a drug trafficking offence or that an application of a kind mentioned in subsection (1)(a) is to be made in respect of the defendant; and
 - (b) the court is also satisfied as mentioned in subsection (1)(c).
- (4) For the purposes of sections 28 and 29 of this Ordinance, at any time when those powers are exercisable before proceedings have been instituted—
- (a) references in this Ordinance to the defendant shall be construed as references to the person referred to in subsection (3)(a) of this section;
 - (b) references in this Ordinance to the prosecutor shall be construed as references to the person who the Supreme Court is satisfied is to have the conduct of the proposed proceedings; and
 - (c) references in this Ordinance to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (3)(a) for a drug trafficking offence.
- (5) Where the court has made an order under section 28(1) or 29(1) of this Ordinance by virtue of subsection (3), the court shall discharge the order if proceedings in respect of the offence are not instituted, whether by the laying of an information or otherwise, or (as the case may be) if the application is not made, within such time as the court considers reasonable.

Restraint orders

28.—(1) The Supreme Court may by order (in this Ordinance referred to as a “restraint order”) prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply—

- (a) to all realisable property held by a specified person, whether the property is described in the order or not; and

- (b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 29 of this Ordinance or section 12 of the Drug Trafficking Offences Ordinance 1989.

(4) A restraint order—

- (a) may be made only on an application by the prosecutor;
- (b) may be made on an ex parte application to a judge in chambers; and
- (c) shall provide for notice to be given to persons affected by the order.

(5) A restraint order—

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged on the conclusion of the proceedings or of the application in question.

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(7) Where the Supreme Court has made a restraint order, the Supreme Court or the Magistrate's Court—

(a) may at any time appoint a receiver—

- (i) to take possession of any realisable property, and
- (ii) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court; and

(b) may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(8) For the purposes of this section, dealing with property held by any person includes (without prejudice to the generality of that expression)—

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
- (b) removing the property from the Falkland Islands.

(9) Where a restraint order has been made a police officer may seize any realisable property for the purpose of preventing its removal from the Falkland Islands.

(10) Property seized under subsection (9) shall be dealt with in accordance with the directions of the court which made the order.

(11) The Land Charges Ordinance 1996 shall apply—

(a) in relation to restraint orders, as it applies in relation to orders affecting land made by the court for the purpose of enforcing judgments or recognisances; and

(b) in relation to applications for restraint orders, as they apply in relation to other pending land actions.

Charging orders in respect of land, securities etc

29.—(1) The Supreme Court may make a charging order on realisable property for securing the payment to the Crown—

(a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged; and

(b) where a confiscation order has been made, of an amount not exceeding the amount payable under the confiscation order.

(2) For the purposes of this Ordinance a charging order is an order made under this section imposing on any such realisable property as may be specified in the order a charge for securing the payment of money to the Crown.

(3) A charging order—

(a) may be made only on an application by the prosecutor;

(b) may be made on an ex parte application to a judge in chambers;

(c) shall provide for notice to be given to persons affected by the order; and

(d) may be made subject to such conditions as the court thinks fit including, without prejudice to the generality of this paragraph, such conditions as it thinks fit as to the time when the charge is to become effective.

(4) Subject to subsection (6), a charge may be imposed by a charging order only on—

(a) any interest in realisable property which is an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Ordinance and is an interest—

(i) in any asset of a kind mentioned in subsection (5) below; or

(ii) under any trust; or

(b) any interest in realisable property held by a person as trustee of a trust ("the relevant trust") if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) be imposed by a charging order on the whole beneficial interest under the relevant trust.

(5) The assets referred to in subsection (4) are—

(a) land in the Falkland Islands; or

(b) securities of any of the following kinds—

(i) government stock;

(ii) stock of any body incorporated within the Falkland Islands;

(iii) stock of any body incorporated outside the Falkland Islands or any country or territory outside the Falkland Islands, being stock registered in a register kept at any place within the Falkland Islands;

(iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Falkland Islands.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b), the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) In relation to a charging order, the court—

(a) may make an order discharging or varying it; and

(b) shall make an order discharging it—

(i) on the conclusion of the proceedings or of the application in question; or

(ii) on payment into court of the amount payment of which is secured by the charge.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

Charging orders: supplementary provisions

30.—(1) The Land Charges Ordinance 1996 shall apply in relation to charging orders as it applies in relation to orders or writs made or issued for the purpose of enforcing judgments.

(2) Where a charging order has been registered under section 8 of the Land Charges Ordinance 1996, subsection (4) of that section (effect of non-registration of writs and orders registrable under that section) shall not apply to an order appointing a receiver made in pursuance of the charging order.

(3) Subject to any provision made under section 31 of this Ordinance or by rules of court, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

(4) Where a charging order has been protected by an entry registered under the Land Charges Ordinance 1996, an order under section 29(7) of this Ordinance discharging the charging order may direct that the entry be cancelled.

(5) The Governor may by order made by statutory instrument amend section 29 of this Ordinance by adding to or removing from the kinds of asset for the time being referred to there any asset of a kind which in his opinion ought to be so added or removed.

Realisation of property

31.—(1) Where a confiscation order—

(a) has been made under this Ordinance,

(b) is not satisfied, and

(c) is not subject to appeal,

the Supreme Court or the Magistrate's Court may, on an application by the prosecutor, exercise the powers conferred by subsections (2) to (6) of this section.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower a receiver appointed under subsection (2), under section 28 of this Ordinance or in pursuance of a charging order—

(a) to enforce any charge imposed under section 29 of this Ordinance on realisable property or on interest or dividends payable in respect of such property; and

(b) in relation to any realisable property other than property for the time being subject to a charge under section 29 of this Ordinance, to take possession of the property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may—

(a) order any person holding an interest in realisable property to make to the receiver such payment as it may direct in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Ordinance; and

(b) on the payment being made, by order transfer, grant or extinguish any interest in the property.

(7) Subsection (4) to (6) do not apply to property for the time being subject to a charge under section 29 of this Ordinance or section 12 of the Drug Trafficking Offences Ordinance 1989.

(8) The court shall not in respect of any property exercise the powers conferred by subsection (3)(a), (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

Application of proceeds of realisation and other sums

32.—(1) The following sums in the hands of the receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order, that is—

(a) the proceeds of the enforcement of any charge imposed under section 29 of this Ordinance,

(b) the proceeds of realisation, other than by the enforcement of such a charge, of any property under section 28 or 31 of this Ordinance, and

(c) any other sums, being property held by the defendant,

shall be applied, subject to subsection (2), on the defendant's behalf towards the satisfaction of the confiscation order.

(2) Before any such sums are so applied they shall be applied—

(a) first, in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under section 36(3) of this Ordinance; and

(b) second, in making such payments (if any) as the Supreme Court or the Magistrate's Court may direct.

(3) If, after the amount payable under the confiscation order has been fully paid, any such sums remain in the hands of such a receiver as is mentioned in subsection (1), the receiver shall distribute those sums—

(a) among such of those who held property which has been realised under this Ordinance, and

(b) in such proportions,

as the Supreme Court or the Magistrate's Court may direct after giving a reasonable opportunity for such persons to make representations to the court.

(4) The receipt of any sum by the clerk of the court on account of an amount payable under a confiscation order shall reduce the amount so payable, but the clerk shall apply the money received for the purposes specified in this section and in the order so specified.

(5) The clerk of the court shall first pay any expenses incurred by a person acting as a trustee in bankruptcy or liquidator and payable under section 36(3) of this Ordinance but not already paid under subsection (2) of this section.

(6) If the money was paid to the clerk of the court by a receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order the clerk of the court shall next pay the receiver's remuneration and expenses.

(7) After making—

(a) any payment required by subsection (5), and

(b) in a case to which subsection (6) applies, any payment required by that subsection,

the clerk of the court shall reimburse any amount paid under section 37(2) of this Ordinance.

(8) Any balance in the hands of the clerk of the court after he had made all payments required by the preceding provisions of this section shall be treated as if it were a fine imposed by a court.

Exercise of powers for the realisation of property

Exercise by Supreme Court, Magistrate's Court or receiver of powers for the realisation of property

33.—(1) The following provisions apply to the powers conferred—

(a) on the Supreme Court or the Magistrate's Court by sections 28 to 32 of this Ordinance; or

(b) on a receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case, the value for

the time being of realisable property held by any person, by means of the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) In exercising the powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

(6) An order may be made or other action taken in respect of debt owed by the Crown.

Bankruptcy of defendant etc

34.—(1) Where a person who holds realisable property is adjudged bankrupt—

(a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and

(b) any proceeds of property realised by virtue of section 28(7) or 31(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 28 or 31 of this Ordinance,

is excluded from the bankrupt's estate for the purposes of the Bankruptcy Act 1914 ("the 1914 Act").

(2) Where a person has been adjudged bankrupt, the powers conferred on the Supreme Court and the Magistrate's Court by sections 28 to 32 of this Ordinance or on a receiver so appointed shall not be exercised in relation to—

(a) property for the time being comprised in the bankrupt's estate for the purposes of the 1914 Act; and

(b) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 26(2) of that Act;

but nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(3) Subsection (2) above does not affect the enforcement of a charging order—

(a) made before the order adjudging the person bankrupt; or

(b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.

(4) Where, in the case of a debtor, an interim receiver stands appointed under section 8 of the 1914 Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.

(5) Where a person adjudged bankrupt and has directly or indirectly made a gift caught by this Ordinance—

(a) no order shall be made under section 42 to 44 of the 1914 Act (avoidance of certain transactions), in respect of the making of the gift, at any time when—

(i) proceedings for a drug trafficking offence have been instituted against him and have not been concluded;

(ii) an application has been made in respect of the defendant under section 15, 16, 17, 18 or 21 of this Ordinance and has not been concluded; or

(iii) property of the person to whom the gift was made is subject to a restraint order or charging order; and

(b) any order made under section 42 to 44 of the 1914 Act after the conclusion of the proceedings or of the application shall take into account any realisation under this Ordinance of property held by the person to whom the gift was made.

Winding up of company holding realisable property

35.—(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up of the company, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—

(a) property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property realised by virtue of section 28(7) or 31(5) or (6) of this Ordinance for the time being in the hands of a receiver appointed under section 28 or 31 of this Ordinance.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the Supreme Court or the Magistrate's Court by sections 28 to 32 of this Ordinance or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

(a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or

- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property;

but nothing in the Companies Act 1948 in its application to the Falkland Islands shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(3) Subsection (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(4) In this section—

“company” means any company which may be wound up under the Companies Act 1948 in its application to the Falkland Islands; and

“the relevant time” means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;

- (b) where—

- (i) such an order has been made, but

- (ii) before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company,

the time of the passing of the resolution; and

- (c) in any other case where such an order has been made, the time of the making of the order.

Protection for insolvency officers etc

Insolvency officers dealing with property subject to restraint order

36.—(1) Without prejudice to the generality of any enactment contained in the Bankruptcy Act 1914 or in any other written law, where—

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order, and

- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting.

(2) A person acting as an insolvency practitioner shall, in the circumstances mentioned in subsection (1)(a) and (b) of this section, have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.

(3) Where a person acting as a bankrupt's receiver or trustee or as the liquidator of a company—

(a) incurs expenses in respect of such property as is mentioned in paragraph (a) of subsection (1) and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order, or

(b) incurs expenses other than expenses in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

that person shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under subsection(2)) to payment of those expenses under section 32(2) or (5) of this Ordinance.

Receivers: supplementary provisions

37.—(1) Where a receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order—

(a) takes any action in relation to property which is not realisable property, being action which he would be entitled to take if it were such property, and

(b) believes, and has reasonable grounds for believing, that he is entitled to take that action in relation to that property.

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 32(6) of this Ordinance, be paid by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted, by the person on whose application the receiver was appointed.

Enforcement of external confiscation orders

38.—(1) The Governor may by Order—

(a) direct in relation to a country or territory outside the Falkland Islands designated by the Order (a "designated country") that, subject to such modifications as may be specified, the relevant provisions of this Ordinance shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;

(b) make—

(i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order,

(ii) such provision as to evidence or proof of any matter for the purposes of this section and section 39 of this Ordinance, and

(iii) such incidental, consequential and transitional provision,

as appears to the Governor to be expedient; and

(c) (without prejudice to the generality of this subsection) direct that, in such circumstances as may be specified, proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order shall be treated as reducing the amount payable under the order to such extent as may be specified.

(2) In this section "external confiscation order" means an order made by a court in a designated country for the purpose of recovering, or recovering the value of, payments or other rewards received in connection with drug trafficking.

(3) An Order under this section may make different provision for different cases or classes of case.

(4) The power to make an Order under this section includes power to modify the relevant provisions of this Ordinance in such a way as to confer power on a person to exercise a discretion.

(5) For the purposes of this section, "the relevant provisions of this Ordinance" are this Part, except sections 12 and 18, and Part V.

Registration of external confiscation orders

39.—(1) On an application made by or on behalf of the Government of a designated country, the Supreme Court may register an external confiscation order made there if—

(a) it is satisfied that at the time of registration the order is in force and not subject to appeal;

(b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) it is of the opinion that enforcing the order in the Falkland Islands would not be contrary to the interests of justice.

(2) In subsection (1) of this section “appeal” includes—

(a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The Supreme Court shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it.

(4) In this section “designated country” and “external confiscation order” have the same meaning as in section 38 of this Ordinance.

Interpretation

Interpretation of Part II

40.—(1) This section shall have effect for the interpretation of this Part.

(2) Proceedings for an offence are instituted—

(a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrate's Courts Act 1980 in its application to the Falkland Islands (issue of summons to, or warrant for arrest of, accused) in respect of the offence; or

(b) when a person is charged with the offence after being taken into custody without a warrant;

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(3) Proceedings for a drug trafficking offence are concluded—

(a) when the defendant is acquitted on all counts;

(b) if he is convicted on one or more counts, but the court decides not to make a confiscation order against him, when it makes that decision; or

(c) if a confiscation order is made against him in those proceedings, when the order is satisfied.

(4) An application under section 15, 16 or 21 of this Ordinance is concluded—

(a) if the court decides not to make a confiscation order against the defendant, when it makes that decision; or

(b) if a confiscation order is made against him as a result of that application, when the order is satisfied.

(5) An application under section 17 or 18 of this Ordinance is concluded—

(a) if the court decides not to vary the confiscation order in question, when it makes that decision; or

(b) if the court varies the confiscation order as a result of the application, when the order is satisfied.

(6) A confiscation order is satisfied when no amount is due under it.

(7) For the purposes of this section as it applies to section 34 of this Ordinance, a confiscation order is also satisfied when the defendant in respect of whom it was made has served a term of imprisonment or detention in default of payment of the amount due under the order.

(8) An order is subject to appeal until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

PART III

DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

Seizure and detention

41.—(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—

(a) its amount is not less than the prescribed sum; and

(b) he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of drug trafficking, or is intended by any person for use in drug trafficking.

(2) Cash seized by virtue of this section shall not be detained for more than 48 hours unless its continued detention is authorised by an order made by a justice of the peace; and no such order shall be made unless the justice is satisfied—

(a) that there are reasonable grounds for the suspicion mentioned in subsection (1); 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) 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 a court of summary jurisdiction, 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).

(4) Any order under subsection (2) shall provide for notice to be given to persons affected by the order.

(5) Any application for an order under subsection (2) or (3) shall be made by or on behalf of the Attorney General or by a police officer if made to a justice or to a court of summary jurisdiction.

(6) At any time while cash is detained by virtue of the preceding provisions of this section—

(a) a court of summary jurisdiction 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); 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, may release the cash if satisfied that its detention is no longer justified, but shall first notify the justice or court of summary jurisdiction under whose order it is being detained.

(7) If at a time when any cash is being detained by virtue of the preceding provisions of this section—

(a) an application for its forfeiture is made under section 42 of this Ordinance; 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.

(8) Cash seized under this section and detained for more than 48 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.

Forfeiture

42.—(1) A court of summary jurisdiction may order the forfeiture of any cash which has been seized under section 41 of this Ordinance 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 drug trafficking, or is intended by any person for use in drug trafficking.

(2) Any application for an order under this section shall be made by or on behalf of the Attorney General or by a police officer.

(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.

Appeal against forfeiture order made by a magistrate's court

43.—(1) This section applies where an order for the forfeiture of cash ("the forfeiture order") is made under section 42 of this Ordinance by a court of summary jurisdiction.

(2) Any party to the proceedings in which the forfeiture order is made (other than the applicant for the order) may, before the end of the period of 30 days beginning with the date on which it is made, appeal to the Supreme Court.

(3) An appeal under this section shall be by way of a rehearing.

(4) On an application made by the appellant to a court of summary jurisdiction at any time, that court may order the release of so much of the cash to which the forfeiture order relates as it considers appropriate to enable him to meet his legal expenses in connection with the appeal.

(5) The court hearing an appeal under this section may make such order as it considers appropriate.

(6) If it upholds the appeal, the court may order the release of the cash, or (as the case may be) the remaining cash, together with any accrued interest.

(7) Subsection (3) of section 42 of this Ordinance applies in relation to a rehearing on an appeal under this section as it applies to proceedings under that section.

Rules of court

44.—(1) Provision may be made by rules of court with respect to applications or appeals to any court under this Part, for the giving of notice of such applications or appeals to persons affected, for the joinder, of such persons as parties and generally with respect to the procedure under those sections before any court.

(2) Subsection (1) is without prejudice to the generality of any existing power to make rules.

Receipts

45. Any money representing cash forfeited under this Part or accrued interest thereon shall be paid into the Consolidated Fund.

Interpretation of Part III

46.—(1) In this Part—

“cash” includes coins and notes in any currency; and

“exported” in relation to any cash, includes its being brought to any place in the Falkland Islands for the purpose of being exported.

(2) In section 41 of this Ordinance “the prescribed sum” means such sum in 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 that 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.

PART IV

OFFENCES IN CONNECTION WITH PROCEEDS OF DRUG TRAFFICKING

Concealing or transferring proceeds of drug trafficking

47.—(1) A person is guilty of 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 is guilty of 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) In subsection (1)(a) and (2)(a) 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.

Assisting another person to retain the benefit of drug trafficking

48.—(1) Subject to subsection (3), a person commits an offence if he enters into or is otherwise concerned in an arrangement whereby—

(a) the retention or control by or on behalf of another person (call him “A”) of A’s proceeds of drug trafficking is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise), or

(b) A’s proceeds of drug trafficking—

(i) are used to secure that funds are placed at A’s disposal, or

(ii) are used for A’s benefit to acquire property by way of investment,

and he knows or suspects that A is a person who carries on or has carried on drug trafficking or has benefited from drug trafficking.

(2) In this section, references to any person’s proceeds of drug trafficking include a reference to any property which in whole or in part directly or indirectly represented in his hands his proceeds of drug trafficking.

(3) Where a person discloses to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking, or discloses to a police officer any matter on which such a suspicion or belief is based—

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise; and

(b) if he does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if—

(i) the disclosure is made before he does the act concerned and the act is done with the consent of the police officer; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(4) In proceedings against a person for an offence under this section, it is a defence to prove—

(a) that he did not know or suspect that the arrangement related to any person's proceeds of drug trafficking;

(b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property was facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1)(b); or

(c) that—

(i) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) in relation to the arrangement, but

(ii) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in paragraph (b)(i) or (ii) of that subsection.

(5) In the case of a person who was in employment at the time in question, subsections (3) and (4) shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a police officer.

Acquisition, possession or use of proceeds of drug trafficking

49.—(1) A person commits an offence if, knowing that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he acquires or uses that property or has possession of it.

(2) It is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration.

(3) For the purposes of subsection (2)—

(a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property; and

(b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.

(4) The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (2).

(5) Where a person discloses to a police officer a suspicion or belief that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of

drug trafficking, or discloses to a police officer any matter on which such suspicion or belief is based—

(a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise; and

(b) if he does any act in relation to the property in contravention of subsection (1), he does not commit an offence under this section if—

(i) the disclosure is made before he does the act concerned and the act is done with the consent of the police officer; or

(ii) the disclosure is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

(6) For the purposes of this section, having possession of any property shall be taken to be doing an act in relation to it.

(7) In proceedings against a person for an offence under this section, it is a defence to prove that—

(a) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (5), but

(b) there is reasonable excuse for his failure to make any such disclosure in the manner mentioned in paragraph (b)(i) or (ii) of that subsection.

(8) In the case of a person who was in employment at the time in question, subsections (5) and (7) shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a police officer.

(9) No police officer or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Ordinance or of any other enactment relating to drug trafficking or the proceeds of drug trafficking.

Failure to disclose knowledge or suspicion of money laundering

50.—(1) A person is guilty of an offence if—

(a) he knows or suspects that another person is engaged in drug money laundering,

(b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, and

(c) he does not disclose the information or other matter to a police officer as soon as is reasonably practicable after it comes to his attention.

(2) Subsection (1) does not make it an offence for a professional legal adviser to fail to disclose any information or other matter which has come to him in privileged circumstances.

(3) It is a defence to a charge of committing an offence under this section that the person charged had a reasonable excuse for not disclosing the information or other matter in question.

(4) Where a person discloses to a police officer—

(a) his suspicion or belief that another person is engaged in drug money laundering, or

(b) any information or other matter on which that suspicion or belief is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Without prejudice to subsection (3) or (4), in the case of a person who was in employment at the time in question, it is a defence to a charge of committing an offence under this section that he disclosed the information or other matter in question to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures.

(6) A disclosure to which subsection (5) applies shall not be treated as a breach of any restriction imposed by statute or otherwise.

(7) In this section "drug money laundering" means doing any act—

(a) which constitutes an offence under section 47, 48 or 49 of this Ordinance; or

(b) in the case of an act done otherwise than in the Falkland Islands, which would constitute such an offence if done in the Falkland Islands;

and for the purposes of this subsection, having possession of any property shall be taken to be doing an act in relation to it.

(8) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated, or given, to him—

(a) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by, or by a representative of, a person seeking legal advice from the adviser; or

(c) by any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(9) No information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

Tipping-off

51.—(1) A person commits an offence if—

(a) he knows or suspects that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into drug money laundering, and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person is guilty of an offence if—

(a) he knows or suspects that a disclosure has been made to a police officer under section 48, 49 or 50 of this Ordinance (“the disclosure”), and

(b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.

(3) A person is guilty of an offence if—

(a) he knows or suspects that a disclosure of a kind mentioned in section 48(5), 49(8) or 50(5) of this Ordinance (“the disclosure”) has been made, and

(b) he discloses to any person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.

(4) Nothing in subsections (1) to (3) makes it an offence for a professional legal adviser to disclose any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(5) Subsection (4) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(6) In proceedings against a person for an offence under subsection (1), (2) or (3), it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in that subsection.

(7) No police officer or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Ordinance or of any other enactment relating to drug trafficking or the proceeds of drug trafficking.

(8) In this section "drug money laundering" has the same meaning as in section 50 of this Ordinance.

Penalties

52.—(1) A person guilty of an offence under section 47, 48 or 49 of this Ordinance shall be liable on conviction to imprisonment for a term not exceeding fourteen years or to a fine not exceeding the maximum of level 10 on the standard scale.

(2) A person guilty of an offence under section 50 or 51 of this Ordinance shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding the maximum of level 8 on the standard scale.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Investigations into drug trafficking

Order to make material available

53.—(1) The Attorney General or a person authorised by him may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for an order under subsection (2) in relation to particular material or material of a particular description.

(2) If on such an application the Senior Magistrate is satisfied that the conditions in subsection (4) are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—

- (a) produce it to a police officer for him to take away, or
- (b) give a police officer access to it,

within such period as the order may specify.

This subsection has effect subject to section 57(11) of this Ordinance.

(3) The period to be specified in an order under subsection (2) shall be seven days unless it appears to the Senior Magistrate that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that there are reasonable grounds for suspecting that the material to which the application relates—

(i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and

(ii) does not consist of or include items subject to legal privilege or excluded material; and

(c) that there are reasonable grounds for believing that it is in the public interest, having regard—

(i) to the benefit likely to accrue to the investigation if the material is obtained, and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

(5) Where the Senior Magistrate makes an order under subsection (2)(b) in relation to material on any premises he may, on the application of a police officer, order any person who appears to him to be entitled to grant entry to the premises to allow a police officer to enter the premises to obtain access to the material.

(6) An application under subsection (1) or (5) may be made *ex parte* to the Senior Magistrate in chambers.

(7) Provision may be made by rules of court as to—

(a) the discharge and variation of orders under this section; and

(b) proceedings relating to such orders.

(8) An order of the Senior Magistrate under this section shall have effect as if it were an order of the Magistrate's Court.

(9) Where the material to which an application under subsection (1) relates consists of information contained in a computer—

(a) an order under subsection (2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) an order under subsection (2)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(10) An order under subsection (2)—

(a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material;

(b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and

(c) may be made in relation to material in the possession of the Crown.

Authority for search

54.—(1) The Attorney General or a person authorised by him may, for the purpose of an investigation into drug trafficking, apply to the Senior Magistrate for a warrant under this section in relation to specified premises.

(2) On such application the Senior Magistrate may issue a warrant authorising a police officer to enter and search the premises if the Senior Magistrate is satisfied—

(a) that an order made under section 53 of this Ordinance in relation to material on the premises has not been complied with;

(b) that the conditions in subsection (3) are fulfilled; or

(c) that the conditions in subsection (4) are fulfilled.

(3) The conditions referred to in subsection (2)(b) are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that the conditions in subsection (4)(b) and (c) of section 53 of this Ordinance are fulfilled in relation to any material on the premises; and

(c) that it would not be appropriate to make an order under that section in relation to the material because—

(i) it is not practicable to communicate with any person entitled to produce the material;

(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.

(4) The conditions referred to in subsection (2)(c) are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;

(b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and

(c) that—

(i) it is not practicable to communicate with any person entitled to grant entry to the premises;

(ii) entry to the premises will not be granted unless a warrant is produced; or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a police officer arriving at the premises could secure immediate entry to them.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

Provisions supplementary to sections 53 and 54

55.—(1) For the purposes of sections 126 and 127 of the 1989 Ordinance (access to, and copying and retention of, seized material)—

(a) an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence; and

(b) material produced in pursuance of an order under section 53(2)(a) of this Ordinance shall be treated as if it were material seized by a police officer.

(2) In sections 53 and 54 of this Ordinance “excluded material”, “items subject to legal privilege” and “premises” have the same meaning as in the 1989 Ordinance.

Offence of prejudicing investigation

56.—(1) Where, in relation to an investigation into drug trafficking—

(a) an order under section 53 of this Ordinance has been made or has been applied for and has not been refused, or

(b) a warrant under section 54 of this Ordinance has been issued,

a person commits an offence if, knowing or suspecting that the investigation is taking place, he makes any disclosure which is likely to prejudice the investigation.

(2) In proceedings against a person for an offence under this section, it is a defence to prove—

(a) that he did not know or suspect that the disclosure was likely to prejudice the investigation; or

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(4) Subsection (3) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(5) A person guilty of an offence under this section shall be liable on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £50,000 or to both.

Disclosure of information held by the Falkland Islands Government

57.—(1) Subject to subsection (4) of this section; the Supreme Court may on an application by or on behalf of the Attorney order any material mentioned in subsection (3) which is in the possession of the Falkland Islands Government (that is to say Her Majesty's Government in right of the Falkland Islands) to be produced to the court within such period as the court may specify.

(2) The power to make an order under subsection (1) is exercisable if—

(a) the powers conferred on the court by sections 28(1) and 29(1) of this Ordinance are exercisable by virtue of subsection (1) of section 27 of this Ordinance; or

(b) those powers are exercisable by virtue of subsection (3) of that section and the court has made a restraint or charging order which has not been discharged;

but where the power to make an order under subsection (1) is exercisable by virtue only of paragraph (b) above, subsection (4) of section 27 of this Ordinance shall apply for the purposes of this section as it applies for the purposes of sections 28 and 29 of this Ordinance.

(3) The material referred to in subsection (1) is any material which—

(a) has been submitted to an officer of an authorised government department by the defendant or by a person who has at any time held property which was realisable property;

(b) has been made by an officer of an authorised government department in relation to the defendant or such a person; or

(c) is correspondence which passed between an officer of an authorised government department and the defendant or such a person;

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

(4) An order under subsection (1) shall not require the production of any material unless it appears to the Supreme Court that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by sections 28 to 31 of this Ordinance or on a receiver appointed under section 28 or 31 of this Ordinance or in pursuance of a charging order.

(5) The court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) or any part of such material; but the court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the department to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under any provision of this Ordinance, apart from section 18, of the receiver or any court in the exercise of its criminal jurisdiction.

(7) The court may by order authorise the disclosure to a person mentioned in subsection (8) of any material produced under subsection (1) or any part of such material; but the court shall not make an order under this subsection unless it appears to the court that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) are—

(a) any member of a police force;

(b) the Attorney General and any public officer in respect of whom he is the head of department; and

(c) any customs officer.

(9) Material disclosed in pursuance of an order under subsection (7) may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under subsection (1) and, in the case of material possessed as mentioned in subsection (1) of this section, an order under section 53(2) of this Ordinance may require any public officer (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it.

(12) Where any requirement is included in any order by virtue of subsection (11) the person on whom such an order is served—

(a) shall take all reasonable steps to bring it to the attention of the officer concerned; and

(b) if the order is not brought to that officer's attention within the period referred to in subsection (1), shall report the reasons for the failure to the court;

and it shall also be the duty of any other officer serving under the same head of department in receipt of the order to take such steps as are mentioned in paragraph (a) of this subsection.

Consequential amendments

Consequential amendments and modification of other Acts

58. In section 71(2)(a) of the 1989 Ordinance (failure to pay fines etc not to prevent person becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.

Transitional provisions and savings

59.—(1) The transitional provisions and savings set out in Schedule 1 to this Ordinance shall have effect.

(2) Part II and section 57 of this Ordinance shall not apply—

(a) in relation to any proceedings for, or in respect of, an offence if the person accused (or, as the case may be, convicted) of that offence was charged with the offence (whether by the laying of an information or otherwise) before the date on which this Ordinance comes into force, or

(b) in relation to any proceedings not within paragraph (a) instituted before that date,

and references in this subsection to proceedings include a reference to any order made by a court in the proceedings.

(3) Accordingly the relevant enactments and any instrument made under any of those enactments shall continue to apply in relation to any proceedings within subsection (2)(a) or (b) of this section (and, in particular, relation to any confiscation order, within the meaning of the Drug Trafficking Offences Ordinance 1989, made in any such proceedings) as if this Ordinance had not been passed.

(4) In subsection (3) “the relevant enactments” are—

(a) the enactments reproduced in Part II and section 57 of this Ordinance,

(b) any other enactment reproduced by this Ordinance, so far as applicable in relation to any of the enactments reproduced in that Part or that section, and

(c) any enactment amended by this Ordinance,

but do not include any enactment which immediately before the date on which this Ordinance comes into force, had not come into force.

(5) Subsection (2) above is without prejudice to section 6(7), 9(4), 28(3) or 31(7) of this Ordinance.

(6) Nothing in section 21(3) or (4) of this Ordinance shall apply to any proceedings—

(a) for an offence committed before the commencement of this Ordinance; or

(b) for one or more offences, any one of which was so committed.

Repeals etc

60. The enactments mentioned in Schedule 2 to this Ordinance are repealed to the extent specified in the third column of that Schedule.

SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISIONS ETC *General transitional provisions and savings*

1. Anything done or having effect as if done (including the making of subsidiary legislation) under or for the purposes of any provision repealed or revoked by this Ordinance has effect as if done under or for the purposes of any corresponding provision of this Ordinance.
2. Any reference (express or implied) in this Ordinance or any other enactment, or in any instrument or document, to a provision of this Ordinance is (so far as the context permits) to be read as being or (according to the context) including in relation to times, circumstances and purposes before the commencement of this Ordinance a reference to the corresponding provision repealed or revoked by this Ordinance.
3. Any reference (express or implied) in any enactment, or in any instrument or document, to a provision repealed or revoked by this Ordinance is (so far as the context permits) to be read as being or (according to the context) including in relation to times, circumstances and purposes after the commencement of this Ordinance a reference to the corresponding provision of this Ordinance.
4. Paragraphs 1 to 3 are subject to section 59(2) to (6) of this Ordinance.

Provision in relation to Part III of this Ordinance

5. Nothing in section 43 of this Ordinance shall apply to an order made before the coming into force of this Ordinance under section 25 of the Criminal Justice (Amendment) Ordinance 1991.

SCHEDULE 2

Section 60

REPEALS

Chapter	Short Title	Extent of Repeal
No. 20 of 1989	The Drug Trafficking Offences Ordinance 1989	The whole Ordinance, except sections 31(3) and 32.
No. 20 of 1991	The Criminal Justice (Amendment) Ordinance 1991	Section 15 In section 16, in subsection (1), the words "under section 42(1) of the Criminal Justice Ordinance 1989." Section 17. Sections 24 to 27. Section 28(2).

Passed by the Legislature of the Falkland Islands this 12th day of December 1997.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

19th January 1998

No. 3

The following are published in this Supplement -

Road Traffic (Priority in Stanley) (Amendment) Order 1998, (S.R. & O. No. 2 of 1998);

Ross Road (Drop Off Point) Regulations 1998, (S.R. & O. No. 3 of 1998);

The Dangerous Goods Ordinance 1987 (Commencement) Order 1998, (S.R. & O. No. 4 of 1998).

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Road Traffic (Priority in Stanley)(Amendment) Order 1998

S. R. & O. No. 2 of 1998

Made: 14 January 1998

Published: 19 January 1998

Coming into force: in accordance with article 1(1)

IN EXERCISE of my powers under section 18 of the Road Traffic Ordinance(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1.—(1) This Order may be cited as the Road Traffic (Priority in Stanley)(Amendment) Order 1998.

(2) This Order shall come into force on 1 February 1998.

Amendment

2.—(1) For the purposes of this Order the “principal Order” means the Road Traffic (Priority in Stanley) Order 1988(b).

(2) The principal Order is amended in the manner set forth in the Schedule to this Order.

Made this 14th day of January 1998

R P Ralph
Governor

(a) Cap 60

(b) SR&O No 23 of 1988

SCHEDULE

1. Article 2(3) of the principal Order is deleted and replaced with the following—

“(3) For the purposes of this Order, a driver who is under duty to stop and give way is required to cause his vehicle or animal to stop and give way to other traffic having precedence over his vehicle or animal.”

2. The shoulder note to article 3 is deleted and replaced with the following—

“Drivers to stop and give way.”

3. Article 3(1) of the principal Order is amended by the insertion of the words “stop and” between the words “to” and “give” in the third line.

4. Article 3(3) of the principal Order is amended by the insertion of the words “stop and” between the words “to” and “give” in the second line.

5. Article 5(1) of the principal Order is amended by the insertion of the words “stop and” between the words “to” and “give” in the second line.

6. Article 5(2) of the principal Order is amended by the insertion of the words “stop and” between the words “to” and “give” in the first line.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Ross Road (Drop Off Point) Regulations 1998

S. R. & O. No. 3 of 1998

Made: 14 January 1998
Published: 19 January 1998
Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 16K of the Road Traffic Ordinance^(a) and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1.—(1) These Regulations may be cited as the Ross Road (Drop Off Point) Regulations 1998.

(2) These Regulations shall come into force upon such date as the Governor may notify by notice published in the *Gazette*.

Interpretation

2.—(1) In these Regulations—

“authorised vehicle” means any vehicle which is designated in writing by the Chief Police Officer as an authorised vehicle for the purposes of these Regulations;

“no waiting area” means that area of Ross Road the presence and established limits of which are indicated in accordance with the provisions of the Schedule hereto;

“taxi” has the meaning assigned to it by section 2(1) of the Road Traffic Ordinance and includes an authorised vehicle.

No waiting area

3.—(1) The provisions of Part 1 of the Schedule to these Regulations shall have effect for regulating the manner in which the presence and limits of the no waiting area are to be indicated by marks on the carriageway for the purpose of constituting it a no waiting area.

(2) The provisions of Part 2 of the Schedule to these Regulations shall have effect as respects the size, colour and type of the traffic signs which are to be placed at or near the no waiting area for the purpose of constituting it a no waiting area.

^(a) Cap. 60 Laws of the Falkland Islands 1950

Variations in dimensions shown in Schedule

4. Any variations in a dimension specified in the diagram in the Schedule or otherwise specified in the Schedule should be treated as permitted by these Regulations if the variation does not exceed twenty per cent of that dimension.

Prohibition on stopping in no waiting area

5. Save as provided in regulation 6, the driver of a vehicle shall not cause the vehicle or any part thereof to stop in the no waiting area.

Exception from prohibition on stopping

6.—(1) The prohibition on stopping prescribed by regulation 5 shall not apply to a taxi for so long as the taxi has stopped for such reasonable period as may be necessary so as to permit passengers to alight from or enter into the taxi.

(2) A vehicle shall not by regulation 5 be prevented from stopping in the no waiting area—

(a) if the driver has stopped so as to give way to pedestrians within the no waiting area;

(b) if the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop in order to avoid an accident;

(c) if the driver is directed by a police officer in uniform to stop within the no waiting area; or

(d) so long as may be necessary to enable the vehicle, if it cannot be used for such purpose without stopping in the no waiting area, to be used for fire service, ambulance or police purposes or in connection with any building operation, demolition or excavation, the removal of any obstruction to traffic, the maintenance improvement or reconstruction of that length of road forming the no waiting area, or the laying, erection, alteration, repair or cleaning in or near to that length of road forming the no waiting area any traffic sign or sewer or of any main, pipe or apparatus for the supply of water or electricity, or of any telegraph or telephone wires, cables, posts or supports.

Offences

7. Subject to these Regulations, the driver of any vehicle who contravenes any provision of regulation 5 commits an offence, and is liable on conviction to a fine not exceeding £200.

MANNER OF INDICATING PRESENCE AND LIMITS OF NO WAITING AREA

SCHEDULE

PART 1

Marks

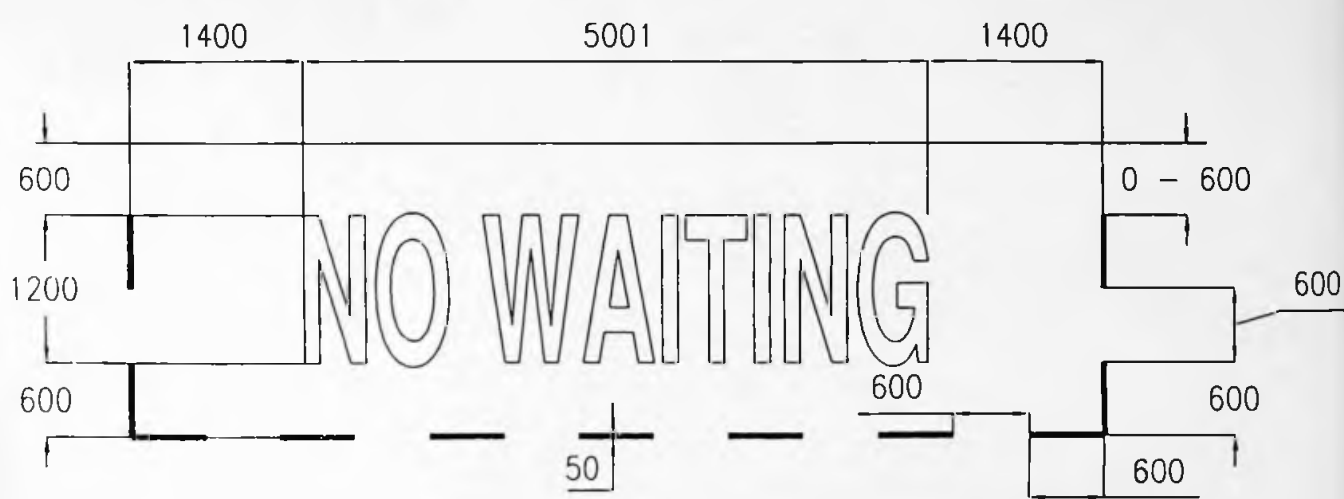
1. The no waiting area and its limits shall be indicated by the phrase "NO WAITING" marked within a pattern of lines of the size and type shown in the diagram in Part 3 of this Schedule and so placed as hereinafter provided.
2. The pattern of lines shall, subject as hereinafter provided, consist of:—
 - (a) two transverse broken lines (hereinafter referred to as "transverse lines") extending at right angles from the edge of the carriageway towards its centre in the manner indicated in the said diagram; and
 - (b) a longitudinal broken line (hereinafter referred to as the "longitudinal line") placed on the carriageway in the manner indicated in the said diagram.
3. The phrase "NO WAITING" and the transverse lines and the longitudinal line shall all be coloured white or shall all be coloured yellow.
4. Each mark making up the phrase "NO WAITING" and contained in the transverse lines and the longitudinal line may be illuminated by the use of reflecting material.
5. The no waiting area or its limits shall not be deemed to have ceased to be indicated in accordance with the provisions of this Schedule by reason only of the imperfection, discolouration or partial displacement of one or more of the marks making up or comprised in the phrase "NO WAITING" or the transverse lines or the longitudinal line, so long as the general indication of the phrase or any such line is not thereby materially impaired.

PART 2

Traffic signs

1. Traffic signs displaying the words "Drop Off Point. No waiting Except for Taxis and Authorised Vehicles" may be placed at or near the no waiting area in such position and of such size and colour as may be approved by the Director of Public Works.
2. The no waiting area shall not be deemed to have ceased to be indicated by reason of the absence of, damage to or defect in any traffic sign authorised under paragraph 1 to be placed at or near the no waiting area.

PART 3
Diagram
Pattern of lines and phrase indicating no waiting area



Made this 14th day of January 1998

R P Ralph
 Governor

EXPLANATORY NOTE
(not forming part of the above Order)

These Regulations have the effect of designating a "drop off point" outside the West Store at which only taxis and other authorised vehicles may stop for the purpose of collecting and dropping off passengers.

SUBSIDIARY LEGISLATION

DANGEROUS GOODS

The Dangerous Goods Ordinance 1987 (Commencement) Order 1998

S. R. & O. No. 4 of 1998

Made: 14 January 1998

Published: 19 January 1998

Coming into force: on publication

IN EXERCISE of my powers under section 1 of the Dangerous Goods Ordinance 1987(a), I make the following Order—

Citation

1. This Order may be cited as the Dangerous Goods Ordinance 1987 (Commencement) Order 1998.

Commencement of the Dangerous Goods Ordinance 1987

2. The Dangerous Goods Ordinance 1987, shall come into force on 1st February 1998.

Made this 14th day of January 1998

R P Ralph
Governor

(a) No 3 of 1987



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

30th January 1998

No. 4

The following are published in this Supplement -

The Offshore Health and Safety Order 1998, (S.R. & O. No. 5 of 1998);

The Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998, (S.R. & O. No. 6 of 1998);

The Offshore Installations (Safety Case) Order 1998, (S.R. & O. No. 7 of 1998);

The Offshore Installations and Pipeline Works (Management and Administration) Order 1998, (S.R. & O. No. 8 of 1998);

The Management of Health and Safety at Work Order 1998, (S.R. & O. No. 9 of 1998);

The Provision and Use of Work Equipment Order 1998, (S.R. & O. No. 10 of 1998).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Health and Safety Order 1998

(S. R. & O. No. 5 of 1998)

Made: 23 January 1998

Published: 30 January 1998

Coming into force on: 1 February 1998

IN EXERCISE of my powers under section 36(1) and (6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Health and Safety Order 1998 and shall come into force on 1st February 1998.

Application of the Offshore Safety Act 1992 and Part 1 of the Health and Safety at Work etc. Act 1974

2.—(1) The Offshore Safety Act 1992(b) applies to the Falkland Islands subject to the modifications specified in Schedule 1 to this Order.

(2) Part 1 of the Health and Safety at Work etc. Act 1974(c) shall, subject to the exceptions and modifications specified in Schedule 2 to this Order, have effect in such parts of the controlled waters(d) as constitute the relevant waters. .

(3) In this article, “relevant waters” means—

(a) the tidal waters and parts of the sea adjacent to the Falkland Islands up to the seaward limits of the territorial sea adjacent to the Falkland Islands; and

(a) No. 16 of 1994

(b) 1992 c. 15

(c) 1974 c.37

(d) “controlled waters”, “designated area of the continental shelf” and “continental shelf” have the same meaning here as they are given by s.2(1) of the Offshore Minerals Ordinance 1994.

(b) any designated area of the continental shelf.

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE 1

Modifications and exceptions to application of the Offshore Safety Act 1992 in the Falkland Islands

General

1. In the following provisions of this Schedule, a reference to a numbered (and, where appropriate, otherwise designated) provision is, unless the context otherwise requires, a reference to the provision so numbered or otherwise designated of the Offshore Safety Act 1992.

Modifications and exceptions

2. Section 1 shall have effect as if—

(a) in subsection (1) the words appearing after paragraph (d) read—

“and that Part shall have effect in such parts of the controlled waters as constitute the relevant waters as if the provisions mentioned in subsection (3) in the manner it is to be construed in the Falkland Islands were existing statutory provisions within the meaning of that Part and, in the case of the enactments there mentioned, were specified in the third column of Schedule 1 to that Act.”;

(b) the references in section (3) to the United Kingdom statutory provisions specified therein were references to the corresponding provisions of Falkland Islands law specified in section 36(3) of the Offshore Minerals Ordinance 1994;

(c) subsection (4) read—

“(4) In this section—

“controlled waters” has the same meaning as it has in section 2(1) of the Offshore Minerals Ordinance 1994;

“offshore installation” means an installation other than—

(a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes, and

(b) a well,

if the installation is one which is, or at any time is to be or has been, stood or stationed in the controlled waters and there used—

(i) for the exploitation or exploration with a view to exploitation, of mineral resources by means of a well;

(ii) for the storage of gas in or under the shore or bed of relevant waters or the recovery of gas so stored;

(iii) for the conveyance of things by means of a pipe, or

(iv) mainly for the provision of accommodation for persons who work on or from a structure used for one or more of the purposes mentioned in (i) to (iii) above,

but—

(A) an installation which would by reason of the foregoing otherwise be an offshore installation shall not be treated as an offshore installation if—

(I) the installation has ceased to be used for any purpose mentioned in (i) to (iii) above and since it was last so used has been both used and maintained for a purpose other than one so mentioned; or

(II) the installation is a mobile structure which has been taken out of such use as is so mentioned and, for the time being, is neither intended to be so used in the future nor maintained with a view to the possibility of its being so used in the future, and

(B) notwithstanding (b) above, where a well is for the time being connected by pipe or cable to an installation which is by reason of the foregoing an offshore installation, that well shall be deemed to be part of that offshore installation;

“pipe-line” has the same meaning as it has under section 38(1) of the Offshore Minerals Ordinance 1994;

“pipe-line works” has the same meaning as it has under section 28(2) of the Offshore Minerals Ordinance 1994; and

“relevant waters” has the same meaning as it has under article 2 of the Offshore Health and Safety Order 1998.”; and

(d) subsection (5) were omitted.

3. Section 2 shall have effect as if—

(a) there were omitted from subsection (1) all words appearing therein after paragraph (c);

(b) “pipe-line” were defined therein as having the same meaning as it has for the purposes of section 38(1) of the Offshore Minerals Ordinance 1994; and

(c) subsections (2), (3) and (4) were omitted.

4. Sections 3, 5, 6 and 7(2), (3) and (4) are omitted.

SCHEDULE 2

Modifications and exceptions to application of Part I of the Health and Safety at Work etc. Act 1974 to the controlled waters

General

1. In the following provisions of this Schedule, a reference to the 1974 Act is a reference to the Health and Safety at Work etc. Act 1974 and a reference to a numbered (and, where appropriate, otherwise designated) provision is, unless the context otherwise requires, a reference to the provision so numbered (and, where appropriate, otherwise designated) of that Act.

Modifications and exceptions

2. Subject to the subsequent provisions of this Schedule—

(a) the words “the Commission”, “the Secretary of State”, “a Minister of the Crown” or “the Executive”, wherever they appear in Part I of the 1974 Act shall have effect as if they read “the Governor” and wherever, consequential upon the foregoing, it is appropriate, the provisions of Part I of the 1974 Act shall have effect as if substitutions had been made therein of the word “he”, “him” or “his”, as the context requires, for any pronoun referring or relating to the Commission, the Secretary of State, a Minister of the Crown or the Executive;

(b) the word “constable” shall have effect as if it read “police officer”; and

(c) the words “on summary conviction”, wherever they appear in Part 1 of the 1974 Act, shall have effect as if they read “on conviction”.

3. Sections 5, 10, 11(2)(d), (3), (4) and (5) are omitted.

4. Section 11(6) shall have effect as if it read—

“(6) The Governor shall have power to do anything (except borrow money) which is calculated to facilitate, or is conducive or incidental to, the performance of any of his functions under this Part (including the power to delegate or authorise (as the case may be) the performance or exercise of any of his functions under this Part to or by any public officer notified by notice published in the *Gazette* in relation to the performance or exercise of the function in question, but without prejudice, notwithstanding any such delegation or authorisation, to the power of the Governor himself to perform or exercise that function).”

5. Sections 12 and 13 are omitted.

6. Section 14 shall have effect as if—

(a) in subsection (1) the words “and for the purposes of this subsection” onwards to the end of that subsection did not appear;

(b) in subsection (2) the words “the Executive” were omitted in paragraph (a) and the words “with the consent of the Secretary of State” were omitted in paragraph (b); and

(c) in subsection (6) the words “,with the approval of the Minister for the Civil Service,” were omitted in paragraph (a), and the words “,with the like approval,” were omitted in paragraph (b).

7. Section 15 shall have effect as if —

(a) subsection (1) read—

“(1) The Governor shall have power to make regulations under this section for any of the general purposes of this Part (and regulations so made are in this Part referred to as “health and safety regulations”).”;

(b) subsection (9) were omitted.

8. Section 16 shall have effect as if subsection (2) were omitted and as if subsection (5) read —

“(5) The Governor may at any time withdraw his approval from any code of practice approved under this section.”.

9. Section 18 is omitted.

10. Section 19(1) shall have effect as if it read—

“(1) The Governor may appoint as inspectors (under whatever title he may from time to time determine) such persons having suitable qualifications as he thinks necessary for carrying into effect the relevant statutory provisions and may vary or terminate any appointment made under this section.”.

11. Section 20(8) shall have effect as if the words from and including the words “High Court” onwards to the end of the subsection were replaced by the words “Supreme Court of the Falkland Islands”.

12. Section 23 shall have effect—

(a) as if subsection (3) were omitted; and

(b) as if all words appearing in subsection (4) from and including the words “fire authority”, where they first appear in the subsection, were replaced by the words “Chief Fire Officer”.

13. Section 25A (3) shall have effect as if all words appearing after the words “Good Friday” were replaced by the words “or a day which is a public holiday in the Falkland Islands”.

14. Section 26 shall have effect as if—

(a) the words “the enforcing authority which appointed him” were replaced by the words “the Governor”;

(b) the words “that authority may, nevertheless” were replaced by the words “the Governor shall”; and

(c) the words “if the authority is satisfied” were replaced by the words “if the Governor is satisfied”.

15. Section 27 shall have effect as if—

(a) the words “or, as the case may be, to the enforcing authority in question” were omitted from subsection (1); and

(b) subsections (2), (3) and (4) were omitted.

16. Section 27A is omitted.

17. Section 28 shall have effect as if—

(a) the words “under section 27A or” in subsection (1) were omitted;

(b) subsection (3) were replaced by—

“(3) The preceding subsection shall not apply to—

(a) disclosure of information to the Governor or to any public officer to whom the Governor may have delegated the performance or exercise of any of his functions under this Part, or whom he may have authorised to perform or exercise any of his functions under this Part;

(b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions or in relation to the protection or preservation of public health, public safety or the environment;

(c) disclosure to a police officer authorised by the Chief Police Officer to receive it;

(d) disclosure by the recipient of information in a form calculated to prevent it being identified as relating to a particular person or case; or

(e) disclosure for the purpose of any legal proceedings or an investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).”

(c) subsection (4) were omitted;

(d) subsection (5) were replaced by the following—

“(5) A person to whom information is disclosed in pursuance of subsection (3) above shall not use the information for a purpose other than—

(a) in a case falling within paragraph (a) of that subsection, a purpose of this Part or for purposes in connection with the relevant statutory provisions, or for the protection or preservation of public health, public safety or of the environment, or the safety of the Falkland Islands, as the case may be;

(b) in a case falling within paragraph (b) of that subsection, for purposes conferred upon the recipient by any relevant statutory provision or in relation to the protection or preservation of public health, public safety or the environment; or

(c) in the case of information given to a police officer, the purposes of the police in connection with the

relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the Falkland Islands.”; and

(e) subsections (6) and (10) were omitted.

18. Section 33 shall have effect as if—

(a) in subsection (1)(h) the words “or to obstruct a customs officer in the exercise of his powers under section 25A” were omitted;

(b) subsection (1)(i) and (j) were omitted;

(c) in subsection (1A) paragraphs (a) and (b) were replaced by the words “on conviction to a fine not exceeding £100,000”;

(d) in subsection (2) all words appearing after the words “section 20” were replaced by the words “shall be liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale”;

(e) in subsection (2A) paragraphs (a) and (b) were replaced by the words “to imprisonment for a term not exceeding two years or to a fine not exceeding £250,000, or both.”;

(f) in subsection (3)—

(i) as if the words “or by virtue of paragraph 2(2) of Schedule 3” were omitted;

(ii) as if paragraph (a) were omitted;

(iii) as if the words “on indictment” in paragraph (b) were omitted; and

(g) in subsection (4) as if paragraph (e) were omitted.

19. Section 34(1)(d), (5) and (6) are omitted.

20. Section 38 shall have effect as if the words “England and Wales” were replaced by the words “Falkland Islands” and as if the words “Director of Public Prosecutions” were replaced by the words “Attorney General of the Falkland Islands”.

21. Section 39(1) shall have effect as if—

(a) the words “, if authorised in that behalf by an enforcing authority,” were omitted; and

(b) the words “a magistrates’ court” were replaced by the words “a court of summary jurisdiction”.

22. Sections 43 to 45 are omitted.

23. Section 46 shall have effect as if—

(a) the words “and of section 26 of the Interpretation Act 1889 (service of documents by post) in its application to this section,” were omitted from subsection (4); and

(b) as if the words “and of section 26 of the Interpretation Act 1889” were omitted from subsection (5).

24. Section 47(1)(c) is omitted.

25. Section 48(6) shall have effect as if the words “in its application under the law of the Falkland Islands by virtue of the Application of Enactments Ordinance 1954”(e) appeared immediately after the words “the Crown Proceedings Act 1947”.

26. Sections 49, 50 and 54 are omitted.

EXPLANATORY NOTE
(not forming part of the Order)

The Offshore Safety Act 1992 (“the 1992 Act”) was enacted in the United Kingdom to give statutory effect to a number of the recommendations of Lord Cullen’s report on the Piper Alpha disaster in the North Sea. Those recommendations envisaged a fundamental change of approach from the then current system of regulations under the Mineral Workings (Offshore Installations) Act 1971 (which in the Falkland Islands might have an equivalent under section 27 of the Offshore Minerals Ordinance 1994 (“the 1994 Ordinance”)) prescribing detailed requirements with which operators had to comply, to a system under which the regulations would take the form of stating objectives to be met (referred to as “goal-setting objectives”), thus following the philosophy which was adopted by the report of the Robens Committee Report in 1972, which gave rise to the Health and Safety at Work etc. Act 1974 (“the 1974 Act”). The Robens Report considered that the major defect in the then existing, onshore, statutory health and safety regime was that there was too much law. This had the unfortunate effect of conditioning people to think of health and safety at work as primarily a matter of compliance with detailed rules imposed by external agencies, instead of the encouragement of personal responsibility and voluntary, self-generating effort, with a view to influencing attitudes and creating a framework for better safety and health organisation and action by industry itself. To achieve, in relation to offshore petroleum exploration and exploitation operations and matters connected with them, the new approach recommended by the Robens Report in relation to health and safety at work matters on land, the 1992 Act extended the general purposes of the 1974 Act to cover the purposes of the English statutory provisions to which sections 22 to 35 of the Offshore Minerals Ordinance 1994 (“the Ordinance”) of the Falkland Islands correspond, and so as to allow the existing regulations to be replaced by regulations made under section 15 of the 1974 Act.

This Order, made under section 36 of the Ordinance, applies the Offshore Safety Act 1992 and Part I of the 1974 Act to the controlled waters of the Falkland Islands so as to allow the system of regulation recommended by the Cullen Report to be adopted in relation to offshore health and safety.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998

S. R. & O. No. 6 of 1998

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under section 36(4) and (6) of the Offshore Minerals Ordinance 1994(a) and all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998 and shall come into force on 1st February 1998.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the 1974 Act” means the Health and Safety at Work etc Act 1974 with the same exceptions and modifications as have effect in relation to it by virtue of article 2(2) of and Schedule 2 to the Offshore Health and Safety Order 1998(b);

“the 1994 Ordinance” means the Offshore Minerals Ordinance 1994;

“designated area” has the meaning given by Proclamation No 1 of 1991 and “within a designated area” includes over and under a designated area;

“offshore installation” has the meaning given in section 36(5)(a) of the 1994 Ordinance;

“pipe-line” has the meaning given by section 36(5)(c) of the 1994 Ordinance;

(a) No. 16 of 1994

(b) S.R. & O. No. 5 of 1998

“pipe-line works” has the meaning given by section 36(5)(d) of the 1994 Ordinance;

“the prescribed provisions of the 1974 Act” means the provisions of Part 1 of the 1974 Act in the form they have effect in the relevant waters by virtue of article 2(2) of and Schedule 2 to the Offshore Health and Safety Order 1998(c);

“stand-by vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation;

“territorial sea” means the Falkland Islands territorial sea and “within the territorial sea” includes on, over and under the territorial sea; and

“vessel” includes a hovercraft and any floating structure which is capable of being staffed.

(2) For the purposes of this Order, any structures and devices on top of a well shall be treated as forming part of the well.

(3) For the purposes of this Order, a person shall be deemed to be engaged in diving operations throughout any period from the time when he commences to prepare for diving until the time when—

- (a) he is no longer subjected to raised pressure;
- (b) he has normal inert gas partial pressure in his tissues; and
- (c) if he entered the water, he has left it,

and diving operations include the activity of any person in connection with the health and safety of a person who is, or is deemed to be, engaged in diving operations.

Application of the 1974 Act outside the Falkland Islands

3.—(1) The prescribed provisions of the 1974 Act shall, to the extent specified in the following articles of this Order, apply to and in relation to the premises and activities outside the Falkland Islands which are so specified as those provisions would apply within the Falkland Islands if those provisions had been extended to the Falkland Islands.

(2) The reference in paragraph (1) of this article to premises and activities includes a reference to any person, article or substance on those premises or engaged in or, as the case may be, used or for use in connection with any such activity, but does not include a reference to an aircraft which is airborne.

Offshore installations

4. The prescribed provisions of the 1974 Act shall apply within territorial waters or a designated area to and in relation to—

(a) any offshore installation and any activity on it;

(b) any activity, including diving operations, in connection with an offshore installation, or any activity which is immediately preparatory thereto, whether carried on from the installation itself, on or from a vessel or in any other manner, other than—

(i) transporting, towing or navigating the installation; and

(ii) any activity on or from a vessel being used as a stand-by vessel;

(c) diving operations involving the survey and preparation of the sea bed for an offshore installation.

Wells

5. (1) Subject to paragraph (2) of this article, the prescribed provisions of the 1974 Act shall apply within the territorial sea or a designated area to and in relation to—

(a) a well and any activity in connection with it; and

(b) an activity which is immediately preparatory to any activity in sub-paragraph (a) above.

(2) Paragraph (1) of this article includes keeping a vessel on station for the purpose of working on a well but does not otherwise include navigation or an activity connected with navigation.

Pipe-lines

6. The prescribed provisions of the 1974 Act shall apply within the territorial sea or a designated area to and in relation to—

(a) any pipe-line;

(b) any pipe-line works;

(c) the following activities in connection with pipe-line works—

(i) the loading, unloading, fuelling or provisioning of a vessel;

(ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel,

being in either case a vessel which is engaged in pipe-line works.

Legal proceedings

7. Proceedings for any offence under section 33 of the 1974 Act, being an offence to which that section applies by virtue of this Order, may be taken, and the offence may for all incidental purposes be treated as having been committed, in the Falkland Islands.

Miscellaneous provisions

8. The prescribed provisions of the 1974 Act shall apply in accordance with this Order to individuals whether or not they are British subjects, and to bodies corporate whether or not they are incorporated under the law of the Falkland Islands.

9. Nothing in this Order shall be taken to limit or prejudice the operation which any Act or legislative instrument may, apart from this Order, have in the territorial sea or elsewhere.

Made this 23rd day of January 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order applies the provisions of Part I of the Health and Safety at Work etc. Act 1974 to the matters mentioned in articles 4, 5 and 6 of this Order.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations (Safety Case) Order 1998

S. R. & O. No. 7 of 1998

ARRANGEMENT OF PROVISIONS

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2. Interpretation
3. Application of the Offshore Installations (Safety Case) Regulations 1992

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The Offshore Installations (Safety Case) Regulations 1992 as applying under article 3 of this Order

ARRANGEMENT OF REGULATIONS

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Particulars to be included in a safety case for a mobile installation

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Note: A regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations (Safety Case) Order 1998

S. R. & O. No. 7 of 1998

Made: 23 January 1998

Published: 30 January 1998

Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1), 36(2)(b) and 36(6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf and with the consent of the Secretary of State for Foreign and Commonwealth Affairs I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Installations (Safety Case) Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b);

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order.

(a) No. 16 of 1994

(b) S.R. & O. No. 6 of 1998

Application of the Offshore Installations (Safety Case) Regulations 1992

3. The Offshore Installations (Safety Case) Regulations 1992(c) in the form appearing in the Schedule to this Order shall apply—

(a) in the Falkland Islands;

(b) to and in relation to activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act(d) apply by virtue of the external application Order.

Made this 23rd day of January 1998

R P Ralph
Governor

(c) SI 1992/2885 as amended by SI 1995/738 & SI 1996/913

(d) The Health and Safety at Work etc Act 1974

SCHEDULE

The Offshore Installations (Safety Case) Regulations 1992 as applying under article 3 of this Order

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Safety Case) Regulations 1992 in their application under the law of the Falkland Islands and in such application shall come into force on 1st February 1998.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application Outside the Falkland Islands) Order 1998(a);

“the prescribed provisions of the 1974 Act” has the same meaning it has in the external application Order;

“the principal Order” means the Offshore Health and Safety Order 1998(b);

“the 1994 Ordinance” means the Offshore Minerals Ordinance 1994(c);

“the 1995 Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(d) in their application to the Falkland Islands(e);

“approves” means approves in writing;

“combined operation” means an activity referred to in paragraph (7);

“concession owner” in relation to a fixed installation, or to a well or proposed well means the person who at any time has the right to explore for or exploit mineral resources in any area, or to store gas in any area and to recover gas so stored if, at that time, the installation or, as the case may be, the well or proposed well is, or is to be, used in the exercise of that right(f);

“construction activity” in relation to an installation means—

(a) the construction of the installation at the place where it is to be operated;

(a) S.R. & O. No. 6 of 1998;

(b) S.R. & O. No. 5 of 1998;

(c) No. 16 of 1994, as amended by No. 16 of 1997

(d) 1995/738;

(e) i.e. under the Offshore Installations and Pipeline Works (Management and Administration) Order 1998 (S.R. & O. No. 8 of 1998)

(f) as substituted by regulation 26 and Schedule 2 SI 1996/913

(b) the dismantling or demolition of the installation at the place where it was operated;

(c) any activity on or in connection with the installation which involves the use of a heavy lift vessel;

“decommissioning” in relation to an installation means taking the installation or any plant thereon out of use with a view to the decommissioning and dismantlement of the installation; and “decommissioned” shall be construed accordingly;

“designated area” has the same meaning as it has in Proclamation No.1 of 1991;

“diving bell” means any compression chamber which is capable of being manned and is used or designed for use under the surface of water in supporting human life being a chamber in which any occupant is or may be subjected to a pressure of more than 300 millibars above atmospheric pressure during normal operation;

“fixed installation” means an installation other than a mobile installation;

“heavy lift vessel” means a vessel whose primary function is—

(a) to lift an installation or part thereof, or

(b) lift plant onto or off an installation;

“installation” means an offshore installation within the meaning of regulation 3 of the 1995 Regulations(g);

“major accident” means—

(a) a fire, explosion or the release of a dangerous substance involving death or serious personal injury to persons on the installation or engaged in an activity on or in connection with it;

(b) any event involving major damage to the structure of the installation or plant affixed thereto or any loss in the stability of the installation;

(c) the collision of a helicopter with the installation;

(d) the failure of life support systems for diving operations in connection with the installation, the detachment of a diving bell used for such operations or the

trapping of a diver in a diving bell or other subsea chamber used for such operations; or

(g) substituted by SI 1995/738 Part II of Schedule 2 paragraph 14(a)(iv)

(e) any other event arising from a work activity involving death or serious personal injury to five or more persons on the installation or engaged in an activity on or in connection with it;

“management system” means the organisation and arrangements established by a person for managing his undertaking(h);

“mobile installation” means an installation (other than a floating production platform) which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“notified” means notified in writing, and related expressions shall be construed accordingly;

“operator” in relation to—

(a) a fixed installation means the person appointed by a concession owner to execute any function of organising or supervising any operation to be carried out by such installation or, where no such person has been appointed, the concession owner;

(b) a mobile installation means the person for whom the owner has agreed to carry out the operation concerned or, where there is no such agreement, the owner;

“owner” in relation to—

(a) a mobile installation means the person who controls the operation of the installation;

(b) a pipe-line, or a proposed pipe-line, has the same meaning as it has under section 38(3) of the Offshore Minerals Ordinance 1994(i);

“pipe-line” has the meaning given by section 36(5)(a) of the 1994 Ordinance;

“quantitative risk assessment” means the identification of hazards and the evaluation of the extent of the risk arising therefrom incorporating calculations based upon the frequency and magnitude of hazardous events;

“relevant statutory provisions” means those relevant statutory provisions which apply to or in relation to installations or activities on or in connection with them;

“relevant waters” means—

(a) tidal waters and parts of the sea in or adjacent to the Falkland Islands up to the seaward limit of territorial waters; and

(h) inserted by SI 1996/913 regulation 26 and Schedule 2 paragraph 4;

(i) No.16 of 1994

(b) any designated area of the continental shelf;

“safety case” shall be construed in accordance with paragraph (2);

“safety-critical elements” means such parts of an installation and such of its plant (including computer programmes) or any part thereof—

(a) the failure of which could cause or contribute substantially to; or

(b) a purpose of which is to prevent, or limit the effect of,

a major accident(j);

“standby vessel” means a vessel which is ready to give assistance in the event of an emergency on or near an offshore installation.

(2) Any reference in these regulations to a safety case is, subject to regulation 8(3), a reference to a document containing the particulars specified in regulation 8 and the Schedule referred to in the provisions pursuant to which the safety case is prepared; and a safety case may contain such particulars by reference to the same particulars in an earlier safety case relating to the same installation and sent to the Governor pursuant to these Regulations.

(3) Any provision of these regulations requiring particulars to be included in a safety case which are also required to be included by a more general provision of the Regulations is without prejudice to the generality of the more general provision.

(4) Any reference in these Regulations to the Governor accepting a safety case or revision is a reference to the Governor notifying the person who sent the safety case or revision to the Governor that he is satisfied with the case for health and safety made out in the safety case or in the revision, as appropriate.

(5) Any reference in these Regulations to operating an installation is a reference to using the installation for any of the purposes described in regulation 3(1) of the 1995 Regulations(k).

(6) Any reference in these Regulations to the commencement of drilling a well includes a reference to the recommencement of drilling after the well has been completed, suspended, or abandoned by plugging at the sea bed.

(7) For the purposes of these Regulations two or more installations shall be treated as engaged in a combined operation with each other if an activity carried out from, by means of or on one of the installations—

(j) inserted by SI 1996/913 regulation 26 and Schedule 2 paragraph 3;

(k) paragraph printed as amended by SI 1995/738 regulation 23 and Part II Schedule 2, paragraph 14(b)

(a) is carried out temporarily for a purpose related to the other installation or installations; and

(b) could affect the health or safety of persons on any of the installations or of persons engaged in an activity in connection with any of the installations.

(7A) Any reference in these Regulations to a verification scheme is a reference to a suitable written scheme for ensuring, by means described in paragraph (7B), that the safety-critical elements—

(a) are or, where they remain to be provided, will be suitable; and

(b) where they have been provided, remain in good repair and condition.

(7B) The means referred to in paragraph (7A) are—

(a) examination, including testing where appropriate, of the safety-critical elements by independent and competent persons;

(b) examination of any design, specification, certificate, CE marking or other document, marking or standard relating to those elements by such persons;

(c) examination by such persons of work in progress;

(d) the taking of appropriate action following reports by such persons;

(e) the taking of such other steps as may properly be provided for pursuant to regulation 15B and Schedule 9; and

(f) the taking of any steps incidental to the means described in sub-paragraphs (a) to (e) of this paragraph.

(7C) For the purposes of paragraph (7B) and regulations 15A and 15C a person shall be regarded as independent only where—

(a) his function will not involve the consideration by him of an aspect, of a thing liable to be examined, for which he bears or has borne such responsibility as might compromise his objectivity; and

(b) he will be sufficiently independent of a management system, or of a part thereof, which bears or has borne any responsibility for an aspect, which he might consider, of a thing liable to be examined, to ensure that he will be objective in discharging his function(l);

(8) Any reference in these Regulations to an activity in connection with an installation is a reference to any activity in connection with an offshore installation specified in

(l) paragraphs (7A) to (7C) were inserted by SI 1996/913 regulation 26 and Schedule 2 paragraph 5.

sub-paragraph (b) article 4 of the external application Order other than an activity specified in sub-paragraph (i) or (ii) of that paragraph .

(9) Where an operator or owner of an installation is succeeded by a new operator or owner, anything done in compliance with these Regulations by the operator or owner in relation to the installation shall, for the purposes of these Regulations, be treated as having been done by his successor.

(10) Unless the context otherwise requires, any reference in these Regulations to—

(a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;

(b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

Application

3. (Omitted: see article 3 of the Order above)

Safety cases for fixed installations

4.—(1) The operator of a fixed installation which is to be established shall—

(a) prepare a safety case containing the particulars specified in regulation 8 and Schedule 1; and

(b) send the safety case to the Governor;

at such time before completion of the design of the installation as will enable him to take account in the design of any matters relating to health and safety raised by the Governor within 3 months of that time.

(2) The operator of a fixed installation shall ensure that it is not operated unless—

(a) he has prepared a safety case containing the particulars specified in regulation 8 and Schedule 2;

(b) he has sent the safety case to the Governor at least 6 months before commencing the operation; and

(c) the Governor has accepted the safety case.

(3) For the purpose of paragraph (2) the operation of an installation shall be treated as commenced—

(a) on the commencement of the first well drilling operation from the installation which may involve the release of hydrocarbons from beneath the sea bed; or

(b) when hydrocarbons are brought onto the installation for the first time through a pipe-line or well,

whichever is earlier.

(4) A safety case prepared pursuant to paragraph (2) may be prepared in relation to more than one fixed installation where the Governor so approves, and where a safety case is to be so prepared in relation to installations with different operators it shall be sufficient compliance with paragraph (2)(a) and (b) if the operators prepare and agree the safety case containing the particulars referred to in that paragraph and one of them sends it to the Governor in accordance with paragraph (2)(b).

Safety case for mobile installations

5. The owner of a mobile installation shall ensure that the installation is not moved in relevant waters with a view to its being operated there unless—

(a) he has prepared a safety case containing the particulars specified in regulation 8 and Schedule 3;

(b) he has sent the safety case to the Governor at least 3 months before the movement of the installation in those waters with a view to its being operated there; and

(c) the Governor has accepted the safety case.

Safety case for combined operations

6.—(1) In preparing a safety case for an installation pursuant to regulation 4(2) or 5 or a revision thereof pursuant to regulation 9 account need not be taken of the fact that the installation is or is to be engaged in a combined operation with another installation.

(2) The operator of a fixed installation shall ensure that the installation is not engaged in a combined operation with a mobile installation, and the owner of a mobile installation shall ensure the installation is not engaged in a combined operation with a fixed or mobile installation unless—

(a) the operators of the installations so engaged and the owner of every mobile installation so engaged have prepared and (unless they are the same person) agreed a safety case containing the particulars specified in Schedule 4;

(b) the safety case has been sent by an operator to the Governor—

(i) in a case where a mobile installation is to carry out an operation on a well connected to a fixed installation (other than a well which is beneath or immediately adjacent to the installation), at least 4 weeks,

(ii) in any other case 6 weeks,

before the combined operation is commenced, and

(c) the Governor has accepted the safety case.

Safety case for decommissioning of fixed installations

7. The operator of a fixed installation shall ensure that the installation is not decommissioned unless—

(a) he has prepared a safety case containing the particulars specified in regulation 8 and Schedule 5;

(b) he has sent the safety case to the Governor at least 6 months before the commencement of the decommissioning; and

(c) the Governor has accepted the safety case.

Management of health and safety and control of major accident hazards

8.—(1) An operator or owner who prepares a safety case pursuant to these Regulations (in this regulation referred to as “the duty holder”) shall, subject to paragraphs (2) and (3), include in the safety case sufficient particulars to demonstrate that—

(a) his management system is adequate to ensure that the relevant statutory provisions will (in respect of matters within his control) be complied with in relation to the installation and any activity on or in connection with it;

(b) he has established adequate arrangements for audit and for the making of reports thereof;

(c) all hazards with the potential to cause a major accident have been identified; and

(d) risks have been evaluated and measures have been, or will be, taken to reduce the risks to persons affected by those hazards to the lowest level that is reasonably practicable.

(1A) The particulars required by paragraph (1) shall include a summary of the record kept pursuant to regulation 5(3) of the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 in their application to the Falkland Islands(m).

(2) Paragraph (1) shall only require the particulars in the safety case to demonstrate the matters referred to in that paragraph to the extent that it is reasonable to expect the duty holder to address them at the time of sending the safety case to the Governor.

(m) SI 1995/743 applied by S.R. & O. No. 12 of 1998 (the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Order 1998

(3) Without prejudice to paragraphs 2 and 3 of Schedule 4, this regulation shall not apply to a safety case prepared pursuant to regulation 6(2).

(4) In this regulation “audit” means systematic assessment of the adequacy of the management system to achieve the purpose referred to in paragraph (1)(a) carried out by persons who are sufficiently independent of the system (but who may be employed by the duty holder) to ensure that such assessment is objective(n).

Revision of safety cases

9.—(1) An operator or owner who has prepared a safety case pursuant to these Regulations shall revise its contents as often as may be appropriate; but nothing in this paragraph shall require the revision to be sent to the Governor.

(2) Where a revision to be made under paragraph (1) (other than a revision to a safety case prepared pursuant to regulation 4(1)) will render the safety case materially different from the last version sent to the Governor pursuant to these Regulations, the revision shall not be made unless—

(a) the safety case incorporating the proposed revision has been sent to the Governor at least 3 months before the revision is to be made; and

(b) the Governor has accepted the revision.

and for the purposes of this paragraph in determining whether a revision will render the safety case materially different from the version referred to above, regard shall be had to the cumulative effect of that revision and any previous revisions made under paragraph (1) but not subject to this paragraph.

(3) Where the revision—

(a) relates to the drilling of a well or the carrying out of any other operation on a well the period referred to in paragraph (2)(a) shall be 21 days,

(b) is of a safety case prepared pursuant to regulation 6(2) and does not relate to the matters referred to in sub-paragraph (a), the period referred to in paragraph (2)(a) shall be 6 weeks, instead of 3 months.

(4) Where an operator or owner has prepared a safety case in respect of an installation in accordance with regulation 4(2) or 5 or made a revision thereof in accordance with this paragraph, no person shall operate the installation beyond a period of 3 years from the date on which the last safety case or revision was accepted by the Governor unless during that period—

(a) the operator or owner who prepared the safety case or revision has revised the safety case and sent the revision to the Governor at least 3 months before that period has expired; and

(b) the Governor has accepted the revision.

Duty to conform with safety case

10.—(1) Where—

(a) an operator or owner has prepared a safety case pursuant to these Regulations (except regulation 4(1)) or made a revision thereof pursuant to regulation 9,

(b) the safety case or revision describes any health or safety procedures or arrangements to be followed, and

(c) the Governor has accepted the safety case under the regulation concerned or in the case of a revision subject to regulation 9(2) or (4) has accepted it under that regulation;

he shall ensure that those procedures and arrangements are followed.

(2) In criminal proceedings for a contravention of paragraph (1) it shall be a defence for the accused to prove that—

(a) in the particular circumstances of the case it was not in the best interests of the health and safety of persons to follow the procedures or arrangements concerned and there was insufficient time to revise the safety case pursuant to regulation 9, or

(b) the commission of the offence was due to a contravention by another person of regulation 14 and the accused had taken all reasonable precautions and exercised all due diligence to ensure that the procedures or arrangements were followed.

Notification of well operations

11.—(1) The operator of a fixed installation shall ensure that the drilling of a well from the installation is not commenced unless at least 21 days before its commencement he has sent to the Governor a notification containing the particulars specified in Schedule 6.

(2) The operator of a mobile installation shall ensure that the carrying out of any operation in relation to a well or proposed well from the installation (including the drilling of a well) is not commenced unless at least 21 days before its commencement he has sent to the Governor notification containing the particulars specified in Schedule 6.

(3) (omitted)

(4) Where there is a material change in any of the particulars notified pursuant to paragraph (1) or (2), the operator of the installation concerned shall notify the Governor of that change as soon as is practicable thereafter.

(5) Where an operation is to be carried out in relation to a well or proposed well by means of a vessel which is not an installation, the well-operator shall ensure that the carrying out of the operation is not commenced unless at least 21 days before its commencement he has sent to the Governor a notification containing the particulars specified in Schedule 6A.

(6) Where there is a material change in any of the particulars notified pursuant to paragraph (5), the person who, at the time of that change, would have had the duty under paragraph (5) to notify those particulars, if they had been required at the time of that change, shall notify the Governor of that change as soon as is practicable after that change.

(7) In this regulation "well-operator", in relation to a well or proposed well, means the person appointed by the concession owner for the well or proposed well to execute the function of organising and supervising all operations to be carried out by means of such well or, where no such person has been appointed, the concession owner^(o).

Notification of construction activities

12.—(1) The operator of an installation shall ensure that the carrying out of any construction activity is not commenced unless at least 28 days before its commencement he has sent to the Governor a notification containing the particulars specified in Schedule 7.

(2) (omitted)

Transitional provisions

13 (omitted)

Co-operation

14.—(1) Every person to whom this regulation applies shall co-operate with the operator and owner of an installation (in this regulation referred to as the first-mentioned installation) and with the operator and owner of an installation engaged in a combined operation with it, so far as is necessary to enable them to comply with the provisions of these Regulations.

(2) This regulation applies to—

(a) the operator of the first-mentioned installation insofar as paragraph (1) requires him to co-operate with the owner of that installation and with the operator and owner of an installation engaged in a combined operation with it;

^(o) paragraphs (5)-(7) of regulation 11 added by SI 1996/913 regulation 26 and Schedule 2 paragraph 7

- (b) the owner of the first-mentioned installation insofar as paragraph (1) requires him to co-operate with the operator of that installation and with the operator and owner of an installation engaged in a combined operation with it;
- (c) any other employer of persons and a self-employed person carrying out an activity on the first-mentioned installation or in connection with it;
- (d) the operator and owner of an installation connected by a pipe-line to the first-mentioned installation;
- (e) the person in control of a stand-by vessel for the first-mentioned installation;
- (f) the person in control of a heavy lift vessel used in relation to the first-mentioned installation;
- (g) the owner of a pipe-line connected to the first-mentioned installation; and
- (h) the manager of the first-mentioned installation(p).

Keeping of documents

15.—(1) An operator or owner who prepares a safety case pursuant to these Regulations shall—

- (a) ensure that when the safety case is sent to the Governor he is notified of an address in the Falkland Islands for the purposes of sub-paragraph (b), (c) and (g) below;
- (b) keep a copy of the safety case and any revision thereof at the address referred to in sub-paragraph (a) above and on the installation to which the safety case relates;
- (c) keep a copy of each audit report at that address;
- (d) ensure that in respect of each audit report a written statement is made recording—
 - (i) the main findings of the report;
 - (ii) the recommendations in the report;
 - (iii) the action proposed to implement those recommendations including the timescales involved;
- (e) keep a copy of that statement on the installation to which it relates;

(p) sub-paragraph (h) added by SI 1995/738 regulation 23 and Schedule 2 Part II paragraph 15

(f) ensure that a record is made of any action taken in consequence of an audit report; and

(g) keep a copy of that record at the address referred to in sub-paragraph (a) above and on the installation to which it relates.

(2) The copy of the audit report, record and written statement referred to in paragraph (1) shall be kept for a period of 3 years after it has been made, and the copy of the safety case and revision referred to in that paragraph shall be kept for so long as it is current.

(3) It shall be sufficient compliance with paragraph (1)(b), (c), (e) and (g) for the information in the documents referred to in those sub-paragraphs to be kept at the place referred to in those sub-paragraphs to be kept at the place referred to therein on film or by electronic means provided that the information is capable of being reproduced as a written copy at that place and it is secure from loss or unauthorised interference.

(4) In this regulation "audit report" means a report made pursuant to the arrangements referred to in regulation 8(1)(b).

Verification schemes for safety-critical elements(q)

15A.—(1) Subject to paragraph (2), the operator of a fixed installation shall, at such time before completion of the design as is identified by regulation 4(1), ensure that—

(a) a record is made of the safety-critical elements;

(b) comment on the record by an independent and competent person is invited;

(c) a verification scheme is drawn up by or in consultation with such person;

(d) a note is made of any reservation expressed by such person as to the contents of—

(i) the record; or

(ii) the scheme; and

(e) such scheme is put into effect.

(2) Where, in the case of a fixed installation, the time referred to in paragraph (1) has at the coming into force of this regulation expired, the operator shall ensure that the installation is not operated unless the provisions of sub-paragraphs (a) to (e) of paragraph (1) and regulation 15B have been complied with.

(q) Regulations 15A to 15D inserted by SI 1996/913 regulation 26 and Schedule 2 paragraph 11

(3) Subject to paragraph (4), the owner of a mobile installation shall before the installation is moved in relevant waters with a view to its being operated there, ensure that—

- (a) a record is made of the safety-critical elements;
- (b) comment on the record by an independent and competent person is invited;
- (c) a verification scheme is drawn up by or in consultation with such person;
- (d) a note is made of any reservation expressed by such person as to the contents of—
 - (i) the record; or
 - (ii) the scheme; and
- (e) such scheme is put into effect.

(4) Where, at the coming into force of this regulation, a mobile installation is being operated, the owner shall ensure that it does not continue to be operated unless the provisions of sub-paragraphs (a) to (e) of paragraph (3) and regulation 15B have been complied with.

Matters to be included in a verification scheme

15B. A verification scheme shall provide for the matters contained in Schedule 9.

Review and revision of verification schemes

15C. The operator, in the case of a fixed installation and the owner, in the case of a mobile installation, shall ensure that, as often as may be appropriate—

- (a) the verification scheme is reviewed and, where necessary, revised or replaced by or in consultation with an independent and competent person; and
- (b) a note is made of any reservation expressed by such person in the course of drawing it up.

Continuing effect of verification schemes

15D. The operator of a fixed installation, and the owner of a mobile installation, shall ensure that effect continues to be given to its verification scheme, or any revision or replacement of it, while the installation remains in being.

Notification as to contravention of regulations 15A to 15D being due to another's act or default

15E.—(1) Where a person is prosecuted for an offence consisting of a contravention of any of the provisions of regulations 15A to 15D, it shall, subject to paragraph (2), be a defence for that person to prove—

(a) that the contravention of the provision was due to the act or default of some other person ("the other person") who was not, at the time of the contravention, his employee; and

(b) that he took all reasonable precautions and used all due diligence to avoid commission of the offence.

(2) A person shall not without the leave of the court be entitled to rely upon the defence provided by paragraph (1) unless at least seven clear days before the date fixed by the court for trial of the summons he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) Section 36(1) of the 1974 Act shall have effect subject to the foregoing paragraphs and nothing in those paragraphs shall be construed as affecting the operation of section 37 of that Act (offences by bodies corporate)(r).

Amendments to the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989

16. (omitted)

Exemptions

17.—(1) Subject to paragraph (2), the Governor may, by a certificate in writing, exempt any person, installation or class of persons or installations from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) Without prejudice to the generality of paragraph (1), where any requirement or prohibition in these Regulations makes reference to—

(a) either a time or period for sending a safety case or notification to the Governor, the Governor may, subject to paragraph (3) and in the particular case, specify a later time or shorten the period;

(b) a period beyond which something shall not be done, the Governor may, subject to paragraph (3) and in the particular case, lengthen the period;

(r) substituted for regulation 15E which was inserted as per note (q)

and the exercise of such a power shall have effect as an exemption granted by the Governor subject to the condition that the requirement or prohibition is observed with the later time or shorter or longer period substituted for that referred to in it.

(3) The Governor shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

SCHEDULE 1

(Regulation 4(1))

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR THE DESIGN OF A FIXED INSTALLATION

1. The name and address of the operator of the installation.
2. A general description of the means by which the management system of the operator, referred to in regulation 8, will ensure that the structure and plant of the installation will be designed, selected, constructed and commissioned in a way which will reduce risks to health and safety to the lowest level that is reasonably practicable.
3. A description, with scale diagrams, of—
 - (a) the main and secondary structure of the installation;
 - (b) its plant;
 - (c) the layout and configuration of its plant;
 - (d) the connections to be made to any pipe-line or installation; and
 - (e) any wells to be connected to the installation.
4. A scale plan of the intended location of the installation and of anything to be connected to it, and particulars of—
 - (a) the meteorological and oceanographic conditions to which the installation may foreseeably be subjected; and
 - (b) the properties of the sea-bed and subsoil at its location.

5. Particulars of the types of operation, and activities in connection with an operation, which the installation is to be capable of performing.

6. The maximum number of persons—

(a) expected to be on the installation at any time; and

(b) for whom accommodation is to be provided.

7. Particulars of the plant and arrangements for the control of operations on a well, including those—

(a) to control the pressure in a well;

(b) to prevent the uncontrolled release of hazardous substances; and

(c) to minimise the effects of damage to subsea equipment by drilling equipment.

8. A description of any pipe-line with the potential to cause a major accident, including—

(a) the fluid which it conveys;

(b) its dimensions and layout;

(c) its contained volume at declared maximum allowable operating pressure; and

(d) any apparatus and works intended to secure safety.

9. Particulars of plant and arrangements for—

(a) the detection of the presence of toxic or flammable gas; and

(b) the detection, prevention or mitigation of fires.

10. A description of the arrangements to be made for protecting persons on the installation from hazards of explosion, fire, heat, smoke, toxic gas or fumes during any period while they may need to remain on the installation following an incident which is beyond immediate control and for enabling such persons to be evacuated from the installation where necessary, including the provision for—

(a) temporary refuge;

(b) routes from locations where persons may be present to temporary refuge and for egress therefrom to points from where the installation may be evacuated;

(c) means of evacuation at those points; and

(d) facilities within temporary refuge for the monitoring and control of the incident and for organising evacuation.

11. A statement of performance standards which have been established in relation to the arrangements referred to in paragraph 10 (including performance standards which have been established for structures and plant provided pursuant to such arrangements), and a statement of the minimum period for which the arrangements as a whole are intended to be effective following an incident referred to in that paragraph.

12. A demonstration, by reference to the results of suitable and sufficient quantitative risk assessment, that the measures taken or to be taken in relation to the hazards referred to in paragraph 10, including the arrangements mentioned in that paragraph, will reduce risks to the health and safety of persons to the lowest level that is reasonably practicable.

13. Particulars of the intended methods of design and construction, and of the principal codes of practice to be observed in relation to them.

14. A description of—

(a) the principal features of the design of the installation, and the arrangements and procedures for its completion; and

(b) the arrangements and procedures for the construction and commissioning of the installation,

which are intended to ensure that risks from a major accident will be at the lowest level that is reasonably practicable.

SCHEDULE 2

(Regulation 4(2))

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR THE OPERATION OF A FIXED INSTALLATION

1. The name and address of the operator of the installation.

2. A description, with scale diagrams, of

(a) the main and secondary structure of the installation and its materials;

(b) its plant;

(c) the layout and configuration of its plant;

(d) the connections to be made to any pipe-line or installation; and

(e) any wells to be connected to the installation.

3. A scale plan of the location of the installation and of anything connected to it, and particulars of—

(a) the meteorological and oceanographic conditions to which the installation may foreseeably be subjected; and

(b) the properties of sea-bed and subsoil at its location.

4. Particulars of the types of operation, and activities in connection with an operation, which the installation is capable of performing.

5. The maximum number of persons—

(a) expected to be on the installation at any time; and

(b) for whom accommodation is to be provided.

6. Particulars of plant and arrangements for the control of operations on a well, including those—

(a) to control the pressure in a well;

(b) to prevent the uncontrolled release of hazardous substances; and

(c) to minimise the effects of damage to subsea equipment by drilling equipment.

7. A description of any pipe-line with the potential to cause a major accident, including—

(a) the fluid which it conveys;

(b) its dimensions and layout;

(c) its contained volume at declared maximum allowable operating pressure; and

(d) any apparatus and works intended to secure safety.

8. Particulars of plant and arrangements for—

(a) the detection of the presence of toxic or flammable gas; and

(b) the detection, prevention or mitigation of fires.

9. A description of the arrangements made or to be made for protecting persons on the installation from hazards of explosion, fire, heat, smoke, toxic gas or fumes during any period while they may need to remain on the installation following an incident which is beyond immediate control and for enabling such persons to be evacuated from the installation where necessary, including the provision for—

(a) temporary refuge;

(b) routes from locations where persons may be present to temporary refuge and for egress therefrom to points from where the installation may be evacuated;

(c) means of evacuation at those points;

(d) facilities within temporary refuge for the monitoring and control of the incident and for organising evacuation.

9A. A detailed description of arrangements made for protecting persons on the installation from toxic gas at all times other than during the period described in paragraph 9(s).

10. A statement of performance standards which have been established in relation to the arrangements referred to in paragraph 9 (including performance standards which have been established for structures and plant provided pursuant to such arrangements), and a statement of the minimum period for which the arrangements as a whole are intended to be effective following an incident referred to in that paragraph.

11. A demonstration, by reference to the results of suitable and sufficient quantitative risk assessment, that the measures taken or to be taken in relation to the hazards referred to in paragraph 9, including the arrangements mentioned in that paragraph, will reduce risks to the health and safety of persons to the lowest level that is reasonably practicable.

12. Particulars of the main requirements in the specification for the design of the installation and its plant, including any limits for safe operation or use specified therein.

13. Sufficient particulars to demonstrate that the design of the installation, its plant and the pipe-lines connected to it is such that the risks from a major accident are at the lowest level that is reasonably practicable.

14. Particulars concerning any remedial work to be carried out to the installation or the plant referred to in the preceding paragraphs, and the time by which it will be done.

SCHEDULE 3

(Regulation 5)

TO BE INCLUDED IN A SAFETY CASE FOR A MOBILE INSTALLATION

1. The name and address of the owner of the installation(t).

2. A description, with scale diagrams, of:

(s) inserted by SI 1996/913 regulation 26 and Schedule 2 paragraph 12

(t) as amended by SI 1995/738 regulation 23 and Part II Schedule 2, paragraph 16

- (a) the main and secondary structure of the installation and its materials;
 - (b) its plant; and
 - (c) the layout and configuration of its plant.
3. Particulars of the types of operation, and activities in connection with an operation, which the installation is capable of performing.
4. The maximum number of persons—
- (a) expected to be on the installation at any time; and
 - (b) for whom accommodation is to be provided.
5. Particulars of the plant and arrangements for the control of operations on a well, including those—
- (a) to control the pressure in a well;
 - (b) to prevent the uncontrolled release of hazardous substances; and
 - (c) to minimise the effects of damage to subsea equipment by drilling equipment.
6. Particulars of plant and arrangements for—
- (a) the detection of the presence of toxic or flammable gas; and
 - (b) the detection, prevention or mitigation of fires.
7. A description of the arrangements made or to be made for protecting persons on the installation from hazards of explosion, fire, heat, smoke, toxic gas or fumes during any period while they may need to remain on the installation following an incident which is beyond immediate control and for enabling such persons to be evacuated from the installation where necessary, including the provision for—
- (a) temporary refuge;
 - (b) routes from locations where persons may be present to temporary refuge and for egress therefrom to points from where the installation may be evacuated;
 - (c) means of evacuation at those points;
 - (d) facilities within temporary refuge for the monitoring and control of the incident and for organising evacuation.

7A. A description of arrangements made for protecting persons on the installation from toxic gas at all times other than during the period described in paragraph 7(u).

8. A statement of performance standards which have been established in relation to the arrangements referred to in paragraph 7 (including performance standards which have been established for structures and plant provided pursuant to such arrangements), and a statement of the minimum period for which the arrangements as a whole are intended to be effective following an incident referred to in that paragraph.

9. A demonstration, by reference to the results of suitable and sufficient quantitative risk assessment, that the measures taken or to be taken in relation to the hazards referred to in paragraph 7, including the arrangements mentioned in that paragraph, will reduce risks to the health and safety of persons to the lowest level that is reasonably practicable.

10. Particulars of the main requirements in the specification for the design of the installation and its plant, including any limits for safe operation and use specified therein.

11. Particulars of—

(a) the limits of the environmental conditions beyond which the installation cannot safely be stationed or operated;

(b) the properties of the sea bed and subsoil which are necessary for the safe stationing and operation of the installation; and

(c) the locations in which the installation may be stationed and operated safely.

12. Sufficient particulars to demonstrate that the design of the installation and its plant is such that the risks from a major accident are at the lowest level that is reasonably practicable.

13. Particulars concerning any remedial work to be carried out to the installation or the plant referred to in the preceding paragraphs, and the time by which it will be done.

SCHEDULE 4

(Regulation 6(2))

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR COMBINED OPERATIONS

1. The names and addresses of the operators and owners preparing the safety case.

2. Particulars which, were it not for regulation 6(1), would be contained in the safety cases prepared for the installations pursuant to regulation 4(2) or 5 or in a revision thereof pursuant to regulation 9.
3. Sufficient particulars to demonstrate that the management systems referred to in those safety cases pursuant to regulation 8 will be co-ordinated so as to reduce the risks from a major accident to the lowest level that is reasonably practicable.
4. Particulars of any plant installed solely for the purpose of permitting the installations to engage in the combined operation.
5. A demonstration that any limits for the safe operation or use of plant which are contained in the specifications for the design of the installations or their plant will not be exceeded while the installations are engaged in the combined operation.
6. A programme of work for the combined operation.
7. The date when the installations will cease to be engaged in the combined operation.

SCHEDULE 5

(Regulation 7)

PARTICULARS TO BE INCLUDED IN A SAFETY CASE FOR THE DECOMMISSIONING AND DISMANTLEMENT OF A FIXED INSTALLATION

1. The name and address of the operator of the installation.
2. A description, with scale diagrams, of—
 - (a) the main and secondary structure of the installation and its materials;
 - (b) its plant;
 - (c) the layout and configuration of its plant;
 - (d) the connections made to any pipe-line or installation; and
 - (e) any wells connected to the installation.
3. A scale plan of the location of the installation and of anything connected to it, and particulars of—
 - (a) the meteorological and oceanographic conditions to which the installation may foreseeably be subjected; and
 - (b) the properties of the sea-bed and subsoil at its location.

4. Particulars of the operations which were being carried out, including activities on and in connection with the installation relating to each operation.
5. The maximum number of persons at work on the installation during decommissioning.
6. Particulars of the plant and arrangements for the control of the operations on a well, including those—
 - (a) to control the pressure in a well;
 - (b) to prevent the uncontrolled release of hazardous substances; and
 - (c) to minimise the effects to damage to subsea equipment by drilling equipment.
7. A description of any pipe-line with the potential to cause a major accident, including—
 - (a) the fluid which it conveys;
 - (b) its dimensions and layout;
 - (c) its contained volume at declared maximum allowable operating pressure; and
 - (d) any apparatus and works intended to secure safety.
8. Particulars of plant and arrangements for—
 - (a) the detection of the presence of toxic or flammable gas;
 - (b) the detection, prevention or mitigation of fires; and
 - (c) the protection of persons from their consequences.
9. Particulars of escape routes, embarkation points and means of evacuation to enable the full and safe evacuation and rescue of persons to take place in an emergency.
10. Sufficient particulars to demonstrate that the proposed arrangements, methods and procedures for—
 - (a) dealing with any wells to which the installation is connected;
 - (b) decommissioning the installation and connected pipe-lines; and
 - (c) demolishing or dismantling the installation and connected pipe-lines,

take adequate account of the design and method of construction the installation and its plant, and reduce risks from a major accident to the lowest level that is reasonably practicable.

SCHEDULE 6

(Regulation 11)

**PARTICULARS TO BE INCLUDED IN NOTIFICATION OF WELL
OPERATIONS FROM AN INSTALLATION(v)**

1. The name and address of the operator of the installation.
2. Particulars of the fluids to be used to control the pressure of the well.
3. Particulars of any plant, not described in the current safety case for the installation, which is to be used in connection with the operations on the well.
4. Particulars of the type of well, its number, and slot number, and the name of any field development of which it may be part.
5. Particulars, with scale diagrams, of—
 - (a) the location of the top of the well;
 - (b) the directional path of the well-bore;
 - (c) its terminal depth and location; and
 - (d) its position, and that of nearby wells, relative to each other.
6. A description of the operations on the well or, in the case of a fixed installation, of the operations involved in the drilling of the well, and a programme of works which includes—
 - (a) the dates on which the operations are expected to commence and finish; and
 - (b) the intended operational state of the well at the end of the operations.
7. A description of—
 - (a) any activities on or in connection with the installation, during operations on the well described pursuant to paragraph 6, which will involve any hazards with the potential to cause a major accident;
 - (b) such hazards.
8. In the case of a well which is to be drilled—

(v) heading as amended by SI 1996/913 regulation 26 and Schedule 2 paragraph 14

(a) particulars of the geological strata and formations, and of fluids within them, through which it will pass, and of any hazards with the potential to cause a major accident which they may contain;

(b) the procedures for effectively monitoring the direction of the well-bore, and for minimising the likelihood and effects of intersecting nearby wells; and

(c) a description of the design of the well, including the limits on its safe operation and use.

9. In the case of an existing well—

(a) a diagram of the well;

(b) a summary of earlier operations in relation to it;

(c) the purposes for which it has been used;

(d) its current operational state;

(e) its state of repair;

(f) the physical conditions within it; and

(g) its production capacity.

10. Where operations in relation to a well are to be carried out from a mobile installation, particulars of—

(a) the meteorological and oceanographic conditions to which the installation may foreseeably be subjected;

(b) the depth of water; and

(c) the properties of the sea-bed and subsoil,

at the location at which the operations will be carried out.

11. Where operations in relation to a well are to be carried out from a mobile installation, sufficient particulars to demonstrate that the arrangements and procedures of the operator and owner of the installation for managing the operations are co-ordinated to reduce risks from a major accident to the lowest level that is reasonably practicable.

SCHEDULE 6A(w)

(Regulation 11(5))

**PARTICULARS TO BE INCLUDED IN NOTIFICATION OF WELL
OPERATIONS FROM A VESSEL**

1. The name and address of the person notifying the particulars in this Schedule.
2. The name of the vessel by means of which the operation is to be carried out (in this Schedule referred to as "the vessel").
3. Particulars of the fluids to be used to control the pressure of the well.
4. Particulars of the type of well, its number, and slot number, and the name of any field development of which it may be part.
5. Particulars, with scale diagrams, of—
 - (a) the location of the top of the well;
 - (b) the directional path of the well-bore;
 - (c) its terminal depth and location; and
 - (d) its position, and that of nearby wells, relative to each other.
6. A description of the operations on the well and a programme of works which includes—
 - (a) the dates on which the operations are expected to commence and finish; and
 - (b) the intended operational state of the well at the end of the operations.
7. A description of—
 - (a) any activities on or in connection with the vessel during operations on the well described pursuant to paragraph 6, which will involve any hazards with the potential to cause a major accident;
 - (b) such hazards.
8. In the case of an existing well—
 - (a) a diagram of the well;
 - (b) a summary of earlier operations in relation to it;

(c) the purposes for which it has been used;

(d) its current operational state;

(e) its state of repair;

(f) the physical conditions within it; and

(g) its production capacity.

9. Particulars of—

(a) the meteorological and oceanographic conditions to which the vessel may foreseeably be subjected;

(b) the depth of water; and

(c) the properties of the sea-bed and subsoil,

at the location at which the operations will be carried out.

10. Sufficient particulars to demonstrate that the arrangements and procedures of the person notifying the particulars in this Schedule, and of the operator and owner of the vessel for managing the operations are co-ordinated to reduce risks from a major accident to the lowest level that is reasonably practicable.

SCHEDULE 7

(Regulation 12)

PARTICULARS TO BE INCLUDED IN NOTIFICATION OF CONSTRUCTION ACTIVITIES

1. The name and address of the operator of the installation.
2. The location at which the construction activity is to take place.
3. The name of any installation or heavy lift vessel to be involved in the construction activity (including one providing accommodation for persons engaged in the activity).
4. The dates on which the construction activity is expected to commence and finish.
5. A description of the nature of the construction activity and of the hazards with the potential to cause a major accident which it involves.
6. Particulars of the proposed programme of work.

7. The name of an individual who will be able to make arrangements to facilitate any inspection by an inspector of the construction activity, and details of how that person can be contacted.

SCHEDULE 8

(omitted)

SCHEDULE 9(x)

(Regulation 15B)

MATTERS TO BE PROVIDED FOR IN A VERIFICATION SCHEME

1. The principles to be applied by the duty holder for the installation in selecting persons—
 - (a) to perform functions under the scheme; and
 - (b) to keep the scheme under review.
2. Arrangements for the communication of information necessary for the proper implementation, or revision, of the scheme to the persons referred to in paragraph 1.
3. The nature and frequency of examination and testing.
4. Arrangements for review and revision of the scheme.
5. The arrangements for the making and preservation of records showing—
 - (a) the examination and testing carried out;
 - (b) the findings;
 - (c) remedial action recommended; and
 - (d) remedial action performed.
6. Arrangements for communicating the matters contained in sub-paragraphs (a) to (d) of paragraph 5 to an appropriate level in the management system of the duty holder for the installation.

EXPLANATORY NOTE
(not forming part of the above Order)

This Order applies, with modifications and exceptions, the provisions of the Offshore Installations (Safety Case) Regulations 1992 (SI 1992/2885), as amended, to the Falkland Islands and to installations and activities outside the Falkland Islands to which sections 1 to 59 of the Health and Safety at Work etc Act 1974 applies by virtue of article 4 of the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998 (S.R. & O. No. 6 of 1998).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations and Pipeline Works (Management and Administration) Order 1998

(S. R. & O. No. 8 of 1998)

ARRANGEMENT OF PROVISIONS

1. Citation and commencement
2. Interpretation
3. Application of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995

Schedule

The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 as applying under article 3 of this Order

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
2. Interpretation
3. Meaning of "offshore installation"
4. Application
5. Notification concerning offshore installations
6. Managers
7. Restraint and putting ashore
8. Co-operation
9. Records
10. Permits to work
11. Instructions
12. Communication

13. Helicopters
 14. Operational information
 15. Information to persons
 16. Health surveillance
 17. Drinking water
 18. Provisions
 19. Identification of the offshore installation
 20. Certificates of exemption
 21. *Application of Employers' Liability (Compulsory Insurance) Act 1969*
 22. Repeals and modifications of certain provisions of Part III of the Offshore Minerals Ordinance 1994
 23. *Revocation and modification of instruments*
- Schedule 1
- Schedule 2*

Note: A regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations and Pipeline Works (Management and Administration) Order 1998

S. R. & O. No. 8 of 1998

Made: 23 January 1998

Published: 30 January 1998

Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1), 36(2)(a) and (b) and 36(6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Installations and Pipeline Works (Management and Administration) Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order, “the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b) and “the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order.

Application of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995

3. The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 in the form appearing in the Schedule to this Order shall apply—

(a) in the Falkland Islands; and

(b) to and in relation to offshore installations, wells, pipe-lines and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act apply by virtue of the external application Order.

(a) No 16 of 1994

(b) S.R.&O. No. 6 of 1998

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE

The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 as applying under under article 3 of this Order

Citation and commencement

1. These Regulations may be cited as the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 in their application under the law of the Falkland Islands and in such application shall come into force on 1st February 1998.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(a);

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order”;

“the principal Order” means the Offshore Health and Safety Order 1998(b);

“apparatus or works” means—

(a) apparatus or works described in paragraphs (a) to (f); and

(b) a structure described in paragraph (g),

of the definition of “pipe-line” in article 6(2) of the external application Order;

“concession owner” in relation to an offshore installation means the person who at any time has the right to exploit or explore mineral resources in any area, or to store gas in any area and to recover gas so stored if, at that time, the installation is, or is to be, used in the exercise of that right;

“designated area” has the same meaning as in Proclamation No 1 of 1991;

(a) S.R.&O. No. 6 of 1998

(b) S.R.&O. No. 5 of 1998

“duty holder” means—

- (a) in relation to a fixed installation, the operator; and
- (b) in relation to a mobile installation, the owner;

“fixed installation” means an offshore installation other than a mobile installation;

“installation manager” means, in relation to an offshore installation, the person appointed for the purposes of regulation 6(1)(a) who is for the time being in charge of it;

“mobile installation” means an offshore installation (other than a floating production platform) which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“offshore installation” shall be construed in accordance with regulation 3;

“operator” in relation to a fixed installation means the person appointed by a concession owner to execute any function of organising or supervising any operation to be carried out by such installation or, where no such person has been appointed, the concession owner;

“owner” in relation to a mobile installation means the person who controls the operation of the installation;

“pipe-line” means a pipe-line within the meaning of article 6(2) of the external application Order;

“pipe-line works” means pipe-line works within the meaning of article 6(2) of the external application Order;

“relevant waters” means—

- (a) tidal waters and parts of the sea in or adjacent to the Falkland Islands up to the seaward limits of the territorial sea; and
- (b) any designated area;

“vessel” includes a hovercraft and any floating structure which is capable of being staffed.

(2) Any reference in these Regulations to operating an offshore installation is a reference to using the installation for any of the purposes described in regulation 3(1).

(3) For the purpose of these Regulations any structures and devices on top of a well shall be treated as forming part of the well.

(4) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation is a reference to the regulation in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears; and
- (c) a numbered Schedule is a reference to the Schedule in these Regulations so numbered.

Meaning of "offshore installation"

3.—(1) Subject to the provisions of this regulation, in these Regulations the expression "offshore installation" means a structure which is, or is to be, or has been used, while standing or stationed in relevant waters, or on the foreshore or other land intermittently covered with water—

- (a) for the exploitation, or exploration with a view to exploitation, of mineral resources by means of a well;
- (b) for the storage of gas in or under the shore or bed of relevant waters or the recovery of gas so stored;
- (c) for the conveyance of things by means of a pipe; or
- (d) mainly for the provision of accommodation for persons who work on or from a structure falling within any of the provisions of this paragraph,

and which is not an excepted structure.

(2) For the purposes of paragraph (1), the excepted structures are—

- (a) a structure which is connected with dry land by a permanent structure providing access at all times and for all purposes;
- (b) a well;
- (c) a structure or device which does not project above the sea at any state of the tide;
- (d) a structure which has ceased to be used for any of the purposes specified in paragraph (1), and has since been used for a purpose not so specified;
- (e) a mobile structure which has been taken out of use and is not for the time being intended to be used for any of the purposes specified in paragraph (1); and
- (f) any part of a pipe-line.

(3) For the purposes of these Regulations there shall be deemed to be part of an offshore installation—

- (a) any well for the time being connected to it by pipe or cable;
- (b) such part of any pipe-line connected to it as is within 500 metres of any part of its main structure;
- (c) any apparatus or works which are situated—
 - (i) on or affixed to its main structure; or
 - (ii) wholly or partly within 500 metres of any part of its main structure and associated with a pipe or system of pipes connected to any part of that installation.

(4) Where two or more structures are, or are to be, connected permanently above the sea at high tide they shall for the purposes of these Regulations be deemed to comprise a single offshore installation.

Application

4.—(1) (omitted)

(2) Regulation 6 shall not apply in relation to an offshore installation which is in transit to or from a location; and an offshore installation is not in transit to or from a location while it is being manoeuvred at the location.

(3) Save where otherwise expressly provided, nothing in regulations 6 to 13 or 15 to 18 shall impose a duty in relation to an offshore installation while there are no persons aboard.

Notification concerning offshore installations

5.—(1) The duty holder shall, no later than the date on which an offshore installation is due to enter or leave relevant waters, notify the Governor in writing of the date of its intended entry into or departure from such waters.

(2) Where there is a change of duty holder in relation to an offshore installation, the new duty holder shall ensure that it is not operated until the Governor has been notified in writing of—

- (a) the date of such change;
- (b) the name and address of the new duty holder; and
- (c) where the address furnished pursuant to sub-paragraph (b) is outside the Falkland Islands, an address in the Falkland Islands to which communications to him may be sent.

Managers

6.—(1) The duty holder shall ensure that—

(a) the offshore installation is at all times under the charge of a competent person appointed by him to manage on his behalf the installation and the persons on it; and a reference to the installation manager is a reference to such person while he is in charge;

(b) the installation manager is provided with appropriate resources to be able to carry out effectively his function, and the duties he may have to discharge under regulation 8; and

(c) the identity of the installation manager is known to or readily ascertainable by every person on the installation.

(2) For the purpose of paragraph (1)(a), a person is not in charge of an offshore installation when he is not on it unless he remains in communication with it and, in a case where it might be necessary to exercise his functions, is able to reach it promptly.

Restraint and putting ashore

7.—(1) If an installation manager has reasonable cause to believe that it is necessary or expedient to do so for the purpose of securing the safety of the offshore installation or the safety or health of persons on or near it, he may take such measures against a person on the installation, including—

(a) restraint of his person; and

(b) putting him ashore in the Falkland Islands as soon as is practicable thereafter,

as are reasonable.

(2) If it appears likely that a person will not be put ashore within twenty-four hours of being put under restraint, the installation manager shall forthwith give notice to the duty holder of his being kept under restraint and of the reason for it.

Co-operation

8.—(1) Every person shall co-operate—

(a) with the installation manager, and any other person on whom any duty is placed by regulations 5 to 19, so far as is necessary to enable him to comply with the relevant statutory provisions, including this regulation;

(b) with the installation manager, so far as is necessary to enable him to discharge his functions described in regulations 6 and 7; and

(c) with the helicopter landing officer, so far as is necessary to enable him to perform his function referred to in regulation 13.

(2) In addition to the duty placed on him by paragraph (1), an installation manager shall co-operate with the manager of another offshore installation, where an activity carried out from, by means of, or on one of the installations could affect the health and safety of persons on the other installation or of persons engaged in an activity in connection with the other installation.

(3) The duty in paragraph (1) is without prejudice to any duty owed by a master, captain or person in charge of any vessel or aircraft.

Records

9.—(1) The duty holder shall ensure that there is kept on the offshore installation or at a suitable place nearby a record of the persons who are for the time being on, or working from the installation, and containing, in relation to each such person—

(a) his full name; and

(b) the name and address of his employer, if any,

and in this regulation such a record is referred to as “the offshore record”.

(2) The duty holder shall ensure that, as soon as possible after an entry is made in the offshore record, a like entry is made together with the following additional information—

(a) the nationality of the person working on or from the installation;

(b) his date of birth;

(c) his usual residence; and

(d) the name, address and relationship of any next of kin of his,

in another record, in this regulation referred to as “the onshore record”.

(3) The duty holder shall ensure that an entry in the onshore record relating to any person is thereafter kept readily available at an address in the Falkland Islands until 28 days after he ceases to be on or to work from the installation.

Permits to work

10. In cases where, because of—

(a) the kind of work which may be done on the offshore installation; or

(b) the circumstances in which work may be done on the offshore installation,

it is necessary for the health or safety of persons to do so, the duty holder shall introduce arrangements for securing that, in such a case, a person does not do such

work save in accordance with the terms of a permit in writing, given by a competent person authorised by or on behalf of the duty holder.

Instructions

11. The duty holder shall ensure that, where necessary for the health and safety of persons—

(a) comprehensive instructions on procedures to be observed on the offshore installation are put in writing; and

(b) the relevant part of such instructions is brought to the attention of every person who is to do anything to which that part relates.

Communication

12. The duty holder shall ensure that arrangements, which are appropriate for health and safety purposes, are in place for effective communication—

(a) between the offshore installation and the shore, vessels, aircraft and other installations; and

(b) where a helicopter is to land on or take off from an offshore installation aboard which there will be no persons immediately before the landing, or after the take-off, between the helicopter and—

(i) a suitable offshore installation with persons on board; or

(ii) where there is no such installation, suitable premises ashore.

Helicopters

13. The duty holder shall ensure that—

(a) a competent person appointed to be in control of helideck operations on the offshore installation (in these Regulations referred to as “the helicopter landing officer”) is present on the installation;

(b) such person is in control throughout such operations; and

(c) such procedures are established, and plant provided, as will secure, so far as is reasonably practicable, that helideck operations, including the landing and take-off of helicopters, are without risks to health and safety.

Operational information

14. The duty holder shall make arrangements for the collection and keeping of—

(a) such meteorological and oceanographic information; and

(b) such information relating to the motions of the offshore installation,

as is necessary for securing, so far as is reasonably practicable, the safe operation of the installation and the safety of persons on or near it.

Information to persons

15.—(1) The duty holder shall ensure that the address and telephone number of the office of the Governor, the Director of Oil and of emergency services in the Falkland Islands ("the contact information") is known to or readily ascertainable by every person on the installation.

(2) The employer of a person not on an installation who is engaged in a relevant operation ("the employee") shall ensure that the contact information is known to or readily ascertainable by the employee.

(3) In paragraph (2) "relevant operation" means any of the following operations whenever it takes place otherwise than on an installation—

- (a) an activity in connection with an offshore installation;
- (b) an activity in connection with a well;
- (c) pipe-line works; or
- (d) any of the following activities in connection with pipe-line works—
 - (i) the loading, unloading, fuelling or provisioning of a vessel;
 - (ii) the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel,

being in either case a vessel which is engaged in pipe-line works.

Health surveillance

16.—(1) An employer of a person engaged in work on an offshore installation shall ensure that he is provided with such health surveillance as is appropriate to the health and safety risks incurred in the work; and, where that person is assigned to the work after the coming into force of these Regulations, the health surveillance shall be commenced before he is so assigned.

(2) In this regulation "appropriate" means appropriate having regard to the nature and magnitude of the risks to the safety and health of the employee created by the relevant work.

Drinking water

17. The duty holder shall ensure that—

(a) an adequate supply of clean, wholesome drinking water is available at suitable locations on the offshore installation; and

(b) such locations are clearly marked to show that drinking water is there.

Provisions

18. The duty holder shall ensure that all provisions for consumption by persons on the offshore installation are fit for human consumption, palatable and of good quality.

Identification of the offshore installation

19. Save where the nature of the structure makes it impracticable to do so, the duty holder shall ensure that the offshore installation—

(a) displays its name or other designation in such a manner as to make the installation readily identifiable on approach by sea or air; and

(b) displays no name, letters or figures likely to be confused with the name or other designation of another offshore installation.

Certificates of exemption

20.—(1) Subject to paragraph (2) the Governor may, by a certificate in writing, exempt any person, offshore installation or class of persons or offshore installations from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Governor shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

(a) the conditions, if any, which he proposes to attach to the exemption; and

(b) any other requirements imposed by or under any enactments which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Application of the Employers' Liability (Compulsory Insurance) Act 1969

21. (omitted)

Repeals and modifications of certain provisions of Part III of the Offshore Minerals Ordinance 1994

22.—(1) The provisions of Part III of the Offshore Minerals Ordinance 1994 specified in column 1 of Part I of Schedule 1 are repealed to the extent specified in the corresponding entry in column 3 of that Part.

(2) (omitted)

Revocation and modification of instruments

23. (omitted)

SCHEDULE 1

Part I

Repeals and modifications of provisions of
Part III of the Offshore Minerals Ordinance 1994

Column 1 Provision	Column 2 Description	Column 3 Extent of repeal
section 22	Application of section 22 and sections 23 to 29	The whole section.
section 24	Construction and survey regulations for offshore installations	In sub-section (3) the words "and of the installation manager, and of every person who, in relation to the installation, is a concession owner"; where they next occur, the words "the installation manager and every person who, in relation to the installation, is a concession owner".
section 25	Managers of offshore installations	The whole section.
section 26	Managers of offshore installation, further provisions	The whole section.

Part II

Modification of section 12(1) of the 1971 Act

(omitted)

SCHEDULE 2

Revocation and modification of instruments

(omitted)

EXPLANATORY NOTE
(this note is not part of the Regulations)

1. These Regulations contain requirements for the management and administration of offshore oil and gas installations, for purposes of health and safety.
2. Most of the duties imposed by the Regulations are on "the duty holder" who is, by regulation 2(1), in relation to a fixed installation, the "operator" and, in relation to a mobile installation, the "owner".
3. Regulation 5 requires the duty holder to notify the Governor of the date of the intended entry or departure of an installation into or from relevant waters; and, where there is a change of duty holder, prohibits the operation of the installation until details have been notified to the Governor.
4. Regulation 6 requires the appointment of an installation manager and contains other requirements in relation to him.
5. Regulation 7 empowers the installation manager to take reasonable measures against a person, including his restraint or putting him ashore, for certain health and safety reasons.
6. Regulation 8 requires every person to co-operate with the installation manager, and any other person on whom any duty is placed by these Regulations, so far as is necessary to enable them to comply with "the relevant statutory provisions" within the meaning of the Health and Safety at Work etc Act 1974 in its application to the Falkland Islands; and for certain express purposes with the installation manager and helicopter landing officer. Managers of installations are required to co-operate with each other for certain health and safety reasons.
7. Regulation 9 requires a record to be kept on the installation, and ashore, of persons for the time being on the installation.
8. Regulation 10 requires a "permit to work" system on an installation where necessary for health and safety reasons.
9. Regulation 11 requires the giving of written instructions on procedures to be observed for health and safety reasons.
10. Regulation 12 contains requirements for effective communications.
11. Regulation 13 contains requirements in relation to helideck operations.
12. Regulation 14 requires the keeping of information on the weather and other information.

13. Regulation 15 requires that people on an installation, or engaged in certain other offshore activities, have access to relevant addresses and telephone numbers.
14. Regulation 16 contains a requirement for health surveillance.
15. Regulation 17 requires drinking water to be readily available on an installation.
16. Regulation 18 requires that provisions on the installation are of adequate quality.
17. Regulation 19 contains requirements as to the visual identification of an installation.
18. Regulation 20 provides for the granting of certificates of exemption by the Governor.
19. Regulation 22 and Schedule 1 repeals certain provisions of the Offshore Minerals Ordinance 1994.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Management of Health and Safety at Work Order 1998

(S.R. & O. No. 9 of 1998)

ARRANGEMENT OF PROVISIONS

1. Citation and commencement
2. Interpretation
3. Application of the Management of Health and Safety at Work Regulations 1992

SCHEDULE

The Management of Health and Safety at Work Regulations 1992 as applying under article 3 of the Order

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Disapplication of these Regulations
3. Risk assessment
4. Health and safety arrangements
5. Health surveillance
6. Health and safety assistance
7. Procedures for serious and imminent danger and for danger areas
8. Information for employees
9. Co-operation and co-ordination
10. Persons working in host employers' or self-employed persons' undertakings
11. Capabilities and training
12. Employees' duties
13. Temporary workers

13A.)
to *Provisions as to protection of women*
13C.)

13D. Protection of young persons

14. *Exemption certificates*

15. Exclusion of civil liability

16. Extension outside the Falkland Islands

17. *Modification of instrument*

Schedule
Modification of Instrument

Note: A regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Management of Health and Safety at Work Order 1998

(S.R. & O. No 9 of 1998)

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under sections 27(1), 36(2)(b) and 36(6) of the Offshore Minerals Ordinance 1994(a), and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Management of Health and Safety at Work Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b).

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order.

Application of the Management of Health and Safety at Work Regulations 1992

3. The Management of Health and Safety at Work Regulations 1992 in the form appearing in the Schedule to this Order shall apply—

(a) in the Falkland Islands;

(b) in relation to installations and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act(c) apply by virtue of the external application Order.

(a) No. 16 of 1994

(b) S.R. & O. No. 6 of 1998

(c) 1974 c.37

Made this 23rd day of January 1998

R. P. Ralph
Governor

SCHEDULE

The Management of Health and Safety at Work Regulations 1992 as applying under article 3 of this Order

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Management of Health and Safety at Work Regulations 1992 in their application under the law of the Falkland Islands and shall come into force on 1st February 1998.

(2) In these Regulations—

“the assessment” means, in the case of an employer or self-employed person, the assessment made or changed by him in accordance with regulation 3;

“child” means a person who has not attained the upper limit of compulsory school age, construed in accordance with the Education Ordinance 1989(a);

“employment business” means a business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) which supplies persons (other than seafarers) who are employed in it to work for and under the control of other persons in any capacity;

“the external application Order” means the Health and Safety at Work (Application outside the Falkland Islands) Order 1998;

“fixed-term contract of employment” means a contract of employment for a specific term which is fixed in advance or which can be ascertained in advance by reference to some relevant circumstance; and

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order;

“the preventive and protective measures” means the measures which have been identified by the employer or by the self-employed person in consequence of the assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions;

“young person” means any person who has not attained the age of eighteen.

(3) Any reference in these Regulations to—

(a) a numbered regulation is a reference to the regulation in these Regulations so numbered; or

(b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears.

Disapplication of these Regulations

2.—(1) These Regulations shall not apply to or in relation to the master or crew of a sea-going ship or to the employer of such persons in respect of the normal ship-board activities of a ship's crew under the direction of the master.

(2) (omitted)

Risk assessment

3.—(1) Every employer shall make a suitable and sufficient assessment of—

(a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and

(b) the risks to the health and safety of persons not in his employment arising out of the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Every self-employed person shall make a suitable and sufficient assessment of—

(a) the risks to his own health and safety to which he is exposed whilst he is at work; and

(b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(3) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the employer or self-employed person who made it if—

(a) there is reason to suspect that it is no longer valid; or

(b) there has been a significant change in the matters to which it relates;

and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them.

(3A) Subject to paragraph (3B), an employer shall not employ a young person unless he has, in relation to risks to the health and safety of young persons, made or reviewed an assessment in accordance with paragraphs (1) and (3C).

(3B) Where an employer is employing a young person when this paragraph comes into force he shall, in relation to risks to the health and safety of young persons, review the assessment forthwith.

(3C) In making or reviewing the assessment, an employer who employs or is to employ a young person shall take particular account of—

- (a) the inexperience, lack of awareness of risks and immaturity of young persons;
- (b) the fitting out and layout of the workplace and the workstation;
- (c) the nature, degree and duration of exposure to physical, biological and chemical agents;
- (d) the form, range and use of work equipment and the way it is installed;
- (e) the organisation of processes and activities;
- (f) the extent of health and safety training provided or to be provided to young persons; and
- (g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC on the protection of young people at work(b);

(4) Where the employer employs five or more employees, he shall record—

- (a) the significant findings of the assessment; and
- (b) any group of his employees identified by it as being especially at risk.

Health and safety arrangements

4.—(1) Every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) Where the employer employs five or more employees, he shall record the arrangements referred to in paragraph (1).

Health surveillance

5. Every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment.

Health and safety assistance

6.—(1) Every employer shall, subject to paragraphs (6) and (7), appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Where an employer appoints persons in accordance with paragraph (1), he shall make arrangements for ensuring adequate co-operation between them.

(3) The employer shall ensure that the number of persons appointed under paragraph (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of his undertaking, the risks to which his employees are exposed and the distribution of those risks throughout the undertaking.

(4) The employer shall ensure that—

(a) any person appointed by him in accordance with paragraph (1) who is not in his employment—

(i) is informed of the factors known by him to affect, or suspected by him of affecting, the health and safety of any other person who may be affected by the conduct of his undertaking, and

(ii) has access to the information referred to in regulation 8; and

(b) any person appointed by him in accordance with paragraph (1) is given such information about any person working in his undertaking who is—

(i) employed by him under a fixed-term contract of employment, or

(ii) employed in an employment business,

as is necessary to enable that person properly to carry out the function specified in that paragraph.

(5) A person shall be regarded as competent for the purposes of paragraph (1) where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the measures referred to in that paragraph.

(6) Paragraph (1) shall not apply to a self-employed employer who is not in partnership with any other person where he has sufficient training and experience or knowledge and other qualities properly to undertake the measures referred to in that

paragraph himself.

(7) Paragraph (1) shall not apply to individuals who are employers and who are together carrying on business in partnership where at least one of the individuals concerned has sufficient training and experience or knowledge and other qualities—

(a) properly to undertake the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions; and

(b) properly to assist his fellow partners in undertaking the measures they need to take to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions.

Procedures for serious and imminent danger and for danger areas

7.—(1) Every employer shall—

(a) establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work in his undertaking;

(b) nominate a sufficient number of competent persons to implement those procedures insofar as they relate to the evacuation from premises of persons at work in his undertaking; and

(c) ensure that none of his employees has access to any area occupied by him to which it is necessary to restrict access on grounds of health and safety unless the employee concerned has received adequate health and safety instruction.

(2) Without prejudice to the generality of paragraph (1)(a), the procedures referred to in that sub-paragraph shall—

(a) so far as is practicable, require any persons at work who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

(b) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and

(c) save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person shall be regarded as competent for the purposes of paragraph (1)(b) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that subparagraph.

Information for employees

8.—(1) Every employer shall provide his employees with comprehensible and relevant information on—

- (a) the risks to their health and safety identified by the assessment;
- (b) the preventive and protective measures;
- (c) the procedures referred to in regulation 7(1)(a);
- (d) the identity of those persons nominated by him in accordance with regulation 7(1)(b); and
- (e) the risks notified to him in accordance with regulation 9(1)(c).

(2) Every employer shall, before employing a child, provide a parent of the child with comprehensible and relevant information on—

- (a) the risks to his health and safety identified by the assessment;
- (b) the preventive and protective measures; and
- (c) the risks notified to him in accordance with regulation 9(1)(c).

(3) The reference in paragraph (2) to a parent of a child includes a reference to a person who has parental responsibility within the meaning of section 4 of the Children Ordinance 1994(c).

Co-operation and co-ordination

9.—(1) Where two or more employers share a workplace (whether on a temporary or a permanent basis) each such employer shall—

- (a) co-operate with the other employers concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions;
- (b) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions with the measures

the other employers concerned are taking to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions; and

(c) take all reasonable steps to inform the other employers concerned of the risks to their employees' health and safety arising out of or in connection with the conduct by him of his undertaking.

(2) Paragraph (1) shall apply to employers sharing a workplace with self-employed persons and to self-employed persons sharing a workplace with other self-employed persons as it applies to employers sharing a workplace with other employers; and the references in that paragraph to employers and the reference in the said paragraph to their employees shall be construed accordingly.

Persons working in host employers' or self-employed persons' undertakings

10.—(1) Every employer and every self-employed person shall ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with comprehensible information on—

(a) the risks to those employees' health and safety arising out of or in connection with the conduct by that first-mentioned employer or by that self-employed person of his undertaking; and

(b) the measures taken by that first-mentioned employer or by that self-employed person in compliance with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions insofar as the said requirements and prohibitions relate to those employees.

(2) Paragraph (1) shall apply to a self-employed person who is working in the undertaking of an employer or a self-employed person as it applies to employees from an outside undertaking who are working therein; and the reference in that paragraph to the employer of any employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person and the references in the said paragraph to employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person shall be construed accordingly.

(3) Every employer shall ensure that any person working in his undertaking who is not his employee and every self-employed person (not being an employer) shall ensure that any person working in his undertaking is provided with appropriate instructions and comprehensible information regarding any risks to that person's health and safety which arise out of the conduct by that employer or self-employed person of his undertaking.

(4) Every employer shall—

(a) ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with sufficient information to enable that second-mentioned employer to identify any person nominated by that first-mentioned employer in accordance with regulation 7(1)(b) to implement

evacuation procedures as far as those employees are concerned; and

(b) take all reasonable steps to ensure that any employees from an outside undertaking who are working in his undertaking receive sufficient information to enable them to identify any person nominated by him in accordance with regulation 7(1)(b) to implement evacuation procedures as far as they are concerned.

(5) Paragraph (4) shall apply to a self-employed person who is working in an employer's undertaking as it applies to employees from an outside undertaking who are working therein; and the reference in that paragraph to the employer of any employees from an outside undertaking who are working in an employer's undertaking and the references in the said paragraph to employees from an outside undertaking who are working in an employer's undertaking shall be construed accordingly.

Capabilities and training

11.—(1) Every employer shall, in entrusting tasks to his employees, take into account their capabilities as regards health and safety.

(2) Every employer shall ensure that his employees are provided with adequate health and safety training—

(a) on their being recruited into the employer's undertaking; and

(b) on their being exposed to new or increased risks because of—

(i) their being transferred or given a change of responsibilities within the employer's undertaking,

(ii) the introduction of new work equipment into or a change respecting work equipment already in use within the employer's undertaking,

(iii) the introduction of new technology into the employer's undertaking, or

(iv) the introduction of a new system of work into or a change respecting a system of work already in use within the employer's undertaking.

(3) The training referred to in paragraph (2) shall—

(a) be repeated periodically where appropriate;

(b) be adapted to take account of any new or changed risks to the health and safety of the employees concerned; and

(c) take place during working hours.

Employees' duties

12.—(1) Every employee shall use any machinery, equipment, dangerous substance,

transport equipment, means of production or safety device provided to him by his employer in accordance both with any training in the use of the equipment concerned which has been received by him and the instructions respecting that use which have been provided to him by the said employer in compliance with the requirements and prohibitions imposed upon that employer by or under the relevant statutory provisions.

(2) Every employee shall inform his employer or any other employee of that employer with specific responsibility for the health and safety of his fellow employees—

(a) of any work situation which a person with the first-mentioned employee's training and instruction would reasonably consider represented a serious and immediate danger to health and safety; and

(b) of any matter which a person with the first-mentioned employee's training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for health and safety,

in so far as that situation or matter either affects the health and safety of that first-mentioned employee or arises out of or in connection with his own activities at work, and has not previously been reported to his employer or to any other employee of that employer in accordance with this paragraph.

Temporary workers

13.—(1) Every employer shall provide any person whom he has employed under a fixed-term contract of employment with comprehensible information on—

(a) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and

(b) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions,

and shall provide the said information before the employee concerned commences his duties.

(2) Every employer and every self-employed person shall provide any person employed in an employment business who is to carry out work in his undertaking with comprehensible information on—

(a) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and

(b) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions.

(3) Every employer and every self-employed person shall ensure that every person carrying on an employment business whose employees are to carry out work in his

undertaking is provided with comprehensible information on—

- (a) any special occupational qualifications or skills required to be held by those employees if they are to carry out their work safely; and
- (b) the specific features of the jobs to be filled by those employees (in so far as those features are likely to affect their health and safety);

and the person carrying on the employment business concerned shall ensure that the information so provided is given to the said employees.

Provisions as to protection of women

13A to 13C (omitted)

Protection of young persons

13D.—(1) Every employer shall ensure that young persons employed by him are protected at work from any risks to their health or safety which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.

(2) Subject to paragraph (3), no employer shall employ a young person for work—

- (a) which is beyond his physical or psychological capacity;
- (b) involving harmful exposure to agents which are toxic or carcinogenic, cause heritable genetic damage or harm to the unborn child or which in any other way chronically affect human health;
- (c) involving harmful exposure to radiation;
- (d) involving the risk of accidents which it may reasonably be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- (e) in which there is a risk to health from—
 - (i) extreme cold or heat;
 - (ii) noise; or
 - (iii) vibration,

and in determining whether work will involve harm or risk for the purposes of this paragraph, regard shall be had to the results of the assessment.

(3) Nothing in paragraph (2) shall prevent the employment of a young person who is no longer a child for work—

- (a) where it is necessary for his training;
 - (b) where the young person will be supervised by a competent person; and
 - (c) where any risk will be reduced to the lowest level that is reasonably practicable.
- (4) The provisions contained in this regulation are without prejudice to—
- (a) the provisions contained elsewhere in these Regulations; and
 - (b) any prohibition or restriction, arising otherwise than by this regulation, on the employment of any person.

Exemption certificates

14. (omitted)

Exclusion of civil liability

15. Breach of a duty imposed by these Regulations shall not confer a right of action in any civil proceedings.

Extension outside the Falkland Islands

16.—(1) These Regulations shall, subject to regulation 2, apply to and in relation to the premises and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application Outside the Falkland Islands) Order 1998.

(2) For the purposes of Part I of the 1974 Act, the meaning of “at work” shall be extended so that an employee or a self-employed person shall be treated as being at work throughout the time that he is present at the premises to and in relation to which these Regulations apply by virtue of paragraph (1); and, in that connection, these Regulations shall have effect subject to the extension effected by this paragraph.

Modification of instrument

17. (omitted)

THE SCHEDULE

(omitted)

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, because of the provisions of the Order under which they are applied, apply only in respect of offshore minerals exploration and exploitation operations.

2. Regulation 3 requires employers and self-employed persons to make assessments of the health and safety risks to which their respective undertakings give rise, for the purpose of ascertaining what they have to do to comply with their obligations under health and safety legislation. Regulation 3 also makes provision for the review and recording of risk assessments.

3. Regulation 4 requires employers to make, give effect to and in certain cases record appropriate health and safety arrangements.

4. Regulation 5 requires employers to ensure that their employees are provided with appropriate health surveillance.

5. Regulation 6 requires employers to appoint an adequate number of competent persons to assist them to comply with their obligations under health and safety legislation unless (in the case of a sole trader or a partnership) the employer concerned already has sufficient competence to comply with the relevant obligations without assistance. Regulation 6, as well as defining "competent person" in this context, also requires employers—

(a) to make arrangements for ensuring adequate co-operation between the competent persons they appoint; and

(b) to provide the competent persons they appoint with—

(i) the facilities necessary to enable them to carry out their functions, and

(ii) specified health and safety information.

6. Regulation 7 requires employers—

(a) to establish and give effect to procedures to be followed in the event of serious and imminent danger to persons working in their respective undertakings;

(b) to nominate competent persons to implement those procedures in so far as they relate to the evacuation from premises of persons at work in their respective undertakings; and

(c) restrict access to any danger areas occupied by them. Regulation 7 also specifies in detail what the procedures referred to above must achieve and defines what is meant by "competent person" in this context.

7. Regulation 8 requires employers to provide their employees with specified health and safety information.

8. Regulation 9 requires every employer and self-employed person who shares a workplace with any other employer or self-employed person to—

(a) co-operate with that other person so far as is necessary to enable him to comply with his statutory health and safety obligations;

(b) co-ordinate the measures he takes in compliance with his statutory health and safety obligations with the measures being taken in that regard by that other person; and

(c) take steps to provide that other person with specified health and safety information.

9. Regulation 10 requires employers and self-employed persons to ensure that—

(a) the employers of any employees from outside undertakings who are working in their respective undertakings are provided with specified health and safety information;

(b) self-employed persons who are working in their respective undertakings are provided with specified health and safety instructions and information; and

(c) any employees from outside undertakings who are working in their respective undertakings are provided with specified health and safety instructions and information.

10. Regulation 11 requires employers—

(a) to consider their employees' capabilities as regards health and safety when entrusting tasks to them; and

(b) to ensure that in specified circumstances their employees are provided with adequate health and safety training. Regulation 11 also specifies when the training referred to above is to be provided and the circumstances in which it is to be repeated or adapted.

11. Regulation 12 requires employees—

(a) to use machinery, equipment, dangerous substances, transport equipment, means of production and safety devices in accordance with any relevant training and instructions; and

(b) to inform their respective employers or any specified fellow employees of dangerous work situations and shortcomings in those employers' health and safety arrangements.

12. Regulation 13—

(a) requires employers and self-employed persons to provide temporary workers in their respective undertakings with health and safety information before they commence their duties;

(b) requires employers and self-employed persons to provide any employment business whose employees are to carry out work in their respective undertakings with specified health and safety information about the work to be done by those employees; and

(c) requires any employment business provided with information by an employer or self-employed person in pursuance thereof to pass that information on to the employees to whom it relates.

13. Regulation 13D contains provisions in relation to the employment of young persons.

14. Regulation 15 provides that breach of a duty imposed by the Regulations does not confer a right of action in civil proceedings.

15. Regulation 16—

(a) extends the application of the Regulations to and in relation to certain offshore matters; and

(b) extends the meaning of "at work" so that for the purposes of the Regulations an employee or a self-employed person is treated as being at work at all times when he is present at the premises to and in relation to which the Regulations apply by virtue of that regulation.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Provision and Use of Work Equipment Order 1998

(S.R. & O. No. 10 of 1998)

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1) and section 36(2)(b) and (6) of the Offshore Minerals Ordinance 1994(a), and of all other powers me enabling in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Provision and Use of Work Equipment Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the 1992 Regulations” means the Provision and Use of Work Equipment Regulations 1992(b); and

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(c);

“offshore installation” has the same meaning as it has under section 36(5)(a) of the Offshore Minerals Ordinance 1994(d); and

Application of the 1992 Regulations

3. The 1992 Regulations shall, subject to the exceptions and modifications specified in the Schedule to these Regulations, apply to and in respect of offshore installations and places of work to which the external application Order applies.

(a) No. 16 of 1994

(b) SI 1992/2932

(c) S. R. & O. No. 6 of 1998

(d) i.e. section 36(5)(a) of the Offshore Minerals Ordinance 1994 as amended by the Offshore Minerals (Amendment) Ordinance 1997 (No. 16 of 1997)

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE

Exceptions and modifications in relation to the application of the 1992 Regulations under article 3 of this Order

Exceptions

1. Regulations 1(2) and (3), 4(2)(c), 10(3), 12(5), 25, 26 and 27 and Schedule 2 to the Regulations shall not apply.

Modifications

2. Regulation 10(1) shall have effect as if the following words appeared at the end of that paragraph—

“and this paragraph and paragraph (2) shall have effect as if—

(a) any such enactment which does not otherwise form part of the law of the Falkland Islands formed part of such law by virtue of the provisions of section 81A of the Interpretation and General Clauses Ordinance 1977(f), subject only to such modifications as are required by virtue of section 76(4) of that Ordinance(g); and

(b) the relevant Community Directives applied in respect of the Falkland Islands to the same extent as they apply in respect of Great Britain.”

EXPLANATORY NOTE

(not forming part of the above Order)

This Order applies to and in relation to offshore installations and places of work to which the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998 applies the provisions of the Provision and Use of Work Equipment Regulations 1992 (SI 1992/2932) subject to the exceptions and modifications specified in the Schedule to the Order.

(f) No. 14 of 1977. The present form of section 81A was inserted by No. 17 of 1992 and has the effect of applying to the Falkland Islands, subject to the provisions of the section, English legislation which was in effect and of general application on 22nd May 1900 but, where that legislation has been repealed, has been amended, modified or augmented, it applies, subject to the provisions of the section, the current English law on the subject matter

(g) i.e. “such modifications as to names, designations, localities, courts, public bodies, officers, persons, moneys or penalties as are specified in the Schedule to this Ordinance and, in so far as not so specified, otherwise as may be necessary to render the same applicable to the circumstances of the Falkland Islands”



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

30th January 1998

No. 5

The following are published in this Supplement -

The Personal Protective Equipment at Work Order 1998, (S.R. & O. No. 11 of 1998);

The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Order 1998, (S.R. & O. No. 12 of 1998);

The Offshore Installations and Wells (Design and Construction, etc.) Order 1998, (S.R. & O. No. 13 of 1998);

The Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998, (S.R. & O. No. 14 of 1998);

The Offshore Minerals (Application of Employers' Liability (Compulsory Insurance) Act 1969) Regulations 1998, (S.R. & O. No. 15 of 1998).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Personal Protective Equipment at Work Order 1998

(S. R. & O. No. 11 of 1998)

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1), section 36(2)(b) and section 36(6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Personal Protective Equipment at Work Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the 1992 Regulations” mean the Personal Protective Equipment at Work Regulations 1992(b);

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(c);

“offshore installation” has the same meaning as it has under section 36(5)(a) of the Offshore Minerals Ordinance 1994(d).

Application of the 1992 Regulations

3. The 1992 Regulations shall, subject to the exceptions and modifications specified in the Schedule to these Regulations, apply to and in respect of offshore installations and places of work to which the external application Order applies.

(a) No. 16 of 1994

(b) SI 1992/2966

(c) S.R. & O. No. 6 of 1998

(d) i.e. section 36(5)(a) of the Offshore Minerals Ordinance 1994 as amended by the Offshore Minerals (Amendment) Ordinance 1997 (No. 16 of 1997)

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE

Exceptions and modifications in relation to the application of the 1992 Regulations under article 3 of this Order

Exceptions

1. Regulations 3(2)(d), 3(3), 13 and 14 and Schedules 2 and 3 shall not apply.

Modifications

2. Regulation 4(3) shall have effect as if the following words appeared at the end of that paragraph—

“and sub-paragraph (e) of this paragraph shall have effect as if—

(i) any enactment to which it relates which does not otherwise form part of the law of the Falkland Islands formed part of such law by virtue of the provisions of section 81A of the Interpretation and General Clauses Ordinance 1977^(f), subject only to such modifications as are required by virtue of section 76(4) of that Ordinance^(g); and

(ii) any relevant Community Directive to which it relates for the time being applied to the same extent in respect of the Falkland Islands as it does in respect of Great Britain.”

EXPLANATORY NOTE

(not forming part of the above Order)

This Order applies to and in relation to offshore installations and places of work to which the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998 applies the provisions of the Personal Protective Equipment at Work Regulations 1992 (SI 1992/2966) subject to the exceptions and modifications specified in the Schedule to the Order.

^(f) No. 14 of 1977. The present form of section 81A was inserted by No. 17 of 1992 and has the effect of applying to the Falkland Islands, subject to the provisions of the section, English legislation which was in effect and of general application on 22nd May 1900 but, where that legislation has been repealed, has been amended, modified or augmented, it applies, subject to the provisions of the section, the current English law on the subject matter.

^(g) i.e. “such modifications as to names, designations, localities, courts, public bodies, officers, persons, moneys or penalties as are specified in the Schedule to this Ordinance and, in so far as not so specified, otherwise as may be necessary to make the same applicable to the circumstances of the Falkland Islands”

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Order 1998

S. R. & O. No. 12 of 1998

ARRANGEMENT OF PROVISIONS

1. Citation and commencement
2. Interpretation
3. Application of the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1992

Schedule

The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1992 as applying under article 3 of this Order

ARRANGEMENT OF REGULATIONS

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17. Arrangements for recovery and rescue
18. Suitability of personal protective equipment for use in an emergency
19. Suitability and condition of plant
20. Life-saving equipment
21. Information regarding plant
22. Certificates of exemption
23. *Amendment of the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989*
24. *Amendment of the Offshore Installations (Safety Case) Regulations 1992*
25. *Revocation*

*Schedule
Revocation*

Note: A regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Order 1998

S. R. & O. No. 12 of 1998

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1), 36(2)(b) and 36(6) of the Offshore Minerals Ordinance 1994(a), and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b); and

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order.

Application of the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1992

3. The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995(c) in the form appearing in the Schedule to this Order shall apply—

(a) in the Falkland Islands;

(a) No 16 of 1994

(b) S.R.&O. No. 6 of 1998

(c) SI 1995/743

(b) to and in relation to activities in relation to installations and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act(d) apply by virtue of the external application Order.

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE

(article 3)

The Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995 as applying under article 3 of this Order

Citation and commencement

1. These Regulations may be cited as the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 in their application under the law of the Falkland Islands and except for paragraph (2) of regulation 11 shall come into force on 1st February 1998.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the external application Order” means the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998(a);

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order;

“the 1995 Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(b) in their application to the Falkland Islands(c);

“acoustic signal” means a coded sound signal which is released and transmitted by a device designed for that purpose, without the use of a human or artificial voice;

“concession owner” in relation to a fixed installation has the same meaning as in regulation 2(1) of the 1995 Regulations;

“duty holder” means—

(a) in relation to a fixed installation, the operator; and

(b) in relation to a mobile installation, the owner;

“emergency” means an emergency of a kind which can require evacuation, escape or rescue;

“emergency response” means action to safeguard the health and safety of persons on or near an installation in an emergency;

(a) S.R.&O. No. 6 of 1998

(b) SI 1992/2885

(c) under the Offshore Installations and Pipeline (Management and Administration) Works Order 1998 (S. R. & O. No. 8 of 1998)

“evacuation” means the leaving of an installation and its vicinity, in an emergency, in a systematic manner and without directly entering the sea;

“the Executive” means the Health and Safety Executive;

“explosion” means unplanned explosion;

“fire” means unplanned or uncontrolled fire;

“fixed installation” means an installation other than a mobile installation;

“illuminated sign” means a sign produced by a device made of transparent or translucent materials which are illuminated from the inside or the rear in such a way as to give the appearance of a luminous surface;

“installation” means an offshore installation within the meaning of regulation 3 of the 1995 Regulations;

“major accident” has the same meaning as in regulation 2(1) of the Offshore Installations (Safety Case) Regulations 1992(d) in their application under the law of the Falkland Islands(e);

“mobile installation” means an installation (other than a floating production platform) which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“muster areas” shall be construed in accordance with regulation 14(1)(a);

“operator” in relation to—

(a) a fixed installation means the person appointed by a concession owner to execute any function of organising and supervising any operation to be carried out by such installation or, where no such person has been appointed, the concession owner; and

(b) a mobile installation means the person for whom the owner has agreed to carry out the operation concerned or, where no such person has been appointed, the concession owner;

“owner” in relation to a mobile installation means the person who controls the operation of the installation; and

(d) SI 1992/2885 as amended by SI 1995/738, SI 1995/743, SI 1996/9 and SI 1996/913

(e) under the Offshore Installations (Safety Case) Order 1998 (S.R.&O. No. 7 of 1998)

“personal protective equipment” has the same meaning as in regulation 2(1) of the Personal Protective Equipment at Work Regulations 1992(f) in their application to the Falkland Islands(g);

(2) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation is a reference to the regulation in these Regulations so numbered;
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference appears.

Application

3.—(1) (omitted)

(2) Regulations 4 to 22 shall not apply in relation to an installation which is in transit to or from a station and an installation is not in transit to or from a station while it is being manoeuvred in the station.

General duty

4.—(1) The duty holder shall take appropriate measures with a view to—

- (a) preventing persons on the installation from fire and explosion; and
- (b) securing effective emergency response.

(2) Any more detailed requirement in regulations 6 to 21 for the purpose referred to in paragraph (1) shall be without prejudice to the generality of paragraph (1).

Assessment

5.—(1) The duty holder shall perform, and thereafter repeat as often as may be appropriate a process (in this regulation called “an assessment”) described in paragraph (2) in relation to the installation.

(2) An assessment shall consist of—

- (a) the identification of the various events which could give rise to—
 - (i) a major accident involving fire or explosion; or
 - (ii) the need (whether or not by reason of fire or explosion) for evacuation, escape or rescue to avoid or minimise a major accident;
- (b) the evaluation of the likelihood and consequences of such events;

(f) SI 1992/2966

(g) under S. R. & O. No 11 of 1998

(c) the establishment of appropriate standards of performance to be attained by anything provided by measures for—

(i) ensuring effective evacuation, escape, recovery and rescue to avoid or minimise a major accident; and

(ii) otherwise protecting persons from a major accident involving fire or explosion; and

(d) the selection of appropriate measures.

(3) The duty holder shall—

(a) record the assessment (including each repetition of it);

(b) keep the record at an address in the Falkland Islands; and

(c) notify the Governor of such address.

Preparation for emergencies

6.—(1) The duty holder shall establish such appropriate organisation and arrangements as are to have effect in, or in anticipation of, an emergency and which shall include arrangements—

(a) for command by competent persons which can be maintained, so far as is practicable, throughout an emergency;

(b) for there to be a sufficient number of persons on the installation competent to undertake emergency duties and operate relevant equipment;

(c) in the case of an installation on which personnel are present, for a sufficient number of such persons to be in attendance at the helicopter landing area during helicopter movements; and

(d) for lists of persons referred to in sub-paragraphs (a), (b) and (c) above to be posted at suitable locations on the installation when persons are present.

(2) The duty holder shall ensure that every person on the installation—

(a) is provided with adequate instruction and training in the appropriate action to take in an emergency; and

(b) can consult written information on the use of emergency plant.

Equipment for helicopter emergencies

7. The duty holder shall ensure that there is kept available near the helicopter landing area equipment necessary for use in the event of an accident involving a helicopter.

Emergency response plan

8.—(1) The duty holder shall, after consulting persons who are likely to become involved in emergency response, prepare and, as often as is appropriate, revise a document (in this regulation called “the emergency response plan”) containing sufficient information, for the guidance of such persons, on—

(a) the organisation and arrangements which are to have effect in an emergency; and

(b) procedures by way of emergency response to be followed in different circumstances.

(2) The duty holder shall ensure that—

(a) the emergency response plan is available to all persons on the installation; and

(b) each person on the installation, and each person who may be called upon to assist in implementing the emergency response plan, are given such notification of its contents as is sufficient for them.

(3) The duty holder shall ensure that the organisation, arrangements and procedures referred to in paragraph (1) are tested, by practice and otherwise, as often as may be appropriate.

(4) Every person on the installation shall, in an emergency, so far as is practicable, conform to the appropriate procedure in the plan.

Prevention of fire and explosion

9.—(1) The duty holder shall take appropriate measures with a view to preventing fire and explosion, including such measures to—

(a) ensure the safe production, processing, use, storage, handling, treatment, movement and other dealings with flammable and explosive substances;

(b) prevent the uncontrolled release of flammable or explosive substances;

(c) prevent the unwanted or unnecessary accumulation of combustible, flammable or explosive substances and atmospheres; and

(d) prevent the ignition of such substances and atmospheres.

(2) The measures to prevent ignition referred to in paragraph (1) shall include—

(a) identifying and designating areas in which there is a risk of a flammable or explosive atmosphere occurring;

(b) controlling the carrying on of hazardous activities in such areas;

(c) ensuring that, save under procedures pursuant to sub-paragraph (b) above, no plant is used in such areas unless suitable for use within them; and

(d) controlling the placing or use in such areas of electrical fixtures or other sources of ignition.

Detection of incidents

10. The duty holder shall take appropriate measures—

(a) with a view to detecting fire and other events which may require emergency response, including the provision of means for—

(i) detecting and recording accumulations of flammable or toxic gases; and

(ii) identifying leakages of flammable liquids; and

(b) with a view to enabling information regarding such incidents to be conveyed forthwith to places from which control action can be instigated.

Communication

11.—(1) The duty holder shall make appropriate arrangements—

(a) for giving warning of an emergency, by audible and, where necessary, visual alarm systems, to all persons on the installation; and

(b) for the purpose of emergency response, for communication between—

(i) persons on the installation;

(ii) the installation and persons not on it and engaged in activities in connection with it; and

(iii) the installation and persons beyond it;

and shall ensure that, so far as is reasonably practicable, the arrangements are capable of remaining effective in an emergency.

(2) With effect from such date as may be appointed by the Governor by notice published in the *Gazette*, the duty holder shall ensure that—

(a) an illuminated sign provided pursuant to paragraph (1)(a) is—

(i) in the case of a warning of toxic gas, a red flashing sign; and

(ii) in all other cases, a yellow flashing sign; and

(b) an acoustic signal provided pursuant to paragraph (1)(a) is—

- (i) in the case of a warning to prepare for evacuation, a continuous signal of variable frequency;
- (ii) in the case of a warning of toxic gas, a continuous signal of a constant frequency; and
- (iii) in all other cases, an intermittent signal of a constant frequency.

Control of emergencies

12. The duty holder shall—

- (a) take appropriate measures with a view to limiting the extent of an emergency, including such measures to combat fire and explosion; and
- (b) shall ensure that—
 - (i) where appropriate, those measures include provision for the remote operation of plant; and
 - (ii) so far as is reasonably practicable, any arrangements made and plant provided pursuant to this regulation are capable of remaining effective in an emergency.

Mitigation of fire and explosion

13. The duty holder shall—

- (a) take appropriate measures with a view to protecting persons on the installation during an emergency from the effects of fire and explosion; and
- (b) ensure that, so far as is reasonably practicable, any arrangements made and plant provided pursuant to this regulation are capable of remaining effective in an emergency.

Muster areas etc

14.—(1) The duty holder shall make appropriate provision for—

- (a) areas for persons to muster safely in an emergency (in these Regulations referred to as “muster areas”);
- (b) safe egress from accommodation and work areas, and safe access to muster areas, temporary refuge, and evacuation and escape points; and
- (c) safe evacuation and escape points.

(2) The duty holder shall ensure that the muster areas, egress, access and evacuation and escape points referred to in paragraph (1)—

- (a) are kept unobstructed;
- (b) are provided with adequate emergency lighting; and
- (c) are marked by suitable signs,

and shall take appropriate measures to ensure that, so far as is reasonably practicable, the egress and access remain passable in an emergency.

(3) The duty holder shall ensure that—

- (a) doors for use in an emergency—
 - (i) open in the appropriate direction or, if this is not possible, are sliding doors; and
 - (ii) are not so fastened that they cannot readily be opened by any person who may require to use them in an emergency; and
- (b) accommodation areas are provided at each level with at least two means of egress situated a proper distance apart.

(4) The duty holder shall—

- (a) ensure that—
 - (i) each person on the installation is assigned to a muster area; and
 - (ii) for each muster area a list of names of persons assigned to it is kept up-to-date and displayed; and
- (b) establish procedures—
 - (i) for mustering at such areas; and
 - (ii) for accounting for persons.

Arrangements for evacuation

15. The duty holder shall ensure that such arrangements are made which include, to the extent necessary—

- (a) the provision of plant on the installation; and
- (b) such arrangements with suitable persons beyond the installation,

as will ensure, so far as is reasonably practicable, the safe evacuation of all persons and their being taken to a place of safety, or to a place from which they can be recovered and taken to a place of safety under arrangements made pursuant to regulation 17.

Means of escape

16. The duty holder shall provide such means as will ensure, so far as is reasonably practicable, the safe escape of all persons from the installation in case arrangements for evacuation fail.

Arrangements for recovery and rescue

17. The duty holder shall ensure that effective arrangements are made, which include such arrangements with suitable persons beyond the installation, for—

- (a) recovery of persons following their evacuation or escape from the installation; and
- (b) rescue of persons near the installation; and
- (c) taking such persons to a place of safety,

and for the purposes of this regulation arrangements shall be regarded as being effective if they secure a good prospect of those persons being recovered, rescued, and taken to a place of safety.

Suitability of personal protective equipment for use in an emergency

18.—(1) In relation to personal protective equipment which protects a person in an emergency against risks to his health and safety—

- (a) in conditions of fire, heat, smoke, fumes or toxic gas; or
- (b) in the event of his immersion in the sea,

the duty holder shall, for the purposes of the Personal Protective Equipment at Work Regulations 1992 in their application to the Falkland Islands, be treated as the only employer of all persons on the installation, and such persons shall be treated as only employed by him.

(2) The duty holder shall ensure that there is prepared and operated a written scheme for the systematic examination and, where appropriate, testing, by a competent person, of the equipment referred to in paragraph (1) and for recording the results thereof.

Suitability and condition of plant

19.—(1) The duty holder shall ensure that all plant on the installation provided in compliance with these Regulations (other than aircraft, or equipment to which regulation 18 applies)—

(a) is so constructed or adapted as to be suitable for the purpose for which it is used or provided; and

(b) is maintained in an efficient state, in efficient working order and in good repair.

(2) Without prejudice to the generality of paragraph (1) and subject to paragraph (3), the duty holder shall ensure that there is prepared and operated a suitable written scheme for the systematic examination, by a competent and independent person, of plant (other than aircraft, or equipment to which regulation 18 applies), provided—

(a) in compliance with regulations 11(1)(a), 13, 15 and 16;

(b) as means required to be provided by regulation 10—

(i) for detecting fire; and

(ii) for detecting and recording accumulations of flammable gases; and

(c) pursuant to the measures required by regulation 12 to combat fire and explosion,

and for recording results thereof.

(3) A scheme prepared pursuant to paragraph (2) shall—

(a) specify the nature and frequency of examination;

(b) provide for an examination to be carried out, where appropriate, before plant is—

(i) first used on the installation; and

(ii) first used on the installation after modification or repairs (other than running repairs);

and it may make different provision for different plant or categories of plant.

(4) In this regulation, reference to examination is reference to careful and critical scrutiny of plant, in or out of service as appropriate, using suitable techniques, including testing where appropriate—

(a) to assess its suitability for the purpose for which it is used or provided;

(b) to assess its actual condition; and

(c) to determine any remedial measures that should be taken.

(5) The reference in paragraph (2) to the suitability of the scheme is reference to its suitability for the purpose of discharging the duties specified in paragraph (1).

(6) (omitted)

(7) For the purpose of paragraph (2) a person is independent where, even though he may be employed by the duty holder, he is sufficiently independent of any other persons accountable to the duty holder for the discharge of his duties under these Regulations in respect of the installation to ensure that the discharge of his duty under the scheme will not be prejudiced.

(8) (omitted)

Life-saving appliances

20. The duty holder shall ensure that survival craft, life-rafts, life-buoys, life-jackets and plant for like purposes—

- (a) are of such colour as will make them conspicuous when in use;
- (b) are (where applicable) suitably equipped; and
- (c) are kept available for immediate use in sufficient numbers.

Information regarding plant

21. The duty holder shall ensure that information, giving the location of—

- (a) areas in which there is a risk of a flammable or explosive atmosphere occurring;
- (b) non-automatic plant for fighting fire; and
- (c) plant to which regulations 18(1) and 20 apply (other than plant issued to particular persons),

is available to all persons on the installation.

Certificates of exemption

22.—(1) Subject to paragraph (2) the Governor may, by a certificate in writing, exempt any person, installation or class of persons or installations from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Governor shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which he proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Amendment of the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989

23. (omitted)

Amendment of the Offshore Installations (Safety Case) Regulations 1992

24. (omitted)

Revocation

25. (omitted)

SCHEDULE 1

(omitted)

SCHEDULE 2

(omitted)

EXPLANATORY NOTE

(not forming part of the above Order)

1. These Regulations contain requirements for measures for the protection of persons on offshore oil and gas installations from fire and explosion, and for securing effective "emergency response", which means action to safeguard the health and safety of persons on such installations in an emergency.

The Regulations also contain other provisions.

2. Most of the duties imposed by the Regulations are on "the duty holder" who is, by regulation 2(1), in relation to a fixed installation, the "operator" and, in relation to a mobile installation, the "owner".

3. Regulation 4 contains a general duty on the duty holder to take measures for protecting persons on the installation from fire and explosion, and for securing effective emergency response.

4. Regulation 5 requires the duty holder to perform, repeat as appropriate, and keep a record of an assessment of measures for effective evacuation, escape, recovery and rescue to avoid or minimise any major accident, and otherwise protecting persons from a major accident involving fire or explosion; such an assessment includes the setting of performance standards.

5. Regulation 6 requires the duty holder to establish the organisation and arrangements which are to have effect in an emergency; to ensure that instructions and training are provided on the action to take; and that written information is provided on the use of emergency plant.
6. Regulation 7 requires the duty holder to ensure the availability of equipment in the event of an accident involving a helicopter.
7. Regulation 8 requires the duty holder to prepare and keep up-to-date an emergency response plan; to ensure that it is available and its contents known; and to ensure that it is tested as necessary. Paragraph (4) requires persons to conform to it in an emergency, where practicable.
8. Regulation 9 requires the duty holder to take appropriate measures for preventing fire and explosion, and it identifies certain kinds of such measures.
9. Regulation 10 requires the duty holder to take appropriate measures for detecting fire and other events which may require emergency response, and for information on certain incidents to be conveyed to places where control action can be instigated.
10. Regulation 11 requires the duty holder to make arrangements for warning to be given of an emergency, and for communication of the purpose of emergency response; it prescribes the illuminated signs and acoustic signals to be used for certain purposes; and it contains a transitional provision.
11. Regulation 12 requires the duty holder to take measures for controlling emergencies.
12. Regulation 13 requires the duty holder to take measures for protecting persons on the installation from the effects of fire and explosion.
13. Regulation 14 contains requirements for muster areas, and evacuation and escape points and routes; for persons to be assigned to muster areas; and for certain procedures for or in connection with mustering.
14. Regulation 15 requires the duty holder to ensure that arrangements exist for safe evacuation of persons and their being taken to a place of safety.
15. Regulation 16 requires the duty holder to ensure that means exist for persons to escape from the installation where the arrangements for systematic evacuation fail.
16. Regulation 17 requires the duty holder to ensure that effective arrangements exist for persons to be recovered following their evacuation, or escape, from the installation; for the rescue of persons near the installation; and for taking rescued and recovered persons to a place of safety.
17. Regulation 18 has the effect that, in relation to certain personal protective equipment, the duty holder is the person who, in relation to all persons on the installation, has to discharge duties imposed by the Personal Protective Equipment at

Work Regulations 1992 (SI 1992/2966); and the regulation requires that he ensures that a written scheme for examination and testing of such equipment is prepared and operated.

18. Regulation 19 requires the duty holder to ensure that plant on the installation, other than aircraft, or equipment to which regulation 18 relates is suitable, and maintained in an efficient state, in efficient working order and in good repair; and that a suitable written scheme is prepared, and operated by a competent and independent person, for systematic examination of certain plant; it makes certain requirements in relation to such a scheme.

19. Regulation 20 contains requirements for life-saving appliances.

20. Regulation 21 provides for information on the location of hazardous areas, and certain emergency plant, to be available.

21. Regulation 22 provides for the granting of exemptions from the Regulations by the Governor.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations and Wells (Design and Construction, etc.) Order 1998

S. R. & O. No. 13 of 1998

ARRANGEMENT OF PROVISIONS OF THE ORDER

1. Citation and commencement
2. Interpretation
3. Application of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996

Schedule

ARRANGEMENT OF PROVISIONS OF THE SCHEDULE TO THE ORDER

The Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 as
applying under article 3 of the Order

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Note: a regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Offshore Installations and Wells (Design and Construction, etc.) Order 1998

S. R. & O. No. 13 of 1998

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under sections 27(1), 36(2)(a) and (b) and 36(6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Installations and Wells (Design and Construction, etc.) Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order—

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b);

Application of this Order and of the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996

3.—(1) Subject to paragraphs (2) and (3), this Order and The Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996(c) in the form appearing in the Schedule to this Order (“the Regulations”) shall apply—

(a) in the Falkland Islands; and

(b) to and in relation to installations, wells and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act apply by virtue of articles 4(a) and (b) and 5 of the external application Order.

(a) No. 16 of 1994

(b) S.R.&O. No. 6 of 1998

(c) SI 1996/913

(2) This Order and the Regulations shall apply to a well in the relevant waters and activities in relation to it, only if—

(a) it is drilled from an installation; or

(b) it is drilled with a view to the extraction of petroleum.

but do not otherwise apply to a well drilled in the Falkland Islands.

(3) In paragraph (2) “petroleum” means any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Made this 23rd day of January 1998

R P RALPH
Governor

SCHEDULE

The Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 as applying under article 3 of this Order

PART I

INTERPRETATION AND GENERAL

Citation and commencement

1. These Regulations may be cited as the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 in their application under the law of the Falkland Islands and shall come into force on 1st February 1998.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1992 Regulations” means the Offshore Installations (Safety Case) Regulations 1992(a) in their application under the law of the Falkland Islands(b);

(a) SI 1992/2885 as amended by SI 1995/738 and SI 1996/913

(b) under S.R. & O. No. 7 of 1998

“the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(c);

“the 1995 Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(d) in their application to the Falkland Islands(e);

“concession owner” in relation to a well, means the person who at any time has the right to exploit or explore mineral resources in any area or to store gas in any area and to recover gas so stored if at that time, the well is, or is to be, used in the exercise of that right;

“duty holder” in relation to an installation, means the person who is the duty holder as defined by regulation 2(1) of the 1995 Regulations in relation to that installation;

“environmental conditions” means—

(a) meteorological and oceanological conditions; and

(b) properties and configuration of the sea-bed and subsoil;

“fixed installation” means an installation other than a mobile installation;

“installation” means an offshore installation within the meaning of regulation 3, except sub-paragraphs (a) and (b), and paragraph (ii) of sub-paragraph (c) of paragraph (3), of the 1995 Regulations;

“integrity” means structural soundness and strength, stability and, in the case of a floating installation, buoyancy in so far as they are relevant to the health and safety of persons;

“management system” means the organisation and arrangements established by a person for managing his undertaking;

“mobile installation” means an installation (other than a floating production platform) which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“relevant waters” has the same meaning as it has in the Offshore Health and Safety Order 1998(f);

“safety case” means a document described in regulation 2(2) of the 1992 Regulations which is required to be prepared pursuant to a provision of those Regulations;

(c) S.R. & O. No. 6 of 1998

(d) SI 1995/738

(e) under S.R. & O. No. 8 of 1998

(f) S.R. & O. No. 5 of 1998

“traffic route” means a route for pedestrians, vehicles or both and includes any stairs, staircase, fixed ladder, doorway, gateway, loading bay or ramp;

“well” means—

- (a) a well made by drilling; and
- (b) a borehole drilled with a view to the extraction of minerals through it or another well,

and shall be deemed to include any device on it for containing the pressure in it;

“well intervention operation” means an operation in which a well is re-entered for a purpose other than to continue drilling or to maintain or repair it;

“well-operator”, in relation to a well, means the person appointed by the concession owner for a well to execute the function of organising and supervising all operations to be carried out by means of such well or, where no such person has been appointed, the concession owner;

“workover operation” means an operation in which a well is re-entered for the purpose of maintaining or repairing it; and

“workplace” means any workroom or other place on an installation used mainly for the performance of work, and does not include a traffic route.

(2) Any reference in these Regulations to operating an installation is a reference to using it for any of the purposes described in regulation 3(1) of the 1995 Regulations.

(3) Where a duty holder in relation to an installation, or a well-operator, is succeeded by a new duty holder or well-operator, anything done in compliance with these Regulations by the former duty holder or operator in relation to the installation or the well shall, for the purpose of these Regulations, be treated as having been done by his successor.

(4) Unless the context otherwise requires—

(a) any reference in these Regulations (apart from Schedule 2) to—

(i) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered; and

(ii) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears; and

(b) any reference in Schedule 2 to a numbered regulation or Schedule is a reference to the regulation or Schedule in the 1992 Regulations so numbered.

Application

3. (Omitted: see article 3 of the Order above).

PART II**INTEGRITY OF INSTALLATIONS****General duty**

4.—(1) The duty holder shall ensure that an installation at all times possesses such integrity as is reasonably practicable.

(2) The provisions contained in regulations 5 to 10 are without prejudice to the generality of the provision contained in this regulation.

Design of an installation

5.—(1) The duty holder shall ensure that the designs to which an installation is to be or in the event is constructed are such that, so far as is reasonably practicable—

- (a) it can withstand such forces acting on it as are reasonably foreseeable;
- (b) its layout and configuration, including those of its plant, will not prejudice its integrity;
- (c) fabrication, transportation, construction, commissioning, operation, modification, maintenance and repair of the installation may proceed without prejudicing its integrity;
- (d) it may be decommissioned and dismantled safely; and
- (e) in the event of reasonably foreseeable damage to the installation it will retain sufficient integrity to enable action to be taken to safeguard the health and safety of persons on or near it.

(2) The duty holder shall ensure that an installation is composed of materials which are—

- (a) suitable, having regard to the requirement in regulation 4; and
- (b) so far as is reasonably practicable, sufficiently proof against or protected from anything liable to prejudice its integrity.

Work to an installation

6. The duty holder shall ensure that work of fabrication, construction, commissioning, modification, maintenance and repair of an installation, and activity in preparation for the positioning of an installation, are carried out in such a way that, so far as is

reasonably practicable, its integrity is secured.

Operation of an installation

7.—(1) The duty holder shall ensure that the installation is not operated in such a way as may prejudice its integrity.

(2) The duty holder shall ensure that the installation is not operated unless—

(a) appropriate limits within which it is to be operated; and

(b) the environmental conditions in which it may safely operate,

have been recorded.

(3) The duty holder shall ensure that a record of the matters described in paragraph (2) is kept on the installation, readily available to any person involved in its operation.

(4) The duty holder shall ensure that the matters described in paragraph (2) are reviewed as often as may be appropriate.

Maintenance of integrity

8.—(1) The duty holder shall ensure that suitable arrangements are in place for maintaining the integrity of the installation, including suitable arrangements for—

(a) periodic assessment of its integrity; and

(b) the carrying out of remedial work in the event of damage or deterioration which may prejudice its integrity.

(2) Paragraph (1) shall not apply—

(a) to a fixed installation while its structure is not yet established at the location at which it is to be operated; or

(b) to a mobile installation under construction which is not yet able to be moved.

Reporting of danger to an installation

9.—(1) The duty holder shall ensure that, within 10 days after the appearance of evidence of a significant threat to the integrity of an installation, a report is made to the Governor in writing identifying such threat and specifying any action taken or to be taken to avert it.

(2) Paragraph (1) shall not apply to anything in respect of which the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 in their application

under the law of the Falkland Islands(g) require a report to be made.

Decommissioning and dismantlement

10. The duty holder shall ensure that an installation is decommissioned and dismantled in such a way that, so far as is reasonably practicable, it will possess sufficient integrity to enable such decommissioning and dismantlement to be carried out safely.

PART III

FURTHER REQUIREMENTS RELATING TO INSTALLATIONS

Helicopter landing area

11. The duty holder shall ensure that every helicopter landing area forming part of an installation—

- (a) is large enough, and has sufficient clear approach and departure paths, to enable any helicopter intended to use the landing area safely to land thereon and to take off therefrom in any wind and weather conditions permitting helicopter operations; and
- (b) is otherwise of a design and construction adequate for its purpose.

Additional requirements

12.—(1) Subject to paragraph (3), the duty holder shall ensure that the additional requirements set out in Schedule 1 are complied with in relation to an installation, while it is in use, unless in the case of any such requirement it would not prejudice the health, safety or welfare of any person if it were not complied with.

(2) While there are persons on a fixed installation which is—

- (a) being completed at the place where it is to be operated; or
- (b) being decommissioned or dismantled,

the duty holder shall ensure that such of the requirements contained in Schedule 1 are complied with, and to such extent, as is reasonably practicable in the circumstances.

(3) The requirements contained in this regulation shall apply without prejudice to the requirements of the other relevant statutory provisions relating to the installation.

(g) under S.R. & O. No. 14 of 1998

PART IV

WELLS

General duty

13.—(1) The well-operator shall ensure that a well is so designed, modified, commissioned, constructed, equipped, operated, maintained, suspended and abandoned that—

(a) so far as is reasonably practicable, there can be no unplanned escape of fluids from the well; and

(b) risks to the health and safety of persons from it or anything in it, or in strata to which it is connected, are as low as is reasonably practicable.

(2) The provisions of regulations 14 to 19 and 21 are without prejudice to the generality of the requirements of paragraph (1) save that, where regulation 17(2) places a duty on the duty holder for an installation, the well-operator is not under the same duty.

Assessment of conditions below ground

14.—(1) Before the design of a well is commenced the well-operator shall cause—

(a) the geological strata and formations, and fluids within them, through which it may pass; and

(b) any hazards which such strata and formations may contain, to be assessed.

(2) The well-operator shall ensure that account is taken of the assessment required by paragraph (1) when the well is being designed and constructed.

(3) The well-operator shall ensure that, while an operation (including the drilling of the well) is carried out in relation to the well, those matters described in subparagraphs (a) and (b) of paragraph (1) shall, so far as is reasonably practicable, be kept under review and that, if any change is observed in those matters, such modification is made, where appropriate, to—

(a) the design and construction of the well; or

(b) any procedures, as are necessary to ensure that the purposes described in regulation 13(1) will continue to be fulfilled.

Design with a view to suspension and abandonment

15. The well-operator shall ensure that a well is so designed and constructed that, so far as is reasonably practicable—

- (a) it can be suspended or abandoned in a safe manner; and
- (b) after its suspension or abandonment there can be no unplanned escape of fluids from it or from the reservoir to which it led.

Materials

16. The well-operator shall ensure that every part of a well is composed of material which is suitable for achieving the purposes described in regulation 13(1).

Well control

17.—(1) Before an operation in relation to a well (including the drilling of a well) is begun the well-operator shall ensure that suitable well control equipment is provided for use during such operations to protect against blowouts.

(2) In the case of an operation to which paragraph (1) applies which is begun—

- (a) from an installation, the duty holder; and
- (b) otherwise than from an installation, the well-operator, shall ensure that equipment provided pursuant to paragraph (1) is deployed when the prevailing well and operational conditions so require.

Arrangements for examination

18.—(1) Before the design of a well is commenced or adopted the well-operator shall make and put into effect arrangements relating to the well of a kind described in paragraph (2) or (where such arrangements already have effect in relation to another well) apply such arrangements, with any appropriate modifications, to the well.

(2) The arrangements referred to in paragraph (1) are arrangements in writing for such examinations, by independent and competent persons, of any part of the well, or similar well, information, or work in progress, and the making of such reports and recommendations, as are suitable for ensuring (with the assistance of such other measures as the well-operator takes) that the well is so designed and constructed, and is maintained in such repair and condition, that—

- (a) so far as is reasonably practicable, there can be no unplanned escape of fluids from the well; and
- (b) risks to the health and safety of persons from it or anything in it, or in strata to which it is connected, are as low as is reasonably practicable.

(3) The well-operator shall review and revise the arrangements as often as may be appropriate.

(4) The well-operator shall ensure that the arrangements, any revision of them, and reports and recommendations pursuant to them are kept at an address in the Falkland

Islands notified to the Governor, until the expiration of six months after the arrangements and any revision of them cease to be current.

(5) (omitted)

(6) For the purpose of this regulation a person shall be regarded as independent only where—

(a) his examination will not involve the consideration by him of an aspect, of a thing liable to be examined, for which he bears or has borne such responsibility as might compromise his objectivity; and

(b) he will be sufficiently independent of a management system, or of a part thereof, which bears or has borne any responsibility for an aspect, which he might consider, of a thing liable to be examined, to ensure that he will be objective in discharging his function.

Provision of drilling etc. information

19.—(1) Where an operation to which this paragraph applies is being carried out on a well the well-operator shall cause to be sent to the Governor, at such intervals as may be agreed or, failing agreement, at intervals of one week calculated from its commencement, a report comprising the following information—

(a) the identifying number, and any slot number, of the well;

(b) the name of any installation or vessel involved;

(c) a summary of the activity in the course of the operation since its commencement, or the previous report;

(d) the diameter and true vertical and measured depths of—

(i) any hole drilled; and

(ii) any casing installed;

(e) the drilling fluid density immediately before making the report; and

(f) in the case of an existing well, its current operational state.

(2) Paragraph (1) applies to—

(a) a drilling operation;

(b) a workover operation;

(c) an abandonment operation;

- (d) an operation consisting in the completion of a well;
- (e) any other operation of a kind involving substantial risk of the unplanned escape of fluids from a well.

Co-operation

20. Every person who is, or is to be concerned (in whatever capacity) in an operation in relation to a well (including the drilling of a well) shall co-operate with the well-operator so far as is necessary to enable him to discharge his duties under regulations 13(1) and 17.

Information, instruction, training and supervision

21. In the case of a drilling, well intervention or workover operation to be carried out on a well—

- (a) from an installation, the duty holder; and
- (b) otherwise than from an installation, the well-operator,

shall ensure that the operation is not carried out, unless it is carried on in circumstances where the persons carrying out the operation have received such information, instruction and training, and are being so supervised, that the risk to health and safety from such operation is reduced to the lowest level that is reasonably practicable.

PART V

MISCELLANEOUS

Defence

22.—(1) Where a person is prosecuted for an offence consisting of a contravention of any of the provisions of regulations 5 and 6, it shall, subject to paragraph (2), be a defence for that person to prove—

- (a) that the contravention of the provision was due to the act or default of some other person ("the other person") who was not, at the time of the contravention, his employee; and
- (b) that he took all reasonable precautions and used all due diligence to avoid commission of the offence.

(2) A person shall not without the leave of the court be entitled to rely on the defence provided by paragraph (1) unless at least seven clear days before the date fixed by the court for trial of the summons he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) Section 36(1) of the 1974 Act shall have effect subject to the foregoing paragraphs and nothing in those paragraphs shall be construed as affecting the operation of section 37 of that Act (offences by bodies corporate).

Certificates of exemption

23.—(1) Subject to paragraph (2), the Governor may, by a certificate in writing, exempt any person, installation, well or class of persons, installations or wells from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Governor shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

(a) the conditions, if any, which he proposes to attach to the exemption; and

(b) any other requirements imposed by or under any enactments which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Transitional provision

24. (omitted)

Repeal of section 24 of the Offshore Minerals Ordinance 1994

25. Section 24 of the Offshore Minerals Ordinance 1994 is hereby repealed.

Modification of the Offshore Installations (Safety Case) Regulations 1992

26. (omitted)

Revocation

27. (omitted)

SCHEDULE 1

Regulation 12

ADDITIONAL REQUIREMENTS

Organisation of the installation

1. The layout and configuration of an installation, including its plant, shall be such that risks to persons on it are reduced to the lowest level that is reasonably practicable.

2. An installation shall be kept sufficiently clean, with any hazardous substances or deposits removed or controlled in order not to endanger the health and safety of

persons on the installation.

3. Arrangements shall exist for the collection at source and removal, in such a way that persons are not at risk, of harmful substances which could accumulate in the atmosphere.

4. Workstations must be designed and constructed with a view to the safety and ease of action of persons at work, taking into account the need for them to carry out activities there.

Ventilation of enclosed workplaces

5. A supply of fresh or purified air shall be maintained in enclosed workplaces which is sufficient, having regard to the working methods used and the physical demands placed on the persons at work.

6. If a mechanical ventilation system is used, it must be maintained in working order. Any breakdown must be indicated by a control system where this is necessary for the health of persons on the installation.

7. If air-conditioning or mechanical ventilation systems are used, they must operate in such a way that persons are not exposed to draughts which cause discomfort.

8. Any deposit or dirt likely to create an immediate danger to the health of persons by polluting the atmosphere must be removed without delay.

Room temperature

9. During working hours, the temperature in enclosed workplaces must be reasonable, having regard to the working methods being used and the physical demands placed on the persons at work.

10. The temperature in rest areas, changing rooms, rooms containing facilities for washing, lavatories, mess-rooms, galleys and sick bays must be appropriate to the particular purpose of such areas.

11. Sunlight let into workplaces via any window or skylight shall not be excessive, having regard to the nature of the work and the workplace.

Floors, walls and ceilings of rooms

12. The floors of workplaces must have no dangerous bumps, holes or slopes and must be fixed, stable and not made of material which is or is liable to become slippery.

13. Enclosed workplaces must be adequately insulated against heat, bearing in mind the type of undertaking involved and the physical activity of the persons at work.

14. The surfaces of floors, walls and ceilings in rooms must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.

Transparent or translucent surfaces

15. Every window or other transparent or translucent surface in a wall or partition and

every transparent or translucent surface in a door or gate shall, where necessary for reasons of health and safety—

(a) be of safety material or be protected against breakage of the transparent or translucent material; and

(b) be appropriately marked or incorporate features so as, in either case, to make it apparent.

Roofs

16. Access to roofs made of materials of insufficient strength must not be permitted unless equipment is provided to ensure that the work can be carried out in a safe manner.

Natural and artificial lighting

17. Every workplace must be provided throughout with lighting capable of supplying illumination sufficient to ensure the health and safety of persons therein.

18. Workplaces must, as far as possible, receive sufficient natural light and be equipped, taking into account climatological conditions, with artificial lighting adequate for the protection of safety and health.

19. Lighting installations in workplaces and in passageways must be placed in such a way that the type of lighting does not present a risk of accident.

20. Workplaces in which persons are especially exposed to risks in the event of failure of artificial lighting must be provided with emergency lighting of adequate intensity.

Windows and skylights

21. Windows, skylights and ventilation devices which are meant to be opened, adjusted or secured must be designed so that these operations can be carried out safely. They must not be positioned so as to constitute a hazard when open.

22. It must be possible to clean windows and skylights without undue risk.

Doors and gates

23. The position, number and dimensions of doors and gates, and the materials used in their construction shall be determined by reference to the nature of and use of the rooms or areas.

24. Transparent doors must be appropriately marked at a conspicuous level.

25. Swing doors and gates must be transparent or have see-through panels.

26. Sliding doors must be fitted with a safety device to prevent them from being derailed and falling over unexpectedly.

27. Doors and gates opening upwards must be fitted with a mechanism to secure them against falling back unexpectedly.

28. Doors for pedestrians must be provided in the immediate vicinity of any gates intended essentially for vehicle traffic, unless it is safe for pedestrians to pass through; such doors must be clearly marked and left permanently unobstructed.

29. Power-operated doors and gates must function without risk of accident to workers. They must be fitted with easily identifiable and accessible emergency shutdown devices and, in the event of a power failure, it must be possible to operate them by hand.

30. When chains or similar devices are used to prevent access at any place, these should be clearly visible and appropriately identified by signs denoting any prohibitions or warning.

Traffic routes

31. It must be possible to reach workplaces without danger and leave them quickly and safely in an emergency.

32. Traffic routes must be sufficient in number, in suitable positions, and of sufficient size to ensure easy, safe and appropriate access for pedestrians or vehicles in such a way as not to endanger persons at work in the vicinity of these traffic routes, having regard to the number of potential users and the type of undertaking.

33. If means of transport are used on traffic routes, a sufficient safety clearance must be provided for pedestrians.

34. Sufficient clearance must be allowed between vehicle traffic routes and doors, gates, passages for pedestrians, corridors and staircases.

35. Traffic routes must be clearly identified for the protection of persons.

Danger areas

36. If the workplaces contain danger areas in which, owing to the nature of the work, there are risks including that of the worker or objects falling, the places must be equipped, as far as possible, with devices preventing unauthorised workers from entering those areas.

Room dimensions and air space in rooms - freedom of movement in the workstation

37. Enclosed workplaces must have sufficient surface area, height and air space to allow workers to perform their work without risk to their safety, health or welfare.

38. The dimensions of the unoccupied area at the workstation must allow workers sufficient freedom of movement and enable them to perform their work safely.

Rest rooms

39. Where the safety or health of workers, in particular because of the type of activity

carried out, or the presence of more than a certain number of workers, so requires, workers must be provided with an easily accessible rest room.

40. Paragraph 39 does not apply if the workers are employed in offices or similar workplaces providing equivalent relaxation during breaks.

41. Rest rooms must be large enough and equipped with an adequate number of tables and seats with backs for the number of workers.

42. If working hours are regularly and frequently interrupted and there is no rest room, other rooms must be provided in which workers can stay during such interruptions, wherever this is required for the safety or health of workers.

43. Appropriate measures should be taken for the protection of non-smokers in the rooms referred to in paragraphs 41 and 42 against discomfort caused by tobacco smoke.

Outdoor workplaces

44. Workstations, traffic routes and other areas outdoors which are used or occupied by the workers in the course of their work must be organised in such a way that pedestrians and vehicles can circulate safely.

45. Workplaces outdoors must be adequately lit by artificial lighting if daylight is not adequate.

46. When workers are employed at workstations outdoors, such workstations must as far as possible be arranged so that workers—

- (a) are protected against inclement weather conditions and, if necessary, against falling objects;

- (b) are not exposed to harmful noise levels;

- (c) are able to leave their workstations swiftly in the event of danger or are able to be rapidly assisted; and

- (d) cannot slip or fall.

Pregnant women and nursing mothers

47. Pregnant women and nursing mothers must be able to lie down to rest in appropriate conditions.

People with disabilities

48. The arrangement of an installation shall take due account of the health, safety and welfare of any persons with disabilities who may work on it.

Sanitary facilities

49. Appropriate changing rooms must be provided for workers if they have to wear special work clothes and where, for reasons of health or propriety, they cannot be

expected to change in another room.

50. Changing rooms must be easily accessible, be of sufficient capacity and be provided with seating.

51. Changing rooms must be sufficiently large and have facilities to enable each worker to lock away his clothes during working hours.

52. If circumstances so require, lockers for work clothes must be separate from those for ordinary clothes.

53. Provision must be made to enable wet work clothes to be dried.

54. Provision must be made for separate changing rooms or separate use of changing rooms for men and women.

55. If changing rooms are not required under paragraph 49, each worker must be provided with a place to store his clothes.

Showers and washing facilities

56. In addition to those facilities provided in any accommodation area, suitable showers and washing facilities must, if necessary, be provided in the vicinity of workstations.

Lavatories and washbasins

57. In addition to those facilities provided in any accommodation, lavatories and washbasins must, if necessary, be provided in the vicinity of workstations.

58. Provision must be made for separate lavatories or separate use of lavatories for men and women.

Accommodation

59. If the nature, scale and duration of operations so require, persons on the installation shall be provided with accommodation which is—

(a) suitably provided with ventilation, heating and lighting;

(b) protected against noise, smells and fumes likely to be hazardous to health from other areas, and against inclement weather; and

(c) separate from any workstation and located away from dangerous areas.

60. Accommodation must contain sufficient beds or bunks for the number of persons expected to sleep on the installation.

61. Any room designated as sleeping accommodation—

(a) must not be overcrowded;

(b) must contain adequate space for the occupants to store their clothes; and

(c) shall, so far as is reasonably practicable, be occupied only by such number of persons as is consistent with reasonable privacy and comfort, having regard to the features of the room.

62. Accommodation must include a sufficient number of showers and washing facilities equipped with clean hot and cold running water.

63. Showers must be sufficiently spacious to permit each worker to wash without hindrance in suitably hygienic conditions.

64. Accommodation must be equipped with a sufficient number of lavatories and washbasins.

65. Where there are both men and women on an installation there shall be separate—

(a) sleeping rooms;

(b) shower rooms, or provision for separate use of shower rooms; and

(c) lavatories and washbasins, or provision for separate use of lavatories and washbasins,

for men and women.

66. Accommodation and its plant must be maintained to adequate standards of hygiene.

Noise and vibration of plant

67.—(1) Measures shall be taken to ensure that the exposure of a person on an installation to a risk to his health or safety from noise or vibration of plant shall be prevented or, where that is not reasonably practicable, adequately controlled.

(2) The measures required by sub-paragraph (1) shall, so far as is reasonably practicable, be measures other than the provision of personal protective equipment.

SCHEDULE 2

Regulation 26

Modification of the Offshore Installations (Safety Case) Regulations 1992

(omitted)

SCHEDULE 3

Regulation 27

Revocation

(omitted)

EXPLANATORY NOTE*(This note is not part of the Regulations)*

1. These Regulations contain requirements for ensuring that offshore oil and gas installations, and oil and gas wells are designed, constructed and kept in a sound structural state, and other requirements affecting them, for purposes of health and safety.
2. Interpretation and application are dealt with in Part I (regulations 2 and 3).
3. Part II is concerned with integrity of installations and the provisions in it impose duties on the "duty holder" for an installation (defined in regulation 2(1)) relating to—
 - (a) the maintenance of its integrity at all times (regulation 4);
 - (b) its design (regulation 5);
 - (c) work to it (regulation 6);
 - (d) the way it is operated (regulation 7);
 - (e) arrangements for maintaining its integrity (regulation 8);
 - (f) the reporting of danger to it (regulation 9); and
 - (g) decommissioning and dismantlement (regulation 10).
4. Part III contains requirements relating to the helicopter landing area of an offshore installation (regulation 11) and requirements relating to its layout and facilities (regulation 12 and Schedule 1).
5. The regulations in Part IV impose requirements affecting oil and gas wells, in the case of regulations 13 to 19 on the "well-operator" (defined in regulation 2(1)) relating to—
 - (a) the general reduction of risk (regulation 13);
 - (b) assessment of conditions below ground (regulation 14);
 - (c) design and construction (regulation 15);

- (d) the materials used (regulation 16);
- (e) well control equipment (regulation 17);
- (f) arrangements for examination of the well, and information relating to it (regulation 18);
- (g) the provision of information to the Governor (regulation 19);
- (h) co-operation with the well-operator (regulation 20); and
- (i) information, instruction, training and supervision.

6. The regulations in Part V—

- (a) provide a defence for contravention of regulation 5 or 6 (regulation 22);
- (b) provide for the issue of certificates of exemption by the Governor (regulation 23); and
- (c) repeal section 24 of the Offshore Minerals Ordinance 1994 (regulation 25).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998

(S. R. & O. No. 14 of 1998)

ARRANGEMENT OF PROVISIONS

1. Citation and commencement
2. Interpretation
3. Application of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995

SCHEDULE

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
in their application under article 3 of this Order

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
2. Interpretation
3. Notification and reporting of injuries and dangerous occurrences
4. Reporting of the death of an employee
5. Reporting of cases of disease
6. *Reporting of gas incidents*
7. Records
8. *Additional provisions relating to mines and quarries*
9. Additional provisions relating to offshore workplaces
10. Restrictions on the application of regulations 3, 4 and 5
11. Defence in proceedings for an offence contravening these Regulations
12. Extension outside the Falkland Islands
13. Certificates of exemption

14. *Repeal and amendment of provisions in the Regulation of Railways Act 1871, the Railway Employment (Prevention of Accidents) Act 1900 and the Transport and Works Act 1992*
15. *Revocations, amendments and Savings*

Schedule 1. Major Injuries

Schedule 2. Dangerous Occurrences

Schedule 3. Reportable Diseases

Schedule 4. Records

Schedule 5. Additional provisions relating to mines and quarries

Schedule 6. Additional provisions relating to offshore workplaces

Schedule 7. Enactments or instruments requiring the notification of events which are not required to be notified or reported under these Regulations

Schedule 8 Revocations and amendments

Note: a regulation or schedule the reference to which is italicised in the above table is wholly omitted from application under the following Order

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK etc

The Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998

(S. R. & O. No. 14 of 1998)

Made: 23 January 1998
Published: 30 January 1998
Coming into force: 1st February 1998

IN EXERCISE of my powers under section 27(1), 36(2)(b) and 36(6) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998 and shall come into force on 1st February 1998.

Interpretation

2. In this Order, “the external application Order” means the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b) and “the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order.

Application of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995

3. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(c) in the form appearing in the Schedule to this Order shall apply to and in relation to installations and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act(d) apply by virtue of the external application Order and, so far as is required to give effect to regulation 12 in the form so appearing, they shall apply within the Falkland Islands.

(a) No 16 of 1994

(b) S.R.&O. No. 6 of 1998

(c) SI 1995/3163

(d) 1974 c.37

Made this 23rd day of January 1998

R P Ralph
Governor

SCHEDULE

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 in their application under article 3 of this Order

Citation and commencement

1. These Regulations may be cited as the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 in their application under the law of the Falkland Islands and shall come into force on 1st February 1998.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1994 Ordinance” means the Offshore Minerals Ordinance 1994(e);

“the external application Order” means the Health and Safety at Work Act 1974 (Application outside the Falkland Islands) Order 1998(f);

“the prescribed provisions of the 1974 Act” has the same meaning as it has in the external application Order;

“accident” includes—

(a) an act of non-consensual physical violence done to a person at work; and

(b) (omitted);

“approved” means approved for the time being in writing for the purposes of these Regulations by the Governor and published in such form as the Governor considers appropriate;

“biological agent” means any micro-organism, cell culture, or human endoparasite, including any which have been genetically modified, which may cause any infection, allergy, toxicity or otherwise create a hazard to human health;

“dangerous occurrence” means an occurrence which arises out of or in connection with work and is of a class specified in—

(e) No. 16 of 1994

(f) S.R. & O No. 6 of 1998

(a) paragraphs 1-17 of Part I of Schedule 2;

(b) (omitted)

(c) (omitted)

(d) (omitted)

(e) (omitted)

(f) paragraphs 73-83 of Part V of Schedule 2;

“disease” includes a medical condition;

“diving contractor” and “diving operation” have the meanings they have under regulations 5 and 8(3), respectively, of the Diving Operations at Work Regulations 1997(g);

“major injury” means an injury or condition specified in Schedule 1;

“offshore installation” has the meaning assigned to it by section 36(5)(a) of the Offshore Minerals Ordinance 1994;

“pipeline” and “pipeline works” have the meaning assigned to them by sections 36(5)(c) and (d) respectively of the 1994 Ordinance;

“responsible person” means—

(a) in the case of-

(i) (omitted)

(ii) (omitted)

(iii) (omitted)

(iv) an offshore installation (otherwise than in the case of a disease reportable under regulation 5), the duty holder for the purposes of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995(h) in their application under the law of the Falkland Islands(i) provided that for the purposes of this provision regulation 3(2)(c) of those Regulations shall be deemed not to apply;

(v) a dangerous occurrence at a pipeline (being an incident to which paragraph 14(a)-(f) of Part I of Schedule 2 applies), the owner of that pipeline;

(g) SI 1997/2776

(h) SI 1995/738

(i) under S. R. & O. No. 8 of 1998

(vi) a dangerous occurrence at a well, the person appointed by a concession owner to execute any function of organising or supervising any operation to be carried out by the well or, where no such person has been appointed, the concession owner (and for this purpose "concession owner" means the person who at any time has the right to exploit or explore mineral resources in any area, or to store gas in any area and to recover gas so stored if, at any time, the well is, or is to be, used in the exercise of that right);

(vii) a diving operation (otherwise than in the case of a disease reportable under regulation 5), the diving contractor;

(viii) (omitted)

(b) (where sub-paragraph (a) above does not apply) in the case of the death of or other injury to an employee reportable under regulation 3 or of a disease suffered by an employee reportable under regulation 5, his employer; and

(c) (omitted)

"well" includes any structures and devices on top of a well;

(2) In these Regulations, unless the context otherwise requires, any reference to—

(a) a numbered regulation or Schedule is a reference to the regulation or Schedule in these Regulations so numbered;

(b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference appears; and

(c) an accident or a dangerous occurrence which arises out of or in connection with work shall include a reference to an accident, or as the case may be, a dangerous occurrence attributable to the manner of conducting an undertaking, the plant or substances used for the purposes of an undertaking and the condition of the premises so used or any part of them.

(3) For the purposes of these Regulations, a person who is at his place of work shall be deemed to be at work at all times when he is at that place in connection with his work.

Notification and reporting of injuries and dangerous occurrences

3.—(1) Subject to regulation 10, where—

(a) any person dies as a result of an accident arising out of or in connection with work;

(b) any person at work suffers a major injury as a result of an accident arising out of or in connection with work;

(c) any person not at work suffers an injury as a result of an accident arising out of or in connection with work and that person is taken from the site of the accident to a hospital for treatment in respect of that injury;

(d) any person not at work suffers a major injury as a result of an accident arising out of or in connection with work at a hospital; or

(e) there is a dangerous occurrence,

the responsible person shall—

(i) forthwith notify the Governor thereof by the quickest practicable means; and

(ii) within 10 days send a report thereof to the Governor on a form approved for the purposes of this sub-paragraph, unless within that period he makes a report thereof to the Governor by some other means so approved.

(2) Subject to regulation 10, where a person at work is incapacitated for work of a kind which he might reasonably be expected to do, either under his contract of employment, or, if there is no such contract, in the normal course of his work, for more than three consecutive days (excluding the day of the accident but including any days which would not have been working days) because of an injury resulting from an accident arising out of or in connection with work (other than one reportable under paragraph (1)), the responsible person shall as soon as practicable and, in any event, within 10 days of the accident send a report thereof to the Governor on a form approved for the purposes of this regulation, unless within that period he makes a report thereof to the Governor by some other means so approved.

Reporting of the death of an employee

4. Subject to regulation 10, where an employee, as a result of an accident at work, has suffered an injury reportable under regulation 3 which is a cause of his death within one year of the date of that accident, the employer shall inform the Governor in writing of the death as soon as it comes to his knowledge, whether or not the accident has been reported under regulation 3.

Reporting of cases of disease

5.—(1) Subject to paragraphs (2) and (3) and to regulation 10, where—

(a) a person at work suffers from any of the occupational diseases specified in column 1 of Part I of Schedule 3 and his work involves one of the activities specified in the corresponding entry in column 2 of that Part; or

(b) a person at an offshore workplace suffers from any of the diseases specified in Part II of Schedule 3, the responsible person shall forthwith send a report thereof to the Governor on a form approved for the purposes of this regulation, unless he forthwith makes a report thereof to the Governor by some other means so

approved.

(2) Paragraph (1) shall apply only if—

(a) in the case of an employee, the responsible person has received a written statement prepared by a registered medical practitioner diagnosing the disease as one of those specified in Schedule 3; or

(b) in the case of a self-employed person, that person has been informed, by a registered medical practitioner, that he is suffering from a disease so specified.

(3) In the case of a self-employed person, it shall be a sufficient compliance with paragraph (1) if that person makes arrangements for the report to be sent to the relevant enforcing authority by some other person.

Reporting of gas incidents

6. (omitted)

Records

7.—(1) The responsible person shall keep a record of—

(a) any event which is required to be reported under regulation 3, which shall contain the particulars specified in Part I of Schedule 4;

(b) any case of disease required to be reported under regulation 5(1), which shall contain the particulars specified in Part II of Schedule 4; and

(c) such other particulars as may be approved by the Governor for the purpose of demonstrating that any approved means of reporting under regulations 3 or 5(1) has been complied with.

(2) Any record of deaths, injuries at work or disease which the responsible person keeps for any other purpose shall, if it covers the injuries recordable under these Regulations and includes the particulars specified in Schedule 4, be sufficient for the requirements of paragraph (1).

(3) The record referred to in paragraph (1) shall be kept either at the place where the work to which it relates is carried on or at the usual place of business of the responsible person and an entry in such a record shall be kept for at least three years from the date on which it was made.

(4) The responsible person shall send to the Governor such extracts from the record required to be kept under paragraph (1) as the Governor may from time to time require.

Additional provisions relating to mines and quarries

8. (omitted)

Additional provisions relating to offshore workplaces

9. The provisions of Schedule 6 (which contains additional provisions relating to offshore workplaces) shall have effect.

Restrictions on the application of regulations 3, 4 and 5

10.—(1) The requirements of regulation 3 relating to the death or injury of a person as a result of an accident shall not apply to an accident causing death or injury to a person arising out of the conduct of any operation on, or any examination or other medical treatment of, that person which is administered by, or conducted under the supervision of, a registered medical practitioner or a registered dentist (and for the purposes of this paragraph)—

(a) a registered medical practitioner is a person who is—

(i) for the time being registered on the principal list of the register of medical practitioners maintained by the registrar of the General Medical Council pursuant to section 2(2)(a) of the Medical Act 1983(j); or

(ii) a person who is registered as a medical practitioner pursuant to the Medical Practitioners, Midwives and Dentists Ordinance(k);

(b) a registered dentist is a person who is—

(i) registered as a dentist in the register maintained by the registrar of the General Dental Council pursuant to section 14(2) of the Dentists Act 1984(l); or

(ii) a person who is registered as a dentist pursuant to the Medical Practitioners, Midwives and Dentists Ordinance.

(2) (omitted)

(3) (omitted)

(4) (omitted)

(5) Regulation 3(1)(i) shall not apply to a self-employed person who is injured at premises of which he is the owner or occupier, but regulation 3(1)(ii) shall apply to such a self-employed person (other than in the case of death) and it shall be sufficient compliance with that sub-paragraph if that self-employed person makes arrangements for the report to be sent to the Governor by some other person.

(j) 1983 c.54

(k) 1984 c.24

(l) Cap. 45 Laws of the Falkland Islands, 1950 Edition

Defence in proceedings for an offence of contravening these Regulations

11. It shall be a defence in proceedings against any person for an offence under these Regulations for that person to prove that he was not aware of the event requiring him to notify or send a report to the Governor and that he had taken all reasonable steps to have all such events brought to his notice.

Extension outside the Falkland Islands

12. These Regulations shall apply to and in relation to the premises and activities outside the Falkland Islands to which the prescribed provisions of the 1974 Act apply by virtue of the external application Order and so far only as may be necessary to give effect to or is reasonably incidental to the foregoing application, they apply within the Falkland Islands.

Certificates of exemption

13.—(1) Subject to paragraph (2), the Governor may, by a certificate in writing, exempt any person or class of persons from any requirement imposed by these Regulations and any such exemption may be granted subject to conditions and with or without limit of time and may be revoked by a certificate in writing at any time.

(2) The Governor shall not grant any such exemption unless, having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

he is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Repeal and amendment of provisions in the Regulation of Railways Act 1871, the Railway Employment (Prevention of Accidents) Act 1900 and the Transport and Works Act 1992

14. (omitted)

Revocations, amendments and Savings

15. (omitted)

SCHEDULE 1

Regulation 2(1)

MAJOR INJURIES

1. Any fracture, other than to the fingers, thumbs or toes.
2. Any amputation.
3. Dislocation of the shoulder, hip, knee or spine.

4. Loss of sight (whether temporary or permanent).
5. A chemical or hot metal burn to the eye or any penetrating injury to the eye.
6. Any injury resulting from an electric shock or electrical burn (including any electrical burn caused by arcing or arcing products) leading to unconsciousness or requiring resuscitation or admittance to hospital for more than 24 hours.
7. Any other injury—
 - (a) leading to hypothermia, heat-induced illness or to unconsciousness,
 - (b) requiring resuscitation, or
 - (c) requiring admittance to hospital for more than 24 hours.
8. Loss of consciousness caused by asphyxia or by exposure to a harmful substance or biological agent.
9. Either of the following conditions which result from the absorption of any substance by inhalation, ingestion or through the skin—
 - (a) acute illness requiring medical treatment; or
 - (b) loss of consciousness.
10. Acute illness which requires medical treatment where there is reason to believe that this resulted from exposure to a biological agent or its toxins or infected material.

SCHEDULE 2

(Regulation 2(1))

DANGEROUS OCCURRENCES

PART I

General

Lifting machinery, etc.

1. The collapse of, the overturning of, or the failure of any load-bearing part of any—
 - (a) lift or hoist;
 - (b) crane or derrick;
 - (c) mobile powered access platform;
 - (d) access cradle or window-cleaning cradle;

(e) excavator;

(f) pile-driving frame or rig having an overall height, when operating, of more than 7 metres; or

(g) fork lift truck.

Pressure systems

2. The failure of any closed vessel (including a boiler or boiler tube) or of any associated pipework, in which the internal pressure was above or below atmospheric pressure, where the failure has the potential to cause the death of any person.

Freight containers

3.—(1) The failure of any freight container in any of its load-bearing parts while it is being raised, lowered or suspended.

(2) In this paragraph, "freight container" means a container as defined in regulation 2(1) of the Freight Containers (Safety Convention) Regulations 1984(m).

Overhead electric lines

4. Any unintentional incident in which plant or equipment either—

(a) comes into contact with an uninsulated overhead electric line in which the voltage exceeds 200 volts; or

(b) causes an electrical discharge from such an electric line by coming into close proximity to it.

Electrical short circuit

5. Electrical short circuit or overload attended by fire or explosion which results in the stoppage of the plant involved for more than 24 hours or which has the potential to cause the death of any person.

Explosives

6.—(1) Any of the following incidents involving explosives—

(a) the unintentional explosion or ignition of explosives other than one—

(i) caused by the unintentional discharge of a weapon where, apart from that unintentional discharge, the weapon and explosives functioned as they were designed to do; or

(ii) where a fail-safe device or safe system of work functioned so as to prevent any person from being injured in consequence of the explosion or ignition;

(b) a misfire (other than one at a mine or quarry or inside a well or one involving a weapon) except where a fail-safe device or safe system of work functioned so as to prevent any person from being endangered in consequence of the misfire;

(c) the failure of the shots in any demolition operation to cause the intended extent of collapse or direction of fall of a building or structure;

(d) the projection of material (other than at a quarry) beyond the boundary of the site on which the explosives are being used or beyond the danger zone in circumstances such that any person was or might have been injured thereby;

(e) any injury to a person (other than at a mine or quarry or one otherwise reportable under these Regulations) involving first-aid or medical treatment resulting from the explosion or discharge of any explosives or detonator.

(2) In this paragraph "explosives" means any explosive of a type which would, were it being transported, be assigned to Class 1 within the meaning of the Classification and Labelling of Explosives Regulations 1983⁽ⁿ⁾ and "danger zone" means the area from which persons have been excluded or forbidden to enter to avoid being endangered by any explosion or ignition of explosives.

Biological agents

7. Any accident or incident which resulted or could have resulted in the release or escape of a biological agent likely to cause severe human infection or illness.

Malfunction of radiation generators, etc.

8.—(1) Any incident in which—

(a) the malfunction of a radiation generator or its ancillary equipment used in fixed or mobile industrial radiography, the irradiation of food or the processing of products by irradiation, causes it to fail to de-energise at the end of the intended exposure period; or

(b) the malfunction of equipment used in fixed or mobile industrial radiography or gamma irradiation causes a radioactive source to fail to return to its safe position by the normal means at the end of the intended exposure period.

(2) In this paragraph, "radiation generator" has the same meaning as in regulation 2 of the Ionising Radiations Regulations 1985^(o).

⁽ⁿ⁾ SI 1983/1140

^(o) SI 1985/1333

Breathing apparatus

9.—(1) Any incident in which breathing apparatus malfunctions—

(a) while in use, or

(b) during testing immediately prior to use in such a way that had the malfunction occurred while the apparatus was in use it would have posed a danger to the health or safety of the user.

(2) This paragraph shall not apply to breathing apparatus while it is being—

(a) (omitted)

(b) maintained or tested as part of a routine maintenance procedure.

Diving operations

10. Any of the following incidents in relation to a diving operation—

(a) the failure or the endangering of—

(i) any lifting equipment associated with the diving operation, or

(ii) life support equipment, including control panels, hoses and breathing apparatus,

which puts a diver at risk;

(b) any damage to, or endangering of, the dive platform, or any failure of the dive platform to remain on station, which puts a diver at risk;

(c) the trapping of a diver;

(d) any explosion in the vicinity of a diver; or

(e) any uncontrolled ascent or any omitted decompression which puts a diver at risk.

Collapse of scaffolding

11. The complete or partial collapse of—

(a) any scaffold which is—

(i) more than 5 metres in height which results in a substantial part of the scaffold falling or overturning; or

(i) erected over or adjacent to water in circumstances such that there

would be a risk of drowning to a person falling from the scaffold into the water; or

- (b) the suspension arrangements (including any outrigger) of any slung or suspended scaffold which causes a working platform or cradle to fall.

Train collisions

12. (omitted)

Wells

13. Any of the following incidents in relation to a well (other than a well sunk for the purpose of the abstraction of water)—

- (a) a blow-out (that is to say an uncontrolled flow of well-fluids from a well);
- (b) the coming into operation of a blow-out prevention or diversion system to control a flow from a well where normal control procedures fail;
- (c) the detection of hydrogen sulphide in the course of operations at a well or in samples of well-fluids from a well where the presence of hydrogen sulphide in the reservoir being drawn on by the well was not anticipated by the responsible person before that detection;
- (d) the taking of precautionary measures additional to any contained in the original drilling programme following failure to maintain a planned minimum separation distance between wells drilled from a particular installation; or
- (e) the mechanical failure of any safety critical element of a well (and for this purpose the safety critical element of a well is any part of a well whose failure would cause or contribute to, or whose purpose is to prevent or limit the effect of, the unintentional release of fluids from a well or a reservoir being drawn on by a well).

Pipelines or pipeline works

14. The following incidents in respect of a pipeline or pipeline works—

- (a) the uncontrolled or accidental escape of anything from, or inrush of anything into, a pipeline which has the potential to cause the death of, major injury or damage to the health of any person or which results in the pipeline being shut down for more than 24 hours;
- (b) the unintentional ignition of anything in a pipeline or of anything which, immediately before it was ignited, was in a pipeline;
- (c) any damage to any part of a pipeline which has the potential to cause the death of, major injury or damage to the health of any person or which results in

the pipeline being shut down for more than 24 hours;

(d) any substantial and unintentional change in the position of a pipeline requiring immediate attention to safeguard the integrity or safety of a pipeline;

(e) any unintentional change in the subsoil or seabed in the vicinity of a pipeline which has the potential to affect the integrity or safety of a pipeline;

(f) any failure of any pipeline isolation device, equipment or system which has the potential to cause the death of, major injury or damage to the health of any person or which results in the pipeline being shut down for more than 24 hours; or

(g) any failure of equipment involved with pipeline works which has the potential to cause the death of, major injury or damage to the health of any person.

Fairground equipment

15. (omitted)

Carriage of dangerous substances by road

16. (omitted)

17. (Omitted)

DANGEROUS OCCURRENCES WHICH ARE REPORTABLE EXCEPT IN RELATION TO OFFSHORE WORKPLACES

(omitted)

PART II

DANGEROUS OCCURRENCES WHICH ARE REPORTABLE IN RELATION TO MINES

(omitted)

PART III

DANGEROUS OCCURRENCES WHICH ARE REPORTABLE IN RELATION TO QUARRIES

(omitted)

PART IV

DANGEROUS OCCURRENCES WHICH ARE REPORTABLE IN RESPECT OF RELEVANT TRANSPORT SYSTEMS

(omitted)

PART V

DANGEROUS OCCURRENCES WHICH ARE REPORTABLE IN RESPECT OF AN OFFSHORE WORKPLACE

Release of petroleum hydrocarbon

73. Any unintentional release of petroleum hydrocarbon on or from an offshore installation which—

(a) results in—

(i) a fire or explosion; or

(ii) the taking of action to prevent or limit the consequences of a potential fire or explosion; or

(b) has the potential to cause death or major injury to any person.

Fire or explosion

74. Any fire or explosion at an offshore installation, other than one to which paragraph 73 above applies, which results in the stoppage of plant or the suspension of normal work.

Release or escape of dangerous substances

75. The uncontrolled or unintentional release or escape of any substance (other than petroleum hydrocarbon) on or from an offshore installation which has the potential to cause the death of, major injury to or damage to the health of any person.

Collapses

76. Any unintended collapse of any offshore installation or any unintended collapse of any part thereof or any plant thereon which jeopardises the overall structural integrity of the installation.

Dangerous occurrences

77. Any of the following occurrences having the potential to cause death or major

injury—

- (a) the failure of equipment required to maintain a floating offshore installation on station;
- (b) the dropping of any object on an offshore installation or on an attendant vessel or into the water adjacent to an installation or vessel; or
- (c) damage to or on an offshore installation caused by adverse weather conditions.

Collisions

78. Any collision between a vessel or aircraft and an offshore installation which results in damage to the installation, the vessel or the aircraft.

79. Any occurrence with the potential for a collision between a vessel and an offshore installation where, had a collision occurred, it would have been liable to jeopardise the overall structural integrity of the offshore installation.

Subsidence or collapse of seabed

80. Any subsidence or local collapse of the seabed likely to affect the foundations of an offshore installation or the overall structural integrity of an offshore installation.

Loss of stability or buoyancy

81. Any incident involving loss of stability or buoyancy of a floating offshore installation.

Evacuation

82. Any evacuation (other than one arising out of an incident reportable under any other provision of these Regulations) of an offshore installation, in whole or part, in the interests of safety.

Falls into water

83. Any case of a person falling more than 2 metres into water (unless the fall results in death or injury required to be reported under sub-paragraphs (a)-(d) of regulation 3(1)).

SCHEDULE 3
REPORTABLE DISEASES

(Regulation 5(1) and (2))

PART I
Occupational Diseases

Any disease or condition mentioned in the first column of Part I of Schedule 3 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995^(p) and caused by any activity mentioned in the second column of that Part which is an activity undertaken in an offshore workplace to which the Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998 applies.

PART II
Diseases additionally reportable in respect of Offshore Workplaces

48. Chickenpox.
49. Cholera.
50. Diphtheria.
51. Dysentery (amoebic or bacillary).
52. Acute encephalitis.
53. Erysipelas.
54. Food poisoning.
55. Legionellosis.
56. Malaria.
57. Measles.
58. Meningitis.
59. Meningococcal septicaemia (without meningitis).
60. Mumps.
61. Paratyphoid fever.
62. Plague.
63. Acute poliomyelitis.
64. Rabies.
65. Rubella.
66. Scarlet fever.
67. Tetanus.
68. Tuberculosis.
69. Typhoid fever.
70. Typhus.
71. Viral haemorrhagic fevers.
72. Viral hepatitis.

SCHEDULE 4

(Regulation 7)

RECORDS

PART I

Particulars to be kept in records of any event which is reportable under regulation 3

1. Date and time of the accident or dangerous occurrence.
2. In the event of an accident suffered by a person at work, the following particulars of that person—
 - (a) full name;
 - (b) occupation; and
 - (c) nature of injury.
3. In the event of an accident suffered by a person not at work, the following particulars of that person (unless they are not known and it is not reasonably practicable to ascertain them)—
 - (a) full name;
 - (b) status (for example “passenger”, “customer”, “visitor” or “bystander”); and
 - (c) nature of injury.
4. Place where the accident or dangerous occurrence happened.
5. A brief description of the circumstances in which the accident or dangerous occurrence happened.
6. The date on which the event was first reported to the Governor.
7. The method by which the event was reported.

PART II

Particulars to be kept in records of instances of any of the diseases specified in Schedule 3 and reportable under regulation 5

1. Date of diagnosis of the disease.
2. Name of the person affected.
3. Occupation of the person affected.

4. Name or nature of the disease.
5. The date on which the disease was first reported to the Governor.
6. The method by which the disease was reported.

SCHEDULE 5

(Regulation 8)

ADDITIONAL PROVISIONS RELATING TO MINES AND QUARRIES

(omitted)

SCHEDULE 6

(Regulation 9)

ADDITIONAL PROVISIONS RELATING TO OFFSHORE WORKPLACES

Disturbance of site

1.—(1) In any case where any person, as a result of an accident arising out of or in connection with work at an offshore workplace, dies or suffers a major injury, no person shall disturb the place where it happened or tamper with anything at that place before—

(a) the expiration of 3 clear days after the matter has been notified in accordance with these Regulations; or

(b) the place has been visited by an inspector;

whichever is the sooner.

(2) Nothing in sub-paragraph (1) of this paragraph shall prohibit the doing of anything by or with the consent of an inspector or the doing of anything necessary to secure the safety of the workplace or of any person, plant or vessel.

SCHEDULE 7

(Regulation 10(4))

ENACTMENTS OR INSTRUMENTS REQUIRING THE NOTIFICATION OF EVENTS WHICH ARE NOT REQUIRED TO BE NOTIFIED OR REPORTED UNDER THESE REGULATIONS

(omitted)

SCHEDULE 8

(Regulation 15)

PART I

Revocations

(omitted)

PART II

Amendments

(omitted)

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

The Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998 applies to offshore mineral operations, and so far only as relevant to such operations to the Falkland Islands themselves, with modifications and exceptions, the provisions of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995. In the Schedule to the Order (the Regulations as they are to so apply) provisions which have no relevance to offshore operations have been omitted.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS EMPLOYMENT

The Offshore Minerals (Application of Employers' Liability (Compulsory Insurance) Act 1969) Regulations 1998

S. R. & O. No. 15 of 1998

Made: 23 January 1998

Published: 30 January 1998

Coming into force: in accordance with regulation 1

IN EXERCISE of my powers under section 27(3) of and paragraph 4(2)(b) of Schedule 2 to the Offshore Minerals Ordinance 1994(a), and with the consent of the Secretary of State, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Offshore Minerals (Application of Employers' Liability (Compulsory Insurance) Act 1969) Regulations 1998 and shall come into force on such date as may be notified by the Governor by notice published in the *Gazette*.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the external application Order” means the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998(b);

“the 1969 Act” means the Employers' Liability (Compulsory Insurance) Act 1969(c) in the form it applies to the Falkland Islands under section 2 of the Employers' Liability (Compulsory Insurance) Ordinance 1996(d) and includes the Employers' Liability (Compulsory Insurance) Exemption Regulations 1996(e) and the Employers' Liability (Compulsory Insurance) General Regulations 1996(f) made under section 6 of the said Act in such application;

(a) No. 16 of 1994

(b) S.R.&O. No. 6 of 1998

(c) 1969 c.57

(d) No. 9 of 1996

(e) S.R.&O. No. 31 of 1996

(f) S.R.&O. No. 32 of 1996

“the 1995 Regulations” means the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995^(g) in their application as part of the law of the Falkland Islands under the Offshore Installations and Pipeline Works (Management and Administration) Order 1998^(h); and

“installation” means an offshore installation within the meaning of regulation 3 of the 1995 Regulations.

Application of these Regulations

3. These Regulations shall apply—

- (a) in the Falkland Islands; and
- (b) as specified in regulation 4.

Application of the 1969 Act

4.—(1) The 1969 Act shall apply to employers of relevant employees employed for work on or from offshore installations, or on or from associated structures in the course of activities undertaken on or in connection with such installations, subject to such modifications and extensions as are hereafter in this regulation prescribed.

(2) In section 1 of the 1969 Act applied as aforesaid—

(a) in subsection (1) the words “carrying on any business in the Falkland Islands” shall be omitted and, for the words from “his employees” to the end of the subsection, there shall be substituted the words “those of his relevant employees who are employed by him for work on or from an offshore installation, or on or from an associated structure in the course of an activity undertaken on or in connection with an offshore installation, and arising out of and in the course of their employment for that work”; and

(b) at the end of paragraph (d) of subsection (3) there shall be added the following paragraph—

“(e) any expression to which a meaning is given by the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 in their application to the Falkland Islands, and to which a meaning is not given by this Act, shall have the same meaning in this Act.”

(3) Section 2(2) of the 1969 Act applied as aforesaid shall have no effect.

(4) In section 4(2)(a) of the 1969 Act applied as aforesaid, after the word “insurance” there shall be inserted the words “or make arrangements to secure the maintenance of such copies on offshore installations or associated structures”.

^(g) SI 1995/738

^(h) S.R.&O. No. 8 of 1998

(5) After section 5 of the 1969 Act applied as aforesaid there shall be inserted the following sections—

“Liability of owners of offshore installations

5A.—(1) In respect of any offshore installation, it shall be the duty of the owner of the installation to ensure that requirements imposed by or under this Act are complied with and where, in respect of that installation—

(a) any employer is on any day not insured in accordance with this Act, the owner of the installation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; or

(b) any person fails to comply with a requirement imposed by or under section 4 of this Act, the owner of the installation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) In proceedings against the owner of an installation for an offence under this section it shall be a defence for the accused to prove—

(a) that he has used all due diligence to prevent the commission of the offence; and

(b) that any relevant contravention was committed without his consent, connivance or wilful default.

(3) Section 37 of the Health and Safety at Work etc Act 1974 in its application under the law of the Falkland Islands by virtue of the external application Order shall apply in relation to an offence under this section as if it were an offence under that Act.

(4) In proceedings for an offence under this section an averment in any process of the fact that anything was done or situated within relevant waters shall, until the contrary is proved, be sufficient evidence of that fact as stated in the averment.

(5) Proceedings for any offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Great Britain.

(6) References in this section to “the owner”, in relation to an offshore installation, are to the person who controls the operation of the installation.

5B. No proceedings shall be instituted in the Falkland Islands for any offence under this Act in respect of an offshore installation except by the Attorney General or by a person authorised in that behalf by the Attorney General.”

Made this 23rd day of January 1998

R P Ralph
Governor

EXPLANATORY NOTE

(not forming part of the above Regulations)

Section 27(3) and Schedule 2 paragraph 4(2)(b) of the Offshore Minerals Ordinance 1994 ("the 1994 Ordinance") enable the Employers' Liability (Compulsory Insurance) Act 1969 ("the 1969 Act") to be applied to employment on offshore installations and associated activities, whether on an offshore installation or not. Subsequent to the enactment of the 1994 Ordinance, the 1969 Act was applied to the Falkland Islands, with modifications and exceptions by the Employers' Liability (Compulsory Insurance) Ordinance 1996.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

27th February 1998

No. 6

The following are published in this Supplement -

Buildings (Camp) Designation Order 1998, (S.R. & O. No. 16 of 1998);

Buildings (Keppel Island) Designation Order 1998, (S.R. & O. No. 17 of 1998);

Buildings (Stanley) Designation Order 1998, (S.R. & O. No. 18 of 1998).

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Buildings (Camp) Designation Order 1998

(S. R. & O. No. 16 of 1998)

Made: 24 February 1998

Published: 27 February 1998

Coming into force: on publication

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation

1. This Order may be cited as the Buildings (Camp) Designation Order 1998.

Designation of buildings

2. The buildings and structures in Camp specified in the Schedule to this Order are designated as buildings of special architectural or historic interest.

SCHEDULE

1. The Old House, Long Island
2. The Galpon and the Stone Corral, Darwin
3. Stone Corral and Buildings, Spring Point
4. Boathouse, Store and Shed, Carcass Island

Made this 24th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE

(not forming part of the above Order)

The effect of this Order is to require permission pursuant to section 66(4), 68(2) or 68(4) of the Planning Ordinance 1991 for any works or operations for the demolition of any of the buildings the subject of this Order and any alterations or extensions which might effect their character as buildings of special architectural or historic interest. Contravention of the provisions mentioned constitutes a criminal offence under section 68(6) of the Planning Ordinance 1991.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Buildings (Keppel Island) Designation Order 1998

(S. R. & O. No. 17 of 1998)

Made: 24 February 1998

Published: 27 February 1998

Coming into force: on publication

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation

1. This Order may be cited as the Buildings (Keppel Island) Designation Order 1998.

Designation of buildings

2. The buildings and structures on Keppel Island specified in the Schedule to this Order are designated as buildings of special architectural or historic interest.

SCHEDULE

1. The bailiff's house
2. The cattle shed
3. The wool shed
4. The stone outbuilding
5. All foundations, enclosures and other structures related to the former mission settlement on Keppel Island which are not included in items 1 to 4.

Made this 24th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE

(not forming part of the above Order)

The effect of this Order is to require permission pursuant to section 66(4), 68(2) or 68(4) of the Planning Ordinance 1991 for any works or operations for the demolition of any of the buildings the subject of this Order and any alterations or extensions which might effect their character as buildings of special architectural or historic interest. Contravention of the provisions mentioned constitutes a criminal offence under section 68(6) of the Planning Ordinance 1991.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Buildings (Stanley) Designation Order 1998

(S. R. & O. No. 18 of 1998)

Made: 24 February 1998

Published: 27 February 1998

Coming into force: on publication

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation

1. This Order may be cited as the Buildings (Stanley) Designation Order 1998.

Designation of buildings

2. The buildings and structures in Stanley specified in the Schedule to this Order are designated as buildings of special architectural or historic interest.

SCHEDULE

1. 5, 6, 7, 8, 9 and 15 Pioneer Row
2. 38, 39 and 40 (Jubilee Villas) Ross Road
3. German Camp East and German Camp West, Callaghan Road
4. 4 Fitzroy Road East
5. Pigeon Loft, 11 Ross Road West

Made this 24th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE

(not forming part of the above Order)

The effect of this Order is to require permission pursuant to section 66(4), 68(2) or 68(4) of the Planning Ordinance 1991 for any works or operations for the demolition of any of the buildings the subject of this Order and any alterations or extensions which might effect their character as buildings of special architectural or historic interest. Contravention of the provisions mentioned constitutes a criminal offence under section 68(6) of the Planning Ordinance 1991.

(a) No. 7 of 1991



THE FALKLAND ISLANDS GAZETTE Supplement

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No. 7

The following are published in this Supplement -

Civil Jurisdiction (Offshore Activities) Order 1998, (S.R. & O. No. 19 of 1998);

The Offshore Installations (Safety Zones) (Exceptions) Regulations, (S.R. & O. No. 20 of 1998);

Offshore Installations (Automatic Safety Zones) Order 1998, (S.R. & O. No. 21 of 1998);

Criminal Jurisdiction (Offshore Activities) Order 1998, (S.R. & O. No. 22 of 1998).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS

Civil Jurisdiction (Offshore Activities) Order 1998

(S. R. & O. No. 19 of 1998)

Made: 27 February 1998

Published: 6 March 1998

Coming into operation: 30 March 1998

IN EXERCISE of my powers under section 18, 19 and 20 of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and interpretation

1.—(1) This Order may be cited as the Civil Jurisdiction (Offshore Activities) Order 1998.

(2) This Order comes into force on 30 March 1998.

Interpretation

2. In this Order—

“installation” includes an installation in transit;

“offshore area” means—

(a) tidal waters and parts of the sea adjacent to the Falkland Islands up to the seaward limits of the territorial sea;

(b) and any designated area of the continental shelf;

“the Ordinance” means the Offshore Minerals Ordinance 1994;

“relevant act”, except in article 4(b) means an act or omission taking place on, under or above the offshore area in connection with any activity mentioned in section 18(2) of the Ordinance.

Application of Falkland Islands Law

2. The law in force in the Falkland Islands applies for the determination of questions arising out of relevant acts taking place in the offshore area.

Jurisdiction

3. The Supreme Court has such jurisdiction for the determination of any question arising out of a relevant act which under article 2 of this Order falls to be determined under the law of the Falkland Islands as it would have if the relevant act had taken place in the Falkland Islands.

Application of Wireless Telegraphy Act 1949 and Radioactive Substances Act 1993

4. For the purposes of the Wireless Telegraphy Act 1949, the Radioactive Substances Act 1993 and any regulations and orders under either of those Acts (subject, however—

(a) to all such modifications as are required by section 76(4) of the Interpretation and General Clauses Ordinance 1977; and

(b) to any contrary intention appearing in any such regulation or order made after the making of the Civil Jurisdiction (Offshore Activities) Order 1987(b) in respect of their application to installations and waters to which article 4 of that Order relates),

any installation and any waters within 500 metres of an installation shall be deemed to be situated in the Falkland Islands.

Made this 27th day of February 1998

R P Ralph
Governor

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

This Order applies the law of the Falkland Islands to the determination of questions arising out of “relevant acts” (as defined in article 2 of the Order) taking place within the “offshore waters” (again as defined in article 2) and confers jurisdiction upon the Supreme Court of the Falkland Islands to determine such questions. It also applies the Wireless Telegraphy Act 1949 and the Radioactive Substances Act 1993 and, subject to article 4 of the Order, regulations and orders under those Acts, to installations within offshore waters and to waters within 500 metres of such installations.

(b) SI 1987 No. 2197

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS

The Offshore Installations (Safety Zones) (Exceptions) Regulations 1998

(S. R. & O. No. 20 of 1998)

Made: 27 February 1998

Published: 6 March 1998

Coming into force: 30 March 1998

IN EXERCISE of my powers under section 32(1)(b) of the Offshore Minerals Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Offshore Minerals (Exceptions) Regulations 1998 and shall come into force on 30 March 1998.

Exceptions from prohibition upon entering safety zone

2. The prohibition in section 32(1) of the Offshore Minerals Ordinance 1994 on a vessel entering or remaining in a safety zone established around an installation by virtue of section 30 or 31 of the Ordinance shall not apply to a vessel entering or remaining in the safety zone—

(a) in connection with the laying, inspection, testing, repair, alteration, renewal or removal of any submarine cable or pipe-line in or near the safety zone;

(b) to provide services for, to transport persons or goods to or from, or under the authority of the Governor or of the Director of Oil to inspect, any installation in that safety zone;

(c) in connection with the saving or attempted saving of life or property;

(d) owing to stress of weather; or

(e) when in distress.

Made this 27th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the Regulations)

These Regulations provide exceptions to the prohibition upon vessels entering a safety zone established by virtue of section 30(2) (automatic safety zones) or section 31 (special safety zones) of the Offshore Minerals Ordinance 1994. "Vessel" is defined in section 32(5) of the Ordinance as including a hovercraft, submersible apparatus and an installation in transit.

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS

Offshore Installations (Automatic Safety Zones) Order 1998

(S. R. & O. No. 21 of 1998)

Made: 27 February 1998

Published: 6 March 1998

Coming into force: 30 March 1998

IN EXERCISE of my powers under section 30(1) of the Offshore Minerals Ordinance 1998(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and commencement

1. This Order may be cited as the Offshore Installations (Automatic Safety Zones) Order 1998 and shall come into force on 30th March 1998.

Automatic safety zone provisions to have effect

2. Section 30 of the Offshore Minerals Ordinance 1994 shall have effect from the date on which this Order comes into force in accordance with article 1.

Made this 27th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE

(not forming part of the above Order)

This Order brings into force the provisions of section 30 of the Offshore Minerals Ordinance 1994 so as to establish automatic safety zones around certain offshore installations.

(a) No. 16 of 1994

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS

Criminal Jurisdiction (Offshore Activities) Order 1998

(S. R. & O. No. 22 of 1998)

Made: 27 February 1998

Published: 6 March 1998

Coming into operation: 30 March 1998

IN EXERCISE of my powers under section 17(1) and (2) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, and with the consent of the Secretary of State for Foreign and Commonwealth Affairs, I make the following Order—

Citation and interpretation

1.—(1) This Order may be cited as the Criminal Jurisdiction (Offshore Activities) Order 1998.

(2) This Order comes into force on 30th March 1998.

Interpretation and application

2.—(1) In this Order “installation” includes an installation in transit.

(2) This Order applies to—

(a) the territorial sea of the Falkland Islands;

(b) any designated area of the continental shelf.

Application of criminal law

3. Any act or omission which—

(a) takes place on, under or above an installation in waters to which this Order applies or any waters within five hundred metres of any such installation; and

(b) would, if it had taken place in the Falkland Islands, constitute an offence under the law of the Falkland Islands,

shall be treated for the purposes of that law as if it had taken place in the Falkland Islands.

(a) No. 16 of 1994

Application of police powers

4. A police officer has, under or above any installation in waters to which this Order applies or any waters within five hundred metres of such an installation all the powers, protection and privileges which a police officer has in the Falkland Islands.

Made this 27th day of February 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order applies the criminal law of the Falkland Islands to offshore installations within the territorial sea of the Falkland Islands and designated areas of the continental shelf of the Falkland Islands and to waters within 500 metres of such installations. The Order confers upon police officers the same powers, protections and privileges on such installations and within waters within 500 metres of such installations as they enjoy within the Falkland Islands themselves.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

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13th March 1998

No. 8

The following are published in this Supplement -

Road Traffic (Protective Head Gear) (Amendment) Regulations 1998, (S.R. & O. No. 23 of 1998);

Retirement Pensions (Amendment) Bill 1998;

National Parks Bill 1998;

Fishery Products (Hygiene) Bill 1998;

Administration of Justice (Amendment) Bill 1998;

Animal Health Bill 1998;

Interpretation of General Clauses (Amendment) Bill 1998.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC ORDINANCE (CAP 60)

Road Traffic (Protective Head Gear)(Amendment) Regulations 1998

S. R. & O. No. 23 of 1998

Made: 9 March 1998

Published: 13 March 1998

Coming into force: upon publication

IN EXERCISE of my powers under section 12A and 12B of the Road Traffic Ordinance(a) and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1.—(1) These Regulations may be cited as the Road Traffic (Protective Head Gear)(Amendment) Regulations 1998.

(2) These Regulations shall come into force upon publication in the Gazette.

Amendment

2. Regulation 2 of the Road Traffic (Protective Head Gear) Regulations 1983 is repealed and replaced with the following—

“2. Every person who shall ride on a motorcycle on any road either as a driver or a passenger (other than in a sidecar) shall wear protective head gear certified either to—

(a) British Standards by the British Standards Institution; or

(b) Australian Standards by the Standards Association of Australia.”

Made this ninth day of March 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

These Regulations have the effect of permitting riders of motorcycles to wear protective head gear which is certified either to British or Australian standards.

Retirement Pensions (Amendment) Bill 1998

(No: of 1998)

ARRANGEMENT OF PROVISIONS

Clause

1. Short title, commencement and interpretation
2. Transitional cases: contributions after pensionable age not to count for certain purposes
3. The married couple's supplement
4. Entitlement to pension based on deemed contributions restricted to residents
5. Voluntary contributions by deemed contributors
6. Ex gratia pensions payable to persons entitled to pensions under the 1996 Ordinance
7. Penalties for false statements made in connection with ex gratia pensions

RETIREMENT PENSIONS (AMENDMENT) BILL 1998

(No. _____ of 1998)

A BILL

for

AN ORDINANCE

(assented to: 1998)

(commencement: in accordance with section 1)

(published: 1998)

To amend the Retirement Pensions Ordinance 1996

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

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Retirement Pensions (Amendment) Ordinance 1998 and shall be deemed to have come into force on 6 January 1997.

(2) In this Ordinance “the 1996 Ordinance” means the Retirement Pensions Ordinance 1996.

Transitional cases: contributions after pensionable age not to count for certain purposes

2. In section 7(2) of the 1996 Ordinance (which defines “relevant week” for the purposes of determining the number of weeks in respect of which contributions have been made and which can count towards the 14 year transitional period of entitlement to a full pension)—

(a) in paragraph (a) for the words “not in receipt of a pension under section 4” there shall be substituted the words “not over the age of 64 years”, and

(b) in paragraph (b) for the words “not in receipt of a widow’s or widower’s pension” there shall be substituted the words “not over the age of 60 years”.

The married couple’s supplement

3. In section 6 of the 1996 Ordinance (which makes provision for the payment of the married couple’s supplement until the wife reaches 64 years) after subsection (1) there shall be inserted—

“(1A) The married couple’s supplement shall continue to be payable to the husband after the wife has reached the age of 64 years if—

(a) the wife is either not entitled to a pension under this Ordinance or (apart from subsection (1B) below) would be entitled to such a pension payable at a rate less than the rate at which the supplement is payable, and

(b) the husband continues to satisfy the condition in paragraph (b) of subsection (1) above.”

(1B) In any case where the husband is entitled to the married couple’s supplement, any pension under this Ordinance otherwise payable to his wife shall be abated by the amount of the supplement and accordingly shall not be paid.”

Entitlement to pension based on deemed contributions restricted to residents

4.—(1) In section 4(4) of the 1996 Ordinance (which entitles non-residents as well as residents to pensions) at the beginning there shall be inserted “Subject to section 7(3A)”.

(2) After subsection (3) of section 7 there shall be inserted—

“(3A) A woman who is not ordinarily resident in the Falkland Islands on the appointed day shall not be entitled, by virtue of subsection (5) or (7) below, to receive any payment by way of a pension under this Ordinance in respect of any period before she becomes ordinarily resident in the Falkland Islands (but irrespective of whether she continues to be so resident thereafter).”

(3) In section 7 at the beginning of subsections (5) and (7) (which enable pensions to be paid to women with deemed contributions whether or not they are resident in the Falkland Islands) there shall be inserted “Subject to subsection (3A)”.

Voluntary contributions by deemed contributors

5.—(1) In section 12 of the 1996 Ordinance (which permits contributors to make voluntary contributions in certain cases) after subsection (2) there shall be inserted—

“(2A) A person (irrespective of his age)—

(a) in respect of whom contributions are deemed to have been made under this Ordinance or the 1952 Ordinance in respect of any period (“the contribution period”), and

(b) who has not in fact made any contributions himself under this Ordinance or the 1952 Ordinance (disregarding any contributions made by virtue of this subsection), and

(c) who has not been granted a pension under this Ordinance or the 1952 Ordinance, and

(d) who is ordinarily resident in the Falkland Islands on the appointed day or a later date, and

(e) who has given notice to the Board, in such form as the Board may require, before the first anniversary of the end of the contribution period, that he wishes to make contributions under this subsection,

may make voluntary contributions at the prescribed rate in respect of any period beginning after the end of the contribution period, irrespective of whether he has retired or is still gainfully employed."

Ex gratia pensions payable to persons entitled to pensions under the 1996 Ordinance

6. In section 17 of the 1996 Ordinance (which provides for ex gratia pensions to be paid in certain circumstances to persons who are not entitled to any other pension under the 1996 Ordinance) the words "who is not entitled to any pension under the foregoing provisions of this Ordinance" shall cease to have effect.

Penalties for false statements made in connection with ex gratia pensions

7.—(1) In section 22(1) of the 1996 Ordinance (which imposes criminal sanctions on persons making false statements for the purposes of obtaining of a pension under section (4) for "section 4" there shall be substituted "this Ordinance".

(2) After subsection (3) of that section there shall be added—

"(4) Subsections (2) and (3) above shall apply, with any necessary modifications, where an amount has been paid to any person by way of pension under section 17 which would not have been so paid but for false statements or representations made by that or any other person, as they apply where an amount has been paid by way of pension to any person who was not entitled to that payment."

National Parks Bill 1998

(No of 1998)

ARRANGEMENT OF PROVISIONS**Clause**

1. Short title and commencement
2. Interpretation
3. National Parks
4. Designation of National Parks
5. Rights of public access
6. National Park designation and access agreements
7. Regulations
8. Offences

Schedule

NATIONAL PARKS BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

(assented to: 1998)
(commencement: in accordance with section 1)
(published: 1998)

To make provision for National Parks and the right to roam therein and matters connected with either of the foregoing matters

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

Introductory

Short title and commencement

1. This Ordinance may be cited as the National Parks Ordinance 1998 and shall come into force on such date as is notified by the Governor in a notice published in the *Gazette*.

Interpretation

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

“Crown entity” means any body corporate to which section 7(3) of the Constitution applies;

“designation and access agreement” has the meaning given by section 6(1) of this Ordinance;

“excepted land” has the meaning given by section 5(5) of this Ordinance;

“national park” means land which has been designated as a national park by Order made under section 4(1);

“occupier”, in relation to any land, means a person, other than a mortgagee, lawfully in possession of land but in section 4(2) does not include any person in possession of the land under any lease, agreement or licence which will by its terms expire within eighteen months of the time in question or which is determinable at the instance of another party thereto within that period;

“open country” means an area of land consisting wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore);

“owner”, in relation to land, means a person other than a mortgagee not in possession, who, whether in his own right or as trustee or agent 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;

“the right to roam” means the right to pass and repass, on foot or, except where prohibited by Regulations, on horseback, (but not, except where permitted under this Ordinance or any other law, by vehicle), to stop, look and watch and rest, and, subject to this Ordinance, to do such other things, not including the playing of organised games, as may be done without damage to the land concerned or anything on it or in it.

National Parks

3.—(1) This Ordinance shall have effect for the purposes—

(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in subsection (2) of this section;

(b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public; and

(c) conferring upon the public at large the right to roam in national parks.

(2) The areas referred to in subsection (1) of this section are those extensive tracts of country in the Falkland Islands as to which it appears to the Governor by reason of—

(a) their natural beauty; and

(b) the opportunities they afford for open-air recreation, having regard to their character and their geographical location,

that it is especially desirable that measures shall be taken for the purposes mentioned in subsection (1).

Designation of, and rights of access to and in, national parks

Designation of National Parks

4.—(1) Subject to subsection (2) of this section, the Governor may by Order designate as a national park any area of countryside in the Falkland Islands which he is satisfied is an area to which section 3(2) applies.

(2) The Governor may not designate any area to be a national park—

(a) without the consent of every person, other than the Crown or a Crown entity, who is an owner or occupier of any land comprised within that area;

(b) unless it appears to him to be open country;

(c) if there is an owner or occupier, other than the Crown, of any land comprised within that area, unless the Governor has entered into a designation and access agreement with that owner or occupier in respect of that land and the Governor designates that land as a national park in accordance with the provisions of that agreement.

(3) An Order under subsection (1) of this section shall describe the area designated as a national park by reference to a map and such other descriptive matter as may appear to the Governor to be appropriate.

(4) The designation of any land as a national park shall not prevent or restrict the use by the owner or occupier of the land in any way not inconsistent with the public's right to roam upon that land under section 5, any provisions of any designation and access agreement applicable to that land and subsection (6) of this section.

(5) Without prejudice to subsection (5) of this section, a person interested in any land comprised in a dedication and access agreement, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of section 5 is substantially reduced, but nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

Rights of public access

5.—(1) Subsection (2) of this section applies so as to confer upon the public at large the right to roam in respect of land comprised in a national park which is not excepted land.

(2) Subject to subsections (3) and (4) of this section and to the provisions of any Regulations made under this Ordinance for the purpose of giving effect to any access agreement applying to the land in question, a person who enters upon any land comprised in a national park for the purpose of exercising the right to roam without breaking or damaging any wall, fence, hedge or gate, or is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land.

(3) Nothing in subsection (2) of this section entitles a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.

(4) Subsection (1) of this section does not apply so as to prevent the person for the time being entitled to occupation of the land subject to the right to roam treating as a trespasser a person who, in or upon the land in question does anything prohibited by the Schedule to this Ordinance.

(5) For the purposes of subsection (1), "excepted land" means—

- (a) land covered by buildings or the curtilage of such land;
- (b) any land in use as a lambing paddock at the time in question;
- (c) land used for the getting of minerals by surface working (including quarrying) or land used as a golfcourse, racecourse or aerodrome;
- (d) land within one hundred metres of any building used as a dwelling;
- (e) land under cultivation;
- (f) land in the occupation of any statutory undertaking or used for the purposes of any telecommunications system;
- (g) land which is indicated by fences, signs or otherwise to be a minefield; and
- (h) land specified as excepted land by any Regulations made under this Ordinance

National Park designation and access agreements

6.—(1) The Governor may enter into an agreement with the owner or occupier of any land providing for the dedication of the land specified therein as a national park and any restrictions subject to which persons may enter into or be upon that land ("a dedication and access agreement").

(2) Without prejudice to the generality of subsection (1), the Governor may in a dedication and access agreement agree to make Regulations under this Ordinance imposing restrictions excluding the land or any part thereof at times or seasons to be specified in those Regulations from the operation of section 5(2) of this Ordinance.

(3) Subsection (2) of this section has effect without prejudice to the provisions of section 5 of this Ordinance in relation to excepted land.

(4) Where a dedication and access agreement contains provisions as to access agreed with one or some, but not all, of the persons having interests in the land to which the agreement relates, those provisions and the provisions of section 5 of this Ordinance apply as respects the interests of the persons with whom the access provisions were agreed, and shall continue to apply notwithstanding any change in the persons entitled to the same interests in the land, but do not operate as against the person for the time

being entitled to any other interest in the land so as to prejudice his rights as owner of that interest.

Regulations and offences

Regulations

7. The Governor may by Regulations made under this section—

- (a) prohibit the doing of any thing specified in those Regulations in any national park or any specified national park or part of a national park and either absolutely, subject to restrictions or at particular times or seasons of the year and constitute the doing of any prohibited thing specified in the Regulations for that purpose an offence punishable by such fine, not exceeding the maximum of level four on the standard scale, as is specified in relation thereto in such Regulations;
- (b) add to the categories of land which are to be excepted land or which are to be excepted land in the circumstances or subject to the conditions specified in Regulations so made;
- (c) exclude a national park or part or parts thereof from the operation of section 5(2) of this Ordinance at times or seasons specified in those Regulations; and
- (d) prescribe any matter or thing which it is necessary or convenient to prescribe for the purposes of any foregoing provision of this Ordinance.

Offences

8. A person who does any thing mentioned in the Schedule to this Ordinance 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.

SCHEDULE

A person commits an offence who, in a national park, except in so far as he may be permitted by Regulations under this Ordinance or any other written law to do so, does any of the following things—

- (a) lights any fire except in a place he is permitted by the occupier of the land to light a fire or which is designated by Regulations made under this Ordinance for the lighting of fires or does any act which, except as aforesaid, is likely to cause a fire;
- (b) takes, or allows to enter or remain, any dog not under proper control;
- (c) other than with the consent of the person for the time being entitled to occupation of the land or other person entitled to give such consent, engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any apparatus or thing whatsoever used or designed to be used for hunting, shooting, fishing, snaring, taking or destroying animals birds or fish;

(d) except where he is lawfully permitted so to do by the person for the time being entitled to occupation of the land, wilfully damages the land or anything thereon or therein;

(e) wilfully injures, removes or destroys any plant, shrub, tree or root or any part of any of the foregoing;

(f) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence, wall or gate, or neglects to shut any gate or fasten it if any means of fastening it is provided;

(g) affixes or writes any advertisement, bill, placard or notice;

(h) deposits any rubbish or leaves any litter;

(i) engages in riotous, disorderly or indecent conduct;

(j) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation;

(k) worries any cattle or sheep or allows any dog he takes with him in or on the land to worry any cattle or sheep; or

(l) does any other thing prohibited by Regulations made under this Ordinance and having effect in relation to the land in question.

Fishery Products (Hygiene) Bill 1998

(No: of 1998)

ARRANGEMENT OF PROVISIONS**Clause**

1. Short title and commencement.
2. Interpretation
3. Designation of factory vessels and fishery products establishments
4. Application of legislation of the United Kingdom relating to fishery products etc
5. Power to make Regulations
6. Offences by bodies corporate

FISHERY PRODUCTS (HYGIENE) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

<i>(assented to:</i>	<i>1998)</i>
<i>(commencement:</i>	<i>1998)</i>
<i>(published:</i>	<i>1998)</i>

To make provision for the designation of fishing vessels and fishery products establishments as fishing vessels and establishments which meet the hygiene conditions and other matters specified in European Council Directive 91/493/EEC and related European Community legislation.

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

Short title and commencement

1. This Ordinance may be cited as the Fishery Products (Hygiene) Ordinance 1998 and shall come into force on such date as notified by the Governor by notice published in the Gazette.

Interpretation

2. In this Ordinance—

“the Commission” means the Commission of the Communities;

“the Council” means the Council of the Communities;

“the Communities” has the same meaning as it has for the purposes of the European Communities Act 1972;

“the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“factory vessel” means any vessel on which fishery products undergo one or more of the following operations - filleting, slicing, skinning, mincing, freezing or processing - followed by packaging,

but the following are not deemed to be factory vessels—

(a) fishing vessels in which only shrimps and molluscs are cooked on board; and

(b) fishing vessels on board which only freezing is carried out;

“fishery products” means—

(a) all seawater or freshwater animals, including their roes; and

(b) parts of such animals, except in circumstances where they—

(i) are combined (in whatever way) with other food stuffs, and

(ii) comprise less than 10% of the total weight of the combined food stuffs,

but excluding aquatic mammals, frogs and aquatic animals covered by Community acts other than the Fishery Products Directive, and parts of such mammals, frogs and aquatic animals;

“the Fishery Products Directive” means Council Directive 91/493/EEC of 22nd July 1991 laying down the health conditions for the production and placing on the market of fishery products, as adapted for the purposes of the EEA Agreement and as amended;

“fishery products establishment” means, with regard to the production of fishery products for human consumption, any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored, other than cold stores where only the handling of wrapped products takes place;

“food authority” means the Senior Veterinary Officer or any other public officer appointed by the Governor to be the food authority for the purposes of this Ordinance;

“food business proprietor” means—

(a) in relation to a factory vessel, the owner, charterer and operator of the vessel; and

(b) in relation to a fishery products establishment, the owner, lessee or operator of the establishment;

“member state” has the same meaning as it has for the purposes of the European Communities Act 1972.

Designation of factory vessels and fishery products establishments

3.—(1) The Governor may by order under this section designate any factory vessel or fishery products establishment as a factory vessel or fishery products establishment to and in relation to which the provisions of this Ordinance and any regulations made hereunder shall apply and any such order may be revoked by a further order under this section.

(2) No order may be made under this section except in respect of a factory vessel or fishery products establishment which has been approved by the food authority.

Application of legislation of the United Kingdom relating to fishery products etc

4.—(1) The Governor may by order apply, subject to such modifications and exceptions as he considers necessary, to and in relation to designated factory vessels and fishery products establishments and to fishery products handled, processed or stored therein any legislation of the United Kingdom appearing to him to give effect to any obligation of the United Kingdom under European Community law in relation to fishery products intended for human consumption in the United Kingdom or for export to any other member state or any matter appearing to him to be connected with any of the foregoing matters.

(2) In subsection (1), “legislation of the United Kingdom” includes legislation having effect in a constituent part of the United Kingdom and any regulation of the Commission having direct effect as law in the United Kingdom.

(3) The Governor may, by order under this subsection apply, subject to such modifications and exceptions, if any, as are stated in that order, to and in respect of every designated factory vessel, fishery products establishment and fishery products handled, processed or stored any Code of Practice in force in any part of the United Kingdom under by virtue of or for the purposes of any legislation of the United Kingdom.

Power to make Regulations

5.—(1) The Governor may by order make regulations for the better carrying into effect of the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing such regulations may provide for—

(a) the persons to whom and the manner in which applications for approval of factory vessels and fishery products establishments may be made;

(b) the procedures to be followed by applicants for approvals;

(c) the standards of hygiene which shall apply to designated factory vessels and fishery products establishments;

- (d) the obligations to be observed by a food business proprietor;
- (e) the fees to be paid in respect of any application for an approval;
- (f) the forms to be used for the purposes of this Ordinance;
- (g) the powers which may be exercised by the food authority;
- (h) a penalty not exceeding a fine at level 10 on the standard scale and imprisonment for a term not exceeding two years or both for contravention of any such regulation.

Offences by bodies corporate

6. Where an offence, under any regulation made pursuant to any power prescribed by 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) any director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in such capacity,

he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

OBJECTS AND REASONS

Clause 3 of the Bill will give the Governor power to designate factory vessels and on shore fish processing or storage establishments as vessels or establishments to which the provisions of the Bill and Regulations made under it shall apply. Only those vessels and establishments which meet the standards of hygiene set out in Regulations to be made pursuant to clause 5, may be designated.

Administration of Justice (Amendment) Bill 1998

(No of 1998)

ARRANGEMENT OF PROVISIONS**Clause**

1. Short title
2. Amendment of section 7E(8) of the Administration of Justice Ordinance
3. Replacement of section 47 of the Administration of Justice Ordinance
4. Amendment of Schedule 3 to the Administration of Justice Ordinance

ADMINISTRATION OF JUSTICE (AMENDMENT) BILL 1998

(No: of 1998)

A BILL

for

AN ORDINANCE

(assented to: 1998)
(commencement: upon publication)
(published: 1998)

To amend the Administration of Justice Ordinance

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

Short title

1. This Ordinance may be cited as the Administration of Justice (Amendment) Ordinance 1998.

Amendment of section 7E(8) of the Administration of Justice Ordinance

2. The following sentence is added at the end of section 7E(8) of the Administration of Justice Ordinance—

“Except where otherwise in this Ordinance specifically provided to the contrary, every reference in any English enactment relating to county courts to a “registrar”, a “judge” or “district judge” shall be construed as if it were a reference to the Senior Magistrate.”.

Replacement of section 47 of the Administration of Justice Ordinance

3.—(1) Section 47(2) of the Administration of Justice Ordinance is replaced by the following two subsections—

“(2) There shall be no limitation on the time within which there may be commenced a prosecution—

(a) for any sexual offence committed upon or in relation to a person aged under sixteen years at the time of the offence; or

(b) for any indictable offence other than—

(i) rape not committed upon a person aged under sixteen years at the time of the offence, or

(ii) an offence under section 1(2) of the Criminal Damage Act 1971.

In paragraph (a), “sexual offence” means any offence under the Sexual Offences Act 1956 or the Sexual Offences Act 1967, as from time to time amended, in their application to the Falkland Islands under the Crimes Ordinance 1989.

(2A) A prosecution for an offence of rape other than one committed upon a person aged under sixteen years at the time of the offence must be commenced within twelve years of the offence.”

(2) Section 47(3) is amended by inserting at the beginning of the subsection the words “Subject to subsection (2)”.

(3) Subsection (1) applies in relation to offences committed before, as well as after, the commencement of the subsection.

Amendment of Schedule 3 to the Administration of Justice Ordinance

4. Schedule 3 to the Administration of Justice Ordinance (which was inserted by the Administration of Justice (Amendment) Ordinance 1996) is amended—

(a) by inserting immediately following the word “Registrar” where it first appears in the definition of “Bailiff” appearing in paragraph 1(1), the words “and the Senior Magistrate when exercising the powers of a bailiff conferred upon a district judge by the County Courts Act 1984”;

(b) by replacing paragraph 10(c) with the following—

“(c) to the registrar or to the district judge shall be construed as a reference to the Senior Magistrate;”

(c) by adding the following words at the end of paragraph 10(f)—

“except in relation to anything concerning the Senior Magistrate in the exercise of the powers of a bailiff conferred upon a district judge, when the reference shall be construed as a reference to the Chief Justice and, in any case to which this exception relates, the Chief Justice shall have and may exercise in the Supreme Court any powers and jurisdiction which would be exercisable by the judge in a county court in England”.

Animal Health Bill 1998

(No: of 1998)

ARRANGEMENT OF PROVISIONS**Clause**

1. Short title and commencement
2. Application of the Animal Health Act 1981 and Orders under that Act (*1981 c.22*)
3. Repeal of provisions of the Live Stock Ordinance (*cap. 49*)

Schedule 1

Schedule 2

ANIMAL HEALTH BILL 1998

(No: of 1998)

A BILL

for

AN ORDINANCE

(assented to: 1998)
(commencement: in accordance with section 1)
(published: 1998)

To apply, with exceptions and modifications, the provisions of the Animal Health Act 1981 as law of the Falkland Islands so as to make more satisfactory provision in relation to diseases, transportation and welfare of animals and matters connected therewith.

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

Short title and commencement

1. This Ordinance may be cited as the Animal Health Ordinance 1998 and shall come into force one month after its first publication in the *Gazette*.

Application of the Animal Health Act 1981 and Orders under that Act (1981 c.22)

2.—(1) The Animal Health Act 1981 (hereinafter in this section and in Schedule 1 to this Ordinance called “the 1981 Act”) is adopted as law of the Falkland Islands subject to the exceptions and modifications specified in Schedule 1 to this Ordinance, but, without prejudice to subsection (2) of this subsection, nothing in this subsection shall have effect so as to adopt of the provisions of any Order made or having effect under the 1981 Act. Every reference in Schedule 1 to this Ordinance to a section is, unless the contrary is specifically stated in that Schedule in relation thereto, a reference to the section of the number referred to of the 1981 Act.

(2) Without prejudice to any his powers to make any Order under any provision of the 1981 Act in its application to the Falkland Islands by virtue of subsection (1), the Governor may by Order under this subsection apply as law of the Falkland Islands, subject to such exceptions and modifications (if any) as he may specify in the first-mentioned Order, the provisions of any Order made under any provision of that Act.

Repeal of provisions of the Live Stock Ordinance (*cap. 49*)

3. Schedule 2 to this Ordinance shall have effect so as to repeal the provisions of the Live Stock Ordinance specified in that Schedule.

SCHEDULE 1

(section 2(1))

APPLICATION OF THE ANIMAL HEALTH ACT 1981

Exceptions

1. Sections 2, 3(1) and (4), 5, 10(6), 12, 13(2) to (4), 14, 15(6), 21(3) and (10), 22(7), 33, 34(6), 38(2), 40 to 59, 60(1), 63(8), 74, 75(2), 76, 79(4), 80 to 82, 85 and 86, 90 to 96, 97(2) and (3) and Schedules 1 and 4 to 6 of the 1981 Act shall not apply in the Falkland Islands.

General Modifications

2.(1) Except as is specified to the contrary in any subsequent paragraph of this Schedule, every reference in the 1981 Act—

(a) to “the Ministers”, “the Minister” or to “the appropriate Minister” shall be construed as if it were a reference to the Governor;

(b) to “the United Kingdom”, “Great Britain” or “England and Wales” shall be construed as if it were a reference to the Falkland Islands;

(c) to a “constable” shall be construed as if it were a reference to a police officer; or

(d) to an “inspector of the Minister” or to an “inspector of the Ministry” were a reference to “an inspector”

(2) Every offence against any provision of the 1981 Act which is triable on indictment shall in the Falkland Islands be triable (and only be triable) summarily, but a court of summary jurisdiction convicting any person of an offence under the 1981 Act in its application to the Falkland Islands may impose any sentence on that person which could have been imposed by a court in England on convicting that person on indictment of the like offence.

3. The 1981 Act shall be construed as if there were omitted therefrom—

(a) every reference therein—

(i) to any regulation of a local authority; or

(ii) to Scotland or Northern Ireland, and

(b) any provision or part of a provision which only has reference to Scotland or Northern Ireland

were omitted.

Modifications of particular provisions of the 1981 Act

Section 3

4. Section 3(2) shall have effect as if it read—

“(2) Every Government Veterinary Officer may, and any other public officer in the Department of Agriculture authorised by the Director of Agriculture may, inspect any animal to obtain any information required for the purpose of eradicating diseases of animals in the Falkland Islands.”

Section 10

5. Section 10 shall have effect as if—

(a) the following appeared therein in place of subsection (7)—

“(7) For the purposes of this section, the time of importation of animals and carcasses of poultry, eggs and other things animate or inanimate shall be deemed to be—

(a) if they are brought in by sea, the time when the ship carrying them comes within the limits of any harbour or naval port, or if they are unloaded other than within a harbour or naval port, the time they are unloaded;

(b) if they are brought in by air, the time when the aircraft carrying them lands in the Falkland Islands or the time when they are unloaded in the Falkland Islands, whichever is the earlier;

and for the purposes of this subsection “harbour” has the same meaning as it has in the Harbours Ordinance and “naval port” has the same meaning as it has in the Naval Ports Ordinance 1987.”

(b) the words “the Director of Agriculture” appeared in subsection (8) in place of the words “the Commissioners of Customs and Excise”.

Section 17

6. Section 17(3) shall have effect as if the words “or of a local authority” were omitted.

Section 21

7. Section 21(6), (7) and (8) shall have effect as if the words “Director of Agriculture” appeared therein in place of the words “the Minister” and section 21(6) shall have effect as if the words “the Director of Agriculture’s duty” appeared therein in place of the words “the Minister’s duty”.

Section 30

8. Section 30 shall have effect as if—

(a) the words “the Director of Agriculture” and “the Director” respectively appeared in subsection (1) in place of the words “the appropriate Minister” and “that Minister”; and

(b) the words “Government Veterinary Officer or any other officer in the Department of Agriculture authorised by the Director of Agriculture” appeared in subsection (2) in place of the words “veterinary inspector”.

Section 32

9. Section 32 shall have effect as if—

(a) the words “the Director of Agriculture” appeared in subsection (1) in place of the words “the Minister” ; and

(b) the following appeared therein in place of subsection (3)—

“(3) The Director of Agriculture shall within twenty-eight days pay for animals slaughtered under this section such amount as he believes to be fair and adequate compensation for them and any person entitled to such compensation who is dissatisfied with the amount of compensation paid to him in pursuance of this subsection may within twenty-eight days of receipt of the payment apply to the Supreme Court to increase the compensation payable to him. The Supreme Court shall have power to make such order on determining that application as it thinks just, including power to award interest and costs.”

Section 34

10. Section 34 shall have effect as if—

(a) the words “the Director of Agriculture” and “the Director of Agriculture’s” respectively appeared in place of the words “the Minister”, and “the Minister’s” wherever they appear in subsections (1) to (6);

(b) the words “or any land in the ownership and occupation of the Crown” replaced the words “or any common or unenclosed land” in subsection (4); and

(c) paragraph (b), and all words appearing after paragraph (c), in subsection (6) were omitted.

Section 35

11. Section 35 shall have effect as if words “or of a local authority” in subsection (4) were omitted.

Section 36

12. Section 36 shall have effect—

(a) as if the following appeared in place of subsections (1) and (2) thereof—

“(1) Any Order made by virtue of section 35(1) shall require the Director of Agriculture to pay within twenty eight days what he considers to be fair and adequate compensation to the owner of anything animate or inanimate seized pursuant to such an Order, including the carcass of or anything obtained from or produced by any animal or bird affected by any disease to which the Order relates.

(2) Any person entitled under subsection (1) to payment of compensation who is dissatisfied with the amount of compensation paid to him in pursuance of this subsection may within twenty-eight days of receipt of the payment apply to the Supreme Court to increase the amount of compensation payable to him. The Supreme Court shall have power to make such order on determining that application as it thinks just, including power to award interest and costs.”

(b) as if the words “the Director of Agriculture” replaced the words “the Minister” in subsection (4); and

(c) as if paragraphs (a) and (b) of subsection (5) had been omitted.

Section 39

13. Section 39 shall have effect as if the words “(including horses)” appeared in subsection (1) immediately after the word “animals”.

Section 63

14. Section 63 shall have effect as if the following appeared in place of paragraph (a) of subsection (5)—

“(a) any vessel, boat, aircraft or vehicle of any other description which is for the time being in any harbour (within the meaning of the Harbours Ordinance, naval port (within the meaning of the Naval Ports Ordinance) or at Mount Pleasant Airport or Stanley Airport;”

Section 75

15. Section 75 shall have effect as the word "summary" were omitted in subsection (1).

Section 77

16. Section 77 shall have effect as if all words after the words "civil debt" were omitted.

Section 78

17. Section 78 shall have effect as if—

(a) the words "a magistrates' court in England and Wales" were replaced by the words "court of summary jurisdiction"; and

(b) the words "Crown Court" were replaced by the words "Supreme Court".

Section 79

18. Section 79 shall have effect as if there were omitted all words appearing after the word "inspector", where it first appears.

Section 88

19. Section 88 shall have effect as if—

(a) the following appeared in place of subsection (1)—

"(1) In this Act, unless the context otherwise requires "disease" in relation to animals means anthrax, African swine fever, anthrax, avian influenza (fowl plague), bovine spongiform encephalopathy, brucella abortus, brucella melitensis, brucella ovis, canine distemper (otherwise known as hard pad), cattle plague (Rinderpest), contagious bovine pleuropneumonia, contagious equine metritis, enzootic bovine leukosis, equine encephalomyelitis, equine infectious anaemia, foot and mouth disease, glanders and farcy, hydatid infestation (sheep and dogs), rabies, scrapie, sheep scab, swine fever, swine vesicular disease and tuberculosis;" and

(b) the following appeared in place of subsection (2)—

"(2) The Governor may by Order for all or any of the purposes of this Act extend the definition of "disease" in subsection (1) of this section so that it shall for those or any of those purposes comprise any other disease of animals."

Section 89

20. Section 89 shall have effect as if the following definition replaced the definition of "inspector" appearing therein—

"“inspector” means every Government Veterinary Officer, without further appointment, and any other public officer in the Department of Agriculture appointed as an inspector by the Director of Agriculture;" .

Schedule 3

21. Schedule 3 shall have effect as if—

(a) the words "the Minister" wherever they appear in the Schedule were replaced by the words "the Director of Agriculture";

(b) the words in parentheses in sub-paragraph (b) of paragraph 1(2) were omitted;

(c) paragraphs 1(4), 2(3), 3(2), 4(2) and 5(3) were omitted; and

(d) as if the following appeared as paragraph 6. of that Schedule—

"6. Where any animal or poultry is slaughtered pursuant to any foregoing provision of this Schedule, section 32(3) of this Act (payment of compensation) shall apply as if the animal or poultry had been slaughtered pursuant to section 32(1)"

SCHEDULE 2

Repeal of provisions of the Live Stock Ordinance

Sections 11 to 23, 31 to 33, 42, 43, Forms 1 to 3 in the First Schedule, the Second Schedule and the Third Schedule to the Live Stock Ordinance are repealed.

Interpretation and General Clauses (Amendment) Bill 1998

(No: of 1998)

ARRANGEMENT OF PROVISIONS

Clause

1. Short title
2. Amendment of section 78A

INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 1998

(No: of 1998)

A BILL

for

AN ORDINANCE

(assented to: 1998)
(commencement: upon publication)
(published: 1998)

To amend the Interpretation and General Clauses Ordinance 1977

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

Short title

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1998.

Amendment of section 78A

2.—(1) Section 78A of the Interpretation and General Clauses Ordinance 1977 is replaced by the following—

“78A.—(1) In this section “indirectly adopted imperial enactment” means an imperial enactment which applies in the Falkland Islands by virtue of any written law of the Falkland Islands which, without specifically naming the imperial enactment, has the effect of applying it in the Falkland Islands.

(2) The Governor may by Order under this subsection declare that any indirectly adopted imperial enactment shall, so far as concerns the Falkland Islands, be deemed never to have been enacted and such Order, unless the contrary intention appears—

(a) shall, subject to subsection (4), have effect retrospective to the date of the coming into force of the indirectly adopted imperial enactment to which it relates;

(b) shall not have the effect of reviving in the Falkland Islands any other imperial enactment.

(3) The Governor may by Order under this subsection declare that any indirectly adopted imperial enactment shall be deemed always, or be deemed from such date as is specified in such Order, to have had effect in the Falkland Islands subject to such modifications as are specified in it.

(4) Without prejudice to section 12(2), an Order under subsection (2) or (3) shall not have retrospective effect so as to affect the lawfulness of any act or omission or so as to increase the amount any person is or was liable to pay by way of compensation or damages."

(2) This section shall be deemed to have come into force on 1st January 1998.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

17th March 1998

No. 9

The following are published in this Supplement -

The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997;

The Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997;

The Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997;

The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997.

1997 No. 2578

MERCHANT SHIPPING

**The Merchant Shipping (Liability and Compensation
for Oil Pollution Damage) (Transitional Provisions)
(Overseas Territories) Order 1997**

Made - - - - - *30th October 1997*

Coming into force *30th November 1997*

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315 (2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997, and shall come into force on 30th November 1997.

2. The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996(b), shall extend to each of the following territories subject to the exceptions, adaptations and modifications specified in the Schedule to this Order:

Anguilla
Bermuda
British Indian Ocean Territory
Falkland Islands
Pitcairn, Henderson, Ducie and Oeno Islands
South Georgia and the South Sandwich Islands
Sovereign Base Areas of Akrotiri and Dhekelia
Turks and Caicos Islands
Virgin Islands

3. In this Order, "the Territory" means each of the territories listed in Article 2.

N. H. Nicholls
Clerk to the Privy Council

(a) 1995 c.21.
(b) S.I. 1996/1143.

The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 as modified and extended to the Territories listed in Article 2

...

2.—(1) In this Order, unless the context otherwise requires:

“the Act” means the Merchant Shipping Act 1995;

“the 1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969, as amended by the Protocol signed in London in 1976;

“the 1992 Liability Convention” means the 1969 Liability Convention as amended by the 1992 Liability Protocol;

“the 1992 Liability Protocol” means the Protocol of 1992 to amend the 1969 Liability Convention signed in London in 1992;

“the 1971 Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December 1971, as amended by the Protocol signed in London in 1976;

“the 1992 Fund Convention” means the 1971 Fund Convention as amended by the 1992 Fund Protocol;

“the 1992 Fund Protocol” means the Protocol of 1992 to amend the 1971 Fund Convention signed in London in 1992.

(2) In this Order, references to “the 1975 Order” shall be construed as follows:

- (a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1983(a);
- (b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1975(b);
- (c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975(c), as that Order applies to the British Indian Ocean Territory;
- (d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975(d), as that Order applies to the Falkland Islands;
- (e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to these Islands;
- (f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, as that Order applies to South Georgia and the South Sandwich Islands;
- (g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to the Sovereign Base Areas;
- (h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1976(e); and
- (i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (British Virgin Islands) Order 1975(f).

(3) In this Order, references to the “1997 Order” shall be construed as follows:

- (a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1997(g);
- (b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1997(h);
- (c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (British Indian Ocean Territory) Order 1997(i);

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- (a) S.I. 1983/1519.
 - (b) S.I. 1975/2165, amended by S.I. 1981/215.
 - (c) S.I. 1975/2171, amended by S.I. 1981/222, 1981/431 and 1984/543.
 - (d) S.I. 1975/2167, amended by S.I. 1976/2143 and 1981/218.
 - (e) S.I. 1976/223, amended by S.I. 1981/223.
 - (f) S.I. 1975/2175, amended by S.I. 1981/216.
 - (g) S.I. 1997/2580.
 - (h) S.I. 1997/2581.
 - (i) S.I. 1997/2583.

- (d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997(a);
- (e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Pitcairn) Order 1997(b);
- (f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997(c);
- (g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Sovereign Base Areas) Order 1997(d);
- (h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1997(e); and
- (i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (Virgin Islands) Order 1997(f).

3.—(1) Notwithstanding the coming into force of the 1997 Order (and the consequent ceasing to have effect of the 1975 Order), the provisions mentioned paragraph (2) below and set out in Schedule 1 to this Order being transitional provisions shall have the force of law in the Territory, subject to the modifications in Schedule 2 to this Order, and for this purpose the provisions of the 1975 Order shall continue to have effect.

(2) The provisions are:

- (i) Article XII bis of the 1969 Liability Convention inserted by Article 9 of the 1992 Liability Protocol;
- (ii) Article 36 bis of the 1971 Fund Convention, inserted by Article 26 of the 1992 Fund Protocol.

4. During the period while the United Kingdom remains a Party to the 1969 Liability Convention, references in sections 163 and 164 of the Act to the "Liability Convention" shall, in respect of ships registered in a State Party to the 1969 Liability Convention but not the 1992 Liability Convention, be references to the 1969 Liability Convention.

5. In section 173(7) of the Act the reference to "Article XII of the Fund Convention" shall have effect as a reference to Article XII subject to Article 36 ter of that Convention.

6. For convenience of reference Article XII bis of the 1992 Liability Convention, and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order, are set out in Schedule 3.

SCHEDULE 1 TO THE 1996 ORDER

Article 3

ARTICLE XII BIS OF 1992 LIABILITY CONVENTION AND ARTICLE 36 BIS OF THE 1992 FUND CONVENTION

Article XII bis of 1992 Liability Convention

TRANSITIONAL PROVISIONS

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

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- (a) S.I. 1997/2584.
 - (b) S.I. 1997/2585.
 - (c) S.I. 1997/2588.
 - (d) S.I. 1997/2587.
 - (e) S.I. 1997/2589.
 - (f) S.I. 1997/2590.

- (c) in the application of Article III, paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

Article 36 bis of 1992 Fund Convention

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

- (a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as "the 1969 Liability Convention"), and also the 1971 Fund Convention.
- (b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been Party to each of the above-mentioned Conventions.
- (c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.
- (d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

SCHEDULE 2 TO THE 1996 ORDER

Article 3

PART A

The following are the modifications to Article XII bis of the 1992 Liability Convention:

1. References to State being a party to a Convention shall be construed as references to the United Kingdom being Party to such a Convention in respect of the Territory.
2. In the chapeau, the reference to "this Convention" shall be a reference to the 1992 Liability Convention.
3. In sub-paragraph (a) of Article XII bis references to "this Convention" shall be references to sections 152 to 170 of the Act, and the reference to "the 1969 Liability Convention" shall be a reference to Schedule 1 to the 1975 Order.
4. In sub-paragraph (b) of Article XII bis the first and third references to "this Convention" shall be references to Sections 152 to 170 of the Act, and the second shall be a reference to the 1992 Liability Convention; and the reference to "the said 1971 Convention" shall be a reference to Schedule 2 to the 1975 Order.
5. For sub-paragraph (c) of Article XII bis there shall be substituted "subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate, and subsection (1)(ii) of section 156 of the Act applies to the persons referred to in section 156(2) of the Act or section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate".
6. In sub-paragraph (d) of Article XII bis, the reference to "Article V, paragraph 3 of this Convention" shall be a reference to section 158 of the Act.

PART B

The following are the modifications to Article 36 bis of the 1992 Fund Convention:

1. The "transitional period" means the period from entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect.
2. "The Fund" shall have the same meaning as in section 172 of the Act.
3. Except for the second reference in sub-paragraph (b), references to the "1971 Fund Convention" shall be references to Schedule 2 to the 1975 Order.
4. Except for the third reference in sub-paragraph (b), references to "this Convention" shall be references to sections 172 to 181 of the Act.
5. References to the "1969 Liability Convention" shall be references to Schedule 1 to the 1975 Order.
6. References to the "1992 Liability Convention" shall be references to sections 152 to 170 of the Act.
7. Sub-paragraph (a) of Article 36 bis shall be omitted.
8. In sub-paragraph (b) of Article 36 bis for "the above-mentioned Conventions" there shall be substituted "the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention".
9. In sub-paragraph (c) of Article 36 bis, the reference to "Article 4 of this Convention" shall be a reference to Part I of Schedule 5 to the Act.
10. In sub-paragraph (d) of Article 36 bis, the reference to "paragraph 1 of Article 9 of this Convention" shall be a reference to section 179(1) of the Act.

SCHEDULE 3 TO THE 1996 ORDER

Article 5

The text of Article XII bis of the 1992 Liability Convention and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order.

Article XII bis

TRANSITIONAL PROVISIONS

The following transitional provisions shall apply when at the time of an incident the United Kingdom is Party in respect of the Territory both to the 1992 Liability Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act liability under sections 152 to 170 of the Act shall be deemed to be discharged if, and to the extent that, it also arises under Schedule 1 to the 1975 Order;
- (b) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act and the United Kingdom in respect of the Territory is Party both to the 1992 Liability Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under sections 152 to 170 of the Act only to the extent that pollution damage remains uncompensated after application of Schedule 2 to the 1975 Order;
- (c) subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order as appropriate and subsection (1)(ii) of section 156 applies to the persons referred to in section 156(2) of the Act or in section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate;
- (d) in the application of section 158 of the Act the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

Article 36 bis

The following transitional provisions shall apply from the date of entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect;

- (b) Where an incident has caused pollution damage within the scope of sections 172 to 181 of the Act, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of Schedule 1 to the 1975 Order, Schedule 2 to the 1975 Order, and sections 152 to 170 of the Act, provided that, in respect of pollution damage within the scope of sections 172 to 181 of the Act in respect of a Party to this Convention but not a party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention.
- (c) In the application of Part I of Schedule 5 to the Act the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under Schedule 1 to the 1975 Order if any, and the amount of compensation actually paid or deemed to have been paid under Schedule 2 to the 1975 Order.
- (d) Section 179(1) of the Act shall also apply to the rights enjoyed under Schedule 1 to the 1975 Order.

EXPLANATORY NOTE

(This note is not part of the Order)

The International Convention on Civil Liability for Oil Pollution Damage 1969 (the CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention) ensure that compensation is available to victims of oil pollution from tankers and provide for the sharing of the costs of compensation between shipowners and cargo interests.

Protocols were negotiated in 1992 which created a new 1992 CLC and a new 1992 Fund Convention. These Conventions provide for higher levels of compensation and more extensive liability, but they do not immediately replace the 1969 and 1971 Conventions: the latter will co-exist with the former for a transitional period. If an incident occurs during this period, compensation could in principle be available under both the original Conventions and the 1992 Conventions. The 1992 Protocols set out specific rules on the payment of compensation in these circumstances. This Order gives effect to these rules in the Territories listed in Article 2 of the Order by extending to these Territories (with the necessary exceptions, adaptations and modifications) the provisions of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996.

STATUTORY INSTRUMENTS

1997 No. 2579

MERCHANT SHIPPING

**The Merchant Shipping (Limitation of Liability for
Maritime Claims) (Overseas Territories) Order 1997**

<i>Made</i>	- - - - -	<i>30th October 1997</i>
<i>Coming into force</i>		<i>30th November 1997</i>

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Citation and commencement

1. This Order may be cited as the Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Limitation of Liability Convention

2. Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 shall extend to each of the Territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order; and any instrument made, or to be made, under paragraphs 3, 5(2), 8(1) or 13 of Part II of Schedule 7 to the Act shall also extend to each Territory.

Interpretation

3. In this Order, "the Territory" means any of the territories listed in Schedule 1 to this Order.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1 TO THE ORDER

Article 2

Anguilla
 British Antarctic Territory
 British Indian Ocean Territory
 South Georgia and the South Sandwich Islands

SCHEDULE 2 TO THE ORDER

SECTIONS 185 AND 186 OF THE MERCHANT
SHIPPING ACT 1995

Article 2

Limitation of
 liability for maritime
 claims

Limitation of liability of shipowners, etc and salvors for maritime claims

185.—(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 7 (in this section and Part II of that Schedule referred to as "the Convention") shall have the force of law in the Territory.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

(3) The provisions having the force of law under this section shall apply in relation to Her Majesty's ships as they apply in relation to other ships.

(4) The provisions having the force of law under this section shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—

- (a) he is so on board or employed under a contract of service governed by the law of the Territory; and
- (b) the liability arises from an occurrence which took place after the commencement of this Order.

In this subsection, "ship" and "salvage operations" have the same meaning as in the Convention.

Exclusion of
 liability

186.—(1) Subject to subsection (3) below, the owner of a British ship shall not be liable for any loss or damage in the following cases, namely—

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3) below, where the loss or damage arises from anything done or omitted by a person in his capacity of master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) above shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.

(4) This section shall apply in relation to Her Majesty's ships as it applies in relation to other ships.

(5) In this section "owner", in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

SCHEDULE 7 TO THE MERCHANT SHIPPING ACT 1995
CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME
CLAIMS 1976

Article 2

PART I

TEXT OF CONVENTION

CHAPTER I. THE RIGHT OF LIMITATION

ARTICLE 1

Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

ARTICLE 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:
 - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
 - (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
 - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
 - (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
 - (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
 - (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.
2. Claims set out in paragraph 1 shall be subject to limitation of liability even

if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

ARTICLE 3

Claims excepted from limitation

The rules of this Convention shall not apply to:

- (a) claims for salvage or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

ARTICLE 4

Conduct barring limitation

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

ARTICLE 5

Counterclaims

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

CHAPTER II. LIMITS OF LIABILITY

ARTICLE 6

The general limits

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:
 - (a) in respect of claims for loss of life or personal injury,
 - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 501 to 3,000 tons, 500 Units of Account;
 - for each ton from 3,001 to 30,000 tons, 333 Units of Account;
 - for each ton from 30,001 to 70,000 tons, 250 Units of Account, and
 - for each ton in excess of 70,000 tons, 167 Units of Account,
 - (b) in respect of any other claims,

- (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
for each ton from 501 to 30,000 tons, 167 Units of Account;
for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
for each ton in excess of 70,000 tons, 83 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

ARTICLE 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46.666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

- (a) under a contract of passenger carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

ARTICLE 8

Unit of Account

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

ARTICLE 9

Aggregation of claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct

occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

ARTICLE 10

Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

CHAPTER III. THE LIMITATION FUND

ARTICLE 11

Constitution of the Fund

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

ARTICLE 12

Distribution of the fund

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the persons so compensated would have enjoyed under this Convention.
3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.
4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where

the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

ARTICLE 13

Bar to other actions

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

ARTICLE 14

Governing law

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

CHAPTER IV. SCOPE OF APPLICATION

ARTICLE 15

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule and reference to a numbered article is a reference to the article of the Convention which is so numbered.

Right to limit liability

2. The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of "shipowner" in paragraph 2 of article 1 shall be construed accordingly.

Claims subject to limitation

3.—(1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Secretary of State for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient.

Claims excluded from limitation

4.—(1) The claims excluded from the Convention by paragraph (a) of article 3 include claims under article 14 of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11(a) and corresponding claims under a contract.

(2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 153 of this Act(b).

...

The general limits

5.—(1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall effect as if—

- (a) paragraph 1(a)(i) referred to 166,667 Units of Account; and
- (b) paragraph 1(b)(i) referred to 83,333 Units of Account.

(2) For the purposes of article 6 and this paragraph a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.

(3) ...

Limit for passenger claims

6.—(1) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations, the ship's certificate mentioned in paragraph 1 of article 7 shall be that certificate.

(2) In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person.

Units of Account

7.—(1) For the purpose of converting the amounts mentioned in articles 6 and 7 from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (a) the relevant date under paragraph 1 of article 8; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Authority stating—

-
- (a) Schedule 11 to the 1995 Act, which sets out the International Convention on Salvage 1989 was extended to the Territories by The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 (S.I. 1997/).
 - (b) Section 153 of the 1995 Act was extended to Anguilla by S.I. 1997/ ; to the British Antarctic Territory by S.I. 1997/ ; and to the British Indian Ocean Territory by S.I. 1997/ . and to South Georgia and the South Sandwich Islands by S.I. 1997 ().

- (a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

- (3) For the purposes of this paragraph. "the Authority" means—
 - (a) in Anguilla, the Director of Finance;
 - (b) in the British Antarctic Territory, the Commissioner;
 - (c) in the British Indian Ocean Territory, the Commissioner;
 - (d) in South Georgia and the South Sandwich Islands, the Financial Secretary.

Constitution of fund

8.—(1) The Secretary of State may, with the concurrence of the Treasury, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.

(2) . . .

(3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

9. No lien or other right in respect of any ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

Bar to other actions

10. Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to . . . the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of "court"

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to—

- (a) the High Court, in Anguilla;
- (b) the Supreme Court, in the British Antarctic Territory;
- (c) the Supreme Court, in the British Indian Ocean Territory.
- (d) the Supreme Court, in South Georgia and the South Sandwich Islands.

Meaning of "ship"

12. References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Meaning of "State Party"

13. An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect in Anguilla, the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands to the Convention on Limitation of Liability for Maritime Claims 1976, which lays down uniform rules relating to the liability of shipowners and salvors in respect of certain maritime claims.

S T A T U T O R Y I N S T R U M E N T S

1997 No. 2584

MERCHANT SHIPPING

**The Merchant Shipping (Oil Pollution) (Falkland Islands)
Order 1997**

Made - - - - - 30th October 1997

Coming into force - - - 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and Commencement

1. This Order may be cited as the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Liability and Fund Conventions

2. Sections 152 to 170(b) and 172 to 181 of, and Schedule 5 to the Merchant Shipping Act 1995, subject to the exceptions, adaptations and modifications specified in the Schedule to this Order, shall extend to the Falkland Islands, and any instrument made, or to be made, under section 152(2), 157(2), 157(4), 172(2) and 176(5) shall also extend to the Falkland Islands.

Interpretation

3. In this Order—

- (a) a reference to a fine of a level on the standard scale is a reference to a fine of that level on the standard scale having effect under section 4 of the Criminal Justice Ordinance 1989(c);
- (b) "statutory maximum" means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrate's Courts Act 1980(d).

Revocations

4. The following Orders, to the extent that they apply to the Falkland Islands, are hereby revoked—

- (a) The Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975(e);
- (b) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1976(f);
- (c) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1981(g).

Clerk of the Privy Council

(a) 1995 c.21.

(b) Section 158(2) was amended and section 158(2A) was added, by section 29(1) and Schedule 6 paragraph 4 of the Merchant Shipping and Maritime Security Act 1997 (1997 c.28).

(c) No.17 of 1989.

(d) 1980 c.43.

(e) S.I. 1975/2167.

(f) S.I. 1976/2143.

(g) S.I. 1981/218.

SCHEDULE TO THE ORDER

Article 2

THE MERCHANT SHIPPING ACT 1995
 PREVENTION OF POLLUTION PART VI
 CHAPTER III
 LIABILITY FOR OIL POLLUTION

Preliminary

Meaning of "the
 Liability
 Convention" and
 related
 expressions.

152.—(1) In this Chapter—

"the Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1992;

"Liability Convention country" means a country in respect of which the Liability Convention is in force, and includes the United Kingdom and any relevant British possession to which the Liability Convention has been extended; and

"Liability Convention State" means a State which is a party to the Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

Liability

Liability for oil
 pollution in case
 of tankers.

153.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and
- (c) for any damage caused in the territory of the Falkland Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Falkland Islands, and
- (b) for any damage caused outside the ship in the territory of the Falkland Islands by any measures so taken;

and in this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the Falkland Islands included the territory of any other Liability Convention country.

(6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(8) The Law Reform (Contributory Negligence) Act 1945(a). . . shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

154.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

Liability for oil pollution in case of other ships.

- (a) for any damage caused outside the ship in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in the territory of the Falkland Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Falkland Islands; and
- (b) for any damage caused outside the ship in the territory of the Falkland Islands by any measures so taken;

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) The Law Reform (Contributory Negligence) Act 1945. . . shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

(a) 1945 c.28.

- (5) In this section "ship" includes a vessel which is not seagoing.

Exceptions from liability under sections 153 and 154.

155. No liability shall be incurred by the owner of a ship under section 153 or 154 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Restriction of liability for oil pollution.

156.—(1) Where, as a result of any occurrence—

- (a) any oil is discharged or escapes from a ship (whether one to which section 153 or one to which section 154 applies), or
 - (b) there arises a relevant threat of contamination,
- then, whether or not the owner of the ship in question incurs a liability under section 153 or 154—
- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
 - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) above applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153 or 154;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

(3) The liability of the owner of a ship under section 153 or 154 for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits, and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

Limitation of liability

Limitation of liability under section 153.

157.—(1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) below)—

- (a) he may limit that liability in accordance with the provisions of this Chapter, and
- (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1) above, "the relevant amount" means—

- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;

- (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Governor may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such a manner as may be prescribed by an order made by the Secretary of State.

(5) ...

158.—(1) Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.

Limitation
actions.

(2) If on such an application the court finds that the applicant has incurred such a liability but has not found that he is not entitled to limit it, the court shall, after determining the limit which would apply to the applicant's liability if he were entitled to limit it and directing payment into court of the amount of that limit—

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(2A) Where—

- (a) a distribution is made under (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
- (b) the court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (i) the day on which the determination is made; or
- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Financial Secretary stating—

- (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
- (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

- (a) by the owner or the persons referred to in section 165 as “the insurer”; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186 as applied in the Falkland Islands (a).

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Falkland Islands.

(8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

Restriction
enforcement after
establishment of
limitation fund.

159.—(1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—

- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs;

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.

...

Concurrent
liabilities of
owners and others.

160. Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186 as applied in the Falkland Islands;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

Establishment of
limitation fund
outside Falkland
Islands.

161. Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

(a) Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 apply in the Falkland Islands by virtue of the Merchant Shipping Act 1995 (Adoption) (Limitation of Liability for Maritime Claims) Order 1996 (S.R. & O. No. 14 of 1996).

162. No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the Falkland Islands unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

Extinguishment of claims.

Compulsory insurance

163.—(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Governor.

Compulsory insurance against liability for pollution.

(2) The ship shall not enter or leave a port in the Falkland Islands or arrive at or leave a terminal in the territorial sea of the Falkland Islands nor, if the ship is registered in the Falkland Islands, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

(3) The certificate must be—

- (a) if the ship is registered in the Falkland Islands, a certificate issued by the Governor;
- (b) if the ship is registered in a Liability Convention country other than the Falkland Islands, a certificate issued by or under the authority of the government of the other Liability Convention country; and
- (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Governor or by or under the authority of the government of any Liability Convention country other than the Falkland Islands.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer and, if the ship is registered in the Falkland Islands, to any proper officer.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £50,000.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If a ship attempts to leave a port in the Falkland Islands in contravention of this section the ship may be detained.

164.—(1) Subject to subsection (2) below, if the Governor is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a ship registered in the Falkland Islands or in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Governor shall issue such a certificate to the owner.

Issue of certificate by Governor.

(2) If the Governor is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 153 in all circumstances, he may refuse the certificate.

(3) The Governor may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) above to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) The Governor shall send a copy of any certificate issued by him under this section in respect of a ship registered in the Falkland Islands to the Registrar of Shipping and the Registrar shall make the copy available for public inspection.

165.—(1) Where it is alleged that the owner of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”).

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability), to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 157(3).

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

Supplementary

166.—(1)... .

(2) Where—

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the Falkland Islands and no measures are reasonably taken to prevent or minimise such damage in that territory, or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Falkland Islands,

no court in the Falkland Islands shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of the ship, or
- (ii) against any person to whom section 156(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3) In subsection (2) above, “relevant damage or cost” means—

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or
- (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959(a) shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

(a) Laws of the Falkland Islands, No 4 of 1959.

167.—(1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes. Government ships.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the Falkland Islands to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution against the property of any State.

168. For the purposes of section 185 as applied in the Falkland Islands any liability incurred under section 154 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976. Limitation of liability under section 154.

169. Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability. Saving for recourse actions.

170.—(1) In this Chapter— Interpretation.

“the court” means the Supreme Court of the Falkland Islands;

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 153(2) or 154(2); and

“ship” (subject to section 154(5)) means any sea-going vessel or seaborne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) ...

(4) References in this Chapter to the territory of any country include the territorial sea of that country and

(a) in the case of the Falkland Islands, any area within the Falkland Islands Pollution Control Zone; and

(b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

(5) In subsection (4) above, “Falkland Islands Pollution Control Zone” means an area co-extensive with the fishing waters of the Falkland Islands as defined in section 3 of the Fishing (Conservation and Management) Ordinance 1986(a) so far as those fishing waters lie beyond the territorial sea.

171.—...

CHAPTER IV INTERNATIONAL OIL POLLUTION COMPENSATION FUND

Preliminary

Meaning of the
"Liability
Convention", "the
Fund Convention"
and related
expressions.

172.—(1) In this Chapter—

- (a) "the Liability Convention" has the same meaning as in Chapter III of this Part;
- (b) "the Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;
- (c) "the Fund" means the International Fund established by the Fund Convention;
- (d) "Fund Convention country" means a country in respect of which the Fund Convention is in force, and includes the United Kingdom and any relevant British possession to which the Fund Convention has been extended.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to that Convention in respect of that country.

Contributions by
importers of oil
and others.

Contributions to Fund

173.—(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the Falkland Islands otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea of the Falkland Islands.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the Falkland Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is—

- (a) in the case of oil which is being imported into the Falkland Islands, the importer, and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above—

- (a) all the members of a group of companies shall be treated as a single person, and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Governor may by regulations impose on persons who are or may be likely to pay contributions under this section obligations to give security for payment to the Governor, or the Fund.

(9) Regulations under subsection (8) above—

- (a) may contain such supplemental or incidental provisions as appear to the Governor expedient,

- (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.
- (10) In this section and in section 174, unless the context otherwise requires—

“company” means a body incorporated under the law of the Falkland Islands, or of any other country;

“group” in relation to companies, means a holding company and its subsidiaries as defined by section 154 of the Companies Act 1948(a) as in force in the Falkland Islands, subject, in the case of a company incorporated outside the Falkland Islands, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil, and

(a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—

- (i) crude oil from which distillate fractions have been removed, and
- (ii) crude oil to which distillate fractions have been added,

(b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

174.—(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 173 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Governor may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

Power to obtain information.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Governor to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the execution of this section, or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person who—

- (a) refuses or wilfully neglects to comply with a notice under this section, or

- (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable—

- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum in the case of an offence under paragraph (b) above, and
- (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or both.

Compensation for persons suffering pollution damage

Liability of the Fund.

175.—(1) The Fund shall be liable for pollution damage in the territory of the Falkland Islands if the person suffering the damage has been unable to obtain full compensation under section 153—

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
 - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
 - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
 - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible, (and because liability is accordingly wholly displaced by section 155), or
- (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
- (c) because the damage exceeds the liability under section 153 as limited by section 157.

(2) Subsection (1) above shall apply with the substitution for the words “Falkland Islands” of the words “a Fund Convention country” where the incident has caused pollution damage in the territory of the Falkland Islands and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Falkland Islands.

(3) Where the incident has caused pollution damage in the territory of the Falkland Islands and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) ...

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.

(7) The Fund shall incur no obligation under this section if—

- (a) it proves that the pollution damage—
 - (i) resulted from an act of war, hostilities, civil war or insurrection, or
 - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non commercial service, or
- (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,

the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 153 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.

(10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

176.—(1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of Schedule 5), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.

Limitation of
Fund's liability
under section 175.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 175 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the Fund, and—

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
- (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in sterling; and—

- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
 - (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
 - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
- (b) a certificate given by or on behalf of the Financial Secretary stating—
 - (i) that a particular sum in sterling has been so fixed for the relevant day, or
 - (ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(5) The Secretary of State may by order make such amendments of this section and Part I of Schedule 5 as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Supplemental

Jurisdiction and
effect of
judgments.

177.—(1) . . .

(2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the Falkland Islands, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(4) Subject to subsection (5) below, the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959(a) shall apply, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175; and in its application to such a judgment the said Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

(5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under the 1959 Ordinance gives leave to enforce it and—

(a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part I of Schedule 5) or that it is to be reduced to a specified amount; and

(b) in the latter case, the judgment shall be enforceable only for the reduced amount.

Extinguishment of
claims.

178.—(1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Falkland Islands unless—

(a) the action is commenced, or

(b) a third party notice of action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

In this subsection “third party notice” means a notice of the kind described in section 177(2) and (3).

(2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Falkland Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

Subrogation.

179.—(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in the Falkland Islands as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

Supplementary
provisions as to
proceedings
involving the
Fund.

180.—(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(a) Laws of the Falkland Islands, No. 4 of 1959.

181.—(1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 163;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 173 and 174, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

- (a) after an incident has occurred, or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Chapter III of this Part) to which section 153 applies.

(2) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Chapter to the territory of any country shall be construed in accordance with section 170(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country.

SCHEDULE 5
OVERALL LIMIT ON LIABILITY OF FUND

PART I
PERMANENT PROVISION

Article 4—paragraphs 4 and 5

4.(a) Except as otherwise provided in sub paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.

(b) Except as otherwise provided in sub paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.

(c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

EXPLANATORY NOTE

(This note is not part of the Order)

The International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC), which was implemented in the Falkland Islands by Schedule 1 to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, provides uniform rules and procedures for determining questions of liability and for awarding compensation when damage is caused by pollution resulting from the escape or discharge of oil from ships. The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention), which was implemented in the Islands by Schedule 2 to the 1975 Order, set up an international fund to provide a supplementary system for compensation and indemnification for such damage. The 1992 Protocol to the CLC, and the 1992 Protocol to the Fund Convention respectively create a new 1992 Civil Liability Convention and a 1992 Fund Convention which together provide for higher levels of compensation and more extensive liability. The 1992 Conventions are given effect in the United Kingdom by Part VI, Chapters III and IV of the Merchant Shipping Act 1995. This Order extends those provisions of the 1995 Act to the Falkland Islands, with the necessary exceptions, adaptations and modifications.

STATUTORY INSTRUMENTS

1997 No. 2586

MERCHANT SHIPPING

The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997

Made - - - - 30th October 1997

Coming into force 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995 and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Salvage Convention

2. Sections 224 and 255(1) of and Schedule 11 to the Merchant Shipping Act 1995 shall extend to each of the territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order, and any instrument made, or to be made under paragraph 7 of part II of Schedule 2 to this Order shall also extend to each Territory.

Interpretation

3. In this Order “the Territory” means any of the territories listed in Schedule 1.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1 TO THE ORDER

Article 2

Anguilla
 British Antarctic Territory
 British Indian Ocean Territory
 Cayman Islands
 Falkland Islands
 Pitcairn, Henderson, Ducie and Oeno Islands and its Dependencies
 Saint Helena
 South Georgia and the South Sandwich Islands
 Turks and Caicos Islands
 Virgin Islands

SCHEDULE 2 TO THE ORDER

Article 2

SECTIONS 224 AND 255(1) OF THE MERCHANT SHIPPING ACT 1995

Salvage

224.—(1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as “the Salvage Convention”) shall have the force of law in the Territory.

Salvage
 Convention
 1989 to have
 force of law

(2) The provisions of Part II of that Schedule shall have effect in connection with the Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

(4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the entry into force of this Order.

255.—(1) In this Part—

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

“vessel” includes any ship or boat, or any other description of vessel used in navigation.

SCHEDULE 11 TO THE MERCHANT SHIPPING ACT 1995

INTERNATIONAL CONVENTION ON SALVAGE 1989

PART I

TEXT OF CONVENTION

CHAPTER I—GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

ARTICLE 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

ARTICLE 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

ARTICLE 4

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.

2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

ARTICLE 5

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.

2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.

3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

ARTICLE 6

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.

2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

ARTICLE 7

Annulment and modification of contracts

- A contract or any terms thereof may be annulled or modified if—
- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
 - (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

CHAPTER II—PERFORMANCE OF SALVAGE OPERATIONS

ARTICLE 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property in danger—
 - (a) to carry out the salvage operations with due care;
 - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
 - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
 - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—
 - (a) to cooperate fully with him during the course of the salvage operations;
 - (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
 - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

ARTICLE 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

ARTICLE 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

ARTICLE 11

Cooperation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for cooperation between salvors, other interested parties and public authorities in

order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

CHAPTER III—RIGHTS OF SALVORS

ARTICLE 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

ARTICLE 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—
 - (a) the salvaged value of the vessel and other property;
 - (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
 - (c) the measure of success obtained by the salvor;
 - (d) the nature and degree of the danger;
 - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
 - (f) the time used and expenses and losses incurred by the salvors;
 - (g) the risk of liability and other risks run by the salvors or their equipment;
 - (h) the promptness of the services rendered;
 - (i) the availability and use of vessels or other equipment intended for salvage operations;
 - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

ARTICLE 14

Special compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

ARTICLE 15

Apportionment between salvors

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

ARTICLE 16

Salvage of persons

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

ARTICLE 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

ARTICLE 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

ARTICLE 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

CHAPTER IV—CLAIMS AND ACTIONS

ARTICLE 20

Maritime lien

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

ARTICLE 21

Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

ARTICLE 22

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

ARTICLE 23

Limitation of actions

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

ARTICLE 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

ARTICLE 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

ARTICLE 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

ARTICLE 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule:

- (a) "the Convention" means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered;
- (b) "the waters of the Territory" means the sea or other waters within the seaward limits of the territorial sea of the Territory.

Claims excluded from Convention

2.—(1) The provisions of the Convention do not apply—

- (a) to a salvage operation which takes place in inland waters of the Territory and in which all the vessels involved are of inland navigation; and
- (b) to a salvage operation which takes place in inland waters of the Territory and in which no vessel is involved.

(2) In this paragraph "inland waters" does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

Assistance to persons in danger at sea

3.—(1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—

- (a) in Anguilla,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 5000 East Caribbean dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- (b) in the British Antarctic Territory, to be tried by the Supreme Court and, if convicted, to imprisonment for a term not exceeding two years or a fine, or both;

- (c) in the British Indian Ocean Territory, to be tried by the Supreme Court, and, if convicted, to imprisonment for a term not exceeding two years or a fine, or both;
 - (d) in the Falkland Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (e) Pitcairn, Henderson, Ducie and Oeno Islands,
 - (i) on conviction by the Subordinate Court, to imprisonment for a term not exceeding six months, or a fine not exceeding two thousand five hundred pounds or its equivalent, or both;
 - (ii) on conviction by the Supreme Court, to imprisonment for a term not exceeding two years or a fine not exceeding ten thousand pounds or its equivalent, or both.
 - (f) in Saint Helena and its Dependencies,
 - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding £1000 or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (g) in South Georgia and the South Sandwich Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (h) in the Turks and Caicos Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding 3000 United States dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (i) in the Virgin Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 3000 United States dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- and in subparagraphs (d) and (g), "statutory maximum" means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrates' Courts Act 1980.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

The reward and special compensation: the common understanding

4. In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.

Recourse for life salvage payment

5.—(1) This paragraph applies where—

- (a) services are rendered wholly or in part in the waters of the Territory in saving life from a vessel of any nationality or elsewhere in saving life from any ship registered in the Territory; and
- (b) either—
 - (i) the vessel and other property are destroyed, or
 - (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

(2) Where this paragraph applies, the Authority may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life; and for the purposes of this paragraph, "the Authority" means—

- (a) in Anguilla, the Governor;
- (b) in the British Antarctic Territory, the Commissioner;

- (c) in the British Indian Ocean Territory, the Commissioner;
- (d) in the Cayman Islands, the Governor in Council;
- (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Governor;
- (f) in the Falkland Islands, the Governor;
- (g) in Saint Helena, the Governor;
- (h) in South Georgia and the South Sandwich Islands, the Commissioner;
- (i) in the Turks and Caicos Islands, the Governor;
- (j) in the Virgin Islands, the Governor in Council.

Meaning of "judicial proceedings"

6. References in the Convention to judicial proceedings are references to proceedings—
- (a) in Anguilla, in the High Court;
 - (b) in the British Antarctic Territory, in the Supreme Court;
 - (c) in the British Indian Ocean Territory, in the Supreme Court;
 - (d) in the Cayman Islands, in the Summary Court or the Grand Court;
 - (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Supreme Court;
 - (f) in the Falkland Islands, in the Supreme Court or the Magistrate's Court;
 - (g) in Saint Helena, in the Saint Helena Supreme Court;
 - (h) in South Georgia and the South Sandwich Islands, in the Supreme Court;
 - (i) in the Turks and Caicos Islands, in the Magistrate's Court or the Supreme Court;
 - (j) in the Virgin Islands, in the High Court;
- and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

Meaning of "State Party"

7.—(1) An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.

- (2) In this paragraph "country" includes "territory".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the dependent territories listed in Schedule 1 provisions of the Merchant Shipping Act 1995 which give effect in the United Kingdom to the International Convention on Salvage, 1989.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

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31st March 1998

No. 10

The following are published in this Supplement -

**Retirement Pensions Ordinance (Commencement) Order 1996 (Rectification)
Order 1998, (S.R. & O. No. 24 of 1998);**

Diving at Work Order 1998, (S. R. & O. No. 25 of 1998);

Children Ordinance 1994 (Rectification) Order 1998, (S.R. & O. No. 26 of 1998).

SUBSIDIARY LEGISLATION

RETIREMENT PENSIONS

Retirement Pensions Ordinance (Commencement) Order 1996 (Rectification) Order 1998

S. R. & O. No. 24 of 1998

Made: 23 March 1998
Published: 31 March 1998
Coming into force: on publication

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a), and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Retirement Pensions Ordinance (Commencement) Order 1996 (Rectification) Order 1998 and shall be deemed to have come into force on 6th January 1997.

Rectification of Retirement Pensions Ordinance (Commencement) Order 1996

2. Section 2 of the Retirement Pensions Ordinance (Commencement) Order 1996(b) is rectified by replacing the numbers “1966” appearing therein with the numbers “1996”.

Made this 23rd day of March 1998

D G Lang
Attorney General

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK ETC

Diving at Work Order 1998

S. R. & O. No. 25 of 1998

Made: 25 March 1998

Published: 31 March 1998

Coming into force on 1st April 1998

IN EXERCISE of my powers under sections 27(1) and 36(2)(b) of the Offshore Minerals Ordinance 1994(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Diving at Work Order 1998 and shall come into force on 1st April 1998.

Interpretation

2. In this Order, a reference to the "external application Order" is a reference to the Health and Safety at Work etc. Act 1974 (Application outside the Falkland Islands) Order 1998(b).

Application of this Order

3. This Order applies to and in relation to the premises and activities outside the Falkland Islands to which the external application Order applies and, so far only as is necessary for it to have effect in relation to those premises and activities, applies within the Falkland Islands.

Adoption of Diving at Work Regulations

4. The Diving at Work Regulations 1997(c) shall apply as law of the Falkland Islands with the exceptions and modifications set out in the Schedule to this Order.

(a) No 16 of 1994

(b) SR & O No 6 of 1998

(c) SI 1997/2776

Made this 25th day of March 1998

R P Ralph
Governor

SCHEDULE

(article 4)

Exceptions and modifications in relation to application of Diving at Work Regulations 1997

1. In this Schedule—

(a) "the Regulations" means the Diving at Work Regulations 1997;

(b) any reference to a numbered regulation is a reference to the regulation in the Regulations so numbered;

(c) any reference to a numbered paragraph of a regulation is a reference to the paragraph so numbered in the regulation to which the reference relates.

2. The definitions in paragraph (1) of regulation 2 of—

(a) "the 1995 Order"; and

(b) "the Executive",

are omitted.

3. The words "the Executive" wherever they appear in the Regulations are to be construed as if they were the words "the Governor" and the word "it", referring to the Executive, in paragraph (2) of regulation 16 is to be construed in both instances in which that word occurs so referring as if it were the word "he".

4.—(1) Paragraph (1) of regulation 3 and regulations 17(2) and (3) and 18 are omitted.

(2) Paragraphs 1 to 4 and 6 and 7 of Schedule 2 are omitted.

5. Paragraph (2) of regulation 3 shall have effect as if it read—

"(2) These Regulations shall apply to and in relation to the premises and activities to which the Diving at Work Order 1998 applies by virtue of article 3 of that Order."

6. Paragraph 5 of Schedule 2 shall have effect as if it read—

"In the Reporting of Diseases and Dangerous Occurrences Regulations 1995(d) in the form they appear in the Schedule to the Reporting of Diseases and Dangerous Occurrences Order 1998(e)—

(a) in regulation 2(1)—

(i) the definition of "diving contractor" and "diving operation" is replaced by the following definition—

" "diving contractor" and diving project" have the meaning assigned to it by the Diving at Work Regulations 1997(g) in the form they have effect in the law of the Falkland Islands;"

(ii) in sub-paragraph (a)(vii) of the definition of "responsible person" the words "diving operation" are replaced by the words "diving project"; and

(b) in paragraph 10 of Part I of Schedule 2 the words "diving operation" are replaced by the words "diving project".

EXPLANATORY NOTE
(not forming part of the above Order)

This Order applies, with effect from 1st April 1998 and with the exceptions and modifications specified in the Schedule to the Order, the Diving at Work Regulations 1997 ("the Regulations"), which were made in the United Kingdom under provisions of the Health and Safety at Work etc Act 1974, to activities and premises to which sections 1 to 59 of that Act were applied by the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order 1998. So far only as is necessary for this present Order to have effect in relation to those offshore premises and activities, it and the Regulations will apply within the Falkland Islands.

SUBSIDIARY LEGISLATION

CHILDREN

Children Ordinance 1994 (Rectification) Order 1998

S. R. & O. No. 26 of 1998

Made: 27 March 1998

Published: 31 March 1998

Coming into force: on publication

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a), and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Children Ordinance 1994 (Rectification) Order 1998 and shall be deemed to have come into force on 1st January 1995.

Rectification of Children Ordinance 1994

2. Part II of Schedule 3 to the Children Ordinance 1994(b) is rectified in the part referring to the Crimes Ordinance 1989 in paragraph (a) by inserting “13 to 15(3) (inclusive),” between “(inclusive),” and “16(1),” appearing therein.

Made this 27th day of March 1998

D G Lang
Attorney General

(a) No 14 of 1977

(b) No 28 of 1994



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

6th April 1998

No. 11

The following is published in this Supplement -

The Animal Health Act 1981.

There is published in this Supplement of the Gazette for public information the Animal Health Act 1981. It does not at present form any part of the law of the Falkland Islands. However the Animal Health Bill 1998 (published in Gazette Supplement No 8 on 13th March 1998) if enacted would adopt the Animal Health Act 1981 subject to the modifications, exceptions and adaptations set out in Schedule 1 to the Bill. The full form of the Animal Health Act 1981, now published in this Supplement, is being published at the request of a number of persons who would wish to know more fully what the effect of the Bill would be in the law of the Falkland Islands. They will need to compare the full text with that appearing in Schedule 1 to the Bill.

THE ANIMAL HEALTH ACT 1981

(1981 c 22)

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An Act to consolidate the Diseases of Animals Act 1935, the Diseases of Animals Act 1950, the Ponies Act 1969, the Rabies Act 1974, the Diseases of Animals Act 1975, and certain related enactments
[11th June 1981]

PART I
GENERAL

General powers of Ministers to make orders and to authorise regulations

1. General powers of Ministers to make orders

The Ministers may make such orders as they think fit—

- (a) generally for the better execution of this Act, of for the purpose of in any manner preventing the spreading of disease; and
- (b) in particular for the several purposes set out in this Act, and for prescribing and regulating the payment and recovery of expenses in respect of animals.

2. Local authority regulations

The Ministers may make such order as they think fit for authorising a local authority to make regulations for any of the purposes—

- (a) of this Act, or
- (b) of an order of the Minister

subject to such conditions, if any, as the Ministers for the purpose of securing uniformity and the due execution of this Act, think fit to prescribe.

Eradication and prevention of disease

3. Expenditure for eradication

(1) The Ministers may, with the Treasury's approval, expend such sums as they think fit with the object of eradicating as far as practicable diseases of animals (including horses) in Great Britain.

In this subsection "disease" is not restricted by its definition in this Act.

(2) To obtain information required for the purposes of subsection (1) above the Ministers may authorise in writing any veterinary inspector or other officer of the Ministry to inspect animals (including horses).

(3) A person so authorised may, for the purpose of any inspection to be carried out by him—

- (a) at all reasonable times, and
- (b) upon production of his authority on demand,

enter on any land or premises and apply such tests and take such samples as he considers necessary.

(4) No payment may be made under subsection (1) which was capable of being made under section 3 of the Diseases of Animals Act 1950 (payments for the eradication of bovine tuberculosis) before the expiry of that section.

4. Offences as to s 3

(1) A person who knowingly or recklessly makes any false statement for the purpose of obtaining for himself or any other person any sum payable under section 3 above shall (unless in the case of an indictable offence he is indicted for the offence) be liable on summary conviction—

- (a) to a fine not exceeding £100; or
- (b) to imprisonment for a term not exceeding 3 months; or
- (c) to both such imprisonment and fine.

(2) A person who obstructs or impedes any person duly authorised under subsection (2) of section 3 to make any inspection shall be liable on summary conviction—

- (a) in the case of a first offence, to a fine not exceeding £50; and
- (b) in the case of a second or subsequent offence punishable under this subsection—
 - (i) to a fine not exceeding £50; or
 - (ii) to imprisonment for a term not exceeding one month; or
 - (iii) to both such imprisonment and fine.

In considering for the purposes of this subsection or subsection (2) of section 30 of the Agriculture Act 1937 whether an offence is or is not a first offence, references to an offence punishable under this subsection or that subsection shall be taken as including references to offences punishable under that subsection or this subsection, as the case may be.

5. Veterinary services and therapeutic substances

(1) Without prejudice to the generality of section 3 above, the Ministers have power, with the Treasury's approval, to afford veterinary services, including diagnostic services, whether free of charge or not, to persons—

- (a) who carry on livestock businesses; and
- (b) who participate in arrangements approved by the Ministers as being satisfactory arrangements for keeping their stock so far as practicable free from disease and in good health.

In this subsection "disease" is not restricted by its definition in this Act.

(2) Schedule 1 to this Act has effect in relation to the regulation of the manufacture of and other matters connected with veterinary therapeutic substances.

6. Eradication areas and attested areas

The Ministers may make orders—

- (a) declaring any area as respects which they are satisfied that a substantial majority of the cattle in that area are free from any particular disease to be an eradication area for purposes connected with the control of that disease;
- (b) declaring any area as respects which they are satisfied that any particular disease of cattle is for practical purposes non-existent in that area to be an attested area for purposes connected with the control of that disease; and
- (c) prohibiting or regulating the movement of cattle into, out of or within any area which is for the time being an eradication area or an attested area or, if the area is an eradication area or an attested area for purposes connected with the control of brucellosis, imposing with respect to cattle in that area such other prohibitions or requirements as they may consider necessary or desirable for the purpose of eradicating that disease.

Cleansing and movement

7. Cleansing and disinfection

(1) The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the cleansing and disinfection of places used for the holding of markets, fairs, exhibitions, or sales of animals, or for lairage of animals, and yards, sheds, stables, and other places used for animals;
- (b) for prescribing and regulating the cleansing and disinfection of vessels, aircraft, vehicles, and pens and other places, used for the carrying of animals for hire or connected purposes;
- (c) for prescribing and regulating the disinfection of the clothes of persons coming in contact with or employed about diseased or suspected animals and the use of precautions against the spreading of disease by such persons;
- (d) for prescribing modes of cleansing and disinfection.

(2) The Ministers may by orders prescribe and regulate the cleansing and disinfection of receptacles or vehicles used for the conveyance or exposure for sale of poultry.

8. Movement generally

(1) The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the marking of animals;
- (b) for prohibiting or regulating the movement of animals, and the removal of carcasses, fodder, litter, dung and other things, and for prescribing and regulating the isolation of animals newly purchased;
- (c) for prescribing and regulating the issue and production of licences respecting movement and removal of animals and things;
- (d) for prohibiting, absolutely or conditionally, the use, for the carrying of animals or for any connected purpose, of a vessel, aircraft, vehicle, or pen or other place in respect of which or the use of which a penalty has been recovered from any person for an offence against this Act;
- (e) for prohibiting or regulating the holding of markets, fairs, exhibitions and sales of animals.

(2) A person is guilty of an offence against this Act if, where an order of the Minister absolutely or conditionally prohibits the use of a vessel, aircraft, vehicle or pen, or other place, for the carrying of animals or for any connected purpose, he, without lawful authority or excuse, proof of which shall lie on him, does anything so prohibited.

Transport by sea and air

9. Prohibition in specific cases

The Ministers may make such orders as they think fit for prohibiting the conveyance of animals by any specified vessel or aircraft to or from any port or aerodrome in the United Kingdom for such time as the Ministers may consider expedient.

10. Importation

(1) The Ministers may by orders make such provision as they think fit for the purpose of preventing the introduction or spreading of disease into or within Great Britain through the importation of—

- (a) animals and carcasses;
- (b) carcasses of poultry and eggs; and
- (c) other things, whether animate or inanimate, by or by means of which it appears to them that any disease might be carried or transmitted.

(2) Without prejudice to the generality of the powers conferred by this section and by section 1 above, for the purpose specified in subsection (1) above an order under this section—

- (a) may prohibit or regulate the importation of any of the things specified in paragraphs (a) to (c) of subsection (1);
- (b) may make provision not only with respect to imports (including vessels, boats, aircraft and vehicles of other descriptions) but also with respect to persons, animals, and other things which have been or may have been in contact with imports;
- (c) may make different provision in relation to different cases; and
- (d) may make provision with respect to any of the matters specified in Schedule 2 to this Act.

(3) An order under this section may provide that, in such circumstances as may be specified in the order, animals which—

- (a) are brought into Great Britain in such circumstances that they are not imported, within the meaning of this Act, and
- (b) whilst outside Great Britain have been or may have been in contact with any of the things specified in paragraphs (a) to (c) of subsection (1),

shall be deemed for the purposes of this section and Schedule 2 to be imported at the time when they are brought into Great Britain.

(4) In this section and in Schedule 2 "animals" includes—

- (a) any kind of mammal, except man,
- (b) any kind of four-footed beast which is not a mammal, and
- (c) fish, reptiles, crustaceans and other cold-blooded creatures not falling within paragraph (a) or paragraph (b) above.

and "disease" is not restricted by its definition in this Act.

(5) An order under this section which is expressed to be made for the purpose of preventing the introduction of rabies into Great Britain may include provision for the destruction, by such persons as may be prescribed by the order, of animals in respect of which the order or any licence granted under it is contravened.

(6) Every order made under this section shall be laid before both Houses of Parliament after being made.

(7) Paragraphs (a) and (b) of section 5(2) of the Customs and Excise Management Act 1979 (time of importation of goods brought by sea and air) have effect for the purposes of this section and Schedule 2 as they have effect for the purposes of the customs and excise Acts.

(8) The landing of imported animals in Great Britain shall be effected in such manner, at such times and subject to such supervision as the Commissioners of Customs and Excise may direct.

11. Export to member States

The Minister may by order make provision in the interests of animal health or of human health, for regulating the exportation from Great Britain to a member State of animals or animal or poultry carcasses, and in particular—

- (a) for prohibiting exportation without such certificate or licence as may be prescribed by the order, and
- (b) as to the circumstances in which and conditions on which a certificate or licence may be obtained.

12. Export quarantine stations

(1) For the purpose of preventing the conveyance of disease by animals exported from Great Britain, the appropriate Minister, with the Treasury's consent, may—

- (a) provide facilities for the examination of animals intended for export; and
- (b) provide or approve one or more quarantine stations for the reception, isolation and examination of such animals.

A quarantine station so provided or approved is in this Act referred to as an "export quarantine station".

(2) Notwithstanding anything in this Act, compensation shall not be payable under this Act in respect of any animal intended for export, which by reason of—

- (a) its having been diseased or suspected, or
- (b) its having been exposed to the infection of any disease,

is slaughtered in an export quarantine station.

Control of dogs, and preventive treatment of sheep

13. Orders as to dogs

(1) The Minister may make such orders as he thinks fit for prescribing and regulating—

- (a) the muzzling of dogs, and the keeping of dogs under control; and
- (b) so far as is supplemental to paragraph (a) above—
 - (i) the seizure, detention, and disposal (including slaughter) of stray dogs and of dogs not muzzled, and of dogs not being kept under control; and
 - (ii) the recovery from the owners of dogs of the expenses incurred in respect of their detention.

(2) The appropriate Minister may make such orders as he thinks fit—

- (a) for prescribing and regulating the wearing by dogs, while in a highway or in a place of public resort, of a collar with the name and address of the owner inscribed on the collar or on a plate or a badge attached to it;
- (b) with a view to the prevention of worrying of animals (including horses), for preventing dogs or any class of dogs from straying during all or any of the hours between sunset and sunrise;
- (c) for providing that any dog in respect of which an offence is being committed against provisions made under either paragraph (a) or (b) above, may be seized and treated as a stray dog under the enactments relating to dogs;
- (d) for prescribing and regulating—
 - (i) the seizure, detention and disposal (including slaughter) of stray dogs and of dogs not muzzled; and
 - (ii) the recovery from the owners of dogs of the expenses incurred in respect of their detention.

14. Prevention of sheep scab

(1) The Ministers may make such orders as they think fit for prescribing, regulating and securing the periodical treatment of all sheep by effective dipping or by the use of some other remedy for sheep scab.

(2) An inspector of the Minister and, if so authorised by order of the Minister, an inspector of the local authority, may—

- (a) subject to the directions of the authority by which he was appointed, and
- (b) for the purposes of any order or regulation under subsection (1) above,

enter any premises and examine any sheep on those premises.

(3) The owner and the person in charge of any sheep shall comply with all reasonable requirements of the inspector as to the collection and penning of the sheep and afford all other reasonable facilities for the examination of the sheep by the inspector.

PART II
DISEASE
Outbreak

15. Separation and notice

(1) Any person having in his possession or under his charge an animal affected with disease shall—

- (a) as far as practicable keep that animal separate from animals not so affected; and
- (b) with all practicable speed give notice of the fact of the animal being so affected to a constable of the police force for the police area in which the animal is so affected.

(2) Any person who knows or suspects that an animal (whether in captivity or not) is affected with rabies shall give notice of that fact to a constable unless—

- (a) he believes on reasonable grounds that another person has given notice under this section in respect of that animal, or
- (b) he is exempted from doing so by an order under section 1 above,

and, if the animal is in his possession or under his charge, shall as far as practicable keep the animal separate from other animals.

(3) The constable to whom notice is given shall forthwith give information of it to such person or authority as the Ministers by order direct.

(4) The Ministers may make such orders as they think fit for prescribing and regulating the notice to be given to or by any person or authority in case of any particular disease or in case of the illness of an animal, and for supplementing or varying for those purposes any of the provisions of subsections (1) to (3) above.

(5) Subsections (1) to (4) above do not have effect in relation to poultry, but the Ministers may by order prescribe and regulate—

- (a) the separation of diseased poultry from poultry not affected with disease; and
- (b) the notification of disease in, or illness of, poultry.

(6) The local authority shall pay to a veterinary surgeon or veterinary practitioner, in respect of every notification of disease made by him to the local authority in pursuance of an order under this Act requiring such a notification, such fee not exceeding 12½p as may be prescribed by the order.

(7) A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him, fails where required by this Act or by an order of the Minister—

- (a) to keep an animal separate so far as practicable; or
- (b) to give notice of disease with all practicable speed.

16. Treatment after exposure to infection

(1) For the purpose of preventing the spread of disease, the Ministers may cause to be treated with serum or vaccine, or with both serum and vaccine, any animal or bird—

- (a) which has been in contact with a diseased animal or bird, or
- (b) which appears to the Ministers to be or to have been in any way exposed to the infection of disease; or
- (c) which is in an infected area.

(2) The powers conferred by this section shall be construed as extending to the taking of any action—

- (a) which is requisite for enabling the appropriate treatment to be administered, or
- (b) which is otherwise required in connection with that treatment,

and for the purpose of exercising those powers any officer of the Minister may, subject to production of his authority on demand, enter any land or premises taking with him such other persons, if any, as he considers requisite.

17. Powers as to infected places and areas

(1) The Ministers may make such orders as they think fit for prescribing the cases in which places and areas are to be declared to be infected with a disease and the authority, mode, and conditions by, in, and on which declarations in that behalf are to be made, and their effect and consequences, and their duration and discontinuance, and other connected matters.

(2) Every place or area so declared infected shall be an infected place or area for the purposes of this Act.

(3) A notice served in pursuance of directions of the Minister or of a local authority by virtue of an order made under this section shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the notice proceeds.

(4) Notwithstanding anything in this Act, a defined part of a port or aerodrome, or any part thereof, shall not be declared to be an infected place, or be made part of an infected place, otherwise than by the Ministers.

18. Other provisions as to infected places and areas

(1) Notwithstanding anything in this Act, where the Minister, on inquiry, and after communication with the local authority, is satisfied that a declaration of a place being an infected place has been made in error—

- (a) respecting the existence or past existence of disease, or
- (b) respecting the limits of a place, or
- (c) respecting any other matter of fact on which the declaration proceeded.

the Minister may by order cancel the declaration as regards the infected place, or as regards any part of it, as he thinks fit.

(2) Where, in accordance with the provisions of this Act—

- (a) a place or an area or a portion of an area is declared free from a disease, or
- (b) a declaration of a place being an infected place is cancelled as regards the place or as regards any part of it,

then, from the time specified in that behalf by the Minister, or a local authority, as the case may be, the place, or area or that portion of the area or that part of the place, shall cease to be, or to be in, an infected place or area.

(3) An order of the Minister—

- (a) declaring a place to be an infected place or area, or
- (b) declaring a place or area, or a portion of an area, to be free from disease, or
- (c) cancelling a declaration,

shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the order proceeds.

19. Destruction of foxes etc on rabies infection

(1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for the destruction in an area declared to be so infected, by persons authorised in accordance with the order, of foxes and such other wild mammals as may be prescribed by the order (not in either case being animals held in captivity).

(2) An order made by virtue of subsection (1) above may provide for—

- (a) authorising any person to enter any land (other than a dwellinghouse) for the purpose of carrying out, or of deciding whether to carry out, the destruction there of animals in accordance with the order;
- (b) authorising the erection of fences or other obstacles to restrict the movement of animals into and out of an area where destruction is carried out;
- (c) regulating the ownership and disposal of the carcases of animals destroyed in accordance with the order;
- (d) prohibiting any person from obstructing the destruction of animals in accordance with the order and from interfering with the carcases of animals destroyed;
- (e) authorising the use of methods of destruction which would otherwise be unlawful.

(3) An order made by virtue of subsection (1) shall include provision as to the steps to be taken to inform the occupier of any land where it is proposed that animals should be destroyed, and other persons who may be there, of the proposal and of the methods of destruction to be used.

20. Additional provisions under s 17 on rabies infection

(1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for—

- (a) requiring notice to be given, in such circumstances as may be prescribed by the order, of the death in an area declared to be so infected of such domestic or wild mammals as may be prescribed;
- (b) regulating the ownership and disposal of the carcasses of animals whose deaths are required to be notified by virtue of paragraph (a) above;
- (c) requiring and regulating the vaccination, confinement and control in such area of such domestic mammals and mammals held in captivity as may be prescribed by the order;
- (d) authorising the seizure and detention and the disposal or destruction of any animal in respect of which any provision made by virtue of paragraph (c) above is not complied with;
- (e) authorising any person to enter any land for the purpose of seizing or destroying any animal in pursuance of the order.

(2) An order under section 17 prescribing the cases in which areas are to be declared to be infected with rabies may provide—

- (a) for the division of an area into zones (whether defined by reference to distance from the places within the area where diseased animals have been found or otherwise); and
- (b) for the consequences which may follow a declaration to be different for different zones.

21. Destruction of wild life on infection other than rabies

(1) This section—

- (a) applies to any disease other than rabies which is for the time being a disease for the purposes of section 1(a) above; and
- (b) is without prejudice to any powers conferred by other provisions of this Act on the Minister, the appropriate Minister and the Ministers.

(2) The Minister, if satisfied in the case of any area—

- (a) that there exists among the wild members of one or more species in the area a disease to which this section applies which has been or is being transmitted from members of that or those species to animals of any kind in the area, and
- (b) that destruction of wild members of that or those species in that area is necessary in order to eliminate, or substantially reduce the incidence of, that disease in animals of any kind in the area,

may, subject to the following provisions of this section, by order provide for the destruction of wild members of that or those species in that area.

(3) Before making an order under this section the Minister shall consult with the Nature Conservancy Council, and every order so made shall specify—

- (a) the area to which it applies;
- (b) the disease to which it applies; and
- (c) the one or more species to which it relates.

(4) An order under this section providing for the destruction of wild members of one or more species in any area may provide for authorising the use for the purpose of one or more methods of destruction that would otherwise be unlawful.

The order shall not authorise such use unless the Minister is satisfied that use of the method or methods in question is the most appropriate way of carrying out that destruction, having regard to all relevant considerations and, in particular, the need to avoid causing unnecessary suffering to wild members of the species in question.

(5) An order under this section may include provision—

- (a) for ensuring that destruction of wild members of any species to which the order relates is properly and effectively carried out, and in particular—
 - (i) for preventing persons from taking into captivity harbouring, concealing or otherwise protecting wild members of any such species with intent to prevent their destruction, or
 - (ii) in any other way obstructing or interfering with anything which has been, is being or is to be done or used in connection with that destruction
- (b) for regulating the ownership and disposal of the carcasses of members of any such species destroyed in the area to which the order relates.

(6) Before commencing the destruction of wild members of a species on any land within an area to which an order under this section applies the Minister shall take all reasonable steps to inform—

- (a) the occupier of the land, and
- (b) any other person who may be there,

of his intention to carry out that destruction and of the methods of destruction to be used.

It shall be the Minister's duty to ensure that destruction is carried out on any such land in as safe a manner as is possible in all the circumstances.

(7) Where an order under this section is in force, the Minister shall have power to take such measures (including the erection of fences or other obstacles) as he considers appropriate—

- (a) for preventing the movement of living creatures into or out of the area or any part of the area to which the order applies while destruction of wild members of any species to which the order relates is being carried out in the area; and
- (b) where destruction of wild members of any such species has been or is to be carried out in any part of that area, for preventing the recolonisation of that part by members of that species for as long as he considers necessary to prevent reappearance among them of the disease to which the order applies.

(8) As soon as may be after the Minister is satisfied, in the case of any land, that any measures affecting that land which have been taken in connection with an order under this section are no longer necessary, he shall—

- (a) remove from the land anything placed or erected on it; and
- (b) take such other steps as are reasonably practicable to reinstate the land.

(9) In this section and section 22 below—

“animals” includes horses,

“species” means any species of bird or mammal, except man,

and references to wild members of any species in an area are references to members of the species in the area that are neither domesticated nor held in captivity.

(10) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

22. Powers of entry etc for s 21

(1) In relation to any disease to which section 21 above applies the following persons are authorised officers for the purposes of this section—

- (a) an officer of the appropriate Minister,
- (b) a veterinary inspector, and
- (c) any person who, not being such an officer or inspector, is authorised by the appropriate Minister to exercise the powers conferred by this section,

and subsection (9) of section 21 applies to this section.

(2) Where an authorised officer has reasonable grounds for suspecting, in the case of any area, that there exists among the wild members of any species in the area a disease to which section 21 applies, he may enter any land in the area and—

- (a) take samples of the wild members of that species, or of their excreta, or of any materials (whether or not forming part of the land) with which wild members of that species may have been in contact;
- (b) carry out any other investigations which he considers necessary for the purpose of determining, as regards that species and that disease, whether an order under section 21 should be made in respect of the whole or part of the area in question.

(3) An authorised officer may at any time enter any land in the area to which an order under section 21 applies for any of the following purposes—

- (a) to carry out the destruction of any wild members of a species to which the order relates that may be on that land;
- (b) to take any such measures as are mentioned in subsection (7) of that section;
- (c) to ascertain, as regards any wild members of a species to which the order relates, whether destruction has been effectively carried out.

(4) Where in pursuance of an order under section 21 destruction of wild members of any species to which the order relates has been carried out on any land in the area to which the order applies, then, for the purpose of ascertaining—

- (a) whether the land has been or is being recolonised by wild members of that species, and, if so,
- (b) whether there exists among them the disease to which the order applies (or, if the order has been revoked, to which it previously applied),

an authorised officer may enter the land and take such samples of or relating to that species as are mentioned in paragraph (a) of subsection (2) above; but the powers conferred by this subsection shall not be exercisable at any time more than 2 years after the revocation of the order in question.

(5) Nothing in this section authorises any person to enter a dwellinghouse.

(6) A person entering any land in the exercise of powers conferred on him by this section shall, if so required by the owner or occupier or person in charge of the land—

- (a) produce to him some duly authenticated document showing his authority; and
- (b) state in writing his reasons for entering.

(7) Without prejudice to subsection (6) above, an authorised officer—

- (a) shall not demand admission as of right to any land forming part of a nature reserve (within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949) maintained or managed by the Nature Conservancy Council under section 1 of the Nature Conservancy Council Act 1973 unless 7 days' notice of the intended entry has been given to the Council; and
- (b) in exercising any of his powers under subsection (2), (3) or (4) above on any such land shall, as far as possible, do so in accordance with such reasonable requirements for minimising damage to flora, fauna or geological or physiographical features within the reserve as may have been notified by the Council to the appropriate Minister.

(8) The preceding provisions of this section are without prejudice to any powers conferred on inspectors or others by or by virtue of any other provision of this Act.

23. Orders as to infected places and areas

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prescribing and regulating the publication by placards, handbills, or otherwise, in the immediate neighbourhood of a place or area declared infected, of the fact of such declaration;
- (b) for prohibiting or regulating the movement of animals and persons into, within, or out of an infected place or area;
- (c) for prescribing and regulating the isolation or separation of animals being in an infected place or area;
- (d) for prohibiting or regulating the removal of carcasses, fodder, litter, utensils, pens, hurdles, dung, or other things into, within, or out of an infected place or area;
- (e) for prescribing and regulating the destruction, burial, disposal, or treatment of carcasses, fodder, litter, utensils, pens, hurdles, dung, or other things, being in or removed from an infected place or area;
- (f) for prescribing and regulating the cleansing and disinfection of infected places and areas, or parts of them;
- (g) for prescribing and regulating the disinfection of the clothes of persons being in an infected place, and the use of precautions against the spreading of disease by such persons.

24. Rabies: quarantine and virus control

The provision which may be made by orders under section 1 above shall (without prejudice to the generality of that provision) include provision—

- (a) for requiring mammals which may be carriers of rabies to be kept in quarantine in such cases, for such periods and under such conditions as may be prescribed by the order;
- (b) for prohibiting or regulating—
 - (i) the keeping and importation of rabies virus in any form; and
 - (ii) the deliberate introduction of the virus into animals.

25. Movement of diseased or suspected animals

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prohibiting or regulating the exposure of diseased or suspected animals in markets or fairs or sale-yards, or other public or private places, where animals are commonly exposed for sale, and their placing in lairs or other places adjacent to or connected with markets or fairs, or where animals are commonly placed before exposure for sale;
- (b) for prohibiting or regulating the sending or carrying of diseased or suspected animals, or of dung or other thing likely to spread disease, or causing them to be sent or carried, on railways, canals, rivers, or inland navigations, or in coasting vessels, or in an aircraft engaged in a flight or a part of a flight beginning and ending in Great Britain, or otherwise;
- (c) for prohibiting or regulating the carrying, leading, or driving of diseased or suspected animals, or causing them to be carried, led or driven, on highways or thoroughfares, or elsewhere;
- (d) for prohibiting or regulating the placing or keeping of diseased or suspected animals on commons or unenclosed lands, or in fields or other places insufficiently fenced, or on the sides of highways.

26. Pleuro-pneumonia or foot-and-mouth disease found in transit

(1) The Minister shall by orders make such provision as he thinks necessary or expedient respecting the case of animals found to be affected with pleuro-pneumonia or foot-and-mouth disease—

- (a) while exposed for sale or exhibited in a market, fair, sale-yard, place of exhibition, or other place; or
- (b) while placed in a lair or other place before exposure for sale; or
- (c) while in transit or in course of being moved by land, water or air; or
- (d) while being in a slaughter-house or place where animals are slaughtered or are kept with a view to slaughter; or
- (e) while being on common or unenclosed land; or
- (f) generally, while being in a place not in the possession or occupation or under the control of the owner of the animals.

(2) The Minister shall by orders under this section make such provision as he thinks fit for the consequences under this Act of animals being so found in the circumstances mentioned above—

- (a) as well with regard to the animals as with regard to the places where they are when so found, and other places; and
- (b) with regard to animals being or having been in the same shed or stable, herd or flock as, or in contact with, animals so found.

(3) The Minister may, by orders under this section relating to particular places, make such provision as he thinks fit for the consequences mentioned above.

(4) Every order under this section shall have full effect notwithstanding—

- (a) any provision of this Act requiring the declaration of a place infected with pleuro-pneumonia or foot-and-mouth disease, or relating to any consequence of such a declaration, or to any matter connected with such a declaration; and
- (b) any other provision whatsoever of this Act.

27. Exclusion of strangers

(1) A person owning or having charge of any animals in a place or area declared infected with any disease may affix, at or near the entrance to a building or enclosure in which the animals are, a notice forbidding persons to enter the building or enclosure without the permission mentioned in the notice.

(2) Thereupon it shall not be lawful for any person, not having by law a right of entry or way into, on, or over that building or enclosure, to enter or go into, on, or over the building or enclosure without that permission.

28. Seizure of diseased or suspected animals

The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the seizure, detention and disposal of a diseased or suspected animal exposed, carried, kept or otherwise dealt with in contravention of an order of the Minister; and
- (b) for prescribing and regulating the liability of the owner or consignor or consignee of such animal to the expenses connected with its seizure, detention and disposal.

29. Control of zoonoses

(1) This section shall have effect with a view to reducing the risk to human health from any disease of, or organism carried in, animals; and the Ministers may by order designate any such disease or organism which in their opinion constitutes such a risk as is mentioned in this subsection.

In this section "disease" is not restricted by its definition in this Act.

(2) Where any disease or organism is for the time being designated under this section, the Ministers may by order—

- (a) provide for any provision of this Act which has effect in relation to the disease to have that effect in relation to the disease so designated subject to such modifications as may be specified in the order;
- (b) apply any provision of this Act, subject to any modifications so specified, in relation to the presence of the organism in an animal as if the presence of the organism were a disease to which this Act applied.

(3) The Ministers may by order make provision for requiring a person who, in such circumstances as are specified by the order, knows or has reason to suspect that an animal of such description as is specified in the order is or was—

- (a) affected with a disease designated under this section, or
- (b) a carrier of an organism so designated,

to furnish to such person and in such form and within such period as are specified in the order such information relating to the animal as is so specified.

30. Provisions supplemental to s 29

(1) If it appears to the appropriate Minister that a person may have information relating to—

- (a) an animal affected with a disease designated under section 29 above, or
- (b) an animal which is a carrier of an organism so designated,

that Minister may by notice in writing require him to furnish to such person and in such form and within such period as are specified in the notice such information relating to the animal as he possesses and is so specified.

In this section "disease" is not restricted by its definition in this Act.

(2) Where a veterinary inspector has reason to believe that an animal such as is mentioned in subsection (1) above is or has been on any land he may, on producing if so required evidence of his authority—

- (a) enter the land and make such tests and take such samples of any animal, feeding stuff, litter, dung, vessel, pen, vehicle or other thing whatsoever which is on or forms part of the land as he thinks appropriate for the purpose of ascertaining whether such an animal is or has been on the land; and
- (b) require the owner or person having charge of any animals on the land to take such reasonable steps as the inspector may specify for the purpose of collecting or restraining them so as to facilitate the exercise in relation to them of the powers conferred on the inspector by paragraph (a) above.

(3) A person is guilty of an offence against this Act who—

- (a) fails to comply with a requirement imposed on him by virtue of section 29 and this section; or
- (b) in purported compliance with a requirement to furnish information which is imposed on him by virtue of section 29 and this section, knowingly or recklessly furnishes information which is false in a material particular.

Slaughter

31. Slaughter in certain diseases

Schedule 3 to this Act has effect as to the slaughter of animals in relation to—

- (a) cattle plague;
- (b) pleuro-pneumonia;
- (c) foot-and-mouth disease;
- (d) swine-fever; and
- (e) diseases of poultry.

32. Slaughter in other diseases

- 1) The Minister may, if he thinks fit, cause to be slaughtered any animal which—
 - (a) is affected or suspected of being affected with any disease to which this section applies; or
 - (b) has been exposed to the infection of any such disease.
- (2) This section applies to such diseases of animals as may from time to time be directed by order of the Ministers.
- (3) The Minister shall pay for animals slaughtered under this section compensation of such amount as may be determined in accordance with scales prescribed by order of the Minister made with the Treasury's approval.
A statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section does not apply to poultry; and in this section—
 - (a) "animals" includes horses;
 - (b) "disease" is not restricted by its definition in this Act.

33. Additional staff and expenses

The Minister may, for the purposes of his powers under this Act relating to the slaughter by him of animals, employ such additional inspectors, valuers and other persons, and at such remuneration, and may incur such expenses, as, subject to the approval of the Minister for the Civil Service, he thinks necessary.

34. Slaughter and compensation generally

- (1) The Minister may, notwithstanding anything in this Act, reserve for observation and treatment an animal liable to be slaughtered under this Act at his direction but subject to payment of compensation by him as in case of actual slaughter.
- (2) Where an animal has been slaughtered under this Act at the Minister's direction, the carcase of the animal shall belong to the Minister and shall be buried, or sold, or otherwise disposed of by him, or as he directs, as the condition of the animal or carcase and other circumstances may require or admit.
- (3) If, in any case, the sum received by the Minister on sale of a carcase under this section exceeds the amount paid for compensation to the owner of the animal slaughtered, he shall pay that excess to the owner, after deducting reasonable expenses.
- (4) Where an animal has been slaughtered under this Act at the Minister's direction, he may use for the burial of the carcase any ground in the possession or occupation of the owner of the animal and suitable in that behalf, or any common or unenclosed land.
- (5) If the owner of an animal slaughtered under this Act at the Minister's direction has an insurance on the animal, the amount of the compensation awarded to him under this Act may be deducted by the insurers from the amount of the money payable under the insurance before they make any payment in respect of it.
- (6) Notwithstanding anything in this Act, the Minister may, if he thinks fit, withhold, either wholly or partially, compensation or other payment in respect of an animal slaughtered under this Act at his discretion, where the animal, being an imported animal, was in his judgment diseased at the time of its landing or, before or while being brought from a member State, exposed to the infection of disease.

(7) The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prescribing the mode of ascertainment of the value of an animal slaughtered, or liable to be slaughtered, at their direction;
- (b) for regulating applications for, and the mode of payment of, compensation;
- (c) for prescribing and regulating the destruction, burial, disposal or treatment of carcases of animals slaughtered at their direction,

and they may by order provide that subsection (6) above shall cease to have effect.

Carcases etc liable to spread disease

35. Seizure and disposal of carcases etc

(1) The Ministers may by order make such provision—

- (a) for the seizure of carcases, fodder, litter, eggs, milk, skim milk, whey, buttermilk, cream or fertilisers, and
- (b) for the destruction, burial, disposal or treatment of anything seized under the order,

as they may think expedient for preventing the spread of any disease to which this subsection applies.

(2) Subsection (1) above applies to the diseases in the case of which powers of slaughter are exercisable under this Act, that is to say—

- (a) to cattle plague, pleuro-pneumonia, foot-and-mouth disease and swine-fever, and any disease within the meaning of section 32 above to which that section for the time being applies; and
- (b) to any disease as defined in relation to poultry by or under section 88 below.

(3) The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the destruction, burial, disposal or treatment of carcases of animals dying while diseased or suspected;
- (b) for prescribing and regulating the destruction, burial or disposal of anything seized under subsection (1);
- (c) for prohibiting or regulating the digging up of carcases which have been buried.

(4) A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—

- (a) throws or places, or causes or suffers to be thrown or placed, into any river, stream, canal, navigation, or other water, or into the sea within 4·8 kilometres of the shore, the carcase of an animal which has died of disease, or been slaughtered as diseased or suspected; or
- (b) digs up, or causes to be dug up, a carcase buried under the direction of the Minister or of a local authority or of a receiver of wreck.

36. Compensation for seizure

(1) The Minister shall pay compensation—

- (a) for anything seized under an order made by virtue of section 35(1) above for the purpose of preventing the spread of foot-and-mouth disease;
- (b) for anything seized under such an order for the purpose of preventing the spread of any other disease to which section 35(1) applies, except the carcase of any animal or bird affected with that disease.

(2) The Ministers may by order provide for the payment by the Minister of compensation for carcases seized as mentioned above of animals or birds affected with any disease to which section 35(1) applies other than foot-and-mouth disease or fowl pest.

(3) The compensation payable under subsection (1) or subsection (2) above for anything seized shall be its value at the time of seizure.

(4) Where anything destroyed, buried or disposed of under an order made under paragraph (e) of section 23 above could have been seized under an order made under section 35(1), the Minister shall pay the like compensation (if any) for it as if it had been so seized at the time of the destruction, burial or disposal.

(5) The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prescribing how the value of anything seized under section 35(1) is to be ascertained;
- (b) for regulating applications for, and the mode of payment of, any compensation payable by virtue of this section;
- (c) for prescribing and regulating the destruction, burial or disposal of anything seized under section 35(1).

PART III

WELFARE AND EXPORT

Care

37. Prevention of suffering

(1) The Ministers may make such orders as they think fit for the purpose of protecting animals from unnecessary suffering—

- (a) during inland transit, including transit by an aircraft on a flight beginning and ending in Great Britain; or
- (b) while exposed for sale; or
- (c) while awaiting removal after being exposed for sale.

(2) The Ministers may make such orders as they think fit—

- (a) for ensuring for animals carried by sea or by air proper ventilation during the passage and on landing; and
- (b) for protecting them from unnecessary suffering during the passage and on landing.

38. Food and water

(1) The Ministers may make such orders as they think fit for ensuring for animals a proper supply of food and water—

- (a) for any period in which the animals are detained; and
- (b) during their passage by sea or by air and on landing.

(2) The following bodies—

- (a) The Boards established by the Transport Act 1962,
- (b) the London Transport Executive, and
- (c) every railway company,

shall to the satisfaction of the appropriate Minister provide food and water, or either of them, at such railway stations as the appropriate Minister by general or specific description directs, for animals carried, or about to be or having been carried, on the railway of any of those bodies, and the additional provisions of Schedule 4 to this Act have effect accordingly.

In this subsection and in Schedule 4—

- (i) references to the bodies mentioned in paragraphs (a) and (b) include wholly-owned subsidiaries of those bodies;
- (ii) "railway company" includes a person working a railway under lease or otherwise.

Export

39. Export of animals generally

(1) The Ministers may by order provide in the interests of animal welfare for regulating the exportation from Great Britain of animals, and in particular—

- (a) for prohibiting exportation without such certificate or licence as may be prescribed by the order; and
- (b) as to the circumstances in which and conditions on which a certificate or licence may be obtained.

(2) Without prejudice to the generality of subsection (1) above, an order under this section may include provision for requiring persons proposing to export animals from Great Britain to furnish information about—

- (a) the intended ultimate destination of the animals;

- (b) the arrangements for conveying them to that destination; and
- (c) any other matters which may be specified in the order.

Export of horses other than those defined as ponies

40. Restriction on export of horses

(1) It is an offence against this Act to ship or attempt to ship any horse (which for the purpose of this section does not include a horse defined by this Act to be a pony) in any vessel or aircraft from any port or aerodrome in Great Britain to any port or aerodrome outside the British Islands unless the horse—

- (a) immediately before shipment has been examined by a veterinary inspector appointed by the Minister for the purpose of conducting examinations under this section, and
- (b) has been certified in writing by the inspector to comply with the conditions mentioned in subsection (2) below,

but this subsection shall not apply in such cases as may be prescribed by order of the Ministers.

A statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The conditions referred to in subsection (1) above are that the horse—

- (a) is capable of being conveyed to the port or aerodrome outside the British Islands and disembarked without cruelty; and
- (b) is capable of being worked without suffering.

(3) Where the inspector is satisfied that the horse is of one of the categories set out in the first column of the following table the conditions to be complied with shall include the condition that in the inspector's opinion the horse—

- (a) is not more than 8 years of age; and
- (b) is of not less value than the amount specified in respect of it in the second column of that table, or such other amount as may be prescribed by order of the Ministers.

TABLE

	£
A heavy draft horse	715
A vanner, mule or jennet	495
An ass	220

(4) Subsection (3) above shall not apply in the case of any horse where the inspector is satisfied—

- (a) that it is intended to use the horse as a performing animal; or
- (b) that the horse is registered in the stud book of a society for the encouragement of horse-breeding recognised by the Ministers, and is intended to be used for breeding or exhibition; or
- (c) that the horse is a foal at foot accompanying such a horse as is referred to in paragraph (b) above.

Export of horses defined as ponies

41. Restriction on export of ponies

(1) It is an offence against this Act to ship or attempt to ship any pony in any vessel or aircraft from any port or aerodrome in Great Britain to any port or aerodrome outside the British Islands unless—

- (a) the appropriate Minister is satisfied that the pony is intended for breeding, riding or exhibition and—
 - (i) it is not of less value than £300, or
 - (ii) in the case of a pony not exceeding 122 centimetres in height other than a pony of the Shetland breed not exceeding 107 centimetres in height, it is not of less value than £220, or
 - (iii) in the case of such a pony of the Shetland breed, it is not of less value than £145, or
 - (iv) such other value in any of those cases as may be prescribed by order of the Ministers; and
 - (b) immediately before shipment the pony has been individually inspected by a veterinary inspector and has been certified in writing by the inspector to be capable of being conveyed to the port or aerodrome to which it is to be shipped, and disembarked, without unnecessary suffering.
- (2) Without prejudice to paragraph (b) of subsection (1) above, a veterinary inspector shall not certify a pony to be capable of being conveyed and disembarked as described in that subsection if—
- (a) being a mare, it is in his opinion heavy in foal, showing fullness of udder or too old to travel; or
 - (b) being a foal, it is in his opinion too young to travel.

42. Restriction on export of registered ponies

It is an offence against this Act to ship or attempt to ship a registered pony in any vessel or aircraft from any port or aerodrome in Great Britain to any port or aerodrome outside the British Islands unless there has first been obtained from the secretary of a society in whose stud book the pony is registered a certificate ("the export certificate") that the pony is registered with that society.

For the purposes of this section the expression "registered pony" means a pony registered in—

- (a) the Arab Horse Society Stud Book,
- (b) the National Pony Society Stud Book,
- (c) the British Palomino Society Stud Book, or
- (d) the British Spotted Horse and Pony Society Stud Book, or in the stud book of any of the following native breed societies, namely, English Connemara, Dales, Dartmoor, Exmoor, Fell, Highland, New Forest, Shetland and Welsh.

43. Regulation of export of ponies

The Ministers shall by order make such provision as they think necessary or expedient for the following purposes—

- (a) for prohibiting the export of ponies by sea or air from any place in Great Britain to any place outside the British Islands unless such ponies are rested immediately before being loaded in the vessel or aircraft in which they are to be carried;
- (b) for regulating and prescribing the premises at which and the periods during which ponies are to be so rested;
- (c) for prescribing and regulating the cleansing and supervision of such premises and the provision at them of clean and sufficient bedding and adequate supplies of fodder and water.

*Other provisions as to export of horses***44. Slaughter on examination or inspection**

If any horse examined under section 40(1) above or inspected under section 41(1) above is found by the veterinary inspector—

- (a) to be in such a physical condition that it is cruel to keep it alive, or
- (b) to be permanently incapable of being worked without suffering,

the inspector shall forthwith slaughter it (or cause it to be slaughtered) with a mechanically operated instrument suitable and sufficient for the purpose, and no compensation shall be made to the owner of that animal.

45. Marking of horses certified for export

(1) A veterinary inspector may, for the purposes of identification, mark a horse certified by him under section 40(1) above or section 41(1) above in such manner as the Ministers may by order prescribe.

(2) A person who, with a view to evading the provisions of section 40 above or section 41 above, marks a horse—

- (a) with the prescribed mark, or
- (b) with any mark so nearly resembling it as to be calculated to deceive,

is guilty of an offence against this Act.

46. Slaughter of injured horses

(1) If any horse shipped from any port in Great Britain to any port outside the British Islands has a limb broken or is otherwise seriously injured while on board so as to be incapable of being disembarked without cruelty—

- (a) the master of the vessel shall forthwith cause the animal to be slaughtered; and
- (b) every vessel on which a horse is so shipped shall carry a proper killing instrument, to be approved by the Ministers for that purpose.

(2) It is the duty of the owner and master of every such vessel to see that the vessel is provided with such an instrument, and the master, if so required by an inspector, shall produce the instrument for his inspection.

47. Exemption of thoroughbreds in transit

Sections 40 and 41 and 46 above shall not apply in the case of shipment of any thoroughbred horse certified in writing by a steward or the secretary of the Jockey Club—

- (a) to have arrived in Great Britain not more than one month before the date of shipment for the purpose of being run in a race; or
- (b) to be shipped for the purpose of being run in a race; or
- (c) to be shipped in order to be used for breeding purposes.

48. Certificates

Where—

- (a) a certificate is given under section 40(1), section 41(1) or section 47 above, or
- (b) an export certificate is given under section 42 above,

that certificate shall be delivered at the time of shipment to the master of the vessel or the pilot of the aircraft on which the animal is shipped, who shall—

- (i) on demand produce the certificate to any constable or any inspector or other officer of the appropriate Minister or the local authority; and
- (ii) allow such constable, inspector or other officer to take a copy of or extract from the certificate.

49. Enforcement and interpretation

(1) An inspector may enter any vessel or aircraft for the purpose of ascertaining whether the provisions—

- (a) of sections 40 to 42 and 44 to 48 above (in this section described as “the relevant sections”), or
- (b) of any order under this Act relating to the exportation or shipment of horses, are being complied with.

(2) Every local authority shall, if and so far as the Ministers by order so direct, execute and enforce the relevant sections.

(3) If—

- (a) a person does anything or omits to do anything in contravention of the provisions of the relevant sections, or
- (b) the master of a vessel or the pilot of an aircraft permits a horse to be shipped in a vessel or aircraft in contravention of those provisions,

he shall be guilty of an offence against this Act, and the provisions of this Act relating to offences and legal proceedings shall apply accordingly as if the expression “animal” in those provisions included horses.

(4) In this section and the relevant sections—

- (a) “master”, “owner”, “port”, and “vessel” have the same meanings as in the Merchant Shipping Act 1894; and
- (b) “pilot of an aircraft” includes any other person having the command or charge of the aircraft.

PART IV

LOCAL AUTHORITIES

50. Local authorities for purposes of this Act

(1) In this Act “local authority” has the meaning given by subsections (2) and (3) below, but subject to subsection (4) below.

(2) In the application of this Act to England and Wales “local authority” means—

- (a) as respects a London borough, the borough council,
- (b) as respects each county, the county council,

and the Common Council of the City of London shall be the local authority—

- (i) for the City of London, and
- (ii) in and for the whole of Greater London for the purpose of the provisions of this Act relating to imported animals.

(3) (*Applies to Scotland.*)

(4) Where the district or part of a district of a local authority is or comprises, or is comprised in—

- (a) a port or part of a port, or
- (b) an aerodrome or part of an aerodrome,

the appropriate Minister may, if he thinks fit, in relation to either paragraph (a) or paragraph (b) above by order make any body, other than the local authority under subsection (2) or subsection (3) above, the local authority for the purposes of the provisions of this Act relating to imported animals.

(5) A local authority shall execute and enforce this Act and every order of the Minister so far as they are to be executed and enforced by local authorities.

51. Local authorities and their districts

(1) The provisions of this Act conferring powers on, or otherwise relating to, a local authority, or their inspectors or officers shall, unless otherwise expressed, be read as having reference to the district of the local authority.

(2) The powers so conferred shall, unless it is otherwise expressed, be exercisable and shall operate within and in relation to that district only.

52. Inspectors and other officers

- (1) Every local authority shall appoint as many inspectors and other officers as the local authority think necessary for the execution and enforcement of this Act.
- (2) Every local authority shall assign to those inspectors and officers such duties, and salaries or allowances, and may delegate to any of them such authorities and discretion, as to the local authority seem fit, and may at any time revoke any appointment so made.

53. Borrowing powers

- (1) A local authority may borrow for the purposes of this Act.
- (2) (*Applies to Scotland.*)

54. Provision of wharves etc

- (1) A local authority may provide, erect and fit up wharves, stations, lairs, sheds and other places for the landing, reception, keeping, sale, slaughter or disposal of imported or other animals, carcases, fodder, litter, dung and other things.
- (2) There shall be incorporated with this Act the Markets and Fairs Clauses Act 1847, except sections 6 to 9, and 52 to 59.
- (3) A wharf or other place provided by a local authority under this section shall be a market within that Act, and this Act shall be the special Act; and
 - (a) the prescribed limits shall be the limits of lands acquired or appropriated for the purposes of this section;
 - (b) byelaws shall be approved by the appropriate Minister, which approval shall be sufficient without any other approval or allowance where—
 - (i) notice of application for approval has been given, and
 - (ii) the proposed byelaws have been published before application,
 as required by that Act of 1847.
- (4) A local authority may charge for the use of a wharf or other place provided by them under this section such sums as may be imposed by byelaws, and those sums shall be deemed tolls authorised by the special Act.
- (5) All sums so received by a local authority in England or Wales—
 - (a) shall be carried to a separate account; and
 - (b) shall be applied in payment of interest and repayment of principal in respect of money borrowed by them under this Act; and
 - (c) subject to paragraph (b), shall be applied towards the discharge of their expenses under this Act.
- (6) The local authority shall make such periodical returns to the appropriate Minister as he may require of their expenditure and receipts in respect of the wharf or other place.

55. Power to acquire land

- (1) A local authority may—
 - (a) purchase land by agreement, or
 - (b) if so authorised by the Minister or the appropriate Minister, purchase land compulsorily, or
 - (c) by agreement take land on lease or at a rent,
 for the following purposes—
 - (i) for wharves or other places; or
 - (ii) for use for burial of carcases, in cases where there is not any ground suitable in that behalf in the possession or occupation of the owner of the animal, or any common or unenclosed land suitable and approved by the Minister or the appropriate Minister in that behalf; or
 - (iii) for any other purpose of this Act.
- (2) The powers conferred by this section may be exercised by a local authority in England or Wales with respect to land within or without their district [and the Acquisition of Land Act 1981 shall apply to a compulsory purchase under this section by such a local authority].

(3) (Rep in part by the Acquisition of Land Act 1981, s 34(3), Sch 6, Part I; remainder applies to Scotland.)

56. Public facilities for sheep dipping

- (1) A local authority may provide, fit up and maintain portable dipping tanks or dipping places, and afford their use, and the use of all necessary connected appliances and materials, to the public upon such terms and conditions as the local authority may think fit.
- (2) Any sums received by a local authority in England or Wales for such use shall be applied by them towards the discharge of their expenses under this Act.
- (3) No dipping place shall be used for the purposes of this section if such use would injuriously affect the water in any stream, reservoir, aqueduct, well, pond or place constructed or used for the supply of water for drinking or other domestic purposes.

57. Burial of carcases washed ashore

- (1) Where a carcase washed ashore is buried or destroyed under the direction of a receiver of wreck with authority from the Secretary of State the expenses of such burial or destruction shall be expenses of the local authority.
- (2) Those expenses shall be paid by the local authority to the receiver on demand, and in default of payment shall be recoverable with costs by the receiver from the local authority.
- (3) Where a local authority has incurred any expenses under this section on account of the burial or destruction of the carcase of any animal which, or the carcase of which, was thrown or washed from any vessel, the owner of the vessel shall be liable to repay such expenses to the local authority.

58. Regulations

- (1) A regulation of a local authority may be proved—
 - (a) by the production of a newspaper purporting to contain the regulation as an advertisement; or
 - (b) by the production of a copy of the regulation purporting to be certified by the clerk of the local authority as a true copy.
- (2) A regulation so proved shall be taken to have been duly made, unless and until the contrary is proved.
- (3) A regulation of a local authority authorised by this Act or by an order of the Minister shall alone be deemed for the purposes of this Act a regulation of a local authority.

59. Default

- (1) Where a local authority fail to execute or enforce any of the provisions of this Act, or of an order of the Minister, the appropriate Minister may by order empower a person named in that order—
 - (a) to execute and enforce those provisions; or
 - (b) to procure their execution and enforcement.
- (2) The expenses incurred under any such order or in respect of any such default by or on behalf of the appropriate Minister shall be expenses of the local authority, and
 - (a) the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the appropriate Minister on demand; and
 - (b) in default of payment a person appointed by the appropriate Minister to sue in that behalf may recover the amount of such expenses from the local authority.
- (3) For the purposes of this section an order of the Minister shall be conclusive in respect of any default, amount of expenses, or other matter stated or appearing in it.
- (4) The provisions of this section are without prejudice to the right or power of the appropriate Minister, or any other authority or any person, to take any other proceedings for requiring a local authority to execute or enforce any of the provisions of this Act or of an order of the Minister

PART V
ENFORCEMENT, OFFENCES AND PROCEEDINGS

Enforcement

60. Duties and authorities of constables

- (1) The police force of each police area shall execute and enforce this Act and every order of the Minister.
- (2) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Act, a constable may, without warrant, stop and detain him.
- (3) If that person's name and address are not known to the constable, and he fails to give them to the constable's satisfaction, the constable may, without warrant, apprehend him.
- (4) The constable may, whether so stopping or detaining or apprehending the person or not—
- (a) stop, detain and examine any animal, vehicle, boat or thing to which the offence or suspected offence relates; and
 - (b) require it to be forthwith taken back to or into any place or district from which or out of which it was unlawfully removed and execute and enforce that requisition.
- (5) If a person obstructs or impedes or assists in obstructing or impeding a constable or other officer in the execution—
- (a) of this Act, or
 - (b) of an order of the Minister, or
 - (c) of a regulation of a local authority,
- the constable or officer may without warrant apprehend the offender.
- (6) A person apprehended under this section—
- (a) shall be taken with all practicable speed before a justice, or, in Scotland, a sheriff or district court; and
 - (b) shall not be detained without a warrant longer than is necessary for that purpose.
- (7) All enactments relating to the release of persons on bail by an officer of police or a constable shall apply in the case of a person apprehended under this section.
- (8) The foregoing provisions of this section respecting a constable extend and apply to any person called by a constable to his assistance.
- (9) A constable shall forthwith make a report in writing to his superior officer of every case in which he stops any person, animal, vehicle, boat, or thing under this section, and of his proceedings in consequence.
- (10) Nothing in this section shall take away or abridge any power or authority that a constable would have had if this section had not been enacted.

61. Powers of arrest as to rabies

- (1) Without prejudice to the powers of arrest conferred by section 60 above or otherwise, a constable may arrest without warrant any person whom he, with reasonable cause, suspects to be in the act of committing or to have committed an offence to which this section applies.
- (2) The offences to which this section applies are offences against this Act consisting of—
- (a) the landing or attempted landing of any animal in contravention of an order made under this Act and expressed to be made for the purpose of preventing the introduction of rabies into Great Britain; or
 - (b) the failure by the person having the charge or control of any vessel or boat to discharge any obligation imposed on him in that capacity by such an order; or
 - (c) the movement, in contravention of an order under section 17 or section 23 above, of any animal into, within or out of a place or area declared to be infected with rabies.

62. Entry and search under s 61

(1) For the purpose of arresting a person under the power conferred by section 61 above a constable may enter (if need be, by force) and search any vessel, boat, aircraft or vehicle of any other description in which that person is or in which the constable, with reasonable cause, suspects him to be.

(2) For the purpose of exercising any power to seize an animal or cause an animal to be seized, and—

- (a) where that power is conferred on constables by an order made under this Act, and
- (b) where that power is expressed to be made for the purpose of preventing the introduction of rabies into Great Britain,

a constable may enter (if need be, by force) and search any vessel, boat, aircraft or vehicle of any other description in which there is, or in which he, with reasonable cause, suspects that there is, an animal to which that power applies.

63. General powers of inspectors

(1) An inspector has—

- (a) for the purposes of this Act, but
- (b) with the exception of the powers conferred by sections 61 and 62 above,

all the powers which a constable has, under this Act or otherwise, in the place where the inspector is acting.

(2) An inspector may at any time enter any land or shed to which this Act applies, or other building or place where he has reasonable grounds for supposing—

- (a) that disease exists or has within 56 days existed; or
- (b) that the carcase of a diseased or suspected animal is or has been kept, or has been buried, destroyed, or otherwise disposed of; or
- (c) that there is to be found any pen, place, vehicle, or thing in respect of which any person has on any occasion failed to comply with the provisions of this Act, or of an order of the Minister, or of a regulation of a local authority; or
- (d) that this Act or an order of the Minister or a regulation of a local authority has not been or is not being complied with.

(3) An inspector may at any time enter any pen, vehicle, vessel, boat or aircraft in which or where he has reasonable grounds for supposing that this Act or an order of the Minister or a regulation of a local authority has not been or is not being complied with.

(4) An inspector entering as authorised by the foregoing provisions of this section shall, if required by the owner, or occupier, or person in charge of the land, building, place, pen, vehicle, vessel, boat or aircraft state in writing his reasons for entering.

(5) For the purpose of ascertaining whether the provisions of any order under section 10 above or the conditions of any licence issued in accordance with any such order are being complied with, an inspector may at any time enter—

- (a) any vessel, boat, aircraft or vehicle of any other description which is for the time being within the limits of a port, within the meaning of the Customs and Excise Management Act 1979, or at a customs and excise airport, within the meaning of that Act; or
- (b) any vessel, boat or aircraft which does not fall within paragraph (a) above but which he has reasonable grounds for supposing has recently been brought into Great Britain.

(6) Without prejudice to subsection (5) above, an inspector may at any time enter—

- (a) any land, building or other place, or
- (b) any vessel, boat, aircraft or vehicle of any other description,

on or in which he has reasonable grounds for supposing that there is being or has been kept any animal or other thing which has been imported and the importation of which is for the time being prohibited or regulated by an order under section 10; and in this subsection "animals" and "imported" have the same meaning as in that section.

(7) A certificate of a veterinary inspector to the effect that an animal is or was affected with a disease specified in the certificate shall, for the purposes of this Act, be conclusive evidence in all courts of justice of the matter certified.

(8) An inspector of the Minister has all the powers of an inspector throughout Great Britain or that part for which he is appointed.

(9) In addition to the powers conferred by this section upon inspectors, an inspector of the Minister may at any time, for the purpose of ascertaining whether pleuropneumonia, foot-and-mouth disease or swine-fever exists, or has within 56 days existed, in any shed, land or other place, enter such shed, land or place.

64. Powers of inspectors as to poultry

(1) An inspector of the Ministry and, if so authorised by an order of the Minister, an inspector of a local authority, may at any time enter any pen, shed, land or other place in which he has reasonable grounds for supposing that poultry are or have been kept, for the purpose of ascertaining whether disease exists or has existed in or on them.

(2) For the purpose of enforcing any order for protecting poultry from unnecessary suffering, an inspector may examine—

- (a) poultry in any circumstances to which the order relates, and
- (b) any receptacle or vehicle used for their conveyance or exposure for sale,

and he may enter any premises, vessel or aircraft in which he has reasonable ground for supposing that there are poultry—

- (i) exposed for sale; or
- (ii) in course of conveyance; or
- (iii) packed for conveyance or exposure for sale.

65. Power to detain vessels and aircraft

(1) Where an inspector of the Minister is satisfied that this Act or an order of the Minister or a regulation of a local authority has not been or is not being complied with on board a vessel in port, then, on the inspector's representation in writing to that effect, stating particulars of non-compliance, the vessel may be detained until the appropriate Minister otherwise directs.

(2) The officer detaining the vessel shall forthwith deliver to the master or person in charge of the vessel a copy of the representation.

(3) Section 692 of the Merchant Shipping Act 1894 shall apply in the case of such detention as if it were authorised or ordered under that Act.

(4) In relation to aircraft the Ministers may—

- (a) by an order under this Act adapt that section of the 1894 Act as applied in the case of the detention of a vessel under this section; or
- (b) make such other provision instead of it as they think expedient.

66. Refusal and obstruction

A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—

- (a) refuses to an inspector or other officer, acting in execution of this Act, or of an order of the Minister, or of a regulation of a local authority, admission to any land, building, place, pen, vessel, boat, aircraft or vehicle of any other description which the inspector or officer is entitled to enter or examine; or
- (b) obstructs or impedes him in so entering or examining; or
- (c) otherwise in any respect obstructs or impedes an inspector or constable or other officer in the execution of his duty, or assists in any such obstructing or impeding.

Offences as to licences, declarations, certificates and instruments

67. Issue of false licences etc

A person is guilty of an offence against this Act—

- (a) who grants or issues a licence, certificate or instrument made or issued, or purporting to be made or issued under or for any purpose of this Act, or of an order of the Minister, or of a regulation of a local authority, which is false in any date or other material particular, unless he shows to the court's satisfaction that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge of it; or
- (b) who grants or issues such a licence, certificate or instrument not having, and knowing that he has not, lawful authority to grant or issue it.

68. Issue of licences etc in blank

A person is guilty of an offence against this Act—

- (a) who, with intent unlawfully to evade or defeat this Act, or an order of the Minister, or a regulation of a local authority, grants or issues an instrument being in form a licence, certificate or instrument made or issued under this Act, or such an order or regulation, for permitting or regulating the movement of a particular animal, or the doing of any other particular thing, but being issued in blank, that is to say, not being before its issue so filled up as to specify any particular animal or thing;
- (b) who uses or offers or attempts to use for any purpose of this Act, or such an order or regulation, an instrument so issued in blank, unless he shows to the court's satisfaction that he did not know of it having been so issued in blank, and that he could not with reasonable diligence have obtained knowledge of it.

69. Falsely obtaining licences etc

A person is guilty of an offence against this Act—

- (a) who for the purpose of obtaining a licence, certificate or instrument makes a declaration or statement false in any material particular, or
- (b) who obtains or endeavours to obtain a licence, certificate or instrument by means of a false pretence,

unless he shows to the court's satisfaction that he did not know of that falsity, and that he could not with reasonable diligence have obtained knowledge of it.

70. Alteration of licences etc

A person is guilty of an offence against this Act, who, with intent unlawfully to evade this Act, or an order of the Minister, or a regulation of a local authority—

- (a) alters, or falsely makes, or ante-dates, or counterfeits a licence, declaration, certificate or instrument made or issued, or purporting to be made or issued, under or for any purpose of this Act or such an order or regulation; or
- (b) offers or utters such a licence, declaration, certificate or instrument knowing it to be altered, or falsely made, or ante-dated or counterfeited.

71. Other offences as to licences

A person is guilty of an offence against this Act—

- (a) who, with intent unlawfully to evade this Act, or an order of the Minister, or a regulation of a local authority, does anything for which a licence is requisite under this Act, or such an order or regulation, without having obtained a licence; or
- (b) who, where a licence is so requisite, having obtained a licence, with the like intent does the thing licensed after the licence has expired; or
- (c) who uses or offers or attempts to use as such a licence—
 - (i) an instrument not being a complete licence, or
 - (ii) an instrument untruly purporting or appearing to be a licence,

unless he shows to the court's satisfaction that he did not know of that incompleteness or untruth, and that he could not with reasonable diligence have obtained knowledge of it.

*Offences generally***72. Offences made and declared by and under this Act**

A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—

- (a) does or omits anything the doing or omission of which is declared by this Act or by an order of the Minister to be an offence by that person against this Act; or
- (b) does anything which by this Act or such an order is made or declared to be not lawful.

73. General offences

A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—

- (a) does anything in contravention of this Act, or of an order of the Minister, or of a regulation of a local authority; or
- (b) fails to give, produce, observe or do any notice, licence, rule or thing which by this Act or such an order or regulation he is required to give, produce, observe or do.

*Further provisions as to punishment of offences***74. Liability under the customs and excise Acts**

A person who—

- (a) lands or ships or attempts to land or ship an animal or thing, and
- (b) by so doing is in contravention of this Act or of an order of the Minister,

is liable under and according to the customs and excise Acts to the penalties imposed on persons importing or exporting or attempting to import or export goods the importation or exportation of which is prohibited.

This section is without prejudice to any proceeding under this Act against such a person for an offence against this Act.

75. Punishment of summary offences not otherwise provided for

(1) A person guilty of an offence against this Act for which a penalty is not provided by any other provision of this Act shall be liable on summary conviction—

- (a) to a fine not exceeding £400; or
- (b) if the offence is committed with respect to more than 10 animals, to a fine not exceeding £50 for each animal; or
- (c) where the offence is committed in relation to carcases, fodder, litter, dung or other thing (exclusive of animals), to a fine not exceeding £50 in respect of every 508 kilogrammes in weight thereof after the first 508 kilogrammes in addition to the first fine not exceeding £400.

(2) An order—

- (a) made under this Act, and
- (b) expressed to be made for the purpose of preventing the introduction or spreading of rabies into or within Great Britain,

may direct that paragraph (a) of subsection (1) above shall have effect in relation to any summary offence against this Act the existence of which is attributable to the provisions of that order as if for “£400” there were substituted “£1,000”.

(3) That paragraph (a) of subsection (1) shall have effect as provided by subsection (2) above in relation to any summary offence the existence of which is attributable to the provisions of either of the following orders—

- (a) Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974; and
- (b) Rabies (Control) Order 1974.

(4) A person convicted of an offence under any of the following provisions of this Act—

- section 15(7),
- paragraph (a) of section 35(4),
- section 66,
- section 72, and
- section 73,

is liable in the court's discretion on a further conviction for a second or subsequent offence against the same provision to imprisonment for any term not exceeding one month in lieu of the fine to which he is liable under subsection (1) above.

(5) A person convicted of an offence under any of the following provisions of this Act—

- section 8(2),
- paragraph (b) of section 35(4),
- section 67,
- section 68,
- section 69,
- section 70, and
- section 71,

is liable in the court's discretion to imprisonment for any term not exceeding 2 months in lieu of the fine to which he is liable under subsection (1) above.

(6) Nothing in this section applies in relation to an offence punishable under section 4 above.

76. Certain importation offences triable either summarily or on indictment

(1) Where—

- (a) an offence against this Act which is declared to be such by an order under section 10 above, and
- (b) that order is expressed to be made for the purpose of preventing the introduction of rabies into Great Britain,

that offence may be tried either summarily or on indictment.

(2) For an offence triable under subsection (1) above a person shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 12 months or to both.

(3) Where an order under section 10 declares that this subsection applies to an offence which consists of—

- (a) a contravention of, or failure to comply with, any provision of that order, or
- (b) a failure to observe any conditions to which a licence issued in accordance with that order is subject,

that offence may be tried either summarily or on indictment, and a person convicted of such an offence shall be liable as provided in paragraphs (a) and (b) of subsection (2) above.

(4) In this section "the statutory maximum", in relation to a fine on summary conviction, means—

- (a) in England and Wales, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (at the passing of this Act £1000);
- (b) (*applies to Scotland*).

Proceedings

77. Money recoverable summarily

Any money by this Act or an order of the Minister made recoverable summarily may be so recovered as a civil debt, and in England and Wales this shall be in accordance with the Magistrates' Courts Act 1980.

78. Appeal

If any person thinks himself aggrieved—

- (a) by the dismissal of a complaint by, or
- (b) by any determination or adjudication of,

a magistrates' court in England or Wales under this Act, he may appeal to the Crown Court.

Nothing in this section applies in relation to an offence punishable under section 4 above.

79. Evidence and procedure

(1) In any proceeding under this Act no proof shall be required of the appointment or handwriting of an inspector or other officer of the Minister or of the clerk or an inspector or other officer of a local authority.

(2) Where the owner or person in charge of an animal is charged with an offence against this Act relative to disease or to any illness of the animal, he shall be presumed to have known of the existence of the disease or illness unless and until he shows to the court's satisfaction that—

- (a) he had not knowledge of the existence of that disease or illness, and
- (b) he could not with reasonable diligence have obtained that knowledge.

(3) Where a person—

- (a) is charged with an offence against this Act in not having duly cleansed or disinfected any place, vessel, aircraft, vehicle or thing belonging to him or under his charge, and
- (b) a presumption against him on the part of the prosecution is raised,

it shall lie on him to prove the due cleansing and disinfection mentioned in paragraph (a).

(4) Every offence against this Act shall be deemed to have been committed, and every cause of complaint or matter for summary proceeding under this Act or an order of the Minister or regulation of a local authority shall be deemed to have arisen, either in any place—

- (a) where it actually was committed or arose; or
- (b) where the person charged or complained of or proceeded against happens to be at the time of the institution or commencement of the charge, complaint or proceeding.

(5) Nothing in subsections (2) to (4) above applies in relation to an offence under section 4 above.

PART VI

SUPPLEMENTAL

Reports and information

80. Yearly return to Parliament

(1) The Ministers shall make and lay before both Houses of Parliament not later than 31st March a yearly return stating the proceedings and expenditure under this Act of the Ministers, and, as far as reasonably may be, of all local authorities, in the year ending the previous 31st December.

(2) The return shall also—

- (a) show the number of imported animals landed and found diseased in that year, specifying separately the different kinds of disease, and the ports and aerodromes of exportation and landing, and the mode of disposal of the animals; and
- (b) contain such other information respecting the operation of this Act as the Ministers think fit.

81. Reports to Minister

Every local authority and their inspectors and officers shall give to the appropriate Minister such notices, reports, returns and information as he requires.

82. Information from Agricultural Marketing Boards

Every board administering a scheme under the Agricultural Marketing Act 1958 shall give to the appropriate Minister such information as he may reasonably require for the purposes of his functions under this Act.

83. Form and service of instruments

(1) Every notice under this Act or under any order or regulation made under this Act must be in writing.

(2) The Ministers may make such orders as they think fit for prescribing and regulating the form and mode of service or delivery of notices and other instruments.

(3) Any notice or other instrument under this Act or under an order of the Minister or a regulation of a local authority may be served on the person to be affected by it, either—

- (a) by its delivery to him personally; or
- (b) by the leaving of it for him at his last known place of abode or business; or
- (c) by the sending of it through the post in a letter addressed to him at his last known place of abode or business.

(4) A notice or other instrument—

- (a) to be served on the occupier of any building, land or place, may, except when sent by post, be addressed to him by the designation of the occupier of that building, land or place, without naming or further describing him; and
- (b) where it is to be served on the several occupiers of several buildings, lands or places, may, except when sent by post, be addressed to them collectively by the designation of the occupiers of those several buildings, lands or places, without further naming or describing them, but separate copies of it being served on them severally.

84. Fees

(1) The Ministers may by order made with the Treasury's approval prescribe fees to be paid with respect to such business transacted or to be transacted under this Act as may be specified in the Order.

A statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(2) Where—

- (a) an order under subsection (1) above provides for the payment of a fee before the transaction of the business with respect to which it is payable, and
- (b) the business is not transacted or not wholly transacted,

the Minister to whom the fee was paid may, if he thinks fit, repay the whole or part of the fee.

(3) Where—

- (a) an order under subsection (1) provides for any fee to be paid on the making of an application in a case where previously a fee was payable only if the application was granted, then,
- (b) as respects anything done in pursuance of an application made before the coming into operation of the order, the same fee shall be payable as before the coming into operation of the order and shall be so payable at the time at which it would then have been payable.

85. Exemption from stamp duty

No stamp duty shall be payable on any appointment, certificate, declaration, licence or thing under this Act, or an order of the Minister, or a regulation of a local authority.

86. Ministers and their functions

(1) In this Act—

- (a) "the Minister" means, in relation to the whole of Great Britain, the Minister of Agriculture, Fisheries and Food, and "Ministry" shall be construed accordingly.
- (b) "the appropriate Minister" means, in relation to England, the Minister of Agriculture, Fisheries and Food, and in relation to Scotland or to Wales, the Secretary of State,
- (c) "the Ministers" means, in relation to the whole of Great Britain, the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly,

but in the case of any function under the following provisions of this Act—

- (i) section 21, so far as it is applicable in relation to brucellosis, tuberculosis, dourine or infestation with maggot of the warble fly,
- (ii) any other provision so far as it is applicable in relation to brucellosis, brucellosis melitensis, tuberculosis or infestation of cattle with the maggot of the warble fly,

that function, notwithstanding that it is expressed to be exercisable by the Minister or the Ministers, shall be exercisable only by the appropriate Minister.

(2) The powers and duties conferred and imposed by this Act on the Minister shall be executed and discharged by the Minister in manner provided by the Ministry of Agriculture and Fisheries Acts 1889 to 1919, and this Act.

87. Meaning of "animals" and "poultry"

(1) In this Act, unless the context otherwise requires, "animals" means—

- (a) cattle, sheep and goats, and
- (b) all other ruminating animals and swine,

subject to subsections (2) and (3) below.

(2) The Ministers may by order for all or any of the purposes of this Act extend the definition of "animals" in subsection (1) above so that it shall for those or any of those purposes comprise—

- (a) any kind of mammal except man; and
- (b) any kind of four-footed beast which is not a mammal.

(3) The Ministers may by order for all or any of the purposes of this Act (except so far as it relates to disease) extend the definition of "animals" in subsection (1) so that it shall for those or any of those purposes comprise—

- (a) fish, reptiles, crustaceans, or
- (b) other cold-blooded creatures of any species,

not being creatures in respect of which an order can be made under subsection (2) above.

(4) In this Act, subject to subsection (5) below and unless the context otherwise requires, "poultry" means birds of the following species—

- (a) domestic fowls, turkeys, geese, ducks, guinea-fowls and pigeons, and
- (b) pheasants and partridges,

and subject to the provisions mentioned below, this Act has effect in relation to poultry as it has effect in relation to animals.

The provisions of this Act referred to above are sections 7(2), 15(5), 31 and paragraph 5 of Schedule 3, and sections 32(4) and 64.

(5) The Ministers may by order for all or any of the purposes of this Act, in so far as it applies to poultry—

- (a) extend the definition of "poultry" in subsection (4) above so that it shall for those or any of those purposes comprise any other species of bird; or
- (b) restrict that definition so that it shall for those or any of those purposes exclude any of the species of bird mentioned in paragraph (b) of subsection (4).

88. Meaning of "disease"

(1) In this Act, unless the context otherwise requires, "disease" means cattle plague, pleuro-pneumonia, foot-and-mouth disease, sheep-pox, sheep scab, or swine fever, subject to subsection (2) below.

(2) The Ministers may by order for all or any of the purposes of this Act extend the definition of "disease" in subsection (1) above so that it shall for those or any of those purposes comprise any other disease of animals.

(3) In this Act, in so far as it applies to poultry, and unless the context otherwise requires, "disease" means—

- (a) fowl pest in any of its forms, including Newcastle disease and fowl plague; and
- (b) fowl cholera, infectious bronchitis, infectious laryngotracheitis, pullorum disease, fowl typhoid, fowl pox and fowl paralysis,

subject to subsection (4) below.

(4) The Ministers may by order for all or any of the purposes of this Act—

- (a) extend the definition of "disease" in subsection (3) above so that it shall for those or any of those purposes comprise any other disease of birds; or
- (b) restrict that definition so that it shall for those or any of those purposes exclude any of the diseases mentioned in paragraph (b) of subsection (3).

89. Other interpretation provisions

(1) In this Act, unless the context otherwise requires—

"aerodrome" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

"carcase" means the carcase of an animal and includes part of a carcase, and the meat, bones, hide, skin, hooves, offal or other part of an animal, separately or otherwise, or any portion thereof;

"cattle" means bulls, cows, steers, heifers, and calves;

"cattle plague" means rinderpest or the disease commonly called cattle plague;

"the customs and excise Acts" has the meaning given by the Customs and Excise Management Act 1979;

"diseased" means affected with disease;

"district", when used with reference to a local authority, means the area for which the local authority exercises powers under this Act;

"export quarantine station" has the meaning given by section 12(1) above;

"fodder" means hay or other substance commonly used for food of animals;

"horse" includes ass and mule;

"imported" means brought to Great Britain from a country out of Great Britain;

"inspector" means a person appointed to be an inspector for the purposes of this Act by the Minister or by a local authority, and, when used in relation to an officer of the Ministry, includes a veterinary inspector;

"justice" means justice of the peace;

"litter" means straw or other substance commonly used for bedding or otherwise for or about animals;

"local authority" has the meaning given by section 50 above;

"order of the Minister" means an order under this Act of the Minister, the appropriate Minister, or the Ministers, as the case may be;

"pleuro-pneumonia" means contagious pleuro-pneumonia of cattle;

"pony" means any horse not more than 147 centimetres in height, except a foal travelling with its dam if the dam is over 147 centimetres;

"suspected" means suspected of being diseased;

"swine-fever" means the disease known as typhoid fever of swine, soldier purples, red disease, hog cholera or swine-plague;

"veterinary inspector" means a veterinary inspector appointed by the Minister.

(2) In the computation of time for the purposes of this Act, a period reckoned by days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happened or the act or thing is done.

90. Application to hovercraft

The enactments and instruments with respect to which provision may be made by Order in Council in pursuance of section 1(1)(h) of the Hovercraft Act 1968 include this Act and any instrument made or having effect as if made under it.

This section is without prejudice to section 17 of the Interpretation Act 1978 (repeal and re-enactment).

91. Orders etc

(1) The Minister, the appropriate Minister or the Ministers, as the case may be, shall publish in the London Gazette and the Edinburgh Gazette a notice of any order of the Minister stating—

- (a) that the order has been made; and
- (b) where copies of the order may be obtained.

(2) Every local authority shall at their own expense publish every order of the Minister, and every licence or other instrument sent to them by the Minister, the appropriate Minister, or the Ministers—

- (a) in such manner as he or they shall direct; and
- (b) subject to and in the absence of any direction, by advertisement in a newspaper circulating in the district of the local authority.

(3) The validity or effect of an order of the Minister, or licence or other instrument issued by the Minister, the appropriate Minister or the Ministers shall not be affected by want of or defect or irregularity in its publication.

(4) Subsections (1) to (3) above do not apply to an order made under section 32 above.

(5) A power conferred by this Act to make an order of the Minister, other than by—

- (a) section 14(2),
- (b) section 59(1),

shall be exercisable by statutory instrument.

(6) An order of the Minister made under either of the provisions referred to in paragraphs (a) and (b) of subsection (5) above may be altered or revoked by a subsequent order made in the like manner and subject to the like conditions, but section 14(b) of the Interpretation Act 1978 shall not apply to an order made by the Ministers under section 34(7) above providing that section 34(6) shall cease to have effect.

Scotland and Northern Ireland

92. (*Applies to Scotland.*)

93. Communications to and from Northern Ireland

In order to secure uniformity of action—

- (a) every order of the Minister shall with all practicable speed be communicated to the Department of Agriculture for Northern Ireland; and
- (b) every order made by that Department under the enactments in Northern Ireland relating to diseases of animals shall with all practicable speed be communicated to the Minister.

94. Transitional

(1) Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provisions of this Act had been in force when that period began to run.

(2) For the purpose of determining the punishment which may be imposed on a person in respect of the commission by him of an offence under any provision of this Act, an offence committed by that person under the corresponding enactment repealed by this Act shall be deemed to have been committed under that provision.

95. Savings

(1) Any order made or having effect as if made—

- (a) under any provision of sections 24 to 33 of the Diseases of Animals Act 1950,
- (b) before the coming into operation of section 1 of the Disease of Animals Act 1975,

continues in operation as if that section had not come into operation, except that it may be varied or revoked as if it had been made under section 10 above.

(2) In the case of an order made or having effect as if made—

- (a) partly under any provision of those sections of that Act of 1950, and
- (b) partly under any other enactment (whether or not contained in that Act),

subsection (1) above has effect to the extent that the order was made or had effect as if made under any of those sections.

(3) The Conveyance of Live Poultry Order 1919, made under the Poultry Act 1911, has effect as if it had been made under sections 7(2), 37(1) and 64(2) above.

(4) Without prejudice to section 17 of the Interpretation Act 1978 (repeal and re-enactment), the power conferred by virtue of sections 135(2) and 136(3) of the Medicines Act 1968 to bring into operation Schedule 6 to that Act (enactments of Parliament of United Kingdom repealed) has effect as if that Schedule included references to section 5(2) above and Schedule 1 to this Act.

(5) Any officer or servant employed by the Minister for the purpose of the execution of the enactments relating to diseases of animals who was appointed before the commencement of Part IV of the Agriculture Act 1937 (1st April 1938) shall be deemed to have been appointed under section 5 of the Board of Agriculture Act 1889.

(6) Nothing in this Act affects sections 40(2) and 42(2) of the Northern Ireland Constitution Act 1973 as those subsections have effect in relation to section 88 of the Diseases of Animals Act 1950.

(7) In so far as any provision of—

- (a) paragraph (a) of section 35(4) above,
- (b) paragraph (a)(ii) of section 41(1) above,
- (c) paragraph (c) of section 75(1) above, and
- (d) section 89(1) above,

specifies an amount expressed in metric units which is derived from the exercise of the power to make regulations under section 7 of the Agriculture (Miscellaneous Provisions) Act 1976 that provision may be varied as if it were contained in regulations so made.

96. Consequential amendments and repeals

(1) The enactments specified in Schedule 5 to this Act have effect subject to the amendments specified in that Schedule being amendments consequential on the provisions of this Act.

(2) The enactments specified in Schedule 6 to this Act (which include certain obsolete or unnecessary enactments) are repealed to the extent specified in the third column of that Schedule.

97. Short title, extent, and commencement

- (1) This Act may be cited as the Animal Health Act 1981.
- (2) Sections 93 and 95(6) above apply to Northern Ireland, and Schedule 6 to this Act, so far as it repeals provisions of the Diseases of Animals Act 1950 which applied to Northern Ireland, but apart from those provisions this Act does not extend to Northern Ireland.
- (3) This Act shall come into force on the expiry of the period of one month beginning on the date of its passing.

SCHEDULES

SCHEDULE 1

REGULATION OF MANUFACTURE OF AND OTHER MATTERS CONNECTED WITH VETERINARY THERAPEUTIC SUBSTANCES Section 5(2)

Substances to which this Schedule applies

- 1.—(1) Subject to the provisions of sub-paragraph (2) below, this Schedule applies—
 - (a) to the therapeutic substances specified in paragraph 5 below; and
 - (b) to any other therapeutic substances capable of being used for veterinary purposes which may from time to time be added to that paragraph as being substances the purity or potency of which cannot be adequately tested by chemical means.
- (2) In the case of any substance mentioned in sub-paragraph (1) above which is a substance to which the Therapeutic Substances Act 1956 applies, this Schedule applies to that substance in so far only as the substance is excluded from the operation of that Act, as being intended to be used solely for veterinary purposes, by regulations made under that Act.

Power to make orders as to substances to which this Schedule applies

- 2.—(1) The Ministers may make orders for the following purposes—
 - (a) for adding to paragraph 5 below any therapeutic substance capable of being used for veterinary purposes, the purity or potency of which cannot be adequately tested by chemical means;
 - (b) for prohibiting, except under a licence for the purpose issued by the appropriate Minister and in accordance with any conditions subject to which the licence is issued, the manufacture for sale or the importation into Great Britain of any such substance to which this Schedule applies as may be specified in the order;
 - (c) for prescribing the standard of strength, quality and purity of any substance in respect of which an order made for the purpose last mentioned is in force;
 - (d) for prescribing the tests to be used for determining whether the standard prescribed as mentioned above has been attained;
 - (e) for prescribing units of standardisation;
 - (f) for prescribing the form of licences and of applications for them, and of notices to be given in connection with them;
 - (g) for prescribing the conditions subject to which licences may be issued, including, in the case of a licence to manufacture conditions that the manufacture shall be carried on only upon the premises specified in the licence and that the licensee shall allow any inspector authorised by the Minister in that behalf to enter any premises where the manufacture is carried on, and to inspect the premises and plant and the process of manufacture and the means employed for standardising and testing the manufactured substance and to take samples of it;
 - (h) for prescribing any other matter which under this Schedule is to be prescribed.
- (2) The Ministers may make orders as respects any such substance to which this Schedule applies as may be specified in the order—
 - (a) requiring that, if advertised or sold as a proprietary medicine or contained in such medicine, such accepted scientific name or name descriptive of the true nature or origin of the substance as may be prescribed shall appear on the label;
 - (b) requiring that the date of the manufacture shall be stated in the prescribed manner on all vessels or other packages in which the substance is sold or offered for sale, and prohibiting the sale of the substance after the expiry of the prescribed period from the date of manufacture;
 - (c) prohibiting the sale or the offering for sale or the importation of the substance otherwise than in a vessel or other container of such character as may be prescribed, and requiring that the prescribed label or other description shall be affixed to such vessel or container.

Licences to manufacture

3.—(1) The following provisions shall have effect with respect to licences to manufacture for sale a substance the manufacture of which otherwise than under a licence is prohibited by an order—

- (a) the licence shall be issued subject to such conditions as may be prescribed, may extend to all such substances or to such one or more of them as may be specified in the licence, shall continue in force for such period as may be prescribed, but may from time to time be renewed for a like period;
 - (b) an applicant for a licence or the renewal of a licence must satisfy the appropriate Minister that the conditions under which the substance is to be manufactured by him and the premises in which it is to be manufactured are such as to comply with any order in force for the purposes of paragraph 2 above, and an applicant who so satisfies the appropriate Minister shall be entitled to the grant or renewal of the licence;
 - (c) the appropriate Minister may revoke a licence or suspend it for such period as he thinks fit, if in his opinion the licensee has failed to comply with the conditions subject to which the licence was issued or with any such order as is mentioned above as to the prescribed standards of strength, quality and purity, and such revocation or suspension may apply to all the substances to which the licence extends or to some one or more of them.
- (2) A person who is aggrieved by the revocation or suspension of his licence may, subject to rules of court, appeal to the court, whose decision shall be final.
- (3) Nothing in any order prohibiting or regulating the manufacture for sale of any substance to which this Schedule applies shall apply to the preparation by a registered veterinary surgeon or practitioner—
- (a) for the treatment of any animal under his care, or
 - (b) for and at the request of another such surgeon or practitioner, of any such substance, if it is specially prepared with reference to the condition and for the treatment of an individual animal or bird.
- (4) In this paragraph—

"the court" means, as respects England and Wales, the High Court and, as respects Scotland, the Court of Session, and

"registered" means, in relation to a veterinary surgeon, registered in pursuance of the Veterinary Surgeons Act 1966 in the register of veterinary surgeons and, in relation to a veterinary practitioner registered in pursuance of that Act in the Supplementary Veterinary Register.

Licences to import

4. The issue of a licence to import a substance the importation of which otherwise than under a licence is prohibited by an order shall be subject to such conditions, including conditions as to the strength, quality and purity of the substance and as to the suspension or revocation of the licence, as may be prescribed.

Therapeutic substances to which this Schedule applies

5. The therapeutic substances mentioned in paragraph 1(1)(a) above are—

- (1) The substances commonly known as vaccines, sera, toxins, antitoxins and antigens.
- (2) The substance commonly known as salvarsan (Dioxy-diamino-arseno-benzol-di-hydrochloride), and analogous substances used for the specific treatment of infective disease.
- (3) Extract of the pituitary body.

Offences under this Schedule

6. A person who—

- (a) contravenes or fails to comply with any condition subject to which any such licence as is mentioned in this Schedule is issued,
- (b) sells or offers for sale or has in his possession for sale any substance to which this Schedule applies knowing it to have been manufactured or imported in contravention of an order in force for any of the purposes of paragraph 2 above,
- (c) contravenes or fails to comply with the provisions of any such order as is mentioned above,

is liable on summary conviction to a fine not exceeding £50 or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding 2 months, and in either case to forfeit any goods in connection with which the offence was committed, and without prejudice, if the offender is the holder of a licence, to the power of the appropriate Minister to revoke or suspend the licence.

SCHEDULE 2

Section 10

SPECIFIC MATTERS WITH RESPECT TO WHICH PROVISION MAY BE
MADE IN ORDERS UNDER SECTION 10

1. The conditions to be observed before, during and after importation.
2. Exemptions from provisions of the order by means of licences, whether general or specific and whether conditional or unconditional, issued in accordance with the order.
3. The prohibition of the importation of animals or other things save at such ports, aerodromes and other places of entry as may be designated.
4. Landing and quarantine of animals and other things.
5. Seizure, detention and treatment of animals and other things.
6. Slaughter of animals and destruction of other things.
7. Cleansing and disinfection.
8. Marking, testing and use of animals and other things.
9. Movement of persons and of animals and other things.
10. Recovery of costs.
11. Inspection.
12. Entitlement to compensation and the determination, subject to the Treasury's approval, of the amount of compensation payable in any case.

SCHEDULE 3

Section 31

POWER TO SLAUGHTER IN RELATION TO CERTAIN DISEASES

Cattle plague

1. —(1) The Minister shall cause to be slaughtered all animals affected with cattle plague.
- (2) Where an animal is or has been in the same shed, stable, herd or flock as, or in contact with, an animal affected with cattle plague, the Minister may, if he is satisfied that the slaughter of the animal is necessary for preventing the spreading of cattle plague, cause the animal to be slaughtered.
- (3) The Minister may, if he thinks fit, in any case cause to be slaughtered—
 - (a) any animals suspected of being affected with cattle plague, or being in a place infected with cattle plague;
 - (b) any animals being in such parts of an area infected with cattle plague as are not comprised in a place infected with cattle plague (but in this last-mentioned case subject to such regulations as the Treasury by statutory instrument think fit to make).
- 4) The Minister shall for animals slaughtered under this paragraph pay compensation as follows—
 - (a) where the animal slaughtered was affected with cattle plague, the compensation shall be one half of its value immediately before it became so affected, but so that the compensation does not in any such case exceed £20; and
 - (b) in every other case the compensation shall be the value of the animal immediately before it was slaughtered, but so that the compensation does not in any case exceed £40.

Pleuro-pneumonia

2. —(1) The Minister shall cause to be slaughtered all cattle affected with pleuro-pneumonia.
- (2) The Minister may, if he thinks fit, in any case cause to be slaughtered—
 - (a) any cattle suspected of being affected with pleuro-pneumonia; and
 - (b) any cattle which are or which have been in the same field, shed, or other place, or in the same herd or otherwise in contact with cattle affected with pleuro-pneumonia, or which appear to the Minister to have been in any way exposed to the infection of pleuro-pneumonia.

(3) The Minister shall for cattle slaughtered under this paragraph pay compensation as follows—

- (a) where the animal slaughtered was affected with pleuro-pneumonia, the compensation shall be three-fourths of the value of the animal immediately before it became so affected, but so that the compensation does not in any such case exceed £30; and
 - (b) in every other case the compensation shall be the value of the animal immediately before it was slaughtered, but so that the compensation does not in any case exceed £40.
- (4) Where the Minister has decided that any head of cattle is to be slaughtered under this paragraph, the Minister shall, if the owner of such head of cattle by notice in writing so requires cause the same to be slaughtered within 21 days after the receipt of the notice.

Foot-and-mouth disease

3.—(1) The Minister may, if he thinks fit, in any case cause to be slaughtered—

- (a) any animals affected with foot-and-mouth disease, or suspected of being so affected; and
- (b) any animals which are or have been in the same field, shed, or other place, or in the same herd or flock, or otherwise in contact with animals affected with foot-and-mouth disease, or which appear to the Minister to have been in any way exposed to the infection of foot-and-mouth disease.

(2) The Minister shall for animals slaughtered under this paragraph pay compensation as follows—

- (a) where the animal slaughtered was affected with foot-and-mouth disease the compensation shall be the value of the animal immediately before it became so affected;
- (b) in every other case the compensation shall be the value of the animal immediately before it was slaughtered.

Swine-fever

4.—(1) The Minister may, if he thinks fit, in any case cause to be slaughtered—

- (a) any swine affected with swine-fever, or suspected of being so affected; and
- (b) any swine which are or have been in the same field, pig-sty, shed, or other place, or in the same herd, or otherwise in contact with swine affected with swine-fever, or which appear to the Minister to have been in any way exposed to the infection of swine-fever.

(2) The Minister shall for animals slaughtered under this paragraph pay compensation as follows—

- (a) where the animal slaughtered was affected with swine-fever, the compensation shall be one half of the value of the animal immediately before it became so affected;
- (b) in every other case the compensation shall be the value of the animal immediately before it was slaughtered.

Diseases of poultry

5.—(1) The Minister may, if he thinks fit, cause to be slaughtered—

- (a) any diseased or suspected poultry; or
- (b) any poultry which are or have been in the same field, pen, shed or other place as, or otherwise in contact with, diseased poultry or which appear to the Minister to have been in any way exposed to the infection of disease.

(2) The Minister shall for poultry, other than diseased poultry, slaughtered under this paragraph pay compensation, which shall be the value of the bird immediately before it was slaughtered.

(3) The Minister may by order prescribe the payment of compensation in accordance with a scale approved by the Treasury for diseased poultry slaughtered under this paragraph, being poultry affected with any disease other than fowl pest in any of its forms, including Newcastle disease and fowl plague.

Section 38(2)

ADDITIONAL PROVISIONS AS TO FOOD AND WATER AT RAILWAY STATIONS

1. The food and water, or either of them, provided under section 38(2) above shall be supplied to the animal by the body carrying the animal on the request—
 - (a) of the consignor; or
 - (b) of any person in charge of the animal.
2. As regards water, if, in the case of any animal, such a request is not made, so that the animal remains without a supply of water for 24 consecutive hours—
 - (a) the consignor and the person in charge of the animal shall each be guilty of an offence against this Act; and
 - (b) it shall lie on the person charged to prove such a request and the time within which the animal had a supply of water.
3. The Ministers may, if they think fit, by order prescribe any other period, not less than 12 hours instead of the period of 24 hours mentioned above, either generally, or in respect of any particular kind of animals.
4. The body supplying food or water under section 38(2) may make in respect of that supply such reasonable charges (if any) as the Ministers by order approve, in addition to such charges as they are for the time being authorised to make in respect of the carriage of animals.
5. The amount of those additional charges accrued due in respect of any animal shall be a debt from the consignor and from the consignee of the animal to the body concerned, and shall be recoverable by the body concerned, with costs, by proceedings in any court of competent jurisdiction.
6. The body concerned shall have a lien for the amount of that debt on the animal in respect of which the debt accrued due, and on any other animal at any time consigned by or to the same consignor or consignee to be carried by that body.

SCHEDULE 5

Section 96

CONSEQUENTIAL AMENDMENTS

Protection of Birds Act 1954

1. In paragraph (b) of section 4(1) of the *Protection of Birds Act 1954* for "Minister of Agriculture and Fisheries by or under the *Diseases of Animals Act, 1950*" substitute "Minister of Agriculture, Fisheries and Food, or on the Secretary of State, or on the Minister and the Secretary of State acting jointly, by or under the *Animal Health Act 1981*".

Food and Drugs Act 1955

2. In section 100(6) of the *Food and Drugs Act 1955* for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".
3. (*Applies to Scotland.*)

Agriculture (Miscellaneous Provisions) Act 1963

4. In section 16(3) of the *Agriculture (Miscellaneous Provisions) Act 1963* for "either of the preceding subsections" substitute "the preceding subsection", and omit the words—
 - (a) "the Minister to whom the fee was paid or, as the case may be,"; and
 - (b) "he or".

London Government Act 1963

5. In section 54(3) of the *London Government Act 1963* for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".

Animal Boarding Establishments Act 1963

6. In paragraph (b) of the proviso to section 5(1) of the *Animal Boarding Establishments Act 1963* for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".

Agriculture Act 1967

7. In section 13(5) of the *Agriculture Act 1967* for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".

Agriculture (Miscellaneous Provisions) Act 1968

8. In section 8(2) of the *Agriculture (Miscellaneous Provisions) Act 1968*—
 - (a) for "section 59 of the *Diseases of Animals Act 1950*" substitute "section 50 of the *Animal Health Act 1981*"; and
 - (b) for "in subsection (2) the words from 'and shall' onwards were omitted" substitute "paragraph (b)(ii) were omitted from subsection (2)".

Transport Act 1968

9. In paragraph 7(2)(b) of Schedule 16 to the Transport Act 1968 for "section 22 of the Diseases of Animals Act 1950" substitute "section 38(2) of and Schedule 4 to the Animal Health Act 1981".

Agriculture Act 1970

10. In section 106(6) of the Agriculture Act 1970 for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".

Slaughterhouses Act 1974

11. In the Slaughterhouses Act 1974—

- (a) in section 20(5) for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981";
- (b) in section 35 for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981";
- (c) in paragraph (b) of section 38(2), and in section 39(2), for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981";
- (d) in paragraph (d) of section 40(3) for "section 20 of the Diseases of Animals Act 1950" substitute "paragraphs (a) and (b) of section 7(1), paragraphs (b) to (e) of section 8(1), section 25 and section 37(1) of the Animal Health Act 1981";
- (e) in section 42(3) for "Diseases of Animals Act 1950" substitute "Animal Health Act 1981".

12. (*Applies to Scotland.*)

SCHEDULE 6

Section 96

REPEALS

Chapter	Short title	Extent of Repeal
25 & 26 Geo 5 c 31	Diseases of Animal Act 1935	The whole Act.
14 Geo 6 c 36	Diseases of Animals Act 1950	The whole Act.
2 & 3 Eliz 2 c 39	Agriculture (Miscellaneous Provisions) Act 1954	Section 11.
4 & 5 Eliz 2 c 46	Administration of Justice Act 1956	Schedule 2.
10 & 11 Eliz 2 c 46	Transport Act 1962	Section 49(2).
1963 c 11	Agriculture (Miscellaneous Provisions) Act 1963	In Part I of Schedule 2, the entry relating to the Diseases of Animals Act 1950. Sections 13 and 14. Section 16(1). In section 16(3), the words— (a) "the Minister to whom the fee was paid or, as the case may be,"; and (b) "he or".

Chapter	Short Title	Extent of Repeal
1963 c 33	London Government Act 1963	In section 54(4), the words "The Diseases of Animals Act 1950". In Part I of Schedule 13, paragraph 1.
1967 c 22	Agriculture Act 1967	Section 66.
1967 c 80	Criminal Justice Act 1967	In Part I of Schedule 3, the entry relating to the Diseases of Animals Act 1950.
1968 c 67	Medicines Act 1968	In Schedule 6, the entry relating to Part II of and Schedule 3 to the Diseases of Animals Act 1950.
1969 c 28	Ponies Act 1969	The whole Act.
1970 c 40	Agriculture Act 1970	Section 105(2) to (5). Section 106(3).
1971 c 23	Courts Act 1971	In Part I of Schedule 9, the entry relating to the Diseases of Animals Act 1950.
1972 c 62	Agriculture (Miscellaneous Provisions) Act 1972	Sections 1 to 3.
1972 c 68	European Communities Act 1972	In Schedule 4, paragraph 7.
1973 c 65	Local Government (Scotland) Act 1973	Section 144(1), (2).
1974 c 7	Local Government Act 1974	In Schedule 6, paragraph 7.
1974 c 17	Rabies Act 1974	The whole Act.
1975 c 40	Diseases of Animal Act 1975	The whole Act.
1976 c 55	Agriculture (Miscellaneous Provisions) Act 1976	Sections 8 to 10. In Schedule 3, the reference to the Diseases of Animals Act 1950.
1976 c 63	Bail Act 1976	In Schedule 2, paragraph 13.
1977 c 45	Criminal Law Act 1977	Section 55(1) to (3).
1979 c 2	Customs and Excise Management Act 1979	In Part I of the Table of textual amendments in paragraph 12 of Schedule 4, the entry relating to the Diseases of Animals Act 1950.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

16th April 1998

No. 12

The following are published in this Supplement -

Interpretation and General Clauses (Amendment) Ordinance 1998;

Revised Edition of the Laws (Amendment) Ordinance 1998;

Law Revision Order No. 1 of 1997, (S.R. & O. No. 27 of 1998);

Disapplication of Enactments Order 1998, (S.R. & O. No. 28 of 1998);

Fishing Licences (Applications and Fees) Regulations Order 1998, (S.R. & O. No. 29 of 1998);

Fisheries Penalties (Amendment) Order 1989 (Rectification) Order 1998, (S.R. & O. No. 30 of 1998);

The Falkland Islands Constitution (Amendment) (No. 2) Order 1997.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Interpretation and General Clauses (Amendment) Ordinance 1998

(No: 1 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of section 78A

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

**INTERPRETATION AND GENERAL CLAUSES (AMENDMENT)
ORDINANCE 1998**

(No: 1 of 1998)

(assented to: 3 April 1998)
(commencement: upon publication)
(published: 16 April 1998)

AN ORDINANCE

To amend the Interpretation and General Clauses Ordinance 1977

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1998.

Amendment of section 78A

2.—(1) Section 78A of the Interpretation and General Clauses Ordinance 1977 is replaced by the following—

“78A.—(1) In this section “indirectly adopted imperial enactment” means an imperial enactment which applies in the Falkland Islands by virtue of any written law of the Falkland Islands which, without specifically naming the imperial enactment, has the effect of applying it in the Falkland Islands.

(2) The Governor may by Order under this subsection declare that any indirectly adopted imperial enactment shall, so far as concerns the Falkland Islands, be deemed never to have been enacted and such Order, unless the contrary intention appears—

(a) shall, subject to subsection (4), have effect retrospective to the date of the coming into force of the indirectly adopted imperial enactment to which it relates;

(b) shall not have the effect of reviving in the Falkland Islands any other imperial enactment.

(3) The Governor may by Order under this subsection declare that any indirectly adopted imperial enactment shall be deemed always, or be deemed from such date as is specified in such Order, to have had effect in the Falkland Islands subject to such modifications as are specified in it.

(4) Without prejudice to section 12(2), an Order under subsection (2) or (3) shall not have retrospective effect so as to affect the lawfulness of any act or omission or so as to increase the amount any person is or was liable to pay by way of compensation or damages."

(2) This section shall be deemed to have come into force on 1st January 1998.

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Revised Edition of the Laws (Amendment) Ordinance 1998

(No: 2 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of Revised Edition of the Laws Ordinance 1991

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

REVISED EDITION OF THE LAWS (AMENDMENT) ORDINANCE 1998

(No: 2 of 1998)

(assented to: 3 April 1998)
(commencement: in accordance with section 1)
(published: 16 April 1998)

AN ORDINANCE

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Revised Edition of the Laws (Amendment) Ordinance 1998 and shall be deemed to have come into force on 1st January 1998.

Amendment of Revised Edition of the Laws Ordinance 1991

2. The Revised Edition of the Laws Ordinance 1991 is amended—

(a) in section 2 by replacing the definition of “Revised Edition” with the following definition—

““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 admits—

(a) any Volume of the Revised Edition, and

(b) the Revised Edition as revised by any further revision carried out in accordance with section 4(2);”;

(b) in section 4(4), by inserting the words “or any Volume of it” immediately after the words “Revised Edition” and by replacing the word “they” with the word “it”;

(c) in section 4(5), by adding at the end the words “, or appointing different dates for the coming into force of different Volumes”; and

(d) by replacing section 6(2) with the following subsection—

“(2) Subject to subsection (3), the Revised Edition as approved in accordance with section 4(4) shall be deemed accurately to reflect the law of the Falkland Islands as at the date specified in the latest Order under that provision.”.

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

SUBSIDIARY LEGISLATION

REVISED EDITION OF THE LAWS

Law Revision Order No. 1 of 1997

(S. R. & O. No. 27 of 1998)

Made: 3 April 1998

Published: 16 April 1998

Coming into force in accordance with article 1

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. (1) This Order may be cited as Law Revision Order No.1 of 1997 and shall come into force on such date, not earlier than the first publication of this Order in the *Gazette*, as the Governor may, subject to paragraph (2), notify by notice so published.

(2) The Governor shall not notify a date pursuant to paragraph (1) unless he is satisfied that copies of Volume 1 are available in the Falkland Islands.

Interpretation

2. In this Order—

“the Ordinance” means the Revised Edition of the Laws Ordinance 1991;

“the Revised Laws of the Falkland Islands” means the work under that title published or intended to be published in seven volumes on the authority of the Government of the Falkland Islands by Law Reports International, Oxford, which is ISBN 1 870584 69 4;

“the relevant revision date” means 1st January 1993;

“Volume 1 of the Revised Laws of the Falkland Islands” and “Volume 1” mean the first volume of the Revised Laws of the Falkland Islands which, as a separate volume is ISBN 1 870584 70 8.

Approval of Volume 1 of the Revised Laws of the Falkland Islands

3. Volume 1 of the Revised Laws of the Falkland Islands is approved as at the relevant revision date.

Pages included in Volume 1

4. The pages included in Volume 1 are those specified in the Schedule to this Order.

Made this 3rd day of April 1998

R P Ralph
Governor

SCHEDULE

Pages contained in Volume 1

Preliminary pages: pages i to vii;

Title 1 (The Constitution): page 1/1 and pages 1 Imp/1 to 1 Imp/75;

Title 2 (Admiralty): page 2/1, pages 2 Imp/1 to 2 Imp/7 and page 2 Disapplied/1;

Title 3 (Agency): pages 3/1 to 3/3, pages 3 Imp/1 to 3 Imp/4 and page 3 Disapplied/1;

Title 4 (Agriculture): pages 4/1 to 4/24, page 4 Imp/1, pages 4 Disapplied/1 and 4 Disapplied/2;

Title 5 (Animals): pages 5/1 to 5/99, pages 5 Imp/1 to 5 Imp/15, pages 5 Disapplied/1 and 5 Disapplied/2;

Title 6 (Arbitration): page 6/1, page 6 Imp/1 to 6 Imp/5 and 6 Disapplied/1;

Title 7 (Armed Forces): page 7/1 to 7/55, 7 Imp/1 to 7 Imp/12, 7 Disapplied /1 and 7 Disapplied/2;

Title 8 (Auction): page 8/1, pages 8 Imp/1 to 8 Imp/4 and page 8 Disapplied/1;

Title 9 (Aviation): pages 9/1 to 9/30, pages 9 Imp/1 to 9 Imp/8 and page 9 Disapplied/1;

Title 10 (Banking): pages 10/1 to 10/27 and page 10/ Disapplied/1;

Title 11 (Bankruptcy and Insolvency): pages 11/1 to 11/3, 11 Imp/1 to 11 Imp/106 and page 11 Disapplied/1;

Title 12 (Bills of Exchange): pages 12/1 to 12/3, pages 12 Imp/1 and 12 Imp/2 and page 12 Disapplied/1;

Title 13 (Bills of Sale): page 13/1, pages 13 Imp/1 and 13 Imp/2 and page 13 Disapplied/1;

Title 14 (Carriers): page 14/1 and page 14 Disapplied/1;

Title 15 (Charities): pages 15/1 to 15/3, pages 15 Imp/1 to 15 Imp/3 and page 15 Disapplied/1;

Title 16 (Civil Procedure): pages 16/1 to 16/56, pages 16 Imp/1 to 16 Imp/10 and page 16 Disapplied/1;

Title 17 (Civil Rights and Liberties): page 17/1, pages 17 Imp/1 to 17 Imp/3, page 17 Treaty/1 and page 17 Disapplied/ 1;

Title 18 (Company Law): pages 18/1 to 18/42, pages 18 Imp/1 to 18 Imp/85 and page 18 Disapplied/1.

EXPLANATORY NOTE
(not forming part of the above Order)

This Order provides for the bringing into force of Volume 1 of the Revised Edition of the Laws by a notice published in the *Gazette* and lists the pages contained in that Volume.

SUBSIDIARY LEGISLATION

LAW REVISION

Disapplication of Enactments Order 1998

S. R. & O. No. 28 of 1998

Made: 3 April 1998
Published: 16 April 1998
Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 78A(2) of the Interpretation and General Clauses Ordinance 1977(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Disapplication of Enactments Order 1998 and comes into force on the same date as Law Revision Order No 1 of 1997(b) comes into force.

Disapplication of Enactments

2. So far as concerns the Falkland Islands the indirectly adopted imperial enactments specified in the Schedule to this Order shall be deemed never to have been enacted.

Made this 3rd day of April 1998

R P Ralph
Governor

(a) No 14 of 1977 (it is intended that this will be Title 67.2 in the Revised Edition of the Laws where s.78A will be renumbered as s.79)

(b) S.R. & O. No. 27 of 1998

SCHEDULE

Note: The cross-headings which follow are the Titles in which the disapplication of the enactments which are specified under them is mentioned in Volume 1 of the Revised Laws of the Falkland Islands

ADMIRALTY (TITLE 2)

County Courts Act 1984, ss. 26-31 (inclusive), 59, 66(1)(a), 73, 78, 147(1), 150 and 151

AGENCY (TITLE 3)

Estate Agents Act 1979
Property Misdemeanors Act 1991

AGRICULTURE (TITLE 4)

Allotments Act 1832
Poor Allotments Management Act 1873
Corn Returns Act 1882
Allotments Extension Act 1882
Small Holdings and Allotments Act 1908
Small Holding Colonies Act 1916
Land Settlement (Facilities) Act 1919
Corn Sales Act 1921
Allotments Act 1922
Agricultural Credits Act 1923
Allotments Act 1925
Land Settlement (Facilities) Amendment Act 1925
Horticultural Produce (Sales on Commission) Act 1926
Small Holdings and Allotments Act 1926
Agricultural Produce (Grading and Marking) Act 1928
Agricultural Credits Act 1928
Agricultural Produce (Grading and Marking) Amendment Act 1931
Agricultural Land (Utilisation) Act 1931
Agricultural Credits Act 1932
Agriculture (Miscellaneous Provisions) Act 1943
Agriculture (Miscellaneous Provisions) Act 1944
Hill Farming Act 1946
Agriculture Act 1947
Agricultural Wages Act 1948
Agriculture (Miscellaneous Provisions) Act 1949
Allotments Act 1950
Livestock Rearing Act 1951
Agriculture (Poisonous Substances) Act 1952
Agricultural Land (Removal of Surface Soil) Act 1953
Emergency Laws (Miscellaneous Provisions) Act 1953, ss.5 and 13

Hill Farming Act 1954
 Agriculture (Miscellaneous Provisions) Act 1954
 Pests Act 1954, Part I, ss. 1-7 (inclusive)
 Agricultural Research Act 1956
 Agricultural Mortgage Corporation Act 1956
 Agriculture (Safety, Health and Welfare Provisions) Act 1956
 Agriculture (Silo Subsidiaries) Act 1956
 Agriculture Act 1957
 Agricultural Marketing Act 1958
 Agriculture Act 1958
 Weeds Act 1959
 Horticulture Act 1960
 Agricultural Research etc. (Pensions) Act 1961
 Agriculture (Miscellaneous Provisions) Act 1963
 Plant Varieties and Seeds Act 1964
 Agriculture and Horticulture Act 1964
 Cereals Marketing Act 1965
 Plant Health Act 1967
 Agriculture Act 1967
 Farm and Garden Chemicals Act 1967
 Agriculture (Miscellaneous Provisions) Act 1968, ss. 12, 13, 15, 17, 43, 46, 47, 50-54
 (inclusive), Schedules 3 and 8.
 Agriculture Act 1970, ss. 28-56 (inclusive), 58-87 (inclusive), 92, 98, 108, 110, 111,
 113 and Schedule 5, Pts. II, IV, V.
 Agriculture (Miscellaneous Provisions) Act 1972, ss. 4, 9, 10, 12, 17, 21, 25-27
 (inclusive), and Schedule 6.
 European Communities Act 1972, ss. 1(1), 4, 6, 12, Schedule 3, Pt III.
 Horticulture (Special Payments) Act 1974
 Agriculture (Miscellaneous Provisions) Act 1976, ss. 2-26 (inclusive).
 Rent Agriculture Act 1976
 Rent Agriculture (Amendment) Act 1976
 Agricultural Statistics Act 1979
 Housing Act 1980, ss. 73(5), 155(1), Schedule 8, Pts. II, III.
 Hops Marketing Act 1982
 Agricultural Training Board Act 1982
 Agricultural Marketing Act 1983
 Pig Industry Levy Act 1983
 Plant Varieties Act 1983
 Agriculture (Amendment) Act 1984
 Milk (Cessation of Production) Act 1985
 Hill Farming Act 1985
 Agricultural Training Board Act 1985
 Food and Environment Protection Act 1985, ss. 16-19 (inclusive), 20(2), (3), (4)(c),
 (5), 21(3)-(8) (inclusive), 22, 23(2), (3), 24(1), (3), 25(1), (2), (4)-(6) (inclusive),
 27(1), (2)(c), (d), (3), 28. Schedule 2, paras. 1(c), 2, 4, 5(1), (2), 6-10 (inclusive),
 Schedule 5.
 Agricultural Holdings Act 1986
 Horticultural Produce Act 1986
 Agriculture Act 1986

Agricultural Training Board Act 1987
 Farm Land and Rural Development Act 1988
 Pesticides (Fees and Enforcement) Act 1989
 Agricultural Holdings (Amendment) Act 1990
 Agriculture Forestry (Financial Provisions) Act 1991

ANIMALS (TITLE 5)

Hares Act 1848
 Game Licences Act 1860
 Dogs Act 1871
 Customs and Inland Revenue Act 1883
 Hares Preservation Act 1892
 Customs and Inland Revenue Act 1893
 Dogs Act 1906
 Finance Act 1924
 Dogs (Amendment) Act 1928
 Destructive Imported Animals Act 1932
 Protection of Animals Act 1934
 Finance Act 1937
 Agriculture (Artificial Insemination) Act 1946
 Pet Animals Act 1951
 Cockfighting Act 1952
 Dogs (Protection of Livestock) Act 1953
 Pests Act 1954, ss. 8(4), (6)-(9) (inclusive), 9(3)-(5) (inclusive), 10 and 11.
 Animal Boarding Establishments Act 1963
 Protection of Animals (Anaesthetics) Act 1964
 Riding Establishments Act 1964
 Agriculture (Miscellaneous Provisions) Act 1968, ss. 1-8 (inclusive), 50, 51, 53, 54.
 Post Office Act 1969, ss. 134, 135, 142
 Riding Establishments Act 1970
 Agriculture Act 1970, ss. 106, 110, 111, 113(1), (2).
 Animals Act 1971
 Agriculture (Miscellaneous Provisions) Act 1972, ss. 19, 26(1), (2), 27(1).
 Badgers Act 1973
 Breeding of Dogs Act 1973
 Farriers (Registration) Act 1975
 Guard Dogs Act 1975
 Farriers (Registration)(Amendment) Act 1977
 Bees Act 1980
 Animal Health Act 1981
 Zoo Licensing Act 1981
 Pet Animals Act (Amendment) Act 1983
 Animal Health and Welfare Act 1984
 Animals (Scientific Procedures) Act 1986
 Protection of Animals (Penalties) Act 1987
 Local Government Act 1988, ss. 37-42, Schedule 7, Pt. IV
 Protection Against Cruel Tethering Act 1988

Dangerous Dogs Act 1989
 Environmental Protection Act 1990, ss. 149, 150, 159 (1)-(6) (inclusive), 160, 161(1)-(4) (inclusive), 162(4), 163, 164(1)-(3) (inclusive), (5).
 Breeding of Dogs Act 1991
 Badgers (Further Protection) Act 1991
 Badgers Act 1991
 Deer Act 1991
 Dangerous Dogs Act 1991
 Protection of Badgers Act 1992

ARMED FORCES (TITLE 7)

Regimental Accounts Act 1808
 Chelsea and Kilmainham Hospitals Act 1833
 Army (Artillery etc) Pensions Act 1833
 Drouly Fund Act 1838
 Defence Act 1842
 Defence Act 1854
 Defence Act 1859
 Defence Act 1860
 Officers Commissions Act 1862
 Defence Act Amendment Act 1864
 Defence Act 1865
 Naval and Marine Pay and Pensions Act 1865
 Greenwich Hospital Act 1865
 Navy and Marines (Property of Deceased) Act 1865
 Capital Punishment Amendment Act 1868
 Greenwich Hospital Act 1869
 Greenwich Hospital Act 1872
 Militia (Lands and Buildings) Act 1873
 Defence Acts Amendment Act 1873
 Regimental Exchange Act 1875
 Chelsea Hospital Act 1876
 Greenwich Hospital Act 1883
 Naval Pensions Act 1884
 Pensions and Yeomanry Pay Act 1884
 Greenwich Hospital Act 1885
 Revenue Act 1889, ss. 30, 37.
 Barracks Act 1890
 Naval Knights of Windsor (Dissolution) Act 1892
 Military Lands Act 1892
 Regimental Debts Act 1893
 Military Lands Act 1897
 Military Lands Act 1900
 Patriotic Fund Reorganisation Act 1903
 Military Lands Act 1903
 Seamen's and Soldiers' False Characters Act 1906
 Injuries in War (Compensation) Act 1914

Army Pensions Act 1914
 Injuries in War (Compensation) Act 1914 (Session 2)
 Naval Medical Compassionate Fund Act 1915
 Naval and Military War Pensions &c Act 1915
 Sailors and Soldiers (Gifts for Land Settlement) Act 1916
 Naval and Military War Pensions &c (Administrative Expenses) Act 1917
 Air Force (Constitution) Act 1917
 War Pensions (Administrative Provisions) Act 1918
 War Pensions (Administrative Provisions) Act 1919
 War Pensions Act 1920
 Admiralty Pensions Act 1921
 War Pensions Act 1921
 Greenwich Hospital (Disused Burial Ground) Act 1925
 Coastguard Act 1925
 Imperial War Graves Endowment Fund Act 1926
 Regimental Charitable Funds Act 1935
 Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939
 War Orphans Act 1942
 Pensions (Mercantile Marine) Act 1942
 Greenwich Hospital Act 1942
 Greenwich Hospital Act 1947
 Polish Resettlement Act 1947, ss. 1, 7, 10, 12, 13.
 Naval Forces (Enforcement of Maintenance Liabilities) Act 1947
 Army and Air Force (Women's Service) Act 1948
 National Service Act 1948
 Armed Forces (Housing Loans) Act 1949
 Royal Patriotic Fund Corporation Act 1950
 Reinstatement in Civil Employment Act 1950
 Home Guard Act 1951
 Courts-Martial (Appeals) Act 1951
 Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951
 Emergency Laws (Miscellaneous Provisions) Act 1953, s.1, Schedule 1, para. 8.
 Land Powers Defence Act 1958
 Armed Forces (Housing Loans) Act 1958
 Manoeuvres Act 1958
 Armed Forces (Housing Loans) Act 1965
 Military Aircraft (Loans) Act 1966
 Greenwich Hospital Act 1967
 Courts-Martial (Appeals) Act 1968
 Chronically Sick and Disabled Persons Act 1970, ss. 9, 29.
 Social Security (Miscellaneous Provisions) Act 1977, s.12.
 Reserve Forces Act 1980
 Reserve Forces Act 1982
 Reserve Forces (Safeguard of Employment) Act 1985
 Protection of Military Remains Act 1986
 Social Security Act 1989, ss. 25, 28(1), 29(1), (3), (6), 30(1), 31(3), 33(1), (2), (3)(a),
 (4), (6), (7).
 Greenwich Hospital Act 1990

AUCTION (TITLE 8)

Auctions (Bidding Agreements) Act 1927, s.3.
 Mock Auctions Act 1861, ss. 2 and 4(2).
 Auctions (Bidding Agreements) Act 1969, s. 3(4).

AVIATION (TITLE 9)

Air Corporations Act 1966
 Air Corporations Act 1969
 Air Travel Reserve Fund Act 1975
 Civil Aviation Act 1978
 Carriage by Air and Road Act 1979
 Civil Aviation Act 1980
 Civil Aviation (Amendment) Act 1982
 Civil Aviation (Eurocontrol) Act 1983
 Airports Act 1986
 Outer Space Act 1986
 Civil Aviation (Air Navigation Charges) Act 1989
 Civil Aviation (Borrowing Powers) Act 1990

BANKING (TITLE 10)

Bank of England Act 1694
 Bank of England Act 1716
 Bank Notes Act 1826
 Bank Charter Act 1844
 Bank Notes Act 1852
 Stamp Act 1853
 Bank of England Act 1861
 Bank Act 1892
 Currency and Bank Notes Act 1928
 Czech-Slovakia (Restrictions on Banking Accounts, etc.) Act 1939
 Bank of England Act 1946
 Currency and Bank Notes Act 1954
 Banking Act 1979
 Currency Act 1983, ss. 2-4 and Schedule.
 Banking Act 1987

BANKRUPTCY & INSOLVENCY (TITLE 11)

Debtors Act 1869, ss. 13, 18, 23.
 Bankruptcy Act 1883
 Bankruptcy Act 1890
 Deeds of Arrangement Act 1914, ss. 4, 6(c), 10, 18, 26(2), 27, 28, 31, 32(2) and (3).

Bankruptcy Act 1914, ss. 12, 33(1)(*d*), (*e*) and (*f*), 70, 71, 75, 89(6), 90, 91, 96(2) to (5) (inclusive), 97, 99, 100, 102, 103, 106(2), 107(1) to (3) (inclusive), 108(2) and (3), 120(1), 121, 122, 123(1), 131, 135, 136 (second paragraph), 144, 153(2), 160, 163, 165, 168(1) to (4) (inclusive), 169(2) and (3), and the Third to Sixth Schedules (inclusive).

Administration of Justice Act 1925, s. 22(1)

Insolvency Act 1976, ss. 3, 5(3) and (4), 9, 10, 12, 13, 14(5) and (6)

CHARITIES (TITLE 15)

House to House Collections Act 1939
Charitable Trusts (Validation) Act 1954
Recreational Charities Act 1958
Charities Act 1992

CIVIL PROCEDURE (TITLE 16)

Supreme Court Act 1981, ss. 1-18 (inclusive), 26, 44, 53-60 (inclusive), 88-131 (inclusive), 136, 139, 142-149 (inclusive), Schedule 2

CIVIL RIGHTS & LIBERTIES (TITLE 17)

Sex Discrimination Act 1975
Race Relations Act 1976
Data Protection act 1984
Sex Discrimination Act 1986
Access to Personal Files Act 1987
Employment Act 1989, ss. 1, 2, 4-6 (inclusive), 8, 11, 12, 27, 28(1)-(3), (4)(*a*), (*c*), (5), 29(1), (2), (6), 30(1), (2) (*a*), (*c*), (*e*), (*i*), (*j*), (3)(*a*), (*b*), (*g*), (5)(*b*), (*d*), (*e*),
Schedule 1, Schedule 9, para. 1.

COMPANY LAW & PARTNERSHIP (TITLE 18)

Chartered Companies Act 1837
Trading Partnerships Act 1841
Companies Clauses Consolidation Act 1845
Companies Clauses Act 1863
Companies Clauses Act 1869
Chartered Companies Act 1884
Companies Clauses Consolidation Act 1888
Statutory Companies (Redeemable Stock) Act 1915
Insurance Companies Act 1958
Companies Act 1967
Administration of Justice Act 1977, s.7
Companies Act 1985

Company Securities (Insider Dealing) Act 1985
 Companies Consolidation (Consequential Provisions) Act 1985
 Company Directors Disqualification Act 1986
 Financial Services Act 1986, ss. 172, 174, 177, 178, 195, 199, 204, 207
 and 209-212 (inclusive)
 Companies Act 1989
 Foreign Corporations Act 1991

EXPLANATORY NOTE

(not forming part of the above Order)

This Order disapplies with effect from 1st January 1993, the date as at which the Revised Edition of the Laws, as initially published, will state the law of the Falkland Islands, a number of imperial enactments so far as they apply as law of the Falkland Islands by virtue of provisions of laws made in the Falkland Islands which, without specifically naming the imperial enactments, have the effect of applying them as laws of the Falkland Islands.

It should be noted that in some cases enactments to which this Order relates may subsequently have been applied by specific Ordinance, subject to modifications and exceptions (e.g. Race Relations Act 1976 which has been applied by the Race Relations Ordinance 1994). This Order does not affect that. Equally some provisions ceased after 1st January 1993 to apply in the Falkland Islands by virtue of being inconsistent with locally enacted legislation (e.g. sections 149 and 150 of the Environment Protection Act 1990 which are inconsistent with the Animals (Amendment) Ordinance 1997). Lastly, it should be noted that some of the provisions of imperial enactments which were in force on 1st January 1993 have been, in the interim, up-dated under the provisions of section 78 or 81A of the Interpretation and General Clauses Ordinance 1977 and therefore no longer apply in the form they were on that date (which, as mentioned above is the date as at which Volume 1 of the Revised Laws of the Falkland Islands, as initially published, states the law).

SUBSIDIARY LEGISLATION

FISHERIES

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No: 11 of 1986)

Fishing Licences (Applications and Fees) Regulations Order 1998

S.R.& O. No: 29 of 1998

Made: 3 April 1998
Published: 16 April 1998
Coming into force: on publication

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986(a) I make the following Order—

Commencement and citation

1.—(1) This Order may be cited as the Fishing Licences (Applications and Fees) Regulations Order 1998 and shall come into operation on the date it is first published in the Gazette and cease to have effect on 31st December 1998.

(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.

Application

2. Nothing in these Regulations applies to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters.

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;

"FICZ" means the interim conservation and management zone as defined in section 2 of the Fisheries (Conservation and Management) Ordinance 1986;

"FOCZ" means the outer conservation zone as defined in Proclamation 2 of 1990 as varied by Proclamation 1 of 1994;

"fishing licence" means a licence to catch or take fish within the fishing waters;

"the fishing season" means—

(a) in relation to an "R" licence a period commencing on 1st July 1998 and ending on 31st December 1998;

(b) in relation to an "X" licence the period commencing on 1st August 1998 and ending on 31st October 1998;

(c) in relation to a "Y" licence a period commencing on 1st July 1998 and ending on 31st December 1998;

(d) in relation to a "Z" licence a period commencing on 1st July 1998 and ending on 31st December 1998;

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

Relationship with principal regulations

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.

Types of Licence

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

(a) an 'R' licence;

(b) an 'X' licence ;

(c) a 'Y' licence;

(d) a 'Z' licence.

(2) An 'R' licence issued under these Regulations shall permit the catching or taking of all species of the family Skate (Rajidae) and shall not permit the taking of other species of finfish or squid of any kind.

(3) An 'X' licence issued under these Regulations shall authorise the catching or taking of squid of the species *Loligo gahi*.

(4) A 'Y' licence issued under these Regulations shall permit 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 Toothfish (*Dissostichus eleginoides*) or Skate (Rajidae) or squid of any kind.

(5) A 'Z' licence issued under these Regulations shall permit the catching or taking of any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (Rajidae) that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*), Skate (Rajidae) 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.

Applications for Licences

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 598, 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 Tuesday, 14th April 1998.

(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.

The Schedule and its Tables

7.—(1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable for type 'R' licences.

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

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

(4) Table 4 of the Schedule to these Regulations applies in respect of the fees payable for type 'Z' 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.

(7) The fees for transshipment and export licences for the period 1st July 1998 to 31st December 1998 shall be £150 per transshipment operation.

Made this 3rd day of April 1998

R P Ralph
Governor

THE SCHEDULE

Provision as to fishing licences in respect of the fishing season

TABLE 1

Skate - Type "R" 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 Skate (*Rajidae*) only.
3. The season for this type of licence commences on 1st July 1998 and ends on 31st December 1998 and will be subject to a closed area and provisions of 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)

A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fee payable per licensed month is the result of:

$$£(2.778 * GT) + 22445$$

TABLE 2

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 species *Loligo gahi*.
3. The season for this type of licence commences on 1st August 1998 and ends on 31st October 1998 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.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

B. A licence is not transferable.

FORMULA

Fee payable is the result of:

$$£(29.503 * GT) + 52287$$

TABLE 3

Finfish only - 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 with the exception of Toothfish (*Dissostichus eleginoides*), Skate (Rajidae) or squid.
3. The season for this type of licence commences on 1st July 1998 and ends on 31st December 1998 and will be subject to a closed area 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)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fees payable per licensed month of fishing is calculated by adding £5,000 to the relevant Finfish (Species Restricted) type "Z" licence fee, taking account of the GT of the vessel.

TABLE 4

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 with the exception of Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*) or squid.
3. The season for this type of licence commences on 1st July 1998 and ends on 31st December 1998 and will be subject to a closed area and the Fishing (Nets and Supplementary Net 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)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fee payable per licensed month is the result of whichever of the following is applicable;

- I. Where the vessel has a GT of 1400 or less;

$$£(0.496 * GT) + 12443$$

II. Where the vessel has a GT of more than 1401 but less than 2200;

$$£(21.519 * GT - 16990)$$

III. Where the vessel has a GT of more than 2201 but less than 3500;

$$£(17.271 * GT - 7641)$$

IV. Where the vessel has a GT if more than 3501 but less than 4000;

$$£(91.146 * GT - 266208)$$

V. Where the vessel has a GT of 4001 or greater;

$$£(27.646 * GT) - 12228$$

SUBSIDIARY LEGISLATION

FISHERIES

Fisheries Penalties (Amendment) Order 1989 (Rectification) Order 1998

S. R. & O. No. 30 of 1998

Made: 6 April 1998
Published: 16 April 1998
Coming into force: on publication

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a), and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Fisheries Penalties (Amendment) Order 1989 (Rectification) Order 1998 and shall be deemed to have come into force on 1st January 1990.

Rectification of Fisheries Penalties (Amendment) Order 1989

2. Article 2(a) of the Fisheries Penalties (Amendment) Order 1989(b) is rectified in paragraph (a) by replacing "4(1)" with "4(2)".

Made this 6th day of April 1998

D G Lang
Attorney General

STATUTORY INSTRUMENTS

1997 No. 2974

SOUTH ATLANTIC TERRITORIES

**The Falkland Islands Constitution (Amendment)
(No. 2) Order 1997**

<i>Made</i>	<i>17th December 1997</i>
<i>Laid before Parliament</i>	<i>5th January 1998</i>
<i>Coming into Operation</i>	<i>1st February 1998</i>

At the Court at Buckingham Palace, the 17th day of December 1997

Present,

The Queen's Most Excellent Majesty in Council

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

Citation, construction and commencement

1.—(1) This Order may be cited as the Falkland Islands Constitution (Amendment) (No. 2) Order 1997 and shall be construed as one with the Falkland Islands Constitution Order 1985(b).

(2) The Falkland Islands Constitution Order and this Order may be cited together as the Falkland Islands Constitution Orders 1985 to 1997.

(3) This Order shall come into operation on 1st February 1998.

Interpretation

2. In this Order, "the Constitution" means the Constitution of the Falkland Islands set out in Schedule 1 to the Falkland Islands Constitution Order 1985.

Replacement of Section 23 of the Constitution

3. Section 23 of the Constitution is replaced by the following—

"23. Subject to the provisions of Section 24 of this Constitution, any person who has attained the age of twenty-one years and who is registered as an elector pursuant to section 27 of this Constitution is qualified to be elected as a member of the Legislative Council in respect of either constituency."

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

(b) S.I. 1985/444, as amended by S.I. 1997/864

Amendment of Annex B to the Constitution

4. In Annex B to the Constitution there shall be substituted for the reference to the "Civil Commissioner" in the Oath (or Affirmation) of Secrecy a reference to the "Governor".

Clerk of the Privy Council



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

12th May 1998

No. 13

The following are published in this Supplement -

Supplementary Appropriation (1997-1998) Ordinance 1998;

Administration of Justice (Amendment) Ordinance 1998;

Retirement Pensions (Amendment) Ordinance 1998;

National Parks Ordinance 1998;

Fishery Products (Hygiene) Ordinance 1998;

Falkland Islands Status Bill.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Supplementary Appropriation (1997-1998) Ordinance 1998

(No: 3 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule 1

Schedule 2

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (1997-1998) ORDINANCE 1998

(No: 3 of 1998)

(assented to: 1 May 1998)
(commencement: upon publication)
(published: 12 May 1998)

AN ORDINANCE

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £690,640 for the service of the financial year ending on 30th June 1998.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Supplementary Appropriation (1997-1998) Ordinance 1998.

Appropriation of further sum

2. The Financial Secretary may for the purposes specified in the Schedules cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1st July 1997 and ending on 30th June 1998 the further sum of £690,640 in addition to sums already appropriated by Ordinance.

Replenishment of Contingencies Fund

3. The Financial Secretary shall out of the sums appropriated by section 2 replenish the Contingencies Fund to the extent that sums specified in Schedule 1, prior to the commencement of this Ordinance, have been withdrawn from the Contingencies Fund by the authority of the Contingencies Warrants Numbers 11 and 12 of 1997-1998 (the authority of which lapses on the commencement of this Ordinance).

SCHEDULE 1

Head of Service

PART I OPERATING EXPENDITURE

	£
150 Posts & Telecommunications	3,500
200 Health & Social Services	63,850
390 Fox Bay Village	14,400
600 Central Administration	750
650 Pensions & Gratuities	188,500
800 Legislature	8,390
TOTAL OPERATING EXPENDITURE	279,390

PART II CAPITAL EXPENDITURE

950 Expenditure	27,600
TOTAL SUPPLEMENTARY EXPENDITURE	306,990

SCHEDULE 2

Head of Service

PART I OPERATING EXPENDITURE

	£
551 Police & Prisons	3,000
TOTAL OPERATING EXPENDITURE	3,000

PART II CAPITAL EXPENDITURE

950 Expenditure	380,650
TOTAL SUPPLEMENTARY EXPENDITURE	383,650

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Administration of Justice (Amendment) Ordinance 1998

(No: 4 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of section 7E(8) of the Administration of Justice Ordinance
3. Replacement of section 47 of the Administration of Justice Ordinance
4. Amendment of Schedule 3 to the Administration of Justice Ordinance

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

ADMINISTRATION OF JUSTICE (AMENDMENT) ORDINANCE 1998

(No: 4 of 1998)

(assented to: 1 May 1998)
(commencement: upon publication)
(published: 12 May 1998)

AN ORDINANCE

To amend the Administration of Justice Ordinance.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Administration of Justice (Amendment) Ordinance 1998.

Amendment of section 7E(8) of the Administration of Justice Ordinance

2. The following sentence is added at the end of section 7E(8) of the Administration of Justice Ordinance—

“Except where otherwise in this Ordinance specifically provided to the contrary, every reference in any English enactment relating to county courts to a “registrar”, a “judge” or “district judge” shall be construed as if it were a reference to the Senior Magistrate.”.

Replacement of section 47 of the Administration of Justice Ordinance

3.—(1) Section 47(2) of the Administration of Justice Ordinance is replaced by the following two subsections—

“(2) There shall be no limitation on the time within which there may be commenced a prosecution—

(a) for any sexual offence committed upon or in relation to a person aged under sixteen years at the time of the offence; or

(b) for any indictable offence other than—

(i) rape not committed upon a person aged under sixteen years at the time of the offence, or

(ii) an offence under section 1(2) of the Criminal Damage Act 1971.

In paragraph (a), “sexual offence” means any offence under the Sexual Offences Act 1956 or the Sexual Offences Act 1967, as from time to time amended, in their application to the Falkland Islands under the Crimes Ordinance 1989.

(2A) A prosecution for an offence of rape other than one committed upon a person aged under sixteen years at the time of the offence must be commenced within twelve years of the offence.”

(2) Section 47(3) is amended by inserting at the beginning of the subsection the words “Subject to subsection (2)”.

(3) Subsection (1) applies in relation to offences committed before, as well as after, the commencement of the subsection.

Amendment of Schedule 3 to the Administration of Justice Ordinance

4. Schedule 3 to the Administration of Justice Ordinance (which was inserted by the Administration of Justice (Amendment) Ordinance 1996) is amended—

(a) by inserting immediately following the word “Registrar” where it first appears in the definition of “Bailiff” appearing in paragraph 1(1), the words “and the Senior Magistrate when exercising the powers of a bailiff conferred upon a district judge by the County Courts Act 1984”;

(b) by replacing paragraph 10(c) with the following—

“(c) to the registrar or to the district judge shall be construed as a reference to the Senior Magistrate;”

(c) by adding the following words at the end of paragraph 10(f)—

“except in relation to anything concerning the Senior Magistrate in the exercise of the powers of a bailiff conferred upon a district judge, when the reference shall be construed as a reference to the Chief Justice and, in any case to which this exception relates, the Chief Justice shall have and may exercise in the Supreme Court any powers and jurisdiction which would be exercisable by the judge in a county court in England”.

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Retirement Pensions (Amendment) Ordinance 1998

(No: 5 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title, commencement and interpretation
2. Transitional cases: contributions after pensionable age not to count for certain purposes
3. The married couple's supplement
4. Entitlement to pension based on deemed contributions restricted to residents
5. Voluntary contributions by deemed contributors
6. Ex gratia pensions payable to persons entitled to pensions under the 1996 Ordinance
7. Penalties for false statements made in connection with ex gratia pensions

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

RETIREMENT PENSIONS (AMENDMENT) ORDINANCE 1998

(No: 5 of 1998)

AN ORDINANCE

(assented to: 1 May 1998)
(commencement: in accordance with section 1)
(published: 12 May 1998)

To amend the Retirement Pensions Ordinance 1996.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Retirement Pensions (Amendment) Ordinance 1998 and shall be deemed to have come into force on 6 January 1997.

(2) In this Ordinance “the 1996 Ordinance” means the Retirement Pensions Ordinance 1996.

Transitional cases: contributions after pensionable age not to count for certain purposes

2. In section 7(2) of the 1996 Ordinance (which defines “relevant week” for the purposes of determining the number of weeks in respect of which contributions have been made and which can count towards the 14 year transitional period of entitlement to a full pension)—

(a) in paragraph (a) for the words “not in receipt of a pension under section 4” there shall be substituted the words “not over the age of 64 years”, and

(b) in paragraph (b) for the words “not in receipt of a widow’s or widower’s pension” there shall be substituted the words “not over the age of 60 years”.

The married couple's supplement

3. In section 6 of the 1996 Ordinance (which makes provision for the payment of the married couple's supplement until the wife reaches 64 years) after subsection (1) there shall be inserted—

“(1A) The married couple's supplement shall continue to be payable to the husband after the wife has reached the age of 64 years if—

(a) the wife is either not entitled to a pension under this Ordinance or (apart from subsection (1B) below) would be entitled to such a pension payable at a rate less than the rate at which the supplement is payable, and

(b) the husband continues to satisfy the condition in paragraph (b) of subsection (1) above.”

(1B) In any case where the husband is entitled to the married couple's supplement, any pension under this Ordinance otherwise payable to his wife shall be abated by the amount of the supplement and accordingly shall not be paid.”

Entitlement to pension based on deemed contributions restricted to residents

4.—(1) In section 4(4) of the 1996 Ordinance (which entitles non-residents as well as residents to pensions) at the beginning there shall be inserted “Subject to section 7(3A)”.

(2) After subsection (3) of section 7 there shall be inserted—

“(3A) A woman who is not ordinarily resident in the Falkland Islands on the appointed day shall not be entitled, by virtue of subsection (5) or (7) below, to receive any payment by way of a pension under this Ordinance in respect of any period before she becomes ordinarily resident in the Falkland Islands (but irrespective of whether she continues to be so resident thereafter).”

(3) In section 7 at the beginning of subsections (5) and (7) (which enable pensions to be paid to women with deemed contributions whether or not they are resident in the Falkland Islands) there shall be inserted “Subject to subsection (3A)”.

Voluntary contributions by deemed contributors

5.—(1) In section 12 of the 1996 Ordinance (which permits contributors to make voluntary contributions in certain cases) after subsection (2) there shall be inserted—

“(2A) A person (irrespective of his age)—

(a) in respect of whom contributions are deemed to have been made under this Ordinance or the 1952 Ordinance in respect of any period (“the contribution period”), and

(b) who has not in fact made any contributions himself under this Ordinance or the 1952 Ordinance (disregarding any contributions made by virtue of this subsection), and

(c) who has not been granted a pension under this Ordinance or the 1952 Ordinance, and

(d) who is ordinarily resident in the Falkland Islands on the appointed day or a later date, and

(e) who has given notice to the Board, in such form as the Board may require, before the first anniversary of the end of the contribution period, that he wishes to make contributions under this subsection,

may make voluntary contributions at the prescribed rate in respect of any period beginning after the end of the contribution period, irrespective of whether he has retired or is still gainfully employed."

Ex gratia pensions payable to persons entitled to pensions under the 1996 Ordinance

6. In section 17 of the 1996 Ordinance (which provides for ex gratia pensions to be paid in certain circumstances to persons who are not entitled to any other pension under the 1996 Ordinance) the words "who is not entitled to any pension under the foregoing provisions of this Ordinance" shall cease to have effect.

Penalties for false statements made in connection with ex gratia pensions

7.—(1) In section 22(1) of the 1996 Ordinance (which imposes criminal sanctions on persons making false statements for the purposes of obtaining of a pension under section (4) for "section 4" there shall be substituted "this Ordinance".

(2) After subsection (3) of that section there shall be added—

"(4) Subsections (2) and (3) above shall apply, with any necessary modifications, where an amount has been paid to any person by way of pension under section 17 which would not have been so paid but for false statements or representations made by that or any other person, as they apply where an amount has been paid by way of pension to any person who was not entitled to that payment."

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

National Parks Ordinance 1998

(No: 6 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. National Parks
4. Designation of National Parks
5. Rights of public access
6. National Park designation and access agreements
7. Regulations
8. Offences

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

NATIONAL PARKS ORDINANCE 1998

(No: 6 of 1998)

(assented to: 1 May 1998)
(commencement: in accordance with section 1)
(published: 12 May 1998)

AN ORDINANCE

To make provision for National Parks and the right to roam therein and matters connected with either of the foregoing matters

ENACTED by the Legislature of the Falkland Islands as follows—

Introductory

Short title and commencement

1. This Ordinance may be cited as the National Parks Ordinance 1998 and shall come into force on such date as is notified by the Governor in a notice published in the *Gazette*.

Interpretation

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

“Crown entity” means any body corporate to which section 7(3) of the Constitution applies;

“designation and access agreement” has the meaning given by section 6(1) of this Ordinance;

“excepted land” has the meaning given by section 5(5) of this Ordinance;

“national park” means land which has been designated as a national park by Order made under section 4(1);

“occupier”, in relation to any land, means a person, other than a mortgagee, lawfully in possession of land but in section 4(2) does not include any person in possession of the land under any lease, agreement or licence which will by its terms expire within eighteen months of the time in question or which is determinable at the instance of another party thereto within that period;

“open country” means an area of land consisting wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore);

“owner”, in relation to land, means a person other than a mortgagee not in possession, who, whether in his own right or as trustee or agent 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;

“the right to roam” means the right to pass and repass, on foot or, except where prohibited by regulations, on horseback, (but not, except where permitted under this Ordinance or any other law, by vehicle), to stop, look and watch and rest, and, subject to this Ordinance, to do such other things, not including the playing of organised games, as may be done without damage to the land concerned or anything on it or in it.

National Parks

3.—(1) This Ordinance shall have effect for the purposes—

(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in subsection (2) of this section;

(b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public; and

(c) conferring upon the public at large the right to roam in national parks.

(2) The areas referred to in subsection (1) of this section are those extensive tracts of country in the Falkland Islands as to which it appears to the Governor by reason of—

(a) their natural beauty; and

(b) the opportunities they afford for open-air recreation, having regard to their character and their geographical location,

that it is especially desirable that measures shall be taken for the purposes mentioned in subsection (1).

Designation of, and rights of access to and in, national parks

Designation of National Parks

4.—(1) Subject to subsection (2) of this section, the Governor may by Order designate as a national park any area of countryside in the Falkland Islands which he is satisfied is an area to which section 3(2) applies.

(2) The Governor may not designate any area to be a national park—

(a) without the consent of every person, other than the Crown or a Crown entity, who is an owner or occupier of any land comprised within that area;

(b) unless it appears to him to be open country;

(c) if there is an owner or occupier, other than the Crown, of any land comprised within that area, unless the Governor has entered into a designation and access agreement with that owner or occupier in respect of that land and the Governor designates that land as a national park in accordance with the provisions of that agreement.

(3) An Order under subsection (1) of this section shall describe the area designated as a national park by reference to a map and such other descriptive matter as may appear to the Governor to be appropriate.

(4) The designation of any land as a national park shall not prevent or restrict the use by the owner or occupier of the land in any way not inconsistent with the public's right to roam upon that land under section 5, any provisions of any designation and access agreement applicable to that land and subsection (6) of this section.

(5) Without prejudice to subsection (5) of this section, a person interested in any land comprised in a designation and access agreement, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of section 5 is substantially reduced, but nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

Rights of public access

5.—(1) Subsection (2) of this section applies so as to confer upon the public at large the right to roam in respect of land comprised in a national park which is not excepted land.

(2) Subject to subsections (3) and (4) of this section and to the provisions of any regulations made under this Ordinance for the purpose of giving effect to any access agreement applying to the land in question, a person who enters upon any land comprised in a national park for the purpose of exercising the right to roam without breaking or damaging any wall, fence, hedge or gate, or is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land.

(3) Nothing in subsection (2) of this section entitles a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.

(4) Subsection (1) of this section does not apply so as to prevent the person for the time being entitled to occupation of the land subject to the right to roam treating as a trespasser a person who, in or upon the land in question does anything prohibited by the Schedule to this Ordinance.

(5) For the purposes of subsection (1), “excepted land” means—

- (a) land covered by buildings or the curtilage of such land;
- (b) any land in use as a lambing paddock at the time in question;
- (c) land used for the getting of minerals by surface working (including quarrying) or land used as a golfcourse, racecourse or aerodrome;
- (d) land within one hundred metres of any building used as a dwelling;
- (e) land under cultivation;
- (f) land in the occupation of any statutory undertaking or used for the purposes of any telecommunications system;
- (g) land which is indicated by fences, signs or otherwise to be a minefield; and
- (h) land specified as excepted land by any regulations made under this Ordinance

National Park designation and access agreements

6.—(1) The Governor may enter into an agreement with the owner or occupier of any land providing for the designation of the land specified therein as a national park and any restrictions subject to which persons may enter into or be upon that land (“a designation and access agreement”).

(2) Without prejudice to the generality of subsection (1), the Governor may in a designation and access agreement agree to make regulations under this Ordinance imposing restrictions excluding the land or any part thereof at times or seasons to be specified in those regulations from the operation of section 5(2) of this Ordinance.

(3) Subsection (2) of this section has effect without prejudice to the provisions of section 5 of this Ordinance in relation to excepted land.

(4) Where a designation and access agreement contains provisions as to access agreed with one or some, but not all, of the persons having interests in the land to which the agreement relates, those provisions and the provisions of section 5 of this Ordinance apply as respects the interests of the persons with whom the access provisions were agreed, and shall continue to apply notwithstanding any change in the persons entitled to the same interests in the land, but do not operate as against the person for the time being entitled to any other interest in the land so as to prejudice his rights as owner of that interest.

Regulations and offences

Regulations

7. The Governor may by regulations made under this section—

- (a) prohibit the doing of any thing specified in those regulations in any national park or any specified national park or part of a national park and either absolutely,

subject to restrictions or at particular times or seasons of the year and constitute the doing of any prohibited thing specified in the regulations for that purpose an offence punishable by such fine, not exceeding the maximum of level four on the standard scale, as is specified in relation thereto in such regulations;

(b) add to the categories of land which are to be excepted land or which are to be excepted land in the circumstances or subject to the conditions specified in regulations so made;

(c) exclude a national park or part or parts thereof from the operation of section 5(2) of this Ordinance at times or seasons specified in those regulations; and

(d) prescribe any matter or thing which it is necessary or convenient to prescribe for the purposes of any foregoing provision of this Ordinance.

Offences

8. A person who does any thing mentioned in the Schedule to this Ordinance 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.

SCHEDULE

A person commits an offence who, in a national park, except in so far as he may be permitted by regulations under this Ordinance or any other written law to do so, does any of the following things—

(a) lights any fire except in a place he is permitted by the occupier of the land to light a fire or which is designated by regulations made under this Ordinance for the lighting of fires or does any act which, except as aforesaid, is likely to cause a fire;

(b) takes, or allows to enter or remain, any dog not under proper control;

(c) other than with the consent of the person for the time being entitled to occupation of the land or other person entitled to give such consent, engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any apparatus or thing whatsoever used or designed to be used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish;

(d) except where he is lawfully permitted so to do by the person for the time being entitled to occupation of the land, wilfully damages the land or anything thereon or therein;

(e) wilfully injures, removes or destroys any plant, shrub, tree or root or any part of any of the foregoing;

(f) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence,

wall or gate, or neglects to shut any gate or fasten it if any means of fastening it is provided;

(g) affixes or writes any advertisement, bill, placard or notice;

(h) deposits any rubbish or leaves any litter;

(i) engages in riotous, disorderly or indecent conduct;

(j) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation;

(k) worries any cattle or sheep or allows any dog he takes with him in or on the land to worry any cattle or sheep; or

(l) does any other thing prohibited by regulations made under this Ordinance and having effect in relation to the land in question.

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Fishery Products (Hygiene) Ordinance 1998

(No: 7 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Designation of factory vessels and fishery productsestablishments
4. Application of legislation of the United Kingdom relating to fishery products etc
5. Power to make Regulations
6. Offences by bodies corporate

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

FISHERY PRODUCTS (HYGIENE) ORDINANCE 1998

(No: 7 of 1998)

(assented to: 1 May 1998)
(commencement: in accordance with section 1)
(published: 12 May 1998)

AN ORDINANCE

To make provision for the designation of fishing vessels and fishery products establishments as fishing vessels and establishments which meet the hygiene conditions and other matters specified in European Council Directive 91/493/EEC and related European Community legislation.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Fishery Products (Hygiene) Ordinance 1998 and shall come into force on such date as notified by the Governor by notice published in the Gazette.

Interpretation

2. In this Ordinance—

“the Commission” means the Commission of the Communities;

“the Council” means the Council of the Communities;

“the Communities” has the same meaning as it has for the purposes of the European Communities Act 1972;

“the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“factory vessel” means any vessel on which fishery products undergo one or more of the following operations - filleting, slicing, skinning, mincing, freezing or processing - followed by packaging,

but the following are not deemed to be factory vessels—

- (a) fishing vessels in which only shrimps and molluscs are cooked on board; and
- (b) fishing vessels on board which only freezing is carried out;

“fishery products” means—

- (a) all seawater or freshwater animals, including their roes; and
- (b) parts of such animals, except in circumstances where they—
 - (i) are combined (in whatever way) with other food stuffs, and
 - (ii) comprise less than 10% of the total weight of the combined food stuffs,

but excluding aquatic mammals, frogs and aquatic animals covered by Community acts other than the Fishery Products Directive, and parts of such mammals, frogs and aquatic animals;

“the Fishery Products Directive” means Council Directive 91/493/EEC of 22nd July 1991 laying down the health conditions for the production and placing on the market of fishery products, as adapted for the purposes of the EEA Agreement and as amended;

“fishery products establishment” means, with regard to the production of fishery products for human consumption, any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored, other than cold stores where only the handling of wrapped products takes place;

“food authority” means the Senior Veterinary Officer or any other public officer appointed by the Governor to be the food authority for the purposes of this Ordinance;

“food business proprietor” means—

- (a) in relation to a factory vessel, the owner, charterer and operator of the vessel; and
- (b) in relation to a fishery products establishment, the owner, lessee or operator of the establishment;

“member state” has the same meaning as it has for the purposes of the European Communities Act 1972.

Designation of factory vessels and fishery products establishments

3.—(1) The Governor may by order under this section designate any factory vessel or fishery products establishment as a factory vessel or fishery products establishment to and in relation to which the provisions of this Ordinance and any regulations made hereunder shall apply and any such order may be revoked by a further order under this section.

(2) No order may be made under this section except in respect of a factory vessel or fishery products establishment which has been approved by the food authority.

Application of legislation of the United Kingdom relating to fishery products etc

4.—(1) The Governor may by order apply, subject to such modifications and exceptions as he considers necessary, to and in relation to designated factory vessels and fishery products establishments and to fishery products handled, processed or stored therein any legislation of the United Kingdom appearing to him to give effect to any obligation of the United Kingdom under European Community law in relation to fishery products intended for human consumption in the United Kingdom or for export to any other member state or any matter appearing to him to be connected with any of the foregoing matters.

(2) In subsection (1), "legislation of the United Kingdom" includes legislation having effect in a constituent part of the United Kingdom and any regulation of the Commission having direct effect as law in the United Kingdom.

(3) The Governor may, by order under this subsection apply, subject to such modifications and exceptions, if any, as are stated in that order, to and in respect of every designated factory vessel, fishery products establishment and fishery products handled, processed or stored any Code of Practice in force in any part of the United Kingdom under by virtue of or for the purposes of any legislation of the United Kingdom.

Power to make Regulations

5.—(1) The Governor may by order make regulations for the better carrying into effect of the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing such regulations may provide for—

(a) the persons to whom and the manner in which applications for approval of factory vessels and fishery products establishments may be made;

(b) the procedures to be followed by applicants for approvals;

(c) the standards of hygiene which shall apply to designated factory vessels and fishery products establishments;

(d) the obligations to be observed by a food business proprietor;

(e) the fees and charges to be paid in respect of—

- (i) an application for an approval or a variation of an approval;
- (ii) the issue of any certificate by or on behalf of the food authority;
- (iii) an inspection of any factory vessel or fishery products establishment; and
- (iv) time reasonably spent by the food authority in connection with the carrying out of its powers and duties;

(f) the forms to be used for the purposes of this Ordinance;

(g) the powers which may be exercised by the food authority;

(h) a penalty not exceeding a fine at level 10 on the standard scale and imprisonment for a term not exceeding two years or both for contravention of any such regulation.

Offences by bodies corporate

6. Where an offence, under any regulation made pursuant to any power prescribed by 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) any director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in such capacity,

he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Passed by the Legislature of the Falkland Islands this 25th day of March 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

FALKLAND ISLANDS STATUS BILL 1998

A BILL

for

AN ORDINANCE

To make provision for the grant to qualified persons of Falkland Islands status

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

Short title and commencement

1. This Ordinance may be cited as the Falkland Islands Status Ordinance 1998 and shall come into operation on the first day of the month following its first publication in the *Gazette*.

Interpretation

2. In this Ordinance—

“Falkland Islands status” has the same meaning as it has in section 17(5) of the Constitution;

“qualified person” means a person who is a Commonwealth citizen and who has been ordinarily resident in the Falkland Islands for not less than the seven years immediately preceding his application under section 3 of this Ordinance; and

“year” means a consecutive period of twelve months.

Applications for the grant of Falkland Islands status

3.—(1) A person may apply for Falkland Islands status by delivering an application in the prescribed form to the Principal Immigration Officer.

(2) The Principal Immigration Officer if the applicant, on perusal of his application, does not appear to be a qualified person may—

(a) by notice in writing to the applicant, require the applicant to furnish him with such further written information as is specified in that notice, being information intended to demonstrate whether or not the applicant is a qualified person;

(b) by notice in writing to the applicant reject the application because the applicant does not appear to the Principal Immigration Officer to be a qualified person on such of the following grounds as is stated in the notice—

(i) that the applicant is not a Commonwealth citizen;

(ii) that the applicant was not ordinarily resident in the Falkland Islands for at least the seven years immediately preceding his application.

(3) For the purposes of this section, without prejudice to any other basis on which a person may be regarded as having been ordinarily resident in the Falkland Islands for the seven years immediately preceding his application, he shall be so regarded if—

(a) he has not been absent from the Falkland Islands for more than six hundred and thirty days in aggregate during those seven years; and

(b) he has not been absent from the Falkland Islands for more than one hundred and eighty days in aggregate in any one of those seven years nor for more than ninety days in aggregate in the year immediately preceding his application

provided that he must have been physically present in the Falkland Islands throughout the whole of the first one hundred and eighty days of the first year counted as part of his period of ordinary residence in the Falkland Islands.

(4) The Principal Immigration Officer shall not reject an application on the ground mentioned in subsection (2)(b)(ii) except in accordance with the advice of the Attorney General in writing.

(5) Unless he rejects the application under subsection (1) in accordance with the previous provisions of this section, the Principal Immigration Officer shall cause notice of the application to be published in the *Gazette* and additionally in a newspaper circulating in the Falkland Islands.

(6) The notices published under subsection (5) shall state that any person who desires to object to the granting of the application may do so by notice in writing sent or delivered to the Principal Immigration Officer within twenty-one days of the publication of the notice. The application shall thereafter be considered, together with any objections received in respect of it, by the Governor in Executive Council at the first convenient meeting of the Executive Council following the expiration of the period for objections.

Consideration of applications for Falkland Islands status

4.—(1) The Governor acting in accordance with the advice of the Executive Council may as he sees fit grant or refuse an application for Falkland Islands status, but must state the ground on which he refuses an application and shall not refuse an application upon any ground until he has notified the applicant in writing of his intention to refuse the application upon that ground, has given the applicant a reasonable opportunity to make

representations in writing to him in relation to that ground and has caused those representations to be considered by the Executive Council.

(2) Nothing in subsection (1) shall be deemed to require the Governor to disclose to the applicant either directly or indirectly the identity of any objector to the grant of Falkland Islands status or any other matter or document which it is contrary to the public interest to disclose to the applicant and it is sufficient for the Governor in any such case to disclose to the applicant in any notice under that subsection as much as it is possible in all the circumstances, in accordance with the public interest, for him to disclose to enable the applicant to make adequate representations against the refusal of his application.

Revocation of Falkland Islands status

5.—(1) Subject to subsection (4), the Governor acting in accordance with the advice of the Executive Council, after giving notice in writing of his intention to consider so doing, may revoke the grant under this Ordinance of Falkland Islands status to any person.

(2) A notice under subsection (1) shall state the ground or grounds upon which the revocation of the grant of status is to be considered and give to the person on whom it is served a reasonable opportunity of making representations in writing to the Governor in relation to the proposed revocation on that ground or those grounds.

(3) A grant of Falkland Islands status may only be revoked on one or more of the following grounds—

(a) that the person concerned in or in connection with his application for Falkland Islands status did anything which, if proved, would constitute an offence under section 8(1);

(b) that since the grant to the person concerned of Falkland Islands status he has been convicted of an offence by a court of competent jurisdiction in the Commonwealth in respect of which he has been sentenced by such a court to a sentence of immediate imprisonment or deprivation of liberty of twelve months or more;

(c) that the person concerned has been absent from the Falkland Islands for a period of at least two years, other than for educational or medical reasons or as a member of Her Majesty's armed forces, or that for any other reason that person appears no longer to be ordinarily resident in the Falkland Islands;

(d) that since the grant to him of Falkland Islands status, the person concerned has by his own voluntary act acquired the nationality or citizenship of a country outside the Commonwealth or has by his own

voluntary act undertaken an obligation of allegiance to a country outside the Commonwealth.

(4) The Governor may not revoke the grant to any person of Falkland Islands status—

(a) until the Executive Council has considered any representations in writing made by the person concerned in relation to the proposed revocation;

(b) except by notice in writing given to the applicant specifying the ground or grounds on which the grant has been revoked (which must have been stated in a notice given to that person under subsection (1)).

Finality of decisions

6.—(1) No appeal lies at the instance of any person to any tribunal, court, or authority against any decision of the Governor under section 4, section 5 or subsection (2) of this section.

(2) An appeal lies to the Governor at the instance of the applicant from any decision of the Principal Immigration Officer under section 3, and the Governor may allow or disallow such an appeal. If the Governor allows such an appeal he may give such consequential directions to the Principal Immigration Officer as may be necessary, with which the Principal Immigration Officer shall comply.

Regulations

7. The Governor may by regulations under this section prescribe—

(a) the form of application for the grant of Falkland Islands status;

(b) the fee payable in connection with an application for Falkland Islands status (which shall not exceed the fee for the time being payable on an application for naturalisation as a British Dependent Territories citizen).

Offences

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

(a) in or in connection with an application for, or the proposed revocation of, Falkland Islands status makes any statement knowing it to be false or carelessly as to its truth or falsehood;

(b) furnishes any document in connection with an application for, or the proposed revocation of, Falkland Islands status, knowing that document to contain a false or misleading statement or careless as to the truth, falsehood or misleading nature of any statement contained in that document.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level seven on the standard scale or to imprisonment for a period not exceeding six months.

EXPLANATORY MEMORANDUM

FALKLAND ISLANDS STATUS BILL 1998

Introductory

1. Prior to the coming into force of the Falkland Islands Constitution (Amendment) Order 1997, a Commonwealth citizen domiciled in the Falkland Islands and who had been ordinarily resident in the Falkland Islands for a period of seven years became a person "belonging to the Falkland Islands". Important changes were made by the Falkland Islands Constitution (Amendment) Order 1997. Under section 17(5) of the Constitution, in its present form, a person is to be regarded as belonging to the Falkland Islands if he enjoys Falkland Islands status and one of the ways a person enjoys such status is if that person is a Commonwealth citizen who is domiciled in the Falkland Islands who either—

(a) was ordinarily resident in the Falkland Islands for the seven years immediately preceding 1st September 1997; or

(b) has been granted such status under the provisions of an Ordinance providing for the grant of that status to Commonwealth citizens who have been ordinarily resident in the Falkland Islands for a period of at least seven years and has not, in accordance with the provisions of that Ordinance, lost or been deprived of such status.

2. This Bill is intended to result in an Ordinance of the kind mentioned in (b) above.

Applications for the grant of Falkland Islands status

3. Clause 3(1) of the Bill would enable a person to apply for Falkland Islands status by delivering an application in the prescribed form to the Principal Immigration Officer. "Falkland Islands status" is defined in clause 2 as having the same meaning as it has in section 17(5) of the Constitution (ie of belonging to the Falkland Islands and having those rights under the Constitution which are enjoyed only by person belonging to the Falkland Islands, for example freedom from immigration control and the right to be registered as a voter in respect of elections to the Legislative Council). Clause 7(a) of the Bill provides for forms of application to be prescribed by Regulations.

4. Under clause 3(2) of the Bill, the Principal Immigration Officer could reject an application for Falkland Islands status or require the applicant to provide further information if the applicant does not appear from his application form to be a "qualified person" to apply for Falkland Islands status. "Qualified person" is defined in clause 2 of the Bill as a person who is a Commonwealth citizen and who has been ordinarily resident in the Falkland Islands for not less than the seven years immediately preceding his application for Falkland Islands status. It should be noted that even if a person is a "qualified person" he cannot be granted Falkland Islands status unless he is "domiciled" in the Falkland Islands. "Domiciled" is not defined in the Bill and one reason for that is that it is not defined in the Constitution: doubtless because it is so difficult to do so in a formulaic expression. "Domiciled" is, however, a concept well understood by lawyers in the common law system. It is the legal relationship between an individual and a territory with a distinctive legal system which invokes that system as his personal law. A person is domiciled in that country in which he either has or is

deemed by law to have his permanent home. Every individual is regarded as belonging, at every stage in his life, to some community consisting of all persons domiciled in a particular country; the rules as to domicile are such that this legal idea may not correspond to the social realities of the situation. A person may have no permanent home, but the law requires him to have a domicile. He may have more than one home, but he may have only one domicile for any one purpose. He may have his home in one country, but be deemed to be domiciled in another. The relationship of domicile is between a person and a country, and never arises from membership of a group as distinguished from the country in which the group is domiciled. (8 *Halsbury's Laws (4th Edition) paragraph 421*). The English courts have said that "domiciled" can be illustrated but cannot be defined although there are several definitions which are approximately correct.

5. Since, having regard to the Constitution, Falkland Islands status cannot be granted to a person who is not domiciled in the Falkland Islands, the Executive Council will need, in every case in which it considers an application for Falkland Islands status to be satisfied that the applicant not only is "ordinarily resident" in the Falkland Islands but also is "domiciled" in the Falkland Islands. In relation to the latter, the Executive Council will need to be satisfied that the applicant has voluntarily made the Falkland Islands his place of abode, not for a mere special and temporary purpose, but with a present intention of making it his permanent home, unless and until something (which is unexpected or the happening of which is uncertain) occurs to induce him to adopt some other permanent home. Both intention and fact are required. Although residence in the Falkland Islands may be decisive as to the fact, residence, for whatever period of time, does not necessarily demonstrate an intention of making the Falkland Islands a person's permanent home. As is the case in other instances in which, for a purpose of law, a person's intention has to be ascertained, this can only be done by regard to external facts. For that reason, the form of application for Falkland Islands status will need to require the applicant to disclose a number of matters related to his or her future intentions.

6. It should be noted that because of the difficulty of the concept of "domicile" the Principal Immigration Officer is not required or empowered to consider the question. On the other hand a "rule of thumb" illustration of when a person is ordinarily resident has been inserted in clause 3(3) of the Bill. This is not, and cannot be, an exhaustive definition of "ordinary residence" and, for that reason, the Principal Immigration Officer is not empowered to reject an application on the ground that the applicant is not qualified to apply for Falkland Islands status because he is not ordinarily resident unless he has referred the matter to the Attorney General and acts in accordance with his advice. It will be noted, however, that even where the Principal Immigration Officer rejects an application after obtaining the advice of the Attorney General, an appeal will lie to the Governor (ie the Governor in Executive Council) under clause 6(2) of the Bill.

7. Unless the Principal Immigration Officer rejects an application for Falkland Islands status on the ground that the applicant is not qualified to make the application, the application is to be published in the Gazette and in a newspaper and anybody who wishes to do so can make written objections to the application within twenty-one days of the advertisement (clause 3(5) and (6) of the Bill). Thereafter the application must be considered by the Executive Council if an application is refused, the ground on

which it is refused must be stated and it cannot be refused, in any case, unless the applicant has been notified in writing of the intention to refuse the application upon the specified ground and has been given a reasonable opportunity to make representations in writing and those representations have been considered by the Executive Council (clause 4(1) of the Bill). However, the Governor is not required to disclose to the applicant either directly or indirectly the identity of any objector to the grant of Falkland Islands status or any other matter which is contrary to the public interest. In such a case it will be sufficient for the Governor to disclose to the applicant as much as is possible in all the circumstances to do in accordance with the public interest to enable the applicant to make representations against the refusal of the application (clause 4(2) of the Bill). Clauses 4(1) and (2), read together, are intended to meet the requirements laid down by the English court of appeal in relation to an application for naturalisation (*R v Secretary of State for the Home Department, ex parte Fayed*) in 1997.

8. Clause 4 of the Bill does not state the grounds on which an application for Falkland Islands status can be refused. At common law, the reason for refusal must be "reasonable". Otherwise the decision to refuse the application could be quashed by the Supreme Court in the exercise of its powers of judicial review of administrative decisions. These powers are not excluded by clause 6(1) which merely excludes a right of appeal against refusal of an application.

Revocation of Falkland Islands status

9. Clause 5 of the Bill would provide for the revocation of Falkland Islands status. Before a person's Falkland Islands status, granted under the Bill, could be revoked, notice in writing of intention to do so, stating the ground or grounds upon which the revocation is to be considered, would have to be given to the person concerned (clause 5(1) and (2) of the Bill). The grounds would have to be one or more of the grounds set out in clause 5(3). Before revoking the grant of Falkland Islands status, any representations made by the person concerned would have to be considered by the Executive Council. Notice in writing specifying the ground or grounds on which the grant is being revoked would have to be given (clause 5(4)). Again there would be no right of appeal but the Supreme Court's powers of judicial review, mentioned above, are not excluded by clause 6(1).

Miscellaneous matters

10. It is intended that a fee should be payable in connection with an application for Falkland Islands status. Clause 7(b) of the Bill would enable the fee to be prescribed by Regulations but it could not exceed the fee for the time being payable on an application for naturalisation as a British Dependent Territories citizen.

11. Clause 8 of the Bill provides for offences in relation to false statements in connection with applications for or the proposed revocation of Falkland Islands status and the furnishing of any documents in connection with an application for or the proposed revocation of Falkland Islands status containing any false or misleading statement.



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No. 14

The following are published in this Supplement -

Finance Ordinance 1998;

Animal Healthy Ordinance 1998;

Appropriation Ordinance 1998;

Supplementary Appropriation (1997-1998) (No. 2) Ordinance 1998.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Finance Ordinance 1998

(No: 8 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of various laws

Schedule



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

FINANCE ORDINANCE 1998

(No: 8 of 1998)

(assented to: 15 May 1998)
(commencement: upon publication)
(published: 20 May 1998)

AN ORDINANCE

To increase vehicle licence fees, to make better provision in relation to collection of such fees, to increase retirement pension benefits and contributions, the maximum of weekly earnings without liability for retirement pension contributions and family allowance benefits.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Finance Ordinance 1998.

Amendment of various laws

2. Part I of the Schedule shall have effect on 1st July 1998 and Part II of the Schedule shall have effect on 1st January 1999.

SCHEDULE

Amendment of various laws

(section 2)

PART I

Amendments having effect on 1st July 1998

Increase in motor vehicle and trailer licence fees

1. Section 4(1) of the Road Traffic Ordinance is amended—

- (a) in paragraph (a), (motor vehicles not exceeding 500kg) by replacing "£43" with "£48";
- (b) in paragraph (b), (motor vehicles over 500kg and not exceeding 3500 kg and agricultural tractors over 500 kg) by replacing "£54" with "£60";
- (c) in paragraph (c), (motor vehicles over 3500kg, except agricultural tractors) by replacing "£86" with "£95"; and
- (d) in paragraph (d), (trailers) by replacing "£20" with "£22".

Provision for collection of vehicle licence fees

2. Section 4 of the Road Traffic Ordinance is further amended by the insertion of the following subsections after subsection (2)—

"(2A) For the purposes of subsection (1) the circumstances in which a motor-vehicle or trailer is used on a road include the vehicle being permitted to remain at rest on a road.

(2B) Regulations made under this subsection may require there to be displayed on every motor-vehicle or trailer in respect of which duty has been paid pursuant to subsection (1) a label of such type as is specified in those regulations. The owner or person in charge for the time being of any motor-vehicle or trailer who fails to comply with any obligation imposed by those regulations to display a label on a motor-vehicle or trailer commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level two on the standard scale."

PART II

Amendments having effect from 1st January 1999

Retirement Pension benefits and contributions

3. The Retirement Pensions (Prescribed Rates) Regulations 1996 are amended as follows—

- (a) in paragraph (a) of regulation 3, (standard weekly rate of pension) by replacing "£80" with "£82.50"; and
- (b) in paragraph (b) of regulation 3, (standard weekly rate of married couple's supplement) by replacing "£45" with "£46.50";
- (c) in sub-paragraph (a) of regulation 5(1), (employee's weekly contribution) by replacing "£4.00" with "£5.00";
- (d) in sub-paragraph (b) of regulation 5(1), (self-employed or retired person's weekly contribution) by replacing "£8.00" with "£10.00";
- (e) in paragraph (2) of regulation 5, (employer's weekly contribution) by replacing "£4.00" with "£5.00";
- (f) in sub-paragraph (a) of regulation 5(3), (resident's voluntary weekly contribution) by replacing "£8.00" with "£10.00";
- (g) in sub-paragraph (b) of regulation 5(3) (non-resident's voluntary weekly contribution) by replacing "£17.00" with "£17.50";
- (h) in regulation 5(4), (weekly rate of assisted contributions payable by Government) by replacing "£8.00" with "£10.00"; and
- (i) in regulation 6, (maximum weekly earnings before liability to contribute), by replacing "£40" with "£50".

Family allowance benefits

4. Section 3 of the Family Allowances Ordinance 1960 is amended as follows—

(a) in subsection (2), (monthly child allowance) by replacing "£49" with "£50.50"; and

(b) in subsection (3), (single parent's monthly allowance) by replacing "£40.00" with "£41.20".

Passed by the Legislature of the Falkland Islands this 2nd day of May 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Animal Health Ordinance 1998

(No: 9 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Application of the Animal Health Act 1981 and Orders under that Act (1981 c.22)
3. Repeal of provisions of the Live Stock Ordinance (cap. 49)

Schedule 1

Schedule 2



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

ANIMAL HEALTH ORDINANCE 1998

(No: 9 of 1998)

(assented to: 15 May 1998)
(commencement: in accordance with section 1)
(published: 20 May 1998)

AN ORDINANCE

To apply, with exceptions and modifications, the provisions of the Animal Health Act 1981 as law of the Falkland Islands so as to make more satisfactory provision in relation to diseases, transportation and welfare of animals and matters connected therewith.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Animal Health Ordinance 1998 and shall come into force one month after its first publication in the *Gazette*.

Application of the Animal Health Act 1981 and Orders under that Act (1981 c.22)

2.—(1) The Animal Health Act 1981 (hereinafter in this section and in Schedule 1 to this Ordinance called “the 1981 Act”) is adopted as law of the Falkland Islands subject to the exceptions and modifications specified in Schedule 1 to this Ordinance, but, without prejudice to subsection (2) of this subsection, nothing in this subsection shall have effect so as to adopt of the provisions of any Order made or having effect under the 1981 Act. Every reference in Schedule 1 to this Ordinance to a section is, unless the contrary is specifically stated in that Schedule in relation thereto, a reference to the section of the number referred to of the 1981 Act.

(2) Without prejudice to any of his powers to make any Order under any provision of the 1981 Act in its application to the Falkland Islands by virtue of subsection (1), the Governor may by Order under this subsection apply as law of the Falkland Islands,

subject to such exceptions and modifications (if any) as he may specify in the first-mentioned Order, the provisions of any Order made under any provision of that Act.

Repeal of provisions of the Live Stock Ordinance (*cap. 49*)

3. Schedule 2 to this Ordinance shall have effect so as to repeal the provisions of the Live Stock Ordinance specified in that Schedule.

SCHEDULE 1

(section 2(1))

APPLICATION OF THE ANIMAL HEALTH ACT 1981

Exceptions

1. Sections 2, 3(1) and (4), 5, 10(6), 12, 13(2) to (4), 14, 15(6), 21(3) and (10), 22(7), 33, 34(6), 38(2), 40 to 59, 60(1), 63(8), 74, 75(2), 76, 79(4), 80 to 82, 85 and 86, 90 to 96, 97(2) and (3) and Schedules 1 and 4 to 6 of the 1981 Act shall not apply in the Falkland Islands.

General Modifications

2.(1) Except as is specified to the contrary in any subsequent paragraph of this Schedule, every reference in the 1981 Act—

(a) to "the Ministers", "the Minister" or to "the appropriate Minister" shall be construed as if it were a reference to the Governor;

(b) to "the United Kingdom", "Great Britain" or "England and Wales" shall be construed as if it were a reference to the Falkland Islands;

(c) to a "constable" shall be construed as if it were a reference to a police officer; or

(d) to an "inspector of the Minister" or to an "inspector of the Ministry" were a reference to "an inspector"

(2) Every offence against any provision of the 1981 Act which is triable on indictment shall in the Falkland Islands be triable (and only be triable) summarily, but a court of summary jurisdiction convicting any person of an offence under the 1981 Act in its application to the Falkland Islands may impose any sentence on that person which could have been imposed by a court in England on convicting that person on indictment of the like offence.

3. The 1981 Act shall be construed as if there were omitted therefrom—

(a) every reference therein—

(i) to any regulation of a local authority; or

(ii) to Scotland or Northern Ireland, and

(b) any provision or part of a provision which only has reference to Scotland or Northern Ireland

were omitted.

Modifications of particular provisions of the 1981 Act

Section 3

4. Section 3(2) shall have effect as if it read—

"(2) Every Government Veterinary Officer may, and any other public officer in the Department of Agriculture authorised by the Director of Agriculture may, inspect any animal to obtain any information required for the purpose of eradicating diseases of animals in the Falkland Islands."

Section 10

5. Section 10 shall have effect as if—

(a) the following appeared therein in place of subsection (7)—

"(7) For the purposes of this section, the time of importation of animals and carcasses of poultry, eggs and other things animate or inanimate shall be deemed to be—

(a) if they are brought in by sea, the time when the ship carrying them comes within the limits of any harbour or naval port, or if they are unloaded other than within a harbour or naval port, the time they are unloaded;

(b) if they are brought in by air, the time when the aircraft carrying them lands in the Falkland Islands or the time when they are unloaded in the Falkland Islands, whichever is the earlier;

and for the purposes of this subsection "harbour" has the same meaning as it has in the Harbours Ordinance and "naval port" has the same meaning as it has in the Naval Ports Ordinance 1987."

(b) the words "the Director of Agriculture" appeared in subsection (8) in place of the words "the Commissioners of Customs and Excise".

Section 17

6. Section 17(3) shall have effect as if the words "or of a local authority" were omitted.

Section 21

7. Section 21(6), (7) and (8) shall have effect as if the words "Director of Agriculture" appeared therein in place of the words "the Minister" and section 21(6) shall have effect as if the words "the Director of Agriculture's duty" appeared therein in place of the words "the Minister's duty".

Section 30

8. Section 30 shall have effect as if—

(a) the words "the Director of Agriculture" and "the Director" respectively appeared in subsection (1) in place of the words "the appropriate Minister" and "that Minister"; and

(b) the words "Government Veterinary Officer or any other officer in the Department of Agriculture authorised by the Director of Agriculture" appeared in subsection (2) in place of the words "veterinary inspector".

Section 32

9. Section 32 shall have effect as if—

(a) the words "the Director of Agriculture" appeared in subsection (1) in place of the words "the Minister"; and

(b) the following appeared therein in place of subsection (3)—

"(3) The Director of Agriculture shall within twenty-eight days pay for animals slaughtered under this section such amount as he believes to be fair and adequate compensation for them and any person entitled to such compensation who is dissatisfied with the amount of compensation paid to him in pursuance of this subsection may within twenty-eight days of receipt of the payment apply to the Supreme Court to increase the compensation payable to

him. The Supreme Court shall have power to make such order on determining that application as it thinks just, including power to award interest and costs."

Section 34

10. Section 34 shall have effect as if—

(a) the words "the Director of Agriculture" and "the Director of Agriculture's" respectively appeared in place of the words "the Minister", and "the Minister's" wherever they appear in subsections (1) to (6);

(b) the words "or any land in the ownership and occupation of the Crown" replaced the words "or any common or unenclosed land" in subsection (4); and

(c) paragraph (b), and all words appearing after paragraph (c), in subsection (6) were omitted.

Section 35

11. Section 35 shall have effect as if words "or of a local authority" in subsection (4) were omitted.

Section 36

12. Section 36 shall have effect—

(a) as if the following appeared in place of subsections (1) and (2) thereof—

"(1) Any Order made by virtue of section 35(1) shall require the Director of Agriculture to pay within twenty eight days what he considers to be fair and adequate compensation to the owner of anything animate or inanimate seized pursuant to such an Order, including the carcass of or anything obtained from or produced by any animal or bird affected by any disease to which the Order relates.

(2) Any person entitled under subsection (1) to payment of compensation who is dissatisfied with the amount of compensation paid to him in pursuance of this subsection may within twenty-eight days of receipt of the payment apply to the Supreme Court to increase the amount of compensation payable to him. The Supreme Court shall have power to make such order on determining that application as it thinks just, including power to award interest and costs."

(b) as if the words "the Director of Agriculture" replaced the words "the Minister" in subsection (4); and

(c) as if paragraphs (a) and (b) of subsection (5) had been omitted.

Section 39

13. Section 39 shall have effect as if the words "(including horses)" appeared in subsection (1) immediately after the word "animals".

Section 63

14. Section 63 shall have effect as if the following appeared in place of paragraph (a) of subsection (5)—

"(a) any vessel, boat, aircraft or vehicle of any other description which is for the time being in any harbour (within the meaning of the Harbours Ordinance, naval port (within the meaning of the Naval Ports Ordinance) or at Mount Pleasant Airport or Stanley Airport;"

Section 75

15. Section 75 shall have effect as the word "summary" were omitted in subsection (1).

Section 77

16. Section 77 shall have effect as if all words after the words "civil debt" were omitted.

Section 78

17. Section 78 shall have effect as if—

(a) the words “a magistrates’ court in England and Wales” were replaced by the words “court of summary jurisdiction”; and

(b) the words “Crown Court” were replaced by the words “Supreme Court”.

Section 79

18. Section 79 shall have effect as if there were omitted all words appearing after the word “inspector”, where it first appears.

Section 88

19. Section 88 shall have effect as if—

(a) the following appeared in place of subsection (1)—

“(1) In this Act, unless the context otherwise requires “disease” in relation to animals means anthrax, African swine fever, anthrax, avian influenza (fowl plague), bovine spongiform encephalopathy, brucella abortus, brucella melitensis, brucella ovis, canine distemper (otherwise known as hard pad), cattle plague (Rinderpest), contagious bovine pleuropneumonia, contagious equine metritis, enzootic bovine leukosis, equine encephalomyelitis, equine infectious anaemia, foot and mouth disease, glanders and farcy, hydatid infestation (sheep and dogs), rabies, scrapie, sheep scab, swine fever, swine vesicular disease and tuberculosis;” and

(b) the following appeared in place of subsection (2)—

“(2) The Governor may by Order for all or any of the purposes of this Act extend the definition of “disease” in subsection (1) of this section so that it shall for those or any of those purposes comprise any other disease of animals.”

Section 89

20. Section 89 shall have effect as if the following definition replaced the definition of “inspector” appearing therein—

““inspector” means every Government Veterinary Officer, without further appointment, and any other public officer in the Department of Agriculture appointed as an inspector by the Director of Agriculture;”.

Schedule 3

21. Schedule 3 shall have effect as if—

(a) the words “the Minister” wherever they appear in the Schedule were replaced by the words “the Director of Agriculture”;

(b) the words in parentheses in sub-paragraph (b) of paragraph 1(2) were omitted;

(c) paragraphs 1(4), 2(3), 3(2), 4(2) and 5(3) were omitted; and

(d) as if the following appeared as paragraph 6. of that Schedule—

“6. Where any animal or poultry is slaughtered pursuant to any foregoing provision of this Schedule, section 32(3) of this Act (payment of compensation) shall apply as if the animal or poultry had been slaughtered pursuant to section 32(1)”

SCHEDULE 2

Repeal of provisions of the Live Stock Ordinance

Sections 11 to 23, 31 to 33, 42, 43, Forms 1 to 3 in the First Schedule, the Second Schedule and the Third Schedule to the Live Stock Ordinance are repealed.

Passed by the Legislature of the Falkland Islands this 2nd day of May 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Appropriation Ordinance 1998

(No: 10 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of £46,926,820 for the service of the year 1998/99

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

APPROPRIATION ORDINANCE 1998

(No: 10 of 1998)

(assented to: 15 May 1998)
(commencement: upon publication)
(published: 20 May 1998)

AN ORDINANCE

To provide for the service of the financial year commencing on 1 July 1998 and ending on 30 June 1999.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Appropriation Ordinance 1998.

Appropriation of £46,926,820 for the service of the year 1998/99

2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year commencing on 1 July 1998 and ending on 30 June 1999 ("the financial year"), sums not exceeding in aggregate the sum of FORTY SIX MILLION NINE HUNDRED AND TWENTY-SIX THOUSAND EIGHT HUNDRED AND TWENTY POUNDS (£46,926,820) 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.

SCHEDULE

NUMBER	HEAD OF SERVICE	£
PART I OPERATING BUDGET		
100	Aviation	1,902,690
150	Posts & Telecommunications	365,280
200	Health & Social Services	3,154,390
250	Education & Training	3,331,980
300	Customs & Immigration	204,590
320	Fisheries	5,979,970
350	Public Works Department	6,174,880
390	Fox Bay Village	106,040
400	Agriculture	1,167,990
450	Justice	599,300
500	Falkland Islands Defence Force	371,930
551	Police & Prisons	503,530
552	Fire & Rescue Service	185,960
600	Central Administration	4,544,890
620	Department of Mineral Resources	209,710
650	Pensions & Gratuities	485,370
750	The Governor	139,670
800	Legislature	290,240
850	Falkland Islands Government Office - London	351,410
TOTAL OPERATING BUDGET		30,069,820
PART II CAPITAL BUDGET		
950	Expenditure	16,857,000
TOTAL EXPENDITURE		46,926,820

Passed by the Legislature of the Falkland Islands this 2nd day of May 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Supplementary Appropriation (1997-1998)(No 2) Ordinance 1998

(No: 11 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (1997-1998)(No 2) ORDINANCE 1998

(No: 11 of 1998)

(assented to: 15 May 1998)
(commencement: upon publication)
(published: 20 May 1998)

AN ORDINANCE

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £99,110 for the service of the financial year ending 30 June 1998.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Supplementary Appropriation (1997-1998) (No 2) Ordinance 1998.

Appropriation of further sum

2. The Financial Secretary may for the purposes specified in the Schedule cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 1997 and ending on 30 June 1998 ("the financial year") the further sum of £99,110 in addition to sums already appropriated by Ordinance.

Replenishment of Contingencies Fund

3. The Financial Secretary shall out of the sums appropriated by section 2 replenish the Contingencies Fund to the extent that sums specified in the Schedule, prior to the commencement of this Ordinance, have been withdrawn from the Contingencies Fund by the authority of the Contingencies Warrants Numbers 13 and 14 of 1997-1998 (the authority of which lapses on the commencement of this Ordinance).

SCHEDULE

<u>PART I OPERATING EXPENDITURE</u>		£
200	Medical & Dental	48,000
450	Justice	40,240
600	Central Administration	7,000
750	The Governor	3,100
800	Legislature	770
TOTAL SUPPLEMENTARY EXPENDITURE		<u>99,110</u>

Passed by the Legislature of the Falkland Islands this 2nd day of May 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

24th June 1998

No. 15

The following are published in this Supplement -

Diving at Work (Correction) Order 1998, (S.R. & O. No. 31 of 1998);

Elected Councillors' Allowances (Amendment) Order 1998, (S.R. & O. No. 32 of 1998);

Vehicle Licence Labels Regulations 1998, (S.R. & O. No. 33 of 1998);

Administration of Estates (Amendment) Rules 1998, (S.R. & O. No. 34 of 1998).

SUBSIDIARY LEGISLATION

OFFSHORE MINERALS HEALTH AND SAFETY AT WORK ETC

Diving at Work (Correction) Order 1998

S. R. & O. No. 31 of 1998

Made: 10 June 1998

Published: 24 June 1998

Coming into force: on publication

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Diving at Work (Correction) Order 1998 and shall come into force on publication in the *Gazette*.

Correction of principal Order

2. The Diving at Work Order 1998(b) is corrected in the Schedule by replacing in paragraph 6—

(a) the words “In the Reporting of Diseases and Dangerous Occurrences Regulations 1995” with the words “In the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995”; and

(b) the words “the Reporting of Diseases and Dangerous Occurrences Order 1998” with the words “the Reporting of Injuries, Diseases and Dangerous Occurrences Order 1998”.

Made this 10th day of June 1998

D G Lang
Attorney General

EXPLANATORY NOTE (not forming part of the above Order)

This Order corrects two errors in citation in the Diving at Work Order 1998.

(a) No. 14 of 1977

(b) S.R.&O. No. 25 of 1998

SUBSIDIARY LEGISLATION

LEGISLATIVE COUNCIL

Elected Councillors' Allowances (Amendment) Order 1998

(S. R. & O. No. 32 of 1998)

Made: 11 June 1998

Published: 24 June 1998

Coming into force: 1st January 1998

IN EXERCISE of my powers under section 5 of the Elected Councillors' Allowances Ordinance 1990(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Elected Councillors' Allowances (Amendment) Order 1998 and shall be deemed to have come into force on 1st January 1998.

Replacement of Schedule to the Elected Councillors' Allowances Ordinance 1990

2. The Schedule to the Elected Councillors' Allowances Ordinance 1990 is replaced by the following Schedule—

"SCHEDULE

Allowances payable to elected members of the Legislative Council

Introductory

1. In this Schedule—

"annual allowance" means the allowance payable under paragraph 3;

"daily allowance" means the allowance payable under paragraph 4;

"elected member" means an elected member of the Legislative Council;

2. With effect from 1st January 1998, the allowances provided for by the following paragraphs of this Schedule shall be payable to elected members of the Legislative Council. Unless otherwise provided under this Schedule or by any other written law of the Falkland Islands, those allowances shall be liable to tax under the provisions of the Taxes Ordinance 1997(b).

(a) No 2 of 1990

(b) No 14 of 1997

Annual allowance

3. There shall be payable to each elected member of the Legislative Council an allowance at the annual rate of £2,850, apportioned on a daily basis in respect of periods of service of less than a year. The annual allowance shall not be subject to tax.

Daily allowance

4. A daily allowance of £85.50 shall be payable to an elected member of the Legislative Council in respect of qualifying attendance on any day. The daily allowance shall not be payable more than once in respect of the same day.

5. For the purposes of paragraph 4, "qualifying attendance" means—

(a) attendance at any meeting of the Executive Council or Legislative Council;

(b) attendance at any meeting—

(i) of a committee to which the elected member is, as such, appointed by the Governor on the advice of the Executive Council, whether pursuant to the provisions of any Ordinance or not;

(ii) of a committee of the Legislative Council, including the Standing Finance Committee and any Select Committee or Committee of the Whole House;

(iii) of the committee of elected members of the Legislative Council known as the General Purposes Committee;

(iv) of the board of the Falkland Islands Development Corporation or any committee or sub-committee created by that board and consisting in whole or in part of members of that board;

(c) attendance at any meeting of a board of directors of a company to which the elected member has been appointed by virtue of any shareholding of the Falkland Islands Government in that company or in any other company connected with it, and attendance at any sub-committee of such board of directors or other meeting related to the business of the company which the elected member reasonably attends in his capacity as a director of that company (but so that no allowance shall be payable for an attendance to which this paragraph relates if the elected member receives any payment from the company by way of director's fees or by way of allowance in respect of the particular attendance);

(d) attendance in connection with the hosting of very important persons and others who are official visitors to the Falkland Islands, whether as official guests of the Governor, the Government, the Falkland Islands Branch of the Commonwealth Parliamentary Association or of the military;

(e) attendance at meetings to which the elected member is invited or attends in his or her capacity as a Councillor and organised by a senior officer or department of the Government or by the Councillor's Research Assistant and attendance or work done by the Councillor in respect of any area of Government business for which he is responsible in the Legislative Council (provided that the elected member shall not in any calendar year be entitled to payment of a daily allowance in respect of more than thirty-six days for attendance or work falling within this sub-paragraph); and

(f) time spent on travel reasonably undertaken in connection with any of the foregoing qualifying attendances.

Reimbursement of expenses of travel within the Falkland Islands

6. Subject to this paragraph, an elected member is entitled to re-imbursement of any sums reasonably and actually expended on travel within the Falkland Islands in respect of any matter in relation to which a daily allowance is payable under paragraph 4, or would be payable had not a daily allowance been paid in respect of a matter occurring earlier on that day. Where an elected member claims reimbursement for the use his or her own aircraft, reimbursement is limited to the cost which would have been incurred had the elected member instead flown as a fare-paying passenger with the Falkland Islands Government Air Service. Where an elected member uses his or her own car, the member is entitled to reimbursement at the rate of 33 pence per mile. Travel expenses reimbursed under this paragraph are not taxable.

Overseas business

7. Elected members are entitled to payment of a daily allowance at the rate mentioned in paragraph 4 in respect of all days or parts of days reasonably spent travelling or overseas in connection with business overseas which the elected member attends in his capacity as such with the approval of the Governor advised by the Executive Council or of the General Purposes Committee (provided that an elected member shall not be entitled to receive an allowance under this paragraph for a day in respect of which he or she has already claimed an allowance under paragraph 4, and *vice versa*). An elected member may receive an advance, by arrangement with the Clerk of Councils, in respect of allowances under this paragraph.

8. All travel overseas by elected members and accommodation (with meals at such accommodation) for them in relation to overseas business to which paragraph 7 relates is, wherever possible, to be booked for through the Clerk of Councils or the Falkland Islands Government Office in London and will ordinarily be paid for through them and not by the elected member. Air travel will usually be at economy class but executive or business class air travel will be arranged, wherever available, at the request of the elected member, if the duration of the flight is likely to be of eight hours duration or more. Accommodation at hotels will ordinarily be of the same standard normally allowable to chief officers of the Public Service. Any expenses on travel on such overseas business reasonably incurred by an elected member and casual meals not arranged and paid for in accordance with the preceding provisions of this paragraph, including taxi and train fares, will be re-imbursed on receipts being produced.

9. Elected members travelling to London on business may, instead of staying in hotel accommodation, stay in the flat at Falkland House, if this is available. Arrangements for this must be made in advance through the Clerk of Councils. Subject to the availability of the flat, the elected member and his or her spouse and their children of 12 years of age or more, if accompanying the elected member, may stay in the flat free of charge and a subsistence allowance of £25 a day will be payable to the elected member.

Overseas travel by elected member's spouse

10. Subject to the approval of elected members of the Legislative Council in relation to the occasion in question, once in every four years of an elected member's tenure of office, the elected member's spouse may accompany the elected member on overseas business at the expense of the Government in respect of the cost of his or her travel and accommodation.

Telephone and facsimile expenses

11. All Legislative Councillors shall be entitled to be re-imbursed with—

- (a) the annual cost of rental of a telephone and facsimile machine at their home address;
- (b) one third of the total charges incurred for local calls within the Falkland Islands made from such telephone and such facsimile machine; and

(c) the whole of the total charges incurred for overseas calls made from such telephone and such facsimile machine provided that any such overseas calls are made wholly in connection with Executive Council or Legislative Council business."

Made this 11th day of June 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order replaces the Schedule to the Elected Councillors' Allowances Ordinance 1990 and in that way makes new provision in relation to the allowances payable to elected members of the Legislative Council. The Order comes into force retrospectively with effect from 1st January 1998. The allowances had remained unchanged prior to that since late 1994.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Vehicle Licence Labels Regulations 1998

(S. R. & O. No. 33 of 1998)

Made: 11 June 1998
Published: 24 June 1998
Coming into force: 1st July 1998

IN EXERCISE of my powers under sections 4(2B) and 18 of the Road Traffic Ordinance(a), I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Vehicle Licence Labels Regulations 1998 and come into force on 1st July 1998.

Interpretation

2. In these Regulations—

“label” means a label issued pursuant to regulation 3(1), 3(2) or 5(1);

“the principal Ordinance” means the Road Traffic Ordinance; and

“the specified particulars and numerical symbol” means, as to specified particulars, the particulars provided for by regulation 3(3) and, as to numerical symbol, the numerical symbol provided for by regulation 3(4).

Issue of labels

3.—(1) Whenever, after the coming into force of these Regulations, a person pays in respect of a motor vehicle or trailer duty payable in respect of it under section 4 of the principal Ordinance, the Chief Police Officer shall issue to him a label bearing the specified particulars and numerical symbol.

(2) The Chief Police Officer shall issue, if it has not already been issued, a label complying with paragraph (1) to a person who paid duty under section 4 of the principal Ordinance before the coming into force of these regulations in respect of any period commencing on or after 1st January 1998.

(a) Cap 60 Laws of the Falkland Islands 1950 Edition has been amended, as to rates of duty, frequently, and in substance by No. 25 of 1991, No. 7 of 1995 and No. 8 of 1998.

(3) The specified particulars are—

(a) in respect of a motor vehicle, the index number or registration number of the vehicle, its maker or manufacturer and model of the vehicle, the chassis number of the vehicle, the number assigned to the label and the date up to and including which the duty has been paid;

(b) in respect of a trailer, the name of the owner of the trailer, its maker or manufacturer and model (if any), the number assigned to the label, and the date up to and including which the duty has been paid.

(4) The numerical symbol is first numerals indicating the month up to a date in which duty has been paid (the month of January being represented by "01", February by "02" and so on, up to December which is to be represented by the numerals "12"), second an oblique "/" and third the last two numerals of the calendar year in which the month first mentioned falls (by way of example, in the case of duty being paid up to a date in March in the year 1999, the numerical symbol required by this paragraph would be "03/99"). The said numerical symbol shall be in a font size not smaller than 36 point printed on a rectangular coloured background enclosed in a double border, each component of which is a different colour from that of the background and from that of the other component.

Display of labels

4.—(1) Where a label has been issued in pursuance of regulation 3 in respect of a motor vehicle or trailer having a front windscreen, that label shall be affixed and maintained in place throughout the period of validity of the label, or such time as the vehicle is kept for use on a road, whichever is the shorter, either—

(a) on that windscreen in close proximity to the lower left corner of that windscreen; or

(b) on the windscreen in close proximity to the central point of the top margin of the windscreen,

and either case so as to be readily legible from outside the vehicle.

(2) Where a label has been issued in pursuance of regulation 3 in respect of a motor vehicle or a trailer which does not have a front windscreen, the label shall be affixed on the left hand side of the vehicle and in such manner and position as it is protected from the weather and is readily legible from outside the vehicle and shall be maintained in place throughout the period of validity of the label or such time as the vehicle is kept for use on a road, whichever is the shorter.

(3) If a replacement label has been issued pursuant to regulation 5, paragraphs (1) and (2) of this regulation shall apply as if the words

"replacement label issued pursuant to regulation 5" appeared in them instead of the words "label issued pursuant to regulation 3".

(4) If a motor vehicle or trailer is used on a road in circumstances in which paragraph (1) or (2), whichever in the circumstances of the case is appropriate, is contravened—

(a) the owner of the vehicle; and

(b) the driver of the vehicle or any other person shown to be in charge of the vehicle at the relevant time,

each commit an offence under this paragraph.

Replacement labels

5.—(1) If the owner of the vehicle or other person appearing to the Chief Police Officer to be for the time being in charge of a vehicle satisfies him that a label issued in respect of that vehicle, the period of validity of which has not expired, has been lost, destroyed, damaged or defaced or for any cause is no longer reasonably legible, or that the colours thereon have become altered by fading or otherwise, the Chief Police Officer shall issue a duplicate of that label to that person.

(2) The Chief Police Officer may, if he sees fit in any particular case, charge the person requesting the issue of a replacement label, such sum, not exceeding £2, as represents the cost of its supply.

Records

6. The Chief Police Officer shall maintain records in such form as the Financial Secretary may approve of the issue of labels and replacement labels under these Regulations.

Miscellaneous offences

7.—(1) Paragraph (2) applies without prejudice to the application of any other enactment or law which renders an offence under the law of the Falkland Islands any conduct to which that paragraph relates.

(2) A person commits an offence under this paragraph who—

(a) wilfully alters, damages, destroys or defaces a valid label;

(b) without the consent of the owner of the vehicle on or in which it is displayed, removes a label; or

(c) displays upon a vehicle anything so resembling a valid label as to be calculated to deceive a police officer into believing that it is a valid label;
or

(d) displays upon a vehicle a label which is altered, damaged or defaced, or upon which the particulars or figures have become illegible or the colours have become altered by fading or otherwise.

Penalty

8. A person convicted of an offence against any provision of these Regulations is liable to a fine not exceeding £200.

Made this 11th day of June 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Regulations)

These Regulations provide for the issue and display on vehicles of labels indicating the payment of vehicle licence duty under section 4 of the Road Traffic Ordinance and for offences in relation to such labels.

SUBSIDIARY LEGISLATION

SUCCESSION

Administration of Estates (Amendment) Rules 1998

S. R. & O. No. 34 of 1998

Made: 17 June 1998
Published: 24 June 1998
Coming into force: in accordance with rule 1

IN EXERCISE of my powers under section 22 of the Administration of Estates Ordinance(a) and of all other powers enabling me in that behalf, I make the following Rules—

Citation and commencement

1. These Rules may be cited as the Administration of Estates (Amendment) Rules 1998 and shall come into force upon publication in the *Gazette*.

Amendment of Administration of Estates Rules

2. The Administration of Estates Rules are amended by deleting Part I of the Second Schedule and substituting the following—

“On application for a grant of probate, letters of administration or for resealing a grant of probate, the following fees shall be payable—

net estate does not exceed £25,000 -	no fee
net estate exceeds £25,000 but does not exceed £40,000 -	£80.00
net estate exceeds £40,000 but does not exceed £70,000 -	£130.00
net estate exceeds £70,000 but does not exceed £100,000 -	£215.00
net estate exceeds £100,000 but does not exceed £200,000 -	£300.00

If the value of the net estate exceeds £200,000 an additional fee of £50 is payable for every additional £100,000 or part thereof.”

Made this 17th day of June 1998

R P Ralph
Governor

THE SECRETARY OF THE ARMY

WASHINGTON, D. C. 20315

MEMORANDUM FOR THE SECRETARY OF THE ARMY

SUBJECT: [Illegible]

REFERENCE: [Illegible]

1. [Illegible]

2. [Illegible]

3. [Illegible]

4. [Illegible]

5. [Illegible]

6. [Illegible]

7. [Illegible]

8. [Illegible]

9. [Illegible]

10. [Illegible]

11. [Illegible]

12. [Illegible]

13. [Illegible]

14. [Illegible]

15. [Illegible]

16. [Illegible]

17. [Illegible]

18. [Illegible]

19. [Illegible]

20. [Illegible]



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

6th July 1998

No. 16

The following are published in this Supplement -

Coinage Order 1998, (S.R. & O. No. 35 of 1998);

Electricity Supply (Amendment) Regulations 1998, (S.R. & O. No. 36 of 1998).

SUBSIDIARY LEGISLATION

CURRENCY

Coinage Order 1998

(S. R. & O. No. 35 of 1998)

Made: 30 June 1998

Published: 6 July 1998

Coming into force: as provided in article 1

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a), and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coinage Order 1998 and shall be deemed to have come into force as follows—

(a) in respect of the One Pound, Fifty Pence (old), Twenty pence, Ten Pence (old), Five Pence (old), Two Pence (old) and One Pence (old) coins, 31st January 1990;

(b) in respect of the One Pence coin (new), 1st June 1997; and

(c) in respect of the Fifty Pence (new), Ten Pence (new), Five Pence (new) and Two Pence (new) coins, 1st June 1998.

Authorisation of coins

2.—(1) Subject to paragraph (3), there is hereby authorised the minting and issue of the coins described and specified, either directly in the Schedule to this Order or by reference to Proclamations mentioned in the Schedule to this Order.

(2) The Schedule to this Order shall have effect so as to specify the denomination, diameter, weight, composition, shape and edge of the coins and the permissible remedy in respect of each of them.

(3) This Order does not have effect so as to authorise the minting after 31st May 1998 of any further Fifty Pence (old), Ten pence (old), Five Pence (old), Two Pence (old) or One Pence (old) coins.

(4) Notwithstanding anything to the contrary specified by the Schedule to this Order by relation to any Proclamation referred to therein, every coin minted under the authority of this Order may bear on its reverse a year other than that provided for by the relevant Proclamation.

Coins to be current

3. All of the coins to which the Schedule to this Order relates shall be current within the Falkland Islands.

Made this 30th day of June 1998

R P Ralph
Governor

SCHEDULE

Part I

Existing coins

The One Pound coin

1. The specifications of standard weight, diameter and composition and remedy allowable set out in paragraph 2 of, and the design specified in paragraph 6 of, the Proclamation of Her Majesty of 16th December 1986 in relation to the One Pound coin thereby authorised shall have effect in relation to the One Pound coin authorised by this Order.

The Fifty Pence coin (old)

2. The specifications of standard weight, diameter, composition, shape and remedy allowable set out in paragraph 2 of, and the design specified in paragraph 3 of, the Proclamation of Her Majesty of 13th February 1980 in relation to the Fifty Pence coin authorised by that Proclamation shall have effect in relation to the Fifty Pence coin (old) authorised by this Order.

The Twenty Pence coin

3. The specifications of standard weight, diameter, composition, shape and remedy allowable set out in paragraph 2 of, and the design specified in paragraph 3 of, the Proclamation of Her Majesty dated 24th November 1982 in relation to the Twenty Pence coin authorised by that Proclamation shall have effect in relation to the Twenty Pence coin authorised by this Order and the coin shall have a plain edge.

The Ten Pence coin (old), the Five Pence coin (old), the Two Pence coin (old) and the One Pence coin (old)

4. The specifications of design set out in paragraph 3 of Her Majesty's Proclamation of 18th December 1974 in relation to the Ten New Pence, the Five New Pence, the Two New Pence and One New Penny coins authorised

by that Proclamation shall respectively have effect in relation to the Ten Pence (old), the Five Pence (old), the Two Pence (old) and One Pence (old) coins authorised by this Order.

Part II

The new coins

The Fifty Pence coin (new)

5. The Fifty Pence coin (new) shall have the same design as the Fifty Pence coin (old) but shall have a standard weight of 8 grams, a standard diameter of 27.3 millimetres, a standard composition of seventy-five parts copper and twenty-five parts nickel and in shape be an equilateral curve heptagon, with a plain edge and in the making thereof a remedy of an amount not exceeding the following shall be allowed—

(a) a variation from the standard weight of an amount per coin (measured as the average of a sample of not more than one kilogram of the coin) of 0.045 grams;

(b) a variation from the standard diameter of 0.125 millimetres per coin; and

(c) a variation from the standard composition of two per centum copper and two per centum nickel,

and the coin may contain impurities of 0.75 of one per centum.

The Ten Pence coin (new)

6. The Ten Pence coin (new) shall have the same design as the Ten Pence Coin (old) but shall have a standard diameter of 24.50 millimetres, a standard weight of 6.50 grams, a standard composition of seventy-five parts copper and twenty-five parts nickel, be circular in shape, with a milled edge, and in the making thereof a remedy of amounts not exceeding the following shall be allowed —

(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 kilogram of the coin) of 0.045 grams;

(b) a variation from the standard diameter of 0.125 millimetre per coin; and

(c) a variation of the said standard composition of two per centum copper and two per centum nickel,

and the coin may contain impurities of 0.75 of one per centum.

The Five Pence Coin (new)

7. The Five Pence coin (new) shall have the same design as the Five Pence coin (old) but shall have a standard diameter of 18.00 millimetres, a standard weight of 3.25 grams, a standard composition of seventy five parts copper and twenty-five parts nickel, be circular in shape with a milled edge, and in the making thereof a remedy of amounts not exceeding the following shall be allowed—

(a) a variation from the standard weight of an amount per coin (measured as the average of a sample of not more than one kilogram of the coin) of 0.03 grams;

(b) a variation from the standard diameter of 0.125 millimetre per coin; and

(c) a variation from the standard composition of two per centum copper and two per centum nickel,

and the coin may contain impurities of 0.75 of one per centum

The Two Pence coin (new)

8. The Two Pence coin (new) shall be of the same design as the Two Pence coin (old), have a standard weight of 7.128 grams, have a standard diameter of 25.91 millimetres, shall be of mild steel coated with copper and of a standard composition of ninety-three per centum mild steel and seven per centum copper and be circular in shape with a plain edge and in the making thereof a remedy of amounts not exceeding the following shall be allowed—

(a) a variation from the standard weight of an amount per coin (measured as an average of a sample of not less than 100 coins but not more than one kilogram of the coin) of 0.2 grams;

(b) a variation from the standard diameter of 0.125 millimetres per coin; and

(c) a variation from the standard composition of an amount per coin (measured as a sample of not less than 100 coins but not more than one kilogram of the coin) of three per centum of the coin as mild steel and three per centum of the coin as copper,

and impurities may be present in the copper coating to the mild steel in an amount not exceeding 0.5 of one per centum of the copper coating (and, in respect of any such coin, any such impurities shall be treated as copper for the purpose of sub-paragraph (c) of this paragraph).

The One Penny coin (new)

9. The One Penny coin (new) shall be of the same design as the One Penny coin (old) have a standard weight of 3.564 grams, have a standard diameter

of 20.32 millimetres, shall be of mild steel coated with copper and of a standard composition of ninety-one per centum mild steel and nine per centum copper and be circular in shape with a plain edge and in the making thereof a remedy of amounts not exceeding the following shall be allowed —

(a) a variation from the standard weight of an amount per coin (measured as an average of a sample of not less than 100 coins but not more than one kilogram of the coin) of 0.1 grams;

(b) a variation from the standard diameter of 0.125 millimetres per coin; and

(c) a variation from the standard composition of an amount per coin (measured as a sample of not less than 100 coins but not more than one kilogram of the coin) of four per centum of the coin as mild steel and four per centum of the coin as copper,

and impurities may be present in the copper coating to the mild steel in an amount not exceeding 0.5 of one per centum of the copper coating (and, in respect of any such coin, any such impurities shall be treated as copper for the purpose of sub-paragraph (c) of this paragraph).

EXPLANATORY NOTE
(not forming part of the above Order)

This Order has three purposes. The first is to authorise the minting and issue of new sizes of fifty pence, ten pence, and five pence coins. These will be of the same designs, respectively, as the existing coins of those denominations, but their weights will also differ. For the time being, the old and new coins will both be part of the currency of the Falkland Islands. It is likely, however, that at some future date the previous size fifty pence, ten pence and five pence coins will be withdrawn.

The second purpose of this Order is to confirm the currency as legal tender within the Falkland Islands of the existing one pound, twenty pence, two pence and one pence coins as well as that of the old fifty pence, ten pence and five pence coins. The minting and issue of further one pound and twenty pence coins is also authorised. The minting of further fifty pence, ten pence and five pence coins of the old sizes and weights is not permitted by the Order which does, however, permit existing stocks of these coins to be issued as currency.

The third purpose of this Order is to permit two pence coins and one pence coins of a new composition to be minted and issued. These will be of mild steel with a copper coating, although they will be of the same weight and will not appear any different to the naked eye. The reason for this change is that, as bronze coins, the value of the metal in them had risen to exceed their

nominal value as coins. A number of the new one pence coins has already been put into circulation and this Order retrospectively validates them as currency.

SUBSIDIARY LEGISLATION

ELECTRICITY

Electricity Supply (Amendment) Regulations 1998

(S. R. & O. No. 36 of 1998)

Made: 2nd July 1998
Published: 6th July 1998
Coming into force: 1st July 1998

IN EXERCISE of my powers under section 3 of the Electricity Supply Ordinance(a), I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Electricity Supply (Amendment) Regulations 1998 and come into force on 1st July 1998.

Amendment of principal Regulations

2. The Electricity Supply Regulations 1969(b) ("the principal Regulations") are amended in the manner specified in the Schedule to these Regulations.

Made this 2nd day of July 1998

R P Ralph
Governor

(a) Cap. 23 Laws of the Falkland Islands 1950 Edition, amended by No.2 of 1957

(b) S.R. & O. No. 5 of 1969 amended by S.R.&O. No. 3 of 1979 and S.R.& O. No. 6 of 1995

SCHEDULE

Amendment of principal Regulations

1. Regulation 2 of the principal Regulations is amended by inserting the following definitions immediately after the definition of "danger"—

"domestic", in relation to any premises, means premises separately metered the predominant use of which (other than as an hotel, boarding house or guest house or labour camp) is to provide residential accommodation for one or more persons and any other premises within the same curtilage used and enjoyed for purposes ancillary to the use of premises as a residential accommodation, "non-domestic" in relation to any premises means any other premises, "domestic rate" means the charge per unit of electricity supplied payable in respect of domestic premises and "non-domestic rate" means the charge per unit of electricity supplied payable in respect of non-domestic premises;

2. Regulation 2 of the principal Regulations is further amended by inserting the following definition at the end of the regulation—

"unit of electricity" means a kilowatt hour (that is to say a quantity of energy equivalent in amount to the supply of 1000 watts of electricity for one hour)".

3. Regulation 10 is replaced by the following—

"10. (1) The price chargeable for supply of a unit of electricity shall be that from time to time notified by the Governor in the *Gazette* (and differing prices may be fixed in relation to different classes of premises).

(2) Any price notified in accordance with paragraph (1) shall have effect, in the case of electricity supplied metered by a credit meter, immediately after the first reading on behalf of the Director of the meter following the notification and, in the case of electricity metered by a pre-payment meter, immediately after the time the meter is first re-calibrated following the notification."

EXPLANATORY NOTE

Not forming part of the above Regulations

The above Regulations make provision clearly enabling differing prices for electricity to be charged in respect of domestic and non-domestic premises, define what "domestic" and "non-domestic" premises are and make provision as to when price changes take effect in respect of premises, following a notification of price changes in the *Gazette*. The Regulations also provide a definition of "unit of electricity".



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

10th July 1998

No. 17

The following are published in this Supplement -

**The Angola (United Nations Prohibition of Flights) (Dependent Territories)
Order 1997;**

The Angola (United Nations Sanctions) (Dependent Territories) Order 1997;

The Sierra Leone (United Nations Sanctions) (Dependent Territories) Order 1997.

1997 No. 2570

UNITED NATIONS

The Angola (United Nations Prohibition of Flights)
(Dependent Territories) Order 1997

<i>Made</i>	<i>30th October 1997</i>
<i>Laid before Parliament</i>	<i>31st October 1997</i>
<i>Coming into force</i>	<i>1st November 1997</i>

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 28th August 1997, 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 Angola;

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, commencement, operation and extent

1.—(1) This Order may be cited as the Angola (United Nations Prohibition of Flights) (Dependent Territories) Order 1997 and shall come into force on 1st November 1997.

(2) If the Security Council of the United Nations takes a decision which has the effect of cancelling, postponing or suspending the operation of the resolution adopted by it on 28th August 1997, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(3)(a) This Order shall extend to the territories listed in the Schedule 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.

Interpretation

2. 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 member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such

(a) 1946 c.45.

a person, the person who is for the time being the pilot in command of the aircraft;

"operator", in relation to an aircraft, means the person for the time being having the management of the aircraft.

Prohibition of Flights

3.—(1) Except with the permission of the Secretary of State granted under this article no aircraft, wherever registered, shall take off from, land in or fly over the Territory if its destination is, or if it has taken off from, Angola.

(2) If any aircraft is used in contravention of the provisions of this article, then the operator and the commander of the aircraft shall be guilty of an offence against this Order.

Penalties and proceedings

4.—(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 £5,000 or its equivalent or to both; or

(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 or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) 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.

(4) No proceedings for an offence against this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of powers of the Secretary of State

5.—(1) The Secretary of State may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Secretary of State shall be construed accordingly.

(2) Any permissions 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.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 1(3)(a)

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
Montserrat
Pitcairn
St Helena and its dependencies
Sovereign Base Areas of Akrotiri and Dhekelia
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, implements a decision of the Security Council of the United Nations in Resolution No. 1127 of 28th August 1997 by prohibiting aircraft from taking off from, landing in or overflying the territories specified in the Schedule if they are destined for, or have taken off from, Angola.

1997 No. 2573

UNITED NATIONS

The Angola (United Nations Sanctions) (Dependent Territories) Order 1997

<i>Made - - - -</i>	<i>30th October 1997</i>
<i>Laid before Parliament</i>	<i>31st October 1997</i>
<i>Coming into Force - -</i>	<i>1st November 1997</i>

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 28th August 1997, 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 Angola:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Angola (United Nations Sanctions) (Dependent Territories) Order 1997 and shall come into force on 1st November 1997.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or postponing or suspending the operation of the resolution adopted by it on 28th August 1997, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(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.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"Angolan aircraft" means (a) any aircraft registered in Angola; and (b) any aircraft which is in the territory of Angola;

(a) 1946 c. 45.

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“export” includes a shipment as stores;

“exportation” in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“Governor” means the Governor or other officer administering the government of the Territory;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“ship” has the meaning it bears in section 742 of the Merchant Shipping Act 1894(a);

“shipment” includes loading into an aircraft;

“stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a vessel or aircraft as merchandise for sale by retail to persons carried therein;

“vehicle” means land transport vehicle.

(2) In this Order references to an offence under any enactment relating to customs includes an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends.

Supply of aircraft and aircraft components

3.—(1) Except under the authority of a licence granted by the Secretary of State under this article, no person shall:

- (a) supply or deliver; or
- (b) agree to supply or deliver,

any aircraft or aircraft components to any person in Angola.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Secretary of State under this article.

Exportation of aircraft and aircraft components to Angola

4. Except under the authority of a licence granted by the Secretary of State under this article, aircraft and aircraft components are prohibited to be exported from the United Kingdom to any destination in Angola, or to any destination for the purpose of delivery, directly or indirectly, to or to the order of a person in Angola.

Carriage of aircraft and aircraft components destined for Angola

5.—(1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory shall be used for the carriage of any aircraft or aircraft components if the carriage is, or forms part of, carriage from any place outside Angola to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person and is ordinarily resident in the Territory; or

(a) 1894 c. 60.

(b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, then—

- (a) in the case of a ship registered in the Territory 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 (2) 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 vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Angola to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Angola was authorised by a licence granted by the Governor under article 3 or article 4 of this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Making available of aircraft to Angola

6. Except under the authority of a licence granted by the Governor under this article, no person shall enter into, agree to extend, or extend any contract or other arrangement for the purpose of making available for operation in Angola any aircraft or aircraft components.

Servicing of Angolan aircraft

7. Except under the authority of a licence granted by the Governor under this article, no person shall provide engineering or maintenance servicing for any Angolan aircraft or provide any certification of airworthiness for such aircraft.

Insurance of Angolan aircraft

8.—(1) This article applies to any contract of insurance, other than a contract of re-insurance, upon any Angolan aircraft or upon the machinery, tackle, furniture or equipment of any such aircraft.

- (2) Except under the authority of a licence granted by the Governor under this article—
 - (a) no person shall make payment in full or partial settlement of any claim under a contract of insurance to which this article applies unless the claim is in respect of an incident occurring before the coming into force of this Order;
 - (b) no person shall effect any new contract of insurance, or agree to any variation or extension of any existing contract of insurance, to which this article applies.

UNITA Offices

9. No person shall establish or maintain any office or other premises under the name of “Uniao Nacional para a Independencia Total de Angola” or “UNITA”.

Application of articles 3, 6, 7, 8 and 9

10.—(1) The provisions of articles 3, 6, 7, 8 and 9 of this Order shall apply to any person within the Territory and the provisions of articles 3, 6, 7 and 8 of this Order shall apply to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, 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) Subject to the provisions of paragraph (3) to (6) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3, 6, 7 or 8 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Angola.

(4) In the case of proceedings for an offence in contravention of article 6 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the purpose was to make available the aircraft or component for operation in Angola.

(5) In the case of proceedings for an offence in contravention of article 7 of this Order in relation to an Angolan aircraft it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the aircraft was an Angolan aircraft.

(6) In the case of proceedings for an offence in contravention of article 8 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that that aircraft was an Angolan aircraft or that the machinery, tackle, furniture or equipment was part of such an aircraft.

(7) Any person specified in paragraph (1) of this article who contravenes the provisions of article 9 of this Order shall be guilty of an offence under this Order.

Powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order; or
- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

12.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

13.—(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not he has with him any aircraft or aircraft components which are destined for Angola or for delivery, directly or indirectly, to any person in Angola; and
- (b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships, aircraft and vehicles

14.—(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, has reason to suspect that any ship registered in the United Kingdom or in any territory to which this Order extends has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this 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 paragraph (1) of article 5 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 any 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 Territory to cause her to remain there until the master is notified by an 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 subparagraph (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 (10) 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 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 territory to which this Order extends or any aircraft for the time being chartered to any person specified in paragraph (2) of article 5 of this Order has been or is being or is about to be used in contravention of paragraph (1) of that article, the Governor or that authorised person may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and that authorised person 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, any such authorised person (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 (10) of this article, where any person authorised 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 that authorised person 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) Where the Governor or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, the Governor or that authorised person may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify, and that authorised person may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and any such authorised person (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the Territory until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid or any such officer as aforesaid has reason to suspect that any request that a vehicle should remain in the United Kingdom that has been made under paragraph (5) of this article may not be complied with, 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 vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Governor to exercise any power for the purposes of paragraph (3), (4), (5) or (6) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) 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 or under or in the service of the Government of any territory to which this Order extends; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Angola 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 under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

(9) 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 of cargo produced for inspection.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under 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 an aircraft or an operator or driver of a vehicle who—
 - (i) 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
 - (ii) 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 or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) 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, aircraft or vehicles.

Obtaining of evidence and information

15. 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 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 evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

Penalties and Proceedings

16.—(1) Any person guilty of an offence under article 5(3) or article 10(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 14(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 1 to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 12(1) or (2), or article 13(3) of 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;
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 11 or article 13(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 14(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 1 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Any person guilty of an offence under article 10(7) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(7) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(8) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(9) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(10) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Governor

17.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 1 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

18. Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done 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 corporate incorporated or constituted under the law of, that country or place, provided that it is so done under the authority of a licence, 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.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Article 15

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 him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (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 of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by any constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer, 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, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A Police officer lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

Provided that no persons shall in pursuance of any warrant issued under this paragraph be searched except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by 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 be given by any person who is entitled to that information or to the possession of that document in his own right; or
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or 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) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 Angola decided upon by the Security Council of the United Nations; or
- (d) with the view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order (whether in the Territory or any other territory to which this Order extends) or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

5.—(1) 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 to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

SCHEDULE 2

Article 1(3)(a)

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
 Montserrat
 Pitcairn
 St Helena and its dependencies
 Sovereign Base Areas of Akrotiri and Dhekelia
 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 2. It imposes restrictions pursuant to a decision of the Security Council of the United Nations in Resolution No. 1127 of 28th August 1997 on the export to Angola and the supply to persons in Angola of aircraft and aircraft components. It restricts certain related activities including the carriage of aircraft and aircraft components destined for Angola in ships, aircraft and vehicles and the servicing and insurance of Angolan aircraft.

This Order does not affect the Angola (United Nations Sanctions) (Dependent Territories) Order 1993(a).

S T A T U T O R Y I N S T R U M E N T S

1997 No. 2593

UNITED NATIONS

The Sierra Leone (United Nations Sanctions)
(Dependent Territories) Order 1997

<i>Made</i> - - - - -	<i>30th October 1997</i>
<i>Laid before Parliament</i>	<i>31st October 1997</i>
<i>Coming into force</i> - - -	<i>1st November 1997</i>

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 8th October 1997, 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 Sierra Leone:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Sierra Leone (United Nations Sanctions) (Dependent Territories) Order 1997 and shall come into force on 1st November 1997.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 8th October 1997, this Order shall cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official Gazette of the Territory.

(3) (a) This Order shall extend to the territories listed in Schedule 3 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.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"arms" includes conventional, chemical, biological and nuclear weapons and ballistic missiles;

(a) 1946 c. 45.

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“export” includes shipment as stores;

“exportation” in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“Governor” means the Governor or other officer administering the Government of the Territory;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“person connected with Sierra Leone” means

- (a) the Government of Sierra Leone;
- (b) any other person in, or resident in, Sierra Leone;
- (c) any body incorporated or constituted under the law of Sierra Leone;
- (d) any body, wherever incorporated or constituted, which is controlled by any of the persons mentioned in sub-paragraphs (a) to (c) above; or
- (e) any person acting on behalf of any of the persons mentioned in subparagraph (a) to (d) above;

“ship” has the meaning it bears in section 742 of the Merchant Shipping Act 1894(a);

“shipment” includes loading into an aircraft;

“vehicle” means land transport vehicle.

Supply of certain goods to Sierra Leone

3.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall:

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any goods specified in Schedule 1 to this Order or to the order of any person connected with Sierra Leone.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of certain goods to Sierra Leone

4. Except under the authority of a licence granted by the Governor under this article, the goods specified in Schedule 1 to this Order are prohibited to be exported from the Territory to any destination in Sierra Leone, or to any destination for the purpose of delivery directly or indirectly, to or to the order of a person connected with Sierra Leone.

Carriage of goods destined for Sierra Leone

5.—(1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of any goods specified in Schedule 1 to this Order if the carriage is, or forms part of, carriage from any place outside Sierra Leone to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) 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 vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Sierra Leone to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Sierra Leone was authorised by a licence granted by the Governor under article 3 or article 4 of this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Application of Article 3

6.—(1) The provisions of article 3 of this Order shall apply to any person within the Territory and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, 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) Subject to the provisions of paragraph (3) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person connected with Sierra Leone.

Powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as he may allow proof to his satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order; or
- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

9.—(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

(a) declare whether or not he has with him any goods specified in Schedule 1 to this Order which are destined for Sierra Leone or for delivery, directly or indirectly, to any person connected with Sierra Leone; and

(b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships, aircraft and vehicles

10.—(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, has reason to suspect that any ship registered in the United Kingdom or in any territory to which this Order extends has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this 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 paragraph (1) of article 5 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 any 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 Territory to cause her to remain there until the master is notified by an 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 subparagraph (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 (10) 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 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 territory to which this Order extends or any aircraft for the time being chartered to any person specified in paragraph (2) of article 5 of this Order has been or is being or is about to be used in contravention of paragraph (1) of that article, the Governor or that authorised person may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify, and that authorised person 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, any such authorised person (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 (10) of this article, where any person authorised 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 that authorised person 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) Where the Governor or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, the Governor or that authorised person may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify, and that authorised person may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and any such authorised person (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further require the operator or driver to cause the vehicle to remain in the Territory until notified that the vehicle may depart; and the operator and the driver shall comply with any such request.

(6) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid has reason to suspect that any request that a vehicle should remain in the Territory that has been made under paragraph (5) of this article may not be complied with, that authorised person 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 vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Governor to exercise any power for the purposes of paragraph (3), (4), (5) or (6) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) 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 or under or in the service of the Government of any territory to which this Order extends; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Sierra Leone 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 under this Order or, with respect to any of the matters regulated by this Order, for an offence under 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 territory to which this Order extends.

(9) 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.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under 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 an aircraft or an operator or driver of a vehicle who—
 - (i) 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
 - (ii) 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 or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) 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, aircraft or vehicles.

Obtaining of evidence and information

11. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, 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 evidence of the commission of an offence under this Order, or, with respect to any of the matters regulated by this Order, of an offence relating to customs or of an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends.

Penalties and Proceedings

12.—(1) Any person guilty of an offence under article 5(3) or article 6(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 10(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 2 to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(1) or (2), or article 9(3) of 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;
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 7 or article 9(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 10(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 2 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Governor

13.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 2 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

14.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Articles 3 & 4

(1) Any arms and related matériel (including weapons, ammunition, military vehicles, military equipment and spare parts for any of the foregoing).

(2) The following goods:

- Petroleum oils and oils obtained from bituminous minerals, crude
- Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 per cent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations
- Petroleum gases and other gaseous hydrocarbons
- Petroleum jelly
- Paraffin wax containing by weight less than 75 per cent of oil
- "Slack wax", "scale wax"
- Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bitumen minerals
- Bitumen and asphalt, natural; bituminous or oil shale and tar sands, asphaltites and asphaltic rocks
- Bitumen mixture based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example bituminous mastics, cut-backs)
- Acyclic hydrocarbons
- Cyclohexane
- Benzene
- Toluene
- o-Xylene
- m-Xylene
- p-Xylene
- Mixed xylene isomers
- Styrene
- Ethylbenzene
- Cumene
- Methanol (methyl alcohol)
- Lubricating preparations (including cutting-oil preparations, bolt or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations based on lubricants) and preparations containing, as basic constituents, 70 per cent or more by weight of petroleum oils, or oils obtained from bituminous minerals and not as the basic constituent
- Additives for lubricating oils, containing petroleum oils, or oils obtained from bituminous minerals
- Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts.

SCHEDULE 2

Article 11

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 him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (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 of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by any constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs or an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer, 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, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premise, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

Provided that no persons shall in pursuance of any warrant issued under this paragraph be searched except by a person of the same sex.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of 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 be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or 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) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 Sierra Leone 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 under this Order (whether in the Territory or any other territory to which this Order extends) or, with respect to any of the matters regulated by this Order, for an offence under 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 territory to which this Order extends.

5.—(1) 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 to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provision of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

SCHEDULE 3

ARTICLE 1(3)(a)

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
 Montserrat
 Pitcairn
 St Helena and its dependencies
 Sovereign Base Areas of Akrotiri and Dhekelia
 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, imposes restrictions pursuant to a decision of the Security Council of the United Nations in Resolution 1132 of 8th October 1997 on the export to Sierra Leone and the supply to persons in Sierra Leone of arms and related matériel, and petroleum and petroleum products. It restricts certain related activities including the carriage of prohibited goods in ships, aircraft and vehicles.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

15th July 1998

No. 18

The following are published in this Supplement -

- Falkland Islands Status Ordinance 1998;**
- Education (Amendment) Ordinance 1998;**
- Road Traffic (Amendment) Ordinance 1998;**
- Supplementary Appropriation (1997-1998) (No. 3) Ordinance 1998;**
- Supplementary Appropriation (1998-1999) Ordinance 1998;**
- Fines Increase (Speeding) Order 1998, (S.R. & O. No. 37 of 1998);**
- Customs Resolution of the Legislative Council, (No. 1 of 1998).**

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Falkland Islands Status Ordinance 1998

(No. 12 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Applications for the grant of Falkland Islands status
4. Consideration of applications for Falkland Islands status
5. Revocation of Falkland Islands status
6. Finality of decisions
7. Regulations
8. Offences

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

FALKLAND ISLANDS STATUS ORDINANCE 1998

(No. 12 of 1998)

(assented to: 6 July 1998)
(commencement: in accordance with section 1)
(published: 15 July 1998)

AN ORDINANCE

To make provision for the grant to qualified persons of Falkland Islands status

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Falkland Islands Status Ordinance 1998 and shall come into operation on the first day of the month following its first publication in the *Gazette*.

Interpretation

2. In this Ordinance—

"Falkland Islands status" has the same meaning as it has in section 17(5) of the Constitution;

"qualified person" means a person who is a Commonwealth citizen and who has been ordinarily resident in the Falkland Islands for not less than the seven years immediately preceding his application under section 3 of this Ordinance; and

"year" means a consecutive period of twelve months.

Applications for the grant of Falkland Islands status

3.—(1) A person may apply for Falkland Islands status by delivering an application in the prescribed form to the Principal Immigration Officer.

(2) The Principal Immigration Officer if the applicant, on perusal of his application, does not appear to be a qualified person may—

(a) by notice in writing to the applicant, require the applicant to furnish him with such further written information as is specified in that notice, being information intended to demonstrate whether or not the applicant is a qualified person;

(b) by notice in writing to the applicant reject the application because the applicant does not appear to the Principal Immigration Officer to be a qualified person on such of the following grounds as is stated in the notice—

(i) that the applicant is not a Commonwealth citizen;

(ii) that the applicant was not ordinarily resident in the Falkland Islands for at least the seven years immediately preceding his application.

(3) For the purposes of this section, without prejudice to any other basis on which a person may be regarded as having been ordinarily resident in the Falkland Islands for the seven years immediately preceding his application, he shall be so regarded if—

(a) he has not been absent from the Falkland Islands for more than six hundred and thirty days in aggregate during those seven years; and

(b) he has not been absent from the Falkland Islands for more than one hundred and eighty days in aggregate in any one of those seven years nor for more than ninety days in aggregate in the year immediately preceding his application

provided that he must have been physically present in the Falkland Islands throughout the whole of the first one hundred and eighty days of the first year counted as part of his period of ordinary residence in the Falkland Islands.

(4) The Principal Immigration Officer shall not reject an application on the ground mentioned in subsection (2)(b)(ii) except in accordance with the advice of the Attorney General in writing.

(5) Unless he rejects the application under subsection (1) in accordance with the previous provisions of this section, the Principal Immigration Officer shall

cause notice of the application to be published in the *Gazette* and additionally in a newspaper circulating in the Falkland Islands.

(6) The notices published under subsection (5) shall state that any person who desires to object to the granting of the application may do so by notice in writing sent or delivered to the Principal Immigration Officer within twenty-one days of the publication of the notice. The application shall thereafter be considered, together with any objections received in respect of it, by the Governor in Executive Council at the first convenient meeting of the Executive Council following the expiration of the period for objections.

Consideration of applications for Falkland Islands status

4.—(1) The Governor acting in accordance with the advice of the Executive Council may as he sees fit grant or refuse an application for Falkland Islands status, but must state the ground on which he refuses an application and shall not refuse an application upon any ground until he has notified the applicant in writing of his intention to refuse the application upon that ground, has given the applicant a reasonable opportunity to make representations in writing to him in relation to that ground and has caused those representations to be considered by the Executive Council.

(2) Nothing in subsection (1) shall be deemed to require the Governor to disclose to the applicant either directly or indirectly the identity of any objector to the grant of Falkland Islands status or any other matter or document which it is contrary to the public interest to disclose to the applicant and it is sufficient for the Governor in any such case to disclose to the applicant in any notice under that subsection as much as it is possible in all the circumstances, in accordance with the public interest, for him to disclose to enable the applicant to make adequate representations against the refusal of his application.

Revocation of Falkland Islands status

5.—(1) Subject to subsection (4), the Governor acting in accordance with the advice of the Executive Council, after giving notice in writing of his intention to consider so doing, may revoke the grant under this Ordinance of Falkland Islands status to any person.

(2) A notice under subsection (1) shall state the ground or grounds upon which the revocation of the grant of status is to be considered and give to the person on whom it is served a reasonable opportunity of making representations in writing to the Governor in relation to the proposed revocation on that ground or those grounds.

(3) A grant of Falkland Islands status may only be revoked on one or more of the following grounds—

(a) that the person concerned in or in connection with his application for Falkland Islands status did anything which, if proved, would constitute an offence under section 8(1);

(b) that since the grant to the person concerned of Falkland Islands status he has been convicted of an offence by a court of competent jurisdiction in the Commonwealth in respect of which he has been sentenced by such a court to a sentence of immediate imprisonment or deprivation of liberty of twelve months or more;

(c) that the person concerned has been absent from the Falkland Islands for a period of at least two years, other than for educational or medical reasons or as a member of Her Majesty's armed forces, or that for any other reason that person appears no longer to be ordinarily resident in the Falkland Islands;

(d) that since the grant to him of Falkland Islands status, the person concerned has by his own voluntary act acquired the nationality or citizenship of a country outside the Commonwealth or has by his own voluntary act undertaken an obligation of allegiance to a country outside the Commonwealth.

(4) The Governor may not revoke the grant to any person of Falkland Islands status—

(a) until the Executive Council has considered any representations in writing made by the person concerned in relation to the proposed revocation;

(b) except by notice in writing given to the applicant specifying the ground or grounds on which the grant has been revoked (which must have been stated in a notice given to that person under subsection (1)).

Finality of decisions

6.—(1) No appeal lies at the instance of any person to any tribunal, court, or authority against any decision of the Governor under section 4, section 5 or subsection (2) of this section.

(2) An appeal lies to the Governor at the instance of the applicant from any decision of the Principal Immigration Officer under section 3, and the Governor may allow or disallow such an appeal. If the Governor allows such an appeal he may give such consequential directions to the Principal Immigration Officer as may be necessary, with which the Principal Immigration Officer shall comply.

Regulations

7. The Governor may by regulations under this section prescribe—

(a) the form of application for the grant of Falkland Islands status;

(b) the fee payable in connection with an application for Falkland Islands status (which shall not exceed the fee for the time being payable on an application for naturalisation as a British Dependent Territories citizen).

Offences

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

(a) in or in connection with an application for, or the proposed revocation of, Falkland Islands status makes any statement knowing it to be false or carelessly as to its truth or falsehood;

(b) furnishes any document in connection with an application for, or the proposed revocation of, Falkland Islands status, knowing that document to contain a false or misleading statement or careless as to the truth, falsehood or misleading nature of any statement contained in that document.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level seven on the standard scale or to imprisonment for a period not exceeding six months.

Passed by the Legislature of the Falkland Islands this 26th day of June 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Education (Amendment) Ordinance 1998

(No. 13 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of the Education Ordinance 1989
3. Saving for transitional pupils

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

EDUCATION (AMENDMENT) ORDINANCE 1998

(No. 13 of 1998)

(assented to: 6 July 1998)
(commencement: in accordance with section 1)
(published: 15 July 1998)

AN ORDINANCE

To amend the Education Ordinance 1989

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Education (Amendment) Ordinance 1998 and comes into force on publication in the Gazette, save that paragraphs (b) and (c) of section 2 shall come into force on 1 January 1999.

Amendment of the Education Ordinance 1989

2. The Education Ordinance 1989 is amended—

(a) in section 12(1), by repealing the words “and a Scholarship and Training Awards Committee”;

(b) in section 17(1)—

(i) by replacing paragraph (a) with the following—

“(a) if he has attained the age of five years or the fifth anniversary of his birth will occur during the academic year for the time being current;” and

(ii) by replacing the words “the upper limit” in paragraph (b) with the words “sixteen years”;

(c) by repealing section 17(2) and (3), section 18(2) and (3); and

(d) by repealing section 77(2).

Saving for transitional pupils

3. Section 5 of the Education (Academic Year) Ordinance 1997 shall continue to have effect in relation to transitional pupils (children who, under the provisions of section 17(1) and (2) of the Education Ordinance 1989, ("the 1989 Ordinance") in the form they were in force immediately before 1st January 1998 became of compulsory school age before that date and who had not ceased to be of compulsory school age before that date) as if section 2 of this Ordinance had not amended section 17(1) of the 1989 Ordinance and had not repealed section 17(2) of the 1989 Ordinance.

Passed by the Legislature of the Falkland Islands this 26th day of June 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Road Traffic (Amendment) Ordinance 1998

(No. 14 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of Road Traffic Ordinance(*Cap. 60*)

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

ROAD TRAFFIC (AMENDMENT) ORDINANCE 1998

(No. 14 of 1998)

(assented to: 6 July 1998)
(commencement: in accordance with section 1)
(published: 15 July 1998)

AN ORDINANCE

To amend the Road Traffic Ordinance

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 1998 and shall be deemed to have come into force on 20 May 1998.

Amendment of Road Traffic Ordinance Interpretation (Cap. 60)

2. Section 4(1) of the Road Traffic Ordinance is amended by replacing, in paragraph (a), "£48" with "£26".

Passed by the Legislature of the Falkland Islands this 26th day of June 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II

**Colony of the Falkland Islands**

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Supplementary Appropriation (1997-1998)(No 3) Ordinance 1998

(No. 15 of 1998)

ARRANGEMENT OF PROVISIONS**Section**

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (1997-1998)(No 3) ORDINANCE 1998

(No. 15 of 1998)

(assented to: 6 July 1998)
(commencement: on publication)
(published: 15 July 1998)

AN ORDINANCE

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £308,620 for the service of the financial year ending 30 June 1998.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Supplementary Appropriation (1997-1998) (No 3) Ordinance 1998.

Appropriation of further sum

2. The Financial Secretary may for the purposes specified in the Schedule cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 1997 and ending on 30 June 1998 ("the financial year") the further sum of £308,620 in addition to sums already appropriated by Ordinance.

Replenishment of Contingencies Fund

3. The Financial Secretary shall out of the sums appropriated by section 2 replenish the Contingencies Fund to the extent that sums specified in the Schedule, prior to the commencement of this Ordinance, have been withdrawn from the Contingencies Fund by the authority of the Contingencies Warrants Numbers 15 and 16 of 1997-1998 (the authority of which lapses on the commencement of this Ordinance).

SCHEDULE

PART I OPERATING EXPENDITURE

£

150	Posts & Telecommunications	8,050
200	Medical & Dental	136,100
320	Fisheries	24,000
500	Falkland Islands Defence Force	15,000
600	Central Administration	36,200
	TOTAL OPERATING EXPENDITURE	219,350

PART II CAPITAL EXPENDITURE

950	Expenditure	89,270
	TOTAL SUPPLEMENTARY EXPENDITURE	308,620

Passed by the Legislature of the Falkland Islands this 26th day of June 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Supplementary Appropriation (1998-1999) Ordinance 1998

(No. 16 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (1998-1999) ORDINANCE 1998

(No. 16 of 1998)

(assented to: 6 July 1998)

(commencement: on publication)

(published: 15 July 1998)

AN ORDINANCE

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £899,250 for the service of the financial year ending on 30 June 1999.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title

1. This Ordinance may be cited as the Supplementary Appropriation (1998-1999) Ordinance 1998.

Appropriation of further sum

2. The Financial Secretary may for the purposes specified in the Schedule cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 1998 and ending on 30 June 1999 ("the financial year") the further sum of £899,250 in addition to sums already appropriated by Ordinance.

SCHEDULE

PART I OPERATING EXPENDITURE

		£
450	Justice	4,500
600	Central Administration	409,250
	TOTAL OPERATING EXPENDITURE	413,750

PART II CAPITAL EXPENDITURE

950	Expenditure	485,500
	TOTAL SUPPLEMENTARY EXPENDITURE	899,250

Passed by the Legislature of the Falkland Islands this 26th day of June 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Fines Increase (Speeding) Order 1998

S. R. & O. No. 37 of 1998

Made: 7 July 1998

Published: 15 July 1998

Coming into force: 1st August 1998

IN EXERCISE of my powers under section 5(1) of the Criminal Justice Ordinance 1989(a), and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Fines Increase (Speeding) Order 1998 and comes into force on 1st August 1998 but nothing in this Order has effect in relation to any offence committed before that date.

Increase in amount of fines imposable on conviction of offence of exceeding the speed limit

2. Section 9N(2) of the Road Traffic Ordinance(b) is amended—

(a) by replacing the words “two hundred pounds” with the words “the maximum of level 3 on the standard scale”;

(b) by replacing the words “one thousand pounds” with the words “not exceeding the maximum of level 4 on the standard scale”.

Made this 7th day of July 1998

R P Ralph
Governor

(a) No 17 of 1989

(b) Cap 60 Laws of the Falkland Islands, 1950 Edition

EXPLANATORY NOTE
(not forming part of the above Order)

This Order increases the maximum fine imposable on a first conviction of a speeding offence from £200 to the maximum of level 3 on the standard scale (currently £800) and the maximum fine imposable on a second or subsequent conviction of such an offence from £1000 to the maximum of level 4 on the standard scale (currently £1500).

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

Customs Ordinance (Cap. 16) (section 5)

CUSTOMS RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 1 of 1998

RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Cap. 16), on the 2nd day of May 1998, as follows—

1. That the Customs Order No. 6 of 1948 is amended by the substitution for paragraph 2 thereof the following—

“2. The following import duties of customs shall be payable—

Item	Article	Rate of Duty
1.	Beer per litre	£0.20
2.	Wines per litre	£0.52
3.	Fortified Wines per litre	£0.63
4.	Spirituous Beverages per litre	£4.27
5.	Spirits per litre	£7.77
6.	Tobacco per kilo	
	(a) Cigars	£103.16
	(b) Cigarettes	£74.62
	(c) Tobacco	£67.81”

2. This Resolution may be cited as the Customs (Amendment of Import Duties) Resolution 1998 and comes into force on the 3rd day of May 1998.

C ANDERSON
Clerk of Councils

Ref: CUS/10/2



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

31st July 1998

No. 19

The following are published in this Supplement -

Fishery Products (Hygiene) Regulations 1998, (S.R. & O. No. 38 of 1998);

Legislative Council (Disqualification from Election) Order 1998, (S.R. & O. No. 39 of 1998);

Commencement and Approval of Volume 1 Order 1998, (S.R. & O. No. 40 of 1998).

SUBSIDIARY LEGISLATION

FISHERY PRODUCTS

Fishery Products (Hygiene) Regulations 1998

S. R. & O. No. 38 of 1998

Made: 24 July 1998

Published: 31 July 1998

Coming into force: on publication

IN EXERCISE of my powers under section 5(2) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Regulations—

PART I

General

Citation and commencement

1. These regulations may be cited as the Fishery Products (Hygiene) Regulations 1998 and shall come into force on publication in the Gazette.

Interpretation

2. In these Regulations—

“approved factory vessel” means a factory vessel which is approved under regulation 3;

“approved fishery products establishment” means a fishery products establishment which is approved under regulation 3;

“authorised officer” means the Senior Veterinary Officer, any Veterinary Officer and any other person appointed to be an authorised officer by the Governor;

“Falkland Islands’ factory vessel” means a factory vessel which is registered as a ship on the Register of Ships at Stanley;

“frozen fishery products” means fishery products which have undergone a freezing process;

“the Fishing Vessels Directive” means Council Directive 92/48/EEC of 16th June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with article 3(1)(a)(i) of the Fishery Products Directive;

“the Health Checks Decision” means Commission Decision 94/356/EC of 20th May 1994 laying down detailed rules for the application of the Fishery Products Directive as regards own health checks on fishery products;

“the Ordinance” means the Fishery Products (Hygiene) Ordinance 1998;

“placing on the market” means the holding or displaying for sale, offering for sale, selling, delivering or any other form of placing on the market of fishery products in the European Community except for retail sales (which includes retail sales to catering businesses and sales by catering businesses);

“potable water” means water which at the time of supply can or could be consumed by a person without causing injury to health;

“Schedule” means the schedule to these regulations.

PART II

Licensing of factory vessels and fishery products establishments

Approval of factory vessels and fishery products establishments

3.—(1) An application for an approval may be made for—

(a) a Falkland Islands’ factory vessel;

(b) a factory vessel (other than a Falkland Islands’ factory vessel) which the Governor certifies as a factory vessel which has a close economic connection with the Falkland Islands and which has not been approved under the legislation of any other country being legislation which is similar to the provisions of the Ordinance, these regulations or any other regulations made under the Ordinance; and

(c) a fishery products establishment.

(2) An application pursuant to subregulation (1) shall be—

(a) made in writing; and

(b) accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable the food authority to determine the application.

(3) An approval in respect of a factory vessel may only be granted if the food authority is satisfied that it meets such of the conditions set out in Chapters I and II of the Schedule as apply to it.

(4) An approval in respect of a fishery products establishment may only be granted if the food authority is satisfied that it meets such of the conditions set out in Chapters III and IV of the Schedule as apply to it.

(5) An approval for a factory vessel or fishery products establishment under this regulation may be granted subject to such conditions or limitations which the food authority may reasonably specify including (without limiting the generality of the foregoing) in the case of limitations, limitations as to—

- (a) the particular activities approved,
- (b) the method of operation approved, and
- (c) the intensity of use approved.

(6) The food authority shall give written notification to each person who makes an application pursuant to subregulation (1) of the result of the application and, in the case of refusal, of the reasons for that refusal.

(7) If an application pursuant to subregulation (1) is approved, the food authority shall—

- (a) designate the establishment or vessel with a unique approval number; and
- (b) notify the Governor of the approval and the approval number allocated.

Appeals against decisions under this Part to refuse to register or to grant an approval or against any conditions or limitations in such approvals

4.—(1) A person who is aggrieved by a decision taken by the food authority—

- (a) to refuse to grant an approval for a factory vessel or fishery products establishment; or
- (b) to impose any limitation or condition in an approval granted for a factory vessel or fishery products establishment;

may appeal to the Magistrate's Court and the procedure set out in regulation 7 shall apply in relation to such appeal.

(2) Where an appeal against a limitation as to the particular activities approved, the method of operation approved or the intensity of use approved is brought in accordance with subregulation (1)(b), the appellant may continue to operate the establishment or vessel free of the limitation which is being appealed against while the appeal is pending, and an appeal shall be regarded as pending for these purposes until it is finally disposed of, is struck out for want of prosecution or is withdrawn.

(3) Where an appeal is brought in accordance with subregulation (1), the court may—

- (a) affirm any decision to refuse an approval or to register;
- (b) accept an application to register;

(c) grant an approval either in its original form or with such modifications as the court may in the circumstances think fit;

(d) remit the matter to the food authority with the court's opinion on it; or

(e) make such other order in relation to the matter as the court thinks fit.

Variation of approvals for factory vessels or establishments

5.—(1) A person may at any time apply to a food authority for the food authority to vary any term or limitation in any approval for a factory vessel or fishery products establishment granted to him, and the food authority may vary any such term or limitation.

(2) Any person who is aggrieved by a decision of a food authority to refuse to vary a term or limitation in any approval for a factory vessel or fishery products establishment may appeal to the Magistrate's Court and the procedure set out in regulation 7 shall apply in relation to such appeal.

(3) Where an appeal is brought in accordance with subregulation (2), the court may—

(a) affirm any decision to refuse to vary the term, condition or limitation in the approval;

(b) vary the term or limitation in the approval;

(c) remit the matter to the food authority with the court's opinion on it; or

(d) make such other order in relation to the matter as the court thinks fit.

Revocation of approvals for factory vessels or establishments

6.—(1) The food authority may revoke an approval of a fishery products establishment or a factory vessel if, after inspection of or any inquiry into the method of operation of the establishment or vessel, it is satisfied that—

(a) there has been a serious (on animal or public health grounds) and manifest breach of the conditions or limitations subject to which the approval was granted or of the applicable provisions of Chapters I to IV of the Schedule; and

(b) the food business proprietor who is operating the establishment or vessel is either unable or not prepared to ensure that the breach is remedied.

(2) A proprietor who is aggrieved by a decision to revoke an approval for a factory vessel or a fishery products establishment may appeal to the Magistrate's Court and the procedure set out in regulation 7 shall apply in relation to such an appeal.

(3) A revocation or cancellation under this regulation shall take effect—

(a) after the time for appealing it has elapsed; or

(b) if an appeal is brought, after the appeal is finally disposed of, struck out for want of prosecution or withdrawn,

and when the food authority informs a food business proprietor operating a factory vessel or fishery products establishment of a decision to revoke the approval for the vessel or establishment it shall explain to the proprietor in writing when the revocation or cancellation will take effect (including when it will take effect if an appeal is brought).

Appeals

7.—(1) The procedure on an appeal to the Magistrate's Court under sub-regulation 4(1), 5(2) or 6(2) shall be by way of complaint for an order and the Magistrate's Court Act 1980 as adopted in the Falkland Islands by section 7 of the Administration of Justice Ordinance shall apply to the proceedings.

(2) The period within which an appeal as is mentioned in subsection (1) may be brought is 28 days from the date upon which notice of the decision was served on the person desiring to appeal and the making of the complaint shall be deemed for the purposes of this subsection to be the bringing of the appeal.

(3) In any case where such an appeal as is mentioned in subsection (1) lies, the document notifying the decision to the person concerned shall state—

(a) the right of appeal to the Magistrate's Court; and

(b) the period within which such an appeal may be brought.

PART III

Obligations and conditions relating to fishery products which are to be placed upon the market

Obligations upon food business proprietors operating approved establishments and factory vessels

8.—(1) A food business proprietor who is operating an approved fishery products establishment or an approved factory vessel shall ensure that, as respects his establishment or vessel, the requirements of the approval for his establishment or vessel are complied with.

(2) A food business proprietor who is operating an approved factory vessel on board which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Chapters I and II of the Schedule are complied with as respects his vessel.

(3) A food business proprietor who is operating an approved fishery products establishment at which fishery products which are intended for placing on the market for human consumption are handled shall ensure that the applicable provisions of Chapters III and IV of the Schedule are complied with as respects his establishment.

(4) A food business proprietor who is operating an approved factory vessel or an approved fishery products establishment shall carry out checks at his vessel or establishment based on the following principles—

(a) identification of points critical to ensuring safe and hygienic production in his vessel or establishment on the basis of the manufacturing processes used, and for these purposes a critical point is any point, step or procedure at which control can be applied and a food safety hazard can be prevented, eliminated or reduced to acceptable levels;

(b) establishment and implementation of methods for monitoring and checking such critical points;

(c) taking samples for analysis in a laboratory recognised by the food authority for the purpose of checking—

(i) cleaning and disinfection methods, and

(ii) compliance with the standards established by this Part of these Regulations;

(d) keeping a written record or a record registered in an indelible fashion of the preceding points which shall be made available to the food authority on request, and that record shall—

(i) satisfy any applicable requirements of article 6.2 of the Health Checks Decision, and

(ii) include results of the different checks for a period going back at least 2 years (or such shorter period as may be practicable having regard to the date upon which an approval is granted),

and in the course of so doing, he shall have regard to any relevant recommendations in the Annex to the Health Checks Decision.

(5) The proprietor shall ensure that all staff involved in checks under paragraph (4) receive adequate training in order to participate effectively in their implementation.

(6) If the results of the proprietor's checks under paragraph (4) reveal a serious health risk or suggest one might exist, the proprietor shall immediately notify the food authority of that risk or possible risk and such notification shall be confirmed in writing by the proprietor within 48 hours.

Gutting of fishery products

9. Where gutting of a fishery product which is intended for placing on the market for human consumption is possible from a technical and commercial standpoint, a food business proprietor who has control over the timing of the gutting of the product shall ensure that it is carried out as soon as possible after the product has been caught or landed.

Packaging of fishery products

10. A food business proprietor in the course of which fishery products which are intended for placing on the market for human consumption are packaged shall ensure that the packaging of such products is in accordance with the applicable requirements of those set out in Chapter VI of the Schedule.

Storage and transportation of fishery products

11. A food business proprietor in the course of which fishery products which are intended for placing on the market for human consumption are stored or transported shall ensure that such products are stored, except at cold stores where only the handling of wrapped products takes place, and transported in accordance with any applicable requirements of those set out in Chapter VIII of the Schedule.

Placing fishery products on the market

12. No person shall place on the market for human consumption any fishery products, unless—

(a) if they have been handled on board an approved factory vessel, the applicable requirements of Chapter I of the Schedule have been satisfied in relation to those fishery products;

(b) if they have been landed in the Falkland Islands, during and after landing the applicable requirements of Chapter II of the Schedule have been satisfied in relation to those fishery products;

(c) where gutting of those fishery products is or was possible from a technical and commercial viewpoint, gutting was carried out as quickly as possible after the products were caught or landed;

(d) at an approved fishery products establishment, they have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted, stored hygienically and inspected in accordance with the applicable requirements of Chapters III and IV of the Schedule;

(e) they have been subject to such of the health control and monitoring of production conditions described in Chapter V of the Schedule as is appropriate in the particular circumstances of the case, unless the food authority authorised the transfer of those fishery products *ex quay* to an approved fishery products establishment to be checked there, in which case a check on the conditions of landing is not required;

(f) they have been appropriately packaged in accordance with Chapter VI of the Schedule;

(g) they comprise or form part of a consignment which bears an identification mark—

(i) unless head (ii) or (iii) applies, which is in accordance with Chapter VII of the Schedule,

(ii) which, if they comprise or form part of a consignment which has been given an identification mark in accordance with any law in force in an EEA State which is intended to give effect to the results to be achieved by Chapter VII of the Annex to the Fishery Products Directive, is in accordance with that law,

(iii) which, if those fishery products originate in a country in respect of which the European Commission has adopted approved import conditions for fishery products, is in accordance with those approved import conditions,

but an identification mark is not required in relation to any fishery products which have been landed in a third country in respect of which the European Commission has not adopted any approved import conditions;

(h) except at cold stores where only the handling of packaged products takes place, they have been stored and transported in accordance with Chapter VIII of the Schedule.

Prohibition on placing certain fishery products on the market

13. No food business proprietor shall sell, supply or place on the market for human consumption—

(a) poisonous fish of any of the following families: Tetraodontidae, Molidae, Diodontidae, and Canthigasteridae; or

(b) fishery products containing biotoxins such as ciguatera toxins or muscle-paralysing toxins.

PART IV

Powers of food authority and enforcement

Procurement of samples

14. An authorised officer may take a sample of any fishery product, wrapping material or any other substance or article which is found by him upon any approved factory vessel or any approved fishery products establishment and which he has reason to believe may be required—

(a) as evidence in proceedings under any provisions of these regulations; or

(b) so as to enable the food authority to decide whether to issue any approval or certificate which it may issue pursuant to these regulations.

Analysis etc of samples

15.—(1) An authorised officer who has procured a sample under regulation 14, may submit it for analysis or examination to an analyst approved in writing by the Governor.

(2) Any certificate specifying the result of an analysis or examination given and signed by an analyst approved by the Governor in accordance with subregulation (1) shall, if

submitted by the Crown during the course of any proceedings under these regulations, be sufficient evidence of the facts stated in it, unless the other party to any proceedings requires that the analyst shall be called as a witness.

Powers of entry

16.—(1) An authorised officer shall have a right at all reasonable hours to enter upon any approved factory vessel or approved fishery products establishment for the purpose of—

(a) ascertaining whether there is or has been on the vessel or establishment any contravention of the provisions of these regulations or any certificate or approval given or granted pursuant to the provisions of the Ordinance or these regulations; or

(b) so as to procure any sample under regulation 14.

(2) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry upon any approved factory vessel or approved fishery products establishment for any such purpose as is mentioned in subregulation (1) and either—

(a) that admission to the vessel or establishment has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the proprietor; or

(b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the vessel or establishment is unoccupied or the proprietor temporarily absent, the justice may by warrant signed by him authorise the authorised officer to enter the vessel or establishment, if need be by reasonable force.

(3) Every warrant granted under this regulation shall continue in force for a period of twenty-eight days from its issue.

(4) An authorised officer entering any approved factory vessel or approved fishery products establishment by virtue of this regulation, or other warrant issued under it, may take with him such other persons as he considers necessary, and on leaving any unoccupied vessel or establishment which he has entered by virtue of such a warrant shall leave it as effectively secured against unauthorised entry as he found it.

(5) An authorised officer entering any approved factory vessel or approved fishery products establishment by virtue of this regulation, or of a warrant issued under it, may inspect any records (in whatever form they are held) relating to any operations involving fishery products which are or have been upon the vessel or establishment and, where any such records are kept by means of a computer—

(a) may have access to, and inspect check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the record; and

(b) may require any person having charge of, or otherwise concerned with the operation of, the computer apparatus or material to afford him such assistance as he may reasonably require.

(6) Any officer exercising any power conferred by subregulation (5) may—

(a) seize and detain any records which he has reason to believe may be required as evidence in proceedings under any of the provisions of these regulations; and

(b) where the records are kept by means of a computer, may require the records to be produced in a form in which they may be taken away.

Obstruction etc of officers

17.—(1) Any person who—

(a) intentionally obstructs any person acting in the execution of the Ordinance or these regulations; or

(b) without reasonable cause, fails to give to any person acting in the execution of the Ordinance or these regulations any assistance or information which that person may reasonably require of him for the performance of his functions under the Ordinance or these regulations,

commits an offence and shall be liable upon conviction to a fine not exceeding level 10 on the standard scale or imprisonment for a term not exceeding two years or both.

(2) Any person who, in purported compliance with any such requirement as is mentioned in subregulation (1)(b)—

(a) furnishes information which he knows to be false or misleading in a material particular; or

(b) recklessly furnishes information which is false or misleading in a material particular,

commits an offence and shall be liable upon conviction to a fine not exceeding level 10 on the standard scale or imprisonment for a term not exceeding two years or both.

(3) Nothing in subregulation (1)(b) shall be construed as requiring any person to answer any question or give information if to do so might incriminate him.

PART V
Offences

Offences

18.—(1) Subject to regulation 17, if a person contravenes any provision of these regulations, he commits an offence.

(2) A person who commits an offence against these regulations shall be liable upon conviction to a fine not exceeding level 10 on the standard scale or imprisonment for a term not exceeding two years or both.

Made this 24th day of July 1998

R P Ralph
Governor

SCHEDULE

PRODUCTION AND PLACING ON THE MARKET CONDITIONS FOR FISHERY PRODUCTS

(Based on the corresponding provisions of the Annex to the Fishery Products
Directive)

CHAPTER I

Conditions applicable to factory vessels

Section I

Conditions concerning design and equipment

1. The minimum requirements for factory vessels are as follows—
 - (a) a reception area set aside for taking fishery products on board, designed and arranged into pounds or pens that are large enough to allow each successive catch to be separated. The reception area and its movable parts must be easy to clean. It must be designed in such a way as to protect the products from the sun or the elements and from any source of dirt or contamination;
 - (b) a system for conveying fishery products from the reception area to the work area that conforms with rules of hygiene;
 - (c) work areas that are large enough for the preparation and processing of fishery products in proper conditions of hygiene. They must be designed and arranged in such a way as to prevent any contamination of the products;
 - (d) storage areas for the finished products that are large enough and designed so that they are easy to clean. If a waste processing unit operates on board, a separate hold must be designated for the storage of these by-products;
 - (e) a place for storing packaging materials in appropriate hygiene conditions that is separate from the product preparation and processing areas;
 - (f) special equipment for pumping waste or fishery products that are unfit for human consumption either directly into the sea or, where circumstances so require, into a watertight tank reserved for that purpose. If waste is stored and processed on board with a view to cleaning, separate areas must be allocated for that purpose;
 - (g) equipment providing a supply of potable water or pressurised clean seawater. The seawater intake must be situated in a position where it is not possible for the water being taken into be affected by discharges into the sea of waste water, waste and engine coolant outlets;
 - (h) a suitable number of changing rooms, wash basins and toilets, the latter not opening directly onto areas where fishery products are prepared, processed or stored. The wash basins must be equipped with appliances for washing and

drying the hands that comply with hygiene requirements; the wash-basin taps must not be hand-operable.

2. Areas used for the preparation and processing or freezing/quick-freezing of fishery products must have—

- (a) a non-slip floor that is also easy to clean and disinfect and equipped for easy drainage of water. Structures and fixtures must have limber holes that are large enough not to be obstructed by fish waste and to allow water to drain freely;
- (b) walls and ceilings that are easy to clean, particularly where there are pipes, chains or electricity conduits;
- (c) the hydraulic circuits must be arranged or protected in such a way as to ensure that it is not possible for any leakage of oil to contaminate fishery products;
- (d) adequate ventilation and, where necessary, proper vapour extraction;
- (e) adequate lighting;
- (f) appliances for cleaning and disinfecting tools, equipment and fittings;
- (g) appliances for cleaning and disinfecting the hands with taps that are not hand-operable and with single use towels.

3. Equipment and tools such as cutting benches, containers, conveyors, gutting or filleting machines etc. must be resistant to seawater corrosion, easy to clean and disinfect and well-maintained.

4. Factory vessels which freeze fishery products must have—

- (a) a refrigeration plant sufficiently powerful to lower the temperature rapidly so as to achieve a core temperature that complies with the specifications of these Regulations;
- (b) refrigeration plants sufficiently powerful to keep fishery products in the storage holds at a temperature that complies with the specifications of these Regulations. The storage holds must be equipped with a temperature recording system placed so that it can easily be consulted.

Section II

Conditions of hygiene relating to on-board handling and storage of fishery products

1. A qualified person on board the factory vessel must be responsible for applying good fishery products manufacturing practices. That person shall have the authority to ensure that the provisions of these regulations are applied and shall make available to inspectors the programme for inspecting and checking critical points as applied on

board, a register containing that person's comments and the temperature recordings that may be required.

2. The general conditions of hygiene applicable to areas and equipment shall be those laid down in section IIA of Chapter III.

3. The general conditions of hygiene applicable to staff shall be those laid down in section IIB of Chapter III.

4. Heading, gutting and filleting must be carried out under the conditions of hygiene laid down in paragraphs 2-4 of section I of Chapter IV.

5. On-board processing of fishery products must be carried out under the conditions of hygiene laid down in paragraphs 2 and 3 of section II, section IV and section V of Chapter IV.

6. Fishery products must be wrapped and packaged under the conditions of hygiene laid down in Chapter VI.

7. On-board storage of fishery products must be carried out under the conditions of hygiene laid down in paragraphs 1 and 2 of Chapter VIII.

8.—(1) Subject to sub-paragraph (2), any on-board processing (in particular any cooking) of shrimps or molluscs must be undertaken in accordance with such of—

- (a) the approved treatments set out in Commission Decision 93/25/EEC approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods; and
- (b) the standards and other obligations set out in Commission Decision 93/51/EEC on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish,

as are appropriate in the particular circumstances of the case.

(2) For the purposes of Commission Decision 93/51/EEC—

- (a) the reference in article 2 to a processing plant shall be treated as if it were a reference to a factory vessel;
- (b) the reference in article 3(1) to the requirements of article 6 of the Council Directive shall be treated as if it were a reference to regulation 8; and
- (c) the reference to competent authorities in the first indented paragraph of article 3(2) shall be treated as a reference to the food authority which approved the factory vessel in question.

CHAPTER II

Requirements during and after landing

1. Unloading and landing equipment must be constructed of material which is easy to clean and disinfect and must be kept in a good state of repair and cleanliness.
2. During unloading and landing, contamination of fishery products must be avoided. It must in particular be ensured that—
 - unloading and landing operations proceed rapidly;
 - fishery products are placed without unnecessary delay in a protected environment at the temperature required on the basis of the nature of the product and, where necessary, in ice in transport, storage or market facilities, or in an approved fishery products establishment;
 - equipment and handling practices that cause unnecessary damage to the edible parts of the fishery products are not authorised.
3. After landing or, where appropriate, after first sale, fishery products must be transported without delay under the conditions laid down in Chapter VIII to their place of destination.

CHAPTER III

General conditions for establishments on land

Section I. General conditions relating to premises and equipment

Each establishment shall afford at least the following facilities—

1. working areas of sufficient size for work to be carried out under adequate hygienic conditions. Their design and layout shall be such as to preclude contamination of the product and keep quite separate the clean and contaminated parts of the buildings;
2. in areas where products are handled, prepared and processed—
 - (a) waterproof flooring which is easy to clean and disinfect and laid down in such a way as to facilitate the drainage of water or provided with equipment to remove water;
 - (b) walls which have smooth surfaces and are easy to clean, durable and impermeable;
 - (c) ceilings or roof linings which are easy to clean;
 - (d) doors in durable materials which are easy to clean;
 - (e) adequate ventilation and, where necessary, good steam and water-vapour extraction facilities;

- (f) adequate natural or artificial lighting;
 - (g) an adequate number of facilities for cleaning and disinfecting hands. In work rooms and lavatories, taps must not be hand-operable. These facilities must be provided with single use hand towels;
 - (h) facilities for cleaning plant, equipment and utensils;
3. in cold rooms where fishery products are stored—
 - the provisions set out under paragraph 2(a), (b), (c), (d) and (f);
 - where necessary, a sufficiently powerful refrigeration plant to keep products at temperatures prescribed in these Regulations;
 4. appropriate facilities for protection against pests such as insects, rodents, birds etc.;
 5. instruments and working equipment such as cutting tables, containers, conveyor belts and knives made of corrosion-resistant materials, easy to clean and disinfect;
 6. special watertight, corrosion-resistant containers for fishery products not intended for human consumption and premises for the storage of such containers if they are not emptied at least at the end of each working day;
 7. facilities to provide adequate supplies of potable water, or alternatively of clean seawater or seawater treated by an appropriate system, under pressure and in sufficient quantity. However, by way of exception, a supply of non-potable water is permissible for the production of steam, fire-fighting and the cooling of refrigeration equipment, provided that the pipes installed for the purpose preclude the use of such water for other purposes and present no risk of contamination of the products. Non-potable water pipes must be clearly distinguishable from those used for potable water or clean seawater;
 8. hygienic waste water disposal system;
 9. an adequate number of changing-rooms with smooth, water-proof, washable walls and floor, wash basins and flush lavatories. The latter may not open directly onto the work rooms. The wash basins must have materials for cleaning the hands and disposable towels; the wash basin taps must not be hand-operable;
 10. if the volume of products treated required regular or permanent presence an adequately equipped lockable room for the exclusive use of the inspection service;
 11. adequate facilities for cleaning and disinfecting means of transport. However, such facilities are not compulsory if there is a requirement for the means of

transport to be cleaned and disinfected at facilities officially authorised by the food authority.

12. establishments keeping live animals such as crustaceans and fish must have appropriate fittings ensuring the best survival conditions provided with water of a quality such that no harmful organisms or substances are transferred to the animals.

Section II

General conditions of hygiene

A. General conditions of hygiene applicable to premises and equipment

1. Floors, walls and partitions, ceilings and roof linings, equipment and instruments used for working on fishery products must be kept in a satisfactory state of cleanliness and repair, so that they do not constitute a source of contamination for the products.
2. Rodents, insects and other vermin must be systematically exterminated in the premises or on the equipment; rodenticides, insecticides, disinfectants and any other potentially toxic substances must be stored in premises or cupboards which can be locked; their use must not present any risk of contamination of the products.
3. Working areas, instruments and working equipment must be used only for work on fishery products. However, following authorisation by the food authority they may be used at the same time or other times for work on other foodstuffs.
4. Potable water or clean seawater must be used for all purposes. However, by way of an exception, non-potable water may be used for steam production, fire-fighting and the cooling of refrigeration equipment, provided that the pipes installed for the purpose preclude the use of such water for other purposes and present no risk of contamination of the products.
5. Detergents, disinfectants and similar substances must be acceptable to the food authority and used in such a way that they do not have adverse effects on the machinery, equipment and products.

B. General conditions of hygiene applicable to staff

1. The highest possible standard of cleanliness is required of staff. More specifically—
 - (a) staff must wear suitable clean working clothes and headgear which completely encloses the hair. This applies particularly to persons handling exposed fishery products;
 - (b) staff assigned to the handling and preparation of fishery products must be required to wash their hands at least each time work is resumed; wounds to the hands must be covered by a waterproof dressing;

- (c) smoking, spitting, eating and drinking in work and storage premises of fishery products must be prohibited.

2. The employer shall take all the requisite measures to prevent persons liable to contaminate fishery products from working on and handling them, until there is evidence that such persons can do so without risk. When recruited, any person working on and handling fishery products shall be required to prove, by a medical certificate, that there is no impediment to such employment. Following recruitment, any person working on and handling fishery products shall be required to prove, by way of a medical certificate given by a recognised medical practitioner no more than twelve months ago, that there is no impediment to such employment.

CHAPTER IV

Special conditions for handling fishery products on shore

Section I

Conditions for fresh products

1. Where chilled, unpackaged products are not dispatched, prepared or processed immediately after reaching the establishment, they must be stored or displayed under ice in the establishment's cold room. Re-icing must be carried out as often as is necessary; the ice used, with or without salt, must be made from potable water or clean seawater and be stored under hygienic conditions in receptacles provided for the purpose; such receptacles must be kept clean and in a good state of repair. Prepacked fresh products must be chilled with ice or mechanical refrigeration plant creating similar temperature conditions.

2. If they are not carried out on board, operations such as heading and gutting must be carried out hygienically. The products must be washed thoroughly with potable water or clean seawater immediately after such operations.

3. Operations such as filleting and slicing must be carried out in such a way as to avoid the contamination or spoilage of fillets and slices, and in a place other than that used for heading and gutting operations. Fillets and slices must not remain on work tables any longer than is necessary for their preparation and must be protected from contamination by appropriate packaging. Fillets and slices to be sold fresh must be chilled as quickly as possible after preparation.

4. Guts and parts that may constitute a danger to public health must be separated from and removed from the vicinity of products intended for human consumption.

5. Containers used for the dispatch or storage of fresh fishery products must be designed in such a way as to ensure both their protection from contamination and their preservation under sufficiently hygienic conditions and, more particularly, they must provide adequate drainage of melt water.

6. Unless special facilities are provided for the continuous disposal of waste, the latter must be placed in leakproof, covered containers which are easy to clean and

disinfect. Waste must not be allowed to accumulate in working areas. It must be removed either continuously or as soon as the containers are full and at least at the end of each working day in the containers or to the premises referred to in paragraph 6 of section I of Chapter III. The containers, receptacles and/or premises set aside for waste must always be thoroughly cleaned and, if appropriate, disinfected after use. Waste stored there must not constitute a source of contamination for the establishment or of pollution of its surroundings.

Section II

Conditions for frozen products

1. Plants must have—

- (a) freezing equipment sufficiently powerful to achieve a rapid reduction in the temperature so that the temperature laid down in these Regulations can be obtained in the product;
- (b) freezing equipment sufficiently powerful to keep products in storage rooms at a temperature not exceeding those laid down in these Regulations, whatever the ambient temperature may be,

however, for technical reasons related to the method of freezing and to the handling of such products, for whole fish frozen in brine and intended for canning, higher temperatures than those laid down in these Regulations are acceptable, although they may not exceed -9°C .

2. Fresh products to be frozen or quick-frozen must comply with the requirements of section I of this Chapter.

3.—(1) Storage rooms must have a temperature recording device in a place where it can easily be read. The temperature sensor of the recorder must be located in the area furthest away from the cold store, ie where the temperature in the storage room is the highest.

(2) Temperature charts must be available for inspection by the food authority at least during the period in which the products are stored.

Section III

Conditions for thawing products

Establishments that carry out thawing operations must comply with the following requirements—

- 1.** fishery products must be thawed under hygienic conditions; their contamination must be avoided and there must be adequate drainage for any melt water produced. During thawing, the temperature of the products must not increase excessively;

2. after thawing, fishery products must be handled in accordance with the requirements of these Regulations. When they are prepared or processed, these operations must be carried out without delay. If they are put directly onto the market, particulars as to the thawed state of the fish must be clearly marked on the packaging in accordance with the United Kingdom Food Labelling Regulations 1996.

Section IV

Conditions for processed products

1. Fresh, frozen and thawed products used for processing must comply with the requirements set out in sections I, II or III of this Chapter.

2.—(1) Where the processing treatment is carried out to inhibit the development of pathogenic micro-organisms, or if it is a significant factor in the preservation of the product, the treatment must be a scientific process which produces safe food.

(2) The person responsible for an establishment must keep a register of the processing carried out. Depending on the type of process employed, details such as heating time and temperature, salt content, pH, water content, etc. must be monitored and controlled. Records must be kept at least for the expected storage life of the products and be available to the food authority.

3. For products which are preserved for a limited period by a treatment such as salting, smoking, drying or marinading, the appropriate conditions for storage must be clearly marked on the packaging, in accordance with the United Kingdom Food Labelling Regulations 1996.

Canning

4. In the case of fishery products which have been subjected to sterilisation in hermetically sealed containers—

- (a) the water used for the preparation of cans must be potable water;
- (b) the process used for the heat treatment must be appropriate, having regard to such major criteria as the heating time, temperature, filling, size of containers etc., a record of which must be kept; the heat treatment must be capable of destroying or inactivating pathogenic organisms and the spores of pathogenic micro-organisms. The heating equipment must be fitted with devices for verifying whether the containers have in fact undergone appropriate heat treatment. Potable water must be used to cool containers after heat treatment, without prejudice to the presence of any chemical additives used in accordance with good technological practice to prevent corrosion of the equipment and containers;
- (c) further checks must be carried out at random by the manufacturer to ensure that the processed products have undergone appropriate heat treatment, viz—

- incubation tests: incubation must be carried out at 37°C for seven days or at 35°C for ten days, or at any other equivalent combination;
 - microbiological examination of contents and containers in the establishment's laboratory or in a laboratory recognised by the food authority;
- (d) samples must be taken of production each day at predetermined levels, to ensure the efficacy of sealing or of any other method of hermetic closure. For that purpose, appropriate equipment must be available for the examination of cross-sections of the can-seams;
- (e) checks are carried out in order to ensure that containers are not damaged;
- (f) all containers which have undergone heat treatment under practically identical conditions must be given a batch identification mark, in accordance with the United Kingdom Food (Lot Marking) Regulations 1996(a).

Smoking

5. Smoking must be carried out in separate premises or a special place equipped, if necessary, with a ventilation system to prevent the smoke and heat from the combustion from affecting other premises or places where fishery products are prepared, processed or stored:

- (a) materials used to produce smoke for the smoking of fish must be stored away from the place of smoking and must be used in such a way that they do not contaminate the products;
- (b) materials used to produce smoke by burning wood that has been painted, varnished, glued or has undergone any chemical preservation treatment must be prohibited;
- (c) after smoking, products must be cooled rapidly to the temperature required for their preservation before being packaged.

Salting

6. As regards salting—

- (a) salting operations must take place in different premises and sufficiently removed from the premises where the other operations are carried out;
- (b) salt used in the treatment of fishery products must be clean and stored in such a way as to preclude contamination. It must not be re-used;
- (c) any container used for salting or brining must be constructed in such a way as to preclude contamination during the salting or brining process;

- (d) containers or areas used for salting or brining must be cleaned before use.

Cooked crustacean and molluscan shellfish

7. Crustaceans and molluscan shellfish must be cooked as follows—

- (a) any cooking must be followed by rapid cooling. Water used for this purpose must be potable water or clean seawater. If no other method of preservation is used, cooling must continue until the temperature approaching that of melting ice is reached;
- (b) shelling or shucking must be carried out under hygienic conditions avoiding the contamination of the product. Where such operations are done by hand, workers must pay particular attention to the washing of their hands and all working surfaces must be cleaned thoroughly. If machines are used, they must be cleaned at frequent intervals and disinfected after each working day. After shelling or shucking, cooked products must immediately be frozen or kept chilled at a temperature which will preclude the growth of pathogens, and be stored in appropriate premises;
- (c) every manufacturer must carry out microbiological checks at regular intervals, complying with the standards and other obligations set out in Commission Decision 93/51/EEC on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish, but for the purposes of that Commission Decision—
 - (i) the reference in article 3(1) to the requirements of article 6 of the Council Directive shall be treated as if it were a reference to regulation 8, and
 - (ii) the reference in the first indented paragraph of article 3(2) to competent authorities shall be treated as a reference to the food authority which approved the establishment in question.

Mechanically recovered fish flesh

8. The mechanical recovery of fish flesh must be carried out under the following conditions—

- (a) mechanical recovery of gutted fish must take place without undue delay after filleting, using raw materials free of guts. Where whole fish are used, they must be gutted and washed beforehand;
- (b) the machinery must be cleaned at frequent intervals and at least every two hours;
- (c) after recovery, mechanically recovered flesh must be frozen as quickly as possible or incorporated in a product intended for freezing or stabilising treatment.

Section V

Conditions concerning parasites

1.—(1) During production and before they are released for human consumption, fish and fishery products must be subject to a visual inspection for the purpose of detecting and removing any parasites that are visible.

(2) Fish or parts of fish which are obviously infested with parasites, and which are removed, must not be placed on the market for human consumption.

(3) This inspection must be carried out in accordance with the rules set out in the Commission Decision 93/140/EEC laying down the detailed rules relating to the visual inspection for the purpose of detecting parasites in fishery productions, but for the purposes of that Commission Decision—

- (a) the competent authority to which article 4 of that Decision refers is the food authority; and
- (b) the provisions referred to in that article (the provisions in accordance with which a sampling plan must be drawn up) are those specified in regulation 28(4).

2. The fish and fish products referred to in paragraph 1(1) of this section which are to be consumed as they are must, in addition, be subjected to freezing at a temperature of not more than -20°C in all parts of the product for not less than 24 hours. Products subjected to this freezing process must be either raw or finished.

3. Fish and fish products which are subject to the conditions in paragraph 2 are—

- (a) fish to be consumed raw or almost raw, eg raw herring 'maatje';
- (b) the following species, if they are to undergo a cold smoking process at which the internal temperature of the fish is less than 60°C —

- herring;
- mackerel;
- sprat;
- (wild) Atlantic and Pacific salmon;

- (c) marinated and/or salted herring where this process is insufficient to kill the larvae of nematodes.

4. Manufacturers must ensure that fish and fish products listed in paragraph 3, or the raw materials for use in their manufacture, are subjected to the treatment described in paragraph 2 prior to their release for consumption.

5. The fishery products listed in paragraph 3 must, when they are placed on the market, be accompanied by a document from the manufacturer stating the type of process they have undergone.

CHAPTER V

Health control and monitoring of production conditions

Section I

General Monitoring

Each food authority shall establish the following arrangements in order to establish whether the requirements laid down in the Regulations are complied with, and such arrangements will include, in particular—

1. a check on the conditions of landing and first sale;
2. an inspection at regular intervals of establishments and factory vessels (wherever registered) to check in particular—
 - (a) whether the conditions for approval (where applicable) are still fulfilled;
 - (b) whether the fishery products are handled correctly;
 - (c) the cleanliness of the premises, facilities and instruments and staff hygiene;
 - (d) whether any necessary identification marks are put on correctly;
3. a check on storage and transport conditions.

Section II

Special Checks

Organoleptic checks

1.—(1) Without prejudice to the derogations provided for by Council Regulation (EEC) No. 103/76(a) laying down common marketing standards for certain fresh or chilled fish, as amended(b), each batch of fishery products must be submitted for inspection by the food authority at the time of landing or before first sale to check whether they are fit for human consumption. This inspection comprises an organoleptic check carried out by sampling.

(a) OJ No. L 20, 28.1.76, p.29.

(b) The Regulation was last amended by Council Regulation (EEC) No. 1935/93.

(2) Fishery products complying, as far as the freshness criteria are concerned, with the common marketing standards already laid down pursuant to article 2 of Council Regulation (EEC) No. 2759/92(a) on the common organisation of the market in fishery products, as amended(b), are considered to fulfil the organoleptic requirements necessary for compliance with the provisions of these Regulations.

(3) The organoleptic examinations must be repeated after the first sale of fishery products, if it is found that the requirements of these Regulations have not been complied with or when considered necessary. After the first sale, fishery products must at least comply with the minimum freshness requirements of Regulation (EEC) No. 3687/91, as amended.

(4) If the organoleptic examination reveals that the fishery products are not fit for human consumption, measures must be taken to withdraw them from the market and denature in such a way that they cannot be re-used for human consumption.

(5) If the organoleptic examination reveals any doubt as to the freshness of the fishery products, use may be made of chemical checks or microbiological analysis.

Parasite checks

2.—(1) Before they are released for human consumption, fish and fishery products must be subject to a visual inspection on behalf of the food authority, by way of sample, for the purpose of detecting any parasites that are visible.

(2) Fish or parts of fish which are obviously infested with parasites must not be placed on the market for human consumption.

Chemical checks

3A. When chemical checks are to be carried out by the food authority samples must be taken and subjected to laboratory analysis for the control of the following parameters—

(a) TVB-N (Total Volatile Basic-Nitrogen), in respect of which—

(i) the following TVB-N limits must not be exceeded—

— 25 milligrams of nitrogen per 100 grams of flesh for the following species:

Sebastes spp.;
Helicolenus dactylopterus;
Sebastichthys capensis;

— 30 milligrams of nitrogen per 100 grams of flesh for the following species:

all species belonging to the Pleuronectidae family (with the exception of halibut: Hippoglossus spp.);

(a) OJ No. L 388, 31.12.92, p.10.

(b) The Regulation was last amended by Council Regulation (EC) No. 3318/94 (OJ No. L 350, 31.12.94, p.15).

- 35 milligrams of nitrogen per 100 milligrams of flesh for the following species:
 - Salmo salar;
 - species belonging to the Merlucciidae family;
 - species belonging to the Gadidae family;
- (ii) the reference method to be used for checking the TVB-N limit is the method involving distillation of an extract deproteinized by perchloric acid as set out in Annexes II and III of Commission Decision 95/149/EC of 8th March 1995(a) ("the Decision") read together with article 3 of the Decision;
- (iii) the routine methods which may be used to check the TVB-N limit are those specified in article 2(3) of the Decision;
- (iv) the sample must consist of about 100 milligrams of flesh, taken from at least 3 different points and mixed together by grinding;
- (b) TMA-N (Trimethylamine-Nitrogen);
- (c) Histamine, in respect of which—
 - (i) nine samples must be taken from each batch; these must fulfil the following requirements—
 - the mean value must not exceed 100 parts per million ("ppm");
 - two samples may have a value of more than 100 ppm but less than 200 ppm;
 - no sample may have a value exceeding 200 ppm.
 - (ii) these limits apply only to fish species of the following families: Scombridae, Clupeidae, Engraulidae and Coryphaenidae; however, fish belonging to these families which have undergone enzyme ripening treatment in brine may have higher histamine levels but not more than twice the above values; examinations must be carried out in accordance with reliable, scientifically recognised methods, such as high-performance liquid chromatography (HPLC).

Contaminants present in the aquatic environment

3B.(1) Without prejudice to the Community rules concerning water protection and management, and in particular those concerning pollution of the aquatic environment, fishery products must not contain in their edible parts contaminants present in the aquatic environment such as heavy metals and organochlorinated substances at such a level that the calculated dietary intake exceeds the acceptable daily or weekly intake for humans.

(a) OJ No. L 97, 29.4.95, p.84.

(2) The food authority shall establish a monitoring system to check the levels of such contamination of fishery products.

Microbiological analyses

4.—(1) Subject to sub-paragraph (2), the microbiological standards applicable to the production of cooked crustaceans and molluscan shellfish are those set out in Commission Decision 93/51/EEC on the microbiological criteria applicable to the production of cooked crustaceans and molluscan shellfish.

(2) For the purposes of sub-paragraph (1), the reference in article 2 of Commission Decision 93/51/EEC to a processing plant shall be treated as if it were a reference to an approved establishment or factory vessel.

5.—(1) The sampling programme to be established in accordance with article 3 of Commission Decision 93/51/EEC, as provided for in—

(a) the reference in article 3(1) of Commission Decision 93/51/EEC to the requirements of article 6 of Directive 91/493/EEC shall be treated as if it were a reference to the requirements of regulation 28; and

(b) the reference in the first indented paragraph of article 3(2) of that Commission Decision of competent authorities shall be treated as if it were a reference to the food authority mentioned in sub-paragraph (1).

CHAPTER VI

Packaging

1. Packaging must be carried out under satisfactory conditions of hygiene, to preclude contamination of the fishery products.

2. Packaging materials and products liable to enter into contact with fishery products must comply with all the rules of hygiene, and in particular—

- they must not be such as to impair the organoleptic characteristics of the fishery product;
- they must not be capable of transmitting to the fishery products substances harmful to human health;
- they must be strong enough to protect the fishery products adequately.

3. With the exception of certain containers made of impervious, smooth and corrosion-resistant material which are easy to clean and disinfect, which may be re-used after cleaning and disinfecting, packaging materials may not be re-used. Packaging materials used for fresh fishery products which are held under ice must provide adequate drainage for melt water.

4. Unused packaging materials must be stored in places away from the production area and be protected from dust and contamination.

CHAPTER VII

Identification marks

Part I

Products prepared on or after 31st July 1998

1. This Part of this Chapter shall apply to all products other than those which were prepared before these Regulations came into force and in respect of which the conditions set out in Part II of this Chapter are satisfied.

2.—(1) It must be possible to trace for inspection purposes the establishment of dispatch of consignments of fishery products, by means either of the labelling or of the accompanying documents. For that purpose, the following information must appear on the packaging or, in the case of a non-packaged product, in the accompanying documents—

- the country of dispatch, which shall be written out in full as “FALKLAND ISLANDS”; and
- identification of the approved fishery products establishment or approved factory vessel by its official approval number from which the products were dispatched.

(2) All letters and figures must be fully legible and grouped together on the packaging in a place where they are visible from the outside without any need to open the packaging.

3.—(1) It must also be possible, in the case of frozen fishery products to ascertain when those products underwent a freezing process. For that purpose, information as to the month and year that frozen fishery products first underwent a freezing process must be marked on the packaging of frozen fishery products or, in the case of non-packaged product, or where it is not reasonably practicable to mark the information on packaging, must be included with the accompanying documents.

(2) All letters and figures must be fully legible and, where marked on packaging, grouped together on the packaging in a place where they are visible from the outside without any need to open the packaging.

Part II

Products prepared before 31st July 1998

1. This Part of this Chapter applies to products which were prepared before these Regulations came into force and in respect of which the conditions set out in Part I of this Chapter are not satisfied, but only if the conditions set out in this Part of this Chapter are satisfied in relation to those products.

2. It must be possible to trace for inspection purposes the establishment of dispatch of consignments of fishery products, by means of either labelling or the accompanying documents. For that purpose, in respect of each consignment of fishery

products the following information must appear on the packaging or in the accompanying documents—

- the country of dispatch;
- identification of the approved fishery products establishment or approved factory vessel of dispatch by its approval number.

CHAPTER VIII

Storage and transport

1. Fishery products must, during storage and transport, be kept at the temperatures laid down in these Regulations, and in particular—

- (a) fresh or thawed fishery products and cooked and chilled crustacean and molluscan shellfish products must be kept at a temperature approaching that of melting ice;
- (b) frozen fishery products, with the exception of frozen fish in brine intended for the manufacture of canned foods, must be kept at an even temperature of -18°C or less in all parts of the product, after temperature stabilisation, and allowing for the possibility of brief upward fluctuations of not more than 3°C , during transport.

2. Where frozen fishery products are transported from a cold storage plant to an approved establishment to be thawed on arrival for the purposes of either preparation or processing and where the distance to be covered does not exceed 50 km or, if the distance is greater, the anticipated duration of the journey is less than one hour, the food authority may grant a derogation from the conditions laid down in paragraph 1(b).

3. Products may not be stored or transported with other products which may contaminate them or affect their hygiene, unless they are packaged in such a way as to provide satisfactory protection.

4. Vehicles used for the transport of fishery products must be constructed and equipped in such a way that the temperatures laid down in these regulations can be maintained throughout the period of transport. If ice is used to chill the fishery products, adequate drainage must be provided in order to ensure that water from melted ice does not stay in contact with the products. The inside surfaces of the means of transport must be finished in such a way that they do not adversely affect the fishery products. They must be smooth and easy to clean and disinfect.

5. Means of transport used for fishery products may not be used for transporting other products likely to impair or contaminate fishery products, except where the fishery products can be safeguarded against contamination by such transport being thoroughly cleaned and disinfected immediately prior to each occasion it is used for fishery products.

6. Fishery products may not be transported in a vehicle or container which is not clean or which should have been disinfected.
7. The transport conditions of fishery products to be placed on the market alive must not adversely affect the fishery products.

EXPLANATORY NOTE
(not forming part of the above Order)

These regulations prescribe the hygiene conditions which shall be observed in relation to those approved factory fishing vessels and shore based food establishments (including cold stores) upon or within which fish and fishery products are stored, processed or handled. Compliance with the provisions of the regulations (many of which are based upon European Community regulations) will enable Falkland Islands vessel and establishment operators to meet the minimum standards of hygiene prescribed by the European Commission for fish and fishery products which are imported into European Community member states.

SUBSIDIARY LEGISLATION

ELECTIONS

Legislative Council (Disqualification from Election) Order 1998

S. R. & O. No. 39 of 1998

Made: 20 July 1998

Published: 31 July 1998

Coming into force: on publication

IN EXERCISE of my powers under section 53(2A) of the Electoral Ordinance 1988(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation

1. This Order may be cited as the Legislative Council (Disqualification from Election) Order 1998.

Amendment of section 53(2)(i) of the Electoral Ordinance 1988

2. Paragraph (i) of section 53(2) is replaced by the following paragraph—

“(i) the offices of President of the Court of Appeal, Justice of the Court of Appeal, Chief Justice, Chief Executive, Government Secretary, Financial Secretary, Deputy Financial Secretary, Economic Adviser, Attorney General, Principal Crown Counsel, Senior Crown Counsel, Crown Counsel, Principal Auditor, Senior Magistrate, Registrar General, Courts Administrator, Chief Medical Officer, Deputy Chief Medical Officer, Director of Agriculture, Director of Civil Aviation, General Manager Falkland Islands Government Air Service, Director of Education, Director of Fisheries, Director of Human Resources, Deputy Director of Human Resources, Director of Mineral Resources, Director of Public Works, Deputy Director of Public Works, Chief Police Officer, Officer Commanding Falkland Islands Defence Force, Environmental Planning Officer, Superintendent of Posts and Telegraphs, Chief Fire Officer, Collector of Customs, Taxation Officer, Manager Falkland Islands Broadcasting Service and Clerk of the Councils”.

Made this 20th day of July 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order amends section 53(2)(i) of the Electoral Ordinance 1988 which specifies the offices in the Falkland Islands Civil Service the holders of which are disqualified from standing for election to the Legislative Council while they continue to hold the offices in question. The effect of the Order is to add the offices of Principal Crown Counsel, General Manager Falkland Islands Government Air Service, Officer Commanding Falkland Islands Defence Force, Environmental Planning Officer and Taxation Officer to the offices the holders of which are disqualified from election to the Legislative Council.

SUBSIDIARY LEGISLATION

REVISED EDITION OF THE LAWS

Commencement and Approval of Volume 1 Order 1998

S. R. & O. No. 40 of 1998

Made: 24 July 1998
Published: 31 July 1998
Coming into force: 1 August 1998

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Commencement and Approval of Volume 1 Order 1998 and shall come into force on 1st August 1998.

Coming into operation of Volume 1

2. Volume 1 of the Revised Edition of the Laws of the Falkland Islands is approved and comes into operation on 1st August 1998.

Made this 24th day of July 1998

R P Ralph
Governor

(a) No 17 of 1991 (as amended by No 2 of 1998)



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

11th August 1998

No. 20

The following is published in this Supplement -

Fishery Products (Hygiene) (Fees) Regulations 1998, (S.R. & O. No. 41 of 1998).

SUBSIDIARY LEGISLATION

FISHERY PRODUCTS

Fishery Products (Hygiene)(Fees) Regulations 1998

S. R. & O. No. 41 of 1998

Made: 7 August 1998

Published: 11 August 1998

Coming into force: upon publication

IN EXERCISE of my powers under section 5(1) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Fishery Products (Hygiene) (Fees) Regulations 1998 and shall come into force on publication in the *Gazette*.

Payment of fees

2. The fees specified in the second column of the Schedule to these Regulations shall be payable by an applicant upon an application of the type specified in the first column to the Schedule.

Made this 7th day of August 1998

R P Ralph
Governor

SCHEDULE

Application for an approval pursuant to section 3 of the Fishery Products (Hygiene) Ordinance 1998	£250
Application for a variation pursuant to section 5 of the Fishery Products (Hygiene) Ordinance 1998	£100

(a) No 7 of 1998



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

19th August 1998

No. 21

The following are published in this Supplement -

Commemorative Coins (World Wildlife Fund) Order 1998;
Co-operative Societies (Exemptions) Order 1998;
Registration of United Kingdom Patents (Amendment) Bill 1998;
Taxes (Amendment) Bill 1998.

SUBSIDIARY LEGISLATION

CURRENCY

Commemorative Coins (World Wildlife Fund) Order 1998

S. R. & O. No. 42 of 1998

Made: 10 August 1998

Published: 19 August 1998

Coming into force: 1 January 1998

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Commemorative Coins (World Wildlife Fund) Order 1998 and shall be deemed to have come into operation on 1 January 1998.

New coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge, and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 10th day of August 1998

R P Ralph
Governor

THE SCHEDULE

Specifications of coins authorised

		Silver Coin 1996	Cupro-nickel Coin 1997	Silver Coin 1998	Cupro-nickel Coin 1998
1.	Denomination	50p	50p	50p	50p
2.	Fineness	0.925	0.925	0.925	0.925
3.	Weight (grams)	28.28	28.28	28.28	28.28
4.	Diameter (mm)	38.61	38.61	38.61	38.61
5.	Quality	Proof	Uncirculated	Proof	Uncirculated
6.	Shape	Round	Round	Round	Round
7.	Edge	Milled	Milled	Milled	Milled
8.	Edition limit	15,000	Unlimited	15,000	Unlimited
9.	Tolerance or remedy	Variations from the standard weight, diameter and fineness specified above to be allowed of the amount permitted by the Royal Mint			
10.	Designs	<p>Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscription "QUEEN ELIZABETH II" to the left of the portrait, "FALKLAND ISLANDS" to the right of the portrait and "50 PENCE" below the portrait</p> <p>Reverse: The Silver Coin 1996 is a black browed albatross surrounded by the inscription "WWF CONSERVING NATURE" with "1996" above. The Cupro-nickel Coin 1997 is a black browed albatross surrounded by the inscription "WWF CONSERVING NATURE" with "1997" above. The Silver Coin 1998 is a Peale's Dolphin surrounded by the inscription "WWF CONSERVING NATURE" with "1998" above. The Cupro-nickel Coin 1998 is a Peale's Dolphin surrounded by the inscription "WWF CONSERVING NATURE" with "1998" above.</p>			

SUBSIDIARY LEGISLATION

CO-OPERATIVE SOCIETIES

Co-operative Societies (Exemptions) Order 1998

S. R. & O. No. 43 of 1998

Made: 10 August 1998

Published: 19 August 1998

Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 54 of the Co-operative Societies Ordinance 1985(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Co-operative Societies (Exemptions) Order 1998 and shall be deemed to have come into effect on 1st January 1986.

Interpretation

2. In this Order —

“the Ordinance” means the Co-operative Societies Ordinance 1985;

“the Rules Order” means the Co-operative Societies Rules Order 1986(b);

“professional auditor” means a person who is a member of the one or more of the following bodies, the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Association of Chartered Certified Accountants.

Exemption

3. Any registered society which delivers to the Registrar of Co-operative Societies a copy, signed by a professional auditor, of its accounts in respect of any period, audited by the auditor, is exempt in respect of that period (but not further or otherwise) from the provisions of section 35 of the Ordinance and from rules 67 and 68 of the Rules Order.

Made this 10th day of August 1998

R P Ralph
Governor

Registration of United Kingdom Patents (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Amendment of the Registration of United Kingdom Patents Ordinance (Cap 58)

**REGISTRATION OF UNITED KINGDOM PATENTS (AMENDMENT) BILL
1998**

A BILL

for

AN ORDINANCE

To make amendment to the Registration of United Kingdom Patents Ordinance in respect of fees.

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

Short title and commencement

1. This Ordinance may be cited as the Registration of United Kingdom Patents (Amendment) Ordinance 1998 and shall come into force upon publication in the *Gazette*.

Amendment of Registration of United Kingdom Patents Ordinance (Cap 58)

2. The Registration of United Kingdom Patents Ordinance is amended by deleting the words "A fee of one pound" in section 3(4) and replacing them with the words and figures "A fee of £100.00 or such greater fee as may be prescribed by regulations made by the Governor under this subsection".

Taxes (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title, commencement and interpretation
2. Amendment to section 30 of the Taxes Ordinance 1997
3. Tax relief for donations to charities
4. Amendment to section 140 of the Taxes Ordinance 1997
5. Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

TAXES (AMENDMENT) BILL 1998

A BILL

for

AN ORDINANCE

To make provision for certain donations to charity to qualify for tax relief.

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

Short title and commencement

1.—(1) This Ordinance may be cited as the Taxes (Amendment) Ordinance 1998

(2) Section 3 shall apply in relation to donations made on or after 1st January 1998 but, subject to that, this Ordinance shall come into force on publication in the *Gazette*.

(3) In this Ordinance “the 1997 Ordinance” means the Taxes Ordinance 1997^(a).

Amendment to section 30 of the Taxes Ordinance 1997

2.—(1) Section 30 of the 1997 Ordinance (which makes provision for the filing of accounts and submission of other information by companies) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) after “corporation tax year” there shall be inserted “shall deliver to the Commissioner”.

Tax relief for donations to charities

3.—(1) The following section shall be inserted in the 1997 Ordinance after section 57—

"Donations to charities"

57A.—(1) Subject to the following provisions of this section, in computing a person's chargeable income for any period there shall, on a claim being made in that behalf by that person, be deducted from his income the amount of any charitable donation which he has made in that period and which is not deductible under section 58(1) or 97(1).

(2) In this section—

(a) "a charitable donation" means a donation in money made to a registered charity;

(b) "a registered charity" means—

(i) any body which is registered as a charity under the Charities Act 1960(b) as it applies in the Falkland Islands; and

(ii) any body of persons or trust the name of which appears on the approved list of charities; and

(c) "the approved list of charities" means the list for the time being approved by the Governor in accordance with section 57B.

(3) A donation made to a body during the calendar year 1998 at a time when the body is not a registered charity shall not be deductible under this section unless the body becomes a registered charity before the end of that year.

(4) Subject to subsection (3), any donation made to a body after 31st December 1997 shall not be deductible under subsection (1) unless it is made at a time when the body is a registered charity.

(5) A donation of less than £50.00 shall not be deductible under subsection (1).

(6) A deduction under subsection (1) may only be made in computing a person's income after all other deductions and allowances (including loss relief) under this or any other Ordinance have been made, and a person's income shall not be reduced below zero by virtue of any such deduction.

(7) A person shall not be entitled under subsection (1) to deduct the amount of any charitable donation in computing his income for any period unless and until the Commissioner receives written evidence provided by the charity stating the total amount of the donations received in that period by that charity from that person.

Approved list of charities

57B.—(1) The approved list of charities referred to in section 57A(2)(b)(ii) is a list of eligible charities, prepared and approved in accordance with the following provisions of this section.

(2) The Attorney General shall prepare a list of eligible charities and submit the list to the Governor for his approval; and the list as so approved and any approved amendments to the list shall be published in the *Gazette*.

(3) In this section "eligible charity" means any body of persons or trust established for charitable purposes only which is not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and is not required to be so registered.

(4) Any eligible charity may apply to be included in the list approved under subsection (1), and any person may apply for the name of any eligible charity to be included in the list.

(5) The provisions of this section shall not be read as imposing any obligation on the Attorney General to include the name of any charity on the list in the absence of any application in that respect.

(6) The burden of establishing that a body as respects which an application has been made for its name to be included in the approved list is an eligible charity shall be on the person making the application.

(7) The Attorney General may from time to time submit amendments to the approved list to the Governor for his approval, and any reference in this section or section 57A to the approved list of charities is a reference to that list as so amended."

Amendment to section 140 of the Taxes Ordinance 1997

4.—(1) Section 140 of the 1997 Ordinance (which contains definitions relevant to ring fence trades and other petroleum related activities) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) in paragraph (b) of the definition of "petroleum extraction activities", for "by a company" there shall be substituted "for a company".

Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

5.—(1) Paragraph 14 of Schedule 2 to the 1997 Ordinance (which defines "reorganisation" for the purposes of that Schedule) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In sub-paragraph (2)(a) after "allotted shares in" there shall be inserted "or debentures".



THE FALKLAND ISLANDS GAZETTE Supplement

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No.22

The following are published in this Supplement -

The Federal Republic of Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1998;

The Federal Republic of Yugoslavia (United Nations Sanctions) Order 1998;

The United Nations Arms Embargoes (Dependent Territories) (Amendment) (Sierra Leone) Order 1998;

The Angola (United Nations Sanctions) (Dependent Territories) Order 1998.

1998 No. 1064

UNITED NATIONS

The Federal Republic of Yugoslavia
(United Nations Sanctions) (Dependent Territories)
Order 1998*Made* - - - - - 22nd April 1998*Laid before Parliament* 23rd April 1998*Coming into force* 24th April 1998

At the Court at Windsor Castle, the 22nd day of April 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 31st March 1998, 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 Federal Republic of Yugoslavia:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Federal Republic of Yugoslavia (United Nations Sanctions) (Dependent Territories) Order 1998 and shall come into force on 24th April 1998.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 31st March 1998, this Order shall cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official Gazette of the Territory.

(3) (a) This Order shall extend to the territories listed in Schedule 3 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.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"arms" includes conventional, chemical, biological and nuclear weapons and ballistic missiles;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"export" includes shipment as stores;

"exportation" in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"Governor" means the Governor or other officer administering the Government of the Territory;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"person connected with the Federal Republic of Yugoslavia" means—

- (a) the Government of the Federal Republic of Yugoslavia;
- (b) any other person in, or resident in, the Federal Republic of Yugoslavia;
- (c) any body incorporated or constituted under the law of the Federal Republic of Yugoslavia;
- (d) any body, wherever incorporated or constituted, which is controlled by any of the persons mentioned in sub-paragraphs (a) to (c) above; or
- (e) any person acting on behalf of any of the persons mentioned in sub-paragraphs (a) to (d) above;

"ship" has the meaning it bears in section 742 of the Merchant Shipping Act 1894(a);

"shipment" includes loading into an aircraft;

"vehicle" means land transport vehicle and includes a barge.

Supply of certain goods to the Federal Republic of Yugoslavia

3.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall:

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any goods specified in Schedule 1 to this Order or to the order of any person connected with the Federal Republic of Yugoslavia.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of certain goods to the Federal Republic of Yugoslavia

4. Except under the authority of a licence granted by the Governor under this article, the goods specified in Schedule 1 to this Order are prohibited to be exported from the Territory to any destination in the Federal Republic of Yugoslavia, or to any destination for the purpose of delivery directly or indirectly, to or to the order of a person connected with the Federal Republic of Yugoslavia.

(a) 1894 c.60.

Carriage of goods destined for the Federal Republic of Yugoslavia

5.—(1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of any goods specified in Schedule 1 to this Order if the carriage is, or forms part of, carriage from any place outside the Federal Republic of Yugoslavia to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) 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 vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside the Federal Republic of Yugoslavia to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the Territory of the goods concerned to the Federal Republic of Yugoslavia was authorised by a licence granted by the Governor under article 3 or article 4 of this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Application of Article 3

6.—(1) The provisions of article 3 of this Order shall apply to any person within the Territory and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, 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) Subject to the provisions of paragraph (3) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person connected with the Federal Republic of Yugoslavia.

Powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as he may allow proof to his satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order; or

- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

9.—(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not he has with him any goods specified in Schedule 1 to this Order which are destined for the Federal Republic of Yugoslavia or for delivery, directly or indirectly, to any person connected with the Federal Republic of Yugoslavia; and

- (b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships, aircraft and vehicles

10.—(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, has reason to suspect that any ship registered in the United Kingdom or in any territory to which this Order extends has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this 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. 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 paragraph (1) of article 5 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. He may either direct the master to refrain, except with the consent of any authorised officer, from landing at any port specified by

the officer any part of the ship's cargo that is so specified or 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 Territory, to cause her to remain there until the master is notified by an 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.

(2) Without prejudice to the provisions of paragraph (10) 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 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 territory to which this Order extends or any aircraft for the time being chartered to any person specified in paragraph (2) of article 5 of this Order has been or is being or is about to be used in contravention of paragraph (1) of that article, the Governor or that authorised person may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify. That authorised person 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. If the aircraft is then in the Territory, any such authorised person (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.

(4) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised 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 that authorised person 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) Where the Governor or any person authorised by him for that purpose either generally or in a particular case has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, the Governor or that authorised person may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify. That authorised person may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force. Any such authorised person (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further request the operator or driver to cause the vehicle to remain in the Territory until notified that the vehicle may depart.

(6) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid has reason to suspect that any request that a vehicle should remain in the Territory that has been made under paragraph (5) of this article may not be complied with, that authorised person 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 vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Governor to exercise any power for the purposes of paragraph (3), (4), (5) or (6) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) 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 or under or in the service of the Government of any territory to which this Order extends; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to the Federal Republic of Yugoslavia 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 under this Order or, with respect to any of the matters regulated by this Order, for an offence under 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 territory to which this Order extends.

(9) 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.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under 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 an aircraft or an operator or driver of a vehicle who—
 - (i) 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
 - (ii) 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 or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) 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, aircraft or vehicles.

Obtaining of evidence and information

11. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, 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 evidence of the commission of an offence under this Order, or, with respect to any of the matters regulated by this Order, of an offence relating to customs or of an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends.

Penalties and Proceedings

12.—(1) Any person guilty of an offence under article 5(3) or article 6(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 10(10)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 2 to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(1) or (2) or article 9(3) of 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;
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 7 or article 9(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 10(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 2 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Governor

13.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 2 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

14.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Articles 3 & 4

Any arms and related matériel (including weapons, ammunition, military vehicles, military equipment and spare parts for any of the foregoing).

SCHEDULE 2

Article 11

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 him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (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 of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by any constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs or an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer, 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, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

Provided that no persons shall in pursuance of any warrant issued under this paragraph be searched except by a person of the same sex.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by 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 be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or 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) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 the Federal Republic of Yugoslavia 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 under this Order (whether in the Territory or any other territory to which this Order extends) or, with respect to any of the matters regulated by this Order, for an offence under 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 territory to which this Order extends.

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 to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

SCHEDULE 3

Article 1(3)(a)

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
Montserrat
Pitcairn
St Helena and its dependencies
Sovereign Base Areas of Akrotiri and Dhekelia
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, imposes restrictions pursuant to a decision of the Security Council of the United Nations in Resolution 1160 of 31st March 1998 on the export to the Federal Republic of Yugoslavia and the supply to persons in the Federal Republic of Yugoslavia of arms and related matériel, and petroleum and petroleum products. It restricts certain related activities including the carriage of prohibited goods in ships, aircraft and vehicles.

S T A T U T O R Y I N S T R U M E N T S

1998 No. 1065

UNITED NATIONS

The Federal Republic of Yugoslavia
(United Nations Sanctions) Order 1998

Made - - - - - 22nd April 1998

Laid before Parliament 23rd April 1998

Coming into force 24th April 1998

At the Court at Windsor Castle, the 22nd day of April 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 31st March 1998, 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 Federal Republic of Yugoslavia:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Federal Republic of Yugoslavia (United Nations Sanctions) Order 1998 and shall come into force on 24th April 1998.

(2) If, after the making of this Order, the Security Council of the United Nations takes a decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 31st March 1998, this Order shall cease to have effect or its operation shall be suspended, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the United Kingdom.

Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“body corporate” includes a Scottish partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“export” includes shipment as stores;

“exportation” in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the United Kingdom of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“person connected with the Federal Republic of Yugoslavia” means—

- (a) the Government of the Federal Republic of Yugoslavia;
- (b) any other person in, or resident in, the Federal Republic of Yugoslavia;
- (c) any body incorporated or constituted under the law of the Federal Republic of Yugoslavia;
- (d) any body, wherever incorporated or constituted, which is controlled by any of the persons mentioned in sub-paragraphs (a) to (c) above; or
- (e) any person acting on behalf of any of the persons mentioned in sub-paragraphs (a) to (d) above;

“ship” has the meaning it bears in section 313 of the Merchant Shipping Act 1995(a);

“shipment” (and cognate expressions) and “stores” shall have the meanings they bear in the Customs and Excise Management Act 1979(b);

“specified goods” means the goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(c);

“vehicle” means land transport vehicle.

Supply of certain goods to the Federal Republic of Yugoslavia

3.—(1) Except under the authority of a licence granted by the Secretary of State under this article, no person shall:

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any specified goods to or to the order of any person connected with the Federal Republic of Yugoslavia.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Secretary of State under this article.

Exportation of certain goods to the Federal Republic of Yugoslavia

4. Except under the authority of a licence granted by the Secretary of State under this article, the specified goods are prohibited to be exported from the United Kingdom to any destination in the Federal Republic of Yugoslavia, or to any destination for the purpose of delivery directly or indirectly, to or to the order of a person connected with the Federal Republic of Yugoslavia.

Carriage of goods destined for the Federal Republic of Yugoslavia

5.—(1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Secretary of State under this article, no ship or aircraft to which this article applies, and no vehicle within the United Kingdom, shall be used for the carriage of any specified goods if the carriage is, or forms part of, carriage from any place outside the Federal Republic of Yugoslavia, to any destination therein.

(a) 1995 c.21.

(b) 1979 c.2.

(c) S.I. 1994/1191; relevant amending Orders are S.I. 1996/2663, S.I. 1997/1008, and S.I. 1997/2758.

(2) This article applies to ships registered in the United Kingdom, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person; or
- (b) a body incorporated or constituted under the law of the United Kingdom.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article, then—

- (a) in the case of a ship registered in the United Kingdom or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) 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 vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside the Federal Republic of Yugoslavia to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to the Federal Republic of Yugoslavia was authorised by a licence granted by the Secretary of State under article 3 or article 4 of this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Application of Article 3

6.—(1) The provisions of article 3 of this Order shall apply to any person within the United Kingdom and to any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person; or
- (b) is a body incorporated or constituted under the law of any part of the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 3 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person connected with the Federal Republic of Yugoslavia.

Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under this Order; or
- (ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Secretary of State under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Secretary of State after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

9.—(1) Any person who is about to leave the United Kingdom shall if he is required to do so by an officer of the Customs and Excise—

(a) declare whether or not he has with him any specified goods which are destined for the Federal Republic of Yugoslavia or for delivery, directly or indirectly, to any person connected with the Federal Republic of Yugoslavia; and

(b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships, aircraft and vehicles

10.—(1) Where any authorised officer, that is to say, any such officer as is referred to in section 284(1) of the Merchant Shipping Act 1995, has reason to suspect that any ship registered in the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this 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. 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 paragraph (1) of article 5 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. He may either direct the master to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or 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, to cause her to remain there until the master is notified by an 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.

(2) Without prejudice to the provisions of paragraph (10) 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 any officer of Customs and Excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any aircraft registered in the United Kingdom or any aircraft for the time being chartered to any person specified in paragraph (2) of article 5 of this Order has been or is being or is about to be used in contravention of paragraph (1) of that article, 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 his inspection such documents so relating and such cargo as he may specify. 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. If the aircraft is then in the United Kingdom, 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 United Kingdom until notified that the aircraft may depart.

(4) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid has reason to suspect that any request that an aircraft should remain in the United Kingdom that has been made under paragraph (3) of this article may not be complied with, or any such officer as aforesaid, 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) Where any officer of Customs and Excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any vehicle in the United Kingdom has been or is being or is about to be used in contravention of paragraph (1) of article 5 of this Order, that authorised person or that officer may request the operator and driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify. That authorised person or that officer may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force. Any such authorised person or such officer (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of such a request) may further request the operator or driver to cause the vehicle to remain in the United Kingdom until notified that the vehicle may depart.

(6) Without prejudice to the provisions of paragraph (10) of this article, where any person authorised as aforesaid or any such officer as aforesaid has reason to suspect that any request that a vehicle should remain in the United Kingdom that has been made under paragraph (5) of this article may not be complied with, 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 vehicle;
- (b) detain, or authorise the detention of, that vehicle; and
- (c) use, or authorise the use of, reasonable force.

(7) A person authorised by the Secretary of State to exercise any power for the purposes of paragraph (3), (4), (5) or (6) of this article shall, if requested to do so, produce evidence of his authority before exercising that power.

(8) 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; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to the Federal Republic of Yugoslavia 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 under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

(9) 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.

(10) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under 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 an aircraft or an operator or driver of a vehicle who—
 - (i) 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
 - (ii) 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 or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this article.

(11) 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, aircraft or vehicles.

Obtaining of evidence and information

11. The provisions of the Schedule to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise, 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 Secretary of State or the Commissioners of Customs and Excise, of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

Penalties and Proceedings

12.—(1) Any person guilty of an offence under article 5(3) or article 6(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person guilty of an offence under article 10(10)(b)(ii) of this Order or paragraph 5(b) or (d) of the Schedule to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(3) Any person guilty of an offence under article 8(1) or (2) or article 9(3) of 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;
- (b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under article 7 or article 9(2) of this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Any person guilty of an offence under article 10(10)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of the Schedule to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980(a), a summary offence under this Order may be tried by a magistrates' court in England and Wales if any information is laid at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(8) Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975(b) summary proceedings in Scotland for an offence under this Order may be commenced at any time within 12 months after the date on which evidence sufficient in

(a) 1980 c.43.

(b) 1975 c.21.

the Lord Advocate's opinion to justify the proceedings came to his knowledge: and subsection (3) of that section applies for the purpose of this paragraph as it applies for the purpose of that section:

Provided that such proceedings shall not be commenced after the expiration of 3 years from the commission of the offence.

(9) Notwithstanding anything in article 19 of the Magistrates' Courts (Northern Ireland) Order 1981(a), summary proceedings for an offence under this order in Northern Ireland may be instituted at any time within 3 years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(10) For the purposes of this article:

- (a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraphs (7), (8) and (9) above came to his knowledge shall be conclusive evidence of that fact; and
- (b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(11) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(12) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984(b) shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(13) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989(c) shall apply to the offences under this Order that are not arrestable offences by virtue of a term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(14) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Secretary of State

13.—(1) The Secretary of State may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under the Schedule 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 Secretary of State 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.

N. H. Nicholls
Clerk of the Privy Council

(a) S.I. 1981/1675 (N.I. 26).

(b) 1984 c.60.

(c) S.I. 1989/1341 (N.I. 12).

SCHEDULE

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State (or any person authorised by him for that purpose either generally or in a particular case) or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (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 of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable or any officer of Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable or officer of Customs and Excise lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before or on exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) 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 subparagraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or 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
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 the Federal Republic of Yugoslavia 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 under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

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 to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, imposes restrictions pursuant to a decision of the Security Council of the United Nations in Resolution 1160 of 31st March 1998 on the export to the Federal Republic of Yugoslavia and the supply to persons in the Federal Republic of Yugoslavia of arms and related matériel, and petroleum and petroleum products. It restricts certain related activities including the carriage of prohibited goods in ships, aircraft and vehicles.

S T A T U T O R Y I N S T R U M E N T S

1998 No. 1502

UNITED NATIONS

The United Nations Arms Embargoes
(Dependent Territories) (Amendment) (Sierra Leone)
Order 1998

<i>Made</i>	24th June 1998
<i>Laid before Parliament</i>	25th June 1998
<i>Coming into force</i>	26th June 1998

At the Court at Buckingham Palace, the 24th day of June 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by resolution adopted on 5th June 1998, 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 Sierra Leone:

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

1.—(1) This Order may be cited as the United Nations Arms Embargoes (Dependent Territories) (Amendment) (Sierra Leone) Order 1998 and shall come into force on 26th June 1998.

(2) In this Order “the Order” means the United Nations Arms Embargoes (Dependent Territories) Order 1995(b).

Amendment of Article 2 of the Order

2. In the definition of “prohibited destination” in Article 2 of the Order the words “or Sierra Leone” shall be inserted after the words “or Rwanda”.

Amendment of Article 9(8) of, and paragraph 4 of Schedule 3 to, the Order

3. In paragraph (8)(c) of Article 9 of the Order and in paragraph 4(c) of Schedule 3 to the Order the words “or Sierra Leone” shall be inserted after the word “Rwanda”.

(a) 1946 c.45.

(b) S.I. 1995/1032, as amended by S.I. 1997/272.

**Revocation of the Sierra Leone (United Nations Sanctions) (Dependent Territories)
Order 1997**

4. The Sierra Leone (United Nations Sanctions) (Dependent Territories) Order 1997^(a) is revoked.

N. H. Nicholls
Clerk of the Privy Council

^(a) S.I. 1997/2593.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the United Nations Act 1946, amends the United Nations Arms Embargoes (Dependent Territories) Order 1995 by imposing restrictions on the delivery and supply of arms and related materiel to Sierra Leone, pursuant to a decision of the Security Council of the United Nations in Resolution No. 1171 of 5th June 1998, which terminated earlier restrictions related to Sierra Leone and re-imposed more limited restrictions. The Order also revokes the Sierra Leone (United Nations Sanctions) (Dependent Territories) Order 1997.

STATUTORY INSTRUMENTS

1998 No. 1753

UNITED NATIONS

The Angola (United Nations Sanctions)
(Dependent Territories) Order 1998

Made - - - - - 21st July 1998

Laid before Parliament 22nd July 1998

Coming into force 23rd July 1998

At the Court at Buckingham Palace, the 21st day of July 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 12th June 1998, 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 Angola:

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, commencement, operation and extent

1.—(1) This Order may be cited as the Angola (United Nations Sanctions) (Dependent Territories) Order 1998 and shall come into force on 23rd July 1998.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or postponing or suspending the operation of the resolution adopted by it on 12th June 1998, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(3) (a) This Order shall extend to the territories listed in Schedule 3 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.

Interpretation

2.—(1) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"export" includes a shipment as stores;

"exportation" in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“Governor” means the Governor or other officer administering the government of the Territory;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“restricted goods” means the goods falling within the Headings and Sub-headings of the Combined Nomenclature of the European Community established by Annex 1 to the Council Regulation (EEC) No. 2658/87, as amended^(a), listed in Schedule 1 to this Order;

“restricted services” means ground or waterborne transportation services;

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

“shipment” includes loading into an aircraft;

“stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a vessel or aircraft as merchandise for sale by retail to persons carried therein;

“vehicle” means land transport vehicle.

(2) In this Order references to an offence under any enactment relating to customs includes an offence against any provision of law with respect to similar matters that is for the time being in force in any territory to which this Order extends.

Supply of restricted goods

3.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall:

- (a) supply or deliver; or
- (b) agree to supply or deliver

restricted goods to any person in Angola.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

Supply of restricted services

4.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall:

- (i) supply; or
- (ii) agree to supply

restricted services to any person in Angola.

(2) Nothing in paragraph (1)(b) of this article shall apply where the supply of the services to the person concerned is authorised by a licence granted by the Governor under this article.

Exportation of restricted goods to Angola

5. Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Angola, or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Angola.

^(a) OJ No. L256, 7.9.87, p.1, Annex 1 to that Regulation was substituted by Commission Regulation (EC) No. 2086/97, OJ No. L312, 14.11.97, p.1, and there have also been amendments to Annex 1 which are not relevant to this Order.

Use of ships, aircraft and vehicles: restricted goods and services

6.—(1) Without prejudice to the generality of article 3 of this Order, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used

- (i) for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Angola to any destination therein; or
- (ii) for the supply of any restricted services to any person in Angola.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject or a British protected person; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) 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 vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that—

- (i) the carriage of the goods in question was, or formed part of, carriage from any place outside Angola to any destination therein; or
- (ii) the supply of services in question was to a person in Angola,

as the case may be.

(4) Nothing in paragraph (1) of this article shall apply where—

- (i) the supply or delivery or exportation from the Territory of the goods concerned to Angola was authorised by a licence granted by the Governor under article 3 or article 5 of this Order; or
- (ii) the supply of the services concerned to Angola was authorised by a licence granted by the Governor under article 4 of this Order.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

Importation of diamonds from Angola

7. Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly to the Territory any diamond exported from Angola on or after 1st July 1998.

Assets of UNITA or persons connected with UNITA

8.—(1) Except with permission granted by or on behalf of the Governor, no person shall—

- (a) make any payment, or part with any gold, securities or investments; or
- (b) make any change in the persons to whose credit any sum is to stand or to whose order any gold, securities or investments are to be held,

where any such action is action to which this article applies.

(2) This article applies to any action which is likely to make available to or for the benefit of UNITA or any person connected with UNITA any funds or any other financial assets or resources, whether by their removal from the Territory or otherwise,

or otherwise to result in the remittance or transfer of funds or other such assets or resources to or for the benefit of UNITA or any person connected with UNITA.

(3) Any permission granted by or on behalf of the Governor under this article may be granted either absolutely or subject to conditions and may be varied or revoked at any time by or on behalf of the Governor.

(4) In this article:

(a) "person connected with UNITA" means any of the following persons:

(i) any senior official of UNITA; or

(ii) any adult member of the immediate family of any senior UNITA official; or

(iii) any person or body acting on behalf of a person described in sub-paragraph (i) or (ii);

(b) "UNITA" means the Uniao Nacional para a Independencia Total de Angola.

Application of articles 3, 4 and 8

9.—(1) The provisions of articles 3, 4 and 8 of this Order shall apply to any person within the Territory and to any person elsewhere who:

(a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, or a British protected person; or

(b) is a body incorporated or constituted under the law of any part of the Territory.

(2) Subject to the provisions of paragraphs (3) and (4) of this article, any person specified in paragraph (1) of this article who contravenes the provisions of article 3, 4 or 8 of this Order shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of article 4 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Angola.

(4) In the case of proceedings for an offence in contravention of article 4 of this Order it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the services in question were to be supplied to a person in Angola.

Powers to demand evidence of destination which goods reach

10. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

(i) a destination to which they were authorised to be exported by a licence granted under this Order; or

(ii) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Offences in connection with applications for licences, conditions attaching to licences, etc.

11.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular or recklessly makes any statement or furnishes any document or information which is false in a material particular he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

Declaration as to goods: powers of search

12.—(1) Any person who is about to leave the Territory shall if he is required to do so by an officer authorised for the purpose by the Governor—

(a) declare whether or not he has with him any restricted goods which are destined for Angola or for delivery, directly or indirectly, to or to the order of any person in Angola; and

(b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

Investigation, etc. of suspected ships

13.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 of the Order applies has been or is being or is about to be used in contravention of paragraph (1) of either of those articles—

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6 of this Order any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b) above), 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, may take the further action specified in paragraph (2) below.

(2) The further action referred to in paragraph (1)(c) of this article is either—

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps:

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii) above; and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 16(3) of this Order, where—

- (a) a master refuses or fails to comply with a request made under paragraph (2)(b) of this article; or
- (b) an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) In this article “authorised officer” means

- (a) any commissioned naval or military officer,
- (b) any British consular officer,
- (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected aircraft

14.—(1) Where the Governor or any authorised person has reason to suspect that any aircraft to which article 6 of this Order applies has been or is being or is about to be used in contravention of paragraph (1) of either of those articles—

- (a) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) if the aircraft is then in the Territory, the Governor or authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a) above) further request the charterer, operator and the commander or any of them to cause the aircraft and its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provision of article 16(3) of this Order, where the Governor or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Investigation, etc. of suspected vehicles

15.—(1) Where the Governor or any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6 or 8 of this Order—

- (a) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;

- (b) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) the Governor or authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a) above) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 16(3) of this Order, where the Governor or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

Provisions supplementary to articles 13 to 15

16.—(1) No information furnished or document produced by any person in pursuance of a request made under article 13, 14 or 15 of this Order 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 or another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under article 13, 14 or 15 of this Order 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;
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Angola 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 under this Order or, with respect of any of the matters regulated by this Order, for an offence under any enactment relating to customs.

(2) Any power conferred by article 13, 14 or 15 of this Order to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 13(2)(a) of this Order;
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 13, 14 or 15 of this Order by any person empowered to make it, or
 - (ii) 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 or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 13, 14 or 15 of this Order.

(4) Nothing in articles 13 to 16 of this Order shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

Obtaining of evidence and information

17. The provisions of Schedule 2 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, 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 evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence relating to customs.

Penalties and Proceedings

18.—(1) Any person guilty of an offence under article 6(3) or 9(2) of this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person guilty of an offence under article 16(3)(b)(ii) of this Order or paragraph 5(b) or (d) of Schedule 2 to this Order shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 11(1) or (2), or article 12(3) of 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;
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 10 or article 12(2) of this Order shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(5) Any person guilty of an offence under article 16(3)(a), (b)(i) or (c) of this Order or paragraph 5(a) or (c) of Schedule 2 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other

similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Governor

19.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 2 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

20. Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done 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 corporate incorporated or constituted under the law of, that country or place, provided that it is so done under the authority of a licence, 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.

21. The Angola (United Nations Sanctions) (Dependent Territories) Order 1997(a) is hereby amended by deleting:

- (i) in Article 3(1), 3(2) and 4 the words "Secretary of State" and substituting therefor the word "Governor";
- (ii) in Article 4 and 14(6) the words "United Kingdom" and substituting therefor the word "Territory".

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1

Article 2

HEADINGS AND SUB-HEADINGS OF THE COMBINED NOMENCLATURE
OF THE EUROPEAN COMMUNITY (CN)

1. Equipment used in mining or mining services

CN Heading or Sub-heading No.	Goods referred to in Heading or Sub-heading
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers.
8430	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting, or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers.
8431 but only in relation to 8429 and 8430	Parts suitable for use solely or principally with the machinery of Heading nos. 8429 and 8430.
8474	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand.

2. Motorised vehicles or watercraft or their spare parts

CN Heading or Sub-heading No.	Goods referred to in Heading or Sub-heading
8407	Spark-ignition reciprocating or rotary internal combustion piston engines.
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines).
8409	Parts suitable for use solely or principally with the engines of Heading nos. 8407 or 8408.
8483	Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; fly-wheels and pulleys, including pulley blocks, clutches and shaft couplings (including universal joints).
8601	Rail locomotives powered from an external source of electricity or by electric accumulators.
8602	Other rail locomotives; locomotive tenders.
8603	Self-propelled railway or tramway coaches, vans and trucks other than those of Heading no. 8604.
8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles).
8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of Heading no. 8604).
8606	Railway or tramway goods vans and wagons, not self-propelled.
8607	Parts of railway or tramway locomotives or rolling-stock.
8701	Tractors (other than tractors of Heading no. 8709).
8702	Motor vehicles for the transport of ten or more persons including the driver.

CN Heading or Sub-heading No.	Goods referred to in Heading or Sub-heading
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of Heading no. 8702), including station wagons and racing cars.
8704	Motor vehicles for the transport of goods.
8705	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units).
8706	Chassis fitted with engines, for the motor vehicles of Heading nos. 8701 to 8705.
8707	Bodies (including cabs) for the motor vehicles of Heading nos. 8701 to 8705.
8708	Parts and accessories of the motor vehicles of Heading nos. 8701 to 8705.
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles.
8710	Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons, and parts of such vehicles.
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars.
8714.11	Spare parts and accessories for vehicles in Heading no. 8711.
8714.19	Spare parts and accessories for vehicles in Heading no. 8711.
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof.
8901	Cruise ships, excursion boats, ferry boats, cargo ships, barges and similar vessels for the transport of persons or goods.
8902	Fishing vessels; factory ships and other vessels for processing or preserving fishery products.
8903	Yachts and other vessels for pleasure or sports; rowing boats and canoes.
8904	Tugs and pusher craft.
8905	Light-vessels, fire-floats, dredgers, floating cranes, and other vessels the navigability of which is subsidiary to their main function; floating docks, floating or submersible drilling or production platforms.
8906	Other vessels, including warships and lifeboats other than rowing boats.

SCHEDULE 2

Article 17

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 him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (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 of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any judge, magistrate or justice of the peace is satisfied by information on oath given by any constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

(a) inspect and search those premises or any vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on any vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

Provided that no persons shall in pursuance of any warrant issued under this paragraph be searched except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by 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 be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or 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) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to 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 Angola 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 under this Order (whether in the Territory or any other territory to which this Order extends) or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

5.—(1) 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 to any person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

SCHEDULE 3

Article 1(3)(a)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla	Gibraltar
Bermuda	Montserrat
British Antarctic Territory	Pitcairn
British Indian Ocean Territory	St Helena and its dependencies
Cayman Islands	Sovereign Base Areas of Akrotiri and Dhekelia
Falkland Islands	Turks and Caicos Islands
South Georgia and South Sandwich 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 2. It imposes restrictions pursuant to a decision of the Security Council of the United Nations in resolution 1173 of 12th June 1998 on the export to Angola and the supply to persons in Angola of equipment used in mining or mining services, and motorised vehicles or watercraft or their spare parts or ground or water-bourne transportation services; and on the import of diamonds from Angola. It restricts certain related activities including the carriage of those goods destined for and originating from, respectively, Angola in ships, aircraft and vehicles. It also places restrictions on certain actions making available or otherwise transferring funds and financial resources to or for the benefit of UNITA as an organisation or of senior officials or adult members of their immediate families. The order amends the Angola (United Nations Sanctions) (Dependent Territories) Order 1997 to correct certain references therein.

This Order does not affect the Angola (United Nations Sanctions) (Dependent Territories) Order 1993(a) nor the Angola (United Nations Sanctions) (Dependent Territories) Order 1997(b) other than as described above.

(a) S.I. 1993/2356.

(b) S.I. 1997/2573.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

2nd September 1998

No. 23

The following is published in this Supplement -

Fishing Licences (Applications and Fees) Order 1998.

SUBSIDIARY LEGISLATION

FISHERIES

Fishing Licences (Applications and Fees) Order 1998

(S. R. & O. No. 44 of 1998)

Made: 1st September 1998

Published: 2nd September 1998

Coming into operation: on publication

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986(a) and of all other powers enabling me, I make the following Order —

Commencement and citation

1. This Order may be cited as the Fishing Licences (Applications and Fees) Order 1998 and shall come into operation on the date it is first published in the Gazette and cease to have effect on 30th June 1999.

Application

2. Nothing in this Order applies to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters.

Interpretation

3. In this Order —

“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;

“FOCZ” means the outer conservation zone as defined in Proclamation 2 of 1990 as varied by Proclamation 1 of 1994;

"fishing licence" means a licence to catch or take fish within the fishing waters;

"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;

"jigger" means a fishing boat which is equipped so as to be able to catch or take fish by means of jigging machines;

"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;

"southern area" means those areas of the FICZ which lie to the South of latitude 51°15' South and to the East of longitude 60° West and South of latitude 52°00 South and to the West of Longitude 60° West;

"northern area" means those areas of the FICZ which lie to the North of latitude 51°15' South, and to the East of longitude 60° West and North of latitude 52° South and to the West of longitude 60° West;

"the fishing season" means —

(a) in relation to an 'A' licence, the period commencing on 1st January 1999 and ending on 30th June 1999;

(b) in relation to a 'B' licence, the period commencing on 15th February 1999 and ending on 15th June 1999;

(c) in relation to a 'C' licence, the period commencing on 1st February 1999 and ending on 31st May 1999;

(d) in relation to a 'W' licence, the period commencing on 1st January 1999 and ending on 30th June 1999;

(e) in relation to an 'F' licence, the period commencing on 1st January 1999 and ending on 30th June 1999;

(f) in relation to a 'G' licence, the period commencing on 1st March 1999 and ending on 31st May 1999;

"principal Regulations" means the Fishing Regulations Order 1987.

The principal Regulations

4. For so long as this Order is in force such of the provisions of the principal Regulations as are inconsistent with this Order shall not be in force, but except as aforesaid the

provisions of the principal Regulations remain in force and must be complied with in addition to those of this Order.

Types of Licence

5.—(1) For the purpose of this Order there are the following categories of licence —

- (a) an 'A' licence;
- (b) a 'B' licence ;
- (c) a 'C' licence;
- (d) an 'F' licence;
- (e) a 'W' licence; and
- (f) a 'G' licence.

(2) An 'A' licence authorises 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 Toothfish (*Dissostichus eleginoides*), Skate (*Rajidae*) or squid of any kind.

(3) A 'B' licence authorises the catching or taking within the northern area and the FOCZ of *Illex argentinus* and *Martialia hyadesi*.

(4) A 'C' licence authorises the catching or taking within the southern area of squid of the species *Loligo gahi*.

(5) An 'F' licence authorises the catching or taking of all species of the family Skate (*Rajidae*) and shall not permit the taking of other species of finfish or squid of any kind.

(6) A 'W' licence authorises the catching or taking of any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*) that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*), Skate (*Rajidae*) or squid of any kind.

(7) A 'G' licence authorises the catching or taking of *Illex argentinus* and *Martialia hyadesi* and any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*) that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*), Skate (*Rajidae*).

Applications for Licences

6.—(1) Applications for licences in respect of the whole or any part of any fishing season must be made to the Director of Fisheries at the Falkland Islands Fisheries Department, P.O. Box 598, Stanley, Falkland Islands.

(2) Any application to which paragraph (1) of this article relates must 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, 30th September 1999.

(3) The Director of Fisheries in his discretion may consider an application lodged after the date mentioned in paragraph (2) of this article but is not bound to do so.

The Schedule and its Tables

7.—(1) Table 1 of the Schedule has effect so as to specify the fees payable for type 'A' licences.

(2) Table 2 of the Schedule has effect so as to specify the fees payable for type 'B' licences granted to any jigger.

(3) Table 3 of the Schedule has effect so as to specify the fees payable for type 'B' licences granted to any trawler or combination vessel.

(4) Table 4 of the Schedule has effect so as to specify the fees payable for type 'C' licences.

(5) Table 5 of the Schedule has effect so as to specify the fees payable for type 'F' licences.

(6) Table 6 of the Schedule has effect so as to specify the fees payable for type 'W' licences.

(7) Table 7 of the Schedule has effect so as to specify the fees payable for type 'G' licences.

(8) All fees payable under this article shall be paid in pounds Sterling and in accordance with the principal Regulations.

(9) The explanatory notes at the commencement of each Table in the Schedule to this Order are for guidance only and shall not have legislative effect.

(10) This article and the Schedule has effect subject to article 8(3).

Licences in rotation

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.

(2) Where a licence is granted under paragraph (1) the Director of Fisheries may impose such conditions in the licence as he considers necessary or expedient and, in particular, to ensure —

- (a) that only one vessel is permitted to fish within the fishing waters at any one time;
- (b) that proper and adequate notice is given to him of the intention to substitute one vessel for another and that any vessel previously permitted to fish in the fishing waters has ceased to do so before another vessel is permitted to commence fishing;
- (c) that all and any other conditions specially necessary to promote the proper conservation and management of fish within the fishing waters appear therein.

(3) The Director 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 prescribed by a further Order shall be paid in respect of a rotating licence; and
- (b) that an administration 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.

Special provisions in relation to type 'B' licences

9.—(1) The Director of Fisheries may, if he thinks fit, grant a type 'B' licence for such period within the fishing season as he thinks fit.

(2) Where a licence is granted under paragraph (1) a special fee, calculated by reference to a formula prescribed by a further Order, must be paid.

Transshipment fees

10. The fee for transshipment or transshipment and export licences for the period 1st January 1999 to 30th June 1999 is £1500 per transshipment operation.

THE 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 all finfish except Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*).
3. The season for this type of licence commences on 1st January 1999 and ends on 30th June 1999 and will be subject to a closed area and provisions of 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)

A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fee payable per licensed month of fishing is calculated by adding £5,000 to the relevant Finfish (Species Restricted) type 'W' licence fee, taking account of the GT of the vessel.

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 FICZ northern area and FOCZ and not to trawlers or combination vessels..

3. The season for this type of licence commences on 15th February 1999 and ends on 15th June 1999.

4. Fees calculated by the Formula set out in this Table are for the full season.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the jigger to be licensed; '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

Whichever of the following is applicable —

I. Where the vessel held and utilised a comparable licence in respect of the First Season of 1998, or for any two of the First Seasons during the period 1996-1998

Fee payable is the result of

$$£(0.440*GT*(S+1.5D))+85098$$

II. In any case to which Formula I does not apply —

$$£(0.488*GT*(S+1.5D))+94339$$

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 FOCZ and not to jiggers..
3. The season for this type of licence commences on 15th February 1999 and ends on 15th June 1999. (Note: Vessels fishing under a Type 'B' licence using a bottom or demersal trawl are subject to The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990, but vessels fishing under such a licence using any other kind of

trawl have until 15th June 1998 been exempted by the Director of Fisheries from the provisions of that Order).

4. Fees calculated by the Formula set out in this Table are for the full season.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fee payable is the result of

$$£(3.17*GT)+90975$$

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 1999 and ends on 31st May 1999 and is exempt from the provisions of The Fishing (Nets and Supplementary Equipment) Regulations Order 1990 within the shaded (valid) area.
4. Fees calculated by the Formula set out in this Table are for the full season.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fee payable is the result of

$$£(91.44*GT)+104619$$

TABLE 5
Skate Only - Type 'F' 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 Skate (*Rajidae*) only.
3. The season for this type of licence commences on 1st January 1999 and ends on 30th June 1999 and will be subject to a closed area and the provisions of The Fishing (Nets and Supplementary Net 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)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fees payable per licensed month of fishing is the result of

$$£(2.5*GT)+20201$$

TABLE 6
Finfish Only - Species Restricted - Type 'W' 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 with the exception of Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*) or squid.
3. The season for this type of licence commences on 1st January 1999 and ends on 30th June 1999 and will be subject to closed areas and the provisions of The Fishing (Nets and Supplementary Net 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)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fees payable per licensed month of fishing is the result of whichever of the following is applicable:

- I. Where the vessel has a GT of 1400 or less;

$$£(0.52*GT)+13065$$

- II. Where the vessel has a GT of more than 1401 but less than 2199

$$£(22.60*GT)+17839;$$

- III. Where the vessel has a GT of more than 2200 but less than 3499;

$$£(18.13*GT)-8023$$

- IV. Where the vessel has a GT of more than 3500 but less than 3999;

$$£(95.71*GT)-279518$$

- V. Where the vessel has a GT of 4000 or greater;

$$£(29.03+GT)-12839$$

TABLE 7
Squid and Finfish (Species Restricted) - Type 'G' 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 *Illex argentinus* and *Martialia hyadesi* and any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*).
3. The season for this type of licence commences on 1st March 1999 and ends on 31st May 1999 and will be subject to a closed area and the provisions of The Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990. Applications for this licence type must be in respect of vessels which will engage in fishing using bottom or demersal trawls.
4. Fees calculated by the Formula set out in this Table are payable in respect of the season.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

FORMULA

Fees payable is the result of:

$$\pounds(40.37*GT)+10666$$

Made this 1st day of September 1998

A M Gurr
Acting Governor



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

8th September 1998

No. 24

The following are published in this Supplement -

Coins (Commemoration of the Life of Diana, Princess of Wales) Order 1998, (S.R. & O. No. 45 of 1998);

Coins (50th Anniversary of the Falkland Islands Government Air Service) Order 1998, (S.R. & O. No. 46 of 1998);

Coins (Royal Heritage Coin Collection) Order 1998, (S.R. & O. No. 47 of 1998);

Coins (Commemoration of the Life and Times of Her Majesty the Queen Mother) Order 1998, (S.R. & O. No. 48 of 1998);

Coins (450th Anniversary of the Death of Henry VIII) Order 1998, (S.R. & O. No. 49 of 1998);

Family Allowances (Amendment) Bill 1998;

Taxes (Amendment) Bill 1998, Explanatory Memorandum.

SUBSIDIARY LEGISLATION

CURRENCY

Coins (Commemoration of the Life of Diana, Princess of Wales) Order 1998

(S. R. & O. No. 45 of 1998)

Made: 25 August 1998

Published: 8 September 1998

Coming into operation: 1st October 1998

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987^(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coins (Commemoration of the Life of Diana, Princess of Wales) Order 1998 and shall come into operation on 1st October 1998.

New Coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 25th day of August 1998

A M Gurr
Acting Governor

^(a) No 14 of 1987

SCHEDULE
Specifications of coins authorised

	Cupro-nickel Crown	Silver Crown	Gold Five Pounds	Gold Ten Pounds	Gold Twenty Pounds	Gold Fifty Pounds
1. Denomination	1 Crown	1 Crown	Five pounds	Ten pounds	Twenty pounds	Fifty pounds
2. Fineness	Cupro-nickel	925 Silver	999 Gold	999 Gold	999 Gold	999 Gold
3. Weight (grams)	28.28	28.28	1.244	3.11	6.22	15.551
4. Diameter (mm)	38.60	38.60	13.92	17.95	22.00	30
5. Quality	Uncirculated	Proof	Proof	Proof	Proof	Proof
6. Shape	Round	Round	Round	Round	Round	Round
7. Edge	Milled	Milled	Milled	Milled	Milled	Milled
8. Edition limit	Unlimited	10,000	10,000	7,500	5,000	3,000
9. Tolerance or Remedy	±0.080	±0.055	±0.0022	±0.0055	±0.011	±0.027
10. Designs	<p>Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklounf with the inscriptions "Queen Elizabeth II" to the left of the portrait, "Falkland Islands" to the right of the portrait and "1998" below the portrait</p> <p>Reverse: Portrait of the late Diana, Princess of Wales, with the wording "Diana - The People's Princess" appearing above the portrait, the copyright signature "Diana" to the right of the portrait and the denomination at the base</p>					

SUBSIDIARY LEGISLATION

CURRENCY

Coins (50th Anniversary of the Falkland Islands Government Air Service) Order 1998

(S. R. & O. No. 46 of 1998)

Made: 25 August 1998

Published: 8 September 1998

Coming into operation: 1st October 1998

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coins (50th Anniversary of the Falkland Islands Government Air Service) Order 1998 and shall come into operation on 1st October 1998.

New Coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 25th day of August 1998

A M Gurr
Acting Governor

SCHEDULE
Specifications of coins authorised

	Cupro-nickel	Silver	Gold
1. Denomination	Two pounds	Two pounds	Twenty pounds
2. Fineness	Cupro-nickel	925 Silver	999 Gold
3. Weight (grams)	28.28	28.28	6.22
4. Diameter (mm)	38.60	38.60	22.00
5. Quality	Uncirculated	Proof	Proof
6. Shape	Round	Round	Round
7. Edge	Milled	Milled	Milled
8. Edition limit	Unlimited	10,000	5,000
9. Tolerance or remedy	±0.080 grams	±0.055 grams	±0.0055 grams
10. Designs	<p>Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "Queen Elizabeth II" to the left of the portrait, "Falkland Islands" to the right of the portrait and "1998" below the portrait</p> <p>Reverse: An Islander aircraft in the foreground and a Dehavilland Beaver aircraft in the background flying over a map of the Falkland Islands with the inscriptions "FIFTIETH ANNIVERSARY OF FIGAS" appearing in surround of coin and the denomination at the base</p>		

SUBSIDIARY LEGISLATION

CURRENCY

Coins (Royal Heritage Coin Collection) Order 1998

(S. R. & O. No. 47 of 1998)

Made: 25 August 1998

Published: 8 September 1998

Coming into operation: 1st January 1996

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coins (Royal Heritage Coin Collection) Order 1998 and shall be deemed to have come into operation on 1st January 1996.

New Coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 25th day of August 1998

A M Gurr
Acting Governor

SCHEDULE

Specifications of coins authorised

Part I

Silver

- | | | |
|-----|---------------------|---|
| 1. | Denomination | Two pounds |
| 2. | Fineness | 0.925 |
| 3. | Weight (grams) | 28.28 |
| 4. | Diameter (mm) | 38.61 |
| 5. | Quality | Frosted Proof |
| 6. | Shape | Round |
| 7. | Edge | Milled |
| 8. | Edition limit | 10,000 per coin/120,000 in total |
| 9. | Tolerance or remedy | Variations from the standard weight, diameter and fineness specified above to be allowed of the amount permitted by the British Royal Mint |
| 10. | Designs | <p>Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left and "FALKLAND ISLANDS" to the right of the portrait, "1996" above the portrait and "2 POUNDS" below the portrait</p> <p>Individual Reverse designs:</p> <p>Portrait of Egbert of Wessex, surrounded by the inscription "ROYAL HERITAGE EGBERT OF WESSEX 802-839"</p> <p>Portrait of Alfred the Great, surrounded by the inscription "ROYAL HERITAGE ALFRED THE GREAT 871-899"</p> <p>Portrait of Edward the Confessor, surrounded by the inscription "ROYAL HERITAGE EDWARD THE CONFESSOR 1042-1066"</p> <p>Portrait of King William I, surrounded by the inscription "ROYAL HERITAGE WILLIAM I 1066-1087"</p> <p>Portrait of King Richard I, surrounded by the inscription "ROYAL HERITAGE RICHARD I THE LIONHEART 1189-1199"</p> |

Portrait of King Henry II, surrounded by the inscription
"ROYAL HERITAGE HENRY II 1154-1189"

Portrait of King Henry IV, surrounded by the inscription
"ROYAL HERITAGE HENRY IV 1399-1413"

Portrait of King Edward IV, surrounded by the inscription
"ROYAL HERITAGE EDWARD IV 1461-1483"

Portrait of King Henry VIII, surrounded by the inscription
"ROYAL HERITAGE HENRY VIII 1509-1547"

Portrait of Queen Elizabeth I, surrounded by the inscription
"ROYAL HERITAGE ELIZABETH I 1558-1603"

Portrait of King Charles I, surrounded by the inscription
"ROYAL HERITAGE CHARLES I 1625-1649"

Portrait of Queen Victoria, surrounded by the inscription
"ROYAL HERITAGE VICTORIA 1837-1901"

Part II

Gold

1.	Denomination	Two pounds
2.	Fineness	0.583 (14 carat)
3.	Weight (grams)	7.776
4.	Diameter (mm)	25
5.	Quality	Frosted Proof
6.	Shape	Round
7.	Edge	Milled
8.	Edition limit	3,000
9.	Tolerance or remedy	Variations from the standard weight, diameter and fineness specified above to be allowed of the amount permitted by the British Royal Mint
10.	Designs	Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left and "FALKLAND ISLANDS" to the right of the portrait, "1998" above the portrait and "2 POUNDS" below the portrait

Reverse: Portrait of Queen Elizabeth I, surrounded by the inscription "ROYAL HERITAGE QUEEN ELIZABETH I 1558-1603"

SUBSIDIARY LEGISLATION

CURRENCY

Coins (Commemoration of the Life and Times of Her Majesty the Queen Mother) Order 1998

(S. R. & O. No. 48 of 1998)

Made: 25 August 1998

Published: 8 September 1998

Coming into operation: 1st January 1997

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coins (Commemoration of the Life and Times of Her Majesty the Queen Mother) Order 1998 and shall be deemed to have come into operation on 1st January 1997.

New Coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 25th day of August 1998

A M Gurr
Acting Governor

SCHEDULE
Specifications of coins authorised

	Silver Fifty pence	Gold Two pounds	Silver Five pounds
1. Denomination	Fifty pence	Two pounds	Five pounds
2. Fineness	925 Silver	Gold (583/1000) (14 Carat)	999 Silver
3. Weight (grams)	15.98	7.776	1 kilo
4. Diameter (mm)	28.40	25.00	100.00
5. Quality	Frosted Proof	Semi-Proof	Frosted Proof
6. Shape	Round	Round	Round
7. Edge	Milled	Milled	Milled
8. Maximum quantity to be minted for the international market	50,000	5,000	999
9. Tolerance or remedy	Variations from the standard weight, diameter and fineness specified above to be allowed of the amount permitted by the British Royal Mint		
10. Designs	Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left of the portrait, "FALKLAND ISLANDS" to the right of the portrait and "1997" below the portrait Reverse: Portrait of Her Majesty the Queen Mother holding baby Princess Elizabeth in her arms with	Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left of the portrait, "FALKLAND ISLANDS" to the right of the portrait and "1998" below the portrait Reverse: Portrait of Her Majesty the Queen Mother holding baby Princess Elizabeth in her	Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left of the portrait, "FALKLAND ISLANDS" to the right of the portrait and "1998" below the portrait Reverse: Portrait of Her Majesty the Queen Mother on her 85th Birthday with her grandchildren with the inscriptions "QUEEN

the inscriptions
 "QUEEN
 ELIZABETH THE
 QUEEN
 MOTHER" and
 "BIRTH OF
 PRINCESS
 ELIZABETH"
 above the portrait
 and "1926" and
 "FIFTY PENCE"
 below the portrait

arms with the
 inscriptions
 "QUEEN
 ELIZABETH
 THE QUEEN
 MOTHER" and
 "BIRTH OF
 PRINCESS
 ELIZABETH"
 above the portrait
 and "1926" and
 "TWO
 POUNDS" below
 the portrait

ELIZABETH THE
 QUEEN MOTHER"
 and "85TH
 BIRTHDAY WITH
 GRANDCHILDREN"
 above the portrait and
 "1985" and "FIVE
 POUNDS" below the
 portrait

SUBSIDIARY LEGISLATION

CURRENCY

Coins (450th Anniversary of the Death of Henry VIII) Order 1998

(S. R. & O. No. 49 of 1998)

Made: 25 August 1998

Published: 8 September 1998

Coming into operation: 1st January 1997

IN EXERCISE of my powers under section 22 of the Currency Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Coins (450th Anniversary of the Death of Henry VIII) Order 1998 and shall be deemed to have come into operation on 1st January 1997.

New Coins

2.—(1) The minting and issue of coins as described and specified in the Schedule to this Order is hereby authorised.

(2) The Schedule to this Order shall have effect so as to specify the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1) of this article, the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of any of those coins and the design of the obverse and reverse of each of those coins.

Made this 25th day of August 1998

A M Gurr
Acting Governor

SCHEDULE
Specifications of coins authorised

	Gold (14 Carat) Two pounds	Gold Two pounds	Cupro-nickel Two pounds
1. Denomination	Two pounds	Two pounds	Two pounds
2. Fineness	Gold (583/1000) (14 Carat)	999 Fine Gold	Cupro-nickel
3. Weight (grams)	7.776	1.244	28.28
4. Diameter (mm)	25	13.92	38.61
5. Quality	Frosted Proof	Semi-Proof	Brilliant Uncirculated
6. Shape	Round	Round	Round
7. Edge	Milled	Milled	Milled
8. Edition limit	3,000	25,000	10,000
9. Tolerance or remedy	Variations from the standard weight, diameter and fineness specified above to be allowed of the amount permitted by the British Royal Mint		
10. Designs	<p>Obverse: Uncouped portrait of Her Majesty the Queen by Raphael Maklouf with the inscriptions "QUEEN ELIZABETH II" to the left of the portrait, "1997" above the portrait, "FALKLAND ISLANDS" to the right of the portrait and "TWO POUNDS" below the portrait</p> <p>Reverse: Portrait of King Henry VIII, surrounded by the inscription "ROYAL HERITAGE HENRY VIII 1509-1547"</p>		

Family Allowances (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Amendment of section 3 of the Family Allowances Ordinance 1960

FAMILY ALLOWANCES (AMENDMENT) BILL 1998

A BILL

for

AN ORDINANCE

To amend the Family Allowances Ordinance 1960.

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

Short title and commencement

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1998 and comes into force on 1st January 1999.

Amendment of section 3 of the Family Allowances Ordinance 1960

2. Section 3 of the Family Allowances Ordinance 1960 is amended—

(a) in subsection (2), by omitting the words “subject to subsection (4),”; and

(b) by repealing subsection (3).

OBJECTS AND REASONS

The object of this Bill is to abolish the single parent's allowance.

The Taxes (Amendment) Bill 1998 was published in Gazette Supplement number 21 on 19 August 1998. The Explanatory Memorandum which follows was intended to be published together with the Bill and persons wishing an explanation of the Bill should refer to this Explanatory Memorandum.

D G Lang QC
Attorney General

EXPLANATORY MEMORANDUM

TAXES (AMENDMENT) BILL 1998

Introductory

1. This Bill makes a number of amendments to the Taxes Ordinance 1997 ("the 1997 Ordinance"). The main amendment is set out in clause 3 which allows certain donations to charity to qualify for tax relief. The other provisions of the Bill correct clerical or typographical errors in the 1997 Ordinance.

Clause 1

2. Subsection (1) of this clause contains the short title of the Bill.

3. Subsection (2) provides that section 3 shall apply in relation to donations to charity made on or after 1st January 1998 and the other provisions shall come into force on publication of the Ordinance.

4. Subsection (3) defines "the 1997 Ordinance" as the Taxes Ordinance 1997.

Clause 2

5. This clause inserts some words into section 30 of the 1997 Ordinance (which requires companies to make tax returns to and to file accounts with the Commissioner of Taxation) which were inadvertently omitted from that Ordinance.

Clause 3

6. This clause inserts two new sections into the 1997 Ordinance. The first, section 57A, will allow any person to claim tax relief on donations to any charity which is either registered as a charity under the Charities Act 1960, or whose name appears on a list of charities approved by the Governor. By virtue of clause 1, this will apply to any donation made on or after 1st January 1998.

7. The second new section, 57B, sets out the details relating to the approved list of charities which unregistered charities must have their names on in order that donations made to them can qualify for the new tax relief.

Section 57A

8. Subsection (1) provides the general rule that donations to registered charities will be deductible from a person's income for tax purposes. This means that the person's income which is subject to tax will exclude the donation, and will enable people, if they so wish, to increase the donation by the amount of the tax which will not be paid, without any real cost to themselves. The charities will benefit by an amount equal to the tax relief.

9. Subsection (2) contains some definitions for the clause: it defines "charitable donation", "registered charity" and "the approved list of charities".

10. Subsections (3) and (4) require the charity to which the donation is made to be registered at the time the donation is made unless the donation is made during 1998. In that case it will be sufficient if the charity is registered by the end of the year. This will enable charities which are not now registered to become registered during the year without foregoing the increase in the donations which their supporters may wish to make this year.

11. Subsection (5) sets a minimum amount for each donation which is £50.00. Smaller donations will not be eligible for the relief.

12. Subsection (6) requires the deduction of the charitable donations to be deducted from a person's income after all other deductions have been made and prevents the making of the donation from creating a tax loss.

13. Subsection (7) requires the person making the donation to provide written evidence to the Commissioner that the donation has been made. If he does not do this, the donation will not qualify for relief.

Section 57B

14. Subsection (1) defines "the approved list of charities" as a list of eligible charities prepared and approved in accordance with the provisions of the section.

15. Under subsection (2), the Attorney General will prepare the list of charities which will then be put to the Governor for his approval. The approved list will be published in the Gazette so the names of the charities on it will be available to the public.

16. Subsection (3) defines "eligible charity" as any charity which is not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and is not required to be so registered. The Charities Act 1960 is the principal enactment dealing with charities currently in force in the Falkland Islands and contains provisions for the registration of charities in the Falkland Islands. Charities not active in the Falkland Islands are unlikely to be registrable under that Act and it is intended that charities already registered in the United Kingdom will be exempted from the requirement to be registered in the Falkland Islands. These are the two main categories of charity which are expected to be listed in the approved list.

17. Subsection (4) makes it clear that anyone can apply for the name of a charity to be included in the approved list.

18. Subsection (5) ensures that, although the Attorney General may if he wishes include the name of a charity on the approved list without any application in that respect being made to him, he is under no obligation to act in the absence of such an application.

19. There may on occasions be some dispute or uncertainty about the status of any body, as to whether or not it is a charity. Subsection (6) makes the burden of proving

that a body is a charity the responsibility of the person making an application for its name to be included in the approved list of charities.

20. Subsection (7) allows for amendments to be made to the approved list from time to time so that names may be added as necessary. It will also allow names to be deleted but that is not expected to happen very often.

Clause 4

21. This clause corrects an error in section 140 of the 1997 Ordinance where in the definition of "petroleum extraction activities" the word "by" has been inadvertently substituted for the word "for".

Clause 5

22. This clause corrects an error in paragraph 14 of Schedule 2 to the 1997 Ordinance where in the definition of "reorganisation", in provisions relating to the charge to tax on capital gains, the reference to "debentures" had inadvertently been omitted.

ANNUAL REPORT OF THE GOVERNMENT OF THE FALKLAND ISLANDS

1964-1965

The following table shows the results of the various departments of the Government for the year 1964-1965. The figures are in pounds sterling.

Department	1964-1965
Administration	10,000
Education	15,000
Health	20,000
Police	30,000
Public Works	40,000
Revenue	50,000
Transport	60,000
Unemployment	70,000
Welfare	80,000
Water	90,000
Other	100,000

The total expenditure for the year 1964-1965 was £495,000. The total income was £495,000. The balance was £0.

The following table shows the results of the various departments of the Government for the year 1965-1966. The figures are in pounds sterling.

Department	1965-1966
Administration	10,000
Education	15,000
Health	20,000
Police	30,000
Public Works	40,000
Revenue	50,000
Transport	60,000
Unemployment	70,000
Welfare	80,000
Water	90,000
Other	100,000

The total expenditure for the year 1965-1966 was £495,000. The total income was £495,000. The balance was £0.

The following table shows the results of the various departments of the Government for the year 1966-1967. The figures are in pounds sterling.

Department	1966-1967
Administration	10,000
Education	15,000
Health	20,000
Police	30,000
Public Works	40,000
Revenue	50,000
Transport	60,000
Unemployment	70,000
Welfare	80,000
Water	90,000
Other	100,000

The total expenditure for the year 1966-1967 was £495,000. The total income was £495,000. The balance was £0.

The following table shows the results of the various departments of the Government for the year 1967-1968. The figures are in pounds sterling.

Department	1967-1968
Administration	10,000
Education	15,000
Health	20,000
Police	30,000
Public Works	40,000
Revenue	50,000
Transport	60,000
Unemployment	70,000
Welfare	80,000
Water	90,000
Other	100,000

The total expenditure for the year 1967-1968 was £495,000. The total income was £495,000. The balance was £0.



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

21st September 1998

No. 25

The following are published in this Supplement -

Disapplication of Enactments No. 2 Order 1998, (S.R. & O. No. 50 of 1998);

Law Revision Order No. 1 of 1998, (S.R. & O. No. 51 of 1998);

Commencement and Approval of Volume 2 Order 1998, (S.R. & O. No. 52 of 1998);

Law Revision Order No. 1 of 1998, Commencement Notice.

SUBSIDIARY LEGISLATION

LAW REVISION

Disapplication of Enactments No. 2 Order 1998

(S. R. & O. No. 50 of 1998)

Made: 11 September 1998

Published: 21 September 1998

Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 78A(2) of the Interpretation and General Clauses Ordinance 1977(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Disapplication of Enactments (No. 2) Order 1998 and shall be deemed to have come into force on 1st January 1993.

Disapplication of Enactments

2.—(1) Subject to paragraph (2), so far as concerns the Falkland Islands the indirectly adopted imperial enactments specified in the Schedule to this Order shall be deemed never to have been enacted.

(2) The indirectly adopted enactments specified in the Schedule to this Order under the heading “CRIMINAL LAW (TITLE 23)” shall be deemed to have ceased to have had effect on 1st October 1989, if enacted on or before that date, or never to have been enacted, if enacted after that date.

Amendment to Disapplication of Enactments Order 1998

3. Article 1 of the Disapplication of Enactments Order 1998(b) is amended by replacing the words “comes into force on the same date as Law Revision Order No. 1 of 1997 comes into force” with the words “shall be deemed to have come into force on 1st January 1993”.

Made this 11th day of September 1998

A M Gurr
Acting Governor

(a) No 14 of 1977 (it is intended that this will be Title 67.2 in the Revised Edition of the Laws where s78A will be renumbered as s79.), as amended.

(b) S. R. & O. No. 28 of 1998

SCHEDULE

Note: The cross-headings which follow are the Titles in which the disapplication of the enactments which are specified under them is mentioned in Volume 2 of the Revised Laws of the Falkland Islands

CONTRACT (TITLE 20)

Statute of Frauds (1677)
 Statute of Frauds Amendment Act 1828
 Mercantile Law Amendment Act 1856
 Law Reform (Frustrated Contracts) Act 1943
 Corporate Bodies' Contracts Act 1960
 Hire Purchase Act 1964
 Misrepresentation Act 1967
 Trade Descriptions Act 1968
 Unsolicited Goods and Services Act 1971, s.1.
 Supply of Goods (Implied Terms) Act 1973
 Consumer Credit Act 1974
 Unfair Contract Terms Act 1977
 Consumer Protection Act 1987
 Minors' Contracts Act 1987, ss.1(a) and 4(2)
 Contracts (Applicable Law) Act 1990
 Sale of Goods Act 1979, s.25(2)(b)
 Supply of Goods and Services Act 1982, ss.12(5) and 19

CO-OPERATIVE SOCIETIES (TITLE 21)

Industrial Assurance Act 1923
 Industrial Assurance (Juvenile Societies) Act 1926
 Industrial Assurance and Friendly Societies Act 1948
 Friendly Societies Act 1955
 Industrial and Provident Societies Act 1965
 Industrial and Provident Societies Act 1967
 Friendly and Industrial and Provident Societies Act 1968
 Friendly Societies Act 1971
 Friendly Societies Act 1974
 Industrial and Provident Societies Act 1975
 Industrial and Provident Societies Act 1978
 Credit Unions Act 1979
 Friendly Societies Act 1981
 Friendly Societies Act 1984
 Financial Services Act 1986, ss.139-141 (inclusive), 188, 200(1), (3)-(8), 201(1), (4),
 202-205 (inclusive), 205A, 207(1), (5)(a), (6), (8), (10), 209(1), 210, 211(1), 212(1),
 Schedule 11
 Friendly Societies Act 1992

COURTS AND LEGAL SERVICES (TITLE 22)

- Juries Act 1825
- Judges Salaries Act 1872
- Appellate Jurisdiction Act 1876
- Summary Jurisdiction (Process) Act 1881
- Appellate Jurisdiction Act 1887, ss.1, 2, 3 and 4
- Supreme Court of Judicature Act 1891
- Administration of Justice (Appeals) Act 1934
- Law Reform (Miscellaneous Provisions) Act 1934, s.3
- Appellate Jurisdiction Act 1947
- Justices of the Peace Act 1949
- Judicial Pensions Act 1959
- Administration of Justice Act 1965
- Administration of Justice Act 1968
- Justices of the Peace Act 1968
- Administration of Justice Act 1969, ss.12-16 (inclusive), 34-36 (inclusive)
- Courts Act 1971, the whole Act except ss.52, 57(5), 57(7) and 59
- Administration of Justice Act 1973, ss.1, 5, 9, 12, and Schedule 1
- Juries Act 1974
- Administration of Justice Act 1977, ss.2, 22, 23, 31, 32, Schedules 4 and 5
- Justices of the Peace Act 1979
- Judicial Pensions Act 1981
- Administration of Justice Act 1982, ss.38-47 (inclusive)
- Juries (Disqualification) Act 1984
- Public Trustee and Administration of Funds Act 1986, ss.1 and 6
- Criminal Justice Act 1988, s.118
- Courts and Legal Services Act 1990, ss.1-4 (inclusive), 7-9 (inclusive), 11, 13, 14, 17-52 (inclusive), 58-60 (inclusive), 62, 63, 69-76 (inclusive), 78-84 (inclusive), 115, 119-125 (inclusive), and Schedules 1-7 (inclusive), 10, 11 and 17-20 (inclusive)

CRIMINAL LAW (TITLE 23)

- 42 Edw III (1368)
- Sunday Observance Act 1780
- Servants' Characters Act 1792, s.4
- Treason Act 1795, s.6
- Sale of Offices Act 1809, ss.1-3 (inclusive) and 14
- Treason Act 1817, s.6
- Unlawful Drilling Act 1819, s.4
- Vagrancy Act 1824
- Universities Act 1825
- Piracy Act 1837, s.3
- Treason Act 1842, s.3
- Town Police Clauses Act 1847, ss.1-5 (inclusive), 35 and 36
- Treason Felony Act 1848, ss.2 and 6
- Malicious Damage Act 1861, s.72
- Offences Against the Person Act 1861, the whole Act except ss.4, 5, 9, 10, 16, 17, 18, 20-38 (inclusive), 44, 45, 47, 57-60 (inclusive) and 64
- Forfeiture Act 1870
- Prevention of Crimes Act 1871

Public Stores Act 1875
 Conspiracy and Protection of Property Act 1875, the whole Act except ss.1, 5, 7, 8
 and 15-17 (inclusive)
 Witnesses (Public Inquiries) Protection Act 1892
 Public Meeting Act 1908
 Perjury Act 1991, the whole Act except ss.1, 1A, 2, 3(1)(b)-(d), (2), 4-7 (inclusive),
 13-16 (inclusive) and 19
 Vagrancy Act 1935
 Sexual Offences Act 1956, ss.37(2), 37(4) in so far as it relates to s.37(2), 37(7)(a)
 and (b), 48, 50, 54, 56, First Schedule, para. 5, Second Schedule, column 2, and Third
 Schedule
 Homicide Act 1957
 Obscene Publications Act 1959, s.2(7)
 Murder (Abolition of the Death Penalty) Act 1965
 Firearms Act 1968
 Theft Act 1968, ss.12(3), 14, 16(2)(a), 26(2), 26(4), 29, 30(3), 30(5), 36(2) and 36(3)
 Administration of Justice Act 1970, s.40
 Criminal Damage Act 1971, ss.7(1), 8, 11(2)-(7) (inclusive), 11(9)-(11) (inclusive),
 12(1) and 12(3)-(6) (inclusive)
 Criminal Justice Act 1972, ss.34, 36, 46(1), 48, 63 and 65
 Sexual Offences (Amendment) Act 1976, ss.2-6 (inclusive) and 7(2)-(6) (inclusive)
 Criminal Law Act 1977, ss.1(3), 32, 33, 36, 37, 47, 64, 65(2), 65(4)-(10) (inclusive)
 and Schedule 9
 Theft Act 1978, ss.4, 5(3)-(5), 6, 7(2) and 7(3)
 Protection of Children Act 1978, s.1(6)
 Indecent Displays (Control) Act 1981, s.2(1)
 Forgery and Counterfeiting Act 1981, ss.11, 12, 21 and 23
 Firearms Act 1982
 Forfeiture Act 1982
 Intoxicating Substances (Supply) Act 1985
 Surrogacy Arrangements Act 1985
 Sporting Events (Control of Alcohol etc) Act 1985
 Drug Trafficking Offences Act 1986
 Public Order Act 1986, ss.11-16 (inclusive), 20, 24(2), 25(2)(b) and 30-37 (inclusive)
 Crossbows Act 1987
 Firearms (Amendment) Act 1988
 Prevention of Terrorism (Temporary Provisions) Act 1989
 Computer Misuse Act 1990, ss.8(9), 11(6) and 12(2)
 Broadcasting Act 1990, s.167
 Firearms (Amendment) Act 1992

CRIMINAL PROCEDURE (TITLE 24)

Offences at Sea Act 1799
 Criminal Law Act 1826
 Punishment of Offences Act 1837
 Metropolitan Police Courts Act 1839
 Indictable Offences Act 1848
 Criminal Justice Administration Act 1851
 Criminal Justice Administration Act 1914, the whole Act except ss.19, 24 and 44(1)

Criminal Justice Act 1925, the whole Act except ss.11(3), 13(3), 33, 36, 37 and 41
 Sentence of Death (Expectant Mothers) Act 1931
 Criminal Justice Act 1948, the whole Act except ss.39(1), 39(3), 39(5), 41(1), 42(1)
 and 83(1)
 Common Informers Act 1951
 Administration of Justice Act 1960
 Criminal Law Act 1967, the whole Act except ss.6 and 15
 Criminal Justice Act 1967, the whole Act except ss.17, 25, 33, 34, 36, 104 and 106(1)
 Criminal Appeal Act 1968
 Administration of Justice Act 1970, ss.41, 54(1), (2) and Schedule 9
 Administration of Justice Act 1973, s.18
 Powers of Criminal Courts Act 1973
 Rehabilitation of Offenders Act 1974
 Criminal Jurisdiction Act 1975
 Bail Act 1976
 Criminal Law Act 1977, ss.15, 28, 30, 31, 38, 38A, 38B, 39, 40 and 64
 Criminal Jurisdiction Act 1975
 Bail Act 1976
 Criminal Justice Act 1982
 Police and Criminal Evidence Act 1984
 Prosecution of Offences Act 1985, ss.1-15 (inclusive) and 27-30 (inclusive)
 Criminal Justice Act 1987
 Criminal Justice Act 1988, ss.35, 36, 41-45 (inclusive), 48, 64, 70-121 (inclusive),
 123-133 (inclusive), 139, 140, 145, 150, 156, 159, 160, 169, 171, 172, Schedules 3, 4,
 6, 7, 8, 11 and 12
 War Crimes Act 1991
 Criminal Justice Act 1991, ss.1-17 (inclusive), 21-28 (inclusive), 30, 31, 53, 95, 98,
 Schedules 2, 3, 4 and 6

EXPLANATORY NOTE
(not forming part of the above Order)

This Order disapplies a number of English enactments. The disapplication does not retrospectively affect the guilt, innocence or punishment of any person in relation to any act or omission to which any of the enactments under the heading "CRIMINAL LAW (TITLE 23)" in the Schedule to this Order related (see s.72A(2) Interpretation and General Clauses Ordinance 1977).

SUBSIDIARY LEGISLATION

REVISED EDITION OF THE LAWS

Law Revision Order No. 1 of 1998

(S. R. & O. No. 51 of 1998)

Made: 11 September 1998
Published: 21 September 1998
Coming into force in accordance with article 1

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1.—(1) This Order may be cited as Law Revision Order No. 1 of 1998 and shall come into force on such date, not earlier than the first publication of this Order in the *Gazette*, as the Governor may, subject to paragraph (2), notify by notice so published.

(2) The Governor shall not notify a date pursuant to paragraph (1) unless he is satisfied that copies of Volume 2 and the replacement of the pages in Volume 1 specified in Schedule 2 to this Order are available in the Falkland Islands.

Interpretation

2. In this Order —

“the Ordinance” means the Revised Edition of the Laws Ordinance 1991;

“the Revised Laws of the Falkland Islands” means the work under that title published or intended to be published in seven volumes on the authority of the Government of the Falkland Islands by Law Reports International, Oxford, which is ISBN 1 870584 69 4;

“the relevant revision date” means 1st January 1993;

“Volume 2 of the Revised Laws of the Falkland Islands” and “Volume 2” means the second volume of the Revised Laws of the Falkland Islands which, as a separate volume is ISBN 1 870584 71 6.

Approval of Volume 2 of the Revised Laws of the Falkland Islands

3. Volume 2 of the Revised Laws of the Falkland Islands is approved as at the relevant revision date.

(a) No 17 of 1991

Pages included in Volume 2

4. The pages included in Volume 2 are those specified in Schedule 1 to this Order.

Replacement of pages in Volume 1

5. The pages specified in Schedule 2 to this Order, and published in the Falkland Islands on the 1st September 1998 are approved as at the relevant revision date in replacement of the pages of the same number originally published in Volume 1 (which expression is defined in Law Revision Order No 1 of 1997(b)) on the 1st August 1998.

Made this 11th day of September 1998

A M Gurr
Acting Governor

SCHEDULE 1*Pages contained in Volume 2*

Preliminary pages: pages i to iv;

Title 19 (Constitutional and Administrative Law): pages 19/1 to 19/72, pages 19 Imp/1 to 19 Imp/10 and page 19 Disapplied/1;

Title 20 (Contract): pages 20/1 to 20/35, pages 20 Imp/1 to 20 Imp/5 and page 20 Disapplied/1;

Title 21 (Co-operative Societies): pages 21/1 to 21/59 and page 21 Disapplied/1;

Title 22 (Courts and Legal Services): pages 22/i to 22/xxxi, pages 22/1 to 22/50, pages 22 Imp/1 to 22 Imp/42, and page 22 Disapplied/1;

Title 23 (Criminal Law): pages 23/1 to 23/55, pages 23 Imp/1 to 23 Imp/85 and pages 23 Disapplied/1 and 23 Disapplied/2;

Title 24 (Criminal Procedure): pages 24/1 to 24/226, pages 24 Imp/1 to 24 Imp/15 and page 24 Disapplied/1;

SCHEDULE 2*Replaced pages in Volume 1*

PRELIMINARY PAGES	Title Pages (iii) - (iv)
Title 1 (The Constitution)	Pages 1 Imp/13-14 1 Imp/61-62
Title 2 (Bankruptcy and Insolvency)	Pages 2 Imp/105-106 2 Disapplied/1

SUBSIDIARY LEGISLATION

REVISED EDITION OF THE LAWS

Commencement and Approval of Volume 2 Order 1998

(S. R. & O. No. 52 of 1998)

Made: 16 September 1998

Published: 21 September 1998

Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order—

Citation and commencement

1. This Order may be cited as the Commencement and Approval of Volume 2 Order 1998 and shall come into force on publication.

Coming into operation of Volume 2

2. Volume 2 of the Revised Edition of the Laws of the Falkland Islands is approved and comes into operation seven days after the publication of this Order in the *Gazette*.

Made this 16th day of September 1998

A M Gurr
Acting Governor

REVISED EDITION OF THE LAWS ORDINANCE 1991

LAW REVISION ORDER NO 1 OF 1998

ARTICLE 1(1)

COMMENCEMENT NOTICE

IN EXERCISE of my powers under article 1(1) of the Law Revision Order No 1 of 1998, I hereby notify that the Order shall come into force seven days after the publication of this Notice in the *Gazette*.

Dated this 16th day of September 1998

Andrew Murray Gurr
Acting Governor



**THE
FALKLAND ISLANDS GAZETTE
Supplement**

PUBLISHED BY AUTHORITY

Vol. 9

16th October 1998

No.26

The following are published in this Supplement -

Supplementary Appropriation (1998-1999) (No. 2) Ordinance 1998;

Narrows Sanctuary Order 1998, (S.R. & O. No. 53 of 1998);

East Bay Sanctuary Order 1998, (S.R. & O. No. 54 of 1998);

Fishery Products (Hygiene) (Designated Vessels) Order 1998, (S.R. & O. No. 55 of 1998).

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Supplementary Appropriation (1998-1999)(No 2) Ordinance 1998

(No. 17 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule 1

Schedule 2

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (1998-1999)(NO 2) ORDINANCE 1998

(No. 17 of 1998)

(assented to: 8 October 1998)

(commencement: on publication)

(published: 16 October 1998)

AN ORDINANCE

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £3,391,330 for the service of the financial year ending 30 June 1999

ENACTED by the Legislature of the Falkland Islands as follows —

Short title

1. This Ordinance may be cited as the Supplementary Appropriation (1998-1999)(No 2) Ordinance 1998.

Appropriation of further sum

2. The Financial Secretary may for the purposes specified in the Schedules cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 1998 and ending on 30 June 1999 ("the financial year") the further sum of £3,391,330 in addition to sums already appropriated by Ordinance.

Replenishment of Contingencies Fund

3. The Financial Secretary shall out of the sums appropriated by section 2 replenish the Contingencies Fund to the extent that sums specified in Schedule 1, prior to the commencement of this Ordinance, have been withdrawn from the Contingencies Fund by the authority of the Contingencies Warrants Numbers 1 and 2 of 1998-1999 (the authority of which lapses on the commencement of this Ordinance).

SCHEDULE 1

<u>PART I OPERATING EXPENDITURE</u>		£
300	Customs & Immigration	20,000
600	Central Administration	300
TOTAL OPERATING EXPENDITURE		20,300
<u>PART II CAPITAL EXPENDITURE</u>		
950	Capital	281,900
TOTAL SUPPLEMENTARY EXPENDITURE		302,200

SCHEDULE 2

<u>PART I OPERATING EXPENDITURE</u>		£
100	Aviation	490
150	Posts & Telecommunications	7,940
250	Education & Training	15,830
320	Fisheries	103,410
350	Public Works Department	72,000
450	Justice	27,240
500	Falkland Islands Defence Force	72,700
551	Police & Prisons	3,180
552	Fire & Rescue Service	5,000
600	Central Administration	85,560
750	The Governor	3,080
850	Falkland Islands Government Office - London	2,500
TOTAL OPERATING EXPENDITURE		398,930
<u>PART II CAPITAL EXPENDITURE</u>		
950	Capital	2,690,200
TOTAL SUPPLEMENTARY EXPENDITURE		3,089,130

Passed by the Legislature of the Falkland Islands this 22nd day of September 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

SUBSIDIARY LEGISLATION

NATURE CONSERVATION

Narrows Sanctuary Order 1998

S. R. & O. No. 53 of 1998

Made: 8 October 1998

Published: 16 October 1998

Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 4 of the Wild Animals and Birds Protection Ordinance 1964(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Narrows Sanctuary Order 1998 and shall come into force one month after it is first published in the *Gazette*.

Interpretation

2. In this Order —

“the lessees” means Mr Raymond John MacBeth of Narrows Farm, West Falkland;

“the Map” means the map identifying the boundaries of the Sanctuary which is reproduced in the Schedule to this Order;

“the Ordinance” means the Wild Animals and Birds Protection Ordinance 1964;

“the Sanctuary” means the area of land shown on the plan reproduced in the Schedule to this Order and being generally described as The Narrows, Dunnose Head, West Falkland.

Declaration of sanctuary

3.—(1) With the consent and at the request of the lessee who is the prospective purchaser from the Crown of the freehold of the land concerned, the Sanctuary, which at present belongs to the Crown, is pursuant to section 4 of the Ordinance declared to be a Wild Animal and Bird Sanctuary in which the following things are, subject to the provisions of the Ordinance, prohibited —

(a) the wilful killing, injury or taking, or attempting to kill, injure or take any wild animal or bird, other than under the supervision of the landowner; and

(b) the introduction of any carnivorous animal, other than a working sheepdog.

(2) Any person who does anything prohibited by paragraph (1) commits an offence against the Ordinance.

Made this eighth day of October 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order declares as The Narrows, Dunnose Head, West Falkland to be a sanctuary under the Wild Animals and Birds Protection Ordinance 1964 with the effect that, subject to the Ordinance, doing any of the things mentioned in article 3 of the Order is prohibited and is a criminal offence.

SCHEDULE



SUBSIDIARY LEGISLATION

NATURE CONSERVATION

East Bay Sanctuary Order 1998

S. R. & O. No. 54 of 1998

Made: 8 October 1998

Published: 16 October 1998

Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 4 of the Wild Animals and Birds Protection Ordinance 1964(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the East Bay Sanctuary Order 1998 and shall come into force one month after it is first published in the *Gazette*.

Interpretation

2. In this Order —

“the lessees” means Mr Ian Keith Gleadell and Mr Marklin John Gleadell both of East Bay Farm, West Falkland;

“the Map” means the map identifying the boundaries of the Sanctuary which is reproduced in the Schedule to this Order;

“the Ordinance” means the Wild Animals and Birds Protection Ordinance 1964;

“the Sanctuary” means the area of land shown on the plan reproduced in the Schedule to this Order and being generally described as East Bay Farm, West Falkland.

Declaration of sanctuary

3.—(1) With the consent and at the request of the lessees who are prospective purchasers from the Crown of the freehold of the land concerned, the Sanctuary, which at present belongs to the Crown, is pursuant to section 4 of the Ordinance declared to be a Wild Animal and Bird Sanctuary in which the following things are, subject to the provisions of the Ordinance, prohibited —

(a) the wilful killing, injury or taking, or attempting to kill, injure or take any wild animal or bird, other than under the supervision of the landowner; and

(b) the visiting and landing on the tussac islands off Conservation Point and in Ree's Harbour other than under the supervision of the landowner; and

(c) the introduction of any carnivorous animal, other than a working sheepdog.

(2) Any person who does anything prohibited by paragraph (1) commits an offence against the Ordinance.

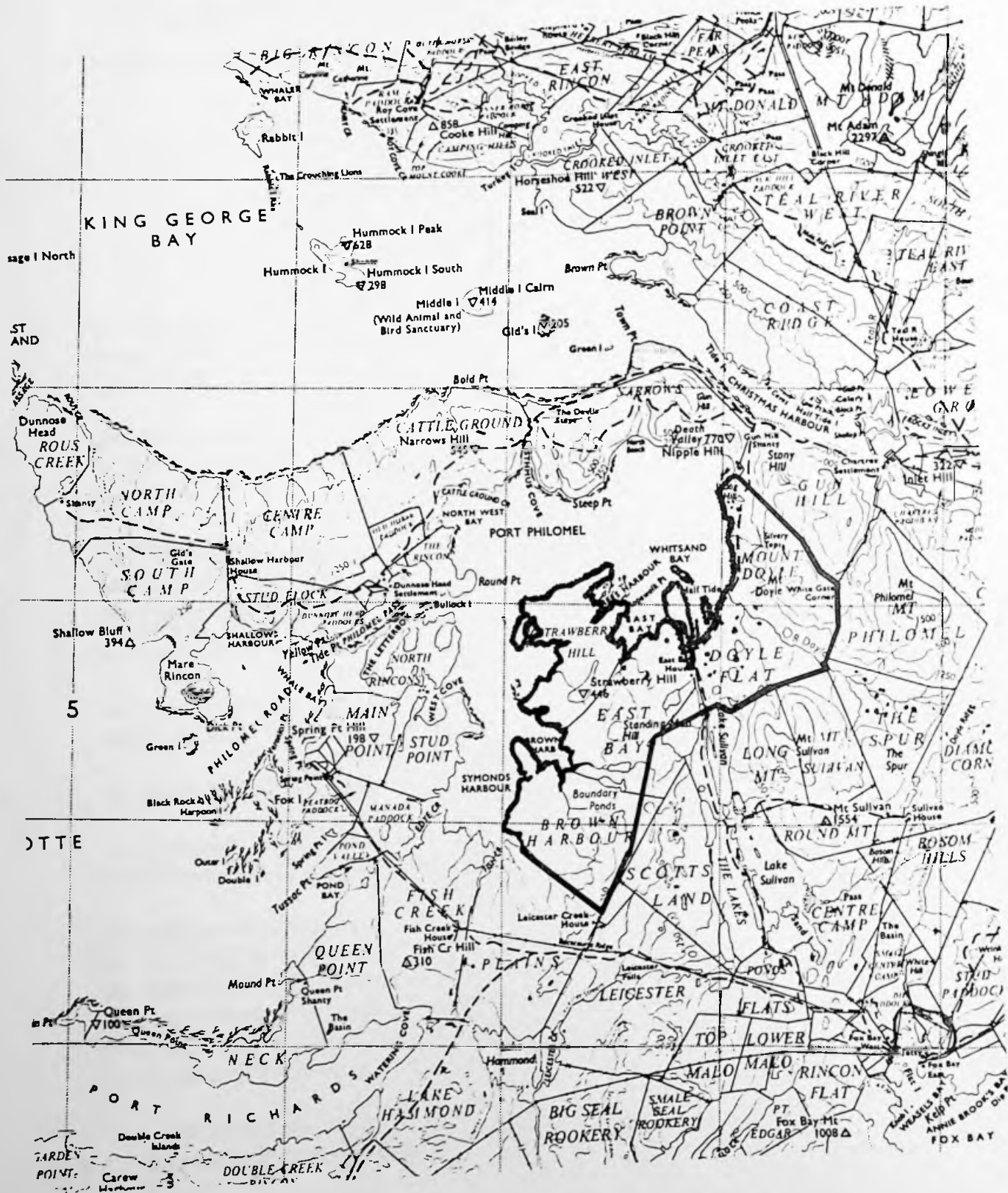
Made this eighth day of October 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Order)

This Order declares East Bay Farm, West Falkland to be a sanctuary under the Wild Animals and Birds Protection Ordinance 1964 with the effect that, subject to the Ordinance, doing any of the things mentioned in article 3 of the Order is prohibited and is a criminal offence.

SCHEDULE



SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Hygiene)(Designated Vessels) Order 1998

S. R. & O. No. 55 of 1998

Made: 13 October 1998

Published: 16 October 1998

Coming into force: upon publication

IN EXERCISE of my powers under section 3(1) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Fishery Products (Hygiene)(Designated Vessels) Order 1998 and comes into force on publication in the *Gazette*.

Designation of vessels

2. The vessels named in the first column of the Schedule to this Order are designated as vessels to which the provisions of the Fishery Products (Hygiene) Ordinance 1998 and all regulations thereunder apply and are assigned the approval numbers set against their names respectively in the second column of that Schedule.

Made this thirteenth day of October 1998

R P Ralph
Governor

SCHEDULE

<i>Vessel name</i>	<i>Approval number</i>
El Greco	1003
Argos Galicia	1007
Igueldo	1008
Polar Fury	1011
Argos Pereira	1015

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

The Fishery Products (Hygiene) Ordinance 1998, coupled with the regulations made under it, enables the operators of factory fishing vessels to obtain confirmation that their vessels meet the standards of hygiene prescribed by the European Commission. The vessels specified in the Schedule to the Order are ones which have been inspected and which are now, by this Order, designated as vessels to which the provisions of the legislation apply.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

21st October 1998

No.27

The following is published in this Supplement -

Stanley Common (Birds' Eggs) Regulations 1998, (S.R. & O. No. 56 of 1998).

SUBSIDIARY LEGISLATION

WILDLIFE

Stanley Common (Birds' Eggs) Regulations 1998

S. R. & O. No. 56 of 1998

Made: 21 October 1998

Published: 21 October 1998

Coming into force: on publication

IN EXERCISE of my powers under section 16 of the Wild Animals and Birds Protection Ordinance 1964(a) and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Stanley Common (Birds' Eggs) Regulations 1998 and shall come into force upon publication in the *Gazette*.

Interpretation

2. In these Regulations, "Stanley Common" has the same meaning as it does under the Stanley Common Ordinance 1963(b) (and therefore includes Cape Pembroke).

Prohibition

3.—(1) A person who takes, removes, collects or wilfully destroys the egg of any bird (other than that of a bird which is a pest species) in or from Stanley Common commits an offence and is liable on conviction to a fine of £200.

(2) Paragraph (1) applies notwithstanding that the person concerned possesses a licence under the Penguin and Albatross Regulations 1964(c).

Made this twenty-first day of October 1998

R P Ralph
Governor

(a) No 15 of 1964

(b) No 7 of 1963

(c) SR& O No 4 of 1964

EXPLANATORY NOTE
(not forming part of the above Order)

These Regulations prohibit the taking, removal, collection or wilful destruction of any birds' eggs (excluding the eggs of pest species) on or in the boundaries of the Stanley Common (including Cape Pembroke and Gypsy Cove). These Regulations apply to any person whether or not that person has been issued a licence to collect birds' eggs.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

2nd November 1998

No. 28

The following are published in this Supplement -

Fishery Products (Hygiene) (Designated Vessels) (No. 2) Order 1998, (S.R. & O. No. 57 of 1998);

Court of Appeal Bill 1998;

Cruise Ships Bill 1998;

Defamation (Amendment) Bill 1998;

Equal Employment Rights Bill 1998;

Merchant Shipping (Amendment) Bill 1998

SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Hygiene)(Designated Vessels)(No 2) Order 1998

S. R. & O. No. 57 of 1998

Made: 20 October 1998

Published: 2 November 1998

Coming into force: upon publication

IN EXERCISE of my powers under section 3(1) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Fishery Products (Hygiene)(Designated Vessels) (No 2) Order 1998 and comes into force on publication in the *Gazette*.

Designation of vessels

2. The vessels named in the first column of the Schedule to this Order are designated as vessels to which the provisions of the Fishery Products (Hygiene) Ordinance 1998 and all regulations thereunder apply and are assigned the approval numbers set against their names respectively in the second column of that Schedule.

Made this 20th day of October 1998

R P Ralph
Governor

SCHEDULE

<i>Vessel name</i>	<i>Approval number</i>
Petrel	1001
Capricorn	1005
Beagle FI	1006
Golden Touza	1009
Golden Chica	1010
John Cheek	1012
Sil	1014
Jacqueline	1016

EXPLANATORY NOTE

(not forming part of the above Order)

The Fishery Products (Hygiene) Ordinance 1998, coupled with the regulations made under it, enables the operators of factory fishing vessels to obtain confirmation that their vessels meet the standards of hygiene prescribed by the European Commission. The vessels specified in the Schedule to the Order are ones which have been inspected and which are now, by this Order, designated as vessels to which the provisions of the legislation apply.

Court of Appeal Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

PART I

PROVISIONS RELATING TO BOTH CRIMINAL AND CIVIL APPEALS

Introductory

1. Short title and commencement
2. Interpretation
3. General jurisdiction of the Court of Appeal

Right of appeal

4. Right of appeal to the Court of Appeal against final decisions of the Supreme Court
5. Right of appeal to the Court of Appeal against interlocutory decisions of the Supreme Court
6. Application for leave to appeal

PART II

FIRST APPEALS TO COURT OF APPEAL IN CRIMINAL CASES

Miscellaneous provisions as to powers of Court of Appeal and of Supreme Court etc

7. Power to grant bail
8. Effect of appeal on sentence

Appeal against conviction on indictment

9. Powers of Court of Appeal on determining appeal against conviction
10. Power to substitute conviction of alternative offence
11. Sentence when appeal allowed on part of an indictment
12. Disposal of appeal against special verdict
13. Substitution of finding of insanity or findings of unfitness to plead etc

Retrial

- 14. Power to order retrial
- 15. Supplementary provisions as to retrial

Appeal against sentence

- 16. Supplementary provisions as to appeal against sentence
- 17. Disposal of appeal against verdict of not guilty by reason of insanity
- 18. Substitution of findings of unfitness to plead etc
- 19. Substitution of verdict of acquittal

Unfitness to stand trial

- 20. Disposal of an appeal under section 4(1)(f)

Miscellaneous

- 21. Restitution of property
- 22. Evidence

PART III

APPEALS TO COURT OF APPEAL BY WAY OF FURTHER APPEAL IN
CRIMINAL CASES

- 23. Provisions in relation to leave on an appeal under section 4(1)(g)
- 24. Powers of Court of Appeal in an appeal under section 4(1)(g)
- 25. Detention of defendant on appeal by the Crown

PART IV

CIVIL APPEALS

Provisions in relation to civil appeals

- 26. Powers of Court of Appeal on determining civil appeal
- 27. Applications for new trial

PART V

GENERAL

- 28. Disposal of groundless appeal or application for leave to appeal
- 29. Preparation of case for hearing
- 30. Repeal and saving
- 31. Transitional

Schedule

COURT OF APPEAL BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To make further and better provision in relation to the jurisdiction of the Court of Appeal of the Falkland Islands.

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

PART I

PROVISIONS RELATING TO BOTH CRIMINAL AND CIVIL APPEALS

Introductory

Short title and commencement

1. This Ordinance may be cited as the Court of Appeal Ordinance 1998 and shall come into force on such date as may be fixed by the Governor by notice published in the *Gazette*.

Interpretation

2. In this Ordinance—

“appeal”, where used in Parts II, III or IV of this Ordinance, means an appeal to which that Part relates, and “appellant” has a corresponding meaning and in Part II includes a person who has given notice of application for leave to appeal;

“Court of Appeal” means the Court of Appeal for the Falkland Islands established by section 78 of the Constitution and where, under rules of court, the jurisdiction of the Court of Appeal is exercisable by a single justice of appeal, includes a single justice of appeal;

“Court” means the Court of Appeal;

“duly approved”, in relation to a medical practitioner, means a registered medical practitioner who is duly approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;

“education” includes training and religious instruction;

“judgment” includes a decree;

“medical practitioner” means a person who is—

(a) a person who is registered in the Falkland Islands as a medical practitioner under the provisions of the Medical Practitioners, Midwives and Dentists Ordinance; or

(b) if he is not so registered, is a fully registered person within the meaning of the Medical Act 1983;

“registered medical practitioner”, in the foregoing definition of “duly approved”, means a fully registered person within the meaning of the Medical Act 1983;

“sentence” includes any order on conviction made by the Supreme Court, not being—

(a) an order for the payment of costs; or

(b) an order under section 2 of the Protection of Animals Act 1911 in its application to the Falkland Islands (which enables a court to order the destruction of an animal); and

“under disability” has the meaning assigned to it by section 4 of the Criminal Procedure (Insanity) Act 1964.

General jurisdiction of the Court of Appeal

3.—(1) The Court of Appeal shall be a superior court of record.

(2) There shall be exercisable by the Court of Appeal—

(a) all such jurisdiction as is conferred on it by the Constitution; and

(b) subject to this Ordinance—

(i) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Ordinance;

(ii) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Ordinance.

Right of appeal

Right of appeal to the Court of Appeal against final decisions of the Supreme Court
4.—(1) Subject to section 30(4) of the Constitution (which provides that no appeal shall lie from any determination of the Supreme Court of any question as to whether a person has been validly elected as a member of the Legislative Council or as to whether any member of the Legislative Council has vacated his seat or is required, under the provisions of section 26 of the Constitution, to cease to perform his functions as such) and to subsection (4) of this section—

(a) an appeal shall lie from decisions of the Supreme Court to the Court of Appeal as of right in the instances provided by paragraphs (a) to (d) of section 85(1) of the Constitution, that is to say—

(i) final decisions, in any civil or criminal proceedings, on questions as to the interpretation of the Constitution;

(ii) final decisions in civil proceedings where the matter in dispute on the appeal is of the value of £5000 or upwards or where the appeal involves, directly or indirectly, a claim to or a question respecting property or a right of the value of £5000 or upwards (“£5000” having been hereby substituted, as permitted by section 85(1) of the Constitution, for both instances in which “£1000” appears in paragraph (b) thereof) and, for the purposes of this sub-paragraph, an order refusing unconditional leave to defend an action shall be treated as a final decision;

(iii) final decisions in proceedings under section 16 of the Constitution;

(iv) final decisions in proceedings for dissolution or nullity of marriage

(b) an appeal shall lie with the leave of the Supreme Court or of the Court of Appeal in the instance provided by section 85(2)(a) of the Constitution, that is to say where the decision appealed against is a final decision in civil proceedings and, in the opinion of the court giving leave, the question involved in the appeal is one which by reason of its great or general importance or otherwise, ought to be submitted to the Court of Appeal;

(c) an appeal shall lie, subject to subsection (2), to the Court of Appeal against a person’s conviction on indictment by the Supreme Court—

(i) as of right on any ground which involves a question of law alone;

(ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the court granting leave to be a sufficient ground of appeal;

(d) an appeal shall lie to the Court of Appeal at the instance of the convicted person, against any sentence, not being a sentence fixed by law, imposed by the Supreme Court upon his conviction before it on indictment;

(e) an appeal shall lie to the Court of Appeal at the instance of a person in whose case there is returned a verdict of not guilty by reason of insanity—

(i) as of right on any ground of appeal which involves a question of law alone;

(ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

(f) where there has been a determination in the Supreme Court under section 4 of the Criminal Procedure (Insanity) Act 1964 in its application to the Falkland Islands of the question of a person's fitness to be tried, and a finding has been made that the accused person is under a disability and that he did the act or made the omission charged against him, that person may appeal to the Court of Appeal—

(i) as of right, on any ground of appeal which involves a question of law alone; and

(ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact or any other ground which appears to be a sufficient ground of appeal;

(g) an appeal shall lie to the Court of Appeal, with the leave of the Supreme Court or of the Court of Appeal, at the instance of any party to the proceedings dissatisfied with a final decision of the Supreme Court in the exercise of its appellate jurisdiction in civil or criminal proceedings;

(h) an appeal shall lie as of right to the Court of Appeal at the instance of the person concerned—

(i) against any finding by the Supreme Court against a person in the exercise of its original jurisdiction that he is guilty of contempt of court;

(ii) against any punishment imposed on a person by the Supreme Court in consequence of such a finding by it.

(2) Except with the leave of the Supreme Court or of the Court of Appeal, no appeal against his conviction lies at the instance of a person who pleaded guilty and has been convicted on such plea by the Supreme Court.

(3) Nothing in this Ordinance shall apply in respect of an appeal from a judgment or order of the Supreme Court when acting as a prize court (when in accordance with the Prize Acts 1864 to 1944, the appeal lies to Her Majesty in Council).

Right of appeal to the Court of Appeal against interlocutory decisions of the Supreme Court

5.—(1) Except as provided by this section, no appeal shall lie to the Court of Appeal from any interlocutory order or interlocutory judgment made or given by the Supreme Court, without the leave of the Supreme Court or of the Court of Appeal.

(2) No appeal shall lie from any order of the Supreme Court allowing an extension of time for appealing against any judgment or order.

(3) An appeal lies of right against an interlocutory order or interlocutory judgment made or given by the Supreme Court—

(a) where the liberty of the subject or the residence, education or welfare of a minor is concerned;

(b) where an applicant for contact with a minor is refused all contact with the minor;

(c) in the case of a decree nisi in a matrimonial cause, or a judgment or order in an admiralty action determining liability;

(d) in any other case provided by law.

(4) For the purposes of subsection (3)(a), "education" includes training and religious instruction.

Application for leave to appeal

6.—(1) An application to the Supreme Court for leave to appeal to the Court of Appeal shall be made within the period of twenty-eight days beginning with the date of the decision of the Supreme Court; and an application to the Court of Appeal for such leave shall be made within the period of twenty-eight days beginning with the date on which the application is refused by the Supreme Court.

(2) The Court of Appeal or the Supreme Court may, on application made at any time, whether before or after the expiration of the relevant period mentioned in subsection (1) but not more than one application for leave may be made in respect of any decision under this subsection, extend the time within which the person applying for the extension may apply to the Court of Appeal or to the Supreme Court for leave to appeal.

PART II

FIRST APPEALS TO COURT OF APPEAL IN CRIMINAL CASES

Miscellaneous provisions as to powers of Court of Appeal and of Supreme Court etc.

Power to grant bail

7.—(1) The Supreme Court may on such terms as it sees fit grant bail to any person who has appealed to the Court of Appeal, or applied for leave to appeal to the Court of Appeal, against his conviction or sentence by the Supreme Court in the exercise of its original criminal jurisdiction.

(2) Where application is made to the Supreme Court for leave to appeal, that court may give such directions as it thinks fit for discharging or enlarging any recognisance entered into by any surety, under any enactment or otherwise, with reference to the proceedings of that court.

(3) Bail granted pursuant to this section may be granted pending the determination of the appellant's appeal.

(4) The Court of Appeal, if it thinks fit, may —

(a) revoke bail granted to an appellant in the exercise of the power conferred by subsection (1) or (2) of this section; or

(b) vary the conditions of bail granted to an appellant in the exercise of the power conferred by either of those subsections.

(5) The powers conferred by the preceding provisions of this section may be exercised—

(a) on the application of an appellant; or

(b) if it appears to the Registrar of the Court of Appeal that any of them ought to be exercised by the Court of Appeal, on a reference to the Court by him.

Effect of appeal on sentence

8.—(1) Subject to section 7(3), any sentence passed on appeal under this Ordinance in substitution for another sentence shall, unless the Court of Appeal or (where the case is remitted to it under section 10(1)(e)) the Supreme Court otherwise orders, begin to run from the time when that other sentence would have begun to run.

(2) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject. Where the Court of Appeal gives any direction to the contrary for the purposes of this subsection, it shall state its reasons for doing so. No such direction shall be given where leave to appeal has been given either by the Court of Appeal or by the Supreme Court.

(3) Where a person subject to sentence is granted bail pending an appeal to the Court of Appeal, the time during which he is released on bail shall be disregarded in computing the term of any sentence to which he is for the time being subject.

Appeal against conviction on indictment

Powers of Court of Appeal on determining appeal against conviction

9.—(1) Except as provided by this Ordinance, the Court of Appeal—

(a) shall allow an appeal against conviction if it thinks that the conviction is unsafe; and

(b) shall dismiss such an appeal in any other case.

(2) In the case of an appeal against conviction, the Court of Appeal shall, if it allows the appeal, quash the conviction.

(3) Except where under section 14 of this Ordinance the Court of Appeal orders the appellant to be retried, an order of the Court of Appeal quashing a conviction shall operate as a direction to the Supreme Court to enter, instead of the record of conviction, a judgment and verdict of acquittal.

(4) Subject to this Ordinance, in determining a criminal appeal, the Court of Appeal may increase, modify or reduce the sentence.

Power to substitute conviction of alternative offence

10.—(1) This section applies on an appeal against conviction, where the appellant has been convicted of an offence and the jury (or, in the case of a trial before a judge alone, the judge) could on the indictment have found him guilty of some other offence, and on the finding of the jury (or, in the case of a trial before a judge alone, on the findings contained in any judgment delivered by the trial judge) it appears to the Court of Appeal that the jury (or in the case of a trial before a judge alone, the judge) must have been satisfied of facts which proved him guilty of the other offence.

(2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury (or, in the case of a trial before a judge alone, the finding by the judge) of guilty of the offence, a verdict or finding of guilty of the other offence, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.

Sentence when appeal allowed on part of an indictment

11.—(1) This section applies where, on an appeal against conviction on an indictment containing two or more counts, the Court of Appeal allows the appeal in respect of part of the indictment.

(2) Except as provided by subsection (3) of this section, the Court may in respect of any count on which the appellant remains convicted pass such sentence, in substitution for any sentence passed thereon at the trial, as it thinks proper and is authorised by law for the offence of which he remains convicted on that account.

(3) The Court shall not under this section pass any sentence such that the appellant's sentence on the indictment as a whole will, in consequence of the appeal, be of greater severity than the sentence (taken as a whole) which was passed at the trial for all the offences of which he was convicted on the indictment.

Disposal of appeal against special verdict

12.—(1) This section applies on an appeal against conviction by a person in whose case the jury have found a special verdict.

(2) If the Court of Appeal considers that a wrong conclusion has been arrived at by the court of trial on the effect of the jury's verdict it may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be authorised in law.

Substitution of finding of insanity or findings of unfitness to plead etc.

13.—(1) This section applies where, on an appeal against conviction, the Court of Appeal, on the written or oral evidence of two or more medical practitioners registered in accordance with the law for the time being in force in England and at least one of whom is duly approved, is of opinion —

(a) that the proper verdict or finding would have been one of not guilty by reason of insanity; or

(b) that the case is not one where there should have been a verdict of acquittal, but there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.

(2) Subject to subsection (3) of this section, the Court of Appeal shall in a case where this section applies make such order in relation to the appellant as, having taken into account the provisions of the Criminal Procedure (Insanity and Fitness to Plead) Act 1991 in its application to the Falkland Islands it believes can most appropriately be made.

(3) Where the appeal relates to an offence of murder or an offence the sentence for which is fixed by law, the Court of Appeal shall not make an order corresponding to, or having a similar effect to, the orders mentioned in section 6(2)(b) of the Criminal Appeal Act 1968.

Retrial

Power to order retrial

14.—(1) Where the Court of Appeal allows an appeal against conviction and it appears to the Court that the interests of justice so require, it may order the appellant to be retried.

(2) A person shall not under this section be ordered to be retried for any offence other than —

(a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) of this section;

(b) an offence of which he could have been convicted at the original trial and in respect of which his appeal is allowed; or

(c) an offence charged in the alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of convicting him of the first-mentioned offence.

Supplementary provisions as to retrial

15.—(1) A person who is retried for an offence in pursuance of an order under section 15 shall be tried on a fresh indictment preferred by direction of the Court of Appeal.

(2) The Court of Appeal on ordering a retrial may make such orders as appear to it to be necessary or expedient.

(3) The Schedule to this Ordinance has effect with respect to the procedure in the case of a person to be retried, the sentence to be passed if the retrial results in his conviction and the order for costs which may be made if he is acquitted.

Appeal against sentence

Supplementary provisions as to appeal against sentence

16.—(1) Where the Supreme Court in dealing with an offender on his conviction on indictment has passed on him two or more sentences in the same proceeding, being sentences against which an appeal lies under the preceding provisions of this Ordinance, an appeal or application for leave to appeal against any one of those sentences shall be treated as an appeal or application in respect of both or all of them.

(2) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if —

(a) they are passed on the same day; or

(b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence;

and consecutive terms of imprisonment and terms which are wholly or partly concurrent are to be treated as a single term.

(3) On an appeal against sentence the Court of Appeal may, if it thinks that the appellant should be sentenced differently for the offence for which he was dealt with by the Supreme Court may —

(a) quash any sentence or order which is the subject of the appeal;

(b) in place of it pass such sentence or make such order as it thinks appropriate for the case and as the court below had power to pass or make when dealing with him for the offence;

but the court shall so exercise its powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below.

Disposal of appeal against verdict of not guilty by reason of insanity

17.—(1) Subject to section (2) of this section, the Court of Appeal —

(a) shall allow an appeal to which section 4(1)(e) of this Ordinance relates (an appeal against a verdict or finding of not guilty by reason of insanity) if it thinks that the verdict or finding is unsafe; and

(b) shall dismiss such an appeal in any other case.

(2) Where an appeal to which section 4(1)(e) of this Ordinance relates is allowed —

(a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal is of opinion that the proper verdict or finding would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury (or in the case of a trial before a judge alone, the judge) could have found him guilty), the Court—

(i) shall substitute for the verdict or finding of not guilty by reason of insanity a verdict or finding of guilty of that offence; and

(ii) subject to subsection (3) of this section, shall have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury or judge had come to the substituted verdict or finding; and

(b) in any other case, the Court of Appeal shall substitute for the verdict or finding of guilty a verdict or finding of acquittal.

Substitution of findings of unfitness to plead etc.

18.—(1) This section applies where, under an appeal to which section 4(1)(e) of this Ordinance applies (appeal against a verdict or finding of not guilty by reason of insanity), the Court of Appeal, on the written or oral opinion of two or more medical practitioners at least one of whom is duly approved, is of opinion that —

(a) the case is not one where there should have been a verdict of acquittal or finding of not guilty; but

(b) there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.

(2) In a case to which this section applies, the Court of Appeal shall after taking into account the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 in its application to the Falkland Islands make such order as it thinks ought most appropriately to be made.

Substitution of verdict of acquittal

19.—(1) This section applies where, in accordance with section 18(2)(b) of this Ordinance, the Court of Appeal substitutes a verdict of acquittal and the Court, on the written or oral evidence of two or more medical practitioners at least one of whom is duly approved, is of opinion —

(a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital (whether within the Falkland Islands or otherwise) for assessment (or for assessment followed by medical treatment) for at least a limited period, and

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons.

(2) The Court of Appeal shall make an order that the appellant be admitted for assessment to such hospital as may be specified by the Governor.

Unfitness to stand trial

Disposal of an appeal under section 4(1)(f)

20.—(1) The Court of Appeal —

(a) shall allow an appeal under section 4(1)(f) of this Ordinance against a finding if it thinks that the finding is unsafe: and

(b) shall dismiss such an appeal in any other case.

(2) Where the Court of Appeal allows an appeal under section 4(1)(f) of this Ordinance against a finding that the appellant is under a disability —

(a) the appellant may be tried accordingly for the offence with which he was charged; and

(b) the Court may make such orders as appear to it to be necessary or expedient pending such trial for his custody, release on bail or continued detention under any enactment relating to mentally disordered persons.

(3) Where, otherwise than in a case falling within subsection (3) of this section, the Court of Appeal allows an appeal under section 4(1)(f) of this Ordinance against a finding that the appellant did the act or made the omission charged against him, the Court shall, in addition to quashing the verdict, direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).

Miscellaneous

Restitution of property

21.—(1) The operation of an order for the restitution of property to a person made by the Supreme Court shall, unless the Court directs to the contrary in any case in which, in its opinion, the title to property is not in dispute, be suspended until (disregarding any power to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

(2) The Court of Appeal may by order annul or vary any order made by the Supreme Court for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled shall not take effect and, if varied, shall take effect as if so varied.

Evidence

22.—(1) For the purposes of this Part of this Ordinance, the Court of Appeal may, if it thinks that it is necessary or expedient in the interests of justice —

(a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it to be necessary for the determination of the case;

(b) order any witness who would have been a compellable witness in the proceedings in which the appeal lies to attend for examination and be examined before the Court, whether or not he was called in the proceedings; and

(c) receive any evidence which was not adduced in the proceedings from which the appeal lies.

(2) The Court of Appeal shall, in considering whether to receive any evidence, have regard in particular to —

(a) whether the evidence appears to the Court to be capable of belief;

(b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal; and

(c) whether there is a reasonable explanation for the failure to adduce the evidence in those proceedings.

(3) Subsection (1)(c) above applies to evidence of any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's spouse where the appellant makes an application for that purpose and the evidence of the spouse could not have been given in the proceedings from which the appeal lies except on such an application.

(4) For the purposes of this Part of this Ordinance, the Court of Appeal may, if it thinks that it is necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under subsection (1)(b) of this section to be conducted, in a manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

PART III

APPEALS TO COURT OF APPEAL BY WAY OF FURTHER APPEAL IN CRIMINAL CASES

Provisions in relation to leave on an appeal under section 4(1)(g)

23.—(1) This section applies in relation to appeals to the Court of Appeal from a decision of the Supreme Court in the exercise of its appellate jurisdiction in criminal proceedings.

(2) Where this section applies, leave to appeal shall not be granted by the Supreme Court or the Court of Appeal unless the court granting leave certifies that a point of law of general public importance is involved in the decision of the Supreme Court which ought to be considered by the Court of Appeal.

(3) An application for leave to appeal from a decision of the Supreme Court to which this section applies shall be made within twenty-eight days of the decision of the Supreme Court but the Supreme Court or the Court of Appeal may, on application made to it by the appellant or respondent to the appeal in the Supreme Court, extend the time within which an application for leave to appeal to the Court of Appeal may be made.

(4) Where this section applies, an appeal to the Court of Appeal shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for the purposes of this Part of this Ordinance an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

Powers of Court of Appeal in an appeal under section 4(1)(g)

24.—(1) For the purpose of disposing of an appeal to which section 24 applies, the Court of Appeal may exercise any powers the Supreme Court could have exercised on disposing of the appeal to it.

(2) The Court of Appeal may also exercise, pending determination of such an appeal, any of its powers under section 7 of this Ordinance (power to grant bail etc.).

Detention of defendant on appeal by the Crown

25.—(1) The following provisions of this section apply where, immediately after a decision of the Supreme Court in the exercise of its appellate jurisdiction in criminal proceedings, the prosecutor is granted or gives notice that he intends to apply for, leave to appeal.

(2) If, but for the decision of the Supreme Court, the defendant would be liable to be detained, the Supreme Court may make an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Supreme Court as if the defendant had appealed to the Court of Appeal against his conviction by the Supreme Court in the exercise of its original criminal jurisdiction and section 7 of this Ordinance shall apply accordingly).

(3) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Supreme Court.

(4) Where an order is made under this section in the case of a defendant who but for the decision of the Supreme Court would have been liable to be detained in a hospital, the order under this section shall be one authorising his continued detention in hospital and all provisions of any enactment relating to admission to hospital of persons suffering from a mental disorder convicted by criminal courts and admission to hospital following a verdict of insanity or unfitness to stand trial (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

**PART IV
CIVIL APPEALS**

Provisions in relation to civil appeals

Powers of Court of Appeal on determining civil appeal

26.—(1) For all purposes of or incidental to the hearing or determination of any civil appeal and the amendment, execution and enforcement of any judgment or order made on such an appeal, the Court of Appeal shall have all the jurisdiction and authority of the Supreme Court.

(2) Without prejudice to subsection (1), on the hearing of an appeal, the Court of Appeal may draw any inference of fact and—

(a) order a new trial on such terms as the Court thinks just; or

(b) order a judgment to be entered for any party; or

(c) make a final or other order on such terms as the Court thinks proper to ensure the determination on the merits of the real question in controversy between the parties.

(3) Subject to rules of court, on any appeal the Court of Appeal may reverse or vary, in favour of a party seeking to support the judgment or order of the Supreme Court in whole or in part, any determination made in the Supreme Court on questions of fact, notwithstanding that the appeal is an appeal on a point of law only, or any such determinations on points of law, notwithstanding that the appeal is an appeal on a question of fact only.

(4) Subsection (3) shall not enable the Court of Appeal to reverse or vary any determination, unless the party dissatisfied with the determination would have been entitled to appeal in respect of it if he were aggrieved by the judgment or order.

(5) Any provision of any Ordinance or other law of or having effect in the Falkland Islands enactment which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the Supreme Court in civil proceedings applies in relation to a judgment or order of the Court of Appeal in civil proceedings as it applies in relation to an order or judgment of the Supreme Court.

Applications for new trial

27.—(1) Where any civil cause or matter, or any issue in any civil cause or matter, has been tried in the Supreme Court, any application for a new trial of that cause or matter or to set aside any finding or judgment in it shall be heard and determined by the Court of Appeal except where rules of court provide to the contrary.

(2) Nothing in this section shall alter the practice in bankruptcy.

PART V GENERAL

Disposal of groundless appeal or application for leave to appeal

28. If it appears to the Registrar of the Court of Appeal that a notice of application or application for leave to appeal in any civil or criminal appeal or prospective appeal does not show any substantial ground of appeal, he may refer the appeal or application for leave to the Court for summary determination; and where the case is so referred the Court may, if it considers that the appeal or application for leave is frivolous or vexatious, and can be determined without adjourning it for a full hearing, dismiss the application for leave summarily, without calling on anyone to attend the hearing or to appear on behalf of the respondent or prospective respondent.

Preparation of case for hearing

29. The Registrar of the Court of Appeal shall —

(a) take all necessary steps for obtaining a hearing of any appeal or application of which notice is given to him and which is not referred and dismissed under the immediately preceding section; and

(b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal or application.

Repeal and saving

30.—(1) The Appeals Ordinance 1966 is repealed.

(2) Notwithstanding subsection (1), the Appeals Ordinance 1966, in so far as it is consistent with the Constitution, shall continue to have effect in relation to appeals commenced before the commencement of this Ordinance.

Transitional

31.—(1) Any right of appeal subsisting immediately before the commencement of this Ordinance by virtue of the Appeals Ordinance 1966 shall after that commencement be treated as subsisting by virtue of the corresponding provision of this Ordinance.

(2) Where, in relation to any decision or judgment of the Supreme Court given, delivered or made before the commencement of this Ordinance, a right of appeal with or without leave would have existed under the Appeals Ordinance 1966 but does not subsist under any corresponding provision of this Ordinance or of the Constitution, then in so far as relates to that right of appeal and the prosecution of any appeal or application for leave to appeal, this Ordinance shall be deemed never to have been enacted.

(3) In so far as any order made, direction given or other thing done under the Appeals Ordinance 1966 could have been made given or done under a corresponding provision of this Ordinance, it shall not be invalidated by the repeal of the Appeals Ordinance 1966 but shall have effect as if made, given or done under the corresponding provision of this Ordinance.

(4) The reference of particular matters in the foregoing subsections of this section shall not be taken to affect the general application of the provisions of the Interpretation and General Clauses Ordinance 1977 with regard to the effect of repeals.

SCHEDULE

section 15(3)

PROCEDURAL AND OTHER PROVISIONS APPLICABLE ON ORDER FOR RETRIAL

Depositions

1. On a retrial, section 13(3) of the Criminal Justice Act 1925 (reading of depositions) in its application to the Falkland Islands shall not apply to the evidence of any person who gave evidence at the original trial; but a transcript of the evidence of the witness given at the original trial, may with the leave of the judge be read as evidence —

(a) by agreement between the prosecution and the defence; or

(b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success;

2. Subject to paragraph 1, evidence given orally at the original trial can only be given orally at the retrial.

Sentence on conviction at the retrial

3.—(1) Where a person ordered to be retried is again convicted on retrial, the court before which he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.

(2) Without prejudice to its power to impose any other sentence, the court before which an offender is convicted on retrial may pass in respect of the offence any sentence passed or could lawfully have been passed in respect of the offence on the original conviction notwithstanding that, on the day of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.

(3) Where a person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded —

(a) any time before his conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and

(b) any time during which he was released on bail under section 7(2) of this Ordinance.

EXPLANATORY MEMORANDUM COURT OF APPEAL BILL 1998

Introductory

1. The Court of Appeal Bill 1998 would, if enacted, replace the Appeals Ordinance 1966 with new provision.

Detail

2. Clause 1 of the Bill provides that, if enacted, it will come into force on such date as is fixed by the Governor in Notice published in the Gazette. This may be 1st January 1999.

3. A number of definitions of expressions used in the Bill are contained in clause 2 (interpretation). Clause 3(1) states that the Court of Appeal shall be a superior court of record. This is a technical provision relevant for purposes of the law of contempt of court and in relation to authority of decisions of the court in an earlier case in relation to a matter to be decided in a later case. Clause 3(2) states the jurisdiction of the Court of Appeal - in part it is derived from the Constitution, in part it will be derived from this Bill if enacted and in part it may be derived from provisions of other Ordinances, yet to be made, which may confer jurisdiction upon the Court of Appeal.

4. Clause 4 of the Bill provides for the instances in which a person may appeal to the Court of Appeal. There are two categories with which the clause deals - instances where the person concerned has the right to appeal to the Court of Appeal and those in which a person has the right to appeal to the Court of Appeal only with the permission of the Court of Appeal or of the Supreme Court. Clause 4 does not, however, deal with the right of appeal against "interlocutory decisions". That subject is dealt with by clause 5. An "interlocutory decision" is a decision of a court, or order of a court, made before trial of the merits of the case the subject of the proceedings. In many instances, of course, while proceedings are begun, they do not proceed to a final trial but, nevertheless, orders, for example an injunction restraining a nuisance - are made. With the exception of the instances mentioned in clause 5(3) an appeal will lie against an interlocutory order of the Supreme Court only with leave of the Supreme Court or the Court of Appeal. Provisions about application for leave to appeal are contained in clause 6.

5. Part II (clauses 7 to 22) deals with first appeals to the Court of Appeal in criminal cases: that is to say where the appellant has been tried by the Supreme Court in respect of one or more criminal offences, and not by the Summary Court or the Magistrate's Court. Clause 7 deals with the power to grant bail to an appellant, pending appeal. Clause 8(1) provides that where, as a result of an appeal in a criminal case a custodial sentence is substituted by another custodial sentence, the second custodial sentence begins to run from the date on which the first sentence began to run or would have begun to run. An associated provision is contained in clause 8(2) which says that subject to any contrary direction of the Court of Appeal, if an appellant is in custody pending his appeal, the time he was in custody pending his appeal shall count as part of the period of his sentence. On the other hand, if he was on bail pending his appeal, the period he was on bail (even though he may have been subject to restrictive conditions) shall not be counted as part of his sentence. Under clause 9 the Court of Appeal is

required to allow an appeal against conviction if it thinks that the conviction was unsafe and to dismiss the appeal against conviction in any other case.

6. Clause 10 confers power to substitute a conviction of an alternative offence for the offence of which a person was convicted at trial if it appears to the Court of Appeal that the court of trial must have been satisfied of facts which proved him guilty of the other offence. An example might be where a person was convicted on trial of the offence of murder and the Court of Appeal, on appeal, decides that the conviction of murder is incorrect (for example) because of provocation by the deceased. Then the Court of Appeal could quash the conviction of the appellant of murder and substitute a conviction of manslaughter.

7. Sometimes a person is convicted on indictment of a number of offences committed at the same time or in association with one another and an appeal is allowed against conviction of the most serious offence contained in the indictment. The sentences on the lesser offences may have taken into account the sentence on the offence conviction of which has been quashed on appeal. Clause 11 would enable the Court of Appeal to increase the sentence on the lesser offences but (clause 11(3)) not so that the appellants sentence on the indictment as a whole is greater in severity than the sentence (taken as a whole) which was passed at the trial for all the offences.

8. Clauses 12 and 13 deal with special problems which arise in relation to incorrect findings involving persons alleged to have been suffering from mental illness at the time of the offence or at the time of the trial.

9. Clause 14 enables the Court of Appeal to order the appellant to be re-tried where it thinks that the interests of justice so require where it allows an appeal against conviction.

Supplementary provisions as to re-trial

10. Clause 16 contains a number of supplementary provisions in relation to appeals against sentence. Clause 16(1) and (2) deal with the situation where there is an application for leave to appeal against sentence and the appellant was sentenced in respect of more than one offence in the same proceeding. Clause 16(3) enables the Court of Appeal, where a person has been sentenced in respect of more than one offence at trial and it quashes one or more of those sentences on appeal, it could substitute a different sentence (but not so as to increase the severity of the sentences passed at trial, when taken as a whole).

11. Clause 17 deals with the subject of appeals against verdicts of not guilty by virtue of insanity and clauses 18 and 19 make supplementary provision in relation to that. Clause 20 deals with appeals against a finding that a person is unfit to be tried but did the act or made the omission charged against him.

12. Any order for the restitution of property to a person made by the Supreme Court is, by clause 21, suspended pending appeal. The Court of Appeal is given power to annul or vary any such order even though it does not quash the conviction concerned. Various provisions as to evidence, including the admission of new evidence on appeal are contained in clause 22.

13. Part III of the Bill (clauses 23 to 25) deals with appeals by way of further appeal in criminal cases. A person who has been convicted by the Summary Court or by the Magistrate's Court, and has appealed to the Supreme Court, cannot appeal by way of further appeal to the Court of Appeal (see clause 23(2)) unless the court granting leave for the further appeal under clause 4(1)(g) certifies that "a point of law of general public importance is involved" which ought to be considered by the Court of Appeal. Supplementary provisions in relation to such appeals are contained in clause 23(3) and (4) and in clauses 24 and 25.

14. Part IV of the Bill (clauses 26 and 27) deals with civil appeals. In civil appeals the Court of Appeal (clause 26(1)) has all the jurisdiction and authority of the Supreme Court and may (clause 26(2)) order a new trial on such terms as it thinks just, order a judgment to be entered for any party or make a final or other order on such terms as it thinks proper to ensure the determination on the merits of the real question in controversy between the parties. The court may reverse or vary any determination made in the Supreme Court on questions of fact (clause 26(3), subject to clause 26(4)). Where a matter has been tried in the Supreme Court in civil proceedings, any application for a new trial is to be made to the Court of Appeal (clause 27(1)).

15. Part V of the Bill (clauses 28 to 31) contains provisions which apply in relation to both criminal and civil appeals. Clause 28 enables the Court of Appeal, without a full hearing, to dispose of a groundless appeal or application for leave to appeal. Clause 29 casts duties on the Registrar of the Court of Appeal in relation to making ready cases for hearing by the Court of Appeal. Clause 30 repeals the Appeals Ordinance 1966 but it is to continue to have effect in relation to pending appeals. Transitional provisions are contained in clause 31.

16. The Schedule to the Bill contains procedural and other provisions applicable in relation to an order for retrial in criminal proceedings.

Cruise Ships Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Interpretation
3. Conservation levy
4. Supplementary to section 3
5. Saving for immigration laws
6. Orders

Schedule

CRUISE SHIPS BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To provide for a conservation levy to be paid in respect of cruise ship passengers.

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

Short title and commencement

1. This Ordinance may be cited as the Cruise Ships Ordinance 1998 and shall come into force on 1st October 1999.

Interpretation

2. In this Ordinance —

“designated port” means Stanley (that is to say, Port William or Port Jackson (otherwise known as Stanley Harbour)) and any other port designated by Order under section 6;

“exempted person” means a person who falls within any of the following descriptions—

(a) a person in the service of Her Majesty in right of Her Government in the Falkland Islands;

(b) a person in the service of Her Majesty in right of Her Government in the United Kingdom and who is for the time being in the Falkland Islands for the purposes of such service;

(c) a member of Her Majesty's Armed Forces or of the Royal Fleet Auxiliary Service;

(d) a person who is a member of the crew of the vessel in question;

"the conservation levy" means the sum per passenger required by section 3 to be paid;

"passenger" means any person, other than an exempted person, carried aboard a vessel at the time of its arrival at a designated port and any person, other than an exempted person, carried aboard the vessel at the time of its departure from a designated port and who was not carried aboard that vessel at the time of its arrival at that port.

Conservation levy

3.—(1) Subject to this section, there shall be paid in respect of every passenger aboard a vessel a conservation levy of £10.

(2) No conservation levy shall be payable in respect of any passenger if the aggregate of the number of passengers carried on that vessel at the time of its arrival at a designated port plus any further persons who are or are expected to be, passengers at the time of its departure from that port does not exceed 100.

(3) Where a vessel arrives at more than one designated port or at the same designated port more than once in the course of the same voyage no conservation levy is payable in respect of any passenger in respect of the second or other subsequent such arrival at a designated port (and, for the purposes of this subsection, a vessel shall be treated as being upon the same voyage if it has not entered the territorial sea of any other country or territory since calling at a designated port).

(4) Subject to this section, a conservation levy is payable in respect of a passenger whether or not he disembarks from the vessel in question.

Supplementary to section 3

4.—(1) Payment of a conservation levy payable in respect of any passengers carried aboard a vessel shall be made by the owner or charterer of the vessel to the Collector of Customs and shall, unless otherwise approved by the Collector of Customs, be paid before the first arrival of the vessel at a designated port during the voyage concerned.

(2) All sums paid by way of conservation levy shall be paid into and form part of the Consolidated Fund.

Saving for immigration laws

5. Nothing in this Ordinance shall be construed as permitting any person to land in the Falkland Islands contrary to any provision of the immigration laws of the Falkland Islands from time to time in force.

Orders

6. The Governor may by Order under this subsection —

- (a) amend section 3(1) so as to substitute a different sum for the sum of £10 mentioned in that provision;
- (b) make such provision as appears to be necessary or expedient for the purposes of this Ordinance;
- (c) designate any place as a port for the purposes of this Ordinance; and
- (d) amend or revoke, with or without replacing the same, any Order previously made under this section.

OBJECTS AND REASONS

The purpose of this Bill is to provide for payment of a conservation levy by passengers aboard cruise vessels, but exempting vessels on which less than 100 passengers are carried. The conservation levy is to be paid by the owner or charterer of the vessel, irrespective of whether the passenger disembarks or not. The Bill would not specify how the conservation levy, which would be paid into the Consolidated Fund, shall be expended: the Falkland Islands Government however currently expends on conservation matters an annual sum considerably exceeding the revenue likely to be receivable under this Bill.

Defamation (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Amendment of the Defamation Ordinance 1988

SCHEDULE

1. Amendment of principal Ordinance
2. Further amendment of principal Ordinance
3. Interpretation
- Responsibility for publication*
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 5. Offer to make amends
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 - Evidence concerning proceedings in the Legislative Council*
 12. Evidence concerning proceedings in the Legislative Council
 - Statutory privileges*
 13. Reports of court proceedings absolutely privileged
 14. Reports, etc. protected by qualified privilege
 15. Saving as to the law relating to criminal libel
 16. Exclusion of Defamation Act 1996
 17. Disapplication of provisions of the Broadcasting Act 1990
3. Amendment of Schedule 1 to the Defamation Ordinance 1988
4. Amendment of Part II of Schedule 2 to the Defamation Ordinance 1988
5. Further amendment of the Defamation Ordinance 1988

DEFAMATION (AMENDMENT) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To amend the law of defamation.

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

Short title and commencement

1. This Ordinance may be cited as the Defamation (Amendment) Ordinance 1998 and comes into force on 1st January 1999.

Amendment of the Defamation Ordinance 1988

2. The Defamation Ordinance 1988 ("the principal Ordinance") is amended in the manner specified in the Schedule to this Ordinance.

SCHEDULE**Amendment of principal Ordinance**

1. The principal Ordinance is amended by inserting the title "PART I: INTRODUCTORY" on the line following the words of enactment and preceding the line on which section 1 begins.

Further amendment of the principal Ordinance

2. The principal Ordinance is further amended by the insertion of the following title and sections after section 2 —

“PART II: AMENDMENT OF LAW RELATING TO CIVIL DEFAMATION

Interpretation

3. In this Ordinance —

“publication” and “publish”, in relation to a statement, have the meaning they have for the purposes of the law of defamation generally, but “publisher” is specially defined for the purposes of section 4;

“statement” means words, pictures, visual images, gestures or any other method of signifying meaning; and

“statutory provision” means any provision contained in an enactment (and “enactment” has the same meaning as it has for the purposes of section 3 of the Interpretation and General Clauses Ordinance 1977).

Responsibility for publication

Responsibility for publication

4.—(1) In defamation proceedings a person has a defence if he shows that —

- (a) he was not the author, editor or publisher of the statement complained of;
- (b) he took reasonable care in relation to its publication; and
- (c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

(2) For this purpose “author”, “editor” and “publisher” have the following meanings, which are further explained in subsection (3) —

- (a) “author” means the originator of the statement, but does not include a person who did not intend that his statement be published at all;
- (b) “editor” means a person having editorial or equivalent responsibility for the content of the statement or the decision to publish it; and
- (c) “publisher” means a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.

(3) A person shall not be considered the author, editor or publisher of a statement if he is only involved —

- (a) in printing, producing, distributing or selling printed material containing the statement;
- (b) in processing, making copies of, distributing or selling any electronic medium in or on which the statement is recorded, or in operating or providing

any equipment, system or service by means of which the statement is retrieved, copied, distributed or made available in electronic form;

(c) as the broadcaster of a live programme containing the statement in circumstances in which he has no effective control over the maker of the statement;

(d) as the operator of or provider of access to a communications system by means of which the statement is transmitted, or made available, by a person over who he has no effective control.

In a case not within paragraphs (a) to (d) the court may have regard to those provisions by way of analogy in deciding whether a person is to be considered the author, editor or publisher of a statement.

(4) Employees or agents of an author, editor or publisher are in the same position as their employer or principal to the extent that they are responsible for the content of the statement or the decision to publish it.

(5) In determining for the purposes of this section whether a person took reasonable care, or had reason to believe that what he did caused or contributed to the publication of a defamatory statement, regard shall be had to —

(a) the extent of his responsibility for the content of the statement or the decision to publish it;

(b) the nature or circumstances of the publication; and

(c) the previous conduct or character of the author, editor or publisher.

(6) This section does not apply to any cause of action which arose before the section came into force.

Offer to make amends

Offer to make amends

5.—(1) A person who has published a statement alleged to be defamatory of another may offer to make amends under this section.

(2) The offer may be in relation to the statement generally or in relation to a specific defamatory meaning which the person making the offer accepts that the statement conveys (“a qualified offer”).

(3) An offer to make amends —

(a) must be in writing;

(b) must be expressed to be an offer to make amends under section 4 of the Defamation Ordinance 1988; and

(c) must state whether it is a qualified offer and, if so, set out the defamatory meaning in relation to which it made.

(4) An offer to make amends under this section is an offer —

(a) to make a suitable correction of the statement complained of and a sufficient apology to the aggrieved party;

(b) to publish the correction and apology in a manner that is reasonable and practicable in the circumstances; and

(c) to pay to the aggrieved party such compensation (if any), and such costs, as may be agreed or determined to be payable.

The fact that the offer is accompanied by an offer to take specific steps does not affect the fact that an offer to make amends under this section is an offer to do all the things mentioned in paragraphs (a) to (c).

(5) An offer to make amends under this section may not be made by a person after serving a defence in defamation proceedings brought against him by the aggrieved party in respect of the publication in question.

(6) An offer to make amends under this section may be withdrawn before it is accepted; and a renewal of an offer which has been withdrawn shall be treated as a new offer.

Accepting an offer to make amends

6.—(1) If an offer to make amends under section 5 is accepted by the aggrieved party, the following provisions apply.

(2) The party accepting the offer may not bring or continue defamation proceedings in respect of the publication concerned against the person making the offer, but he is entitled to enforce the offer to make amends, as follows.

(3) If the parties agree on the steps to be taken in fulfilment of the offer, the aggrieved party may apply to the court for an order that the other party fulfil his offer by taking the steps agreed.

(4) If the parties do not agree on the steps to be taken by way of correction, apology and publication, the party who made the offer may take such steps as he thinks appropriate, and may in particular —

(a) make the correction and apology by a statement in open court in terms approved by the court; and

(b) give an undertaking to the court as to the manner of their publication.

(5) If the parties do not agree on the amount to be paid by way of compensation, it shall be determined by the court on the same principles as damages in defamation proceedings.

The court shall take account of any steps taken in fulfilment of the offer and (so far as not agreed between the parties) of the suitability of the correction, the sufficiency of the apology and whether the manner of their publication was reasonable in the circumstances, and may reduce or increase the amount of compensation accordingly.

(6) If the parties do not agree on the amount to be paid by way of costs, it shall be determined by the court on the same principles as costs awarded in court proceedings.

(7) The acceptance of an offer by one person to make amends does not affect any cause of action against another person in respect of the same publication, subject as follows.

(8) For the purposes of the Civil Liability (Contribution) Act 1978 in its application to the Falkland Islands —

(a) the amount of compensation paid under the offer shall be treated as paid in bona fide settlement or compromise of the claim; and

(b) where another person is liable in respect of the same damage (whether jointly or otherwise), the person whose offer to make amends was accepted is not required to pay by virtue of any contribution under section 1 of that Act a greater amount than the amount of the compensation payable in pursuance of the offer.

Failure to accept offer to make amends

7.—(1) If an offer to make amends under section 5, duly made and not withdrawn, is not accepted by the aggrieved party, the following provisions apply.

(2) The fact that the offer was made is a defence (subject to subsection (3)) to defamation proceedings in respect of the publication in question by that party against the person making the offer.

A qualified offer is only a defence in respect of the meaning to which the offer related.

(3) There is no such defence if the person by whom the offer was made knew or had reason to believe that the statement complained of —

(a) referred to the aggrieved party or was likely to be understood as referring to him; and

(b) was both false and defamatory of that party.

but it shall be presumed unless the contrary is shown that he did not know and had no reason to believe that that was the case.

(4) The person who made the offer need not rely on it by way of defence, but if he does he may not rely on any other defence.

If the offer was a qualified offer, this applies only in respect of the meaning to which the offer related.

(5) The offer may be relied on in mitigation of damages whether or not it was relied on as a defence.

The meaning of a statement

Ruling on the meaning of a statement

8. In defamation proceedings the court shall not be asked to rule whether a statement is arguably capable, as opposed to capable, of bearing a particular meaning or meanings attributed to it.

Summary disposal of claim

Summary disposal of claim

9.—(1) In defamation proceedings the court may dispose summarily of the plaintiff's claim in accordance with the following provisions.

(2) The court may dismiss the plaintiff's claim if it appears to the court that it has no realistic prospect of success and there is no reason why it should be tried.

(3) The court may give judgment to the plaintiff and grant him summary relief (see section 10) if it appears to the court that there is no defence to the claim which has a realistic prospect of success, and that there is no other reason why the claim should be tried.

(4) Unless the plaintiff asks for summary relief, the court shall not act under this subsection unless it is satisfied that summary relief will adequately compensate him for the wrong he has suffered.

(5) In considering whether a claim should be tried the court shall have regard to—

(a) whether all the persons who are or might be defendants in respect of the publication complained of are before the court;

(b) whether summary disposal of the claim against another defendant would be inappropriate;

(c) the extent to which there is a conflict of evidence;

(d) the seriousness of the alleged wrong (as regards the content of the statement and the extent of publication); and

(e) whether it is justifiable in the circumstances to proceed to a full trial.

Meaning of summary relief

10.—(1) For the purposes of section 9 (summary disposal of claim) “summary relief” means such of the following as may be appropriate —

- (a) a declaration that the statement was false and defamatory of the plaintiff;
- (b) an order that the defendant publish or cause to be published a suitable correction and apology;
- (c) damages not exceeding £10,000 or such other amount as may be prescribed by Order made by the Governor;
- (d) an order restraining the defendant from publishing or further publishing the matter complained of.

(2) The content of any correction and apology, and the time, manner, form and place of publication, shall be for the parties to agree.

If they cannot agree on the content, the court may direct the defendant to publish or cause to be published a summary of the court's judgment agreed by the parties or settled by the court in accordance with rules of the court.

If they cannot agree on the time, manner, form or place of publication, the court may direct the defendant to take such reasonable and practicable steps as the court considers appropriate.

Summary disposal: rules of court

11.—(1) Provision may be made by rules of court as to the summary disposal of the plaintiff's claim in defamation proceedings.

(2) Without prejudice to the generality of that power, provision may be made —

(a) authorising a party to apply for summary disposal at any stage of the proceedings;

(b) authorising the court at any stage of the proceedings —

(i) to treat any application, pleading or other step in the proceedings as an application for summary disposal; or

(ii) to make an order for summary disposal without any such application;

(c) as to the time for serving pleadings or taking any other step in the proceedings in a case where there are proceedings for summary disposal;

(d) requiring the parties to identify any question of law or construction which the court is to be asked to determine in the proceedings;

(e) as to the nature of any hearing on the question of summary disposal, and in particular —

(i) authorising the court to order affidavits or witness statements to be prepared for use as evidence at the hearing; and

(ii) requiring the leave of the court for the calling of oral evidence, or the introduction of new evidence, at the hearing;

(f) authorising the court to require a defendant to elect, at or before the hearing, whether or not to make an offer to make amends under section 5.

Evidence concerning proceedings in the Legislative Council

Evidence concerning proceedings in the Legislative Council

12.—(1) Where the conduct of a person in or in relation to proceedings in the Legislative Council is an issue in defamation proceedings, he may waive for the purposes of those proceedings, so far as concerns him, the protection of any enactment or rule of law which prevents proceedings in the Legislative Council being impeached or questioned in any court or place outside the Legislative Council.

(2) Where a person waives that protection —

(a) any such enactment or rule of law shall not apply to prevent evidence being given, questions being asked or statements, submissions, comments or findings being made about his conduct; and

(b) none of those things shall be taken as infringing the privilege of the Legislative Council.

(3) The waiver by one person of that protection does not affect its operation in relation to another person who has not waived it.

(4) Nothing in this section affects any enactment or rule of law so far as it protects a person (including a person who has waived the protection referred to in the preceding provisions of this section) from legal liability for words spoken or things done in the course of, or for the purposes of or incidental to, any proceedings in the Legislative Council.

(5) Without prejudice to the generality of subsection (4) that subsection applies to—

(a) the giving of evidence before the Legislative Council or a committee of the Legislative Council;

(b) the presentation or submission of a document to the Legislative Council or to a committee of the Legislative Council;

(c) the preparation of a document for the purposes of or incidental to the transacting of any such business;

(d) the formulation, making or publication of a document, including a report, by or pursuant to an order of the Legislative Council or of a committee of the Legislative Council; and

(e) any communication with any person having under any enactment or under any standing order of the Legislative Council functions in connection with the conduct of members of the Legislative Council or with the registration of interests of members of the Legislative Council.

Statutory privilege

Reports of court proceedings absolutely privileged

13.—(1) A fair and accurate report of proceedings in public before a court to which this section applies, if published contemporaneously with the proceedings, is absolutely privileged.

(2) A report of proceedings which by an order of the court, or as a consequence of any statutory provision, is required to be postponed shall be treated as published contemporaneously if it is published as soon as practicable after publication is permitted.

(3) This section applies to —

(a) any court in the Falkland Islands or in the United Kingdom;

(b) the European Court of Justice or any court attached to that court;

(c) the European Court of Human Rights; and

(d) any international criminal tribunal established by the Security Council of the United Nations or by an international agreement to which the United Kingdom is a party.

In paragraph (a) “court” includes any tribunal or body exercising the judicial power of the State.

(4) In section 76(6) of the Criminal Justice Ordinance 1989 (in the Revised Edition of the Laws appearing as section 110(6) of the Criminal Justice Ordinance Title 24.1) (defamation actions: reports of court proceedings), for “section 3 of the Law of Libel Amendment Act 1888” substitute “section 13 of the Defamation Ordinance 1988”.

Reports, etc. protected by qualified privilege

14.—(1) The publication of any report or other statement mentioned in Schedule 3 to this Ordinance is privileged unless the publication is shown to be made with malice, subject as follows.

(2) In defamation proceedings in respect of the publication of a report or other statement mentioned in Part II of that Schedule, there is no defence under this section if the plaintiff shows that the defendant —

(a) was requested by him to publish in a suitable manner a reasonable letter or statement by way of explanation or contradiction; and

(b) refused or neglected to do so.

For this purpose “in a suitable manner” means in the same manner as the publication complained of or in a manner that is adequate and reasonable in the circumstances.

(3) This section does not apply to the publication to the public, or a section of the public, of matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed —

(a) as protecting the publication of matter the publication of which is prohibited by law, or

(b) as limiting or abridging any privilege subsisting apart from this section.

Saving as to the law relating to criminal libel

15. Nothing in sections 3 to 14 affects the law relating to criminal libel.

Exclusion of Defamation Act 1996

16. Nothing in section 78 or 81A of the Interpretation and General Clauses Ordinance 1977 shall have effect, after the commencement of this Ordinance, to apply as part of the Falkland Islands any provision of the Defamation Act 1996 in relation to any period of time falling after such commencement but without prejudice to the effect of those provisions of the Interpretation and General Clauses Ordinance 1977 in relation to the application of the Defamation Act 1996 in respect of any period of time falling before such commencement.

Disapplication of provisions of the Broadcasting Act 1990

17. Section 166(3) of and paragraphs 2 and 3 of Schedule 2 to the Broadcasting Act 1990 shall not have effect as part of the law of the Falkland Islands.”

Amendment of Schedule 1 to the Defamation Ordinance 1988

3. Schedule 1 to the Defamation Ordinance 1988 is amended —

(a) in paragraph 7 (application of the Law of Libel Amendment Act 1888) by replacing the words “except sections 8 and 10” with the words “except sections 3, 8 and 10”;

(b) in paragraph 9 (application of the Defamation Act 1952) by adding, at the end of that paragraph, the words "except sections 4, 7, 8, 9(2) and (3), 16(2) and (3) and the Schedule".

Amendment of Part II of Schedule 2 to the Defamation Ordinance 1998

4. Part II of Schedule 2 to the Defamation Ordinance 1988 is amended by replacing sub-paragraphs (a) to (i) with the following —

"(a) every reference in the Act to "the High Court" were a reference to the Supreme Court; and

(b) the words "to the Legislative Council" were substituted for the words "to a local authority or to Parliament" in section 10 of the Act."

Further amendment of the Defamation Ordinance 1988

5. The Defamation Ordinance 1988 is further amended by the insertion of the following Schedule after Schedule 2 —

"SCHEDULE 3

Qualified privilege

PART I

STATEMENTS HAVING QUALIFIED PRIVILEGE WITHOUT EXPLANATION OR CONTRADICTION

1. A fair and accurate report of proceedings in public of a legislature anywhere in the world.
2. A fair and accurate report of proceedings in public before a court anywhere in the world.
3. A fair and accurate report of proceedings in public of a person appointed to hold a public inquiry by a Government or legislature anywhere in the world.
4. A fair and accurate report of proceedings in public anywhere in the world of an international organisation or an international conference.
5. A fair and accurate copy of or extract from any register or other document required by law to be open to public inspection.
6. A notice or advertisement published by or on the authority of a court, or of a judge or officer of a court, anywhere in the world.
7. A fair and accurate copy of or extract from matter published by or on the authority of a Government or legislature anywhere in the world.
8. A fair and accurate copy of or extract from matter published anywhere in the world by an international organisation or an international conference.

PART II

STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION OR CONTRADICTION

9.—(1) A fair and accurate copy of or extract from a notice or other matter issued for the information of the public by or on behalf of —

- (a) a legislature in any member State or the European Parliament;

(b) the Government of any member State, or any authority performing governmental functions in any member State or part of a member State, or the European Commission;

(c) an international organisation or international conference.

(2) In this paragraph "governmental functions" include police functions.

10. A fair and accurate copy of or extract from a document made available by a court in any member State or the European Court of Justice (or any court attached to that court), or by a judge or officer of any such court.

11.—(1) A fair and accurate report of proceedings at any public meeting or sitting in the Falkland Islands or in the United Kingdom of —

(a) a local authority or governmental or local authority committee;

(b) a commission, tribunal, committee or person appointed for the purpose of any inquiry —

(i) in the case of the Falkland Islands, by any statutory provision or by the Governor; and

(ii) in the case of the United Kingdom by any statutory provision, by Her Majesty or by a minister of the Crown or a Northern Ireland Department;

(c) a person appointed by a local authority to hold a local inquiry in pursuance of any statutory provision;

(d) any other tribunal, board, committee or body constituted by or under, and exercising functions under, any statutory provision or, in the case of the Falkland Islands, under terms of reference established by, or under the authority of, the Governor.

(2) A fair and accurate report of any corresponding proceedings in any of the Channel Islands or the Isle of Man or in another member State.

12.—(1) A fair and accurate report of proceedings at any public meeting held in a member State.

(2) In this paragraph a "public meeting" means a meeting bona fide and lawfully held for a lawful purpose and for the furtherance or discussion of a matter of public concern, whether admission to the meeting is general or restricted.

13.—(1) A fair and accurate report of proceedings at a general meeting of a Falkland Islands or United Kingdom public company.

(2) A fair and accurate copy of or extract from any document circulated to members of a Falkland Islands or United Kingdom public company —

(a) by or with the authority of the board of directors of the company;

(b) by the auditors of the company; or

(c) by any member of the company in pursuance of a right conferred by any statutory provision.

(3) A fair and accurate copy of or extract from any documents circulated to members of a Falkland Islands or United Kingdom public company which relates to the appointment, resignation, retirement or dismissal of directors of the company.

(4) In this paragraph —

(a) "Falkland Islands public company" has the same meaning as it has for the purposes of the company law of the Falkland Islands for the time being in force; and

(b) "United Kingdom public company" means —

(i) a public company within the meaning of section 1(3) of the Companies Act 1985 or Article 12(3) of the Companies (Northern Ireland) Order 1986; or

(ii) a body corporate incorporated by or registered under any other statutory provision of the United Kingdom, or by Royal Charter, or formed in pursuance of letters patent in the United Kingdom.

(5) A fair and accurate report of proceedings at any corresponding meeting of, or copy of or extract from any corresponding documenting circulated to members of a public company formed under the law of any of the Channel Islands or the Isle of Man or of another member State.

14. A fair and accurate report of any finding or decision of any of the following descriptions of association formed in the Falkland Islands or another member State, or of any committee or governing body of such an association —

(a) an association formed for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate on matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication;

(b) an association formed for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate on matters connected with that trade, business, industry or profession, or the actions or conduct of those persons;

(c) an association formed for the purpose of promoting or safeguarding the interests of a game, sport or past time to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or past time;

(d) an association formed for the purpose of promoting charitable objects or other objects beneficial to the community and empowered by its constitution to exercise control over or to adjudicate on matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication.

15. A fair and accurate report of, or copy of or extract from, any adjudication, report, statement or notice issued by a body, officer or other person designated for the purposes of this paragraph—

(a) for the Falkland Islands, by Order of the Governor;

(b) for England and Wales or Northern Ireland, by Order of the Lord Chancellor made; and

(c) for Scotland, by Order of the Secretary of State.

PART III SUPPLEMENTARY PROVISIONS

16.—(1) In this Schedule —

"court" includes any tribunal or body exercising the judicial power of the State;

"international conference" means a conference attended by representatives of two or more governments;

"international organisation" means an organisation of which two or more governments are members, and includes any committee or other subordinate body of such an organisation;

"legislature" includes a local legislature.

(2) References in this Schedule to a member State include any European Dependent Territory or a member State of the European Union.

(3) In paragraphs 2 and 6 "court" includes —

(a) the European Court of Justice (or any court attached to that Court) and the Court of Auditors of the European Communities;

(b) the European Court of Human Rights;

(c) any international criminal tribunal established by the Security Council of the United Nations or by an international agreement to which the United Kingdom is a party; and

(d) the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between States.

(4) In paragraphs 1, 3 and 7 "legislature" includes the European parliament.

17. The Governor may by order make provision identifying —

(a) for the purposes of paragraph 11, the corresponding proceedings referred to in sub-paragraph (3) of that paragraph;

(b) for the purposes of paragraph 13, the corresponding meetings and documents referred to in sub-paragraph (5) of that paragraph."

EXPLANATORY MEMORANDUM

DEFAMATION (AMENDMENT) BILL 1998

Introductory

1. The Defamation (Amendment) Bill 1998 would amend the Defamation Ordinance 1988 by adding provisions to that Ordinance so as to incorporate in the Ordinance those provisions of the Defamation Act 1996 of England which apply as part of the law of the Falkland Islands. The object of so doing is that those provisions would then apply by direct provision of Falkland Islands law. This is highly desirable because the provisions have an effect on the freedom of speech.

2. The Bill would also make the consequential amendments to the Defamation Ordinance 1988 which would be occasioned by the incorporation into it of provisions at present found in the Defamation Act 1996.

Detail

3. The amendments to the Defamation Ordinance 1988 would be made by section 2 of the Bill and the Schedule to the Bill. Paragraph 2 of the Schedule incorporates a number of new sections to be inserted in the Defamation Ordinance 1988.

4. The new section 3 contains a number of definitions. The statement that "publication" and "publish" have the meaning they have for the purposes of the law of defamation generally is not particularly enlightening for the ordinary reader. The effect is that those expressions have the same meaning as they have at common law. At common law, for the purposes of the law of defamation, matter must be published to a third party, and not simply to the person to whom it relates and, further, it is not just the words or other matter, but the imputation defamatory of the plaintiff, which must be communicated to the third party. There is, however, a special meaning of "publisher" for the purposes of section 4 of the Bill. The other definitions contained in the new section 3 are straightforward.

5. At common law, it is a defence to an action for libel or slander for a person who is not the author, printer or main publisher to show that he disseminated a defamatory statement innocently (the defence of "innocent dissemination"). For instance, a post man or porter who in the ordinary course of his duty delivers a letter without being aware that its contents are defamatory is not liable to the defamation nor is a librarian or bookseller who in the ordinary course of business circulates or sells a book containing a libel without knowing, and without negligence in not knowing, that it is likely to contain defamatory matter. This common law defence of "innocent dissemination" is largely, if not wholly, superseded by the new statutory defence reflected in the new section 4. The intention of the section is to concentrate on the concept of responsibility for publication. Parties with primary responsibility for publication, ie the author (unless he did not intend his statement to be published), editor and commercial publisher, will never be able to use the defence. It will however be available to those who may have contributed to publication but had no reason to know or believe that publication was defamatory and had taken reasonable care in relation to its publication. Computer network service operators and providers are intended to fall within the definition contained in the new section 4(3)(e) of those who will not be considered publishers. A secondary publisher must however also satisfy the

requirements of subsection (1)(b) and (c) that he took reasonable care in relation to the publication of the statement complained of and did not know and had no reason to believe that what he did caused or contributed to the publication of a defamatory statement. The new section 4(5) sets out some of the criteria which may be applied to determine whether a person took reasonable care or had reason to believe that what he did caused or contributed to the publication of a defamatory statement.

6. Sections 5, 6 and 7 introduce the defence of an offer to make amends and replace the old statutory defence, contained in section 4 of the Defamation Act 1952, which was cumbersome and little used. The new defence is intended to be more streamlined and to be widely used. Unlike the old defence, it is only available to defendants who are prepared to pay damages assessed by a judge. An offer to make amends may be either general or qualified and be made in relation to some defamatory allegations only or certain defamatory meanings ("a qualified offer": the new section 4(2)). The consequences of making an offer differ depending on whether the offer is accepted or not. The concept of "rejection" of an offer is not introduced by the new section, so the result is the same whether the offer is in fact rejected or simply "not accepted". Where the offer is not accepted the defendant has a complete defence unless the plaintiff can show that when publishing the defamatory material the defendant knew or had reason to believe that it referred to the plaintiff and was both false and defamatory. This differs from the previous law under which the burden of proof was the other way - the defendant had to prove that he did not know or have reason to believe those matters.

7. Under the new section 6(4)(a), defendants must also be prepared to print an apology and correction. The effect of the new section 6(4) and the new section 5(4) and (5), taken together, is that although a defendant must offer to apologise, if the plaintiff does not agree to his proposed apology he may take whatever steps he thinks appropriate. The court will, however, take into account the content and prominence of the apology in determining compensation under the new section 5(5). While the person claiming to have been defamed is not entitled to dictate the position, prominence or content of the apology if they fall short of what a court considers to be adequate, that will be reflected in the money compensation. The provisions in relation to apologies offered by a defendant under section 5 should be contrasted with the provisions for apologies ordered by the court under the summary procedure (see the new section 10(1)(b)).

8. The defendant may, but need not, make his offer even before a writ is issued against him but in any event it must be made before a defence is served. There is no time limit by which a person claiming to have been defamed must respond to an offer.

9. The new section 8 abolishes the test which used to apply as to whether words were "arguably capable", as opposed to capable, of bearing a certain meaning. This is a technical change affecting the conduct of proceedings for defamation.

10. The new section 9 introduces a new summary procedure for defamation claims. It brings defamation proceedings into line with other areas of litigation by providing for summary judgment in cases where there is no arguable defence. It goes much further than this in providing for the court to take control of the action with or without the consent of the parties. Under the new section 10 damages will be assessed by the judge and capped initially at £10,000. The intention is to provide a "fast track" for the

disposal of straightforward cases and encourage early settlement in others by testing the evidence at the special summary disposal hearing. A plaintiff who does not want more than a relatively small sum in damages could go quickly before a judge at a hearing with evidence on affidavit and obtain an order for the publication of an agreed statement clearing his name, or, if there was no agreement, a publication of the judge's decision. A defendant who considers that after taking into account the publication of any correction the plaintiff could not reasonably be entitled to more than £10,000 in damages, could go before a judge in the same way and ask that he make a summary award and stop the case going further.

11. The test under the new section 9 is whether a claim or a defence has "a realistic prospect of success". The intention is to encourage the judge to use the power to grant summary relief in a vigorous, humane and common sense way. The statement of matters to which the court shall have regard and contained in the new section 9(4) is not intended to be exhaustive.

12. The new section 10(1) defines what, for the purposes of the new section 9 "summary relief" means. Under the new section 10(2), in default of agreement, the court can only order a defendant to publish an agreed summary of the court's judgment. However, the court can direct the defendant as to the time, manner, form or place of publication. These provisions contrast with those for apologies under the new section 5, which allow more leeway to defendants.

13. The new section 12 would enable members of the Legislative Council and any other person whose conduct in relation to proceedings in the Legislative Council is in issuing an action for defamation, to waive the protection of Legislative Council privilege in order to bring a defamation action. This is arguably necessary because Article 9 of the Bill of Rights 1688 provides that "the freedom of speech in debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament" and is believed to apply in the Falkland Islands with the substitution of "Legislative Council" for "Parliament".

14. The new sections 13 and 14 replace the statutory privilege created by the Law of Libel Amendment Act 1888 and the Defamation Act 1952 in their respective application to the Falkland Islands under the provisions of the Defamation Ordinance 1988. The new section 13 confirms and clarifies the scope of existing statutory privilege of contemporaneous reports of judicial proceedings. Privilege is no longer confined to newspaper reports, but extended to all forms of publication. The new section 13(2) makes allowance for cases where an order is made postponing publication. The effect of the new Schedule 3 to the Ordinance to which the new section 14 relates (and which Schedule 3 is inserted by paragraph 5 of Schedule 1 to the Bill) is to extend qualified privilege without explanation or contradiction to cover reports of legislative, courts and public proceedings and official publication on a world-wide basis. Additionally it updates and extends the categories of statements privileged subject to explanation or contradiction.

15. The law relating to criminal libel is left unaffected (the new section 15) and section 16 would exclude the application of the Defamation Act 1996 of England. This is because its provisions, so far as is necessary, would now be reflected directly in the Defamation Ordinance 1988. Section 17 would make sure that certain provisions of

the Broadcasting Act 1990 which were repealed by the Defamation Act 1996 do not apply in the Falkland Islands.

16. Paragraphs 3 and 4 to the Schedule to the Bill would make consequential amendments to the Defamation Ordinance 1988 made necessary by the previous provisions of the Bill.

Equal Employment Rights Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title, interpretation and commencement
2. Requirement of equal treatment for men and women in same employment
3. Disputes as to, and enforcement of, requirement of equal treatment
4. Exclusions from sections 2 and 3
5. Meaning of employment at establishment in the Falkland Islands

EQUAL EMPLOYMENT RIGHTS BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To prevent discrimination, as regards terms and conditions of employment, between men and women.

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

Short title, interpretation and commencement

1.—(1) This Ordinance may be cited as the Equal Employment Rights Ordinance 1998 and comes into force on 1st January 1999.

(2) In this Ordinance the expressions “man” and “woman” shall be construed as applying to persons of whatever age.

(3) Section 5 governs the question of whether for the purposes of this Ordinance a persons employment is to be regarded as being at an establishment in the Falkland Islands.

Requirement of equal treatment for men and women in same employment

2.—(1) If the terms of a contract under which a woman is employed at an establishment in the Falkland Islands do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the “woman’s contract”), and has the effect that—

(a) where the woman is employed on like work with a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment—

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material difference (other than the difference of sex) between her case and his.

(4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment; and accordingly in comparing her work with theirs regards shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

(5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill and decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.

(6) Subject to the following subsections, for the purposes of this section—

(a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly; and

(b) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in the Falkland Islands which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

(7) This section applies to—

(a) service under Her Majesty in right of Her Government of the Falkland Islands, other than service of a person holding a statutory office, and

(b) service under Her Majesty in right of Her Government of the Falkland Islands for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and so applies as if references to a contract of employment included references to the terms of service.

(8) This section does not apply in relation to service under Her Majesty in right of Her Government of the United Kingdom.

(9) In this section "statutory body" means a body set up by or in pursuance of the Constitution or of an Ordinance, and "statutory office" means an office so set up.

(10) For the purposes of this Ordinance it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of the Falkland Islands or not.

(11) Provisions of this section and section 3 framed with reference to women and their treatment relative to men are to be read as applying equally to a converse case to men and their treatment relative to women.

Disputes as to, and enforcement of, requirement of equal treatment

3.—(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to the Summary Court.

(2) Where a dispute arises in relation to the effect of an equality clause the employer may apply to the Summary Court for an order declaring the rights of the employer and the employee in relation to the matter in question.

(3) Where it appears to the Governor that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to the Summary Court and shall be dealt with as if the reference were of a claim by the women or woman against the employer.

(4) Where it appears to the court in which any proceedings are pending that a claim or counter-claim in respect of the operation of an equality clause could more conveniently be disposed of separately by the Summary Court under the provisions of this Ordinance, the court may direct that the claim or counter-claim shall be struck out; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to the Summary Court for determination by that court pursuant to the provisions of this Ordinance, and may stay the proceedings in the mean time.

(5) No claim in respect of the operation of an equality clause relating to a woman's employment shall be referred to the Summary Court otherwise than by virtue of subsection (3) of this section, if she has not been employed in the employment within the six months preceding the date of the reference.

(6) A woman shall not be entitled, in proceedings brought in respect of a failure to comply with an equality clause (including proceedings before the Summary Court), to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than two years before the date on which the proceedings were instituted.

Exclusions from sections 2 and 3

4. Neither an equality clause nor the provisions of section 3(4) operate in relation to terms—

(a) affected by compliance with the laws regulating the employment of women, or

(b) affording special treatment to women in connection with pregnancy or child birth.

Meaning of employment at establishment in the Falkland Islands

5.—(1) For the purposes of this Ordinance, employment is to be regarded as being at an establishment in the Falkland Islands unless the employee does his work wholly or mainly outside the Falkland Islands.

(2) Subsection (1) does not apply —

(a) to employment on board a ship registered in the Falkland Islands; or

(b) to employment on aircraft registered in the Falkland Islands and operated by a person who has his principal place of business, or is ordinarily resident, in the Falkland Islands;

but such employment is to be regarded as being at an establishment in the Falkland Islands unless the employee does his work wholly outside the Falkland Islands.

(3) In the case of employment on board a ship registered in the Falkland Islands (except where the employee does his work wholly outside the Falkland Islands, and outside any area added under subsection (5)) the ship shall for the relevant purposes be deemed to be the establishment.

(4) Where work is not done at an establishment it shall be treated for the relevant purposes as done at the establishment from which it is done or (where it is not done from any establishment) at the establishment with which it has the closest connection.

(5) In relation to employment concerned with exploration of the sea-bed or sub-soil or the exploitation of their natural resources, the Governor may by Order provide that subsections (1) and (2) shall each have effect as if the last reference in each of those subsections include any area which is a designated area for the purposes of the Offshore Minerals Ordinance 1994.

EXPLANATORY MEMORANDUM EQUAL EMPLOYMENT RIGHTS BILL

Introductory

Section 12 of the Constitution has effect to prevent discrimination on grounds of sex as to pay and conditions of service of public officers (civil servants) but these provisions do not apply in relation to employment in the private sector although it is believed that discrimination on grounds of sex in relation to terms and conditions of employment in the private sector if not non-existent, is rare.

The Convention for Elimination of All forms of Discrimination Against Women applies to the Falkland Islands. The obligations under the Convention commit the Falkland Islands Government to the introduction of legislation prohibiting discrimination on grounds of sex in remuneration and other terms and conditions of employment. The object of this Bill is to provide such legislation.

Clause 1

Clause 1 of the Bill provides that, if enacted, it will come into force as an Ordinance on 1st January 1999. Similar legislation elsewhere provided for a "lead in" period of considerable length during which women's pay and conditions of employment could by stages be brought into line with those of men. This would not appear to be necessary in the circumstances of the Falkland Islands since, as stated above, any disparity, it is believed, will be rare.

Clause 2

Clause 2 provides for equal treatment as between men and women where they are engaged on the same or broadly similar work, or where a woman's job has been rated as equivalent to a man's job though of a different nature from her own, as a result of a job evaluation exercise.

Clause 3

Clause 3 provides for the Summary Court to deal with disputes arising in connection with the provisions of clause 2. References to the Summary Court may be made by a party to the dispute or by the Governor.

Clause 4

This clause would exclude from the operation of the Ordinance terms affected by compliance with the laws regulating the employment of women (for example women are prohibited by law from working at night in certain employments) or affording special treatment to women in connection with pregnancy or child-birth (eg maternity leave).

Clause 5

Clause 5 would define what is meant by an "establishment in the Falkland Islands". It should be noted that employment on a ship registered in the Falkland Islands or an aircraft registered in the Falkland Islands would be treated as employment at an establishment in the Falkland Islands unless the work of the employee is done entirely outside the Falkland Islands. By reason of the provisions of the Interpretation and General Clauses Ordinance 1977 the territorial sea is part of the Falkland Islands and, in any case, harbours our inland waters and form part of the Falkland Islands. It should be noted also that there is power to extend the application of the Bill, if enacted, to installations on the continental shelf.

Application to the public service (civil service)

The Bill would apply to the public service. But it is believed that the public service is already fully in compliance with the requirements the Bill would, if enacted, impose.

Merchant Shipping (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Repeal of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906

MERCHANT SHIPPING (AMENDMENT) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To repeal the application of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906 in the Falkland Islands.

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

Short title and commencement

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1998 and shall come into force on such date (not being earlier than the date upon which this Ordinance is confirmed by Order in Council under section 735 of the Merchant Shipping Act 1894) as the Governor may notify in the *Gazette*.

Repeal of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906

2. Section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906 in their application to the Falkland Islands are repealed.

OBJECTS AND REASONS

Section 47 of the Merchant Shipping Act 1894 in its application to the Falkland Islands provides that the name of a ship shall not be changed without the permission of the Secretary of State. Section 50 of the Merchant Shipping Act 1906 states that the Secretary of State may refuse registry of the name of a ship. Both of these sections have been repealed in relation to the United Kingdom itself, but remain in effect in UK

Overseas Territories (including the Falkland Islands) unless they have already been repealed in local legislation. The Falkland Islands Legislative Council has power to repeal the provisions, but the repeal cannot take effect until an Order in Council has been made in London confirming the repeals. The UK Department of the Environment, Transport and the Regions would intend then to extend under section 315 of the Merchant Shipping Act 1995 the application of regulation 30 and Schedule 1 of the United Kingdom's registration regulations.

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THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

9th November 1998

No.29

The following are published in this Supplement -

General Development Order 1991, 8 James Street Direction 1998, (S.R. & O. No. 58 of 1998);

General Development Order 1991, 4A Ross Road West Direction 1998, (S.R. & O. No. 59 of 1998);

Explanatory Memorandum to the Sex Discrimination Bill 1998;

Sex Discrimination Bill 1998;

Explanatory Memorandum to the Taxes (Amendment) Bill 1998;

Taxes (Amendment) Bill 1998;

Animal (Scientific Procedures) Bill 1998;

Explanatory Memorandum to the Agricultural Subsidies and Incentives (Land Charges) Bill 1998;

Agricultural Subsidies and Incentives (Land Charges) Bill 1998;

Falkland Islands Pensions Scheme (Amendment) Bill 1998.

Notice in respect of the Sex Discrimination Bill 1998, the Animals (Scientific Procedures) Bill 1998 and the Agricultural Incentives Bill 1998 which are published in this Supplement.

Please note that these Bills are published for public information but have not yet been considered by the Executive Council and that Executive Council may direct the Bills to be amended before submission to the Legislative Council or not approve the submission of the Bills to Legislative Council at all.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

General Development Order 1991

8 James Street Direction 1998

S. R. & O. No. 58 of 1998

Given: 30 October 1998

Published: 9 November 1998

Coming into force: on publication

IN EXERCISE of my powers under Article 6 of the General Development Order 1991(a), I give the following Direction —

Citation and commencement

1. This Direction may be cited as the 8 James Steet Direction 1998 and shall come into force on publication.

Requirement to obtain planning permission

2.—(1) The planning permission granted by Article 5 of and Part 1 of Schedule 2 to the General Development Order 1991 does not apply to all or any development (except such as may fall within Class N in the said Part 1) within the curtilage of 8 James Street Stanley.

(2) For the purposes of this Direction the curtilage of 8 James Street Stanley is the piece of land on the south side of James Street Stanley shown cross-hatched on the plan attached to the planning application reference 1/98/P.

Given this 30th day of October 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Direction)

The effect of a Direction under Article 6 of the General Development Order 1991 is to require the specific grant of planning permission for a number of categories of development which would otherwise have been granted planning permission under Article 5 of the Order.

The reason for this Direction is that 8 James Street is a smaller piece of land than a house would otherwise have been permitted to be built upon and further development of the plot might result in over-intensive site coverage.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

General Development Order 1991

4A Ross Road West Direction 1998

S. R. & O. No. 59 of 1998

Given: 30 October 1998

Published: 9 November 1998

Coming into force: on publication

IN EXERCISE of my powers under Article 6 of the General Development Order 1991(a), I give the following Direction —

Citation and commencement

1. This Direction may be cited as the 4A Ross Road West Direction 1998 and shall come into force on publication.

Requirement to obtain planning permission

2. The planning permission granted by Article 5 of and Part 1 of Schedule 2 to the General Development Order 1991 does not apply to all or any development (except such as may fall within Class N in the said Part 1) of the land shown double cross-hatched on the plan attached to planning application reference 9/98/P (being land lying to the south of the house known as 4A Ross Road West and bounded on the east and south by Racecourse Road).

Given this 30th day of October 1998

R P Ralph
Governor

EXPLANATORY NOTE
(not forming part of the above Direction)

The effect of a Direction under Article 6 of the General Development Order 1991 is to require the specific grant of planning permission for a number of categories of development which would otherwise have been granted planning permission under Article 5 of the Order.

The reason for this Direction is that the land to which it relates is a smaller piece of land than a house would otherwise have been permitted to be built upon and further development of the plot might result in over-intensive site coverage.

EXPLANATORY MEMORANDUM

Sex Discrimination Bill 1998

Introductory

1. This Bill and the Equal Employment Rights Bill 1998 interlock so that, if enacted, they will form a code of law in relation to sexual discrimination at, or in connection with, work and elsewhere. They will supplement the provisions of the Constitution in relation to discrimination. It should be emphasised that the two Bills deal with sexual discrimination against both men and women and against married persons. The Sex Discrimination Bill 1998 is modelled upon provisions of the Sex Discrimination Act 1975 of the United Kingdom and amended by the Sex Discrimination Act 1986 and the Employment Act 1989. However the Bill does not follow the 1975 Act in establishing an equal opportunities commission because it is believed that this would not be practicable in the circumstances of the Falkland Islands.

The constitutional provisions on sex discrimination

2. Section 12 of the Constitution confers protection from discrimination on grounds of race, place of origin, political opinions or affiliations, colour, creed or sex. It prohibits any law making any provision which is discriminatory on that basis either of itself or in its effect. It also prohibits, subject to stated exceptions, persons being treated in a discriminatory manner on grounds of sex by any other person acting by virtue of any law or in the performance of the functions of any public office or any public authority. The provisions of section 12 of the Constitution do not however (by way of example) prohibit discrimination by employers, private landlords or by hotels, restaurants and other businesses. The Convention for Elimination of All forms of Discrimination Against Women (which in spite of its title also prohibits discrimination against men) has been applied at the Falkland Islands request to the Falkland Islands by the United Kingdom Government.

The provisions of the Bill

3. Clause 3(1) of the Bill provides that a person discriminates against a woman in any circumstances relevant for the purposes of any provision of the Ordinance if

(1) on the ground of her sex he treats her less favourably than he treats or would treat a man; or

(2) he applies to her a requirement or condition which he applies or would apply equally to a man but

(a) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and

(b) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied and

(c) which is to her detriment because she cannot comply with it.

4. By clause 4, clause 3 and the provisions of Parts III and IV of the Bill relating to sex discrimination against women are to be read as applying equally to the treatment of

men (except that no account is to be taken of the special treatment afforded to women in connection with pregnancy or childbirth). Under clause 2(2) "woman" includes a female of any age and "man" includes a male of any age.

5. By clause 3(2), if a person treats or would treat a man differently according to the man's marital status, that person's treatment of a woman is for the purpose of clause 3(1)(a) to be compared to his treatment of a man having the like marital status. A comparison of the cases of persons of different sex under clause 3(1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

6. Decisions on the corresponding United Kingdom provisions by courts there have the effect that the test to be applied as to whether an alleged discrimination is on the ground of sex is an objective one (a local authority which granted free facilities to persons of state pensionable age, where there were different pensionable ages for women and men, was discriminatory in treating women more favourably than men and was unlawful because it discriminated against men on the ground of sex). Equally a case where a female employee was dismissed because her husband worked in a rival business was discriminated against on the grounds of her sex. However the dismissal of a pregnant woman for a reason arising out of her pregnancy was decided by the English courts not necessarily to be direct discrimination against her on grounds of her sex: the comparison to be made was between a pregnant woman and a man required to be absent for the same period of time for medical reasons (this decision has in effect been reversed by European law which does not apply in the Falkland Islands). It should be noted that discrimination against a homosexual man or woman by reason of his or her sexual orientation is not discrimination "on grounds of sex" and no claim could be made under the Bill, if enacted, based on such discrimination.

7. Under clause 5(1)(b) a person would discriminate against a married person of either sex in any circumstances relevant in the employment field if

(1) on the ground of his or her marital status he treats him or her less favourably than he treats or would treat an unmarried person of the same sex; or

(2) he applies to him or her a requirement or condition which he applies or would apply equally to an unmarried person, but

(a) which is such that the proportion of married persons who can comply with it is considerably smaller than the proportion of unmarried persons of the same sex who can comply with it, and

(b) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied and

(c) which is to that person's detriment because he cannot comply with it.

8. A person ("the discriminator") discriminates against another person ("the person victimised") in any circumstances relevant for the purposes of any provision of the Bill if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has

(1) brought proceedings against any person under the Bill or the Equal Employment Rights Bill, or

(2) given evidence or information in connection with proceedings brought by any person against any person under either of those Bills (if enacted) or

(3) otherwise done anything under or by reference to either Bill (if enacted) in relation to the discriminator or any other person, or

(4) alleged that any person has committed an act which (whether or not the allegation so states) would amount to a contravention of the provisions of the Bill or give rise to a claim under the Equal Employment Rights Bill (if enacted) or by reason that the discriminator knows that the person victimised intended to do any of those things, or suspects the person victimised has done, or intends to do any of them (see clause 6(1) of the Bill).

9. It should be noted that this provision does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith (clause 6(2)) and for the purposes of clause 6(1), a provision of the Bill relating to discrimination in the employment or other fields framed with reference to discrimination against women is to be treated as applying equally to the treatment of men and for that purpose to have effect with requisite modifications. Discrimination against applicants and employees would be dealt with by clause 7 of the Bill which would render it unlawful for a person

(1) in relation to employment by him or at an establishment in the Falkland Islands to discriminate against a woman

(a) in the arrangements he makes for the purpose of determining who should be offered that employment or

(b) in the terms on which he offers her that employment or

(c) by refusing or deliberately omitting to offer her that employment

(2) in the case of a woman employed by him at an establishment in the Falkland Islands, to discriminate against her

(a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

(b) by dismissing her, or subjecting her to any other detriment.

10. The evidential burden of providing an explanation to displace an inference of discrimination will shift to the employer once a prima facie case has been established (decided by a case in the English courts against the Cornwall county council in 1990). It has also been decided in an English case in relation to the corresponding provision of the United Kingdom legislation that where arrangements which limit eligible applicants to a specified category have a discriminatory effect, the correct comparison is between

men and women qualified for the employment in question and not between those eligible or not eligible to apply. Thus, if an advertisement of a vacancy specified that applicants must hold a commercial pilot's licence, the advertisement would not be discriminatory against women on the basis that no women in the Falkland Islands hold a commercial pilots licence or far fewer women than men hold a commercial pilot's licence. However where a better qualified female candidate for a job is rejected in favour of a lesser qualified male candidate, there would be a prima facie case of discrimination against the female candidate for the employer to answer.

11. Under clause 8 of the Bill certain provisions of the Bill would not apply where being a man is a genuine occupational qualification. Being a man would be a genuine occupational qualification for a job only where -

(a) the essential nature of the job calls for a man for reasons of physiology (excluding physical strength or stamina) or, in dramatic performances or other entertainment, for reasons of authenticity, so that the essential nature of the job would be materially different if carried out by a woman; or

(b) the job needs to be held by a man to preserve decency or privacy because -

(i) it is likely to involve physical contact with men in circumstances where they might reasonably object to it being carried out by a woman or

(ii) the holder of the job is likely to do his work in circumstances where men might reasonably object to the presence of a woman because they are in a state of undress or are using sanitary facilities; or

(c) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and

(i) only such premises which are available for persons holding that kind of job are lived in, or normally lived in, by men and are not equipped with separate sleeping accommodation for women and sanitary facilities which could be used by women in privacy from men, and

(ii) it is not reasonable to expect the employer either to equip those premises with such accommodation and facilities or to provide other premises for women; or

(d) the nature of the establishment, or of the part of it within which the work is done, requires the job to be held by a man because -

(i) it is, or is part of, a hospital, prison or other establishment for persons requiring special care, supervision or attention, and

(ii) those persons are all men (disregarding any woman whose presence is exceptional), and

(e) it is reasonable having regard to the essential character of the establishment or that part, that the job should not be held by a woman; or

(f) the holder of the job provides individuals with personal services promoting their welfare or education or similar personal services, and those services can most effectively be provided by a man; or

(g) the job needs to be held by a man because it is likely to involve the performance of duties outside the Falkland Islands in a country whose laws or customs are such that the duties could not, or could not effectively, be performed by a woman; or

(h) the job is one of two to be held by a married couple. The provisions apply where only some of the duties of the job fall within heads (a) to (g) as well as where all of them do. They do not apply in relation to the filling of a vacancy at a time when the employer already has male employees

(i) who are capable of carrying out the duties falling within the head concerned and

(ii) whom it would be reasonable to employ on those duties and

(iii) whose numbers are sufficient to meet the employers likely requirements in respect of those duties without undue convenience. The time to ask whether there were employees capable of carrying out the duties is when the *prima facie* discrimination took place.

12. Special provisions apply to any work for a person ("the principal") which is available for doing by individuals ("contract workers") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal. It is unlawful for the principal, in relation to such work, to discriminate against a woman who is a contract worker

(i) in the terms on which he allows her to do that work or

(ii) by not allowing her to do it or to continue to do it or

(iii) in the way he affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them or

(iv) by subjecting her to any other detriment (see clause 10).

13. In relation to discrimination by partnerships, clause 11 would render it unlawful for a firm (eg for a firm of legal practitioners or chartered accountants) in relation to a position as partner in the firm, to discriminate against a woman

(1) in the arrangements they make for the purpose of determining who should be offered a position as a partner,

(a) in the terms on which they offer her that position,

(b) by refusing or deliberately omitting to offer her that position, or

(c) in a case where a woman already holds a position as a partner

(2) in the way they afford her access to any benefits, facilities or services (eg a car belonging to the firm or a subscription to a club paid for by the firm) or by refusing or deliberately omitting to offer her access to them, or

(3) by expelling her from her position as a partner, or subjecting her to any other detriment. However there is an exception in relation to a position as a partner where, if it were employment, being a man would be a genuine occupational qualification for the job (clause 11(3)).

14. Provision would be made in relation to trade unions and trade union membership along similar lines by clause 12.

15. Clause 13 would render it unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman

(1) in the terms on which it is prepared to confer on her that authorisation or qualification

(2) by refusing or deliberately omitting to grant her application for it or

(3) by withdrawing it from her or varying the terms on which she holds it.

16. It would be unlawful, under clause 14, in the case of a woman seeking or under going training which would help fit her for any employment for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against her

(1) in the terms on which that person affords her access to any training course or other facilities concerned with such training, or

(2) by refusing or deliberately omitting to afford her such access, or

(3) by terminating her training or

(4) by subjecting her to any detriment during the course of her training.

17. Under clause 15 it would be unlawful for an employment agency (ie a person who, for profit or not, provides services for the purpose of finding employment for workers or supplying employees with workers) to discriminate against a woman

(1) in the terms on which it offers to provide any of its services;

(2) by refusing or deliberately omitting to provide any of its services or

(3) in the way it provides any of its services: however this would not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer to the woman (see clause 15(3)).

18. An employment agency would not be subject to any liability under clause 15 if it proves that it acted in reliance on a statement made to it by the employer that its action would not be unlawful because the employment is one which could lawfully be refused to a woman, and that it was reasonable for it to rely on the statement (clause 15(4)). It would be an offence knowingly or recklessly to make such a statement which is false or misleading in a material respect (clause 15(5)).

19. Clauses 16, 17 and 18 of the Bill would make provision in relation to sex discrimination in the police force, in relation to prison officers and in relation to ministers of religion. Not only do some Christian denominations not permit female ministers, but this is the case also in relation to the Jewish faith and Muslims.

20. Clause 19 of the Bill would have the effect of supplementing section 14 of the Education Ordinance 1989 in relation to sex discrimination at schools and institutes of further education in the Falkland Islands.

21. It would be an offence under clause 20(1) for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman (or a man) who seeks to obtain or use those goods, facilities or services by refusing or deliberately omitting to provide her (or him) with any of them or by refusing or deliberately omitting to provide her (or him) with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in relation to members of the public of the opposite sex. Examples of the facilities and services to which clause 20(1) relates are given in clause 20(2). Similarly clause 21(1) would prohibit a person refusing to sell or let premises on the grounds of sex to a woman (or man) or to discriminate against a woman (or man) occupying the premises in the provision of access to any benefits or facilities or by refusing or deliberately omitting to afford access to them or by evicting her (or him) or of subjecting her (or him) to any other detriment.

22. Clause 21(1) would not however apply unless the person used the services of an estate agent for the purposes of the disposal of the premises or he publishes or causes to be published an advertisement in connection with the disposal. Where consent is required for assignment of subletting of premises, under clause 22(1) that consent could not be refused on grounds of the sex of the proposed assignee or sublessee except as provided in clause 22(2). One of those exceptions is where the landlord, or a near relative, resides and continues to reside on the premises and part of the accommodation (eg a kitchen or bathroom) has to be shared and the premises are "small premises". Small premises, defined in clause 23(2), are premises comprising residential accommodation for one or more households but not more, normally, than two households in addition to the accommodation occupied by the relevant occupier (the landlord or his near relative) or premises on which there is not normally residential accommodation for more than six persons in addition to the relevant occupier and any members of his household.

23. Under clause 24 the provisions of clause 20(1) (prohibition of discrimination in provision of goods facilities or services) and 21 (discrimination in disposal or management of premises) do not apply to or in respect of voluntary bodies in so far as

(1) the membership of any such body is restricted to persons of one sex (disregarding any minor exceptions) or

(2) the provision of benefits, facilities or services to members of the body, even though membership of the body is open to the public, or to a section of the public.

24. There are further exceptions from sections 20(1) and 21 in relation to hospitals and similar establishments, places occupied or used for the purposes of an organised religion (and in respect of facilities or services provided for or likely to be used by two or more persons at the same time where male users are likely to suffer serious embarrassment at the presence of a woman or female users are likely to suffer serious embarrassment at the presence of a man) or the facilities or service are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user (or vice versa).

25. Under clause 26, the provisions of the Bill would not apply to goods, facilities or services outside the Falkland Islands except to ships and aircraft registered in the Falkland Islands or belonging to the Falkland Islands Government.

26. Part V of the Bill deals with other unlawful acts. "Discriminatory practices", as defined by clause 27(1) would constitute a criminal offence under clause 27(2). Discriminatory advertisements would be unlawful under clause 28 and an offence under clause 28(5).

27. Under clause 29 it would be unlawful for a person to instruct another person to do anything which is unlawful under sections 7 to 26. Pressure to discriminate by inducing or attempting to induce a person to do anything contrary to clauses 7 to 26 would be an offence under clause 30(2).

28. An employer, under clause 31, would be liable for anything done contrary to the Bill, if enacted, whether or not it was done with his knowledge or approval unless he proved that he had taken such steps as were reasonably practicable to prevent the employee from doing that thing or from doing in the course of his employment acts of that description. A person who aids another to do an act made unlawful by the Bill, if enacted, is, under clause 32(1) to be as liable as if he had himself done an unlawful act of the like description, subject to the defence available under clause 32(3) (reliance on a statement made to him by the person he assists that by reason of any provision of the Ordinance, the act which he aids would not be unlawful and reasonability of him relying on that statement). Under clause 32(4) it would be an offence knowingly or recklessly to make a statement of the kind just referred to.

29. Part VI of the Bill contains a number of exceptions from the provisions of the previous parts. Under clause 33, charitable instruments are excepted from the provisions of the Bill in relation to provisions which confer benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or which are relatively insignificant). By way of example, a charitable trust designed to provide money to furnish university scholarships for girls (and not boys) or boys (and not girls) would, by reason of clause 33, if enacted, not be contrary to the provisions of the Bill.

30. Clause 34 would confer an exception in relation to sport where the physical strength, stamina or physique of the average woman would put her at a disadvantage to the average man. Clause 35 would confer exceptions in relation to insurance. As an actuarial fact, the average age of women, at death, is higher than the average age of men, at death. For that reason, women usually attract less favourable annuity rates than men. On the other hand "term assurance" (providing for payment of a sum money if they fail to live to a nominated age) is usually cheaper for a woman to effect than it is for a man of the same age (given comparable states of health).

31. Clause 36 would make provision which would clearly be necessary in relation to communal accommodation, dormitories or other shared sleeping accommodation which for reasons of privacy or decency should be used by men only or by women only (clause 36(2)). Under clause 36(3) nothing in clauses 7 to 26 would render unlawful sex discrimination in the admission of persons to communal accommodation if the accommodation is managed in a way which, given the exigencies of the situation, comes as near as maybe to fair and equitable treatment of men and women.

32. There would be an exception, by virtue of clause 37 in relation to "positive discrimination" in the provision of training to employees by making training available to men only or women only where at any time within the 12 months immediately proceeding the doing of the act which would otherwise constitute unlawful discrimination there were no persons of the sex in question among those doing the relevant work or the number of persons of the sex in question doing the work was comparatively small (clause 37(1)). Clause 37(2) would make similar provision in relation to the provision of training by trade unions in relation to posts in the trade union. Further provision in relation to trade unions are contained in clause 37(3) and 38. Clause 39 provides that references in the Bill to access to benefits, facilities or services by the employer do not relate only to benefits, facilities or services directly provided by him or her but extend to any means by which it is in that persons power to facilitate access to benefits, facilities or services provided by any other person. Where, under the Bill, the affording by any person of access to benefits, facilities or services in a discriminatory way would, in certain circumstances, be prevented from being unlawful clause 39(2) would extend the effect of that provision to the liability of any actually provider of the benefits, facilities or services.

33. Clause 40 of the Bill would except from unlawfulness under the Bill acts done by a person in relation to a woman in order to comply with requirements of law concerning the protection of women in relation to pregnancy or maternity or other circumstances giving rise to risks specifically affecting women. Clause 41 would except from the provisions of clause 19 to 26 of the Bill acts done by a person necessary to enable that person to comply with requirements of an existing statutory provision. However this would not apply so as to extend to vocational training.

34. There is an exception for national security in clause 42 and for the purposes of clauses 40 and 41 "vocational training" is defined by clause 43 as including advanced vocational training and re-training; and in clauses 40 and 41 is to be construed as including reference to vocational guidance.

35. Provisions in relation to enforcement are contained in Part VII of the Bill (clauses 44 to 52).

36. Clause 44 would provide that, except as provided by the Ordinance, no proceedings in any court would be available against any person in respect of any act by reason that the act is unlawful by virtue of a provision of the Bill, if enacted. This, however, would not apply to proceedings for judicial review. There are a number of instances, however, where the Bill would provide that a person would have the right to bring proceedings. First of all, under clause 45 a person could bring a complaint that another person has committed an act of discrimination which is unlawful under clauses 7 to 18 or which is to be treated as being unlawful under clauses 31 or 32. Such a complaint would have to be made to the Summary Court. In relation to such a complaint the Summary Court would have power under clause 46 -

(a) to make an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(b) to order the respondent to pay to the complainant to pay damages; and/or could make a recommendation that the respondent should take within a specified period action appearing to the Summary Court to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

37. Failure without reasonable justification to comply with a recommendation made by the Summary Court could, under section 46(3) result in increased compensation. Under clause 47 proceedings could be brought in the Magistrate's Court in relation to any discrimination under Part IV (sections 19 to 26) of the Bill or where the respondent is by virtue of clauses 31 or 32 to be treated as having committed such an act of discrimination. Under clause 49 the enforcement of the provisions in relation to discriminatory advertisements, instructions to discriminate and pressure to discriminate would lie with the Attorney General who would bring the proceedings in the Summary Court or the Magistrate's Court depending under which provision the contravention is based. Persistent discrimination would be dealt with by clause 48, and the Attorney General could bring court proceedings. Clause 50 makes provision for a preliminary application to the Summary Court by the Attorney General. Clause 51 enables statutory questionnaires to be prescribed by order the answers to which may assist a person to bring proceedings alleging discrimination. Clause 52 would lay down time limits during which proceedings should be brought.

38. Part VIII consists of two clauses (clauses 53 and 54). Clause 53 would make certain provisions of contracts void and other unenforceable. Clause 54 makes provision for application of the provisions of the Ordinance to the Crown in right of the Falkland Islands.

Sex Discrimination Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

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- 49. Enforcement of sections 28 to 40
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- 52. Period within which proceedings to be brought

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SEX DISCRIMINATION BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To render unlawful certain kinds of sex discrimination and discrimination on the ground of marriage, and for related purposes

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

PART I

SHORT TITLE, COMMENCEMENT AND INTERPRETATION

Short title and commencement

1. This Ordinance may be cited as the Sex Discrimination Ordinance 1998 and comes into force on 1st January 1999.

Interpretation

2.—(1) In this Ordinance —

(a) references to discrimination refer to any discrimination falling within sections 3 to 6; and

(b) references to sex discrimination refer to any discrimination falling within section 3 or 4,

and related expressions shall be construed accordingly.

(2) In this Ordinance —

“woman” includes a female of any age, and

“man” includes a male of any age.

(3) A comparison of the cases of persons of different sex or marital status under section 3(1) or 5(1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

(4) In this Ordinance, unless the context otherwise requires —

“access” shall be construed in accordance with section 39;

“act” includes a deliberate omission;

“advertisement” includes every form of advertisement, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, show cards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

“associated employer” is to be construed in accordance with subsection (5);

“dispose” in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises is to be construed accordingly;

“education” includes any form of training or instruction;

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions are to be construed accordingly;

“employment agency” means a person who, for profit or not, provides services for the purposes of finding employment for workers or supplying employers with workers;

“equality clause” has the meaning given in section 2(2) of the Equal Employment Rights Ordinance 1998(a)

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

“final” is to be construed in accordance with subsection (6);

“firm” has the meaning given by section 4 of the Partnership Act 1890 in its application to the Falkland Islands;

“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

“genuine occupational qualification” is to be construed in accordance with section 8(2);

“near relative” is to be construed in accordance with subsection (7);

“notice” means a notice in writing;

“profession” includes any vocation or occupation;

“retirement” includes retirement (whether voluntary or not) on grounds of age, length of service or incapacity;

“trade” includes any business; and

“training” includes any form of education or instruction.

(5) For the purposes of this Ordinance two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control.

(6) For the purposes of this Ordinance, a person is a near relative of another if that person is the wife or husband, or parent or child, a grand-parent or grand-child, or a brother or sister of the other (whether of full blood or half-blood or by affinity), and “child” includes an illegitimate child and the wife or husband of an illegitimate child.

(7) References in this Ordinance to the dismissal of a person from employment or to the expulsion of a person from a position as a partner include references —

(a) to the termination of that person's employment or partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the employment or partnership is renewed on the same terms; and

(b) to the termination of that person's employment or partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the employer or, as the case may be, the conduct of the other partners.

PART II

DISCRIMINATION TO WHICH THIS ORDINANCE APPLIES

Sex discrimination against women

3.—(1) A person discriminates against a woman in any circumstances relevant for the purposes of any provision of this Ordinance if —

(a) on the ground of her sex he treats her less favourably than he treats or would treat a man; or

(b) he applies to her a requirement or condition which applies or would apply equally to a man but —

(i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and

(iii) which is to her detriment because she cannot comply with it.

(2) If a person treats or would treat a man differently according to the man's marital status, his treatment of a woman is for the purposes of subsection (1)(a) to be compared to his treatment of a man having the like marital status.

Sex discrimination against men

4.—(1) Section 3, and the provision of Parts III and IV relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

(2) In the application of subsection (1) no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

Discrimination against married persons in employment field

5.—(1) A person discriminates against a married person of either sex in any circumstances relevant for the purposes of any provision of Part III if —

(a) on the ground of his or her marital status he treats that person less favourably than he treats or would treat an unmarried person of the same sex, or

(b) he applies to that person a requirement or condition which he applies or would apply equally to an unmarried person but —

(i) which is such that the proportion of married persons who can comply with it is considerably smaller than the proportion of unmarried persons of the same sex who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied, and

(iii) which is to that person's detriment because he cannot comply with it.

(2) For the purposes of subsection (1), a provision of Part III framed with reference to discrimination against women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

Discrimination by way of victimisation

6.—(1) A person (“the discriminator”) discriminates against another person (“the person victimised”) in any circumstances relevant for the purposes of any provision of this Ordinance if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has —

(a) brought proceedings against the discriminator or any other person under this Ordinance or the Equal Employment Rights Ordinance 1998, or

(b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Ordinance or the Equal Employment Rights Ordinance 1998, or

(c) otherwise done anything under or by reference to this Ordinance or the Equal Employment Rights Ordinance 1998 in relation to the discriminator or any other person, or

(d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Ordinance or give rise to a claim under the Equal Employment Rights Ordinance 1998,

or by reason that the discriminator knows the person victimised intends to do any of those things, or suspects the person victimised has done, or intends to do, any of them.

(2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

(3) For the purposes of subsection (1), a provision of Part III or IV framed with reference to discrimination against women shall be treated as applying equally to the treatment of men and for that purpose shall have effect with such modifications as are requisite.

PART III

DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination by employers

Discrimination against applicants and employees

7.—(1) It is unlawful for a person, in relation to employment by him at an establishment in the Falkland Islands, to discriminate against a woman —

(a) in the arrangements he makes for the purpose of determining who should be offered that employment, or

(b) in the terms on which he offers her that employment, or

(c) by refusing or deliberately omitting to offer her that employment.

(2) It is unlawful for a person, in the case of a person employed by him at an establishment in the Falkland Islands, to discriminate against her —

(a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to offer her access to them, or

(b) by dismissing her, or subjecting her to any other detriment.

(3) Subject to section 9(2), subsection (1)(b) does not apply to any provision for the payment of money which, if the woman in question were given the employment, would be included (directly or otherwise) in the contract under which she was employed.

(4) Subsection (2) does not apply to benefits consisting of payment of money when the provision of those benefits is regulated by the woman's contract of employment.

(5) Subsection (2) does not apply to benefits, facilities or services of any description if the employer is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public comprising the woman in question unless —

(a) that provision differs in a material respect from the provision of the benefits, facilities or services by the employer to his employees, or

(b) the provision of the benefits, facilities or services to the woman in question is regulated by her contract or employment, or

(c) the benefits, facilities or services relate to training.

Exception where sex is a genuine occupational qualification

8.—(1) In relation to sex discrimination —

(a) section 7(1)(a) or (c) does not apply to any employment where being a man is a genuine occupational qualification for the job, and

(b) section 7(2)(a) does not apply to opportunities for promotion or transfer to, or training for, such employment.

(2) Being a man is a genuine occupational qualification for a job only where —

(a) the essential nature of the job calls for a man for reasons of physiology (excluding physical strength or stamina) or, in dramatic performances or other entertainment, for reasons of authenticity, so that the essential nature of the job would be materially different if carried out by a woman; or

(b) the job needs to be held by a man to preserve decency or privacy because —

(i) it is likely to involve physical contact with men in circumstances where they might reasonably object to its being carried out by a woman, or

(ii) the holder of the job is likely to do his work in circumstances where men might reasonably object to the presence of a woman because they are in a state of undress or are using sanitary facilities; or

(c) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held by a man because objection might reasonably be taken to allowing to a woman —

(i) the degree of physical or social contact with a person living in the home, or

(ii) the knowledge of intimate details of such a persons life,

which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job; or

(d) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and —

(i) the only such premises which are available for persons holding that kind of job are lived in, or normally lived in, by men and are not equipped with separate sleeping accommodation for women and sanitary facilities which could be used by women in privacy from men, and

(ii) it is not reasonable to expect the employer either to equip those premises with such accommodation and facilities or provide other premises for women; or

(e) the nature of the establishment, or the part of it within which the work is done, requires the job to be held by a man because —

(i) it is, or is part of, a hospital, prison or other establishment for persons requiring special care, supervision or attention, and

(ii) those persons are all men (disregarding any woman whose presence is exceptional), and

(iii) it is reasonable, having regard to the essential character of the establishment or that part, that the job should not be held by a woman; or

(f) the holder of the job provides individuals with personal services promoting their welfare or education, or similar personal services, and those services can most effectively be provided by a man, or

(g) the job needs to be done by a man because it is likely to involve the performance of duties outside the Falkland Islands in a country whose laws or customs are such that the duties could not, or could not effectively, be performed by a woman, or

(h) the job is one of two to be held by a married couple.

(3) Subsection (2) applies where some only of the duties of the job fall within paragraphs (a) to (g) as well as where all of them do.

(4) Paragraph (a), (b), (d), (e), (f) or (g) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has male employees —

(a) who are capable of carrying out the duties falling within that paragraph, and

(b) it would be reasonable to employ on those duties, and

(c) whose numbers are sufficient to meet the employer's likely requirements in respect of those duties without undue inconvenience.

Equal Employment Rights Ordinance 1998

9.—(1) Section 2(1) of the Equal Employment Rights Ordinance 1998 does not apply in determining for the purposes of section 7(1)(b) of this Ordinance the terms on which employment is offered.

(2) Where a person offers a woman employment on certain terms, and if she accepted the offer then, by virtue of an equality clause, any of those terms would fall to be modified, or any additional term would fall to be included, the offer shall be taken to contravene section 7(1)(b).

(3) Where a person offers a woman employment on certain terms, and subsection (2) would apply but for the fact that, on her acceptance of the offer, section 2(3) of the Equal Employment Rights Ordinance 1998 would prevent the equality clause from operating, the offer shall be taken not to contravene section 7(1)(b) of this Ordinance.

(4) An act does not contravene section 7(2) if —

(a) it contravenes a term modified or included by virtue of an equality clause, or

(b) it would contravene such a term but for the fact that the equality clause is prevented from operating by section 2(3) of the Equal Employment Rights Ordinance 1998.

Discrimination against contract workers

10.—(1) This section applies to any worker for a person ("the principal") which is available for doing by individuals ("contract workers") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.

(2) It is unlawful for the principal, in relation to work to which this section applies, to discriminate against a woman who is a contract worker —

(a) in the terms on which he allows her to do that work, or

(b) by not allowing her to do it or continue to do it, or

(c) in the way he affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

(d) by subjecting her to any detriment.

(3) The principal does not contravene subsection (2)(b) by doing any act in relation to a woman at a time when if the work were to be done by a person taken into his employment being a man would be a genuine occupational qualification for the job.

(4) Subsection (2)(c) does not apply to benefits, facilities or services of any description if the principal is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public to which the woman belongs, unless that provision differs in a material respect from the provision of the benefits, facilities or services by the principal to his contract workers.

Discrimination by other bodies

Partnerships

11.—(1) It is unlawful for a firm, in relation to a position as partner in the firm, to discriminate against a woman —

(a) in the arrangements they make for the purpose of determining who should be offered that position, or

(b) in the terms on which they offer her that position, or

(c) by refusing or deliberately omitting to offer her that position, or

(d) in a case where the woman already holds that position —

(i) in the way they afford her access to any benefits, facilities or services, or by refusing or deliberately omitting to offer her access to them, or

(ii) by expelling her from that position, or subjecting her to any other detriment.

(2) Subsection (1) applies in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.

(3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being a man would be a genuine occupational qualification for the job.

(4) In the case of a limited partnership references in subsection (1) to a partner shall be construed as references to a general partner as defined in section 3 of the Limited Partnerships Act 1907 in its application to the Falkland Islands.

Trade unions etc

12.—(1) This section applies to an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.

(2) It is unlawful for an organisation to which this section applies, in the case of a woman who is not a member of the organisation, to discriminate against her —

(a) in the terms on which it is prepared to admit her to membership, or

(b) by refusing, or deliberately omitting to accept, her application for membership.

(3) It is unlawful for an organisation to which this section applies, in the case of a woman who is a member of the organisation, to discriminate against her —

(a) in the way it affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

(b) by depriving her of membership, or varying the terms on which she is a member, or

(c) by subjecting her to any other detriment.

Qualifying bodies

13.—(1) It is unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman —

(a) in the terms on which it is prepared to confer on her that authorisation or qualification, or

(b) by refusing or deliberately omitting to grant her application for it, or

(c) by withdrawing it from her or varying the terms on which she holds it.

(2) Where an authority or body is required by law to satisfy itself as to his good character before conferring on a person an authorisation or qualification which is needed for, or facilitates, his engagement in any profession or trade then, without prejudice to any other duty to which it is subject, that requirement shall be taken to impose on the authority or body a duty to have regard to any evidence tending to show that he, or any of his employees, or agents (whether past or present), has practised unlawful discrimination in, or in connection with, the carrying on of any profession or trade.

(3) In this section —

(a) “authorisation or qualification” includes recognition, registration, enrolment, approval and certification,

(b) “confer” includes renew or extend.

Persons concerned with provision of vocational training

14.—(1) It is unlawful, in the case of a woman seeking or undergoing training which would help fit her for any employment, for any person who provides, or makes

arrangements for the provision of, facilities for such training to discriminate against her—

(a) in the terms on which that person affords her access to any training course or other facilities concerned with such training, or

(b) by refusing or deliberately omitting to afford her such access, or

(c) by terminating her training, or

(d) by subjecting her to any detriment during the course of her training.

(2) Subsection (1) does not apply to —

(a) discrimination which is rendered unlawful by section 7(1) or (2), or

(b) discrimination which would be rendered unlawful by either of those provisions but for the operation of any other provision of this Ordinance.

Employment agencies

15.—(1) It is unlawful for an employment agency to discriminate against a woman —

(a) in the terms on which the agency offers to provide any of its services, or

(b) by refusing or deliberately omitting to provide any of its services, or

(c) in the way it provides any of its services.

(2) References in subsection (1) to the service of an employment agency include guidance on careers and any other services related to employment.

(3) This section does not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer to the woman.

(4) An employment agency is not subject to any liability under this section if it proves that —

(a) it acted in reliance on a statement made to it by the employer to the effect that, by reason of the operation of subsection (3), its action would not be unlawful, and

(b) it was reasonable for it to rely on the statement.

(5) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (4)(a) which is in a material respect false or misleading.

*Special cases***Police**

16.—(1) Regulations made under the Police Ordinance 1966 shall not treat men and women differently except —

- (a) as to requirements relating to height, uniform or equipment;
- (b) so far as special treatment is accorded to women in connection with pregnancy or child birth, or
- (c) in relation to reserve members of the police force or police cadets.

(2) Nothing in this Part renders unlawful any discrimination between male and female police officers as to matters such as a mentioned in subsection (1)(a).

Prison officers

17. Nothing in this Part renders unlawful any discrimination between male and female prison officers as to requirements relating to height.

Ministers of religion etc

18.—(1) Nothing in this Part applies to employment for purposes of an organised religion where the employment is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

(2) Nothing in section 13 applies to an authorisation or qualification (as defined in that section) for purposes of an organised religion where the authorisation or qualification is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

PART IV**DISCRIMINATION IN OTHER FIELDS***Education***Discrimination in respect of education**

19.—(1) Without prejudice to section 14 of the Education Ordinance 1989 (which requires the Director of Education, the Board of Education and every committee of the Board to ensure that efficient education (so far as his or its power under the Education Ordinance 1989 or otherwise extend and so far as monies lawfully available to him or it and other resources permit) to ensure that efficient education is available to every person in the Falkland Islands irrespective of gender) this subsection has effect to render it unlawful in relation to any Government school independent school or further education institution in the Falkland Islands (that is to say an institution at which full-time or part-time education for persons over compulsory education age is provided) to discriminate against a woman —

- (a) in the terms on which it offers to admit her as a pupil, or
- (b) by refusing or deliberately omitting to except an application for her admission as a pupil, or

(c) where she is a pupil at the establishment —

(i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(ii) by excluding her or subjecting her to any other detriment.

(2) In relation to a Government School or a further education institution belonging to the Government it is the Crown which is responsible for compliance with subsection (1) and in the case of an independent school or further education institution it is the proprietor of that school which is responsible.

(3) Subsection (1) does not apply to any course in physical education.

(4) In this section "Government School" and "independent school" have the same meanings as they have for the purposes of the Education Ordinance 1989 by virtue of section 2 of that Ordinance.

Goods, facilities, services and premises

Discrimination in provision of goods, facilities or services

20.—(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services by —

(a) refusing or deliberately omitting to provide her with any of them, or

(b) refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

(2) The following are examples of the facilities and services mentioned in subsection (1) —

(a) access to and use of any place which members of the public or a section of the public are permitted to enter;

(b) accommodation in a hotel, boarding house or other similar establishment;

(c) facilities by way of banking or insurance or for grants, loans, credit or finance;

(d) facilities for education;

(e) facilities for entertaining, recreation or refreshment;

(f) facilities for transport or travel;

(g) the services of any profession or trade, or of any public authority.

(3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene subsection (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

Discrimination in disposal or management of premises

21.—(1) It is unlawful for a person, in relation to premises in the Falkland Islands of which he has power to dispose, to discriminate against a woman —

(a) in the terms on which he offers her those premises, or

(b) by refusing her application for those premises, or

(c) in his treatment of her in relation to any list of persons in need of premises of that description.

(2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a woman occupying the premises —

(a) in the way he affords her access to any benefits or facilities, or by refusing or deliberately omitting to afford her access to them, or

(b) by evicting her, or subjecting her to any other detriment.

(3) Subsection (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises, or publishes or causes to be published an advertisement in connection with the disposal.

Discrimination: consent for assignment or sub-letting

22.—(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in the Falkland Islands comprised in a tenancy, it is unlawful for the landlord or other person to discriminate against a woman by withholding the licence or consent for disposal of the premises to her.

(2) Subsection (1) does not apply if —

(a) the person withholding a licence or consent or a near relative of his ("the relevant occupier") resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises as defined in section 23(2).

(3) In this section “tenancy” means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and “disposal”, in relation to premises comprised in a tenancy, includes assignment of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.

(4) This section applies to tenancies created before the passing of this Ordinance, as well as to others.

Exception for small dwellings

23.—(1) Sections 20(1) and 21 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if —

(a) that person or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises.

(2) Premises are to be treated for the purposes of subsection (1) as small premises if —

(a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;

(b) in the case of premises not falling within paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

Exception for voluntary bodies

24.—(1) This section applies to a body —

(a) the activities of which are carried on otherwise than for profit, and

(b) which was not set up by any enactment.

(2) Sections 20(1) and 21 are not to be construed as rendering unlawful —

(a) the restriction of membership of any such body to persons of one sex (disregarding any minor exceptions); or

(b) the provision of benefits, facilities or services to members of any such body where the membership is so restricted,

even though membership of the body is open to the public, or to a section of the public.

(3) Nothing in section 20 or 21 —

(a) is to be construed as affecting a provision to which this subsection applies, or

(b) renders unlawful an act which is done in order to give effect to such a provision.

(4) Subsection (3) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which constitutes the main object of a body within subsection (1).

Further exceptions from sections 20(1) and 21

25.—(1) A person who provides at any place facilities or services restricted to men does not for that reason contravene section 20(1) if —

(a) the place is, or is part of, a hospital or other establishment for persons requiring special care, supervision or attention, or

(b) the places (permanently or for the time being) occupied or used for the purposes of an organised religion, and the facilities or service are restricted to men so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of its followers, or

(c) the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and

(i) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman, or

(ii) the facilities or service are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.

(2) A person who provides facilities or services restricted to men does not for that reason contravene section 20(1) if the services or facilities are such that physical contact between the user and any other person is likely, and that other person might reasonably object if the user were a woman.

(3) Sections 20(1) and 21 do not apply —

(a) to discrimination which is rendered unlawful by any provision in column 1 of the Table below, or

(b) to discrimination which would be so unlawful but for any provision in column 2 of that Table, or

(c) to discrimination which contravenes a term modified or included by virtue of an equality clause.

TABLE

Provision creating illegality

Exception

Part III

sections 8(1)(b), 15(3) and 18

Extent

Extent of Part IV

26.—(1) Section 20(1) —

(a) does not apply to goods, facilities or services outside the Falkland Islands except as provided in subsection (2) and (3), and

(b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside the Falkland Islands.

(2) Section 20(1) applies to the provision of facilities for travel outside the Falkland Islands where the refusal or omission occurs in the Falkland Islands or on a ship or aircraft within subsection (3) of this section.

(3) Section 20(1) applies on and in relation to —

(a) any ship registered at a port of registry in the Falkland Islands, and

(b) any aircraft registered in the Falkland Islands and operated by a person who has his principal place of business, or is ordinary resident in, in the Falkland Islands,

(c) any ship belonging to or possessed by Her Majesty in right of the Government of the Falkland Islands,

even if the ship or aircraft is outside the Falkland Islands.

(4) This section shall not render unlawful an act done in or over a country outside the Falkland Islands, or in or over that country's territorial sea, for the purpose of complying with the laws of that country.

PART V OTHER UNLAWFUL ACTS

Discriminatory practices

27.—(1) In this section “discriminatory practice” means the application of a requirement or condition which results in an act of discrimination which is unlawful by virtue of any provision of Part III or IV taken with section 3(1)(b) or 5(1)(b) or which

would be likely to result in such an act of discrimination if the persons to whom it is applied were not all of one sex.

(2) A person acts in contravention of this section if and so long as —

(a) he applies a discriminatory practice, or

(b) he operates practices or other arrangements which in any circumstances would call for the application by him of a discriminatory practice.

(3) Proceedings in respect of a contravention of this section shall be brought only by the Attorney General or a person acting in accordance with the written authority of the Attorney General.

Discriminatory advertisements

28.—(1) It is unlawful to publish or cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do any act which is or might be unlawful by virtue of Part III or IV.

(2) Subsection (1) does not apply to an advertisement if the intended act would not in fact be unlawful.

(3) For the purposes of subsection (1), use of a job description with a sexual connotation (such as “waiter”, “salesgirl”, “postman” or “stewardess”) shall be taken to indicate an intention to discriminate, unless the advertisement contains an indication to the contrary.

(4) The publisher of an advertisement made unlawful by subsection (1) shall not be subject to any liability under that subsection in respect of the publication of the advertisement if he proves —

(a) that the advertisement was published in reliance upon a statement made to him by the person who caused it to be published to the effect that, by reason of the operation of subsection (2), the publication would not be unlawful, and

(b) that it was reasonable for him to rely on the statement.

(5) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (4) which in a material respect is false or misleading.

Instructions to discriminate

29. It is unlawful for a person —

(a) who has authority over another person, or

(b) in accordance with whose wishes that other person is accustomed to act,

to instruct him to do any act which is unlawful by virtue of Part III or IV, or procure or attempt to procure the doing by him of any such act.

Pressure to discriminate

30.—(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part III or IV by —

(a) providing or offering to provide him with any benefit, or

(b) subjecting or threatening to subject him to any detriment.

(2) An offer or threat is not prevented from falling within subsection (1) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

Liability of employers and principals

31.—(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Ordinance as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Ordinance as done by that other person as well as by him.

(3) In proceedings brought under this Ordinance against any person in respect of an act alleged to have been done by an employee of his it is a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description.

Aiding unlawful acts

32.—(1) A person who knowingly aids another person to do an act made unlawful by this Ordinance shall be treated for the purpose of this Ordinance as himself doing an unlawful act of the like description.

(2) For the purposes of subsection (1) an employee or agent for whose act the employer or principal is liable under section 31 (or would be so liable but for section 31(3)) is to be deemed to aid the doing of the act by the employer or principal.

(3) A person does not under this section knowingly aid another to do an unlawful act if —

(a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Ordinance, the act which he aids would not be unlawful, and

(b) it is reasonable for him to rely on the statement.

(4) A person commits an offence in respect of which he is on conviction liable to a fine not exceeding the maximum of level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (3)(a) which is false or misleading in a material respect.

PART VI GENERAL EXCEPTIONS FROM PARTS III TO V

Charities

33.—(1) Nothing in Parts III to V —

(a) is to be construed as affecting a provision to which this subsection applies,

(b) is to render unlawful an act which is done in order to give effect to such a provision.

(2) Subsection (1) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which is contained in a charitable instrument.

(3) In this section “charitable instrument” means an enactment or other instrument so far as it relates to charitable purposes and in this subsection “charitable purposes” means purposes which are exclusively charitable according to the law of the Falkland Islands.

Sport etc

34. Nothing in Parts III to IV shall, in relation to any sport, game or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man, render unlawful any act related to the participation of a person as a competitor in events involving that activity which are confined to competitors of one sex.

Insurance etc

35. Nothing in Parts III to IV shall render unlawful the treatment of a person in relation to an annuity, life assurance policy, accident insurance policy, or similar matter involving the assessment of risk, where the treatment —

(a) was effected by reference to actuarial or other data from a source on which it was reasonable to rely, and

(b) was reasonable having regard to the data and any other relevant factors.

Communal accommodation

36.—(1) In this section “communal accommodation” means residential accommodation which includes dormitories or other shared sleeping accommodation which for reasons of privacy or decency should be used by men only, or by women only (but which may include some shared sleeping accommodation for men, and some for women, or some ordinary sleeping accommodation).

(2) In this section "communal accommodation" also includes residential accommodation all or part of which should be used by men only, or by women only, because of the nature of the sanitary facilities serving the accommodation.

(3) Nothing in Part III or IV renders unlawful sex discrimination in the admission of persons to communal accommodation if the accommodation is managed in a way which, given the exigencies of the situation, comes as near as may be to fair and equitable treatment of men and women.

(4) In applying subsection (3) account shall be taken of —

(a) whether and how far it is reasonable to expect that the accommodation should be altered or extended, or that further alternative accommodation should be provided; and

(b) the frequency of the demand or need for use of the accommodation by men as compared with women.

(5) Nothing in Part III or IV renders unlawful sex discrimination against a woman, or against a man, as respects the provision of any benefit, facility or service if —

(a) the benefit, facility or service cannot properly and effectively be provided except for those using communal accommodation, and

(b) in the relevant circumstances the woman or, as the case may be, the man could lawfully be refused the use of the accommodation by virtue of subsection (3).

(6) Neither subsection (3) nor subsection (5) is a defence to an act of sex discrimination under Part III unless such arrangements as are reasonably practicable are made to compensate for the detriment caused by the discrimination; but in considering under subsection (5)(b) whether the use of a communal accommodation could lawfully be refused (in a case based on Part III), it is to be assumed that the requirements of this subsection have been complied with as respects subsection (3).

(7) This section is without prejudice to the generality of section 25(1)(c).

Discriminatory training etc

37.—(1) Nothing in Parts III to IV renders unlawful any act done by an employer in relation to particular work in his employment, being an act done in, or in connection with —

(a) affording his female employees only, or his male employees only, access to facilities for training which would help to fit them for that work, or

(b) encouraging women only, or men only, to take advantage of opportunities for doing that work,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those doing that work or the number of persons of that sex doing the work was comparatively small.

(2) Nothing in section 12 renders unlawful any act done by an organisation to which that section applies in, or in connection with —

(a) affording female members of the organisation only, or male members of the organisation only, access to facilities for training which would help to fit them for holding a post of any kind in the organisation, or

(b) encouraging female members only, or male members only, to take advantage of opportunities for holding such posts in the organisation,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among persons holding such posts in the organisation or the number of persons of that sex holding such posts was comparatively small.

(3) Nothing in Parts III to IV renders unlawful any act done by an organisation to which section 12 applies in, or in connection with, encouraging women only, or men only, to become members of the organisation where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those members of the number of persons of that sex among the members was comparatively small.

Trade union etc: elective bodies

38.—(1) If an organisation to which section 12 applies a body the membership of which is wholly or mainly elected, nothing in that section renders unlawful provision which ensures that a minimum number of persons of one sex are members of the body—

(a) by reserving seats on the body for persons of that sex, or

(b) by making extra seats on the body available (by election or co-option or otherwise) for persons of that sex on occasions when the number of persons of that sex in the other seats is below the minimum,

where in the opinion of the organisation the provision is in the circumstances needed to secure a reasonable lower limit to the number of members of that sex serving on the body; and nothing in Parts III to V renders unlawful any act done in order to give effect to such a provision.

(2) This section shall not be taken as making lawful —

(a) discrimination in the arrangements for determining the persons entitled to vote in an election of members of the body, or otherwise to choose the persons to serve on the body, or

(b) discrimination in any arrangements concerning membership of the organisation itself.

Indirect access to benefits etc

39.—(1) References in this Ordinance to the affording by any person of access to benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to facilitate access to benefits, facilities or services provided by any other person (the "actual provider").

(2) Whereby any provision of this Ordinance the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances prevented from being unlawful, the effect of the provision shall extend also to the liability under this Ordinance of any actual provider.

Acts done for the protection of women

40.—(1) Nothing in —

(a) Part III,

(b) Part IV so far as it applies to vocational training, or

(c) Part V so far as it has effect in relation to the provisions mentioned in paragraphs (a) and (b).

renders unlawful any act done by a person in relation to a woman if —

(i) it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision concerning the protection of women, or

(ii) it was necessary for that person to do it in order to comply with a requirement of a relevant statutory provision (within the meaning of Part I of the Health and Safety at Work Etc Act 1974 in its application under the law of the Falkland Islands) and it was done by that person for the purpose of the protection of the woman in question (or of any class of women that included that woman).

(2) In subsection (1) —

(a) the reference in paragraph (i) of that subsection to an existing statutory provision concerning the protection of women is a reference to any such provision having effect for the purpose of protecting women as regards —

(i) pregnancy or maternity, or

(ii) other circumstances giving rise to risks specifically affecting women,

whether the provision relates only to such protection or to the protection of any other class of persons as well; and

(b) the reference in paragraph (ii) of that subsection to the protection of a particular woman or class of women is a reference to the protection of that woman or those women as regards any circumstances falling within paragraph (a)(i) or (ii) of this subsection.

(3) In this section “existing statutory provision” means (subject to subsection (4)) any provision of —

(a) any Ordinance or imperial enactment passed before this Ordinance, or

(b) an instrument approved or made by or under any such imperial enactment or Ordinance (including one approved or made after the passing of this Ordinance).

(4) Where an imperial enactment or Ordinance passed after this Ordinance re-enacts (with or without modification) a provision of an imperial enactment or Ordinance passed before this Ordinance, that provision as re-enacted shall be treated for the purposes of subsection (3) as if it continued to be contained in an imperial enactment or Ordinance passed before this Ordinance.

Acts done under statutory authority to be exempt from certain provisions of Part IV

41.—(1) Nothing in —

(a) the relevant provisions of Part IV, or

(b) Part V so far as it has effect in relation to those provisions,

renders unlawful any act done by a person if it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision within the meaning of section 40.

(2) In subsection (1) “the relevant provisions of Part IV” means the provisions of that Part except so far as they apply to vocational training.

Acts safeguarding national security

42. Nothing in Parts III to V renders unlawful an act done for the purpose of safeguarding national security.

Construction of references to vocational training

43. In sections 40 and 41 “vocational training” includes advanced vocational training and re-training; and any reference to vocational training in those provisions is to be construed as including a reference to vocational guidance.

PART VII
ENFORCEMENT
General

Restriction of proceedings for breach of Ordinance

44.—(1) Except as provided by this Ordinance no proceedings, whether civil or criminal, lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Ordinance.

(2) Subsection (1) does not preclude the making of an order of certiorari, mandamus or prohibition.

Enforcement in employment field

Jurisdiction of Summary Court

45.—(1) A complaint by any person ("the complainant") that another person ("the respondent") —

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part III, or

(b) is by virtue of section 31 or 32 to be treated as having committed such an act of discrimination against the complainant,

may be presented to the Summary Court.

(2) Subsection (1) does not apply to a complaint under section 13(1) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

Remedies on complaint under section 45

46.—(1) Where the Summary Court finds that a complaint presented to it under section 45 is well-founded the court shall make such of the following as it considers just and equitable —

(a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by the Magistrate's Court to pay to the complainant if the complaint had fallen to be dealt with under section 47;

(c) a recommendation that the respondent take within a specified period action appearing to the Summary Court to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

(2) The amount of compensation awarded to a person under subsection (1)(b) shall not exceed the limit for the time being imposed by section 73 of the Employment Protection Ordinance 1989.

(3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by the Summary Court under subsection (1)(c), then, if it thinks it just and equitable to do so —

(a) the court may, without regard to the limit in subsection (2) increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b) to such amount as the court thinks just and reasonable to compensate the complainant, or

(b) if an order under subsection (1)(b) could have been made but was not, the court may make such an order providing for compensation to be paid to the complainant of such an amount, without regard to subsection (2), as the court thinks just and equitable to compensate the complainant.

Enforcement of Part IV

Claims under Part IV

47.—(1) A claim by any person (“the claimant”) that another person (“the respondent”) —

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part IV, or

(b) is by virtue of section 31 or 32 to be treated as having committed such an act of discrimination against the complainant,

may be made the subject of civil proceedings in like manner as any other claim in tort.

(2) Proceedings under subsection (1) shall be brought only in the Magistrate’s Court but all such remedies shall be obtainable in such proceedings as, apart from this subsection and section 44(1), would be obtainable in the Supreme Court.

(3) As respects an unlawful act of discrimination falling within section 3(1)(b) or, where this section is applied by section 46(1)(b), section 5(1)((b)) no award of damages is to be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the complainant unfavourably on the ground of his sex or marital status as the case may be.

(4) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.

(5) For the purposes of proceedings under subsection (1) section 63(1)(assessors) of the County Courts Act 1984 (which subject to the provisions of the Administration of Justice Ordinance applies in relation to civil procedure in the Magistrate’s Court) shall apply with the omission of the words “on the application of any party”.

Other enforcement

Persistent discrimination

48.—(1) If, during the period of five years beginning with the date of finding by the Summary Court or the Magistrate's Court under section 45 or 47 of this Ordinance or section 3 of the Equal Employment Rights Ordinance 1998 that the person to whom the finding relates has done an unlawful discriminatory act or an act in breach of a term modified or included by virtue of an equality clause, it appears to the Attorney General that unless that person is restrained he is likely to do one or more acts which would contravene any of those provision or contravene section 27 of this Ordinance, the Attorney General may apply to the Magistrate's Court for an injunction restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(2) In proceedings under this section the Attorney General shall not allege that the person to whom the proceedings relate has done an act which is within the jurisdiction of the Summary Court unless a finding by the Summary Court that the person did that act has become final.

Enforcement of sections 28 to 30

49.—(1) Proceedings in respect of a contravention of section 28, 29 or 30 shall be brought only by the Attorney General in accordance with the following provisions of this section.

(2) The proceedings shall be —

- (a) an application for a decision whether the alleged contravention occurred, or
- (b) an application under subsection (4) of this section.

or both.

(3) An application under subsection (2)(a) shall be made —

- (a) in a case based on any provision of Part III, to the Summary Court, and
- (b) in any other case to the Magistrate's Court.

(4) If it appears to the Attorney General —

- (a) that a person has done an act which by virtue of section 28, 29 or 30 was unlawful, and
- (b) that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

the Attorney General may apply to the Magistrate's Court for an injunction restraining him from doing such acts; and the Court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or more limited terms.

(5) In proceedings under subsection (4) the Attorney General shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Ordinance and within the jurisdiction of the Summary Court unless a finding by the Summary Court that he did that act has become final.

Preliminary action in employment cases

50.—(1) With a view to making an application under section 48(1) or 49(4) in relation to a person the Attorney General may present to the Summary Court a complaint that that person has done an act within the jurisdiction of the Summary Court, and if the Summary Court considers that the complaint is well-founded it shall make a finding to that effect and, if it thinks it just and equitable to do so in the case of an act contravening any provision of Part III may also (as if the complaint had been presented by the person discriminated against) make an order such as is referred to in section 46(1)(a), or a recommendation such as is referred to in section 46(1)(c), or both.

(2) Subsection (1) is without prejudice due to the jurisdiction conferred by section 49(2).

(3) Any finding of the Summary Court under —

(a) this Ordinance, or

(b) the Equal Employment Rights Ordinance 1998,

in respect of any act shall, if it has become final, be treated as conclusive —

(i) by the Magistrate's Court on an application under section 48(1) or 49(4) or in proceedings on an equality clause,

(ii) by the Summary Court on a complaint made by the person affected by the act under section 45 or in relation to an equality clause.

(4) In sections 48 and 49 and this section, the acts "within the jurisdiction of the Summary Court" are those in respect of which such jurisdiction is conferred by sections 45 and 49 and by section 4 of the Equal Employment Rights Ordinance 1998.

Help for person suffering discrimination

Help for aggrieved persons in obtaining information etc

51.—(1) With a view to helping a person ("the person aggrieved") who considers he may have been discriminated against in contravention of this Ordinance to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Governor may by Order prescribe —

(a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant;

(b) forms by which the respondent may if he so wishes reply to any questions.

(2) Where the person aggrieved questions the respondent (whether in accordance with an Order under subsection (1) or not) —

(a) the question, and any reply by the respondent (whether in accordance with such an Order or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;

(b) if it appears to the court that the respondent deliberately, and without reasonable excuse omitted to reply within a reasonable period or that his reply is evasive or equivocal, the court may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

(3) The Governor may by Order —

(a) prescribe the period within which questions must be duly served in order to be admissible under subsection (2)(a), and

(b) prescribe the manner in which such a question, and any reply by the respondent, may be duly served.

(4) Those provisions of the County Court Rules which enable a County Court entertaining a claim in England under section 66 of the Sex Discrimination Act 1975 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under section 74 of the Sex Discrimination Act 1975 shall have effect, with such modifications as are necessary, to enable the Magistrate's Court to determine before the date fixed for the hearing of a claim under section 47 of this Ordinance whether a question or reply is admissible under this section or not.

(5) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before the Magistrate's Court or the Summary Court, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

(6) In this section "respondent" includes a prospective respondent.

Period within which proceedings to be brought

Period within which proceedings to be brought

52.—(1) The Summary Court shall not consider a complaint under section 45 unless it is presented to the Summary Court before the end of the period of three months beginning when the act complained of was done.

(2) The Magistrate's Court shall not consider a claim under section 47 unless proceedings in respect of the claim are instituted before the end of —

(a) the period of six months beginning when the act complained of was done; or

(b) in a case to which section 47(5) applies, the period of eight months so beginning.

(3) The Summary Court or Magistrate's Court shall not consider an application under section 49(2)(a) unless it is made before the end of the period of six months beginning when the act to which it relates was done; and the Magistrate's Court shall not consider an application under section 49(4) unless it is made before the end of the period of five years so beginning.

(4) The Summary Court shall not consider a complaint under section 50(1) unless it is presented to the Summary Court before the end of the period of six months beginning when the act complained of was done.

(5) A court may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(6) For the purposes of this section —

(a) where the inclusion of any term in a contract renders the making of the contract an unlawful act that act shall be treated as extending throughout the duration of the contract, and

(b) any act extending over a period shall be treated as done at the end of that period, and

(c) a deliberate omission shall be treated as done when the person in question decided upon it,

and in the absence of the evidence establishing the contrary a person shall be taken for the purposes of this section to decide upon an omission when he does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

PART VIII SUPPLEMENTAL

Validity and revision of contracts

53.—(1) A term of a contract is void where —

(a) its inclusion renders the making of the contract unlawful by virtue of this Ordinance, or

(b) it is included in furtherance of an act rendered unlawful by this Ordinance, or

(c) it provides for the doing of an act which would be rendered unlawful by this Ordinance.

(2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.

(3) A term in a contract which purports to exclude or limit any provision of this Ordinance or the Equal Employment Rights Ordinance 1998 is unenforceable by any person in whose favour the term would operate apart from this subsection.

(4) Subsection (3) does not apply to a contract settling a claim to which section 47 applies.

(5) On the application of any person interested in a contract to which subsection (2) applies, the Magistrate's Court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order shall not be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.

(6) An order under subsection (5) may include provision as respects any period before the making of the order.

Application to Crown

54.—(1) This Ordinance applies —

(a) to an act done by or for the purposes of Her Majesty's Government in right of the Falkland Islands, or

(b) to an act done on behalf of such Government by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts III and V apply to —

(a) services for the purposes of Her Majesty's Government in right of the Falkland Islands, other than service of a person holding a statutory office, or

(b) service on behalf of Her Majesty's Government in right of the Falkland Islands for purposes of a person holding a statutory office or purposes of a statutory body,

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(3) The provisions of Parts II to IV of the Crown Proceedings Act 1947 in its application to the Falkland Islands shall apply to proceedings against the Crown under this Ordinance as they apply to proceedings which by virtue of section 23 of that Act in such application are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown.

(4) In this section "statutory body" means a body set up by or in pursuance of an enactment, and "statutory office" means an office so set up.

OBJECTS AND REASONS

As stated in the long title.

EXPLANATORY MEMORANDUM

Taxes (Amendment) Bill 1998

Introductory

1. This Bill which replaces the previous Taxes (Amendment) Bill published in the Gazette Supplement No 21 on 19 August 1998 makes a number of amendments to the Taxes Ordinance 1997 ("the 1997 Ordinance"). The main amendment is set out in clause 4 which allows certain donations to charity to qualify for tax relief and in clause 6 which provides that AIM shares are not to be treated as unquoted for the purposes of the Ordinance.

Clause 1

2. Subsection (1) of this clause contains the short title of the Bill.
3. Subsection (2) provides that section 4 shall apply in relation to donations to charity made on or after 1st January 1998 and the other provisions shall come into force on publication of the Ordinance.
4. Subsection (3) defines "the 1997 Ordinance" as the Taxes Ordinance 1997.

Clause 2

5. The 1996 Taxes Ordinance introduced a narrow charge to tax on capital gains on certain transfers of exploration or exploitation rights. In order to prevent companies escaping a charge to tax by merely disposing of shares in a company owning the rights concerned, the charge also included disposals of unquoted shares deriving their value directly or indirectly from exploration or exploitation rights. These provisions are now included in Part VI, Chapter II of the Taxes Ordinance 1997.

6. These provisions serve to treat shares quoted on the Alternative Investment Market (AIM) of the London Stock Exchange as unquoted. This followed the UK treatment which in most instances treats shares quoted on AIM as unquoted. However, following representations and a detailed policy review, it has been decided to treat shares in companies listed on AIM as quoted rather than unquoted. Dealings in shares in companies listed on AIM will no longer therefore be within the charge to taxation on capital gains contained in Part VI Chapter II. The amendment to the legislation is treated as always having had effect.

Clause 3

7. This clause inserts some words into section 30 of the 1997 Ordinance (which requires companies to make tax returns to and to file accounts with the Commissioner of Taxation) which were inadvertently omitted from that Ordinance.

Clause 4

8. This clause inserts two new sections into the 1997 Ordinance. The first, section 57A, will allow any person to claim tax relief on donations to any charity which is either registered as a charity under the Charities Act 1960, or whose name appears on a list of charities approved by the Governor. By virtue of clause 1, this will apply to any donation made on or after 1st January 1998.

9. The second new section, 57B, sets out the details relating to the approved list of charities which unregistered charities must have their names on in order that donations made to them can qualify for the new tax relief.

Section 57A

10. Subsection (1) provides the general rule that donations to registered charities will be deductible from a person's income for tax purposes. This means that the person's income which is subject to tax will exclude the donation, and will enable people, if they so wish, to increase the donation by the amount of the tax which will not be paid, without any real cost to themselves. The charities will benefit by an amount equal to the tax relief.

11. Subsection (2) contains some definitions for the clause: it defines "charitable donation", "registered charity" and "the approved list of charities".

12. Subsections (3) and (4) require the charity to which the donation is made to be registered at the time the donation is made unless the donation is made during 1998. In that case it will be sufficient if the charity is registered by the end of the year. This will enable charities which are not now registered to become registered during the year without foregoing the increase in the donations which their supporters may wish to make this year.

13. Subsection (5) sets a minimum amount for each donation which is £50.00. Smaller donations will not be eligible for the relief.

14. Subsection (6) requires the deduction of the charitable donations to be deducted from a person's income after all other deductions have been made and prevents the making of the donation from creating a tax loss.

15. Subsection (7) requires the person making the donation to provide written evidence from the charity to the Commissioner that the donation has been made. If he does not do this, the donation will not qualify for relief.

Section 57B

16. Subsection (1) defines "the approved list of charities" as a list of eligible charities prepared and approved in accordance with the provisions of the section.

17. Under subsection (2), the Attorney General will prepare the list of charities which will then be put to the Governor for his approval. The approved list will be published in the Gazette so the names of the charities on it will be available to the public.

18. Subsection (3) defines "eligible charity" as any charity which is not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and is not required to be so registered. The Charities Act 1960 is the principal enactment dealing with the charities currently in force in the Falkland Islands and contains provisions for the registration of charities in the Falkland Islands. Charities not active in the Falkland Islands are unlikely to be registrable under that Act and it is intended that charities already registered in the United Kingdom will be exempted from the requirement to be registered in the Falkland Islands. These are the two main categories of charity which are expected to be listed in the approved list.

19. Subsection (4) makes it clear that anyone can apply for the name of a charity to be included in the approved list.

20. Subsection (5) ensures that, although the Attorney General may if he wishes include the name of a charity on the approved list without any application in that respect being made to him, he is under no obligation to act in the absence of such an application.

21. There may on occasions be some dispute or uncertainty about the status of any body, as to whether or not it is a charity. Subsection (6) makes the burden of proving that a body is a charity the responsibility of the person making an application for its name to be included in the approved list of charities.

22. Subsection (7) allows for amendments to be made to the approved list from time to time so that names may be added as necessary. It will also allow names to be deleted but that is not expected to happen very often.

Clause 5

23. This clause corrects an error in section 140 of the 1997 Ordinance where in the definition of "petroleum extraction activities" the word "by" has been inadvertently substituted for the word "for".

Clause 6

24. Section 195(3) of the Taxes Ordinance 1997 is an "old colonial" provision which has been removed from most tax jurisdictions. The provision was retained in Falkland Islands legislation because a few non-resident Falkland Islands pensioners make claims under this subsection. The amendment provides that only such persons may continue to claim under this provision.

Clause 7

25. This clause corrects an error in paragraph 14 of Schedule 2 to the 1997 Ordinance where in the definition of "reorganisation", in provisions relating to the charge to tax on capital gains, the reference to "debentures" had inadvertently been omitted.

Taxes (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title, commencement and interpretation
2. Amendment to section 2(1) of the Taxes Ordinance 1997
3. Amendment to section 30 of the Taxes Ordinance 1997
4. Tax relief for donations to charities
5. Amendment to section 140 of the Taxes Ordinance 1997
6. Amendment to section 195(3) of the Taxes Ordinance 1997
7. Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

TAXES (AMENDMENT) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance 1997.

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

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Taxes (Amendment) Ordinance 1998

(2) Section 4 shall apply in relation to donations made on or after 1st January 1998 but, subject to that, this Ordinance shall come into force on publication in the *Gazette*.

(3) In this Ordinance “the 1997 Ordinance” means the Taxes Ordinance 1997~~(a)~~.

Amendment to section 2(1) of the Taxes Ordinance 1997

2.—(1) Section 2 of the Taxes Ordinance 1997 (which defines certain expressions used in the Ordinance) shall have effect, and shall be deemed always to have had effect, subject to the following amendments.

(2) In subsection (1) for paragraph (a) of the definition of “recognised stock exchange” there shall be substituted —

“(a) the London Stock Exchange, and”; and

(a) No 14 of 1997

(3) At the end of the definition of "unquoted shares" there shall be inserted "and shares (not being so listed) in any company which is not admitted to the Alternative Investment Market of the London Stock Exchange".

Amendment to section 30 of the Taxes Ordinance 1997

3.—(1) Section 30 of the 1997 Ordinance (which makes provision for the filing of accounts and submission of other information by companies) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) after "corporation tax year" there shall be inserted "shall deliver to the Commissioner".

Tax relief for donations to charities

4.—(1) The following section shall be inserted in the 1997 Ordinance after section 57—

"Donations to charities

57A.—(1) Subject to the following provisions of this section, in computing a person's chargeable income for any period there shall, on a claim being made in that behalf by that person, be deducted from his income the amount of any charitable donation which he has made in that period and which is not deductible under section 58(1) or 97(1).

(2) In this section—

(a) "a charitable donation" means a donation in money made to a registered charity;

(b) "a registered charity" means—

(i) any body which is registered as a charity under the Charities Act 1960^(b) as it applies in the Falkland Islands; and

(ii) any body of persons or trust the name of which appears on the approved list of charities; and

(c) "the approved list of charities" means the list for the time being approved by the Governor in accordance with section 57B.

(3) A donation made to a body during the calendar year 1998 at a time when the body is not a registered charity shall not be deductible under this section unless the body becomes a registered charity before the end of that year.

(4) Subject to subsection (3), any donation made to a body after 31st December 1997 shall not be deductible under subsection (1) unless it is made at a time when the body is a registered charity.

^(b) 8 & 9 Eliz.2 c.58 (1960)

(5) A donation of less than £50.00 shall not be deductible under subsection (1).

(6) A deduction under subsection (1) may only be made in computing a person's income after all other deductions and allowances (including loss relief) under this or any other Ordinance have been made, and a person's income shall not be reduced below zero by virtue of any such deduction.

(7) A person shall not be entitled under subsection (1) to deduct the amount of any charitable donation in computing his income for any period unless and until the Commissioner receives written evidence provided by the charity stating the total amount of the donations received in that period by that charity from that person.

Approved list of charities

57B.—(1) The approved list of charities referred to in section 57A(2)(b)(ii) is a list of eligible charities, prepared and approved in accordance with the following provisions of this section.

(2) The Attorney General shall prepare a list of eligible charities and submit the list to the Governor for his approval; and the list as so approved and any approved amendments to the list shall be published in the *Gazette*.

(3) In this section "eligible charity" means any body of persons or trust established for charitable purposes only which is not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and is not required to be so registered.

(4) Any eligible charity may apply to be included in the list approved under subsection (1), and any person may apply for the name of any eligible charity to be included in the list.

(5) The provisions of this section shall not be read as imposing any obligation on the Attorney General to include the name of any charity on the list in the absence of any application in that respect.

(6) The burden of establishing that a body as respects which an application has been made for its name to be included in the approved list is an eligible charity shall be on the person making the application.

(7) The Attorney General may from time to time submit amendments to the approved list to the Governor for his approval, and any reference in this section or section 57A to the approved list of charities is a reference to that list as so amended."

Amendment to section 140 of the Taxes Ordinance 1997

5.—(1) Section 140 of the 1997 Ordinance (which contains definitions relevant to ring fence trades and other petroleum related activities) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) in paragraph (b) of the definition of "petroleum extraction activities", for "by a company" there shall be substituted "for a company".

Amendment to section 195(3) of the Taxes Ordinance 1997

6.—(1) In subsection (3) of section 195 of the Taxes Ordinance 1997 after “subsection” there shall be inserted “in relation to the year of assessment in which that person reaches the age of 61 years or any later year”.

(2) This section applies in relation to the charge to tax for the year of assessment beginning on 1st January 1999 and later years.

Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

7.—(1) Paragraph 14 of Schedule 2 to the 1997 Ordinance (which defines “reorganisation” for the purposes of that Schedule) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In sub-paragraph (2)(a) after “allotted shares in” there shall be inserted “or debentures”.

Animals (Scientific Procedures) Bill 1998**ARRANGEMENT OF PROVISIONS****Clause**

1. Short title
2. Adoption of provisions of the Animals (Scientific Procedures) Act 1986

Schedule

ANIMALS (SCIENTIFIC PROCEDURES) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To adopt as law of the Falkland Islands, subject to modifications and exceptions, the provisions of the Animals (Scientific Procedures) Act 1986

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

Short title

1. This Ordinance may be cited as the Animals (Scientific Procedures) Ordinance 1998.

Adoption of provisions of the Animals (Scientific Procedures) Act 1986

2.—(1) The Animals (Scientific Procedures) Act 1986 (“the Act”) is adopted as law of the Falkland Islands subject —

(a) to the exceptions specified in Part 1 of the Schedule to this Ordinance; and

(b) to the modifications specified in Part 2 of that Schedule.

(2) Nothing in Part XI of the Interpretation and General Clauses Ordinance 1977 shall have effect in respect of any provision of the Act.

SCHEDULE

(section 2(1))

Part 1

Provisions of the Act excepted from adoption

Sections 1(6), 1(9), 6, 7, 8, 10(5), 10(6), 12(5), 18, 19, 20, 21, 25(2), 26(2) to (5), 27, 28, 29 and 30(3) and Schedules 3 and 4.

Part 2

Modifications of the Act in its application to the Falkland Islands

1. The following general modifications have effect in relation to the Act, that is to say that throughout the Act—

(a) every reference to “the Secretary of State” is to be construed as if it were a reference to the Governor;

(b) the words “or certificate” are to be omitted wherever they occur;

(c) the word “summary”, wherever it appears immediately before the word “conviction”, is to be omitted;

(d) all words having reference only to Scotland are to be omitted; and

(e) the word “constable” is to be replaced by the words “police officer”

2. Section 5(2) is modified by the addition at the end of the subsection of the words “and may be granted to a public officer in his official capacity (and, if it is so granted, nothing in subsection (8) applies in respect of the licence)”.

3. Section 9 has effect as if it read —

“Before granting a licence under this Act, the Governor may consult such person, body of persons or committee as he thinks fit and may act in accordance with any advice he receives as a result of such consultation.”

4. Section 10(3) has effect as if the words appearing in paragraphs (a) and (b) were replaced with the words “no cat or dog or other protected animal shall be used”.

5. Section 22(1) has effect as if it read —

“Any person who contravenes section 3 commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding two years and to a fine not exceeding the maximum of level 7 on the standard scale.”

6. Section 24(2) has effect as if it read —

“A person convicted of an offence under this section is liable to imprisonment for a term not exceeding two years and to a fine not exceeding the maximum of level 7 on the standard scale.”

7. Section 26(1) has effect as if all words appearing after the words “shall be brought” were replaced by the words “except by or with the consent of the Attorney General”.

8. The heading appearing in Schedule 2 which indicates its subject-matter is to be replaced by the words “PROTECTED ANIMALS”.

EXPLANATORY MEMORANDUM

Agricultural Incentives and Subsidies (Land Charges) Bill 1998

Introductory

1. The purpose of this Bill is to put in place the legal arrangements necessary in connection with a farmer's liability to repay incentives and subsidies received under the Agricultural Incentives and Subsidies Programme approved by the Executive Council in June 1998. It does not deal with the criteria for eligibility of farmers to receive incentives and subsidies or the mechanics of the Scheme.

The provisions of the Bill

2. The Bill will come into force, if enacted, when it is first published in the Gazette. Clause 2 of the Bill contains a number of definitions. Clause 3 deals with the obligation to repay incentive payments (these are payments made by the Government under the Programme to assist in the execution of improvements on a farm). There will be a liability under clause 3 to repay these if the farm is sold at a surplus within five years of the date of receipt of an incentive payment. The amount required to be repaid is to be abated by 20% a year from the date of its receipt. Thus, if a farmer receives an incentive payment of £5,000 in 1999 and another payment of £3,000 by way of incentive payment in the year 2000 and sells his farm at a surplus in 2002, he is obliged to repay £3,200 (£5,000 less 60% of £5,000 plus £2,000 less 40% of £2,000). Provision is made in relation to sales of part of a farm by clause 3(4).

3. Similarly under clause 4 an owner is liable to repay subsidies received. Any subsidies received under the Programme are repayable in full if the farm is sold at a surplus before 31st December 2010 and the surplus exceeds the sum shown to have been spent (in excess of any incentive payments received by the farmer) on improvements to the farm. Provision is made in relation to sales of part of a farm by clause 4(4).

4. So that the obligation to repay cannot be overlooked and will be effectively enforceable provision is made by clauses 5 and 6 for the obligations to repay to be registered as a land charge under the Land Charges Ordinance. By reason of the definition of "surplus" in clause 2 of the Bill the obligation takes effect after any obligations by way of mortgage or otherwise registrable by way of land charge.

Agricultural Incentives and Subsidies (Land Charges) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title
2. Interpretation
3. Repayment of incentives
4. Repayment of subsidy
5. Amendment of Land Charges Ordinance 1996
6. Notice to be given to the Registrar General
7. Limit on obligations to repay

**AGRICULTURAL INCENTIVES AND SUBSIDIES (LAND CHARGES)
BILL 1998**

A BILL

for

AN ORDINANCE

To provide for the registration as a land charge of the liability of a landowner to repay any sum paid to him by way of subsidy under the Agricultural Incentives and Subsidies Programme 1998 and the circumstances in which and the extent to which he is liable to repay any subsidy or incentive paid to him under that Programme and for connected purposes.

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

Short title

1. This Ordinance may be cited as the Agricultural Incentives and Subsidies (Land Charges) Ordinance 1998.

Interpretation

2. In this Ordinance —

“the Programme” means the Agricultural Incentives and Subsidies Programme approved by the Governor on the advice of the Executive Council on 25th June 1998, as amended from time to time;

“incentive payment” means an incentive paid pursuant to the Programme;

“subsidy payment” means a subsidy paid pursuant to the Programme;

“owner” includes a lessee and successor in title of the owner other than by way of arm’s length sale;

“surplus” means such sum as the owner of that land is entitled to receive upon its sale after discharge of all sums payable in respect of any matter or thing registrable (other than by reason of section 6 of this Ordinance) as a charge under the Land Charges Ordinance 1996(a) or which would have been so registrable if it had been created or arisen after the commencement of that Ordinance.

(a) No 24 of 1996

Repayment of incentives

3.—(1) Any sum paid to the owner of any land by way of incentive payment shall be repayable to the Crown in the circumstances and to the extent provided by this section.

(2) No sum shall be repayable under this section unless a surplus is realised on the sale of the whole of the land within five years of the receipt by the owner of the incentive payment; or

(3) The amount, subject to subsection (4), repayable shall be the aggregate of the incentive payments received by the owner from the Crown in any of the previous five years abated in respect of each payment by twenty per cent a year from the date of its receipt. The amount repayable shall be payable at the time of the sale.

(4) Where part of the land and not the whole of the land in respect of which an incentive payment has been made is sold by the owner the owner's liability on that occasion to repay may be waived altogether or reduced by the Governor, but without extinguishing the owner's liability in the event of any further sale to make a payment or further payment under this section.

Repayment of subsidy

4.—(1) Any sum received by an owner by way of subsidy payment is repayable in accordance with the provisions of this section.

(2) An owner shall subject to subsection (4) repay at the time of the sale the whole of all sums received by him by way of subsidy payment under the Programme if —

(a) before 31st December 2010 he sells the whole or any part of the land in respect of which the subsidy payment was made;

(b) a surplus arises on the sale; and

(c) the surplus exceeds the sums he shows to the satisfaction of the Governor he has spent on improvements in excess of any incentive payments received by him under the Programme.

(3) In this section, "improvement" means any works carried out on the land certified by the Director of Agriculture to have increased the agricultural value of the land by a sum equivalent at least to their cost.

(4) Section 3(4) applies in respect of liability to make a repayment under this section as it does in relation to a payment under section 3.

Amendment of Land Charges Ordinance 1996

5. The Land Charges Ordinance 1996 is amended —

(a) in section 4 by the insertion of the following subsection immediately after subsection (3) —

“(3A) A Class III land charge is an obligation (not being a Tax Charge) to pay or repay any sum of money (whether to the Crown or to any other person) arising under any provision of any Ordinance where that, or any other provision of that Ordinance provides that that obligation shall be registrable as a land charge under this Ordinance.” and

(b) in section 6(2), by inserting the words “or Class III” immediately after the words “Class II”.

Notice to be given to the Registrar General

6.—(1) Whenever an incentive payment or subsidy payment is made under the Scheme to the owner of any land the Director of Agriculture shall notify the Registrar General in writing specifying that such a payment has been made —

(a) the name of the person to whom the payment was made;

(b) the date of that payment;

(c) the land in respect of which that payment was made.

(2) On receipt of a notice under subsection (1) the Registrar General shall register a Class III land charge under section 3, of which the following shall be the particulars to be entered in the register —

(a) Name of owner (to be completed appropriately);

(b) Class III land charge

(c) Description of land affected (to be completed appropriately)

(d) Particulars: The above-named is liable in circumstances to repay sums under the Agricultural Subsidies and Incentives (Land Charges) Ordinance 1998, particulars of which may be obtained from the Director of Agriculture by any person showing sufficient reason to be supplied with that information.

Limit on obligations to repay

7. If a person's obligation to repay a sum under sections 3 or 4 would otherwise exceed in aggregate the amount of the surplus, his obligation is limited to the amount of the surplus.

OBJECTS AND REASONS

To make provision in law for certain of the terms of the Agricultural Incentives and Subsidies Programme.

Falkland Islands Pensions Scheme (Amendment) Bill 1998

ARRANGEMENT OF PROVISIONS

Clause

1. Short title, commencement and interpretation
2. Amendment of the 1997 Ordinance

Schedule

FALKLAND ISLANDS PENSIONS SCHEME (AMENDMENT) BILL 1998

(No. of 1998)

A BILL

for

AN ORDINANCE

To amend the Falkland Islands Pensions Scheme Ordinance 1997.

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

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Falkland Islands Pensions Scheme (Amendment) Ordinance 1998.

(2) This Ordinance shall come into force on publication.

(3) In this Ordinance “the 1997 Ordinance” means the Falkland Islands Pensions Scheme Ordinance 1997(a).

Amendment of the 1997 Ordinance

2. The Schedule to this Ordinance which makes amendments to the 1997 Ordinance shall have effect.

THE SCHEDULE

1. The 1997 Ordinance shall have effect and shall be deemed always to have had effect subject to the following amendments.

2. In section 3(2) for “64th” in each place where it occurs, there shall be substituted “70th”.

3. In section 13(4) for “receipt of the accounts” there shall be substituted “receipt of the audited accounts”.

4. In section 17 —

(a) in subsection (3)(c) for “64th” there shall be substituted “70th”, and

(b) in subsection (6)(a) for “No” there shall be substituted “No. 1”.

5.—(1) Section 18 shall be amended as follows —

(2) In subsection (2)(a) for “subsection (4)” there shall be substituted “subsections (3) and (3A)”.

(3) After subsection (3) there shall be inserted —

“(3A) Contributions shall also be paid by the Financial Secretary in respect of any person who —

(a) has retired from government service, and

(b) immediately before his retirement was within section 17(2)(a), and

(c) is in receipt of an annuity paid in accordance with arrangements made under section 29(1)(b), and

(d) is not gainfully employed,

during any period before he reaches normal retirement age.

(3B) Where contributions are payable under subsection (3A) in respect of any person —

(a) subsection (2)(b) above shall apply in relation to any such contribution as if that person were still employed in government service, and

(b) that person’s relevant monthly earnings shall be equal to his relevant monthly earnings immediately before he retired from government service on the ground of ill-health or disablement.”

6. In section 23(1) at the beginning there shall be inserted "Subject to regulations".

7. In section 28(3)(c) and (4) for "64th" there shall be substituted "70th".

8. In section 29(1) —

(a) for "or, in the case of any other member, the member" there shall be substituted "or any member", and

(b) in paragraph (b) after "ill-health" there shall be inserted "or disablement".

9. In section 31(12)(c) for "regard" there shall be substituted "regarded".

10. In section 32 for subsection (1) there shall be substituted —

"(1) In any case where —

(a) a member of the Scheme dies before any benefit under section 28(1) has become payable to him, and

(b) section 33 does not apply, and

(c) arrangements for the payment of any benefits under section 29(1)(a) in the event of his death have not been made,

the Board shall hold and apply an amount equal to the accrued value of his account in accordance with section 30".

11. In section 33 in subsection (4) for "to paid" there shall be substituted "be paid" and after that subsection there shall be inserted —

"(5) In this section "additional voluntary contributions" in relation to any person's individual account includes any amount allocated to the account by reference to the additional voluntary contributions made to that account."

12. In section 34(2) after "would" there shall be inserted "be".

13. In section 36(5) for "determine" there shall be substituted "determines".

14. In section 39(1) at the end of paragraph (c) there shall be inserted —

"and

(d) require the Board to provide prescribed information to members and past members of the Scheme and to employers of members and past members at prescribed times and in the prescribed manner."

15. In section 40 for "statutory scale" there shall be substituted "standard scale".

16. In paragraph 3 of Schedule 3 for sub-paragraphs (2) and (3) there shall be substituted —

“(2) Any sum which is to be paid to the Board by the Financial Secretary in pursuance of this paragraph shall be calculated in accordance with the following formula —

$$TV = \frac{N}{M} [(ERP \times AV) + ERLS] \frac{(1+p)^Z}{(1+i)}$$

where —

TV, transfer value, is the assumed capital cost at the assumed retirement age discounted to 31 December 1996 of retirement benefits for the employee in question under the existing legislation, rounded to the nearest £100;

N is the aggregate length of service of the employee in government service as at 31st December 1996, expressed as complete years and calendar days as a decimal;

M is the anticipated aggregate length of service of the employee in government service as at his assumed retirement age, assuming he continues in government service until that age, expressed as complete years and calendar days as a decimal;

ERP, the expected retirement pension, is the annualised value of the retirement benefits under the existing legislation which would be payable at the assumed retirement age to the employee in question if he had not become a member of the Scheme and if he continued in government service, at the salary paid to him as at 1st January 1997, until assumed retirement age;

AV, annuity value, is the assumed capital cost of a pension £1 per year on retirement at assumed retirement age on the assumptions that post retirement mortality follows the United Kingdom standard PA(90) mortality table and the net investment yield is 5.25 per cent;

ERLS, expected retirement lump sum, is the value of any lump sum which would be payable at the assumed retirement age under the existing legislation to the employee in question if he had not become a member of the Scheme and if he continued in government service, at the salary paid to him as at 1st January 1997, until assumed retirement age;

p is the assumed future annual rate of retail price inflation in the Falkland Islands, which for the purposes of this provision is 4.5 per cent expressed as a decimal;

i is the assumed future annual rate of investment return in the Falkland Islands, which for the purposes of this section is 10 per cent expressed as a decimal;

- z is the difference between the employee's assumed retirement age and his age as at 31st December 1996, expressed as calendar years and calendar days as a decimal.

(3) For the purposes of sub-paragraph (2) —

“assumed retirement age”, in relation to any employee, is —

(i) the age at which the employee was under the existing legislation permitted to retire without penalty, or

(ii) if he was over that age on 31st December 1996, his age on that day, or

(iii) if he is a male who is or was employed on unestablished terms, 60 years of age if that age yields a higher transfer value; and

“existing legislation” in relation to any person means the legislation in force on 31st December 1996 which made provision for the payment of a pension to or in respect of that person in the event that he reached normal retirement age without ceasing to be in government service.”

EXPLANATORY MEMORANDUM

FALKLAND ISLANDS PENSIONS SCHEME (AMENDMENT) BILL 1998

This Bill makes a number of amendments to the Falkland Islands Pension Scheme Ordinance 1997 ("the 1997 Ordinance"). The amendments are set out in the Schedule to the Bill which allows for a shorter, more direct Bill. Some of the amendments are to correct typographical errors but some are more substantial in their nature.

An important change which the Bill will effect is to allow people to defer their pension and lump sum entitlement under the 1997 Ordinance until they are 70, if they so wish. At present the benefits cannot be deferred beyond the age of 64.

The Bill also requires contributions under the Ordinance to continue to be made for the benefit of civil servants who are retired early on grounds of ill-health or disablement. This will help to give such civil servants a pension when they reach retirement age of a greater amount than would be the case without this provision. It is nevertheless likely that such pensions will be less than they would have been had the civil servant not retired early.

CLAUSE 1

Subsection (1) of this clause contains the short title of the Bill.

Subsection (2) provides that the Bill shall come into force on publication of the Ordinance, but see also the note to paragraph 1 of the Schedule.

Subsection (3) defines "the 1997 Ordinance" as the Falkland Islands Pension Scheme Ordinance 1997.

CLAUSE 2

This clause introduces the Schedule.

THE SCHEDULE

Paragraph 1 provides that the amendments made by the Bill shall have be deemed always to have had effect. This means that the 1997 Ordinance will have effect as if it had been enacted with these amendments incorporated in it on enactment. Some of the amendments correct typographical errors and some make more substantial alterations but in each case it is intended that *all* pensions and contributions paid under the 1997 Ordinance should be paid on the basis brought in by these amendments.

Paragraph 2 amends section 3(2) of the 1997 Ordinance so that any person who would normally retire after he has reached 70 years of age will for the purposes of the Ordinance be taken to have a normal retirement age of 70. This means that benefits cannot start to be taken by a pensioner later than 70 years of age.

Paragraph 3 amends section 13 which provides for the accounts of the Scheme to be audited and presented to the Governor. The amendment makes it clear that the accounts which the Pensions Board have to submit to the Governor are the annual accounts audited by the Scheme Auditor.

Paragraph 4 makes two amendments to section 17 which specifies the membership of the Scheme and prescribes restrictions on the making of contributions to the Scheme. At present contributions to the Scheme cannot be made by members once they are 64 years of age. The first amendment to section 17 increases that to 70 years of age allowing members to increase the value of their pension entitlement if they so wish. The second amendment to section 17 corrects a typographical error.

Paragraph 5 amends section 18 which contains provisions relating to contributions made by the Financial Secretary in respect of civil servants.

The first amendment corrects a typographical error and introduces a reference to the subsections added by the second amendment.

The second amendment inserts two new subsections into section 18 which will require the Financial Secretary to continue to make contributions to the Scheme in respect of civil servants who are retired early on grounds of ill-health or disablement. The contributions will be related to the civil servant's salary at the time of his retirement. The obligation to make contributions for the benefit of any person under these new provision will terminate immediately if the person subsequently starts any employment.

Paragraph 6 amends section 23 which authorises the Board to accept transfer values from other pension funds in respect of new members. The amendment allows regulations to be made regulating the circumstances in which the Board may accept such transfer values.

Paragraph 7 amends section 28 which specifies the minimum benefits which the Scheme must provide for its members. At present the benefits must come into payment before the member's 64th birthday. This amendment extends this limit to the member's 70th birthday.

Paragraph 8 amends section 29 which makes provision for benefits to be payable on the member's death before retirement or the member's early retirement on grounds of ill-health. These benefits are not compulsory but have to be arranged by or on behalf of the member. The present law only permits employers of employed members to enter into these arrangements. The first amendment will allow employees to make these arrangements on their own behalf if their employer does not wish to do so. The second amendment makes it clear that the benefits payable on early retirement will be available in cases where the employee has retired on grounds of disablement.

Paragraph 9 corrects a typographical error.

Paragraph 10 clarifies the application of section 32. That section makes provision for the application of the member's account to be applied for the benefit of his family in cases where the member dies before becoming entitled to any benefit under the Scheme. The amendment makes it clear that section 32 only applies where benefits will not be payable under section 29 or under section 33.

Paragraph 11 amends section 33 which makes provision for the application of the member's account in the event of the death before retirement age of a civil servant.

The amendment makes it clear that the member's account includes any interest which may have accrued in relation to any additional voluntary contributions of that member.

Paragraphs 12 and 13 correct typographical errors.

Paragraph 14 allows regulations to be made by the Governor requiring the Board to provide such information as may be prescribed in the regulations to members and past members and to employers of members and past members.

Paragraph 15 corrects an error in section 40 which, in specifying the penalty for failure to comply with the Ordinance, mistakenly refers to the statutory scale instead of the standard scale.

Paragraph 16 substitutes a new formula for that set out in paragraph 3 of Schedule 3 to the 1997 Ordinance which has been found to be incorrect in certain areas. This formula applies for the calculation of the transfer values to be paid by the government into the Scheme Fund of the benefit of civil servants. The corrections made by this amendment ensure that those values will be the amounts originally intended.

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STANLEY
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The following are published in this Supplement -

Registration of United Kingdom Patents (Amendment) Ordinance 1998;

Family Allowances (Amendment) Ordinance 1998;

Defamation (Amendment) Ordinance 1998;

Court of Appeal Ordinance 1998;

Equal Employment Rights Ordinance 1998;

Cruise Ships Ordinance 1998.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Registration of United Kingdom Patents (Amendment) Ordinance 1998

(No. 18 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of the Registration of United Kingdom Patents Ordinance (Cap 58)

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

**REGISTRATION OF UNITED KINGDOM PATENTS (AMENDMENT)
ORDINANCE 1998**

(No. 18 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)

(commencement: upon publication)

(published: 4 December 1998)

To make amendment to the Registration of United Kingdom Patents Ordinance in respect of fees.

ENACTED by the Legislature of the Falkland Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Registration of United Kingdom Patents (Amendment) Ordinance 1998 and shall come into force upon publication in the *Gazette*.

Amendment of Registration of United Kingdom Patents Ordinance (Cap 58)

2. The Registration of United Kingdom Patents Ordinance is amended by deleting the words "A fee of one pound" in section 3(4) and replacing them with the words and figures "A fee of £100.00 or such greater fee as may be prescribed by regulations made by the Governor under this subsection".

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Family Allowances (Amendment) Ordinance 1998

(No. 19 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of section 3 of the Family Allowances Ordinance 1960

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

FAMILY ALLOWANCES (AMENDMENT) ORDINANCE 1998

(No. 19 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: 1 April 1999)
(published: 4 December 1998)

To amend the Family Allowances Ordinance 1960.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title and commencement

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1998 and comes into force on 1st April 1999.

Amendment of section 3 of the Family Allowances Ordinance 1960

2. Section 3 of the Family Allowances Ordinance 1960 is amended —

(a) in subsection (2), by omitting the words “subject to subsection (4),”; and

(b) by repealing subsection (3).

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Defamation (Amendment) Ordinance 1998

(No. 20 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of the Defamation Ordinance 1988

SCHEDULE

1. Amendment of principal Ordinance
 2. Further amendment of principal Ordinance
 3. Interpretation
 4. Responsibility for publication
Responsibility for publication
 5. Offer to make amends
Offer to make amends
 6. Accepting an offer to make amends
 7. Failure to accept offer to make amends
The meaning of a statement
 8. Ruling on the meaning of a statement
Summary disposal of claim
 9. Summary disposal of claim
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Evidence concerning proceedings in the Legislative Council
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Statutory privileges
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 14. Reports, etc. protected by qualified privilege
 15. Saving as to the law relating to criminal libel
 16. Exclusion of Defamation Act 1996
 17. Disapplication of provisions of the Broadcasting Act 1990
3. Amendment of Schedule 1 to the Defamation Ordinance 1988
 4. Amendment of Part II of Schedule 2 to the Defamation Ordinance 1988
 5. Further amendment of the Defamation Ordinance 1988

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

DEFAMATION (AMENDMENT) ORDINANCE 1998

(No. 20 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: 1 July 1999)
(published: 4 December 1998)

To amend the law of defamation.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title and commencement

1. This Ordinance may be cited as the Defamation (Amendment) Ordinance 1998 and comes into force on 1st July 1999.

Amendment of the Defamation Ordinance 1988

2. The Defamation Ordinance 1988 ("the principal Ordinance") is amended in the manner specified in the Schedule to this Ordinance.

SCHEDULE

Amendment of principal Ordinance

1. The principal Ordinance is amended by inserting the title "PART I: INTRODUCTORY" on the line following the words of enactment and preceding the line on which section 1 begins.

Further amendment of the principal Ordinance

2. The principal Ordinance is further amended by the insertion of the following title and sections after section 2 —

“PART II: AMENDMENT OF LAW RELATING TO CIVIL DEFAMATION

Interpretation

3. In this Ordinance —

“publication” and “publish”, in relation to a statement, have the meaning they have for the purposes of the law of defamation generally, but “publisher” is specially defined for the purposes of section 4;

“statement” means words, pictures, visual images, gestures or any other method of signifying meaning; and

“statutory provision” means any provision contained in an enactment (and “enactment” has the same meaning as it has for the purposes of section 3 of the Interpretation and General Clauses Ordinance 1977).

Responsibility for publication

Responsibility for publication

4.—(1) In defamation proceedings a person has a defence if he shows that —

- (a) he was not the author, editor or publisher of the statement complained of;
- (b) he took reasonable care in relation to its publication; and
- (c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

(2) For this purpose “author”, “editor” and “publisher” have the following meanings, which are further explained in subsection (3) —

- (a) “author” means the originator of the statement, but does not include a person who did not intend that his statement be published at all;
- (b) “editor” means a person having editorial or equivalent responsibility for the content of the statement or the decision to publish it; and
- (c) “publisher” means a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.

(3) A person shall not be considered the author, editor or publisher of a statement if he is only involved —

- (a) in printing, producing, distributing or selling printed material containing the statement;
- (b) in processing, making copies of, distributing or selling any electronic medium in or on which the statement is recorded, or in operating or providing

any equipment, system or service by means of which the statement is retrieved, copied, distributed or made available in electronic form;

(c) as the broadcaster of a live programme containing the statement in circumstances in which he has no effective control over the maker of the statement;

(d) as the operator of or provider of access to a communications system by means of which the statement is transmitted, or made available, by a person over who he has no effective control.

In a case not within paragraphs (a) to (d) the court may have regard to those provisions by way of analogy in deciding whether a person is to be considered the author, editor or publisher of a statement.

(4) Employees or agents of an author, editor or publisher are in the same position as their employer or principal to the extent that they are responsible for the content of the statement or the decision to publish it.

(5) In determining for the purposes of this section whether a person took reasonable care, or had reason to believe that what he did caused or contributed to the publication of a defamatory statement, regard shall be had to —

(a) the extent of his responsibility for the content of the statement or the decision to publish it;

(b) the nature or circumstances of the publication; and

(c) the previous conduct or character of the author, editor or publisher.

(6) This section does not apply to any cause of action which arose before the section came into force.

Offer to make amends

Offer to make amends

5.—(1) A person who has published a statement alleged to be defamatory of another may offer to make amends under this section.

(2) The offer may be in relation to the statement generally or in relation to a specific defamatory meaning which the person making the offer accepts that the statement conveys (“a qualified offer”).

(3) An offer to make amends —

(a) must be in writing;

(b) must be expressed to be an offer to make amends under section 4 of the Defamation Ordinance 1988; and

(c) must state whether it is a qualified offer and, if so, set out the defamatory meaning in relation to which it made.

(4) An offer to make amends under this section is an offer —

(a) to make a suitable correction of the statement complained of and a sufficient apology to the aggrieved party;

(b) to publish the correction and apology in a manner that is reasonable and practicable in the circumstances; and

(c) to pay to the aggrieved party such compensation (if any), and such costs, as may be agreed or determined to be payable.

The fact that the offer is accompanied by an offer to take specific steps does not affect the fact that an offer to make amends under this section is an offer to do all the things mentioned in paragraphs (a) to (c).

(5) An offer to make amends under this section may not be made by a person after serving a defence in defamation proceedings brought against him by the aggrieved party in respect of the publication in question.

(6) An offer to make amends under this section may be withdrawn before it is accepted; and a renewal of an offer which has been withdrawn shall be treated as a new offer.

Accepting an offer to make amends

6.—(1) If an offer to make amends under section 5 is accepted by the aggrieved party, the following provisions apply.

(2) The party accepting the offer may not bring or continue defamation proceedings in respect of the publication concerned against the person making the offer, but he is entitled to enforce the offer to make amends, as follows.

(3) If the parties agree on the steps to be taken in fulfilment of the offer, the aggrieved party may apply to the court for an order that the other party fulfil his offer by taking the steps agreed.

(4) If the parties do not agree on the steps to be taken by way of correction, apology and publication, the party who made the offer may take such steps as he thinks appropriate, and may in particular —

(a) make the correction and apology by a statement in open court in terms approved by the court; and

(b) give an undertaking to the court as to the manner of their publication.

(5) If the parties do not agree on the amount to be paid by way of compensation, it shall be determined by the court on the same principles as damages in defamation proceedings.

The court shall take account of any steps taken in fulfilment of the offer and (so far as not agreed between the parties) of the suitability of the correction, the sufficiency of the apology and whether the manner of their publication was reasonable in the circumstances, and may reduce or increase the amount of compensation accordingly.

(6) If the parties do not agree on the amount to be paid by way of costs, it shall be determined by the court on the same principles as costs awarded in court proceedings.

(7) The acceptance of an offer by one person to make amends does not affect any cause of action against another person in respect of the same publication, subject as follows.

(8) For the purposes of the Civil Liability (Contribution) Act 1978 in its application to the Falkland Islands —

(a) the amount of compensation paid under the offer shall be treated as paid in bona fide settlement or compromise of the claim; and

(b) where another person is liable in respect of the same damage (whether jointly or otherwise), the person whose offer to make amends was accepted is not required to pay by virtue of any contribution under section 1 of that Act a greater amount than the amount of the compensation payable in pursuance of the offer.

Failure to accept offer to make amends

7.—(1) If an offer to make amends under section 5, duly made and not withdrawn, is not accepted by the aggrieved party, the following provisions apply.

(2) The fact that the offer was made is a defence (subject to subsection (3)) to defamation proceedings in respect of the publication in question by that party against the person making the offer.

A qualified offer is only a defence in respect of the meaning to which the offer related.

(3) There is no such defence if the person by whom the offer was made knew or had reason to believe that the statement complained of —

(a) referred to the aggrieved party or was likely to be understood as referring to him; and

(b) was both false and defamatory of that party.

but it shall be presumed unless the contrary is shown that he did not know and had no reason to believe that that was the case.

(4) The person who made the offer need not rely on it by way of defence, but if he does he may not rely on any other defence.

If the offer was a qualified offer, this applies only in respect of the meaning to which the offer related.

(5) The offer may be relied on in mitigation of damages whether or not it was relied on as a defence.

The meaning of a statement

Ruling on the meaning of a statement

8. In defamation proceedings the court shall not be asked to rule whether a statement is arguably capable, as opposed to capable, of bearing a particular meaning or meanings attributed to it.

Summary disposal of claim

Summary disposal of claim

9.—(1) In defamation proceedings the court may dispose summarily of the plaintiff's claim in accordance with the following provisions.

(2) The court may dismiss the plaintiff's claim if it appears to the court that it has no realistic prospect of success and there is no reason why it should be tried.

(3) The court may give judgment to the plaintiff and grant him summary relief (see section 10) if it appears to the court that there is no defence to the claim which has a realistic prospect of success, and that there is no other reason why the claim should be tried.

(4) Unless the plaintiff asks for summary relief, the court shall not act under this subsection unless it is satisfied that summary relief will adequately compensate him for the wrong he has suffered.

(5) In considering whether a claim should be tried the court shall have regard to—

(a) whether all the persons who are or might be defendants in respect of the publication complained of are before the court;

(b) whether summary disposal of the claim against another defendant would be inappropriate;

(c) the extent to which there is a conflict of evidence;

(d) the seriousness of the alleged wrong (as regards the content of the statement and the extent of publication); and

(e) whether it is justifiable in the circumstances to proceed to a full trial.

Meaning of summary relief

10.—(1) For the purposes of section 9 (summary disposal of claim) “summary relief” means such of the following as may be appropriate —

- (a) a declaration that the statement was false and defamatory of the plaintiff;
- (b) an order that the defendant publish or cause to be published a suitable correction and apology;
- (c) damages not exceeding £10,000 or such other amount as may be prescribed by Order made by the Governor;
- (d) an order restraining the defendant from publishing or further publishing the matter complained of.

(2) The content of any correction and apology, and the time, manner, form and place of publication, shall be for the parties to agree.

If they cannot agree on the content, the court may direct the defendant to publish or cause to be published a summary of the court's judgment agreed by the parties or settled by the court in accordance with rules of the court.

If they cannot agree on the time, manner, form or place of publication, the court may direct the defendant to take such reasonable and practicable steps as the court considers appropriate.

Summary disposal: rules of court

11.—(1) Provision may be made by rules of court as to the summary disposal of the plaintiff's claim in defamation proceedings.

(2) Without prejudice to the generality of that power, provision may be made —

- (a) authorising a party to apply for summary disposal at any stage of the proceedings;
- (b) authorising the court at any stage of the proceedings —
 - (i) to treat any application, pleading or other step in the proceedings as an application for summary disposal; or
 - (ii) to make an order for summary disposal without any such application;
- (c) as to the time for serving pleadings or taking any other step in the proceedings in a case where there are proceedings for summary disposal;
- (d) requiring the parties to identify any question of law or construction which the court is to be asked to determine in the proceedings;

(e) as to the nature of any hearing on the question of summary disposal, and in particular —

(i) authorising the court to order affidavits or witness statements to be prepared for use as evidence at the hearing; and

(ii) requiring the leave of the court for the calling of oral evidence, or the introduction of new evidence, at the hearing;

(f) authorising the court to require a defendant to elect, at or before the hearing, whether or not to make an offer to make amends under section 5.

Evidence concerning proceedings in the Legislative Council

Evidence concerning proceedings in the Legislative Council

12.—(1) Where the conduct of a person in or in relation to proceedings in the Legislative Council is an issue in defamation proceedings, he may waive for the purposes of those proceedings, so far as concerns him, the protection of any enactment or rule of law which prevents proceedings in the Legislative Council being impeached or questioned in any court or place outside the Legislative Council.

(2) Where a person waives that protection —

(a) any such enactment or rule of law shall not apply to prevent evidence being given, questions being asked or statements, submissions, comments or findings being made about his conduct; and

(b) none of those things shall be taken as infringing the privilege of the Legislative Council.

(3) The waiver by one person of that protection does not affect its operation in relation to another person who has not waived it.

(4) Nothing in this section affects any enactment or rule of law so far as it protects a person (including a person who has waived the protection referred to in the preceding provisions of this section) from legal liability for words spoken or things done in the course of, or for the purposes of or incidental to, any proceedings in the Legislative Council.

(5) Without prejudice to the generality of subsection (4) that subsection applies to—

(a) the giving of evidence before the Legislative Council or a committee of the Legislative Council;

(b) the presentation or submission of a document to the Legislative Council or to a committee of the Legislative Council;

(c) the preparation of a document for the purposes of or incidental to the transacting of any such business;

(d) the formulation, making or publication of a document, including a report, by or pursuant to an order of the Legislative Council or of a committee of the Legislative Council; and

(e) any communication with any person having under any enactment or under any standing order of the Legislative Council functions in connection with the conduct of members of the Legislative Council or with the registration of interests of members of the Legislative Council.

Statutory privilege

Reports of court proceedings absolutely privileged

13.—(1) A fair and accurate report of proceedings in public before a court to which this section applies, if published contemporaneously with the proceedings, is absolutely privileged.

(2) A report of proceedings which by an order of the court, or as a consequence of any statutory provision, is required to be postponed shall be treated as published contemporaneously if it is published as soon as practicable after publication is permitted.

(3) This section applies to —

(a) any court in the Falkland Islands or in the United Kingdom;

(b) the European Court of Justice or any court attached to that court;

(c) the European Court of Human Rights; and

(d) any international criminal tribunal established by the Security Council of the United Nations or by an international agreement to which the United Kingdom is a party.

In paragraph (a) “court” includes any tribunal or body exercising the judicial power of the State.

(4) In section 76(6) of the Criminal Justice Ordinance 1989 (in the Revised Edition of the Laws appearing as section 110(6) of the Criminal Justice Ordinance Title 24.1) (defamation actions: reports of court proceedings), for “section 3 of the Law of Libel Amendment Act 1888” substitute “section 13 of the Defamation Ordinance 1988”.

Reports, etc. protected by qualified privilege

14.—(1) The publication of any report or other statement mentioned in Schedule 3 to this Ordinance is privileged unless the publication is shown to be made with malice, subject as follows.

(2) In defamation proceedings in respect of the publication of a report or other statement mentioned in Part II of that Schedule, there is no defence under this section if the plaintiff shows that the defendant —

(a) was requested by him to publish in a suitable manner a reasonable letter or statement by way of explanation or contradiction; and

(b) refused or neglected to do so.

For this purpose “in a suitable manner” means in the same manner as the publication complained of or in a manner that is adequate and reasonable in the circumstances.

(3) This section does not apply to the publication to the public, or a section of the public, of matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed —

(a) as protecting the publication of matter the publication of which is prohibited by law, or

(b) as limiting or abridging any privilege subsisting apart from this section.

Saving as to the law relating to criminal libel

15. Nothing in sections 3 to 14 affects the law relating to criminal libel.

Exclusion of Defamation Act 1996

16. Nothing in section 78 or 81A of the Interpretation and General Clauses Ordinance 1977 shall have effect, after the commencement of this Ordinance, to apply as part of the Falkland Islands any provision of the Defamation Act 1996 in relation to any period of time falling after such commencement but without prejudice to the effect of those provisions of the Interpretation and General Clauses Ordinance 1977 in relation to the application of the Defamation Act 1996 in respect of any period of time falling before such commencement.

Disapplication of provisions of the Broadcasting Act 1990

17. Section 166(3) of and paragraphs 2 and 3 of Schedule 2 to the Broadcasting Act 1990 shall not have effect as part of the law of the Falkland Islands.”

Amendment of Schedule 1 to the Defamation Ordinance 1988

3. Schedule 1 to the Defamation Ordinance 1988 is amended —

(a) in paragraph 7 (application of the Law of Libel Amendment Act 1888) by replacing the words “except sections 8 and 10” with the words “except sections 3, 8 and 10”;

(b) in paragraph 9 (application of the Defamation Act 1952) by adding, at the end of that paragraph, the words "except sections 4, 7, 8, 9(2) and (3), 16(2) and (3) and the Schedule".

Amendment of Part II of Schedule 2 to the Defamation Ordinance 1998

4. Part II of Schedule 2 to the Defamation Ordinance 1988 is amended by replacing sub-paragraphs (a) to (i) with the following —

"(a) every reference in the Act to "the High Court" were a reference to the Supreme Court; and

(b) the words "to the Legislative Council" were substituted for the words "to a local authority or to Parliament" in section 10 of the Act."

Further amendment of the Defamation Ordinance 1988

5. The Defamation Ordinance 1988 is further amended by the insertion of the following Schedule after Schedule 2 —

"SCHEDULE 3

Qualified privilege

PART I

STATEMENTS HAVING QUALIFIED PRIVILEGE WITHOUT EXPLANATION OR CONTRADICTION

1. A fair and accurate report of proceedings in public of a legislature anywhere in the world.
2. A fair and accurate report of proceedings in public before a court anywhere in the world.
3. A fair and accurate report of proceedings in public of a person appointed to hold a public inquiry by a Government or legislature anywhere in the world.
4. A fair and accurate report of proceedings in public anywhere in the world of an international organisation or an international conference.
5. A fair and accurate copy of or extract from any register or other document required by law to be open to public inspection.
6. A notice or advertisement published by or on the authority of a court, or of a judge or officer of a court, anywhere in the world.
7. A fair and accurate copy of or extract from matter published by or on the authority of a Government or legislature anywhere in the world.
8. A fair and accurate copy of or extract from matter published anywhere in the world by an international organisation or an international conference.

PART II

STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION OR CONTRADICTION

9.—(1) A fair and accurate copy of or extract from a notice or other matter issued for the information of the public by or on behalf of —

- (a) a legislature in any member State or the European Parliament;

(b) the Government of any member State, or any authority performing governmental functions in any member State or part of a member State, or the European Commission;

(c) an international organisation or international conference.

(2) In this paragraph "governmental functions" include police functions.

10. A fair and accurate copy of or extract from a document made available by a court in any member State or the European Court of Justice (or any court attached to that court), or by a judge or officer of any such court.

11.—(1) A fair and accurate report of proceedings at any public meeting or sitting in the Falkland Islands or in the United Kingdom of —

(a) a local authority or governmental or local authority committee;

(b) a commission, tribunal, committee or person appointed for the purpose of any inquiry —

(i) in the case of the Falkland Islands, by any statutory provision or by the Governor; and

(ii) in the case of the United Kingdom by any statutory provision, by Her Majesty or by a minister of the Crown or a Northern Ireland Department;

(c) a person appointed by a local authority to hold a local inquiry in pursuance of any statutory provision;

(d) any other tribunal, board, committee or body constituted by or under, and exercising functions under, any statutory provision or, in the case of the Falkland Islands, under terms of reference established by, or under the authority of, the Governor.

(2) A fair and accurate report of any corresponding proceedings in any of the Channel Islands or the Isle of Man or in another member State.

12.—(1) A fair and accurate report of proceedings at any public meeting held in a member State.

(2) In this paragraph a "public meeting" means a meeting bona fide and lawfully held for a lawful purpose and for the furtherance or discussion of a matter of public concern, whether admission to the meeting is general or restricted.

13.—(1) A fair and accurate report of proceedings at a general meeting of a Falkland Islands or United Kingdom public company.

(2) A fair and accurate copy of or extract from any document circulated to members of a Falkland Islands or United Kingdom public company —

(a) by or with the authority of the board of directors of the company;

(b) by the auditors of the company; or

(c) by any member of the company in pursuance of a right conferred by any statutory provision.

(3) A fair and accurate copy of or extract from any documents circulated to members of a Falkland Islands or United Kingdom public company which relates to the appointment, resignation, retirement or dismissal of directors of the company.

(4) In this paragraph —

(a) "Falkland Islands public company" has the same meaning as it has for the purposes of the company law of the Falkland Islands for the time being in force; and

(b) "United Kingdom public company" means —

(i) a public company within the meaning of section 1(3) of the Companies Act 1985 or Article 12(3) of the Companies (Northern Ireland) Order 1986; or

(ii) a body corporate incorporated by or registered under any other statutory provision of the United Kingdom, or by Royal Charter, or formed in pursuance of letters patent in the United Kingdom.

(5) A fair and accurate report of proceedings at any corresponding meeting of, or copy of or extract from any corresponding documenting circulated to members of a public company formed under the law of any of the Channel Islands or the Isle of Man or of another member State.

14. A fair and accurate report of any finding or decision of any of the following descriptions of association formed in the Falkland Islands or another member State, or of any committee or governing body of such an association —

(a) an association formed for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate on matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication;

(b) an association formed for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate on matters connected with that trade, business, industry or profession, or the actions or conduct of those persons;

(c) an association formed for the purpose of promoting or safeguarding the interests of a game, sport or past time to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or past time;

(d) an association formed for the purpose of promoting charitable objects or other objects beneficial to the community and empowered by its constitution to exercise control over or to adjudicate on matters of interest or concern to the association, or the actions or conduct of any person subject to such control or adjudication.

15. A fair and accurate report of, or copy of or extract from, any adjudication, report, statement or notice issued by a body, officer or other person designated for the purposes of this paragraph—

(a) for the Falkland Islands, by Order of the Governor;

(b) for England and Wales or Northern Ireland, by Order of the Lord Chancellor made; and

(c) for Scotland, by Order of the Secretary of State.

PART III SUPPLEMENTARY PROVISIONS

16.—(1) In this Schedule —

"court" includes any tribunal or body exercising the judicial power of the State;

"international conference" means a conference attended by representatives of two or more governments;

"international organisation" means an organisation of which two or more governments are members, and includes any committee or other subordinate body of such an organisation;

"legislature" includes a local legislature.

(2) References in this Schedule to a member State include any European Dependent Territory or a member State of the European Union.

(3) In paragraphs 2 and 6 "court" includes —

(a) the European Court of Justice (or any court attached to that Court) and the Court of Auditors of the European Communities;

(b) the European Court of Human Rights;

(c) any international criminal tribunal established by the Security Council of the United Nations or by an international agreement to which the United Kingdom is a party; and

(d) the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between States.

(4) In paragraphs 1, 3 and 7 "legislature" includes the European parliament.

17. The Governor may by order make provision identifying —

(a) for the purposes of paragraph 11, the corresponding proceedings referred to in sub-paragraph (3) of that paragraph;

(b) for the purposes of paragraph 13, the corresponding meetings and documents referred to in sub-paragraph (5) of that paragraph."

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Court of Appeal Ordinance 1998

(No. 21 of 1998)

ARRANGEMENT OF PROVISIONS

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ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

COURT OF APPEAL ORDINANCE 1998

(No. 21 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: in accordance with section 1)
(published: 4 December 1998)

To make further and better provision in relation to the jurisdiction of the Court of Appeal of the Falkland Islands.

ENACTED by the Legislature of the Falkland Islands as follows —

PART I

PROVISIONS RELATING TO BOTH CRIMINAL AND CIVIL APPEALS

*Introductory***Short title and commencement**

1. This Ordinance may be cited as the Court of Appeal Ordinance 1998 and shall come into force on such date as may be fixed by the Governor by notice published in the *Gazette*.

Interpretation

2. In this Ordinance —

“appeal”, where used in Parts II, III or IV of this Ordinance, means an appeal to which that Part relates, and “appellant” has a corresponding meaning and in Part II includes a person who has given notice of application for leave to appeal;

“Court of Appeal” means the Court of Appeal for the Falkland Islands established by section 78 of the Constitution and where, under rules of court, the jurisdiction of the Court of Appeal is exercisable by a single justice of appeal, includes a single justice of appeal;

“Court” means the Court of Appeal;

“duly approved”, in relation to a medical practitioner, means a registered medical practitioner who is duly approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder;

“education” includes training and religious instruction;

“judgment” includes a decree;

“medical practitioner” means a person who is—

(a) a person who is registered in the Falkland Islands as a medical practitioner under the provisions of the Medical Practitioners, Midwives and Dentists Ordinance; or

(b) if he is not so registered, is a fully registered person within the meaning of the Medical Act 1983;

“registered medical practitioner”, in the foregoing definition of “duly approved”, means a fully registered person within the meaning of the Medical Act 1983;

“sentence” includes any order on conviction made by the Supreme Court, not being—

(a) an order for the payment of costs; or

(b) an order under section 2 of the Protection of Animals Act 1911 in its application to the Falkland Islands (which enables a court to order the destruction of an animal); and

“under disability” has the meaning assigned to it by section 4 of the Criminal Procedure (Insanity) Act 1964.

General jurisdiction of the Court of Appeal

3.—(1) The Court of Appeal shall be a superior court of record.

(2) There shall be exercisable by the Court of Appeal—

(a) all such jurisdiction as is conferred on it by the Constitution; and

(b) subject to this Ordinance—

(i) all such jurisdiction (whether civil or criminal) as is conferred on it by this or any other Ordinance;

- (ii) all such other jurisdiction (whether civil or criminal) as was exercisable by it immediately before the commencement of this Ordinance.

Right of appeal

Right of appeal to the Court of Appeal against final decisions of the Supreme Court

4.—(1) Subject to section 30(4) of the Constitution (which provides that no appeal shall lie from any determination of the Supreme Court of any question as to whether a person has been validly elected as a member of the Legislative Council or as to whether any member of the Legislative Council has vacated his seat or is required, under the provisions of section 26 of the Constitution, to cease to perform his functions as such) and to subsection (4) of this section—

(a) an appeal shall lie from decisions of the Supreme Court to the Court of Appeal as of right in the instances provided by paragraphs (a) to (d) of section 85(1) of the Constitution, that is to say—

- (i) final decisions, in any civil or criminal proceedings, on questions as to the interpretation of the Constitution;

- (ii) final decisions in civil proceedings where the matter in dispute on the appeal is of the value of £5000 or upwards or where the appeal involves, directly or indirectly, a claim to or a question respecting property or a right of the value of £5000 or upwards (“£5000” having been hereby substituted, as permitted by section 85(1) of the Constitution, for both instances in which “£1000” appears in paragraph (b) thereof) and, for the purposes of this sub-paragraph, an order refusing unconditional leave to defend an action shall be treated as a final decision;

- (iii) final decisions in proceedings under section 16 of the Constitution;

- (iv) final decisions in proceedings for dissolution or nullity of marriage

(b) an appeal shall lie with the leave of the Supreme Court or of the Court of Appeal in the instance provided by section 85(2)(a) of the Constitution, that is to say where the decision appealed against is a final decision in civil proceedings and, in the opinion of the court giving leave, the question involved in the appeal is one which by reason of its great or general importance or otherwise, ought to be submitted to the Court of Appeal;

(c) an appeal shall lie, subject to subsection (2), to the Court of Appeal against a person’s conviction on indictment by the Supreme Court—

- (i) as of right on any ground which involves a question of law alone;

- (ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on

any other ground which appears to the court granting leave to be a sufficient ground of appeal;

(d) an appeal shall lie to the Court of Appeal at the instance of the convicted person, against any sentence, not being a sentence fixed by law, imposed by the Supreme Court upon his conviction before it on indictment;

(e) an appeal shall lie to the Court of Appeal at the instance of a person in whose case there is returned a verdict of not guilty by reason of insanity—

(i) as of right on any ground of appeal which involves a question of law alone;

(ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact, or on any other ground which appears to the Court of Appeal to be a sufficient ground of appeal;

(f) where there has been a determination in the Supreme Court under section 4 of the Criminal Procedure (Insanity) Act 1964 in its application to the Falkland Islands of the question of a person's fitness to be tried, and a finding has been made that the accused person is under a disability and that he did the act or made the omission charged against him, that person may appeal to the Court of Appeal—

(i) as of right, on any ground of appeal which involves a question of law alone; and

(ii) with the leave of the Supreme Court or of the Court of Appeal, on any ground which involves a question of fact alone, or a question of mixed law and fact or any other ground which appears to be a sufficient ground of appeal;

(g) an appeal shall lie to the Court of Appeal, with the leave of the Supreme Court or of the Court of Appeal, at the instance of any party to the proceedings dissatisfied with a final decision of the Supreme Court in the exercise of its appellate jurisdiction in civil or criminal proceedings;

(h) an appeal shall lie as of right to the Court of Appeal at the instance of the person concerned—

(i) against any finding by the Supreme Court against a person in the exercise of its original jurisdiction that he is guilty of contempt of court;

(ii) against any punishment imposed on a person by the Supreme Court in consequence of such a finding by it.

(2) Except with the leave of the Supreme Court or of the Court of Appeal, no appeal against his conviction lies at the instance of a person who pleaded guilty and has been convicted on such plea by the Supreme Court.

(3) Nothing in this Ordinance shall apply in respect of an appeal from a judgment or order of the Supreme Court when acting as a prize court (when in accordance with the Prize Acts 1864 to 1944, the appeal lies to Her Majesty in Council).

Right of appeal to the Court of Appeal against interlocutory decisions of the Supreme Court

5.—(1) Except as provided by this section, no appeal shall lie to the Court of Appeal from any interlocutory order or interlocutory judgment made or given by the Supreme Court, without the leave of the Supreme Court or of the Court of Appeal.

(2) No appeal shall lie from any order of the Supreme Court allowing an extension of time for appealing against any judgment or order.

(3) An appeal lies of right against an interlocutory order or interlocutory judgment made or given by the Supreme Court—

(a) where the liberty of the subject or the residence, education or welfare of a minor is concerned;

(b) where an applicant for contact with a minor is refused all contact with the minor;

(c) in the case of a decree nisi in a matrimonial cause, or a judgment or order in an admiralty action determining liability;

(d) in any other case provided by law.

(4) For the purposes of subsection (3)(a), “education” includes training and religious instruction.

Application for leave to appeal

6.—(1) An application to the Supreme Court for leave to appeal to the Court of Appeal shall be made within the period of twenty-eight days beginning with the date of the decision of the Supreme Court; and an application to the Court of Appeal for such leave shall be made within the period of twenty-eight days beginning with the date on which the application is refused by the Supreme Court.

(2) The Court of Appeal or the Supreme Court may, on application made at any time, whether before or after the expiration of the relevant period mentioned in subsection (1) but not more than one application for leave may be made in respect of any decision under this subsection, extend the time within which the person applying for the extension may apply to the Court of Appeal or to the Supreme Court for leave to appeal.

PART II

FIRST APPEALS TO COURT OF APPEAL IN CRIMINAL CASES

Miscellaneous provisions as to powers of Court of Appeal and of Supreme Court etc.

Power to grant bail

7.—(1) The Supreme Court may on such terms as it sees fit grant bail to any person who has appealed to the Court of Appeal, or applied for leave to appeal to the Court of Appeal, against his conviction or sentence by the Supreme Court in the exercise of its original criminal jurisdiction.

(2) Where application is made to the Supreme Court for leave to appeal, that court may give such directions as it thinks fit for discharging or enlarging any recognisance entered into by any surety, under any enactment or otherwise, with reference to the proceedings of that court.

(3) Bail granted pursuant to this section may be granted pending the determination of the appellant's appeal.

(4) The Court of Appeal, if it thinks fit, may —

(a) revoke bail granted to an appellant in the exercise of the power conferred by subsection (1) or (2) of this section; or

(b) vary the conditions of bail granted to an appellant in the exercise of the power conferred by either of those subsections.

(5) The powers conferred by the preceding provisions of this section may be exercised—

(a) on the application of an appellant; or

(b) if it appears to the Registrar of the Court of Appeal that any of them ought to be exercised by the Court of Appeal, on a reference to the Court by him.

Effect of appeal on sentence

8.—(1) Subject to section 7(3), any sentence passed on appeal under this Ordinance in substitution for another sentence shall, unless the Court of Appeal or (where the case is remitted to it under section 10(1)(e)) the Supreme Court otherwise orders, begin to run from the time when that other sentence would have begun to run.

(2) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject. Where the Court of Appeal gives any direction to the contrary for the purposes of this subsection, it shall state its reasons for doing so. No such direction shall be given where leave to appeal has been given either by the Court of Appeal or by the Supreme Court.

(3) Where a person subject to sentence is granted bail pending an appeal to the Court of Appeal, the time during which he is released on bail shall be disregarded in computing the term of any sentence to which he is for the time being subject.

Appeal against conviction on indictment

Powers of Court of Appeal on determining appeal against conviction

9.—(1) Except as provided by this Ordinance, the Court of Appeal—

(a) shall allow an appeal against conviction if it thinks that the conviction is unsafe; and

(b) shall dismiss such an appeal in any other case.

(2) In the case of an appeal against conviction, the Court of Appeal shall, if it allows the appeal, quash the conviction.

(3) Except where under section 14 of this Ordinance the Court of Appeal orders the appellant to be retried, an order of the Court of Appeal quashing a conviction shall operate as a direction to the Supreme Court to enter, instead of the record of conviction, a judgment and verdict of acquittal.

(4) Subject to this Ordinance, in determining a criminal appeal, the Court of Appeal may increase, modify or reduce the sentence.

Power to substitute conviction of alternative offence

10.—(1) This section applies on an appeal against conviction, where the appellant has been convicted of an offence and the jury (or, in the case of a trial before a judge alone, the judge) could on the indictment have found him guilty of some other offence, and on the finding of the jury (or, in the case of a trial before a judge alone, on the findings contained in any judgment delivered by the trial judge) it appears to the Court of Appeal that the jury (or in the case of a trial before a judge alone, the judge) must have been satisfied of facts which proved him guilty of the other offence.

(2) The Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury (or, in the case of a trial before a judge alone, the finding by the judge) of guilty of the offence, a verdict or finding of guilty of the other offence, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.

Sentence when appeal allowed on part of an indictment

11.—(1) This section applies where, on an appeal against conviction on an indictment containing two or more counts, the Court of Appeal allows the appeal in respect of part of the indictment.

(2) Except as provided by subsection (3) of this section, the Court may in respect of any count on which the appellant remains convicted pass such sentence, in substitution for any sentence passed thereon at the trial, as it thinks proper and is authorised by law for the offence of which he remains convicted on that account.

(3) The Court shall not under this section pass any sentence such that the appellant's sentence on the indictment as a whole will, in consequence of the appeal, be of greater severity than the sentence (taken as a whole) which was passed at the trial for all the offences of which he was convicted on the indictment.

Disposal of appeal against special verdict

12.—(1) This section applies on an appeal against conviction by a person in whose case the jury have found a special verdict.

(2) If the Court of Appeal considers that a wrong conclusion has been arrived at by the court of trial on the effect of the jury's verdict it may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be authorised in law.

Substitution of finding of insanity or findings of unfitness to plead etc.

13.—(1) This section applies where, on an appeal against conviction, the Court of Appeal, on the written or oral evidence of two or more medical practitioners registered in accordance with the law for the time being in force in England and at least one of whom is duly approved, is of opinion —

(a) that the proper verdict or finding would have been one of not guilty by reason of insanity; or

(b) that the case is not one where there should have been a verdict of acquittal, but there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.

(2) Subject to subsection (3) of this section, the Court of Appeal shall in a case where this section applies make such order in relation to the appellant as, having taken into account the provisions of the Criminal Procedure (Insanity and Fitness to Plead) Act 1991 in its application to the Falkland Islands it believes can most appropriately be made.

(3) Where the appeal relates to an offence of murder or an offence the sentence for which is fixed by law, the Court of Appeal shall not make an order corresponding to, or having a similar effect to, the orders mentioned in section 6(2)(b) of the Criminal Appeal Act 1968.

Retrial

Power to order retrial

14.—(1) Where the Court of Appeal allows an appeal against conviction and it appears to the Court that the interests of justice so require, it may order the appellant to be retried.

(2) A person shall not under this section be ordered to be retried for any offence other than —

- (a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) of this section;
- (b) an offence of which he could have been convicted at the original trial and in respect of which his appeal is allowed; or
- (c) an offence charged in the alternative count of the indictment in respect of which the jury were discharged from giving a verdict in consequence of convicting him of the first-mentioned offence.

Supplementary provisions as to retrial

15.—(1) A person who is retried for an offence in pursuance of an order under section 15 shall be tried on a fresh indictment preferred by direction of the Court of Appeal.

(2) The Court of Appeal on ordering a retrial may make such orders as appear to it to be necessary or expedient.

(3) The Schedule to this Ordinance has effect with respect to the procedure in the case of a person to be retried, the sentence to be passed if the retrial results in his conviction and the order for costs which may be made if he is acquitted.

Appeal against sentence

Supplementary provisions as to appeal against sentence

16.—(1) Where the Supreme Court in dealing with an offender on his conviction on indictment has passed on him two or more sentences in the same proceeding, being sentences against which an appeal lies under the preceding provisions of this Ordinance, an appeal or application for leave to appeal against any one of those sentences shall be treated as an appeal or application in respect of both or all of them.

(2) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if —

- (a) they are passed on the same day; or
- (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence;

and consecutive terms of imprisonment and terms which are wholly or partly concurrent are to be treated as a single term.

(3) On an appeal against sentence the Court of Appeal may, if it thinks that the appellant should be sentenced differently for the offence for which he was dealt with by the Supreme Court may —

(a) quash any sentence or order which is the subject of the appeal;

(b) in place of it pass such sentence or make such order as it thinks appropriate for the case and as the court below had power to pass or make when dealing with him for the offence;

but the court shall so exercise its powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below.

Disposal of appeal against verdict of not guilty by reason of insanity

17.—(1) Subject to section (2) of this section, the Court of Appeal —

(a) shall allow an appeal to which section 4(1)(e) of this Ordinance relates (an appeal against a verdict or finding of not guilty by reason of insanity) if it thinks that the verdict or finding is unsafe; and

(b) shall dismiss such an appeal in any other case.

(2) Where an appeal to which section 4(1)(e) of this Ordinance relates is allowed —

(a) if the ground, or one of the grounds, for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal is of opinion that the proper verdict or finding would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury (or in the case of a trial before a judge alone, the judge) could have found him guilty), the Court—

(i) shall substitute for the verdict or finding of not guilty by reason of insanity a verdict or finding of guilty of that offence; and

(ii) subject to subsection (3) of this section, shall have the like powers of punishing or otherwise dealing with the appellant, and other powers, as the court of trial would have had if the jury or judge had come to the substituted verdict or finding; and

(b) in any other case, the Court of Appeal shall substitute for the verdict or finding of guilty a verdict or finding of acquittal.

Substitution of findings of unfitness to plead etc.

18.—(1) This section applies where, under an appeal to which section 4(1)(e) of this Ordinance applies (appeal against a verdict or finding of not guilty by reason of insanity), the Court of Appeal, on the written or oral opinion of two or more medical practitioners at least one of whom is duly approved, is of opinion that —

(a) the case is not one where there should have been a verdict of acquittal or finding of not guilty; but

(b) there should have been findings that the accused was under a disability and that he did the act or made the omission charged against him.

(2) In a case to which this section applies, the Court of Appeal shall after taking into account the provisions of Schedule 1 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 in its application to the Falkland Islands make such order as it thinks ought most appropriately to be made.

Substitution of verdict of acquittal

19.—(1) This section applies where, in accordance with section 18(2)(b) of this Ordinance, the Court of Appeal substitutes a verdict of acquittal and the Court, on the written or oral evidence of two or more medical practitioners at least one of whom is duly approved, is of opinion —

(a) that the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital (whether within the Falkland Islands or otherwise) for assessment (or for assessment followed by medical treatment) for at least a limited period, and

(b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons.

(2) The Court of Appeal shall make an order that the appellant be admitted for assessment to such hospital as may be specified by the Governor.

Unfitness to stand trial

Disposal of an appeal under section 4(1)(f)

20.—(1) The Court of Appeal —

(a) shall allow an appeal under section 4(1)(f) of this Ordinance against a finding if it thinks that the finding is unsafe: and

(b) shall dismiss such an appeal in any other case.

(2) Where the Court of Appeal allows an appeal under section 4(1)(f) of this Ordinance against a finding that the appellant is under a disability —

- (a) the appellant may be tried accordingly for the offence with which he was charged; and
 - (b) the Court may make such orders as appear to it to be necessary or expedient pending such trial for his custody, release on bail or continued detention under any enactment relating to mentally disordered persons.
- (3) Where, otherwise than in a case falling within subsection (3) of this section, the Court of Appeal allows an appeal under section 4(1)(f) of this Ordinance against a finding that the appellant did the act or made the omission charged against him, the Court shall, in addition to quashing the verdict, direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).

Miscellaneous

Restitution of property

21.—(1) The operation of an order for the restitution of property to a person made by the Supreme Court shall, unless the Court directs to the contrary in any case in which, in its opinion, the title to property is not in dispute, be suspended until (disregarding any power to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

(2) The Court of Appeal may by order annul or vary any order made by the Supreme Court for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled shall not take effect and, if varied, shall take effect as if so varied.

Evidence

22.—(1) For the purposes of this Part of this Ordinance, the Court of Appeal may, if it thinks that it is necessary or expedient in the interests of justice —

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it to be necessary for the determination of the case;
 - (b) order any witness who would have been a compellable witness in the proceedings in which the appeal lies to attend for examination and be examined before the Court, whether or not he was called in the proceedings; and
 - (c) receive any evidence which was not adduced in the proceedings from which the appeal lies.
- (2) The Court of Appeal shall, in considering whether to receive any evidence, have regard in particular to —
- (a) whether the evidence appears to the Court to be capable of belief;

(b) whether it appears to the Court that the evidence may afford any ground for allowing the appeal; and

(c) whether there is a reasonable explanation for the failure to adduce the evidence in those proceedings.

(3) Subsection (1)(c) above applies to evidence of any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's spouse where the appellant makes an application for that purpose and the evidence of the spouse could not have been given in the proceedings from which the appeal lies except on such an application.

(4) For the purposes of this Part of this Ordinance, the Court of Appeal may, if it thinks that it is necessary or expedient in the interests of justice, order the examination of any witness whose attendance might be required under subsection (1)(b) of this section to be conducted, in a manner provided by rules of court, before any judge or officer of the Court or other person appointed by the Court for the purpose, and allow the admission of any depositions so taken as evidence before the Court.

PART III

APPEALS TO COURT OF APPEAL BY WAY OF FURTHER APPEAL IN CRIMINAL CASES

Provisions in relation to leave on an appeal under section 4(1)(g)

23.—(1) This section applies in relation to appeals to the Court of Appeal from a decision of the Supreme Court in the exercise of its appellate jurisdiction in criminal proceedings.

(2) Where this section applies, leave to appeal shall not be granted by the Supreme Court or the Court of Appeal unless the court granting leave certifies that a point of law of general public importance is involved in the decision of the Supreme Court which ought to be considered by the Court of Appeal.

(3) An application for leave to appeal from a decision of the Supreme Court to which this section applies shall be made within twenty-eight days of the decision of the Supreme Court but the Supreme Court or the Court of Appeal may, on application made to it by the appellant or respondent to the appeal in the Supreme Court, extend the time within which an application for leave to appeal to the Court of Appeal may be made.

(4) Where this section applies, an appeal to the Court of Appeal shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for the purposes of this Part of this Ordinance an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

Powers of Court of Appeal in an appeal under section 4(1)(g)

24.—(1) For the purpose of disposing of an appeal to which section 24 applies, the Court of Appeal may exercise any powers the Supreme Court could have exercised on disposing of the appeal to it.

(2) The Court of Appeal may also exercise, pending determination of such an appeal, any of its powers under section 7 of this Ordinance (power to grant bail etc.).

Detention of defendant on appeal by the Crown

25.—(1) The following provisions of this section apply where, immediately after a decision of the Supreme Court in the exercise of its appellate jurisdiction in criminal proceedings, the prosecutor is granted or gives notice that he intends to apply for, leave to appeal.

(2) If, but for the decision of the Supreme Court, the defendant would be liable to be detained, the Supreme Court may make an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Supreme Court as if the defendant had appealed to the Court of Appeal against his conviction by the Supreme Court in the exercise of its original criminal jurisdiction and section 7 of this Ordinance shall apply accordingly).

(3) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Supreme Court.

(4) Where an order is made under this section in the case of a defendant who but for the decision of the Supreme Court would have been liable to be detained in a hospital, the order under this section shall be one authorising his continued detention in hospital and all provisions of any enactment relating to admission to hospital of persons suffering from a mental disorder convicted by criminal courts and admission to hospital following a verdict of insanity or unfitness to stand trial (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.

**PART IV
CIVIL APPEALS**

Provisions in relation to civil appeals

Powers of Court of Appeal on determining civil appeal

26.—(1) For all purposes of or incidental to the hearing or determination of any civil appeal and the amendment, execution and enforcement of any judgment or order made on such an appeal, the Court of Appeal shall have all the jurisdiction and authority of the Supreme Court.

(2) Without prejudice to subsection (1), on the hearing of an appeal, the Court of Appeal may draw any inference of fact and—

- (a) order a new trial on such terms as the Court thinks just; or
 - (b) order a judgment to be entered for any party; or
 - (c) make a final or other order on such terms as the Court thinks proper to ensure the determination on the merits of the real question in controversy between the parties.
- (3) Subject to rules of court, on any appeal the Court of Appeal may reverse or vary, in favour of a party seeking to support the judgment or order of the Supreme Court in whole or in part, any determination made in the Supreme Court on questions of fact, notwithstanding that the appeal is an appeal on a point of law only, or any such determinations on points of law, notwithstanding that the appeal is an appeal on a question of fact only.
- (4) Subsection (3) shall not enable the Court of Appeal to reverse or vary any determination, unless the party dissatisfied with the determination would have been entitled to appeal in respect of if he were aggrieved by the judgment or order.
- (5) Any provision of any Ordinance or other law of or having effect in the Falkland Islands enactment which authorises or requires the taking of any steps for the execution or enforcement of a judgment or order of the Supreme Court in civil proceedings applies in relation to a judgment or order of the Court of Appeal in civil proceedings as it applies in relation to an order or judgment of the Supreme Court.

Applications for new trial

27.—(1) Where any civil cause or matter, or any issue in any civil cause or matter, has been tried in the Supreme Court, any application for a new trial of that cause or matter or to set aside any finding or judgment in it shall be heard and determined by the Court of Appeal except where rules of court provide to the contrary.

- (2) Nothing in this section shall alter the practice in bankruptcy.

PART V GENERAL

Disposal of groundless appeal or application for leave to appeal

28. If it appears to the Registrar of the Court of Appeal that a notice of application or application for leave to appeal in any civil or criminal appeal or prospective appeal does not show any substantial ground of appeal, he may refer the appeal or application for leave to the Court for summary determination; and where the case is so referred the Court may, if it considers that the appeal or application for leave is frivolous or vexatious, and can be determined without adjourning it for a full hearing, dismiss the application for leave summarily, without calling on anyone to attend the hearing or to appear on behalf of the respondent or prospective respondent.

Preparation of case for hearing

29. The Registrar of the Court of Appeal shall —

(a) take all necessary steps for obtaining a hearing of any appeal or application of which notice is given to him and which is not referred and dismissed under the immediately preceding section; and

(b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal or application.

Repeal and saving

30.—(1) The Appeals Ordinance 1966 is repealed.

(2) Notwithstanding subsection (1), the Appeals Ordinance 1966, in so far as it is consistent with the Constitution, shall continue to have effect in relation to appeals commenced before the commencement of this Ordinance.

Transitional

31.—(1) Any right of appeal subsisting immediately before the commencement of this Ordinance by virtue of the Appeals Ordinance 1966 shall after that commencement be treated as subsisting by virtue of the corresponding provision of this Ordinance.

(2) Where, in relation to any decision or judgment of the Supreme Court given, delivered or made before the commencement of this Ordinance, a right of appeal with or without leave would have existed under the Appeals Ordinance 1966 but does not subsist under any corresponding provision of this Ordinance or of the Constitution, then in so far as relates to that right of appeal and the prosecution of any appeal or application for leave to appeal, this Ordinance shall be deemed never to have been enacted.

(3) In so far as any order made, direction given or other thing done under the Appeals Ordinance 1966 could have been made given or done under a corresponding provision of this Ordinance, it shall not be invalidated by the repeal of the Appeals Ordinance 1966 but shall have effect as if made, given or done under the corresponding provision of this Ordinance.

(4) The reference of particular matters in the foregoing subsections of this section shall not be taken to affect the general application of the provisions of the Interpretation and General Clauses Ordinance 1977 with regard to the effect of repeals.

SCHEDULE

PROCEDURAL AND OTHER PROVISIONS APPLICABLE ON ORDER FOR RETRIAL section 15(3)

Depositions

1. On a retrial, section 13(3) of the Criminal Justice Act 1925 (reading of depositions) in its application to the Falkland Islands shall not apply to the evidence of any person who gave evidence at the original trial; but a transcript of the evidence of the witness given at the original trial, may with the leave of the judge be read as evidence —

(a) by agreement between the prosecution and the defence; or

(b) if the judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find him or to secure his attendance have been made without success;

2. Subject to paragraph 1, evidence given orally at the original trial can only be given orally at the retrial.

Sentence on conviction at the retrial

3.—(1) Where a person ordered to be retried is again convicted on retrial, the court before which he is convicted may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.

(2) Without prejudice to its power to impose any other sentence, the court before which an offender is convicted on retrial may pass in respect of the offence any sentence passed or could lawfully have been passed in respect of the offence on the original conviction notwithstanding that, on the day of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.

(3) Where a person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of his sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded —

(a) any time before his conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed; and

(b) any time during which he was released on bail under section 7(2) of this Ordinance.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Equal Employment Rights Ordinance 1998

(No. 22 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title, interpretation and commencement
2. Requirement of equal treatment for men and women in same employment
3. Disputes as to, and enforcement of, requirement of equal treatment
4. Exclusions from sections 2 and 3
5. Meaning of employment at establishment in the Falkland Islands

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

EQUAL EMPLOYMENT RIGHTS ORDINANCE 1998

(No. 22 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: 1 July 1999)
(published: 4 December 1998)

To prevent discrimination, as regards terms and conditions of employment, between men and women.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title, interpretation and commencement

1.—(1) This Ordinance may be cited as the Equal Employment Rights Ordinance 1998 and comes into force on 1st July 1999.

(2) In this Ordinance the expressions “man” and “woman” shall be construed as applying to persons of whatever age.

(3) Section 5 governs the question of whether for the purposes of this Ordinance a persons employment is to be regarded as being at an establishment in the Falkland Islands.

Requirement of equal treatment for men and women in same employment

2.—(1) If the terms of a contract under which a woman is employed at an establishment in the Falkland Islands do not include (directly or by reference to a collective agreement or otherwise) an equality clause they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms (whether concerned with pay or not) of a contract under which a woman is employed (the “woman’s contract”), and has the effect that —

(a) where the woman is employed on like work with a man in the same employment —

(i) if (apart from the equality clause) any term of the woman's contract is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed, the woman's contract shall be treated as including such a term;

(b) where the woman is employed on work rated as equivalent with that of a man in the same employment —

(i) if (apart from the equality clause) any term of the woman's contract determined by the rating of the work is or becomes less favourable to the woman than a term of a similar kind in the contract under which that man is employed, that term of the woman's contract shall be treated as so modified as not to be less favourable, and

(ii) if (apart from the equality clause) at any time the woman's contract does not include a term corresponding to a term benefiting that man included in the contract under which he is employed and determined by the rating of the work, the woman's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between the woman's contract and the man's contract if the employer proves that the variation is genuinely due to a material difference (other than the difference of sex) between her case and his.

(4) A woman is to be regarded as employed on like work with men if, but only if, her work and theirs is of the same or a broadly similar nature, and the differences (if any) between the things she does and the things they do are not of practical importance in relation to terms and conditions of employment; and accordingly in comparing her work with theirs regards shall be had to the frequency or otherwise with which any such differences occur in practice as well as to the nature and extent of the differences.

(5) A woman is to be regarded as employed on work rated as equivalent with that of any men if, but only if, her job and their job have been given an equal value, in terms of the demand made on a worker under various headings (for instance effort, skill and decision), on a study undertaken with a view to evaluating in those terms the jobs to be done by all or any of the employees in an undertaking or group of undertakings, or would have been given an equal value but for the evaluation being made on a system setting different values for men and women on the same demand under any heading.

(6) Subject to the following subsections, for the purposes of this section —

(a) "employed" means employed under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions shall be construed accordingly; and

(b) two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control,

and men shall be treated as in the same employment with a woman if they are men employed by her employer or any associated employer at the same establishment or at establishments in the Falkland Islands which include that one and at which common terms and conditions of employment are observed either generally or for employees of the relevant classes.

(7) This section applies to —

(a) service under Her Majesty in right of Her Government of the Falkland Islands, other than service of a person holding a statutory office, and

(b) service under Her Majesty in right of Her Government of the Falkland Islands for purposes of a person holding a statutory office or purposes of a statutory body,

as it applies to employment by a private person, and so applies as if references to a contract of employment included references to the terms of service.

(8) This section does not apply in relation to service under Her Majesty in right of Her Government of the United Kingdom.

(9) In this section "statutory body" means a body set up by or in pursuance of the Constitution or of an Ordinance, and "statutory office" means an office so set up.

(10) For the purposes of this Ordinance it is immaterial whether the law which (apart from this subsection) is the proper law of a contract is the law of the Falkland Islands or not.

(11) Provisions of this section and section 3 framed with reference to women and their treatment relative to men are to be read as applying equally to a converse case to men and their treatment relative to women.

Disputes as to, and enforcement of, requirement of equal treatment

3.—(1) Any claim in respect of the contravention of a term modified or included by virtue of an equality clause, including a claim for arrears of remuneration or damages in respect of the contravention, may be presented by way of a complaint to the Summary Court.

(2) Where a dispute arises in relation to the effect of an equality clause the employer may apply to the Summary Court for an order declaring the rights of the employer and the employee in relation to the matter in question.

(3) Where it appears to the Governor that there may be a question whether the employer of any women is or has been contravening a term modified or included by virtue of their equality clauses, but that it is not reasonable to expect them to take steps to have the question determined, the question may be referred by him as respects all or any of them to the Summary Court and shall be dealt with as if the reference were of a claim by the women or woman against the employer.

(4) Where it appears to the court in which any proceedings are pending that a claim or counter-claim in respect of the operation of an equality clause could more conveniently be disposed of separately by the Summary Court under the provisions of this Ordinance, the court may direct that the claim or counter-claim shall be struck out; and (without prejudice to the foregoing) where in proceedings before any court a question arises as to the operation of an equality clause, the court may on the application of any party to the proceedings or otherwise refer that question, or direct it to be referred by a party to the proceedings, to the Summary Court for determination by that court pursuant to the provisions of this Ordinance, and may stay the proceedings in the mean time.

(5) No claim in respect of the operation of an equality clause relating to a woman's employment shall be referred to the Summary Court otherwise than by virtue of subsection (3) of this section, if she has not been employed in the employment within the six months preceding the date of the reference.

(6) A woman shall not be entitled, in proceedings brought in respect of a failure to comply with an equality clause (including proceedings before the Summary Court), to be awarded any payment by way of arrears of remuneration or damages in respect of a time earlier than two years before the date on which the proceedings were instituted.

Exclusions from sections 2 and 3

4. Neither an equality clause nor the provisions of section 3(4) operate in relation to terms —

(a) affected by compliance with the laws regulating the employment of women, or

(b) affording special treatment to women in connection with pregnancy or child birth.

Meaning of employment at establishment in the Falkland Islands

5.—(1) For the purposes of this Ordinance, employment is to be regarded as being at an establishment in the Falkland Islands unless the employee does his work wholly or mainly outside the Falkland Islands.

(2) Subsection (1) does not apply —

(a) to employment on board a ship registered in the Falkland Islands; or

(b) to employment on aircraft registered in the Falkland Islands and operated by a person who has his principal place of business, or is ordinarily resident, in the Falkland Islands;

but such employment is to be regarded as being at an establishment in the Falkland Islands unless the employee does his work wholly outside the Falkland Islands.

(3) In the case of employment on board a ship registered in the Falkland Islands (except where the employee does his work wholly outside the Falkland Islands, and outside any area added under subsection (5)) the ship shall for the relevant purposes be deemed to be the establishment.

(4) Where work is not done at an establishment it shall be treated for the relevant purposes as done at the establishment from which it is done or (where it is not done from any establishment) at the establishment with which it has the closest connection.

(5) In relation to employment concerned with exploration of the sea-bed or sub-soil or the exploitation of their natural resources, the Governor may by Order provide that subsections (1) and (2) shall each have effect as if the last reference in each of those subsections include any area which is a designated area for the purposes of the Offshore Minerals Ordinance 1994.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Cruise Ships Ordinance 1998

(No. 23 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Conservation levy
4. Supplementary to section 3
5. Saving for immigration laws
6. Orders

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

CRUISE SHIPS ORDINANCE 1998

(No. 23 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)

(commencement: 1 October 1999)

(published: 4 December 1998)

To provide for a conservation levy to be paid in respect of cruise ship passengers.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title and commencement

1. This Ordinance may be cited as the Cruise Ships Ordinance 1998 and shall come into force on 1st October 1999.

Interpretation

2. In this Ordinance —

“designated port” means Stanley (that is to say, Port William or Port Jackson (otherwise known as Stanley Harbour)) and any other port designated by Order under section 6;

“exempted person” means a person who falls within any of the following descriptions—

(a) a person in the service of Her Majesty in right of Her Government in the Falkland Islands;

(b) a person in the service of Her Majesty in right of Her Government in the United Kingdom and who is for the time being in the Falkland Islands for the purposes of such service;

(c) a member of Her Majesty’s Armed Forces or of the Royal Fleet Auxiliary Service;

(d) a person who is a member of the crew of the vessel in question;

“the conservation levy” means the sum per passenger required by section 3 to be paid;

“passenger” means any person, other than an exempted person, carried aboard a vessel at the time of its arrival at a designated port and any person, other than an exempted person, carried aboard the vessel at the time of its departure from a designated port and who was not carried aboard that vessel at the time of its arrival at that port.

Conservation levy

3.—(1) Subject to this section, there shall be paid in respect of every passenger aboard a vessel a conservation levy of £10.

(2) No conservation levy shall be payable in respect of any passenger if the aggregate of the number of passengers carried on that vessel at the time of its arrival at a designated port plus any further persons who are or are expected to be, passengers at the time of its departure from that port does not exceed 100.

(3) Where a vessel arrives at more than one designated port or at the same designated port more than once in the course of the same voyage no conservation levy is payable in respect of any passenger in respect of the second or other subsequent such arrival at a designated port (and, for the purposes of this subsection, a vessel shall be treated as being upon the same voyage if it has not entered the territorial sea of any other country or territory since calling at a designated port).

(4) Subject to this section, a conservation levy is payable in respect of a passenger whether or not he disembarks from the vessel in question.

Supplementary to section 3

4.—(1) Payment of a conservation levy payable in respect of any passengers carried aboard a vessel shall be made by the owner or charterer of the vessel to the Collector of Customs and shall, unless otherwise approved by the Collector of Customs, be paid before the first arrival of the vessel at a designated port during the voyage concerned.

(2) All sums paid by way of conservation levy shall be paid into and form part of the Consolidated Fund.

Saving for immigration laws

5. Nothing in this Ordinance shall be construed as permitting any person to land in the Falkland Islands contrary to any provision of the immigration laws of the Falkland Islands from time to time in force.

Orders

6. The Governor may by Order under this subsection —

(a) amend section 3(1) so as to substitute a different sum for the sum of £10 mentioned in that provision;

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

(c) designate any place as a port for the purposes of this Ordinance; and

(d) amend or revoke, with or without replacing the same, any Order previously made under this section.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

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9th December 1998

No.31

The following are published in this Supplement -

Merchant Shipping (Amendment) Ordinance 1998;

Sex Discrimination Ordinance 1998;

Taxes (Amendment) Ordinance 1998;

Animals (Scientific Procedures) Ordinance 1998;

Agricultural Incentives and Subsidies (Land Charges) Ordinance 1998;

Falkland Islands Pensions Scheme (Amendment) Ordinance 1998.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Merchant Shipping (Amendment) Ordinance 1998

(No. 24 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Repeal of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

MERCHANT SHIPPING (AMENDMENT) ORDINANCE 1998

(No. 24 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: in accordance with section 1)
(published: 9 December 1998)

To repeal the application of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906 in the Falkland Islands.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title and commencement

1. This Ordinance may be cited as the Merchant Shipping (Amendment) Ordinance 1998 and shall come into force on such date (not being earlier than the date upon which this Ordinance is confirmed by Order in Council under section 735 of the Merchant Shipping Act 1894) as the Governor may notify in the *Gazette*.

Repeal of section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906

2. Section 47 of the Merchant Shipping Act 1894 and section 50 of the Merchant Shipping Act 1906 in their application to the Falkland Islands are repealed.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Sex Discrimination Ordinance 1998

(No. 25 of 1998)

ARRANGEMENT OF PROVISIONS

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ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

SEX DISCRIMINATION ORDINANCE 1998

(No. 25 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: 1 July 1999)
(published: 9 December 1998)

To render unlawful certain kinds of sex discrimination and discrimination on the ground of marriage, and for related purposes

ENACTED by the Legislature of the Falkland Islands as follows —

PART I

SHORT TITLE, COMMENCEMENT AND INTERPRETATION

Short title and commencement

1. This Ordinance may be cited as the Sex Discrimination Ordinance 1998 and comes into force on 1st July 1999.

Interpretation

2.—(1) In this Ordinance —

(a) references to discrimination refer to any discrimination falling within sections 3 to 6; and

(b) references to sex discrimination refer to any discrimination falling within section 3 or 4,

and related expressions shall be construed accordingly.

(2) In this Ordinance —

“woman” includes a female of any age, and

“man” includes a male of any age.

(3) A comparison of the cases of persons of different sex or marital status under section 3(1) or 5(1) must be such that the relevant circumstances in the one case are the same, or not materially different, in the other.

(4) In this Ordinance, unless the context otherwise requires —

“access” shall be construed in accordance with section 39;

“act” includes a deliberate omission;

“advertisement” includes every form of advertisement, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, show cards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements shall be construed accordingly;

“associated employer” is to be construed in accordance with subsection (5);

“dispose” in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises is to be construed accordingly;

“education” includes any form of training or instruction;

“employment” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions are to be construed accordingly;

“employment agency” means a person who, for profit or not, provides services for the purposes of finding employment for workers or supplying employers with workers;

“equality clause” has the meaning given in section 2(2) of the Equal Employment Rights Ordinance 1998(a)

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of finding premises for persons seeking to acquire them or assisting in the disposal of premises;

“final” is to be construed in accordance with subsection (6);

“firm” has the meaning given by section 4 of the Partnership Act 1890 in its application to the Falkland Islands;

“general notice”, in relation to any person, means a notice published by him at a time and in a manner appearing to him suitable for securing that the notice is seen within a reasonable time by persons likely to be affected by it;

"genuine occupational qualification" is to be construed in accordance with section 8(2);

"near relative" is to be construed in accordance with subsection (7);

"notice" means a notice in writing;

"profession" includes any vocation or occupation;

"retirement" includes retirement (whether voluntary or not) on grounds of age, length of service or incapacity;

"trade" includes any business; and

"training" includes any form of education or instruction.

(5) For the purposes of this Ordinance two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control or if both are companies of which a third person (directly or indirectly) has control.

(6) For the purposes of this Ordinance, a person is a near relative of another if that person is the wife or husband, or parent or child, a grand-parent or grand-child, or a brother or sister of the other (whether of full blood or half-blood or by affinity), and "child" includes an illegitimate child and the wife or husband of an illegitimate child.

(7) References in this Ordinance to the dismissal of a person from employment or to the expulsion of a person from a position as a partner include references —

(a) to the termination of that person's employment or partnership by the expiration of any period (including a period expiring by reference to an event or circumstance), not being a termination immediately after which the employment or partnership is renewed on the same terms; and

(b) to the termination of that person's employment or partnership by any act of his (including the giving of notice) in circumstances such that he is entitled to terminate it without notice by reason of the conduct of the employer or, as the case may be, the conduct of the other partners.

PART II

DISCRIMINATION TO WHICH THIS ORDINANCE APPLIES

Sex discrimination against women

3.—(1) A person discriminates against a woman in any circumstances relevant for the purposes of any provision of this Ordinance if —

(a) on the ground of her sex he treats her less favourably than he treats or would treat a man; or

(b) he applies to her a requirement or condition which applies or would apply equally to a man but —

(i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and

(iii) which is to her detriment because she cannot comply with it.

(2) If a person treats or would treat a man differently according to the man's marital status, his treatment of a woman is for the purposes of subsection (1)(a) to be compared to his treatment of a man having the like marital status.

Sex discrimination against men

4.—(1) Section 3, and the provision of Parts III and IV relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

(2) In the application of subsection (1) no account shall be taken of special treatment afforded to women in connection with pregnancy or childbirth.

Discrimination against married persons in employment field

5.—(1) A person discriminates against a married person of either sex in any circumstances relevant for the purposes of any provision of Part III if —

(a) on the ground of his or her marital status he treats that person less favourably than he treats or would treat an unmarried person of the same sex, or

(b) he applies to that person a requirement or condition which he applies or would apply equally to an unmarried person but —

(i) which is such that the proportion of married persons who can comply with it is considerably smaller than the proportion of unmarried persons of the same sex who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the marital status of the person to whom it is applied, and

(iii) which is to that person's detriment because he cannot comply with it.

(2) For the purposes of subsection (1), a provision of Part III framed with reference to discrimination against women shall be treated as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

Discrimination by way of victimisation

6.—(1) A person ("the discriminator") discriminates against another person ("the person victimised") in any circumstances relevant for the purposes of any provision of this Ordinance if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has —

(a) brought proceedings against the discriminator or any other person under this Ordinance or the Equal Employment Rights Ordinance 1998, or

(b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Ordinance or the Equal Employment Rights Ordinance 1998, or

(c) otherwise done anything under or by reference to this Ordinance or the Equal Employment Rights Ordinance 1998 in relation to the discriminator or any other person, or

(d) alleged that the discriminator or any other person has committed an act which (whether or not the allegation so states) would amount to a contravention of this Ordinance or give rise to a claim under the Equal Employment Rights Ordinance 1998,

or by reason that the discriminator knows the person victimised intends to do any of those things, or suspects the person victimised has done, or intends to do, any of them.

(2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him if the allegation was false and not made in good faith.

(3) For the purposes of subsection (1), a provision of Part III or IV framed with reference to discrimination against women shall be treated as applying equally to the treatment of men and for that purpose shall have effect with such modifications as are requisite.

PART III DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination by employers

Discrimination against applicants and employees

7.—(1) It is unlawful for a person, in relation to employment by him at an establishment in the Falkland Islands, to discriminate against a woman —

(a) in the arrangements he makes for the purpose of determining who should be offered that employment, or

(b) in the terms on which he offers her that employment, or

(c) by refusing or deliberately omitting to offer her that employment.

(2) It is unlawful for a person, in the case of a person employed by him at an establishment in the Falkland Islands, to discriminate against her —

(a) in the way he affords her access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to offer her access to them, or

(b) by dismissing her, or subjecting her to any other detriment.

(3) Subject to section 9(2), subsection (1)(b) does not apply to any provision for the payment of money which, if the woman in question were given the employment, would be included (directly or otherwise) in the contract under which she was employed.

(4) Subsection (2) does not apply to benefits consisting of payment of money when the provision of those benefits is regulated by the woman's contract of employment.

(5) Subsection (2) does not apply to benefits, facilities or services of any description if the employer is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public comprising the woman in question unless —

(a) that provision differs in a material respect from the provision of the benefits, facilities or services by the employer to his employees, or

(b) the provision of the benefits, facilities or services to the woman in question is regulated by her contract or employment, or

(c) the benefits, facilities or services relate to training.

Exception where sex is a genuine occupational qualification

8.—(1) In relation to sex discrimination —

(a) section 7(1)(a) or (c) does not apply to any employment where being a man is a genuine occupational qualification for the job, and

(b) section 7(2)(a) does not apply to opportunities for promotion or transfer to, or training for, such employment.

(2) Being a man is a genuine occupational qualification for a job only where —

(a) the essential nature of the job calls for a man for reasons of physiology (excluding physical strength or stamina) or, in dramatic performances or other entertainment, for reasons of authenticity, so that the essential nature of the job would be materially different if carried out by a woman; or

(b) the job needs to be held by a man to preserve decency or privacy because —

(i) it is likely to involve physical contact with men in circumstances where they might reasonably object to its being carried out by a woman, or

(ii) the holder of the job is likely to do his work in circumstances where men might reasonably object to the presence of a woman because they are in a state of undress or are using sanitary facilities; or

(c) the job is likely to involve the holder of the job doing his work, or living, in a private home and needs to be held by a man because objection might reasonably be taken to allowing to a woman —

(i) the degree of physical or social contact with a person living in the home, or

(ii) the knowledge of intimate details of such a persons life,

which is likely, because of the nature or circumstances of the job or of the home, to be allowed to, or available to, the holder of the job; or

(d) the nature or location of the establishment makes it impracticable for the holder of the job to live elsewhere than in premises provided by the employer, and —

(i) the only such premises which are available for persons holding that kind of job are lived in, or normally lived in, by men and are not equipped with separate sleeping accommodation for women and sanitary facilities which could be used by women in privacy from men, and

(ii) it is not reasonable to expect the employer either to equip those premises with such accommodation and facilities or provide other premises for women; or

(e) the nature of the establishment, or the part of it within which the work is done, requires the job to be held by a man because —

(i) it is, or is part of, a hospital, prison or other establishment for persons requiring special care, supervision or attention, and

(ii) those persons are all men (disregarding any woman whose presence is exceptional), and

(iii) it is reasonable, having regard to the essential character of the establishment or that part, that the job should not be held by a woman; or

(f) the holder of the job provides individuals with personal services promoting their welfare or education, or similar personal services, and those services can most effectively be provided by a man, or

(g) the job needs to be done by a man because it is likely to involve the performance of duties outside the Falkland Islands in a country whose laws or customs are such that the duties could not, or could not effectively, be performed by a woman, or

(h) the job is one of two to be held by a married couple.

(3) Subsection (2) applies where some only of the duties of the job fall within paragraphs (a) to (g) as well as where all of them do.

(4) Paragraph (a), (b), (d), (e), (f) or (g) of subsection (2) does not apply in relation to the filling of a vacancy at a time when the employer already has male employees —

(a) who are capable of carrying out the duties falling within that paragraph, and

(b) it would be reasonable to employ on those duties, and

(c) whose numbers are sufficient to meet the employer's likely requirements in respect of those duties without undue inconvenience.

Equal Employment Rights Ordinance 1998

9.—(1) Section 2(1) of the Equal Employment Rights Ordinance 1998 does not apply in determining for the purposes of section 7(1)(b) of this Ordinance the terms on which employment is offered.

(2) Where a person offers a woman employment on certain terms, and if she accepted the offer then, by virtue of an equality clause, any of those terms would fall to be modified, or any additional term would fall to be included, the offer shall be taken to contravene section 7(1)(b).

(3) Where a person offers a woman employment on certain terms, and subsection (2) would apply but for the fact that, on her acceptance of the offer, section 2(3) of the Equal Employment Rights Ordinance 1998 would prevent the equality clause from operating, the offer shall be taken not to contravene section 7(1)(b) of this Ordinance.

(4) An act does not contravene section 7(2) if —

(a) it contravenes a term modified or included by virtue of an equality clause, or

(b) it would contravene such a term but for the fact that the equality clause is prevented from operating by section 2(3) of the Equal Employment Rights Ordinance 1998.

Discrimination against contract workers

10.—(1) This section applies to any worker for a person ("the principal") which is available for doing by individuals ("contract workers") who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.

(2) It is unlawful for the principal, in relation to work to which this section applies, to discriminate against a woman who is a contract worker —

(a) in the terms on which he allows her to do that work, or

(b) by not allowing her to do it or continue to do it, or

(c) in the way he affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

(d) by subjecting her to any detriment.

(3) The principal does not contravene subsection (2)(b) by doing any act in relation to a woman at a time when if the work were to be done by a person taken into his employment being a man would be a genuine occupational qualification for the job.

(4) Subsection (2)(c) does not apply to benefits, facilities or services of any description if the principal is concerned with the provision (for payment or not) of benefits, facilities or services of that description to the public, or to a section of the public to which the woman belongs, unless that provision differs in a material respect from the provision of the benefits, facilities or services by the principal to his contract workers.

Discrimination by other bodies

Partnerships

11.—(1) It is unlawful for a firm, in relation to a position as partner in the firm, to discriminate against a woman —

(a) in the arrangements they make for the purpose of determining who should be offered that position, or

(b) in the terms on which they offer her that position, or

(c) by refusing or deliberately omitting to offer her that position, or

(d) in a case where the woman already holds that position —

(i) in the way they afford her access to any benefits, facilities or services, or by refusing or deliberately omitting to offer her access to them, or

(ii) by expelling her from that position, or subjecting her to any other detriment.

(2) Subsection (1) applies in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.

(3) Subsection (1)(a) and (c) do not apply to a position as partner where, if it were employment, being a man would be a genuine occupational qualification for the job.

(4) In the case of a limited partnership references in subsection (1) to a partner shall be construed as references to a general partner as defined in section 3 of the Limited Partnerships Act 1907 in its application to the Falkland Islands.

Trade unions etc

12.—(1) This section applies to an organisation of workers, an organisation of employers, or any other organisation whose members carry on a particular profession or trade for the purposes of which the organisation exists.

(2) It is unlawful for an organisation to which this section applies, in the case of a woman who is not a member of the organisation, to discriminate against her —

(a) in the terms on which it is prepared to admit her to membership, or

(b) by refusing, or deliberately omitting to accept, her application for membership.

(3) It is unlawful for an organisation to which this section applies, in the case of a woman who is a member of the organisation, to discriminate against her —

(a) in the way it affords her access to any benefits, facilities or services or by refusing or deliberately omitting to afford her access to them, or

(b) by depriving her of membership, or varying the terms on which she is a member, or

(c) by subjecting her to any other detriment.

Qualifying bodies

13.—(1) It is unlawful for an authority or body which can confer an authorisation or qualification which is needed for, or facilitates, engagement in a particular profession or trade to discriminate against a woman —

(a) in the terms on which it is prepared to confer on her that authorisation or qualification, or

(b) by refusing or deliberately omitting to grant her application for it, or

(c) by withdrawing it from her or varying the terms on which she holds it.

(2) Where an authority or body is required by law to satisfy itself as to his good character before conferring on a person an authorisation or qualification which is needed for, or facilitates, his engagement in any profession or trade then, without prejudice to any other duty to which it is subject, that requirement shall be taken to impose on the authority or body a duty to have regard to any evidence tending to show that he, or any of his employees, or agents (whether past or present), has practised unlawful discrimination in, or in connection with, the carrying on of any profession or trade.

(3) In this section —

(a) “authorisation or qualification” includes recognition, registration, enrolment, approval and certification,

(b) “confer” includes renew or extend.

Persons concerned with provision of vocational training

14.—(1) It is unlawful, in the case of a woman seeking or undergoing training which would help fit her for any employment, for any person who provides, or makes arrangements for the provision of, facilities for such training to discriminate against her—

(a) in the terms on which that person affords her access to any training course or other facilities concerned with such training, or

(b) by refusing or deliberately omitting to afford her such access, or

(c) by terminating her training, or

(d) by subjecting her to any detriment during the course of her training.

(2) Subsection (1) does not apply to —

(a) discrimination which is rendered unlawful by section 7(1) or (2), or

(b) discrimination which would be rendered unlawful by either of those provisions but for the operation of any other provision of this Ordinance.

Employment agencies

15.—(1) It is unlawful for an employment agency to discriminate against a woman —

(a) in the terms on which the agency offers to provide any of its services, or

(b) by refusing or deliberately omitting to provide any of its services, or

(c) in the way it provides any of its services.

(2) References in subsection (1) to the service of an employment agency include guidance on careers and any other services related to employment.

(3) This section does not apply if the discrimination only concerns employment which the employer could lawfully refuse to offer to the woman.

(4) An employment agency is not subject to any liability under this section if it proves that —

(a) it acted in reliance on a statement made to it by the employer to the effect that, by reason of the operation of subsection (3), its action would not be unlawful, and

(b) it was reasonable for it to rely on the statement.

(5) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (4)(a) which is in a material respect false or misleading.

Special cases

Police

16.—(1) Regulations made under the Police Ordinance 1966 shall not treat men and women differently except —

(a) as to requirements relating to height, uniform or equipment;

(b) so far as special treatment is accorded to women in connection with pregnancy or child birth, or

(c) in relation to reserve members of the police force or police cadets.

(2) Nothing in this Part renders unlawful any discrimination between male and female police officers as to matters such as a mentioned in subsection (1)(b).

Prison officers

17. Nothing in this Part renders unlawful any discrimination between male and female prison officers as to requirements relating to height.

Ministers of religion etc

18.—(1) Nothing in this Part applies to employment for purposes of an organised religion where the employment is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

(2) Nothing in section 13 applies to an authorisation or qualification (as defined in that section) for purposes of an organised religion where the authorisation or qualification is limited to one sex so as to comply with the doctrines of the religion or avoid offending the religious susceptibilities of a significant number of its followers.

PART IV DISCRIMINATION IN OTHER FIELDS *Education*

Discrimination in respect of education

19.—(1) Without prejudice to section 14 of the Education Ordinance 1989 (which requires the Director of Education, the Board of Education and every committee of the Board to ensure that efficient education (so far as his or its power under the Education Ordinance 1989 or otherwise extend and so far as monies lawfully available to him or it and other resources permit) to ensure that efficient education is available to every person in the Falkland Islands irrespective of gender) this subsection has effect to render it unlawful in relation to any Government school independent school or further education institution in the Falkland Islands (that is to say an institution at which full-time or part-time education for persons over compulsory education age is provided) to discriminate against a woman —

(a) in the terms on which it offers to admit her as a pupil, or

(b) by refusing or deliberately omitting to except an application for her admission as a pupil, or

(c) where she is a pupil at the establishment —

(i) in the way it affords her access to any benefits, facilities or services, or by refusing or deliberately omitting to afford her access to them, or

(ii) by excluding her or subjecting her to any other detriment.

(2) In relation to a Government School or a further education institution belonging to the Government it is the Crown which is responsible for compliance with subsection

(1) and in the case of an independent school or further education institution it is the proprietor of that school which is responsible.

(3) Subsection (1) does not apply to any course in physical education.

(4) In this section "Government School" and "independent school" have the same meanings as they have for the purposes of the Education Ordinance 1989 by virtue of section 2 of that Ordinance.

Goods, facilities, services and premises

Discrimination in provision of goods, facilities or services

20.—(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services by —

(a) refusing or deliberately omitting to provide her with any of them, or

(b) refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

(2) The following are examples of the facilities and services mentioned in subsection (1) —

(a) access to and use of any place which members of the public or a section of the public are permitted to enter;

(b) accommodation in a hotel, boarding house or other similar establishment;

(c) facilities by way of banking or insurance or for grants, loans, credit or finance;

(d) facilities for education;

(e) facilities for entertaining, recreation or refreshment;

(f) facilities for transport or travel;

(g) the services of any profession or trade, or of any public authority.

(3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene subsection (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

Discrimination in disposal or management of premises

21.—(1) It is unlawful for a person, in relation to premises in the Falkland Islands of which he has power to dispose, to discriminate against a woman —

(a) in the terms on which he offers her those premises, or

(b) by refusing her application for those premises, or

(c) in his treatment of her in relation to any list of persons in need of premises of that description.

(2) It is unlawful for a person, in relation to premises managed by him, to discriminate against a woman occupying the premises —

(a) in the way he affords her access to any benefits or facilities, or by refusing or deliberately omitting to afford her access to them, or

(b) by evicting her, or subjecting her to any other detriment.

(3) Subsection (1) does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purposes of the disposal of the premises, or publishes or causes to be published an advertisement in connection with the disposal.

Discrimination: consent for assignment or sub-letting

22.—(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises in the Falkland Islands comprised in a tenancy, it is unlawful for the landlord or other person to discriminate against a woman by withholding the licence or consent for disposal of the premises to her.

(2) Subsection (1) does not apply if —

(a) the person withholding a licence or consent or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises as defined in section 23(2).

(3) In this section “tenancy” means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and “disposal”, in relation to premises comprised in a tenancy, includes assignment of the tenancy and sub-letting or parting with possession of the premises or any part of the premises.

(4) This section applies to tenancies created before the passing of this Ordinance, as well as to others.

Exception for small dwellings

23.—(1) Sections 20(1) and 21 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if —

(a) that person or a near relative of his (“the relevant occupier”) resides, and intends to continue to reside, on the premises, and

(b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and

(c) the premises are small premises.

(2) Premises are to be treated for the purposes of subsection (1) as small premises if —

(a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;

(b) in the case of premises not falling within paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

Exception for voluntary bodies

24.—(1) This section applies to a body —

(a) the activities of which are carried on otherwise than for profit, and

(b) which was not set up by any enactment.

(2) Sections 20(1) and 21 are not to be construed as rendering unlawful —

(a) the restriction of membership of any such body to persons of one sex (disregarding any minor exceptions); or

(b) the provision of benefits, facilities or services to members of any such body where the membership is so restricted,

even though membership of the body is open to the public, or to a section of the public.

(3) Nothing in section 20 or 21 —

(a) is to be construed as affecting a provision to which this subsection applies, or

(b) renders unlawful an act which is done in order to give effect to such a provision.

(4) Subsection (3) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which constitutes the main object of a body within subsection (1).

Further exceptions from sections 20(1) and 21

25.—(1) A person who provides at any place facilities or services restricted to men does not for that reason contravene section 20(1) if —

(a) the place is, or is part of, a hospital or other establishment for persons requiring special care, supervision or attention, or

(b) the places (permanently or for the time being) occupied or used for the purposes of an organised religion, and the facilities or service are restricted to men so as to comply with the doctrines of that religion or avoid offending the religious susceptibilities of a significant number of its followers, or

(c) the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and

(i) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman, or

(ii) the facilities or service are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.

(2) A person who provides facilities or services restricted to men does not for that reason contravene section 20(1) if the services or facilities are such that physical contact between the user and any other person is likely, and that other person might reasonably object if the user were a woman.

(3) Sections 20(1) and 21 do not apply —

(a) to discrimination which is rendered unlawful by any provision in column 1 of the Table below, or

(b) to discrimination which would be so unlawful but for any provision in column 2 of that Table, or

(c) to discrimination which contravenes a term modified or included by virtue of an equality clause.

TABLE

*Provision creating illegality**Exception*

Part III

sections 8(1)(b), 15(3) and 18

*Extent***Extent of Part IV****26.—(1) Section 20(1) —**

(a) does not apply to goods, facilities or services outside the Falkland Islands except as provided in subsection (2) and (3), and

(b) does not apply to facilities by way of banking or insurance or for grants, loans, credit or finance, where the facilities are for a purpose to be carried out, or in connection with risks wholly or mainly arising, outside the Falkland Islands.

(2) Section 20(1) applies to the provision of facilities for travel outside the Falkland Islands where the refusal or omission occurs in the Falkland Islands or on a ship or aircraft within subsection (3) of this section.

(3) Section 20(1) applies on and in relation to —

(a) any ship registered at a port of registry in the Falkland Islands, and

(b) any aircraft registered in the Falkland Islands and operated by a person who has his principal place of business, or is ordinary resident in, in the Falkland Islands,

(c) any ship belonging to or possessed by Her Majesty in right of the Government of the Falkland Islands,

even if the ship or aircraft is outside the Falkland Islands.

(4) This section shall not render unlawful an act done in or over a country outside the Falkland Islands, or in or over that country's territorial sea, for the purpose of complying with the laws of that country.

PART V

OTHER UNLAWFUL ACTS

Discriminatory practices

27.—(1) In this section “discriminatory practice” means the application of a requirement or condition which results in an act of discrimination which is unlawful by virtue of any provision of Part III or IV taken with section 3(1)(b) or 5(1)(b) or which would be likely to result in such an act of discrimination if the persons to whom it is applied were not all of one sex.

(2) A person acts in contravention of this section if and so long as —

(a) he applies a discriminatory practice, or

(b) he operates practices or other arrangements which in any circumstances would call for the application by him of a discriminatory practice.

(3) Proceedings in respect of a contravention of this section shall be brought only by the Attorney General or a person acting in accordance with the written authority of the Attorney General.

Discriminatory advertisements

28.—(1) It is unlawful to publish or cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do any act which is or might be unlawful by virtue of Part III or IV.

(2) Subsection (1) does not apply to an advertisement if the intended act would not in fact be unlawful.

(3) For the purposes of subsection (1), use of a job description with a sexual connotation (such as “waiter”, “salesgirl”, “postman” or “stewardess”) shall be taken to indicate an intention to discriminate, unless the advertisement contains an indication to the contrary.

(4) The publisher of an advertisement made unlawful by subsection (1) shall not be subject to any liability under that subsection in respect of the publication of the advertisement if he proves —

(a) that the advertisement was published in reliance upon a statement made to him by the person who caused it to be published to the effect that, by reason of the operation of subsection (2), the publication would not be unlawful, and

(b) that it was reasonable for him to rely on the statement.

(5) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (4) which in a material respect is false or misleading.

Instructions to discriminate

29. It is unlawful for a person —

(a) who has authority over another person, or

(b) in accordance with whose wishes that other person is accustomed to act,

to instruct him to do any act which is unlawful by virtue of Part III or IV, or procure or attempt to procure the doing by him of any such act.

Pressure to discriminate

30.—(1) It is unlawful to induce, or attempt to induce, a person to do any act which contravenes Part III or IV by —

(a) providing or offering to provide him with any benefit, or

(b) subjecting or threatening to subject him to any detriment.

(2) An offer or threat is not prevented from falling within subsection (1) because it is not made directly to the person in question, if it is made in such a way that he is likely to hear of it.

Liability of employers and principals

31.—(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Ordinance as done by his employer as well as by him, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Ordinance as done by that other person as well as by him.

(3) In proceedings brought under this Ordinance against any person in respect of an act alleged to have been done by an employee of his it is a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description.

Aiding unlawful acts

32.—(1) A person who knowingly aids another person to do an act made unlawful by this Ordinance shall be treated for the purpose of this Ordinance as himself doing an unlawful act of the like description.

(2) For the purposes of subsection (1) an employee or agent for whose act the employer or principal is liable under section 31 (or would be so liable but for section 31(3)) is to be deemed to aid the doing of the act by the employer or principal.

(3) A person does not under this section knowingly aid another to do an unlawful act if —

(a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Ordinance, the act which he aids would not be unlawful, and

(b) it is reasonable for him to rely on the statement.

(4) A person commits an offence in respect of which he is on conviction liable to a fine not exceeding the maximum of level five on the standard scale if he knowingly or recklessly makes a statement such as is referred to in subsection (3)(a) which is false or misleading in a material respect.

PART VI
GENERAL EXCEPTIONS FROM PARTS III TO V

Charities

33.—(1) Nothing in Parts III to V —

(a) is to be construed as affecting a provision to which this subsection applies,

(b) is to render unlawful an act which is done in order to give effect to such a provision.

(2) Subsection (1) applies to a provision for conferring benefits on persons of one sex only (disregarding any benefits to persons of the opposite sex which are exceptional or are relatively insignificant), being a provision which is contained in a charitable instrument.

(3) In this section “charitable instrument” means an enactment or other instrument so far as it relates to charitable purposes and in this subsection “charitable purposes” means purposes which are exclusively charitable according to the law of the Falkland Islands.

Sport etc

34. Nothing in Parts III to IV shall, in relation to any sport, game or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man, render unlawful any act related to the participation of a person as a competitor in events involving that activity which are confined to competitors of one sex.

Insurance etc

35. Nothing in Parts III to IV shall render unlawful the treatment of a person in relation to an annuity, life assurance policy, accident insurance policy, or similar matter involving the assessment of risk, where the treatment —

(a) was effected by reference to actuarial or other data from a source on which it was reasonable to rely, and

(b) was reasonable having regard to the data and any other relevant factors.

Communal accommodation

36.—(1) In this section “communal accommodation” means residential accommodation which includes dormitories or other shared sleeping accommodation which for reasons of privacy or decency should be used by men only, or by women only (but which may include some shared sleeping accommodation for men, and some for women, or some ordinary sleeping accommodation).

(2) In this section “communal accommodation” also includes residential accommodation all or part of which should be used by men only, or by women only, because of the nature of the sanitary facilities serving the accommodation.

(3) Nothing in Part III or IV renders unlawful sex discrimination in the admission of persons to communal accommodation if the accommodation is managed in a way which, given the exigencies of the situation, comes as near as may be to fair and equitable treatment of men and women.

(4) In applying subsection (3) account shall be taken of —

(a) whether and how far it is reasonable to expect that the accommodation should be altered or extended, or that further alternative accommodation should be provided; and

(b) the frequency of the demand or need for use of the accommodation by men as compared with women.

(5) Nothing in Part III or IV renders unlawful sex discrimination against a woman, or against a man, as respects the provision of any benefit, facility or service if —

(a) the benefit, facility or service cannot properly and effectively be provided except for those using communal accommodation, and

(b) in the relevant circumstances the woman or, as the case may be, the man could lawfully be refused the use of the accommodation by virtue of subsection (3).

(6) Neither subsection (3) nor subsection (5) is a defence to an act of sex discrimination under Part III unless such arrangements as are reasonably practicable are made to compensate for the detriment caused by the discrimination; but in considering under subsection (5)(b) whether the use of a communal accommodation could lawfully be refused (in a case based on Part III), it is to be assumed that the requirements of this subsection have been complied with as respects subsection (3).

(7) This section is without prejudice to the generality of section 25(1)(c).

Discriminatory training etc

37.—(1) Nothing in Parts III to IV renders unlawful any act done by an employer in relation to particular work in his employment, being an act done in, or in connection with —

(a) affording his female employees only, or his male employees only, access to facilities for training which would help to fit them for that work, or

(b) encouraging women only, or men only, to take advantage of opportunities for doing that work,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those doing that work or the number of persons of that sex doing the work was comparatively small.

(2) Nothing in section 12 renders unlawful any act done by an organisation to which that section applies in, or in connection with —

(a) affording female members of the organisation only, or male members of the organisation only, access to facilities for training which would help to fit them for holding a post of any kind in the organisation, or

(b) encouraging female members only, or male members only, to take advantage of opportunities for holding such posts in the organisation,

where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among persons holding such posts in the organisation or the number of persons of that sex holding such posts was comparatively small.

(3) Nothing in Parts III to IV renders unlawful any act done by an organisation to which section 12 applies in, or in connection with, encouraging women only, or men only, to become members of the organisation where at any time within the twelve months immediately preceding the doing of the act there were no persons of the sex in question among those members of the number of persons of that sex among the members was comparatively small.

Trade union etc: elective bodies

38.—(1) If an organisation to which section 12 applies a body the membership of which is wholly or mainly elected, nothing in that section renders unlawful provision which ensures that a minimum number of persons of one sex are members of the body—

(a) by reserving seats on the body for persons of that sex, or

(b) by making extra seats on the body available (by election or co-option or otherwise) for persons of that sex on occasions when the number of persons of that sex in the other seats is below the minimum,

where in the opinion of the organisation the provision is in the circumstances needed to secure a reasonable lower limit to the number of members of that sex serving on the body; and nothing in Parts III to V renders unlawful any act done in order to give effect to such a provision.

(2) This section shall not be taken as making lawful —

(a) discrimination in the arrangements for determining the persons entitled to vote in an election of members of the body, or otherwise to choose the persons to serve on the body, or

(b) discrimination in any arrangements concerning membership of the organisation itself.

Indirect access to benefits etc

39.—(1) References in this Ordinance to the affording by any person of access to benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to

facilitate access to benefits, facilities or services provided by any other person (the “actual provider”).

(2) Whereby any provision of this Ordinance the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances prevented from being unlawful, the effect of the provision shall extend also to the liability under this Ordinance of any actual provider.

Acts done for the protection of women

40.—(1) Nothing in —

(a) Part III,

(b) Part IV so far as it applies to vocational training, or

(c) Part V so far as it has effect in relation to the provisions mentioned in paragraphs (a) and (b),

renders unlawful any act done by a person in relation to a woman if —

(i) it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision concerning the protection of women, or

(ii) it was necessary for that person to do it in order to comply with a requirement of a relevant statutory provision (within the meaning of Part I of the Health and Safety at Work Etc Act 1974 in its application under the law of the Falkland Islands) and it was done by that person for the purpose of the protection of the woman in question (or of any class of women that included that woman).

(2) In subsection (1) —

(a) the reference in paragraph (i) of that subsection to an existing statutory provision concerning the protection of women is a reference to any such provision having effect for the purpose of protecting women as regards —

(i) pregnancy or maternity, or

(ii) other circumstances giving rise to risks specifically affecting women,

whether the provision relates only to such protection or to the protection of any other class of persons as well; and

(b) the reference in paragraph (ii) of that subsection to the protection of a particular woman or class of women is a reference to the protection of that woman or those women as regards any circumstances falling within paragraph (a)(i) or (ii) of this subsection.

(3) In this section “existing statutory provision” means (subject to subsection (4)) any provision of —

(a) any Ordinance or imperial enactment passed before this Ordinance, or

(b) an instrument approved or made by or under any such imperial enactment or Ordinance (including one approved or made after the passing of this Ordinance).

(4) Where an imperial enactment or Ordinance passed after this Ordinance re-enacts (with or without modification) a provision of an imperial enactment or Ordinance passed before this Ordinance, that provision as re-enacted shall be treated for the purposes of subsection (3) as if it continued to be contained in an imperial enactment or Ordinance passed before this Ordinance.

Acts done under statutory authority to be exempt from certain provisions of Part IV

41.—(1) Nothing in —

(a) the relevant provisions of Part IV, or

(b) Part V so far as it has effect in relation to those provisions,

renders unlawful any act done by a person if it was necessary for that person to do it in order to comply with a requirement of an existing statutory provision within the meaning of section 40.

(2) In subsection (1) “the relevant provisions of Part IV” means the provisions of that Part except so far as they apply to vocational training.

Acts safeguarding national security

42. Nothing in Parts III to V renders unlawful an act done for the purpose of safeguarding national security.

Construction of references to vocational training

43. In sections 40 and 41 “vocational training” includes advanced vocational training and re-training; and any reference to vocational training in those provisions is to be construed as including a reference to vocational guidance.

PART VII ENFORCEMENT *General*

Restriction of proceedings for breach of Ordinance

44.—(1) Except as provided by this Ordinance no proceedings, whether civil or criminal, lie against any person in respect of an act by reason that the act is unlawful by virtue of a provision of this Ordinance.

(2) Subsection (1) does not preclude the making of an order of certiorari, mandamus or prohibition.

Enforcement in employment field

Jurisdiction of Summary Court

45.—(1) A complaint by any person ("the complainant") that another person ("the respondent") —

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part III, or

(b) is by virtue of section 31 or 32 to be treated as having committed such an act of discrimination against the complainant,

may be presented to the Summary Court.

(2) Subsection (1) does not apply to a complaint under section 13(1) of an act in respect of which an appeal, or proceedings in the nature of an appeal, may be brought under any enactment.

Remedies on complaint under section 45

46.—(1) Where the Summary Court finds that a complaint presented to it under section 45 is well-founded the court shall make such of the following as it considers just and equitable —

(a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates;

(b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered by the Magistrate's Court to pay to the complainant if the complaint had fallen to be dealt with under section 47;

(c) a recommendation that the respondent take within a specified period action appearing to the Summary Court to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates.

(2) The amount of compensation awarded to a person under subsection (1)(b) shall not exceed the limit for the time being imposed by section 73 of the Employment Protection Ordinance 1989.

(3) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by the Summary Court under subsection (1)(c), then, if it thinks it just and equitable to do so —

(a) the court may, without regard to the limit in subsection (2) increase the amount of compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b) to such amount as the court thinks just and reasonable to compensate the complainant, or

(b) if an order under subsection (1)(b) could have been made but was not, the court may make such an order providing for compensation to be paid to the complainant of such an amount, without regard to subsection (2), as the court thinks just and equitable to compensate the complainant.

Enforcement of Part IV

Claims under Part IV

47.—(1) A claim by any person (“the claimant”) that another person (“the respondent”) —

(a) has committed an act of discrimination against the complainant which is unlawful by virtue of Part IV, or

(b) is by virtue of section 31 or 32 to be treated as having committed such an act of discrimination against the complainant,

may be made the subject of civil proceedings in like manner as any other claim in tort.

(2) Proceedings under subsection (1) shall be brought only in the Magistrate’s Court but all such remedies shall be obtainable in such proceedings as, apart from this subsection and section 44(1), would be obtainable in the Supreme Court.

(3) As respects an unlawful act of discrimination falling within section 3(1)(b) or, where this section is applied by section 46(1)(b), section 5(1)((b)) no award of damages is to be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the complainant unfavourably on the ground of his sex or marital status as the case may be.

(4) For the avoidance of doubt it is hereby declared that damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head.

(5) For the purposes of proceedings under subsection (1) section 63(1)(assessors) of the County Courts Act 1984 (which subject to the provisions of the Administration of Justice Ordinance applies in relation to civil procedure in the Magistrate’s Court) shall apply with the omission of the words “on the application of any party”.

Other enforcement

Persistent discrimination

48.—(1) If, during the period of five years beginning with the date of finding by the Summary Court or the Magistrate’s Court under section 45 or 47 of this Ordinance or section 3 of the Equal Employment Rights Ordinance 1998 that the person to whom the finding relates has done an unlawful discriminatory act or an act in breach of a term modified or included by virtue of an equality clause, it appears to the Attorney General that unless that person is restrained he is likely to do one or more acts which would contravene any of those provision or contravene section 27 of this Ordinance, the Attorney General may apply to the Magistrate’s Court for an injunction restraining him from doing so; and the court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or in more limited terms.

(2) In proceedings under this section the Attorney General shall not allege that the person to whom the proceedings relate has done an act which is within the jurisdiction of the Summary Court unless a finding by the Summary Court that the person did that act has become final.

Enforcement of sections 28 to 30

49.—(1) Proceedings in respect of a contravention of section 28, 29 or 30 shall be brought only by the Attorney General in accordance with the following provisions of this section.

(2) The proceedings shall be —

- (a) an application for a decision whether the alleged contravention occurred, or
- (b) an application under subsection (4) of this section.

or both.

(3) An application under subsection (2)(a) shall be made —

- (a) in a case based on any provision of Part III, to the Summary Court, and
- (b) in any other case to the Magistrate's Court.

(4) If it appears to the Attorney General —

- (a) that a person has done an act which by virtue of section 28, 29 or 30 was unlawful, and
- (b) that unless restrained he is likely to do further acts which by virtue of that section are unlawful,

the Attorney General may apply to the Magistrate's Court for an injunction restraining him from doing such acts; and the Court, if satisfied that the application is well-founded, may grant the injunction in the terms applied for or more limited terms.

(5) In proceedings under subsection (4) the Attorney General shall not allege that the person to whom the proceedings relate has done an act which is unlawful under this Ordinance and within the jurisdiction of the Summary Court unless a finding by the Summary Court that he did that act has become final.

Preliminary action in employment cases

50.—(1) With a view to making an application under section 48(1) or 49(4) in relation to a person the Attorney General may present to the Summary Court a complaint that that person has done an act within the jurisdiction of the Summary Court, and if the Summary Court considers that the complaint is well-founded it shall make a finding to that effect and, if it thinks it just and equitable to do so in the case of an act contravening any provision of Part III may also (as if the complaint had been presented

by the person discriminated against) make an order such as is referred to in section 46(1)(a), or a recommendation such as is referred to in section 46(1)(c), or both.

(2) Subsection (1) is without prejudice due to the jurisdiction conferred by section 49(2).

(3) Any finding of the Summary Court under —

(a) this Ordinance, or

(b) the Equal Employment Rights Ordinance 1998,

in respect of any act shall, if it has become final, be treated as conclusive —

(i) by the Magistrate's Court on an application under section 48(1) or 49(4) or in proceedings on an equality clause,

(ii) by the Summary Court on a complaint made by the person affected by the act under section 45 or in relation to an equality clause.

(4) In sections 48 and 49 and this section, the acts "within the jurisdiction of the Summary Court" are those in respect of which such jurisdiction is conferred by sections 45 and 49 and by section 4 of the Equal Employment Rights Ordinance 1998.

Help for person suffering discrimination

Help for aggrieved persons in obtaining information etc

51.—(1) With a view to helping a person ("the person aggrieved") who considers he may have been discriminated against in contravention of this Ordinance to decide whether to institute proceedings and, if he does so, to formulate and present his case in the most effective manner, the Governor may by Order prescribe —

(a) forms by which the person aggrieved may question the respondent on his reasons for doing any relevant act, or on any other matter which is or may be relevant;

(b) forms by which the respondent may if he so wishes reply to any questions.

(2) Where the person aggrieved questions the respondent (whether in accordance with an Order under subsection (1) or not) —

(a) the question, and any reply by the respondent (whether in accordance with such an Order or not) shall, subject to the following provisions of this section, be admissible as evidence in the proceedings;

(b) if it appears to the court that the respondent deliberately, and without reasonable excuse omitted to reply within a reasonable period or that his reply is evasive or equivocal, the court may draw any inference from that fact that it considers it just and equitable to draw, including an inference that he committed an unlawful act.

(3) The Governor may by Order —

(a) prescribe the period within which questions must be duly served in order to be admissible under subsection (2)(a), and

(b) prescribe the manner in which such a question, and any reply by the respondent, may be duly served.

(4) Those provisions of the County Court Rules which enable a County Court entertaining a claim in England under section 66 of the Sex Discrimination Act 1975 to determine, before the date fixed for the hearing of the claim, whether a question or reply is admissible under section 74 of the Sex Discrimination Act 1975 shall have effect, with such modifications as are necessary, to enable the Magistrate's Court to determine before the date fixed for the hearing of a claim under section 47 of this Ordinance whether a question or reply is admissible under this section or not.

(5) This section is without prejudice to any other enactment or rule of law regulating interlocutory and preliminary matters in proceedings before the Magistrate's Court or the Summary Court, and has effect subject to any enactment or rule of law regulating the admissibility of evidence in such proceedings.

(6) In this section "respondent" includes a prospective respondent.

Period within which proceedings to be brought

Period within which proceedings to be brought

52.—(1) The Summary Court shall not consider a complaint under section 45 unless it is presented to the Summary Court before the end of the period of three months beginning when the act complained of was done.

(2) The Magistrate's Court shall not consider a claim under section 47 unless proceedings in respect of the claim are instituted before the end of —

(a) the period of six months beginning when the act complained of was done; or

(b) in a case to which section 47(5) applies, the period of eight months so beginning.

(3) The Summary Court or Magistrate's Court shall not consider an application under section 49(2)(a) unless it is made before the end of the period of six months beginning when the act to which it relates was done; and the Magistrate's Court shall not consider an application under section 49(4) unless it is made before the end of the period of five years so beginning.

(4) The Summary Court shall not consider a complaint under section 50(1) unless it is presented to the Summary Court before the end of the period of six months beginning when the act complained of was done.

(5) A court may nevertheless consider any such complaint, claim or application which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

(6) For the purposes of this section —

(a) where the inclusion of any term in a contract renders the making of the contract an unlawful act that act shall be treated as extending throughout the duration of the contract, and

(b) any act extending over a period shall be treated as done at the end of that period, and

(c) a deliberate omission shall be treated as done when the person in question decided upon it,

and in the absence of the evidence establishing the contrary a person shall be taken for the purposes of this section to decide upon an omission when he does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it was to be done.

PART VIII SUPPLEMENTAL

Validity and revision of contracts

53.—(1) A term of a contract is void where —

(a) its inclusion renders the making of the contract unlawful by virtue of this Ordinance, or

(b) it is included in furtherance of an act rendered unlawful by this Ordinance, or

(c) it provides for the doing of an act which would be rendered unlawful by this Ordinance.

(2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, unlawful discrimination against a party to the contract, but the term shall be unenforceable against that party.

(3) A term in a contract which purports to exclude or limit any provision of this Ordinance or the Equal Employment Rights Ordinance 1998 is unenforceable by any person in whose favour the term would operate apart from this subsection.

(4) Subsection (3) does not apply to a contract settling a claim to which section 47 applies.

(5) On the application of any person interested in a contract to which subsection (2) applies, the Magistrate's Court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order shall not

be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.

(6) An order under subsection (5) may include provision as respects any period before the making of the order.

Application to Crown

54.—(1) This Ordinance applies —

(a) to an act done by or for the purposes of Her Majesty's Government in right of the Falkland Islands, or

(b) to an act done on behalf of such Government by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Parts III and V apply to —

(a) services for the purposes of Her Majesty's Government in right of the Falkland Islands, other than service of a person holding a statutory office, or

(b) service on behalf of Her Majesty's Government in right of the Falkland Islands for purposes of a person holding a statutory office or purposes of a statutory body,

as they apply to employment by a private person, and shall so apply as if references to a contract of employment included references to the terms of service.

(3) The provisions of Parts II to IV of the Crown Proceedings Act 1947 in its application to the Falkland Islands shall apply to proceedings against the Crown under this Ordinance as they apply to proceedings which by virtue of section 23 of that Act in such application are treated for the purposes of Part II of that Act as civil proceedings by or against the Crown.

(4) In this section "statutory body" means a body set up by or in pursuance of an enactment, and "statutory office" means an office so set up.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Taxes (Amendment) Ordinance 1998

(No. 26 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title, commencement and interpretation
2. Amendment to section 2(1) of the Taxes Ordinance 1997
3. Amendment to section 30 of the Taxes Ordinance 1997
4. Tax relief for donations to charities
5. Amendment to section 140 of the Taxes Ordinance 1997
6. Amendment to section 195(3) of the Taxes Ordinance 1997
7. Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

TAXES (AMENDMENT) ORDINANCE 1998

(No. 26 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: in accordance with section 1)
(published: 9 December 1998)

To amend the Taxes Ordinance 1997.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Taxes (Amendment) Ordinance 1998.

(2) Section 4 shall apply in relation to donations made on or after 1st January 1998 but, subject to that, this Ordinance shall come into force on publication in the *Gazette*.

(3) In this Ordinance “the 1997 Ordinance” means the Taxes Ordinance 1997^(a).

Amendment to section 2(1) of the Taxes Ordinance 1997

2.—(1) Section 2 of the Taxes Ordinance 1997 (which defines certain expressions used in the Ordinance) shall have effect, and shall be deemed always to have had effect, subject to the following amendments.

(2) In subsection (1) for paragraph (a) of the definition of “recognised stock exchange” there shall be substituted —

“(a) the London Stock Exchange, and”; and

^(a) No 14 of 1997

(3) At the end of the definition of “unquoted shares” there shall be inserted “and shares (not being so listed) in any company which is not admitted to the Alternative Investment Market of the London Stock Exchange”.

Amendment to section 30 of the Taxes Ordinance 1997

3.—(1) Section 30 of the 1997 Ordinance (which makes provision for the filing of accounts and submission of other information by companies) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) after “corporation tax year” there shall be inserted “shall deliver to the Commissioner”.

Tax relief for donations to charities

4.—(1) The following section shall be inserted in the 1997 Ordinance after section 57—

“Donations to charities

57A.—(1) Subject to the following provisions of this section, in computing a person’s chargeable income for any period there shall, on a claim being made in that behalf by that person, be deducted from his income the amount of any charitable donation which he has made in that period and which is not deductible under section 58(1) or 97(1).

(2) In this section—

(a) “a charitable donation” means a donation in money made to a registered charity;

(b) “a registered charity” means—

(i) any body which is registered as a charity under the Charities Act 1960(b) as it applies in the Falkland Islands; and

(ii) any body of persons or trust the name of which appears on the approved list of charities; and

(c) “the approved list of charities” means the list for the time being approved by the Governor in accordance with section 57B.

(3) A donation made to a body during the calendar year 1998 at a time when the body is not a registered charity shall not be deductible under this section unless the body becomes a registered charity before the end of that year.

(4) Subject to subsection (3), any donation made to a body after 31st December 1997 shall not be deductible under subsection (1) unless it is made at a time when the body is a registered charity.

(b) 8 & 9 Eliz.2 c.58 (1960)

(5) A donation of less than £50.00 shall not be deductible under subsection (1).

(6) A deduction under subsection (1) may only be made in computing a person's income after all other deductions and allowances (including loss relief) under this or any other Ordinance have been made, and a person's income shall not be reduced below zero by virtue of any such deduction.

(7) A person shall not be entitled under subsection (1) to deduct the amount of any charitable donation in computing his income for any period unless and until the Commissioner receives written evidence provided by the charity stating the total amount of the donations received in that period by that charity from that person.

Approved list of charities

57B.—(1) The approved list of charities referred to in section 57A(2)(b)(ii) is a list of eligible charities, prepared and approved in accordance with the following provisions of this section.

(2) The Attorney General shall prepare a list of eligible charities and submit the list to the Governor for his approval; and the list as so approved and any approved amendments to the list shall be published in the *Gazette*.

(3) In this section "eligible charity" means any body of persons or trust established for charitable purposes only which is not registered under the Charities Act 1960 (as it applies in the Falkland Islands) and is not required to be so registered.

(4) Any eligible charity may apply to be included in the list approved under subsection (1), and any person may apply for the name of any eligible charity to be included in the list.

(5) The provisions of this section shall not be read as imposing any obligation on the Attorney General to include the name of any charity on the list in the absence of any application in that respect.

(6) The burden of establishing that a body as respects which an application has been made for its name to be included in the approved list is an eligible charity shall be on the person making the application.

(7) The Attorney General may from time to time submit amendments to the approved list to the Governor for his approval, and any reference in this section or section 57A to the approved list of charities is a reference to that list as so amended."

Amendment to section 140 of the Taxes Ordinance 1997

5.—(1) Section 140 of the 1997 Ordinance (which contains definitions relevant to ring fence trades and other petroleum related activities) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In subsection (1) in paragraph (b) of the definition of "petroleum extraction activities", for "by a company" there shall be substituted "for a company".

Amendment to section 195(3) of the Taxes Ordinance 1997

6.—(1) In subsection (3) of section 195 of the Taxes Ordinance 1997 after “subsection” there shall be inserted “in relation to the year of assessment in which that person reaches the age of 61 years or any later year”.

(2) This section applies in relation to the charge to tax for the year of assessment beginning on 1st January 1999 and later years.

Amendment to paragraph 14 of Schedule 2 to the Taxes Ordinance 1997

7.—(1) Paragraph 14 of Schedule 2 to the 1997 Ordinance (which defines “reorganisation” for the purposes of that Schedule) shall have effect, and shall be deemed always to have had effect, subject to the following amendment.

(2) In sub-paragraph (2)(a) after “allotted shares in” there shall be inserted “or debentures”.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Animals (Scientific Procedures) Ordinance 1998

(No. 27 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Adoption of provisions of the Animals (Scientific Procedures) Act 1986

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

ANIMALS (SCIENTIFIC PROCEDURES) ORDINANCE 1998

(No. 27 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: upon publication)
(published: 9 December 1998)

To adopt as law of the Falkland Islands, subject to modifications and exceptions, the provisions of the Animals (Scientific Procedures) Act 1986.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title

1. This Ordinance may be cited as the Animals (Scientific Procedures) Ordinance 1998.

Adoption of provisions of the Animals (Scientific Procedures) Act 1986

2.—(1) The Animals (Scientific Procedures) Act 1986 ("the Act") is adopted as law of the Falkland Islands subject —

(a) to the exceptions specified in Part 1 of the Schedule to this Ordinance; and

(b) to the modifications specified in Part 2 of that Schedule.

(2) Nothing in Part XI of the Interpretation and General Clauses Ordinance 1977 shall have effect in respect of any provision of the Act.

SCHEDULE

(section 2(1))

Part 1

Provisions of the Act excepted from adoption

Sections 1(6),1(9),6,7,8, 10(5),10(6), 12(5),18,19,20,21, 25(2), 26(2) to (5),27,28,29 and 30(3) and Schedules 3 and 4.

Part 2

Modifications of the Act in its application to the Falkland Islands

1. The following general modifications have effect in relation to the Act, that is to say that throughout the Act—
 - (a) every reference to “the Secretary of State” is to be construed as if it were a reference to the Governor;
 - (b) the words “or certificate” are to be omitted wherever they occur;
 - (c) the word “summary”, wherever it appears immediately before the word “conviction”, is to be omitted;
 - (d) all words having reference only to Scotland are to be omitted; and
 - (e) the word “constable” is to be replaced by the words “police officer”
2. Section 5(2) is modified by the addition at the end of the subsection of the words “and may be granted to a public officer in his official capacity (and, if it is so granted, nothing in subsection (8) applies in respect of the licence)”.
3. Section 9 has effect as if it read —

“Before granting a licence under this Act, the Governor may consult such person, body of persons or committee as he thinks fit and may act in accordance with any advice he receives as a result of such consultation.”
4. Section 10(3) has effect as if the words appearing in paragraphs (a) and (b) were replaced with the words “no cat or dog or other protected animal shall be used”.
5. Section 22(1) has effect as if it read —

“Any person who contravenes section 3 commits an offence and is liable on conviction of that offence to imprisonment for a term not exceeding two years and to a fine not exceeding the maximum of level 7 on the standard scale.”

6. Section 24(2) has effect as if it read —

“A person convicted of an offence under this section is liable to imprisonment for a term not exceeding two years and to a fine not exceeding the maximum of level 7 on the standard scale.”

7. Section 26(1) has effect as if all words appearing after the words “shall be brought” were replaced by the words “except by or with the consent of the Attorney General”.

8. The heading appearing in Schedule 2 which indicates its subject-matter is to be replaced by the words “PROTECTED ANIMALS”.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Agricultural Incentives and Subsidies (Land Charges) Ordinance 1998

(No. 28 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Interpretation
3. Repayment of incentives
4. Repayment of subsidy
5. Amendment of Land Charges Ordinance 1996
6. Notice to be given to the Registrar General
7. Limit on obligations to repay

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

**AGRICULTURAL INCENTIVES AND SUBSIDIES (LAND CHARGES)
ORDINANCE 1998**

(No. 28 of 1998)

AN ORDINANCE

(assented to: 24 November 1998)
(commencement: upon publication)
(published: 9 December 1998)

To provide for the registration as a land charge of the liability of a landowner to repay any sum paid to him by way of subsidy under the Agricultural Incentives and Subsidies Programme 1998 and the circumstances in which and the extent to which he is liable to repay any subsidy or incentive paid to him under that Programme and for connected purposes.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title

1. This Ordinance may be cited as the Agricultural Incentives and Subsidies (Land Charges) Ordinance 1998.

Interpretation

2. In this Ordinance —

“the Programme” means the Agricultural Incentives and Subsidies Programme approved by the Governor on the advice of the Executive Council on 25th June 1998, as amended from time to time;

“incentive payment” means an incentive paid pursuant to the Programme;

“subsidy payment” means a subsidy paid pursuant to the Programme;

“owner” includes a lessee and successor in title of the owner other than by way of arm’s length sale;

“surplus” means such sum as the owner of that land is entitled to receive upon its sale after discharge of all sums payable in respect of any matter or thing registrable (other than by reason of section 6 of this Ordinance) as a charge under the Land Charges Ordinance 1996(a) or which would have been so registrable if it had been created or arisen after the commencement of that Ordinance.

Repayment of incentives

3.—(1) Any sum paid to the owner of any land by way of incentive payment shall be repayable to the Crown in the circumstances and to the extent provided by this section.

(2) No sum shall be repayable under this section unless a surplus is realised on the sale of the whole of the land within five years of the receipt by the owner of the incentive payment; or

(3) The amount, subject to subsection (4), repayable shall be the aggregate of the incentive payments received by the owner from the Crown in any of the previous five years abated in respect of each payment by twenty per cent a year from the date of its receipt. The amount repayable shall be payable at the time of the sale.

(4) Where part of the land and not the whole of the land in respect of which an incentive payment has been made is sold by the owner the owner's liability on that occasion to repay may be waived altogether or reduced by the Governor, but without extinguishing the owner's liability in the event of any further sale to make a payment or further payment under this section.

Repayment of subsidy

4.—(1) Any sum received by an owner by way of subsidy payment is repayable in accordance with the provisions of this section.

(2) An owner shall subject to subsection (4) repay at the time of the sale the whole of all sums received by him by way of subsidy payment under the Programme if —

(a) before 31st December 2010 he sells the whole or any part of the land in respect of which the subsidy payment was made;

(b) a surplus arises on the sale; and

(c) the surplus exceeds the sums he shows to the satisfaction of the Governor he has spent on improvements in excess of any incentive payments received by him under the Programme.

(3) In this section, “improvement” means any works carried out on the land certified by the Director of Agriculture to have increased the agricultural value of the land by a sum equivalent at least to their cost.

(4) Section 3(4) applies in respect of liability to make a repayment under this section as it does in relation to a payment under section 3.

Amendment of Land Charges Ordinance 1996

5. The Land Charges Ordinance 1996 is amended —

(a) in section 4 by the insertion of the following subsection immediately after subsection (3) —

“(3A) A Class III land charge is an obligation (not being a Tax Charge) to pay or repay any sum of money (whether to the Crown or to any other person) arising under any provision of any Ordinance where that, or any other provision of that Ordinance, provides that that obligation shall be registrable as a land charge under this Ordinance.” and

(b) in section 6(2), by inserting the words “or Class III” immediately after the words “Class II”.

Notice to be given to the Registrar General

6.—(1) Whenever an incentive payment or subsidy payment is made under the Scheme to the owner of any land the Director of Agriculture shall notify the Registrar General in writing specifying that such a payment has been made —

(a) the name of the person to whom the payment was made;

(b) the date of that payment;

(c) the land in respect of which that payment was made.

(2) On receipt of a notice under subsection (1) the Registrar General shall register a Class III land charge under section 3, of which the following shall be the particulars to be entered in the register —

(a) Name of owner (to be completed appropriately);

(b) Class III land charge

(c) Description of land affected (to be completed appropriately)

(d) Particulars: The above-named is liable in circumstances to repay sums under the Agricultural Incentives and Subsidies (Land Charges) Ordinance 1998, particulars of which may be obtained from the Director of Agriculture by any person showing sufficient reason to be supplied with that information.

Limit on obligations to repay

7. If a person's obligation to repay a sum under sections 3 or 4 would otherwise exceed in aggregate the amount of the surplus, his obligation is limited to the amount of the surplus.

Waiver of obligations to repay

8.—(1) The Governor may waive or reduce in whole or in part the obligation of an owner to make a payment under section 3 or 4 or both of this Ordinance, either unconditionally or subject to conditions to be performed or observed by the owner.

(2) The Governor's powers under subsection (1) may be exercised in respect of a particular case or a class or classes of cases.

(3) Sections 3 and 4 have effect subject to this section.

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

Falkland Islands Pensions Scheme (Amendment) Ordinance 1998

(No. 29 of 1998)

ARRANGEMENT OF PROVISIONS

Section

1. Short title, commencement and interpretation
2. Amendment of the 1997 Ordinance

Schedule

ELIZABETH II



Colony of the Falkland Islands

RICHARD PETER RALPH, C.M.G., C.V.O.,
Governor.

**FALKLAND ISLANDS PENSIONS SCHEME (AMENDMENT) ORDINANCE
1998**

(No. 29 of 1998)

AN ORDINANCE

<i>(assented to:</i>	<i>24 November 1998)</i>
<i>(commencement:</i>	<i>upon publication)</i>
<i>(published:</i>	<i>9 December 1998)</i>

To amend the Falkland Islands Pensions Scheme Ordinance 1997.

ENACTED by the Legislature of the Falkland Islands as follows —

Short title, commencement and interpretation

1.—(1) This Ordinance may be cited as the Falkland Islands Pensions Scheme (Amendment) Ordinance 1998.

(2) This Ordinance shall come into force on publication.

(3) In this Ordinance “the 1997 Ordinance” means the Falkland Islands Pensions Scheme Ordinance 1997(a).

Amendment of the 1997 Ordinance

2. The Schedule to this Ordinance which makes amendments to the 1997 Ordinance shall have effect.

THE SCHEDULE

1. The 1997 Ordinance shall have effect and shall be deemed always to have had effect subject to the following amendments.

2. In section 3(2) for "64th" in each place where it occurs, there shall be substituted "70th".

3. In section 13(4) for "receipt of the accounts" there shall be substituted "receipt of the audited accounts".

4. In section 17 —

(a) in subsection (3)(c) for "64th" there shall be substituted "70th", and

(b) in subsection (6)(a) for "No" there shall be substituted "No. 1".

5.—(1) Section 18 shall be amended as follows —

(2) In subsection (2)(a) for "subsection (4)" there shall be substituted "subsections (3) and (3A)".

(3) After subsection (3) there shall be inserted —

“(3A) Contributions shall also be paid by the Financial Secretary in respect of any person who —

(a) has retired from government service, and

(b) immediately before his retirement was within section 17(2)(a), and

(c) is in receipt of an annuity paid in accordance with arrangements made under section 29(1)(b), and

(d) is not gainfully employed,

during any period before he reaches normal retirement age.

(3B) Where contributions are payable under subsection (3A) in respect of any person —

(a) subsection (2)(b) above shall apply in relation to any such contribution as if that person were still employed in government service, and

(b) that person's relevant monthly earnings shall be equal to his relevant monthly earnings immediately before he retired from government service on the ground of ill-health or disablement.”

6. In section 23(1) at the beginning there shall be inserted "Subject to regulations".
7. In section 28(3)(c) and (4) for "64th" there shall be substituted "70th".
8. In section 29(1) —
 - (a) for "or, in the case of any other member, the member" there shall be substituted "or any member", and
 - (b) in paragraph (b) after "ill-health" there shall be inserted "or disablement".
9. In section 31(12)(c) for "regard" there shall be substituted "regarded".
10. In section 32 for subsection (1) there shall be substituted —

"(1) In any case where —

 - (a) a member of the Scheme dies before any benefit under section 28(1) has become payable to him, and
 - (b) section 33 does not apply, and
 - (c) arrangements for the payment of any benefits under section 29(1)(a) in the event of his death have not been made,

the Board shall hold and apply an amount equal to the accrued value of his account in accordance with section 30".
11. In section 33 in subsection (4) for "to paid" there shall be substituted "be paid" and after that subsection there shall be inserted —

"(5) In this section "additional voluntary contributions" in relation to any person's individual account includes any amount allocated to the account by reference to the additional voluntary contributions made to that account."
12. In section 34(2) after "would" there shall be inserted "be".
13. In section 36(5) for "determine" there shall be substituted "determines".
14. In section 39(1) at the end of paragraph (c) there shall be inserted —

"and

 - (d) require the Board to provide prescribed information to members and past members of the Scheme and to employers of members and past members at prescribed times and in the prescribed manner."
15. In section 40 for "statutory scale" there shall be substituted "standard scale".

16. In paragraph 3 of Schedule 3 for sub-paragraphs (2) and (3) there shall be substituted —

“(2) Any sum which is to be paid to the Board by the Financial Secretary in pursuance of this paragraph shall be calculated in accordance with the following formula —

$$TV = \frac{N}{M} [(ERP \times AV) + ERLS] \frac{(1+p)^z}{(1+i)}$$

where —

TV, transfer value, is the assumed capital cost at the assumed retirement age discounted to 31 December 1996 of retirement benefits for the employee in question under the existing legislation, rounded to the nearest £100;

N is the aggregate length of service of the employee in government service as at 31st December 1996, expressed as complete years and calendar days as a decimal;

M is the anticipated aggregate length of service of the employee in government service as at his assumed retirement age, assuming he continues in government service until that age, expressed as complete years and calendar days as a decimal;

ERP, the expected retirement pension, is the annualised value of the retirement benefits under the existing legislation which would be payable at the assumed retirement age to the employee in question if he had not become a member of the Scheme and if he continued in government service, at the salary paid to him as at 1st January 1997, until assumed retirement age;

AV, annuity value, is the assumed capital cost of a pension £1 per year on retirement at assumed retirement age on the assumptions that post retirement mortality follows the United Kingdom standard PA(90) mortality table and the net investment yield is 5.25 per cent;

ERLS, expected retirement lump sum, is the value of any lump sum which would be payable at the assumed retirement age under the existing legislation to the employee in question if he had not become a member of the Scheme and if he continued in government service, at the salary paid to him as at 1st January 1997, until assumed retirement age;

p is the assumed future annual rate of retail price inflation in the Falkland Islands, which for the purposes of this provision is 4.5 per cent expressed as a decimal;

i is the assumed future annual rate of investment return in the Falkland Islands, which for the purposes of this section is 10 per cent expressed as a decimal;

z is the difference between the employee's assumed retirement age and his age as at 31st December 1996, expressed as calendar years and calendar days as a decimal.

(3) For the purposes of sub-paragraph (2) —

“assumed retirement age”, in relation to any employee, is —

(i) the age at which the employee was under the existing legislation permitted to retire without penalty, or

(ii) if he was over that age on 31st December 1996, his age on that day, or

(iii) if he is a male who is or was employed on unestablished terms, 60 years of age if that age yields a higher transfer value; and

“existing legislation” in relation to any person means the legislation in force on 31st December 1996 which made provision for the payment of a pension to or in respect of that person in the event that he reached normal retirement age without ceasing to be in government service.”

Passed by the Legislature of the Falkland Islands this 19th day of November 1998.

C. ANDERSON,
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.

C. ANDERSON,
Clerk of Councils.



THE FALKLAND ISLANDS GAZETTE Supplement

PUBLISHED BY AUTHORITY

Vol. 9

22nd December 1998

No. 32

The following are published in this Supplement -

Law Revision Order No. 2 of 1998, (S.R. & O. No. 60 of 1998);

Disapplication of Enactments No. 3 Order 1998, (S.R. & O. No. 61 of 1998);

Planning Ordinance 1991 (Correction) Order 1998, (S.R. & O. No. 62 of 1998);

Registration of Charities (Exemption) Order 1998, (S.R. & O. No. 63 of 1998).

SUBSIDIARY LEGISLATION

REVISED EDITION OF THE LAWS

Law Revision Order No. 2 of 1998

(S. R. & O. No. 60 of 1998)

Made: 26 November 1998

Published: 22 December 1998

Coming into force in accordance with article 1

IN EXERCISE of my powers under section 4(4) of the Revised Edition of the Laws Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1.—(1) This Order may be cited as Law Revision Order No. 2 of 1998 and shall come into force on such date, not earlier than the first publication of this Order in the *Gazette*, as the Governor may, subject to paragraph (2), notify by notice so published.

(2) The Governor shall not notify a date pursuant to paragraph (1) unless he is satisfied that copies of Volume 3 specified in Schedule 2 to this Order are available in the Falkland Islands.

Interpretation

2. In this Order —

“the Ordinance” means the Revised Edition of the Laws Ordinance 1991;

“the Revised Laws of the Falkland Islands” means the work under that title published or intended to be published in seven volumes on the authority of the Government of the Falkland Islands by Law Reports International, Oxford, which is ISBN 1 870584 69 4;

“the relevant revision date” means 1st January 1993;

“Volume 3 of the Revised Laws of the Falkland Islands” and “Volume 3” means the third volume of the Revised Laws of the Falkland Islands which, as a separate volume is ISBN 1 870584 72 4.

Approval of Volume 3 of the Revised Laws of the Falkland Islands

3. Volume 3 of the Revised Laws of the Falkland Islands is approved as at the relevant revision date.

Pages included in Volume 3

4. The pages included in Volume 3 are those specified in the Schedule to this Order.

Made this 26th day of November 1998

R P Ralph
Governor

SCHEDULE

Pages contained in Volume 3

Preliminary pages: pages i to iv;

Title 25 (Currency): pages 25/1 to 25/32 and page 25 Disapplied/1;

Title 26 (Customs and Excise): pages 26/1 to 26/117, pages 26 Imp/1 to 26 Imp/2 and pages 26 Disapplied/1 and 26 Disapplied/2;

Title 27 (Ecclesiastical Law): page 27/1, pages 27 Imp/1 and 27 Imp/2 and page 27 Disapplied/1;

Title 28 (Economic Development): pages 28/1 to 28/15 and page 28 Disapplied/1;

Title 29 (Education, Culture and Science): pages 29/1 to 29/59, page 29 Imp/1 and pages 29 Disapplied/1 and 29 Disapplied/2;

Title 30 (Elections): pages 30/1 to 30/143 and page 30 Disapplied/1;

Title 31 (Electricity): pages 31/1 to 31/19 and page 31 Disapplied/1;

Title 32 (Employment): pages 32/1 to 32/206, page 32 Imp/1 and pages 32 Disapplied/1 and 32 Disapplied/2;

Title 33 (Entertainment and Recreation): pages 33/1 to 33/19, pages 33 Imp/1 and 33 Imp/2 and page 33 Disapplied/1;

Title 34 (Environmental Protection): pages 34/1 to 34/31, pages 34 Imp/1 to 34 Imp/15 and pages 34 Disapplied/1 and 34 Disapplied/2;

Title 35 (Evidence): page 35/1, pages 35 Imp/1 to 35 Imp/19 and page 35 Disapplied/1;

Title 36 (Explosive Substances): pages 36/1 to 36/14, page 36 Imp/1 and page 36 Disapplied/1;

Title 37 (Extradition): page 37/1, pages 37 Imp/1 to 37 Imp/32 and page 37 Disapplied/1.

SUBSIDIARY LEGISLATION

LAW REVISION

Disapplication of Enactments No. 3 Order 1998

(S. R. & O. No. 61 of 1998)

Made: 26 November 1998
Published: 22 December 1998
Coming into force: in accordance with article 1

IN EXERCISE of my powers under section 78A(2) of the Interpretation and General Clauses Ordinance 1977(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Disapplication of Enactments (No. 3) Order 1998 and shall be deemed to have come into force on 1st January 1993.

Disapplication of Enactments

2. So far as concerns the Falkland Islands the indirectly adopted imperial enactments specified in the Schedule to this Order shall be deemed never to have been enacted.

Made this 26th day of November 1998

R P Ralph
Governor

(a) No 14 of 1977 (it is intended that this will be Title 67.3 in the Revised Edition of the Laws where s78A will be renumbered as s79.), as amended.

SCHEDULE

Note: The cross-headings which follow are the Titles in which the disapplication of the enactments which are specified under them is mentioned in Volume 3 of the Revised Laws of the Falkland Islands

CURRENCY (TITLE 25)

Decimal Currency Act 1969

Coinage Act 1971

Currency Act 1982

Currency Act 1983, ss.1, 4(1), (4)

CUSTOMS AND EXCISE (TITLE 26)

Excise Permit Act 1832

Customs Consolidation Act 1876

Customs and Inland Revenue Act 1879

Customs Buildings Act 1879

Revenue Act 1889, s.26

Foreign Prison-made Goods Act 1897

Revenue Act 1898, ss.1, 6

Finance Act 1901

Finance Act 1902, s.10

Finance Act 1965, ss.92, 97, Schedule 22, Parts I, VI

Finance Act 1966, ss. 2, 53, Schedules 1, 13, Part II

Customs Duties (Dumping and Subsidies) Act 1969

Finance Act 1969, ss. 1, 59, 61, Schedules 7, 21, Part I

Vehicles (Excise) Act 1971

Finance Act 1971, ss. 7, 69(4) - (6)(inclusive)

International Cocoa Agreement Act 1973

Finance Act 1976, ss. 11, 12, 132(1), (4), (5), Schedule 15, Part I

Endangered Species (Import and Export) Act 1976

Finance Act 1977, ss.3, 7, 10, 11, 59(1), (3)(a), (4), (5),
Schedules 3, 9, Parts I, II

Finance Act 1978, ss.6, 8, 80(1), (3)(a), (4), (5), Schedule 13, Part I

Customs and Excise Management Act 1979

Customs and Excise Duties (General Reliefs) Act 1979

Hydrocarbon Oil Duties Act 1979

Matches and Mechanical Lighters Duties Act 1979

Tobacco Products Duty Act 1979

Excise Duties (Surcharges or Rebates) Act 1979

Finance Act 1981, ss.4, 6, 10, 11, 139(1), (6),

Schedule 19, Parts I - III (inclusive)

Finance Act 1982, ss.11, 157(1), (6), Schedule 22, Parts I, II

Finance Act 1985, ss.4, 7, 10, 98(1), (6), Schedule 27, Parts I, II

Transport Act 1985, ss. 111, 140

Finance Act 1986, ss. 3, 5, 8(1), (3), (4), (5)(g), (6), 114(1), (6),

Schedule 23, Parts I, II

Finance Act 1987, ss. 2, 72(1), (7), Schedule 16, Parts I, III

Finance (No.2) Act 1987, ss.103, 104(1)

Finance Act 1988, ss.4, 8, 148, 149, Schedule 14, Parts I, II
 Finance Act 1989, ss.8, 11, 12, 29, 187(1), 188, Schedule 17, Parts I, II
 Finance Act 1990, ss.5, 7, 132, 133, Schedule 19, Parts I, II
 Finance Act 1991, ss.9 - 12 (inclusive), 123, 124, Schedules 3, 19, Parts III, IV
 Finance Act 1992, ss.2, 3
 Finance (No.2) Act 1992, ss.1 - 4 (inclusive), 82, 83, Schedules 1, 18,
 Parts I - IV (inclusive)

EDUCATION, CULTURE AND SCIENCE (TITLE 29)

School Sites Act 1841
 School Sites Act 1844
 School Sites Act 1849
 School Sites Act 1851
 School Sites Act 1852
 School Grants Act 1855
 Army Schools Act 1891
 Technical and Industrial Institutions Act 1892
 Library Offences Act 1898
 Elementary School Teachers (Superannuation) Act 1898
 Copyright Act 1911
 Elementary School Teachers (Superannuation) Act 1912
 Education Act 1918
 Education Act 1944
 Education Act 1946
 Polish Resettlement Act 1947, ss.6, 10, 12, 13
 Education (Miscellaneous Provisions) Act 1948
 Education (Miscellaneous Provisions) Act 1953
 Education Act 1959
 Education Act 1962
 Public Libraries and Museums Act 1964
 Education Act 1964
 Education Act 1967
 Education Act 1968
 Education (No.2) Act 1968
 Chronically Sick and Disabled Persons Act 1970, ss.8, 28, 29
 Education (Handicapped Children) Act 1970
 Education Act 1973
 Education (Work Experience) Act 1973
 Education Act 1975
 Education (School-Leaving) Dates Act 1976
 Education Act 1976
 Public Lending Rights Act 1979
 Education Act 1979
 National Heritage Act 1980, ss.16 - 18 (inclusive)
 Education Act 1980
 Education Act 1981
 Local Government (Miscellaneous Provisions) Act 1982, ss.40, 49
 Education (Fees and Awards) Act 1983
 Education (Grants and Awards) Act 1984

Further Education Act 1985
 Education (Amendment) Act 1986
 Education Act 1986
 Education (No.2) Act 1986
 Teachers' Pay and Conditions Act 1987
 Education (Reform) Act 1988
 Education (Student Loans) Act 1990
 School Teachers' Pay and Conditions Act 1991
 Further and Higher Education Act 1992
 Education Schools Act 1992

ELECTIONS (TITLE 30)

Statute of Westminster I (1275)
 Representation of the People Act 1867
 Parliament (Election and Meeting) Act 1943
 European Parliamentary Elections Act 1978
 European Parliamentary Elections Act 1981
 Representation of the People Act 1983
 Representation of the People Act 1985
 Parliamentary Constituencies Act 1986
 Representation of the People Act 1989
 Representation of the People Act 1990
 Representation of the People Act 1991
 Boundary Commissions Act 1992

ELECTRICITY (TITLE 31)

Electricity Act 1947
 Rights of Entry (Gas and Electricity Boards) Act 1954
 Electricity Act 1957
 Energy Act 1976, ss.14, 21, 23(1) - (3) (inclusive)
 Energy Act 1983
 Electricity Act 1989
 Competition and Service (Utilities) Act 1992

EMPLOYMENT (TITLE 32)

Apprentices Act 1814
 Sex Disqualification (Removal) Act 1919, ss.1, 4
 Employment of Women, Young Persons and Children Act 1920
 Hours of Employment (Conventions) Act 1936
 Disabled Persons (Employment) Act 1944
 Shops Act 1950
 Disabled Persons (Employment) Act 1958
 Factories Act 1961
 Shops (Airports) Act 1962
 Offices, Shops and Railway Premises Act 1963
 Shops (Early Closing Days) Act 1965
 Employer's Liability (Defective Equipment) Act 1969
 Employer's Liability (Compulsory Insurance) Act 1969
 Equal Pay Act 1970

Chronically Sick and Disabled Persons Act 1970, ss.8A, 13, 16, 28

Employment Medical Advisory Service Act 1972

Employment Agencies Act 1973

Employment and Training Act 1973

Health and Safety at Work etc. Act 1974

Employment Protection Act 1975

Dock Work Regulation Act 1976

Job Release Act 1977

Employment Subsidies Act 1978

Employment Protection (Consolidation) Act 1978

Employment (Continental Shelf) Act 1978

Employment Act 1980

Employment and Training Act 1981

Industrial Training Act 1982

Employment Act 1982

Transport Act 1983, ss.11, 12

Industrial Training Act 1986

Wages Act 1986

Sex Discrimination Act 1986, ss.9(3), 10

Consumer Protection Act 1987, ss.36, 49, 50(1), (2), (4)

Employment Act 1988

Dock Work Act 1989

Employment Act 1989, ss.9, 10, 22, 25 - 27 (inclusive), 28(1), (4)(b), (c), (5), 29(1),

(3) - (6), 30(1), (2)(b), (d) - (j), (3)(c) - (f), (h) - (j), (4) - (6), Schedules 2, 3, 5 - 8

(inclusive), 9, paras. 2 - 6 (inclusive)

Employment Act 1990

Offshore Safety Act 1992, ss.1 - 3 (inclusive), 6, 7, Schedules 1, 2

Offshore Safety (Protection against Victimisation) Act 1992

Trade Union and Labour Relations (Consolidation) Act 1992

ENTERTAINMENT AND RECREATION (TITLE 33)

Sunday Entertainments Act 1932

National Theatre Act 1949

British Film Institute Act 1949

Hypnotism Act 1952

Private Places of Entertainment (Licensing) Act 1967

Theatres Act 1968, ss.11, 13(4), (5), 17

Sunday Theatre Act 1972

National Theatre Act 1974

Theatres Trust Act 1976

National Film Finance Corporation Act 1981

Film Levy Finance Act 1981

Video Recordings Act 1984

Cinemas Act 1985

Films Act 1985

Fire Safety and Safety of Places of Sport Act 1987, ss.49(2), 50(1) - (3) (inclusive),

Schedule 5 paras. 1, 8, 9

Football Spectators Act 1989

Entertainments (Increases Penalties) Act 1990

Football (Offences) Act 1991

ENVIRONMENTAL PROTECTION (TITLE 34)

- Waterworks Clauses Act 1847
- Town Gardens Protection Act 1863
- Waterworks Clauses Act 1863
- Parks Regulation Acts 1872 to 1974
- Open Spaces Act 1906
- National Trust Acts 1907 to 1971
- National Trust Charity Scheme Confirmation Act 1919
- Water Act 1945
- Coast Protection Act 1949
- National Parks and Access to the Countryside Act 1949, ss.1 - 50 (inclusive), 56, 58 - 155 (inclusive), Schedules 1, 2
- Rivers (Prevention of Pollution) Act 1951
- Historic Buildings and Ancient Monuments Act 1953
- Water Officers Compensation Act 1960
- Caravan Sites and Control of Development Act 1960
- Rivers (Prevention of Pollution) Act 1961
- Water Resources Act 1963
- Forestry Acts 1967 and 1979
- Agriculture (Miscellaneous Provisions) Act 1968, ss.48, 54(1), (4)
- Countryside Act 1968, ss.1 - 26 (inclusive), 28, 29, 32 - 50 (inclusive), Schedules 1, 2, 4, 5
- Caravan Sites Act 1968
- Agriculture Act 1970, ss.92, 98, 111, 113
- Water Resources Act 1971
- Water Act 1973
- Nature Conservancy Council Act 1973
- Reservoirs Act 1975
- Mobile Homes Act 1975
- Ancient Monuments and Archaeological Areas Act 1979
- National Heritage Act 1980, ss.1 - 7 (inclusive), 17, 18(1), (2), (4), (6), Schedule 1
- Water Act 1981
- Water Act 1983
- Mobile Homes Act 1983
- Litter Act 1983
- National Heritage Act 1983, ss.32 - 39 (inclusive), 41(1), (3) - (6)(inclusive), 42, 43, Schedule 3
- Wildlife and Countryside (Amendment) Act 1985, ss.2, 4, 5
- Food and Environment Protection Act 1985, ss.5 - 15 (inclusive), 20(2), (3), (4)(c), (5), 21 - 24 (inclusive), 25(1), (3) - (5)(inclusive), 26, 27(1), (2)(c), (d), (3), 28, Schedule 2, paras. 1(c), 2, 3(1), (2), 4 - 10 (inclusive), Schedules 3, 4
- Water Act 1989
- Environmental Protection Act 1990, ss.86 - 99 (inclusive), 128 - 139 (inclusive), 148, 157 - 164 (inclusive), Schedules 4, 6 - 11 (inclusive), 16, Parts IV, VI, VIII
- Water Industry Act 1991
- Water Resources Act 1991
- Statutory Water Companies Act 1991

Wildlife and Countryside (Amendment) Act 1991
 Water Consolidation (Consequential Provisions) Act 1991

EVIDENCE (TITLE 35)

Writ of Subpoena Act 1805
 Commissioners for Oaths Act 1891
 Tribunals of Enquiry (Evidence) Act 1921
 Evidence and Powers of Attorney Act 1940
 Evidence and Powers of Attorney Act 1943
 Public Records Act 1958
 Public Records Act 1967
 Family Law Reform Act 1969, ss.20 - 26 (inclusive), 28(1) - (3)(inclusive)
 Family Law Reform Act 1987, s.23
 Criminal Justice Act 1988, s.32A
 Australian Constitution (Public Record Copy) Act 1990
 Courts and Legal Services Act 1990, ss.5, 113, 119, 124
 Criminal Justice Act 1991, ss.52(2), 102

EXPLOSIVE SUBSTANCES (TITLE 36)

Explosives Act 1923
 Fireworks Act 1951
 Emergency Laws (Miscellaneous Provisions) Act 1953, ss. 3, 12, 14
 Rights of Entry (Gas and Electricity Boards) Act 1954
 Fireworks Act 1964
 Gas Act 1965
 Gas Act 1972
 Energy Act 1976, ss.9, 12, 18(3), 21, 23(1) - (3)(inclusive)
 Gas Levy Act 1981
 Gas Act 1986
 Finance Act 1990, s.123

EXPLANATORY NOTE

(not forming part of the above Order)

This Order disapplies a number of English enactments.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Planning Ordinance 1991 (Correction) Order 1998

S. R. & O. No. 62 of 1998

Made:17 December 1998

Published:22 December 1998

Coming into force: 1st March 1991

IN EXERCISE of my powers under section 101(1) of the Interpretation and General Clauses Ordinance 1977(a) and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Planning Ordinance 1991 (Correction) Order 1998 and shall be deemed to have come into force on 1st March 1991.

Correction of section 85 of the Planning Ordinance 1991

2. Section 85 of the Planning Ordinance 1991(b) is corrected by the insertion of the following subsection immediately after subsection (7) —

“(8) In proceedings for an offence under subsection (7) it shall be a defence for the accused to prove —

(a) that the stop notice was not served upon him; and

(b) that he did not know, and could not reasonably be expected to know, of its existence.”

Made this 17th day of December 1998

D G Lang
Attorney General

(a) No 14 of 1977
(b) No 7 of 1991

EXPLANATORY NOTE
(not forming part of the above Order)

Section 85(7) of the Planning Ordinance 1991, which was modelled on the corresponding provision of the Town and Country Planning Act 1971, refers to a defence provided by the following subsection, subsection (8). By typographical error this subsection was omitted from the Ordinance. This Order corrects that omission by inserting that subsection.

This Order is retrospective in effect to the commencement of the Planning Ordinance 1991 on 1st March 1991 so that the inserted subsection can properly appear in the Revised Edition of Laws as initially published. However, no stop notice has to date been served under section 85 of the Planning Ordinance 1991 and it is not, therefore, possible for anybody to be adversely affected by the retrospective effect of this Order.

SUBSIDIARY LEGISLATION

CHARITIES

Registration of Charities (Exemption) Order 1998

S. R. & O. No. 63 of 1998

Made:18 December 1998

Published:22 December 1998

Coming into force: 31st December 1998

IN EXERCISE of my powers under section 4(4) of the Charities Act 1960(a) in its application to the Falkland Islands, and of all other powers enabling me in that behalf, I make the following Order —

Citation and commencement

1. This Order may be cited as the Registration of Charities (Exemption) Order 1998 and shall come into force on 31st December 1998.

Charities not required to register

2. The charities mentioned in the First Schedule to this Order are not required to be registered in the register of charities to be established and maintained in the Falkland Islands pursuant to the Charities Act 1960 in its application to the Falkland Islands ("the Act").

Charities exempt from the requirement to register

3. The charities mentioned in the Second Schedule to this Order are exempt from the requirement to be registered in the register of charities to be established and maintained in the Falkland Islands pursuant to the Act but only until 31 December 1999 or such later date as may be specified by the Governor by Notice published in the Gazette.

Made this 18th day of December 1998

R P Ralph
Governor

FIRST SCHEDULE

Part One

Any charity which is registered in England and Wales under the charities legislation from time to time there in force.

Part Two

The Trustees of Christ Church, Stanley
 The Roman Catholic Parish of St. Mary's, Stanley
 Tabernacle Church, Stanley
 The Spiritual Assembly of the Baha'is of Stanley
 The Stanley Congregation of Jehovah's Witnesses
 Falkland Islands Museum and National Trust
 South Georgia Museum Trust

SECOND SCHEDULE

Falkland Islands Scouts Association
 Falkland Islands Guides Association
 Falkland Islands Branch of the British Red Cross
 Stephen Jaffray Memorial Fund
 Cancer Support and Awareness Group
 Colonic Cancer Screening Fund
 King Edward Memorial Hospital Fund
 KEMH Children's Fund
 KEMH Geriatric Day Centre Fund
 KEMH Foreign Fishermen's Fund
 The Friends of the King Edward Memorial Hospital
 Stanley Hospital Fund
 Alazia Memorial Fund
 Falkland Islands Community Trust
 Alastair Cameron Fund

EXPLANATORY NOTE

(not forming part of the above Order)

Section 4(4) of the Charities Act 1960 in its application to the Falkland Islands provides that any charity which is excepted by Order does not require to be registered in the Register of Charities. This Order exempts from registration any charity which is registered in England and Wales and certain charitable bodies established in the Falkland Islands (First Schedule, above). It also temporarily exempts from registration a number of other charitable bodies established in the Falkland Islands.

