



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. ~~CX~~ ~~II~~ ~~IX~~

31 January 2010

No. 1

Appointments

Gary John Finchett, Director, Community Safety, 11.01.10.

Terence Leslie Bonner, Standby Power Station Operator, Power and Electrical Section, Public Services Department, 18.01.10.

Donna Marie Doyle, Speech and Language Therapist, Health Services Department, 21.01.10.

David Anthony Jenkins, Director, Health and Education Departments, 22.01.10.

Abbie Louise Heathman, Learning Support Assistant, Falkland Islands Community School, Education Department, 25.01.10.

Karen Joleen Minto, Learning Support Assistant, Falkland Islands Community School, Education Department, 25.01.10.

Completion of Contract

Phillip Sean Kelly, Senior Staff Nurse, Health Services Department, 07.01.10.

Ian Peter Campbell, Agricultural Advisor, Department of Agriculture, 11.01.10.

Lesley Eileen Barrett, Learning Support Assistant, Falkland Islands Community School, Education Department, 22.01.10.

Frank Georges Eppe, Contracts Engineer, Public Services Department, 23.01.10.

Carlos Rodriguez, Cleaner, Infant and Junior School, Education Department, 24.01.10.

Stephen William Pointing, Senior Veterinary Officer, Department of Agriculture, 26.01.10.

Nicholas Stephens, Building Advisor, Environmental Planning Department, 28.01.10.

Ann Lanigan, Staff Nurse, Health Services Department, 31.01.10.

Renewal of Contract

Phillip Sean Kelly, Senior Staff Nurse, Health Services Department, 08.01.10.

Ian Peter Campbell, Agricultural Advisor, Department of Agriculture, 12.01.10.

Frank Georges Eppe, Contracts Engineer, Public Services Department, 24.01.10.

Stephen William Pointing, Senior Veterinary Officer, Department of Agriculture, 27.01.10.

Resignation

Debbi Louisa Ford, Learning Support Assistant, Infant and Junior School, Education Department, 15.11.09.

Roxanne McCarthy King, Part-time Clerk, Infant and Junior School, Education Department, 11.12.09.

Michelle Crowie, Cook, Stanley Hostel, Education Department, 18.12.09.

Sarah Maskell-Bott, Learning Support Assistant, Falkland Islands Community School, Education Department, 18.12.09.

Roxanne McCarthy King, Part-time Clerk, Training Centre, Education Department, 24.12.09.

Sarah Jane Robinson, Staff Nurse, Health Services Department, 10.01.10.

Darrel Michael Ford, Assistant Foreman, Highways Section, Public Services Department, 31.01.10.

Retirement

Gordon Ewing, Administrative Officer, Customs and Immigration Department, 31.01.10

Termination of appointment

Richard Lowry Morrison, Podiatrist, Health Services Department, 18.01.10.

NOTICES

No. 1

1 December 2009

Academic Year 2010 – 2011

Term Dates

Term One will begin in September

Term Two will begin in January

Term Three will begin in May

Term One

Wednesday 1 September – Friday 17 December 2010

Half Term

Monday 18 October – Friday 22 October 2010 (inclusive)

Term Two

Monday 24 January – Friday 15 April 2011

Half Term

Monday 28 February – Friday 4 March 2011 (inclusive)

Term Three

Tuesday 3 May – Friday 5 August 2011

Half Term

Monday 13 June – Friday 17 June 2011 (inclusive)

Public Holidays

Monday 4 October 2010 Peat Cutting Monday
(Schools Closed)

Wednesday 8 December 2010 Battle Day
(Schools Closed)

Friday 22 April 2011 Good Friday
(Schools Closed)

Thursday 21 April 2011 HM Queen's Birthday

Tuesday 14 June 2011 Liberation Day

Professional Development Training Days for Teaching and Non-Teaching Staff

Monday 30 August 2010

Tuesday 31 August 2010

Monday 24 January 2011

Two Professional Development days to be organised at the discretion of the Headteacher/s

Camp Schools

Term dates for Camp Schools may be modified to suit the convenience of farms provided that children receive 190 days schooling and the Education Office is notified in advance.

Dated 1 December 2009

R. FOGERTY,
Acting Director of Education.

No. 2

7 December 2009

Registered Medical Practitioners, Midwives and Dentists

In accordance with section 4 of the Medical Practitioners, Midwives and Dentists Ordinance the names and qualifications of registered medical practitioners, midwives and dentists are hereby published:-

Doctors

Dr Roger Diggle MBBCh(Wales), FSRH, AFFLM, DA

Dr Barry Elsby MBBS, BSc, DRCOG, MRCGP

Dr David Rocke MBBCh, MRCP(UK), FRCP(Ed), FCA(SA), FRCA(UK)

Dr Richard Davies MBBCh, BAO(Bel), MRCGP

Dr Ahmad Cheema MBBS, FRCS

Dr Rebecca Edwards MBBS(Lon), DRCOG, DFFP

Dr Bernadette Paver MBBS, MRCGP(Lon)

Dr Kanti Bhardway MBBS, DA(Lond), DA Anae

Mr Leo McCylmont MBChB, FRCS

Dr Tim McInerny MBBS, BA, MECPSy.Ch

Mr Norman Binnie MBChB, BSc, MD, FRCS

Dr Rosemary Chew MBChB, DA, DFFD

Mr Mohammad Sulaiman MBBS, FRCS

Mr Richard Edmondson MBBS, MRCOG

Mr Christopher Gibbons MBBCh, FRCS(Tr&Orth)

Dr John Walker MBBCh, FFARCS

Dr Deidre Galbraith BSc, MRChB, MRCGP

Dr Yossef Abomery MBBCh

Dr Peter d'Mbrumenil MBBS, MRCS, LRCP

Mr James Vestey DM, FRCP Edin

Mr Paul Franks MBChB, FRCOG

Midwives

Mrs Mandy Heathman SRN, SCM

Ms Jacqueline Earnshaw SRN, SCM

Mrs Pamela Freer RGN, RM

Dentists

Dr Sally Owen BChD

Dr Daniel Archer BDS, MBB.BS(Lond), LRCP, MRCS, FDSRCS(Eng), FRCS

Dr John Dobson BSc, BDS, MSc LLM CEng, MRAeS

Dated 7 December 2009

R. J. DIGGLE,
Chief Medical Officer.

No. 3

7 December 2009

Designation of Inspecting Officer Road Traffic (Provisional) Regulations Order (section 16(2))

In accordance with section 16(2) Road Traffic (Provisional) Regulations Order, I hereby designate **Police Constable Richard Moorhouse** to be an inspecting officer for the purpose of section 16(1) Road Traffic (Provisional) Regulations Order. This designation to have effect from 7 December 2009 until such time it is terminated.

Dated 7 December 2009

K. PADGETT,
Acting Chief Executive.

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instrument has been published in the United Kingdom by The Stationery Office Limited and is available to view at www.opsi.gov.uk:-

2009 No 3205 – The Falkland Islands (Appeals to the Privy Council) (Amendment) Order 2009.

Dated 17 December 2009

B. I. STEEN,
for Attorney General.

No. 5

24 December 2009

**Southern Ocean Fisheries Association Limited
Company Number: 13295**

Take notice that in accordance with the provisions of section 2(1)(g) of the Companies (Amendment) Ordinance 2006 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 24 December 2009

J. C. ROWLAND,
Registrar of Companies.

No. 6

5 January 2010

Appointment of Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I Robert John King, Collector of Customs, hereby appoint **Shona Marguerite Strange** to be a Customs Officer with effect from the date of this appointment.

The appointment is to continue in effect for so long as the above named person is employed by the Falkland Islands Government in the capacity of Biosecurity Officer, or until earlier revoked.

Dated 5 January 2010

R. J. KING,
Collector of Customs.

No. 7

13 January 2010

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **Jane Diana Mary Keith Cameron** of Stanley, Falkland Islands died on the 26th day of December 2009 intestate.

Whereas **John Donald Keith Cameron and Susan Elizabeth Keith Pullen** have applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 13 January 2010

C. J. KING,
Registrar, Supreme Court.

No. 8

14 January 2010

Amendment to the Approved list of charities

1. Section 57B(2) of the Taxes Ordinance (Title 69.1) provides for an amendment to the approved list of eligible charities to be made by the Governor for the purposes of section 57A of the Taxes Ordinance.

2. I give notice that the approved list of eligible charities (published in Gazette CXVII No 19 on 31 December 2009) is amended by the addition of:-

UK Charity name and charity number
Royal National Lifeboat Institution 209603

Dated 14 January 2010

P. L. MARTINEZ,
Acting Governor.

No. 9

14 January 2010

**Appointment of Authorised Person
Maritime Security and Safety Ordinance
(section 4)**

1. Section 4 of the Maritime Security and Safety Ordinance 2009 provides that the Governor may appoint authorised persons for the purposes of the Ordinance.

2. In exercise of my powers under section 4 of the Maritime Security and Safety Ordinance, I appoint **Arthur John Barton** to be an authorised person for the purposes of the Ordinance.

3. This appointment has effect from the date of signature, and continues in effect whilst Arthur John Barton holds office as the Director of Natural Resources, unless terminated sooner.

Dated 14 January 2010

P.L. MARTINEZ,
Acting Governor.

No. 10

15 January 2010

Appointment of Temporary Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I Robert John King, Collector of Customs, appoint the following person to be a temporary Customs Officer:-

Corporal Andrew Stephen MCGOWAN – J8417162 from 3 January 2010 to 10 May 2010.

Dated 15 January 2010

R. J. KING,
Collector of Customs.

No. 11

15 January 2010

**Designation of restricted zone
Maritime Security and Safety Ordinance
(section 8)**

1. Section 8 of the Maritime Security and Safety Ordinance 2009 provides that an authorised person may designate the whole or one or more parts of a harbour area as a restricted zone for the purposes of the Ordinance for a period of not more than 7 days.

2. I have been appointed as an authorised person for the purposes of the Ordinance.

3. In exercise of my powers under section 8 of the Maritime Security and Safety Ordinance, I designate the whole of the harbour area at the Falklands Interim Port and Storage System as a restricted zone for the purposes of the Ordinance.

4. This designation applies for a period of 7 days from 8am on 16 January 2010 and at all times during that period.

Dated 15 January 2010

A. J. BARTON,
Director of Natural Resources.

No. 12

18 January 2010

**Appointment of Harbour Master
Harbour Ordinance (section 4)**

Oil in Territorial Waters Ordinance (section 2(1))

1. Section 4 of the Harbour Ordinance (Title 57.3) provides that the Governor may appoint a Harbour Master.

2. Section 2(1) of the Oil in Territorial Waters Ordinance (Title 34.4) provides that the Governor may appoint a person as Harbour Master for the purposes of enforcing the provisions of the Ordinance.

3. In exercise of my powers under section 4 of the Harbour Ordinance and section 2(1) of the Oil in Territorial Waters Ordinance, I appoint **Roy Summers** to be Harbour Master for the purposes of those Ordinances and for all other purposes.

4. This appointment has effect from the date of signature, and continues in effect until further appointment is made, unless terminated sooner.

Dated 18 January 2010

P.L. MARTINEZ,
Acting Governor.

No. 13

18 January 2010

**Designation of Port Facility Security Officer
Ship and Port Facility (Security) Ordinance
(section 2)**

1. Section 2 of the Ship and Port Facility (Security) Ordinance (Title 64.5) provides for designation of a Port Facility Security Officer under the Ordinance.

2. In exercise of my powers under section 2 of the Ship and Port Facility (Security) Ordinance and for the purposes of that Ordinance, I designate **Roy Summers** to be Port Facility Security Officer.

3. This designation has effect from the date of signature and continues in effect until a further designation is made, unless terminated sooner.

Dated 18 January 2010

P.L. MARTINEZ,
Acting Governor.

No. 14

18 January 2010

**Designation of Deputy Port Facility Security Officer
Ship and Port Facility (Security) Ordinance
(section 2)**

1. Section 2 of the Ship and Port Facility (Security) Ordinance (Title 64.5) provides for designation of a Port Facility Security Officer under the Ordinance.

2. In exercise of my powers under section 2 of the Ship and Port Facility (Security) Ordinance and for the purposes of that Ordinance, I designate **Mark Anthony Spicer** to be Deputy Port Facility Security Officer to deputise for the Port Facility Security Officer and to carry out the duties of the Port Facility Security Officer whenever the Port Facility Security Officer is absent from the Falkland Islands, or is by illness or for any other reason incapable or unavailable to carry out those duties.

3. This designation has effect from the date of signature and continues in effect until a further designation is made, unless terminated sooner.

Dated 18 January 2010

P.L. MARTINEZ,
Acting Governor.

Index of Retail Prices

The calculation of the Index for the quarter ended 31 December 2009 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
31.03.09	137.11	5.3	(2.8)
30.06.09	137.19	2.1	0.06
30.09.09	136.83	(2.4)	(0.3)
31.12.09	136.62	(3.2)	(0.2)

Dated 18 January 2010

L. LYSE,
for Director of Corporate Resources.

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **Muriel Elizabeth Elsie Harvey** of Stanley, Falkland Islands died on the 2nd day of December 2009 intestate.

Whereas **Ann Susan Murphy** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 22 January 2010

C. J. KING,
Registrar, Supreme Court.

**Designation of restricted zone
Maritime Security and Safety Ordinance
(section 8)**

1. Section 8 of the Maritime Security and Safety Ordinance 2009 provides that an authorised person may designate the whole or one or more parts of a harbour area as a restricted zone for the purposes of the Ordinance for a period of not more than 7 days.

2. I have been appointed as an authorised person for the purposes of the Ordinance.

3. In exercise of my powers under section 8 of the Maritime Security and Safety Ordinance, I designate the whole of the harbour area at the Falklands Interim Port and Storage System as a restricted zone for the purposes of the Ordinance.

4. This designation applies for a period of 7 days from 8am on 23 January 2010 and at all times during that period.

Dated 22 January 2010

A. J. BARTON,
Director of Natural Resources.

**Environmental Impact Statement Addendum
BHP Billiton Petroleum (Falklands) Corporation**

An environmental impact statement addendum has been submitted to the Falkland Islands Government by BHP Billiton Petroleum (Falklands) Corporation for offshore drilling proposals in the South Falkland Basin. The Non-Technical Summary is reproduced in this Gazette. In addition, copies of the addendum in its entirety can be obtained on CD-ROM from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email rcordeiro@mineralresources.gov.fk).

Additionally, copies can also be downloaded from the following website:

<http://energy.rpsgroup.com/Public/bhpbillitonEIS/>

Written representations in relation to the Environmental Impact Statement Addendum must be sent by 4.30pm on Monday February 15 2010 to the Department of Mineral Resources, Ross Road, Stanley.

Dated 26 January 2010

P.M. RENDELL
Director of Mineral Resources.

**Designation of restricted zone
Maritime Security and Safety Ordinance (section 7)**

1. Section 7 of the Maritime Security and Safety Ordinance 2009 provides that I may designate the whole or one or more parts of a harbour area as a restricted zone for the purposes of the Ordinance.

2. Section 7 also provides that a restricted zone may be designated indefinitely and during specified events.

3. In exercise of my powers under section 7 of the Maritime Security and Safety Ordinance, I designate the whole of the harbour area at the Falklands Interim Port and Storage System ("FIPASS") as a restricted zone for the purposes of the Ordinance.

4. This designation applies from 8am on 30 January 2010 at all times when:-

(a) security personnel are operating controls at the entrance of the causeway at FIPASS; and

(b) the restricted zone sign is displayed there.

Dated 29 January 2010

A. E. HUCKLE,
Governor.

Death in Service

It is with deep regret that His Excellency the Governor reports the death in service of Jane Diana Mary Keith Cameron, Government Archivist on 26 December 2009.

Non Technical Summary

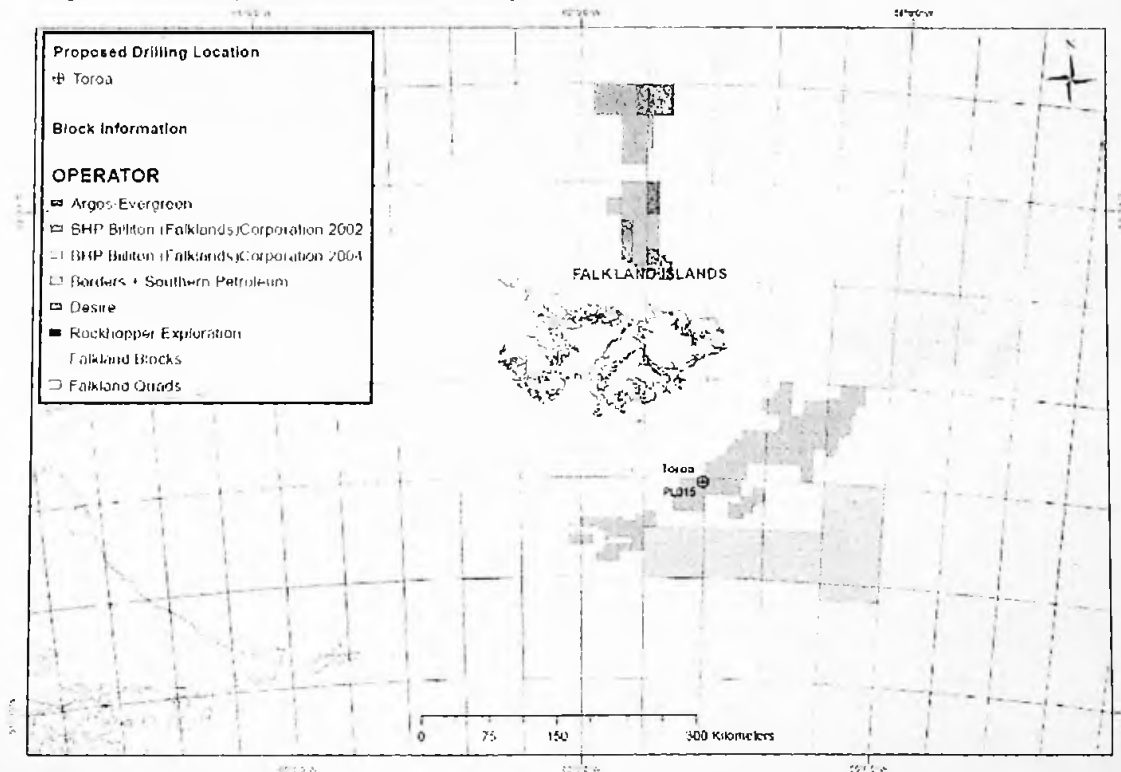
Background

BHP Billiton Petroleum (Falklands) Corporation (hereafter referred to as 'BHPBP(F)C') holds 14 exploration and production licences offshore the Falkland Islands in the South Atlantic after signing contracts with Falkland Oil and Gas Limited (FOGL). BHPBP(F)C holds a 51% interest in the acreage and is the designated operator. The remaining 49% is held by FOGL.

In September 2009, BHPBP(F)C submitted an Environmental Impact Statement (EIS) to the Falkland Islands' Government (FIG) in order to drill two exploration wells (Toroa and Loligo) in Licence Areas PL028 and PL015. At this time, a drilling contractor and rig had not been commissioned and the timing of the exploration drilling programme was unknown. Given this, BHPBP(F)C made a commitment to FIG to produce an Operational Addendum to the EIS in order to provide further details on the drilling campaign once known.

This document, therefore, constitutes the Operational Addendum to the BHPBP(F)C Offshore Falkland Islands Exploration Drilling (Licences 028 and 015) EIS. It specifically relates to the Toroa exploration well, which is located in Licence Area PL015, approximately 160 kilometres to the south of Stanley on East Falkland (refer to Figure 1). A rig has yet to be contracted for the proposed Loligo exploration well in Licence Area PL028. When a drill rig has been contracted and the spud date confirmed, a separate Operational Addendum will be produced for the Loligo well and submitted to FIG for comment and approval.

Figure 1: Toroa Exploration Well Location Map



Proposed Drilling Operations

BHPBP(F)C has contracted Diamond Offshore's Ocean Guardian semi-submersible drilling rig to drill the proposed Toroa exploration well. The spud date for the well is scheduled for April 2010, with the rig expected to be on site for 30 to 40 days.

A number of other operators are also working with the Ocean Guardian rig as part of a wider drilling campaign offshore the Falkland Islands. There is a possibility, therefore, that the precise timing of the Toroa drilling programme could change due to

reasons beyond BHPBP(F)C's control (e.g. due to timings of preceding rig moves). As such, it has been assumed within this Operational Addendum that drilling operations for Toroa could occur at anytime between April and June 2010.

It is proposed to use water based mud to drill the well. All chemicals to be used have been selected to minimise the potential environmental impacts as much as possible. The vast majority (by volume) of planned chemicals are naturally occurring products (e.g. barite) that are either biologically inert or readily dispersible or biodegradable. Other chemicals are selected based on drilling performance and environmental acceptability to ensure low toxicity and high biodegradability.

Following drilling, the well will be logged and evaluated. On completion it will be plugged and abandoned in accordance with Oil & Gas UK guidelines. No equipment will be left on the seabed and there will be no evidence of drilling operations having been undertaken.

Existing Environment

The Patagonian Shelf, on which the Falkland Islands sit, is of regional and global significance for marine resources. It comprises rich assemblages of seabirds, marine mammals, fish, squid and plankton populations.

There has previously been little information available on the benthic environment of this area, therefore in order to obtain more detailed baseline information, BHPBP(F)C conducted environmental site surveys in December 2008 to January 2009 to provide current data, water column profiles, sediment analysis and identification of benthic species.

The maximum current speed observed at Toroa was 0.39 metres per second at 682 metres below the sea surface (10 metres above the seabed) with a corresponding direction of 233 degrees (true).

The geophysical data collected during the Toroa site survey suggested that surficial sediments were extremely homogeneous, with seafloor materials consisting of silt / clay throughout the site. Total hydrocarbon concentrations were low compared to North Sea Oil and Gas UK data, though considered moderate for the remote nature of the survey area, ranging from 7.0 µg.g⁻¹ to 10.1 µg.g⁻¹ (stations T8 and T5, respectively). These concentrations are presumed to originate from local natural oil seeps and are considered to be typical background concentrations for the area. The concentrations of heavy and trace metals appeared consistent across the survey area, being found at levels typical for unimpacted silt / clay sediments.

The benthic survey results at Toroa appear to show a single benthic community dominating, which is considered to be homogenous across the drilling location, although it is recognised that only a limited number of samples were collected.

Fish species known to spawn in the area of the proposed drilling activity for Toroa include hake, southern blue whiting and cod, although none are expected to spawn during the drilling period (April to June). Cephalopod spawning is also unlikely to occur in the vicinity of the Toroa well during the drilling period.

The main fisheries resources in the Falkland Islands are the squid species, *Illex argentinus* and *Loligo gahi*. Other types of fisheries include finfish, ray and longline. The Falkland Islands' Government annual Fisheries Statistics volume 11 (1997–2006) show that the area in the vicinity of the Toroa well has no fishing interests for the key commercial target species. There are some significant fisheries interests on the landward side of Licence Area PL015, which may be impacted by vessel movements to and from the proposed drilling operations. It should be noted, however, that nearshore *Loligo* fishery close to the eastern coast of East Falklands is most intense in the second half of the year between July and December, outside of the proposed drilling period for Toroa.

Between February 1998 and January 2001 the Joint Nature Conservation Committee (JNCC) and Falklands Conservation (FC) conducted a 'Seabirds at Sea Survey' in the waters surrounding the Falkland Islands. Based on the results from this survey work (White et al., 2002), the following species of cetacean were recorded within the vicinity of the proposed Toroa drilling location: long-finned pilot whale, hourglass dolphin and Peale's dolphin, although during the months of the proposed drilling period (April to June) only long-finned pilot whale and Peale's dolphin were recorded in significant numbers. Species specifically recorded offshore the Falkland Islands, but not within the vicinity of the Toroa well, during the proposed drilling period (April to June) include sei whale, sperm whale, minke whale and Commerson's dolphin. Additional marine mammal data in the vicinity of the proposed drilling location has also been compiled based on the reports provided by Marine Mammal Observers (MMOs) on seismic vessels during acquisition programmes. This includes surveys undertaken in BHPBP(F)C's licence area when it was under the Operatorship of FOGI. This data indicates that the southern right whale, fin whale, hourglass dolphin and Peale's dolphin may be present within the general vicinity of the proposed Toroa drilling location. Given the migratory nature of cetaceans and the fact that effort during the JNCC/FC 'Seabirds at Sea Survey' was lower to the south and east of the Falkland Islands, the possibility that other species are present in the exploration area cannot be discounted. It is considered, however, that the Toroa well is not located within an area of high sensitivity for cetaceans.

Little is known of the at-sea distribution of Falkland Islands pinnipeds, and it is possible that South American sea lions, south American fur seals and southern elephant seals may be present within the vicinity of the proposed Toroa location during the drilling period in low numbers. It should be noted, however, that the Toroa well is located some distance from the known seal haul-out sites.

The Falkland Islands are an area of global importance for birdlife, particularly seabird species. The avifauna of the region is well studied and documented, and seabird distribution, breeding and foraging patterns have been studied extensively.

Of the penguin species recorded in the Falkland Islands, only rockhopper penguins and magellanic penguins have been observed at significant distance from the Falkland Islands and may therefore be present during the proposed drilling period for the Toroa exploration well.

It is possible that the southern royal albatross will be present in the vicinity of the proposed Toroa well during the months of March to June and the northern royal albatross will be present in the vicinity of the proposed well during the months of March to July, thereby overlapping with the proposed drilling period. It is also likely that the black-browed albatross will be present in the vicinity of the exploration well between February and June.

Petrels and shearwaters known to be present in the vicinity of the Toroa exploration well during the drilling period include blue petrel, kerguelen petrel, atlantic petrel, prion species, sooty shearwater and diving petrel; although none of these species are considered to be present in significant numbers.

The proposed Toroa exploration well is located away from the identified areas of highest seabird vulnerability. Highest vulnerability tends to be associated with the inshore waters around the Falklands Islands, largely due to the presence of resident species with a predominantly coastal distribution such as the endemic Falklands Steamer duck, imperial shag and gentoo penguin. The Patagonian Shelf waters to the north and west of the Falklands, which support high densities of black-browed albatrosses and royal albatrosses year-round are also associated with high vulnerability areas, but again these are remote from the proposed drilling location.

Impacts and Management Measures

The results of the impact assessment indicate that the majority of impacts from the Toroa drilling operation will be minor to negligible and probably undetectable shortly after drilling is completed. There are environmental risks associated with drill cuttings disposal, the risk of large offshore and near-shore oil spills, waste disposal and use of resources (i.e. fuel and potable water). However, these risks can be controlled using standard drilling practices and good planning.

The potential impacts of the proposed drilling activity will be mitigated in a number of ways, including:

- Maintaining a spirit of openness and ongoing consultation with the Falkland Islands Government (FIG), the public and key stakeholders;
- Applying established UK standards to operations, particularly in offshore chemical use and emissions reporting;
- Using water based drilling muds and low toxicity chemicals approved under the UK Offshore Chemical Notification Scheme.
- Implementing a high level of environmental management offshore and applying environmental procedures for potentially impacting operations (chemical storage, bunkering, waste handling, maintenance programmes, seafloor surveys etc);
- Establishing and implementing a project specific Oil Spill Contingency Plan and carrying out training of key personnel in spill response. BHPBP(F)C are members of Oil Spill Response which provide outside assistance in the case of a major spill. The Oil Spill Contingency Plan will be submitted to FIG for approval prior to commencement of the drilling operations.
- Implementing a Waste Management Plan to minimise the quantity of waste going to landfill, prevent unsuitable disposal of waste, maximise the re-use of materials and establish procedures for the storage, treatment, transfer and disposal of waste materials. It is envisaged that normal waste will be disposed of on the Falkland Islands with hazardous waste likely to be exported to the UK, Chile or Uruguay. Specific waste handling/disposal routes and procedures will be detailed in the Waste Management Plan, to be submitted to FIG for approval prior to commencement of the proposed drilling operations.
- Collecting and sharing environmental data wherever possible, for example in offshore sightings, seabed surveys and meteorological and oceanographic conditions.

Conclusions

In conclusion, despite the high sensitivity and international importance of the Falkland Islands' waters, there is clear dedication to carrying out these operations to a high environmental standard. Given the current operational commitments and proposed mitigation measures, it is considered that the proposed operations can be undertaken without significant impacts to the Falkland Islands' environment.

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THE FALKLAND ISLANDS GAZETTE

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12 February 2010

No. 2

NOTICES

No. 21 5 February 2010

Environmental Impact Assessment Borders & Southern Petroleum Plc

An environmental impact assessment has been submitted to the Falkland Islands Government by Borders & Southern Petroleum Plc with regard to a planned exploration drilling programme to take place to the South-East of the Falkland Islands. The Non-Technical Summary is reproduced in this Gazette. In addition, copies of the assessment in its entirety can be obtained on CD-ROM from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email rcordeiro@mineralresources.gov.fk).

Printed copies are available for reading at the Mineral Resources Department, the Environmental Planning Department and in the Public Library, Stanley.

Printed copies are also available at the following Camp locations: Fox Bay, Port Howard, Hill Cove and Goose Green.

Written representations in relation to the Environmental Impact Assessment must be received within 42 days of the date of publication to the Department of Mineral Resources, Ross Road, Stanley. The applicant, Borders & Southern Petroleum Plc, has 28 days to respond to comments received.

Dated 5 February 2010

P.M. RENDELL,
Director of Mineral Resources.

No. 22 8 February 2010

Fortuna Holdings Limited Company Number: 10031

Notice is hereby given that the above company was dissolved pursuant to section 652 of the Companies Act 1985 on 8 February 2010.

Dated 8 February 2010

J. C. ROWLAND,
Registrar of Companies.

No. 23 9 February 2010

Offshore Minerals Ordinance 1994

Notice of Commencement of Subsidiary Legislation

1. The following orders were made under the Offshore Minerals Ordinance 1994 (No 16 of 1994), and published on 12 March 2008:-

(a) Health and Safety at Work etc Act 1974 (Application Outside the Falkland Islands) Order 2008 (SR&O No 6 of 2008);

(b) Offshore Installations (Safety Case) Order 2008 (SR&O No 7 of 2008);

(c) Offshore Minerals (Health and Safety)(Amendment) Order 2008 (SR&O No 8 of 2008); and

(d) Provision of Use of Work Equipment Order 2008 (SR&O No 8 of 2008).



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No. 21

5 February 2010

Environmental Impact Assessment Borders & Southern Petroleum Plc

An environmental impact assessment has been submitted to the Falkland Islands Government by Borders & Southern Petroleum Plc with regard to a planned exploration drilling programme to take place to the South-East of the Falkland Islands. The Non-Technical Summary is reproduced in this Gazette. In addition, copies of the assessment in its entirety can be obtained on CD-ROM from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email rcordeiro@mineralresources.gov.fk).

Printed copies are available for reading at the Mineral Resources Department, the Environmental Planning Department and in the Public Library, Stanley.

Printed copies are also available at the following Camp locations: Fox Bay, Port Howard, Hill Cove and Goose Green.

Written representations in relation to the Environmental Impact Assessment must be received within 42 days of the date of publication to the Department of Mineral Resources, Ross Road, Stanley. The applicant, Borders & Southern Petroleum Plc, has 28 days to respond to comments received.

Dated 5 February 2010

P.M. RENDELL,
Director of Mineral Resources.

No. 22

8 February 2010

Fortuna Holdings Limited Company Number: 10031

Notice is hereby given that the above company was dissolved pursuant to section 652 of the Companies Act 1985 on 8 February 2010.

Dated 8 February 2010

J. C. ROWLAND,
Registrar of Companies.

No. 23

9 February 2010

Offshore Minerals Ordinance 1994

Notice of Commencement of Subsidiary Legislation

1. The following orders were made under the Offshore Minerals Ordinance 1994 (No 16 of 1994), and published on 12 March 2008:-

- (a) Health and Safety at Work etc Act 1974 (Application Outside the Falkland Islands) Order 2008 (SR&O No 6 of 2008);
- (b) Offshore Installations (Safety Case) Order 2008 (SR&O No 7 of 2008);
- (c) Offshore Minerals (Health and Safety)(Amendment) Order 2008 (SR&O No 8 of 2008); and
- (d) Provision of Use of Work Equipment Order 2008 (SR&O No 8 of 2008).

2. Article 2 of each order provides that the order will come into force on a date appointed by the Governor by notice published in the Gazette.

3. I give notice that the orders are deemed to have come into force on 12 March 2008, subject to the requirements of section 6(5) of the Constitution¹.

Made 9 February 2010

A. E. HUCKLE,
Governor.

¹Section 6(5) of the Constitution provides that no person shall be held to be guilty of an offence on account of any act or omission that did not, at that time it took place, constitute such an offence.

Errata

Falkland Islands Gazette No. 19 dated 31 December 2009 – Volume number should read CXVIII. Falkland Islands Gazette No. 1 dated 31 January 2010 – Volume number should read CXIX.

Non Technical Summary

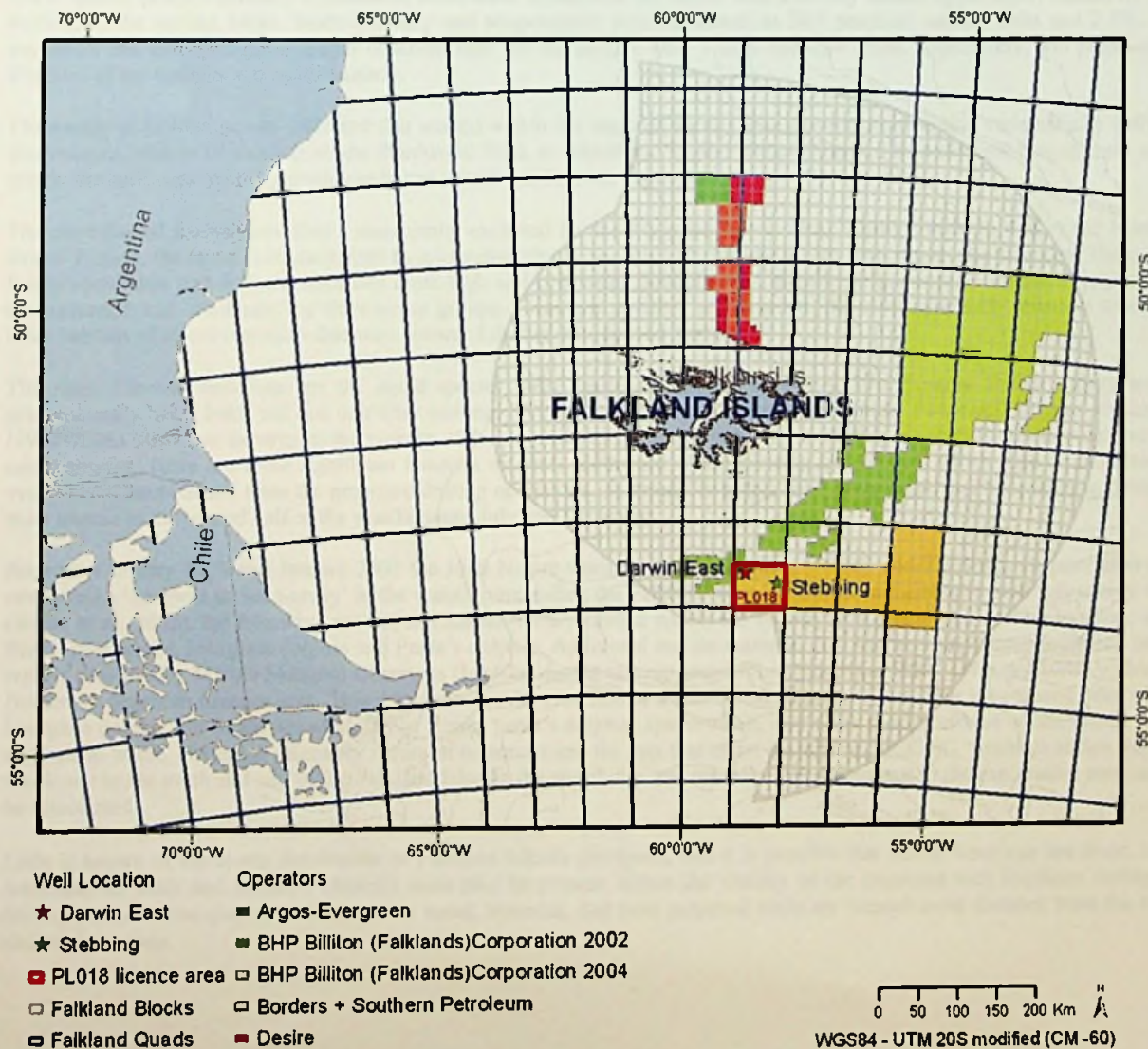
Background

Borders and Southern Petroleum plc (Borders & Southern) is a UK based company engaged in the exploration for hydrocarbons with acreage in The Falkland Islands, a UK Overseas Territory located on the edge of the Patagonian Shelf in the South Atlantic Ocean.

Borders & Southern has been awarded Production Licences by the Falkland Islands Government for the exploration and production of oil and gas in Licences PL018, PL019, PL020, PL021 and PL022. The company holds 100% interest for five licences as a sole operator. The licence area lies approximately 150 kilometres south-east of the main Islands covering 19,598 sq km.

In 2010-2011 Borders & Southern is planning to undertake offshore drilling of two exploration wells (Stebbing and Darwin East) within the PL018 licence. The proposed wells lie to the south of the Falkland Islands at a distance of approximately 150 kilometres from the nearest landfall, in water depths ranging from 1,400 to 2,100 metres (Figure 1).

Figure 1: Borders & Southern Licence Area and Proposed Well Locations.



It is likely that the proposed exploration wells will be drilled using a drill ship or 5-6th generation DP semi-submersible rig. It is proposed that drilling will take place between Q4 2010 and Q2 2011, the programme will be finalised when a suitable rig has been secured.

Operations at the well sites are expected to last up to 75 days and water-based muds will be used to drill the wells. No well testing that involves flowing well fluids to the surface is planned. Following drilling and evaluation, the wells will be plugged and abandoned.

All chemicals to be used during the drilling have been selected to minimise the potential environmental impacts as much as possible. The vast majority (by volume) of planned chemicals have a Harmonised Offshore Chemical Notification Scheme category of 'E' (which are of low aquatic toxicity, readily biodegradable and non-bioaccumulative) and are naturally occurring products (e.g. barite) that are either biologically inert or readily dispersible or biodegradable.

This EIS provides an assessment of the potential environmental impacts associated with the proposed drilling, together with mitigation and management measures and a description of any residual impacts to the environment. The assessment utilises a study of the baseline environment, together with description of the proposed operations, in order to assess the risk of impacts occurring.

Existing Environment

The Patagonian Shelf, on which the Falkland Islands are positioned, is of regional and global significance for marine resources. It comprises rich assemblages of seabirds, marine mammals, fish, squid and plankton populations.

A consortium of oil companies drilled six wells in the North Falkland Basin during 1998. As a result of this drilling programme a number of environmental studies were commissioned, focussing primarily on the North Falkland Basin. In comparison, the environment of the South Falkland Basin remains understudied. The proposed drilling campaigns by BHP and Borders & Southern have recently expanded the level of environmental knowledge within their respective Licence areas.

In order to obtain more detailed baseline information, Borders & Southern conducted environmental site surveys in 2008 / 2009 to provide current data, water column profiles, sediment analysis, identification of benthic habitats and geo hazards.

Water quality profiles revealed a consistent water mass throughout the region with a density related upper layer, caused by solar heating, in the surface 100m. Seabed salinity and temperatures were consistent at 34.7 practical salinity units and 2.3°C. The maximum and average current speeds observed near the sea surface were 1 knot and 0.34 knots, respectively, and predominant direction of the currents was north-easterly.

The results of benthic survey indicated that seabed within the regional survey area showed considerable variability in sediment distributions relative to location on the Burdwood Bank or within the South Falkland Basin. The sediments ranged from sandy silts in the northwest to silty gravely sands and occasional bedrock exposure.

The macrofaunal analysis revealed a community expected for the Magellan faunal area. Whilst similar to that of the Northern Boreal Region, the fauna is characterised by a low diversity in the echinoderms and a very high crustacean diversity. The overall faunal abundance and richness remained quite high and consistent throughout. A significant presence of epifaunal species was also recorded, and dominated by three major groups of cnidaria, porifera, and bryozoa. No environmentally sensitive species or other habitats of conservational value were recorded during this regional survey.

The main fisheries resources are the squid species, *Illex argentinus* and *Loligo gahi*. The existing finfish fishery targets predominantly hake, hoki, red cod and blue whiting. The Falkland Islands' Government annual Fisheries Statistics volume 11 (1997–2006) show that the area in the vicinity of the proposed exploration wells has no fishing interests for the key commercial target species. There are some significant fisheries interests northward of the Licence area PL018, which may be impacted by vessel movements to and from the proposed drilling operations. It should be noted, that *Loligo gahi* and blue whiting fishing is most intense in the second half of the year between July and December.

Between February 1998 and January 2001 the Joint Nature Conservation Committee (JNCC) and Falklands Conservation (FC) conducted a 'Seabirds at Sea Survey' in the waters surrounding the Falkland Islands. Based on the results from this survey work (White et al., 2002), the following species of cetacean were recorded within the vicinity of the proposed drilling location: long-finned pilot whale, hourglass dolphin and Peale's dolphin. Additional marine mammal data has also been compiled based on the reports provided by Marine Mammal Observers (MMOs) during seismic acquisition (November 2007-February 2008) within the Borders & Southern Licence area. This data indicates the presence of a number of cetaceans, including long-finned pilot whale, hourglass dolphin, fin whale, sei whale, killer whale, Peale's dolphin, sperm whale, and a few species of blue whale, minke whale and baleen whale. Given the migratory nature of cetaceans and the fact that effort during the JNCC/FC 'Seabirds at Sea Survey' was lower to the south and east of the Falkland Islands, the possibility that other species are present in the exploration area cannot be discounted.

Little is known of the at-sea distribution of Falkland Islands pinnipeds, and it is possible that South American sea lions, south American fur seals and southern elephant seals may be present within the vicinity of the proposed well locations during the drilling period in low numbers. It should be noted, however, that both proposed wells are located some distance from the known seal haul-out sites.

The Falkland Islands are an area of global importance for birdlife, particularly seabird species. The avifauna of the region is well studied and documented, and seabird distribution, breeding and foraging patterns have been studied extensively. Of the penguin species recorded in the Falkland Islands, only rockhopper penguins and magellanic penguins have been observed at significant distance from the Falkland Islands and may therefore be present during the proposed drilling period in the vicinity of the exploration wells. It is possible that a number of albatross species will be present in the vicinity of the proposed wells. Petrels and shearwaters known to be present in the Licence area include blue petrel, kerguelen petrel, atlantic petrel, prion species, sooty shearwater and diving petrel; although none of these species are considered to be present in significant numbers.

The proposed exploration wells are located away from the identified areas of highest seabird vulnerability. Highest vulnerability tends to be associated with the inshore waters around the Falklands Islands, largely due to the presence of resident species with a predominantly coastal distribution such as the endemic Falklands Steamer duck, imperial shag and gentoo penguin. The Patagonian Shelf waters to the north and west of the Falklands, which support high densities of black-browed albatrosses and royal albatrosses year-round are also associated with high vulnerability areas, but again these are remote from the proposed drilling locations. Seabird vulnerability in the vicinity of the proposed exploration wells is medium over October, November and January, with bird coverage decreasing between June to September (low vulnerability).

There are a number of protected National Nature Reserves (NNR) and internationally Important Bird Areas (IBAs) on the southern coast of Falkland Islands. The closest of these to the proposed exploration wells are Beauchêne Island, located approximately 80 kilometres to the east-north-east and Sea Lion Islands, located approximately 130 kilometres to the north-east from the Darwin East well. Both of the islands are designated NNRs and IBAs.

Impacts and Management Measures

The results of the impact assessment indicate that the majority of impacts from the proposed drilling operations will be negligible to moderate and mostly undetectable shortly after drilling is completed (Table 1).

The key environmental risks associated with the proposed drilling programme include drill cuttings disposal, waste disposal and use of resources (i.e. fuel and potable water). Oil spill modelling indicated that no oil beaching would occur in the unlikely even of a well blowout under typical weather conditions. However, crude oil released during blowout may have a major impact on the offshore seabirds (Table 1). Diesel spills will not impact the coastline and offshore wildlife is likely to be affected only in a close proximity to the spill. It can be concluded that the highest risk of pollution during the drilling programme is from large oil spills. These are highly unlikely events however, and can be effectively controlled through prevention, preparedness and response.

Table 1. Potential Hazards and Associated Impacts from the Proposed Drilling Operations

Hazard	Water & Air		Flora & Fauna						Socio-economic						Other					
	Water Quality	Air Quality	Plankton	Seabed Fauna	Fish Spawning	Offshore Sea Birds	Coastal Birds	Marine Mammals	Sensitive Coastal Sites	Fishing	Shipping	Military Activity	Pipelines, Wells & Cables	Drilling & Support Crews	Dredging	Archaeology	Tourism / Leisure	Land Use	Sediments	Resource Use
Physical Presence									5	5						5				4
Seabed Disturbance				4												5			4	
Noise & Vibration					4	4	5	4												
Atmospheric Emissions		4																		
Marine Discharges	5		5	4	5															
Solid Waste																		3		
Minor Loss of Containment	4		4		5	4		5	4	5						5				

Major Loss of Containment	3	3	3	2	3	4	3	3	3						3		
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Key to Significance of Effect (see Table 4.1 for definitions)

1	Severe	2	Major	3	Moderate	4	Minor	5	Negligible		None
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All operational risks will be controlled using safe drilling practices and effective planning. The potential impacts of the proposed drilling activity will be mitigated in a number of ways, including:

- Maintaining a spirit of openness and ongoing consultation with the Falkland Islands Government (FIG), the public and key stakeholders;
- Applying established UK standards to operations, particularly in offshore chemical use and emissions reporting;
- Using water based drilling muds and low toxicity chemicals approved under the UK Offshore Chemical Notification Scheme.
- Implementing a high level of environmental management offshore and applying environmental procedures for potentially impacting operations (chemical storage, bunkering, waste handling, maintenance programmes, seafloor surveys etc);
- Establishing and implementing a project specific Oil Spill Contingency Plan and carrying out training of key personnel in spill response. Borders & Southern are members of Oil Spill Response which provide outside assistance in the case of a major spill. The Oil Spill Contingency Plan will be submitted to FIG for approval prior to commencement of the drilling operations.
- Implementing a Waste Management Plan to minimise the quantity of waste going to landfill, prevent unsuitable disposal of waste, maximise the re-use of materials and establish procedures for the storage, treatment, transfer and disposal of waste materials. It is envisaged that normal waste will be disposed of on the Falkland Islands with hazardous waste likely to be exported to the UK, Chile or Uruguay. Specific waste handling/disposal routes and procedures will be detailed in the Waste Management Plan, to be submitted to FIG for approval prior to commencement of the proposed drilling operations.
- Collecting and sharing environmental data wherever possible, for example in offshore sightings, seabed surveys and meteorological and oceanographic conditions.

Conclusions

In conclusion, despite the high sensitivity and international importance of the Falkland Islands' waters, there is clear dedication to carrying out these operations to a high environmental standard. Given the current operational commitments and proposed mitigation measures, it is considered that the proposed operations can be undertaken without significant impacts to the Falkland Islands' environment.

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Price: Two pound and seventy- five pence.

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THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. CXIX (119)

28 February 2010

No. 3

Appointments

Jonathan Terrence Clarke, Plant Operator/Handyman, Public Services Department, 01.02.10.

Ingrid Joyce Jaffray, Learning Support Assistant, Education Department, 01.02.10.

Julie Ann Reed, Staff Nurse, Health and Social Services Department, 04.02.10.

Angeline Gloria Clarke, Assistant Taxation Officer, Taxation Department, 15.02.10.

Acting Appointment

Tansy Fiona Newman, Acting Archivist, Secretariat Department, 01.02.10.

Completion of Contract

Ignacio Sergio Paya Contreras, Senior Stock Assessment Scientist, Fisheries Department, 04.02.10.

Redundancy

Richard Lowry Morrison, Podiatrist, Health and Social Services Department, 18.01.10.

Kathleen Gay Dobbys, Director of Human Resources, Human Resources Department, 03.02.10.

Resignation

Josephine Mary Joshua, Clerk, Post and Telecommunications Department, 05.02.10

James Peck, Storekeeper, Power and Electrical Section, Public Services Department, 11.02.10.

Maria Peck, Receptionist, Leisure Centre, 13.02.10.

Transfers

Julie Ann Fisher-Smith, from Assistant Taxation Officer, Taxation Department to Administration Officer, Customs and Immigration Department, 03.02.10.

Rachel Ena Berntsen, from Clerk, Post and Telecommunications Department to Clerk, Health and Social Services Department, 08.02.10.

Zaza Elbakidze, Painter/Handyman, Plant and Vehicle Section, to Plant Operator/Handyman, Highways Section, Public Services Department, 08.02.10.

NOTICES

No. 24

14 February 2010

Falkland Hydrocarbons Limited Company Number: 8627

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on 13 February 2010.

Dated 14 February 2010

J. C. ROWLAND,
Registrar of Companies.

**Appointment of Member of Planning and Building
Committee
Planning Ordinance 1991
(section 5(2))**

1. Section 5(2) of the Planning Ordinance (Title 55.3) provides that the Governor shall appoint members of the Planning and Building Committee.

2. In exercise of my powers under section 5(2) I appoint **Jacqueline Ann Cotter** to be a member of the Planning and Building Committee.

3. This appointment has effect from 1 April 2010, and continues in effect for a period of three years expiring on 31 March 2013, unless terminated sooner.

Dated 17 February 2010

A. E. HUCKLE,
Governor.

**Appointment of Inspectors
Offshore Minerals Ordinance
(section 27(4))
Health and Safety at Work etc Act 1974
(section 19(1))**

1. Section 27(4) of the Offshore Minerals Ordinance (Title 53.1) provides that the Governor may appoint inspectors to discharge the functions conferred by regulations, and assist the Governor in the execution of the provisions of Part III of the Ordinance.

2. Section 19(1) of the Health and Safety at Work etc Act 1974 (in its application by virtue of;

(a) the Offshore Health and Safety Order 1998 (Title 53.1.3); and

(b) the Health and Safety at Work etc Act 1974 (Application outside the Falkland Islands) Order (No 6 of 2008)),

provides that the Governor may appoint inspectors to carry into effect the relevant statutory provisions under the Act.

3. In exercise of my powers under section 27(4) of the Offshore Minerals Ordinance, and section 19(1) of the Health and Safety at Work etc Act 1974, I appoint the following persons to be an inspector for the purposes of those provisions:

Roy Summers, Fishery Officer, Falkland Islands Government

John Harvey Adams, Fishery Officer, Falkland Islands Government

Nicholas Bailey, Inspector, United Kingdom Health and Safety Executive

Derek Singer, Inspector, United Kingdom Health and Safety Executive

4. This appointment has effect from the date of signature, and continues in effect whilst the person holds the relevant substantive post described in paragraph 3, unless this appointment is terminated sooner.

Dated 19 February 2010

A. E. HUCKLE,
Governor.

Application for Naturalisation

Notice is hereby given that **Robert Richard Nannig Vargas** 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 no later than 21 March 2010.

Dated 24 February 2010

C. W. REEVES,
Immigration Officer.

Application for Falkland Islands Status

Notice is hereby given that **Carlos Rodriguez, James Gregory Woodward, Lesley Ann Woodward, Carlin Christopher Yon, and Sarah-Jane Thomas Yon** have applied through the Principal Immigration Officer to be granted Falkland Islands Status by the Governor. Any person who knows of any reason why Status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley no later than 21 March 2010.

Dated 24 February 2010

C. W. REEVES,
Immigration Officer.

Erratum

Gazette No 1 of Volume CXIX dated 31 January 2010. Under "Termination of appointment" details given for Richard Lowry Morrison were incorrect, the correct details appear in this Gazette under "Redundancy".



THE FALKLAND ISLANDS GAZETTE

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Vol. CXIX (119)

31 March 2010

No. 4

Appointments

Jane Louise Rowlands, Part-time Receptionist, Leisure Centre, 23.02.10.

Fiona Alison Erikson, Part-time Cook, Health and Social Services Department, 25.02.10.

Stephen Robert Watt, Assistant Foreman, Highways Section, Public Services Department, 01.03.10.

Heather Smith, Assistant Cook, Stanley House Hostel, Education Department, 08.03.10.

Diana Mary Aldridge, Legal Secretary, Attorney General's Chambers, 10.03.10.

Rachael Crowie, Part-time Clerk, Infant and Junior School, Education Department, 10.03.10.

Andrew John Finlay, Cemetery Caretaker/Handyman, Property and Municipal Section, Public Services Department, 15.03.10.

Amelia Appleby, Receptionist/Data Clerk, Taxation Department, 26.03.10.

Completion of Contract

Nicholas Stephens, Building Advisor, Environmental Planning Department, 29.01.10.

Pia Schuchert, Stock Assessment Scientist, Fisheries Department, 12.03.10.

Renewal of Contract

Nicholas Stephens, Building Advisor, Environmental Planning Department, 02.03.10.

Resignation

Fiona Alison Erikson, Part-time Cook, Health and Social Services Department, 27.02.10.

Brian Anderson, Part-time Relief Warden, Health and Social Services Department, 31.03.10.

Transfer

Cathy Jacobsen, from Clerk, Public Services Department to Cashier/Clerk, Post and Telecommunications, 22.03.10.

Joanne Watson, from Receptionist/Data Clerk, Taxation Office to Cashier/Clerk, Post and Telecommunications, 22.03.10.

NOTICES

No. 29

24 February 2010

White Rock (1996) Limited Company Number: 10809

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 24 February 2010

J. C. ROWLAND,
Registrar of Companies.

No. 30

4 March 2010

Penguin Express Falkland Islands Limited
Company Number: 11440

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 4 March 2010

J. C. ROWLAND,
Registrar of Companies.

No. 31

8 March 2010

Stanley Dairy Limited
Company Number: 7730

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 8 March 2010

J. C. ROWLAND,
Registrar of Companies.

No. 32

9 March 2010

Academic Year 2010 – 2011
Term Dates

Term One will begin in September
Term Two will begin in January
Term Three will begin in May

Term One

Wednesday 1 September – Friday 17 December 2010

Half Term

Monday 18 October – Friday 22 October 2010 (inclusive)

Term Two

Tuesday 25 January – Friday 15 April 2011

Half Term

Monday 28 February – Friday 4 March 2011 (inclusive)

Term Three

Monday 2 May – Friday 5 August 2011

Half Term

Monday 13 June – Friday 17 June 2011 (inclusive)

Public Holidays

Monday 4 October 2010 Peat Cutting Monday
(Schools Closed)

Wednesday 8 December 2010 Battle Day
(Schools Closed)

2

Thursday 21 April 2011

Friday 22 April 2011

Tuesday 14 June 2011

HM Queen's Birthday

Good Friday
(Schools Closed)

Liberation Day

Professional Development Training Days for Teaching and Non-Teaching Staff

Monday 30 August 2010

Tuesday 31 August 2010

Monday 24 January 2011

Two Professional Development days to be organised at the discretion of the Headteacher/s

Camp Schools

Term dates for Camp Schools may be modified to suit the convenience of farms provided that children receive 190 days schooling and the Education Office is notified in advance.

Dated 9 March 2010

R. FOGERTY,
Acting Director of Education.

No. 33

22 March 2010

Dorada Marine Limited
Company Number: 11098

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on 29 December 2009.

Dated 22 March 2010

J. C. ROWLAND,
Registrar of Companies.

No. 34

22 March 2010

Sigma Marine Limited
Company Number: 11936

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on 29 December 2009.

Dated 22 March 2010

J. C. ROWLAND,
Registrar of Companies.

No. 35

24 March 2010

Southern Ocean Fisheries Association Limited
Company Number: 13295

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on 24 March 2010.

Dated 24 March 2010

J. C. ROWLAND,
Registrar of Companies.

Applications for Permanent Residence

Notice is hereby given that:-

Jacqueline Esther Allen
Ian Thomas Ewen
Donna Maree Marwick
Brian Edward Tonner, and
Michele Tonner

have applied to the Principal Immigration Officer to be granted Permanent Residence Permits.

Any person who knows of any reason why permits should not be granted should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 21 April 2010.

Dated 30 March 2010

C. W. REEVES,
Immigration Officer.

Application for Naturalisation

Notice is hereby given that **Zaza Elbakidze** 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 no later than 21 April 2010.

Dated 30 March 2010

C. W. REEVES,
Immigration Officer.

Erratum

Gazette No 1 of Volume CXIX dated 31 January 2010, in Notice number 1 details given for Academic Year 2010-2011 Term Dates were incorrect, the correct details appear in this Gazette under Notice 32.

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THE FALKLAND ISLANDS GAZETTE

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30 April 2010

No. 5

Appointments

Robert Thomas McCrea, Painter/Handyman, Property and Municipal Section, Public Services Department, 01.04.10.

Norma Anne Thom, Part-time Cashier/Clerk, Philatelic Bureau, Post and Telecommunications Department, 01.04.10.

Completion of Contract

Maryanna Ryan, Staff Nurse, Health and Social Services Department, 29.03.10.

Joe Chapman, Fisheries Observer, Fisheries Department, 01.04.10.

Renewal of Contract

Maryanna Ryan, Staff Nurse, Health and Social Services Department, 30.03.10.

NOTICES

No. 38

31 March 2010

Customs Ordinance 2003

Appointment of Temporary Customs Officers

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint the following persons to be temporary Customs Officer:-

Sgt Steven John PRITCHARD – R8222917 from 18 January 2010 to 21 May 2010;

FS Kenneth Douglas BRADDICK – G8187322 from 5 February 2010 to 6 June 2010; and

Cpl Stuart Alexander DAVIDSON – E8420860 from 18 February 2010 to 20 June 2010.

Dated 31 March 2010

R. J. KING,
Collector of Customs.

No. 39

5 April 2010

Currency Ordinance 1987

Appointment of Commissioner of Currency

His Excellency the Governor has been pleased to appoint Linda Margaret Lyse as a Commissioner of Currency in accordance with section 5 of the Currency Ordinance 1987.

K. PADGETT,
Director of Corporate Resources.

No. 40

5 April 2010

**Currency Notes Rules
(Title 25.1.1)**

Currency Officers

In exercise of the powers conferred by rule 3 of the Currency Notes Rules, His Excellency the Governor has been approved the following changes to the list of Currency Officers with effect from 31 March 2010:-

Appointment:

Bonner, Avril Margaret Rose

Cancellation of Appointment:

King, Peter Thomas

Lee, Beverley Christina

The following is a full list of Currency Officers with effect from 31 March 2010:-

Bonner, Avril Margaret Rose

Dodd, Nigel Keith

Eccles, Moira Cameron

Finlay, Shiralee

Granger, Nicola Jane

Loftus, Sara

Lyse, Linda Margaret

Padgett, Keith

Triggs, Donna Louise

Wilkie, Ambrose Simon

M. C. ECCLES and K. PADGETT,
Commissioners of Currency.

No. 41

7 April 2010

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instrument has been published in the United Kingdom by The Stationery Office Limited and is available to view at www.opsi.gov.uk:-

2010 No 763 – The International Criminal Court Act 2001 (Overseas Territories)(Amendment) Order 2010; and

2010 No 767 – The Uzbekistan (Restrictive Measures) (Overseas Territories)(Revocation) Order 2010.

Dated 7 April 2010

B. I. STEEN,
for Attorney General.

No. 42

12 April 2010

Index of Retail Prices

The calculation of the Index for the quarter ended 31 March 2010 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
30.06.09	137.19	2.1	0.06

30.09.09	136.83	(2.4)	(0.3)
31.12.09	136.62	(3.2)	(0.2)
31.03.10	137.55	0.3	0.7

Dated 12 April 2010

L. LYSE,
for Director of Corporate Resources.

No. 43

22 April 2010

**Highways (Weight Limits) Ordinance 2004
section 6(4)**

Prohibition Notice

1. Section 6(4) of the Highways (Weight Limits) Ordinance 2004 provides that the Director of Public Works may, by notice published in the Gazette, prohibit the use of certain vehicles on the publicly maintainable highways specified in the notice.

2. The use of any motor vehicle, trailer or vehicle combination, the authorised weight of which exceeds 15 metric tons, is prohibited with effect from 1st May 2010 until 30th September 2010 on the following publicly maintainable highways —

(a) on East Falkland —

(i) all roads beyond the Estancia junction as approached on the Port Louis Road from the direction of the Mount Kent turnoff;

(ii) the Fitzroy Road from its junction with the Stanley to Darwin Road to its end at Fitzroy settlement;

(iii) the San Carlos Road from its junction with the Stanley to Darwin Road to its end at San Carlos settlement;

(iv) all roads beyond the North Arm/New Haven junction as approached from the North on the Stanley to North Arm Road; and

(v) all roads beyond the Moody Brook Bridge as approached from the East on the Moody Brook Road.

(b) on West Falkland —

all publicly maintainable highways.

3. Paragraph 2(a)(iv) does not apply to the New Haven Road from its junction with the North Arm Road to its end at the port of New Haven.

Dated 22 April 2010

M. M. I. KEENLEYSIDE,
Director of Public Services.

No. 44

22 April 2010

J & M ADAMS (Reflections) Limited
Company Number: 8931

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 22 April 2010

J. C. ROWLAND,
Registrar of Companies.

No. 45

28 April 2010

Application for Naturalisation

Notice is hereby given that:

Antoine Rene DAILLE MARCHANT
Mariela BLAKE

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 no later than 21 May 2010.

Dated 28 April 2010

C. W. REEVES,
Immigration Officer.

No. 46

29 April 2010

Public Accounts Committee
Register of Members' Interests

The information contained in this Register is provided by member of the Public Accounts Committee in accordance with section 7(4)(c) of the Public Accounts Committee Ordinance.

The information is current to 30 April 2010.

Particulars of Interests:

1. Remunerated directorships and whether or not in companies incorporated in the Falkland Islands, including directorships which are unremunerated, but where remuneration is paid through another company in the same group.

Stuart Wallace:

Fortuna Ltd	Kelper Stores Ltd
Capricorn Ltd	Petrel Trawling Ltd
Petrol Fishing Co. Ltd	Venturer Fishing Co. Ltd
Beagle Fishing Co. Ltd	Georgia Seafood Ltd

Workboat Services Ltd	Loligo Products SL
Consolidated Fisheries Ltd	PescaPuera Peru SAC
Falklands Brasserie Ltd	Falkland Fish Farming Ltd
Jason Fishing Co. Ltd	

Sharon Halford:

None

Mike Forrest:

International Tours & Travel Ltd
International Fishing Ltd

David Lang:

None

Emma Edwards:

None

2. Remunerated employment, office or profession

Stuart Wallace:

Managing Director Fortuna Ltd
Director Consolidated Fisheries Ltd

Sharon Halford:

Member of the Legislative Assembly of the Falkland Islands

Mike Forrest:

None

David Lang:

Legal Practitioner from 28 Goss Road, Stanley
Notary Public
Commissioner for Oaths

Emma Edwards:

Geography Teacher, Education Department, FIG
Royal Falkland Islands Police, FIG
Museum & National Trust
Bluff Cove Lagoon Tours
Fellow of the Royal Geographical Society
Fellow of the Geological Society

3. Clients in respect of whom the member holds a general retainer or in respect of whom he has in the last 12 months, or expects in the next 12 months, to provide services for payment where a member of the public might reasonably think that the member's conduct in or in relation to the business of the Public Accounts Committee might have been or might be influenced by the client's interests

Stuart Wallace:

None

Sharon Halford:

None

Mike Forrest:

Member of the Falkland Islands Development Board for which he receives an attendance allowance.

David Lang:

Holds no general retainer for any client and has not held any such retainer during the past 12 months. Has been instructed by FIDC in a number of mortgage transactions

and in one transaction relating to the sale of shares held by it.

Instructed by Mr & Mrs Reynolds in relation to the possible sale to them of Stanley Dairy Ltd and also in relation to the termination of their employment by FIDC/Stanley Dairy Ltd.

Emma Edwards:
Education Department
Royal Falkland Islands Police
Museum & National Trust

4. Sponsorships. Any form of sponsorship or financial or material support of a member which involves any payment, benefit or advantage whether to the member or any other person with whom the member is closely connected

Stuart Wallace:
None

Sharon Halford:
None

Mike Forrest:
None

David Lang:
Chairman (unpaid) of the Stanley Sea Cadets Unit Management Committee. The Stanley Sea Cadets Unit (TS Endurance) is a registered charity which receives assistance in various forms from FIG and private sector companies and individuals.

Emma Edwards:
None

5. Gifts, benefits and hospitality

Stuart Wallace:
None

Sharon Halford:
None

Mike Forrest:
None

David Lang:
No gifts except from family and friends
FIG Pensioner receiving Non-discretionary occupational pension
Receives hospitality at Government House

Emma Edwards:
None

6. Overseas visits relating to or arising out of membership of the Public Accounts Committee where the cost of any such visit has not been borne wholly by the member or out of the Falkland Islands public funds

Stuart Wallace:
March 2010 - visit to UK, Guernsey and Isle of Man - paid for by HMG

Sharon Halford:
March 2010 - visit to UK, Guernsey, Tyneside and Isle of Man - paid for by HMG

Mike Forrest:
None

David Lang:
None

Emma Edwards:
Nothing to date
17 May 2010 – New Caledonia – paid by UN
12 June 2010 – New York Committee of 24 – flights paid for by UN

7. Any gifts or material benefits or advantages received by the member of the member's spouse from or on behalf of overseas Governments, organisations or persons

Stuart Wallace:
None

Sharon Halford:
None

Mike Forrest:
None

David Lang:
None

Emma Edwards:
None

8. Land or property of a substantial value or from which a substantial income is gained

Stuart Wallace:
Through Companies listed in 1 above:
Globe Tavern 56 John Street
Warehouse at Gordon Lines Globe Offices
Falklands Brasserie 1 John Biscoe Road
Waverley House Auster Place
K2 Shop Lookout Ind Estate Waverley Shop
5 & 7 Beaver Road K3 Shop Lookout Ind Estate
Raymar House (old) Beaver Hangar
K4 Shop & Narrows Pub
CFL Warehouse (Gordon Lines)

Sharon Halford:
Joint Ownership of Casa Verde, San Carlos

Mike Forrest:
16 Kent Road, Stanley (owned by Mrs J C Forrest)
6 Fitzroy Road East (jointly)

Through Companies listed in Section 9 below:
1 Dean Street, Stanley
26 Goss Road, Stanley

David Lang:
Joint Ownership of 28 Goss Road, Stanley

Emma Edwards:
None

9. The names of companies or other bodies in which the member has, to his knowledge either with or on behalf of his spouse and children under the age of 18 years, a beneficial interest in shareholding of a nominal value greater than one percent of the issued share capital or less than one percent and more than £25,000.00

Stuart Wallace:

Fortuna Ltd	Falklands Fish Farming Ltd
Capricorn Ltd	Jason Fishing Co. Ltd
Beagle Fishing Co. Ltd	Petrol Trawling Ltd
Petrol Fishing Co. Ltd	Venturer Fishing Co. Ltd
Consolidated Fisheries Ltd	Georgia Seafood Ltd
Workboat Services Ltd	Loligo Products SL
Kelper Stores Ltd	PescaPuera Peru SAC
Falkland Brasserie Ltd	Desire Petroleum PLC
Falkland Islands Holdings PLC	
Borders & Southern Petroleum PLC	
Rockhopper Exploration PLC	
Falklands Oil & Gas Ltd	

Sharon Halford:

None

Mike Forrest:

Marsur Ltd
International Tours & Travel Ltd
International Fishing Ltd
Falkland Security Services Ltd

David Lang:

None

Emma Edwards:

None

10. Any relevant interest not covered by one of the main categories which falls within the purpose of the Register (which is to provide information on any pecuniary benefit which a member receives and which might reasonably be thought by others to influence his or her actions, speeches or votes in the Public Accounts Committee OR which the member considers might be thought by others to influence his or her actions in a similar manner, even though the member receives no financial benefit

Stuart Wallace:

Co-owner – South Bank of part of San Carlos River
Co-owner – 38 Ross Road West

Sharon Halford:

None

Mike Forrest:

Director of Marsur Ltd
Council Member Falkland Islands Chamber of Commerce
Board Member Falkland Islands Fishing Companies Association

David Lang:

Daughter is currently Financial Controller of FIDC
Remunerated where clients are legally aided by payment from the Legal Aid provision in the Justice Department, FIG

Emma Edwards:

Member of Legislative Assembly – November 2009 – November 2013

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1 May 2010

No. 6

The following are published in this Extraordinary Gazette —

Register of Electors for Camp Constituency; and

Register of Electors for Stanley Constituency.

Register of Electors for Camp Constituency at 1 May 2010

Serial	Last Name	First Name	Address
1	Aguila Aguilar	Jeanette del Carmen	Goose Green, E.F.I
2	Alazia	Felicity Nikita	Port Edgar Farm
3	Alazia	George Robert	Hope Cottage, E.F.I
4	Alazia	Hazel	San Carlos, E.F.I
5	Alazia	Keith	Goose Green, E.F.I
6	Alazia	Mandy Gwyneth	Port Edgar Farm, W.F.I
7	Alazia	Michael Robert	Port Edgar Farm, W.F.I
8	Aldridge	Brian George	Saladero E.F.I
9	Aldridge	Diana Mary	Saladero E.F.I
10	Anderson	Rupert William	Port Howard, W.F.I
11	Armstrong-Ford	Karen Jane	Goose Green E.F.I
12	Ashworth	Glenn	Riverside Farm, E.F.I
13	Ashworth	Iain	Riverside Farm, E.F.I
14	Ashworth	Malcolm	Riverside Farm, E.F.I
15	Bagley	Darren Clive	Riverview Farm, E.F.I
16	Bagley	Jacqueline Elizabeth	Riverview Farm, E.F.I
17	Barrientos	Jose Sixto Ruiz	North Arm, E.F.I
18	Beattie	Ian Robert Ewen	North Arm, E.F.I
19	Bendyshe Pitaluga	Antoinette Margaretha M	Gibraltar Station E.F.I
20	Berntsen	Arina Janis	Pebble Island, W.F.I
21	Berntsen	Benjamin John	Elephant Beach, E.F.I
22	Betts	Bernard Keith	Boundary Farm, W.F.I
23	Betts	Diane Joan	Fox Bay East W.F.I
24	Bonner	Katie Jean	Port Howard, W.F.I
25	Bonner	Simon	Port Howard, W.F.I
26	Bonner	Susan Anne	Port Howard, W.F.I
27	Castro Barrientos	Gilberto Enrique	Goose Green E.F.I
28	Chater	Anthony Richard	New Island, W.F.I
29	Chater	Kim Andrea	New Island, W.F.I
30	Clarke	Alan Neil	Port Howard, W.F.I
31	Clarke	Jan Michael	Lorenzo Farm, E.F.I
32	Clarke	Jeanette	West Point Island W.F.I
33	Clarke	Jonathan Terence	4 Fitzroy Farm
34	Clarke	Michael Jan	West Point Island W.F.I
35	Clarke	Shane Adrian	Smylies Farm E.F.I
36	Clausen	Denzil	Weddell Island, W.F.I
37	Clifton	Leonard	Walker Creek, E.F.I
38	Clifton	Thora Janeene	Walker Creek, E.F.I
39	Cockwell	Benjamin William	Fox Bay Village, W.F.I
40	Cockwell	Clare Marie	Fox Bay Village, W.F.I
41	Cockwell	Grizelda Susan	Fox Bay Village, W.F.I
42	Davis	Aase	Evelyn Station, E.F.I
43	Davis	Ian John	Evelyn Station E.F.I
44	Davis	Reginald John	Evelyn Station, E.F.I
45	Decroliere	Carrie Madeline Helen	Fox Bay Village, W.F.I
46	Decroliere	Eric Ernest Albert	Fox Bay Village, W.F.I
47	Dickson	Charles George	Brookfield, E.F.I
48	Dickson	Doreen	Wreck Point E.F.I

49	Dickson	Gerald William	Wreck Point, E.F.I
50	Dickson	Steven Charles	North Arm E.F.I
51	Dodd	Samantha Jane	Fox Bay East W.F.I
52	Donnelly	Daniel	Crooked Inlet, W.F.I
53	Donnelly	Joyce Elizabeth	Crooked Inlet, W.F.I
54	Dunford	David Philip	Saddle Farm, W.F.I
55	Eagle	Alan William	Fitzroy Farm, E.F.I
56	Edwards	Norma	Lake Sullivan, W.F.I
57	Edwards	Rebecca Elizabeth	Port Howard Farm W F I
58	Edwards	Roger Anthony	Lake Sullivan, W.F.I
59	Evans	Donna Newell	Spring Point Farm W.F.I
60	Evans	Michael David	Spring Point Farm W.F.I
61	Evans	Raymond	Pebble Island, W.F.I
62	Evans	Richard Gregory	Bold Cove W.F.I
63	Evans	Tracy	Pebble Island W.F.I
64	Finlayson	Neil Roderick	North Arm, E.F.I
65	Ford	Paul Edward	Goose Green E.F.I
66	Gilding	Melanie Carol	Port Louis, E.F.I
67	Gilding	Peter Bernard	Port Louis, E.F.I
68	Giles	Gilbert	Chartres W.F.I
69	Gleadell	Marklin John	Goose Green E.F.I
70	Goodwin	Margo Jane	North Arm, E.F.I
71	Goodwin	Matthew Gerald	North Arm E.F.I
72	Goodwin	Neil Alexander William	North Arm, E.F.I
73	Goss	Margaret Rose	Horseshoe Bay, E.F.I
74	Goss	Peter	Horseshoe Bay, E.F.I
75	Greenland	Bonita Doreen	Darwin House, E.F.I
76	Greenland	Kenneth David	Darwin House, E.F.I
77	Grierson	Hew McInnes	Blue Beach San Carlos E.F.I
78	Grimmer	Keith	The Dunes Fitzroy River
79	Grimmer	Marilyn	The Dunes Fitzroy River
80	Halford	Rodney John	Casa Verde San Carlos E.F.I
81	Halford	Sara Jayne	Casa Verde San Carlos E.F.I
82	Halford	Sharon	Casa Verde San Carlos E.F.I
83	Halliday	Joyce Isabella Patience	Fox Bay Village, W.F.I
84	Halliday	Kenneth William	Fox Bay Village, W.F.I
85	Hansen	Ian	Main Point, W.F.I
86	Hansen	Lionel Raymond	Hill Cove, W.F.I
87	Hansen	Rose Idina	Hill Cove, W.F.I
88	Hansen	Susan Ann	Main Point, W.F.I
89	Harvey	Jen	Hill Cove, W.F.I
90	Harvey	Valerie Ann	Hill Cove, W.F.I
91	Harwood	Reuben Joseph	Goose Green E.F.I
92	Heathman	Ailsa	Estancia, E.F.I
93	Heathman	Ewart Tony	Estancia, E.F.I
94	Hill	Jennifer Eileen	Stoney Ridge, W.F.I
95	Hirtle	Anthony	Peaks Farm, W.F.I
96	Hirtle	Doris Linda	Port Howard, W.F.I
97	Hirtle	Odette Susan	Port Howard, W.F.I
98	Hirtle	Samantha Lee	Peaks Farm, W.F.I
99	Hirtle	Susan Mary	Peaks Farm, W.F.I

100	Hobman	Anola Zoey	Port Howard, W.F.I
101	Hobman	Gonzalo David	Albemarle Station
102	Hobman	John Malcolm	Goose Green E.F.I
103	Hobman	Juan Jose Eleuterio	Goring Station W.F.I
104	Hobman	Vivien	Goose Green E.F.I
105	Innes	Isabella Alice	Hill Cove, W.F.I
106	Jaffray	Alexander	Lively Island, E.F.I
107	Jaffray	Eileen	North Arm, E.F.I
108	Jaffray	Elliott Jessie	Lively Island, E.F.I
109	Jaffray	Ian	North Arm, E.F.I
110	Jennings	Jacqueline	Pebble Island, W.F.I
111	Jones	John Hugh	Race Point Farm, E.F.I
112	Jones	Michael David	Head Of Bay, E.F.I
113	Jones	Michelle	Race Point Farm, E.F.I
114	Jones	Sheila Janice	Head Of Bay, E.F.I
115	Jonson	Amy Elizabeth	Goose Green E.F.I.
116	Jordan	Ian Phillip	4 Letsbey Avenue M.P.A.
117	Knight	Justin Robert Campbell	Coast Ridge, W.F.I
118	Knight	Keith Andrew	Coast Ridge, W.F.I
119	Knight	Nigel Arthur	Coast Ridge, W.F.I
120	Lee	Beverly Christina	Galley Café Goose Green
121	Lee	Christopher	Port Howard, W.F.I
122	Lee	Elizabeth	Goose Green, E.F.I
123	Lee	John Alfred	Goose Green, E.F.I
124	Lee	Leslie James	Galley Café Goose Green
125	Lee	Mervyn Richard	North Arm E.F.I
126	Lee	Myles	Port Howard W.F.I
127	Lee	Tanya	Lorenzo Farm E.F.I
128	Lee	Trudi Dale	Galley Café Goose Green
129	Leo	Brenda May	NAAFI, MPA, E.F.I
130	Livermore	Darren	Fitzroy Farm, E.F.I
131	Lloyd	Melvyn John	Point View Goose Green
132	Lloyd	Valerie Ann	Point View Goose Green
133	Lockhart	Lisa Jeraine	Fern Ridge W.F.I
134	Lowe	Adrian Stewart	Murrel Farm, E.F.I
135	Lowe	Lisa Helen	Murrel Farm, E.F.I
136	Lowe	Susan Elizabeth	Port Howard Lodge W.F.I
137	Luxton	Jennifer Mary	Sealion Island, E.F.I
138	Luxton	William Robert	Chartres, W.F.I
139	MacDonald	Alexander Colin	Goose Green E.F.I
140	Marsh	Alastair Roy	Shallow Harbour, W.F.I
141	Marsh	Anna Deirdre	Fox Bay East W.F.I
142	Marsh	Gavin Nicholas	Fox Bay East W.F.I
143	Marsh	Helen Rose	Rincon Ridge, W.F.I
144	Marsh	June Helen	Rincon Ridge, W.F.I
145	Marsh	Kevin Roy	Shallow Harbour, W.F.I
146	Marsh	Leon Peter	Rincon Ridge, W.F.I
147	Marsh	Marlane Rose	Shallow Harbour, WFI
148	Marsh	Patricia Ann	Lakelands, W.F.I
149	Marsh	Robin Frank	Lakelands, W.F.I
150	May	Christopher Raymond	George Island, E.F.I

151	May	Lindsey Olga	Speedwell Island
152	McGhie	James	Stoney Ridge, W.F.I
153	McGhie	Jodie Kim	Port North, W.F.I
154	McGhie	Roy	Port North, W.F.I
155	McGhie	Thomas Forsyth	Saunders Island, W.F.I
156	McGill	Lorraine Iris	Carcass Island, W.F.I
157	McGill	Robin Perry	Carcass Island, W.F.I
158	McKay	Fraser Roderick	Teal River, W.F.I
159	McKay	Glyn Ronald	Teal River W.F.I
160	McKay	Josephine Ann	Sheffield Farm, W.F.I
161	McKay	Kenneth Andrew	Sheffield Farm, W.F.I
162	McKay	Penelope Rose	Goring Station W.F.I
163	McKay	Roy Derek	Sheffield Farm W.F.I
164	McLeod	Albert John	Camilla Creek E.F.I
165	McLeod	Isabella Frances Diana	Fitzroy E.F.I
166	McLeod	John (1)	Dunvegan Cabin E.F.I
167	McLeod	Madeline Jean	Dunvegan Cabin E.F.I
168	McLeod	Sarah Rose	Camilla Creek E.F.I
169	McPhee	June Iris	Brookfield, E.F.I
170	McPhee	Kenneth John	Brookfield, E.F.I
171	McPhee	Mark	Brookfield, E.F.I
172	McPhee	Sheila Margaret	Kingsford Valley Farm E.F. I
173	McPhee	Terence Owen	Kingsford Valley Farm E.F.I
174	McPhee	Trudi Lynette	Brookfield, E.F.I
175	Middleton	Kerry Ann	Goose Green E.F.I
176	Miller	Betty Larsen	North Arm E.F.I
177	Miller	Catherine McLeod	Fox Bay Village, W.F.I
178	Miller	James Albert	Fox Bay Village, W.F.I
179	Miller	Philip Charles	Cape Dolphin, E.F.I
180	Minnell	Donna Marie	Moss Side, E.F.I
181	Minnell	Michael Robert	Moss Side, E.F.I
182	Mitchell	Leon John	Mount Kent Farm E.F.I
183	Morrison	Gerald	Goose Green, E.F.I
184	Morrison	John	Port Howard, W.F.I
185	Morrison	Kathleen Iris	Goose Green, E.F.I
186	Murphy	Roy David	Port Howard, W.F.I
187	Newman	Glynnis Karen	Goose Green E.F.I
188	Nightingale	Charlene	West Lagoons, W.F.I
189	Nightingale	Peter Richard	West Lagoons, W.F.I
190	Peck	Farrah Louise	Shallow Bay W.F.I
191	Peck	Paul	Shallow Bay, W.F.I
192	Phillips	Carol Joan	Hope Cottage, E.F.I
193	Phillips	Paul David	Hope Cottage E.F.I
194	Phillips	Shula Louise	Hope Cottage E.F.I
195	Phillips	Terence	Hope Cottage, E.F.I
196	Pitaluga	Jene Ellen	Gibraltar Station, E.F.I
197	Pitaluga	Nicholas Alexander R	Gibraltar Stn, E.F.I
198	Pitaluga	Robin Andreas McIntosh	Gibraltar Station, E.F.I
199	Platt	Claire	Lakelands Farm W.F.I
200	Pole-Evans	Anthony Reginald	Saunders Island, W.F.I
201	Pole-Evans	Carole Suzan	Saunders Island W.F.I

202	Pole-Evans	David Llewellyn	Saunders Island, W.F.I
203	Pole-Evans	Louise Suzan	Saunders Island E.F.I
204	Pole-Evans	Shirley Helen	Manybranch, W.F.I
205	Pole-Evans	Suzan	Saunders Island, W.F.I
206	Pole-Evans	William Reginald	Manybranch, W.F.I
207	Poncet	Dion Michael	Beaver Island, W.F.I
208	Poncet	Jerome Pierre	Beaver Island, W.F.I
209	Poncet	Leiv Sigismund	Beaver Island, W.F.I
210	Porter	Joan	Shallow Harbour, W.F.I
211	Reeves	Ronald James	Port Howard, W.F.I
212	Reid	Emily Margaret	North Arm, E.F.I
213	Robertson	Ann	Port Stephens, W.F.I
214	Robertson	Dion Sebastian	Port Stephens W.F.I
215	Robertson	Paul Jonathan	Port Stephens, W.F.I
216	Robertson	Peter Charles	Port Stephens, W.F.I
217	Ross	William Henry	Walker Creek E.F.I
218	Sackett	Pauline	Fitzroy Farm E.F.I
219	Shepherd	Colin David	Goose Green, E.F.I
220	Short	Andrez Peter	Swan Inlet, E.F.I
221	Short	Elaine Elizabeth	Bleaker Island, E.F.I
222	Short	John Mark	Port Howard, W.F.I
223	Short	Robert Charles	Bleaker Island, E.F.I
224	Sinclair	Serena Samantha	Doyle Farm W.F.I
225	Sinclair	Simon Keith	Fitzroy Farm E.F.I
226	Smith	Caroline	Fitzroy Farm E.F.I
227	Smith	Derek	Rincon Grande E.F.I
228	Smith	George Patterson	Port Louis E.F.I
229	Smith	Jenny Lorraine	Port Louis E.F.I
230	Smith	Julia Trinidad	Rincon Grande E.F.I
231	Smith	Susan	Blue Beach, E.F.I
232	Smith	Terence George	North Arm, E.F.I
233	Steen	Gail	Paragon House Lafonia E.F.I
234	Steen	Vernon Robert	Paragon House Lafonia E.F.I
235	Stevens	Caris Kirsten	Port Sussex, E.F.I
236	Stevens	Liam Bodie	Port Sussex, E.F.I
237	Stevens	Richard James	Port Sussex, E.F.I
238	Stevens	Toni Donna	Port Sussex, E.F.I
239	Strange	Ian John	New Island
240	Street	David Charles	Plot 13A Fitzroy Ridge E.F.I
241	Street	Edith Mary	Plot 13A Fitzroy Ridge E.F.I
242	Taylor	Christopher John	19 Goose Green, E.F.I
243	Tellez	Rodolfo	Goose Green E.F.I
244	Thom	John Currie	Fitzroy Farm E.F.I
245	Thorsen	Gloria Penelope	Teal Inlet, E.F.I
246	Thorsen	Kristiane Annergret Helena	Teal Inlet E.F.I
247	Towersey	Diane	Port Stephens, W.F.I
248	Turner	Arthur Leonard Pitaluga	Rincon Grande, E.F.I
249	Turner	Elaine Ellen	Rincon Grande, E.F.I
250	Tuson	Olwen Carol	Saunders Island, W.F.I
251	Velasquez	Arleen	Johnsons Harbour E.F.I
252	Velasquez	Oscar Hernan	Johnsons Harbour E.F.I

253	Wallace	Helen Jean	Albemarle Station
254	Watson	Glenda Joyce	Long Island, E.F.I
255	Watson	Neil	Long Island, E.F.I
256	White	Allan Paul George	Pebble Island, W.F.I
257	Whitney	Daneila Grace	Mount Kent Farm, E.F.I
258	Whitney	Dennis	Fitzroy Farm, E.F.I
259	Whitney	Sara Marie	Home Farm Douglas E.F.I
260	Whitney	Tyrone	Home Farm, E.F.I
261	Wilkinson	Rosemary	Dunnose Head, W.F.I

Register of Electors for Stanley Constituency at 1 May 2010

Serial	Last Name	First Name	Address
1	Adams	John Harvey	21 Ross Road East
2	Adams	Marjorie Rose	21 Ross Road East
3	Adeoye	Anneliese Rose	25 Shackleton Drive
4	Alazia	Andrew	36 Callaghan Road
5	Alazia	Anita Jayne	29 Brandon Road
6	Alazia	Freda	22 Fitzroy Road
7	Alazia	Freda Evelyn	17 Jersey Road
8	Alazia	Jason Neville	5 Villiers Street
9	Alazia	Sandra Marie	36 Callaghan Road
10	Alazia	Yvonne	Flat 4 1A Moody Sreet
11	Alazia-McLaughlin	Colleen	3 Narrows View
12	Aldridge	Caroline Mary	2 McKay Close
13	Aldridge	Kenneth John	2 McKay Close
14	Aldridge	Nina Ann	2 Mountain View
15	Aldridge	Stephen John	13 Hansen Hill
16	Allan	John	39 Ross Road
17	Allan	Joyce Ena	39 Ross Road
18	Allan	Valerie Anne	6a Jeremy Moore Avenue
19	Almonacid	Orlando	1 Villiers Sreet
20	Anderson	Carol Anne	22 Endurance Avenue
21	Anderson	Eddie	22 Endurance Avenue
22	Anderson	Elizabeth Nellie	42 Davis Street
23	Anderson	Jamie Falkland	18 Murray Heights
24	Anderson	Jenny	8 Goss Road
25	Anderson	Lynda June	6b St Mary's Walk
26	Anderson	Margaret Kathleen	18 Murray Heights
27	Anderson	Paul James	9 Fieldhouse Close
28	Anderson	Reginald Stanford	18 Murray Heights
29	Anderson	Richard Louis	7 Yates Place
30	Anderson	Stephen Robert	Lookout Lodge
31	Anderson	Tony James	8 Goss Road
32	Anderson	Tony James	2 'H' Jones Road
33	Anderson	William John Stanley	6b St Mary's Walk
34	Anderson-Smith	Georgina Carol	4 Philomel Street
35	Anthony	Enid Elizabeth	6 Dairy Paddock Road
36	Appleby	Amelia	15 Fieldhouse Close
37	Arkhipkin	Alexander Ivanovich	13 Biggs Road
38	Arkhipkina	Nadezhda	13 Biggs Road
39	Ashbridge	Corina Rose	14 Pioneer Row
40	Bahamonde Salazar	Luis Alberto	Flat 2 Hebe Street
41	Baker	Alison Margaret	12 Endurance Avenue
42	Barker	Jane Elizabeth Diana	5 Pitaluga Place
43	Barker	Philip Craig	5 Pitaluga Place
44	Barkman	Kirsty Michelle	40 Eliza Crescent
45	Barkman	Teslyn Siobahn	16 Fieldhouse Close
46	Barlow	Andrea Joanna Ampuero	4 Rowlands Rise
47	Barlow	Martyn Liam	4 Rowlands Rise
48	Barnes	Anyia Deirdre	8 Eliza Crescent

49	Barnes	Dierdre	8 Discovery Close
50	Barnes	Karen Rose	26 Ross Road West
51	Barnes	Marlene Estela	Malvina Flat Ross Road
52	Barnes	Marshall	8 Discovery Close
53	Barnes	Paul	26 Ross Road West
54	Barton	Alison Mary	6 Villiers Street
55	Barton	Arthur John	6 Villiers Street
56	Barton	David Arthur	6 Villiers Street
57	Bates	Barbara	8 Watson Way
58	Bates	James William	8 Watson Way
59	Beckett	Vivien Delia	2 Discovery Close
60	Bedford	Kita Muriel	13 Jersey Road
61	Benjamin	Robin Eric	19 Goss Road
62	Benjamin	Sheena Marie	No 1 Church House Flats
63	Bermtsen	Brenda Diann Joanna	6 McKay Close
64	Bermtsen	Cecilia Del Rosario	14 St Marys Walk
65	Bermtsen	Christian Olaf Alexander	15a James Street
66	Bermtsen	Erica Dawn	10 Fitzroy Road
67	Bermtsen	Falkland	10 Fitzroy Road
68	Bermtsen	Gene Stanley	8 Fieldhouse Close
69	Bermtsen	Iain Kenneth	2 Dean Street
70	Bermtsen	John Alexander	Flat 1 7 Jeremy Moore Ave
71	Bermtsen	Kenneth Frederick	1 Racecourse Road East
72	Bermtsen	Lucas Delhi John	Lookout Lodge
73	Bermtsen	Matthew John	5 Murray Heights
74	Bermtsen	Olaf Christian Alexander	35 Eliza Crescent
75	Bermtsen	Patrick	10 A James Street
76	Bermtsen	Rachel Ena	15a James Street
77	Bermtsen	Saphena Anya Jane	8 Jersey Road
78	Bermtsen	Sarah Jane	11 Fitzroy Road
79	Bermtsen	Trevor John	6 McKay Close
80	Bermtsen	Trina Mary Shirlene	2 Capricorn Road
81	Bermtsen	Valdamar Lars	14 St. Marys Walk
82	Besley-Clark	Barbara June	16 Ross Road West
83	Besley-Clark	Norman	16 Ross Road West
84	Betts	Arlette	Lafone House Ross Road
85	Betts	Coral Elizabeth	11 Sullivan Street
86	Betts	Daniel William	7 Jeremy Moore Avenue
87	Betts	Dion James	7 Jeremy Moore Avenue
88	Betts	Donald William	7 Jeremy Moore Avenue
89	Betts	George Winston Charles	35 Ross Road West
90	Betts	Ian	1 Villiers Street
91	Betts	Lucia Elizabeth	35 Ross Road West
92	Betts	Michael George	35 Ross Road West
93	Betts	Owen	9b Sullivan Street
94	Betts	Peter James	50a Davis Street
95	Betts	Priscilla Violet Morrison	9b Sullivan Street
96	Betts	Severine	11 Sullivan Street
97	Betts	Shirley Rose	7 Jeremy Moore Avenue
98	Betts	Stephen	7 Jeremy Moore Avenue
99	Betts	Trudi Ann	50a Davis Street

100	Betts	Tyrone Trevor	7 Short Street
101	Biggs	Ailie Christine	34 John Street
102	Biggs	Alastair Gordon	Trehayle 50 John Street
103	Biggs	Althea Maria	3 Dairy Paddock Road
104	Biggs	Christopher David	3 Eliza Cove Road
105	Biggs	Coleen Margot	9 Moody Street
106	Biggs	Daniel Craig	16 Endurance Avenue
107	Biggs	Edith Joan	Trehayle 50 John Street
108	Biggs	Frances	16 Endurance Avenue
109	Biggs	Kyle Alexander	16 Endurance Avenue
110	Biggs	Lucas Sebastian	16 Endurance Avenue
111	Biggs	Marian June	30 Ross Road East
112	Biggs	Michael Elfed	21 Fitzroy Road
113	Biggs	Patrick	30 Ross Road East
114	Biggs	Peter Julian Basil	16 Endurance Avenue
115	Biggs	Richard John	30 Ross Road East
116	Biggs	Thomas C A	8 Thatcher Drive
117	Biles	Kathleen Anne	14 Kent Road
118	Biles	Keith Robert	14 Kent Road
119	Binnie	Linda Rose	6 Fieldhouse Close
120	Binnie	Ronald Eric	6 Fieldhouse Close
121	Binnie	Susana	3 Brandon Road
122	Birmingham	Alexandra Sally	4 Drury Street
123	Birmingham	John	4 Drury Street
124	Bishop	Nigel Ian	5 Jersey Road
125	Blackley	Candy Joy	4 Barrack Street
126	Blackley	Maurice	10A German Camp
127	Blackley	Shane David	4 Barrack Street
128	Blake	Alexander Charles	38 Eliza Crescent
129	Blake	Anthony Thomas	14 Watson Way
130	Blake	Larissa Celly	12 Ross Road West
131	Blake	Lionel Geoffrey	1 Ross Road
132	Blake	Sally Gwynfa	1 Ross Road
133	Blake	Thomas Patrick	12 Ross Road West
134	Blizard	Malvina Mary	51 Fitzroy Road
135	Blyth	Paz Neri	4 a Jeremy Moore Avenue
136	Bolt	Dennis John	4 Watson Way
137	Bonner	Alan Paul	8 Pioneer Row
138	Bonner	Avril Margaret Rose	4 Felton Court
139	Bonner	Donald William	Chaffeurs Cottage
140	Bonner	Ewan Shane	28 Jersey Road
141	Bonner	Hayley Trina	41 Ross Road West
142	Bonner	Keith James	4 Felton Court
143	Bonner	Linda Jane	4A Ross Road West
144	Bonner	Lindsay Jane	6 Ian Campbell Drive
145	Bonner	Nicholas	4A Ross Road West
146	Bonner	Paul Roderick	5 John Street
147	Bonner	Richard James	8 Murray Heights
148	Bonner	Stevie Coppell	Whyteways James Street
149	Bonner	Tansie Rebecca	4 Felton Court
150	Bonner	Timothy	41 Ross Road West

151	Bonner	Vera Ann	5 John Street
152	Bonner	Vera Joan	Chauffeurs Cottage
153	Booth	Jessie	Racecourse Cottage
154	Booth	Myriam Margaret Lucia	7 Philomel Street
155	Booth	Stuart Alfred	Racecourse Cottage
156	Bound	Joan	Occupation Road
157	Bowles	Norma Evangeline	1A Villiers Street
158	Bowles	Sarah	9 Drury Street
159	Bowles	William Edward	1A Villiers Street
160	Bowles	William George Troyd	9 Drury Street
161	Bragger	Edward Laurence	14 Jeremy Moore Avenue
162	Bragger	Stacey John	19 Davis Street
163	Brickle	Paul	32 Fitzroy Road
164	Brock	Juanita Lois	20 Drury Street
165	Brooks	Cheryl Rose	The Flat 29 Fitzroy Road
166	Browning	Edwina	96 Davis Street
167	Browning	Gavin	Lookout Lodge
168	Browning	Henry Stanbury	Lookout Lodge
169	Browning	Joan Lucy Ann	5 Villiers Street
170	Browning	Nathan David	3 Dairy Paddock Road
171	Browning	Rex	35 Davis Street
172	Browning	Richard William	96 Davis Street
173	Browning	Trevor Osneith	5 Villiers Street
174	Brownlee	Andrew Samuel	19 Ross Road East
175	Brownlee	Lynn Frances	19 Ross Road East
176	Brownlee	Michael Stewart	19 Ross Road East
177	Brownlee	Samantha Louise	19 Ross Road East
178	Bryson	Robert John	66 Davis Street
179	Buckett	Kimberley Louise	49 Fitzroy Road
180	Buckett	Ronald Peter	49 Fitzroy Road
181	Buckett	Roy Peter	22 James Street
182	Buckett	Susan Vera	Mullet Creek, House
183	Buckland	Carole Lynda Jane	1a Capricorn Road
184	Buckland	Darlene Joanna	5 James Street
185	Buckland	Kristly Lesley Anne	45 Callaghan Road
186	Buckley-Whitney	Helena Jane	2 Pioneer Row
187	Budd	Dennis Raymond	5 Ian Campbell Drive
188	Budd	Grant William	1 Ian Campbell Drive
189	Budd	Pamela Joan	5 Ian Campbell Drive
190	Budd	Stacey Louise Steen	1 Ian Campbell Drive
191	Burns	Mary Anne	34 Davis Street
192	Burston	Catherine	91 Davis Street
193	Burston	Stephen Leslie	91 Davis Street
194	Burston	Thomas Stephen	91 Davis Street
195	Bury	Ian Thomas	63 Davis Street
196	Butcher	Michael George	3A Dairy Paddock Road
197	Butcher	Trudi	3A Dairy Paddock Road
198	Butler	Charmaine Sarah	Jersey Flats
199	Butler	Elsie Maud	10 Thatcher Drive
200	Butler	George Joseph	1A Moody Street
201	Butler	Jonathan Jeffers	3 Jeremy Moore Avenue

202	Butler	Laurence Jonathan	2 Davis Street East
203	Butler	Lucy Mary Rose Ellen Doreen	1a Moody Street
204	Butler	Margaret Orlanda	5 Short Street
205	Butler	Orlanda Betty	2 Davis Street East
206	Buxton	Nicole Gabrielle	9 Ian Campbell Drive
207	Campos Guala	Jessica Paola	9A Sullivan Street
208	Cant	Carol Rosina	24 Goss Road
209	Carey	Anthony Michael	19 Ross Road West
210	Carey	Gladys	19 Ross Road West
211	Carey	Martin Rex	4 Hansen Hill
212	Carey	Mary Ann Margaret	18 Ross Road West
213	Carey	Sarah Jane	8 Ross Road
214	Carey	Terence James	18 Ross Road West
215	Cartwright	Stephen	39 Ross Road West
216	Castle	David Peter	26 John Street
217	Castle	Isobel	26 John Street
218	Ceballos	Eulogio Gabriel	28 Endurance Avenue
219	Ceballos	Isabel	12 Brisbane Road
220	Ceballos-Anderson	Alastair Jaime	40 Ross Road
221	Chaloner	Anthony Ross	8 Endurance Avenue
222	Chaloner	Karl Iain Roderick	Flat 10 6 Jersey Road
223	Chaloner	Sheila Catherine	Flat 10 6 Jersey Road
224	Chapman	Elsie Mary	7 Drury Street
225	Chapman	Paul	28 Brandon Road
226	Chapman	Samantha Helen	28 Brandon Road
227	Chater	Jane	3 Short Street
228	Chater	Thomas Frederick	3 Short Street
229	Chater	William John	7 Biggs Road
230	Cheek	Gerald Winston	9 Biggs Road
231	Cheek	Janet Lynda	35 Ross Road East
232	Cheek	Marie	9 Biggs Road
233	Cheek	Rosalind Catriona	32 Goss Road
234	Cheema	Ahmad Masood	17 Callaghan Road
235	Christie	Darren James	2 Philomel Place
236	Christie	Phillippa Josephine	2 Philomel Place
237	Clapp	Kevin Christopher	1 Murray Heights
238	Clark	Douglas James	112 Davis Street
239	Clark	Hector	27 Eliza Crescent
240	Clark	Joyce Kathleen	27 Eliza Crescent
241	Clarke	Aaron Charles	7 Fitzroy Road
242	Clarke	Angela Sindy	1B Capricorn Road
243	Clarke	Angeline Gloria	1 Callaghan Road
244	Clarke	Anika Doreen	2 Arch Green
245	Clarke	Camilla Marie	8 Drury Street
246	Clarke	Christopher	5 Discovery Close
247	Clarke	David James	17 Ross Road West
248	Clarke	Derek Simon	23 Jeremy Moore Avenue
249	Clarke	Doreen	17 Ross Road West
250	Clarke	Felicity Marie	5 Brandon Road
251	Clarke	Gwynne Edwina	17 Jeremy Moore Avenue
252	Clarke	Ian	Lookout Lodge Stanley

253	Clarke	Isabel Joan	12 Fieldhouse Close
254	Clarke	James Martin	3 'H' Jones Road
255	Clarke	Jeremy Ian Thomas	7 Fitzroy Road
256	Clarke	Joan Patricia Marion	Flat 2 6 Racecourse Road
257	Clarke	Joseph Gwyn	Lookout Lodge
258	Clarke	Luke Anthony	39 Fitzroy Road
259	Clarke	Margaret Ann	3 H Jones Road
260	Clarke	Marvin Thomas	7 Fitzroy Road
261	Clarke	Ronald John	17 Ross Road West
262	Clarke	Rudy Thomas	8 Drury Street
263	Clarke	Stefen Michael	1 Callaghan Road
264	Clarke	Stephen Boyd	12 Fieldhouse Close
265	Clarke	Terence John	17 Jeremy Moore Avenue
266	Clarke	Tracey Clare	23 Jeremy Moore Avenue
267	Clarke	Trudi Ann	7 Fitzroy Road
268	Clarke	Violet Rose	23 Murray Heights
269	Clasen	Wayne Ian Summers James	17 Davis Street
270	Clausen	Andrea Patricia	13 Jeremy Moore Avenue
271	Clausen	Denzil George Gustavius	13 Jeremy Moore Avenue
272	Clausen	Melanie	54 Davis Steet
273	Clausen	Sophie Marina	Stanley Dairy
274	Clayton	Jade Anne	16 St Mary's Walk
275	Clayton	Joshua Jordon	16 St Mary's Walk
276	Clement	Gary	9 Snake Street
277	Clement	Jacqueline Ann	25 Hansen Hill
278	Clement	Jane	Gift Shop Flat, Villiers St
279	Clement	Lee	25 Hansen Hill
280	Clement	Sarah Jane	10 Snake Street
281	Clement	Wayne	10 Snake Street
282	Clifford	Cherie Yvonne	30 Davis Street
283	Clifford	John Owen	30 Davis Street
284	Clifford	Rhys John David	26 Endurance Avenue
285	Clifford	Terri-Sue	3 Eliza Cove Road
286	Clifton	Darwin Lewis	53 Davis Street
287	Clifton	Marie	16 Fieldhouse Close
288	Clifton	Melvyn	5 Villiers Street
289	Clifton	Neil	11 Hansen Hill
290	Clifton	Stephen Peter	61 Fitzroy Road
291	Clifton	Teresa Ann	12 Callaghan Road
292	Clifton	Valerie Ann	10 Pioneer Row
293	Cockwell	Jennifer Marie	90 Davis Street
294	Cockwell	John Richard	14 Ross Road West
295	Cockwell	Maurice Adam	90 Davis Street
296	Cockwell	Samuel George	14 Ross Road West
297	Cofre	Anya Evelyn	37 Eliza Crescent
298	Cofre	Ashton Laura	36 Eliza Crescent
299	Cofre	Elvio Miguel	37 Eliza Crescent
300	Collins	Brian Richard	41 Davis Street
301	Collins	Christopher Allan	7 John Street
302	Collins	Hazel	41 Davis Street
303	Collins	Steven Paul	7 John Street

304	Collins Finlay	Shiralee	7 John Street
305	Connolly	Kevin Barry	1 King Street
306	Cotter	Gillian Naomi	9 Jeremy Moore Avenue
307	Cotter	Jacqueline Ann	28 Ross Road East
308	Cotter	Mary Jane	9 Jeremy Moore Avenue
309	Cotter	Timothy Stewart	9 Jeremy Moore Avenue
310	Courtney	Anthony Clive	30 Goss Road
311	Courtney	Julie Doris	30 Goss Road
312	Courtney	Marc Anthony	30 Goss Road
313	Coutts	John	36 Ross Road West
314	Coutts	Marie Anne	36 Ross Road West
315	Coutts	Olga	33 Ross Road
316	Crabb	Elizabeth Ann	34A Davis Street
317	Crowie	Alan John	17 Ian Campbell Drive
318	Crowie	Ana Bonita	72 Davis Street
319	Crowie	Chester Robert	35 Callaghan Road
320	Crowie	Clare Frances	4 Police cottages
321	Crowie	Dave Mark	10 James Street
322	Crowie	David Martin	Lookout Lodge
323	Crowie	David Sean	51 Callaghan Road
324	Crowie	Layla Alicia	19 James Street
325	Crowie	Michelle	1 Discovery Close
326	Crowie	Nicola Jane	35 Callaghan Road
327	Crowie	Peter James	21 Murray Heights
328	Crowie	Rachael	10 James Street
329	Crowie	Robert John	35 Callaghan Road
330	Crowie	Roxanne	72 Davis Street
331	Cruickshank	Alan	6 Fitzroy Road East
332	Cruickshank	Moir	6 Fitzroy Road East
333	Curtis	Alfred William Hamilton	6 Brandon Road West
334	Curtis	Bonnie Elizabeth Hamilton	6 Biggs Road
335	Curtis	James William Hamilton	6 Ross Road
336	Davies	Anthony Warren	7 Callaghan Road
337	Davies	Colin George	15 Ross Road West
338	Davies	Eileen Wynne	15 Ross Road West
339	Davies	Helen Louise	15 Ross Road West
340	Davies	Jacqueline Nancy	7 Callaghan Road
341	Davies	Richard Andrew	4 Fitzroy Road East
342	Davies	Samantha	7 Callaghan Road
343	Davies	Sarah	4 Fitzroy Road East
344	Davies	Sian Karen	7 Callaghan Road
345	Davis	Doreen Susan	11 Callaghan Road
346	Davis	Ellen Rose	5 Murray Heights
347	Davis	Maurice	39 Davis Street
348	Davis	Nicholas	11 Callaghan Road
349	Davis	Roy George Victor	6 Narrows View
350	Davis	Samantha Jane	48 Davis Street
351	Davis	Stacey Elizabeth	2 Rowlands Rise
352	Davis	William James	4 Yates Place
353	Davis	Yona	37 Davis Street
354	Dent	Janice Vanessa	19 Hansen Hill

355	Dent	Stephen John	4 Fieldhouse Close
356	Dickson	Iris	2 Dairy Paddock Road
357	Dickson	Michael Keith	12 Dairy Paddock Road
358	Dickson	Ronald Edward	2 Dairy Paddock Road
359	Didlick	John Charles Hilson	Lookout Lodge
360	Diggle	Jean Katherine	12 Jersey Road
361	Diggle	Roger John	12 Jersey Road
362	Dobbys	Kathleen Gay	60 Davis Street
363	Dodd	Alison	1 Pioneer Row
364	Dodd	Mark Thomas	1 Pioneer Row
365	Dodd	Nigel Keith	1 Pioneer Row
366	Drysdale	Karen	1 Watson Way
367	Duncan	Doreen	5 Thatcher Drive
368	Duvall	Kenneth William	9 Murray Heights
369	Eagle	Rex Edward	13/14 Eliza Crescent
370	Earnshaw	Jacqueline Elizabeth	37 Ross Road West
371	East	Justin Clive Richard	1 Fieldhouse Close
372	East	Michelle Jane	8 Dairy Paddock Road
373	Eccles	Bernard Leslie	18 Jeremy Moore Avenue
374	Eccles	Matthew James	18 Jeremy Moore Avenue
375	Eccles	Moira Cameron	18 Jeremy Moore Avenue
376	Edwards	Emma Jane	41 Ross Road East
377	Ellick	Joanne Marie	11 McKay Close
378	Elliot	Elizabeth Rose	15 Callaghan Road
379	Elliot	Henry James	15 Callaghan Road
380	Elliot	Nathan James	15 Callaghan Road
381	Elliot	Samuel Robert	15 Callaghan Road
382	Ellis	Cyril	24 Ross Road East
383	Ellis	Lucy	11 James Street
384	Ellis	Paul	43 John Street
385	Ellis	Sally Jean	43 John Street
386	Ellis	Valerie	24 Ross Road East
387	Elsby	Barry	Moody Brook House
388	Elsby	Rosalind Alice	Moody Brook House
389	Eriksen	Fiona Alison	5 Racecourse Road
390	Evans	Michelle Paula	Murray Heights
391	Ewing	Gordon	4 Jeremy Moore Avenue
392	Ewing	Irene	4 Jeremy Moore Avenue
393	Eynon	Carol	8 Villiers Street
394	Eynon	David John	8 Villiers Street
395	Faria	Basil Harry	3a Brisbane Road
396	Faria	Maria Anne	3a Brisbane Road
397	Faria	Mary Ann	2A St Mary's Walk
398	Faria	Paul	22 Hansen Hill
399	Faria	Susana Caroline Bermtsen	22 Hansen Hill
400	Felton	Faith Dityls	41 Callaghan Road
401	Felton	Sonia Ellen	14 Scoresby Close
402	Felton-Eagle	Trudi Eileen	4 Pioneer Row
403	Ferguson	Ellen Rose	51 Callaghan Road
404	Ferguson	Finlay James	51 Callaghan Road
405	Ferguson	John William	47 Ross Road East

406	Ferguson	Robert John Andrew	47 Ross Road East
407	Ferguson	Rose	6 Thatcher Drive
408	Ferguson	Sian Yvonne	1 Sullivan Street
409	Ferguson	Stephanie Janet	47 Ross Road East
410	Ferguson	Thelma	4a St Mary's Walk
411	Fiddes	Douglas Graham	Stables Moody Brook
412	Fiddes	Gardner Walker	3 Watson Way
413	Fiddes	Julia Bertrand	6 Rowlands Rise
414	Fiddes	Melody Christine	3 Watson Way
415	Finlay	Andrew John	7 John Street
416	Finlayson	Iris Heather	3 Capricorn Road
417	Finlayson	Kimberly Elizabeth	26 Ross Road East
418	Finlayson	Marc Ian	19 James Street
419	Finlayson	Marilyn Christine	24 James Street
420	Finlayson	Peter	24 James Street
421	Finlayson	Phyllis	6 Brandon Road
422	Fisher-Smith	Julie Anne	8 Fieldhouse Close
423	Floyd	Amanda Susan	4b Ross Road West
424	Floyd	Michael	7 Pitaluga Place
425	Floyd	Michael Anthony	7 Pitaluga Place
426	Floyd	Steven Paul	26 Hansen Hill
427	Fogerty	Richard Edwin John	Stone Cottage Airport Road
428	Ford	Alison Jane Marie	9 Jersey Road
429	Ford	Arthur Henry	6 Drury Street
430	Ford	Cara Michelle	5 Philomel Street
431	Ford	Christopher James	6 Felton Court
432	Ford	Colin Stewart	15 Kent Road
433	Ford	Colleen Mary	12 Davis Street
434	Ford	Daniel Timothy	15 Kent Road
435	Ford	Darrel Michael	54 Davis Street
436	Ford	David	3 Beaver Road
437	Ford	Debbi Louisa	6 Felton Court
438	Ford	Donna Marie	22 Murray Heights
439	Ford	Gerard Allan	12 Hansen Hill
440	Ford	Jonathan	3 Pitaluga Place
441	Ford	Julie Ann	3 Pitaluga Place
442	Ford	Leann Caroline	15 Kent Road
443	Ford	Leonard	9 Jersey Road
444	Ford	Mandy	1 James Street
445	Ford	Marvyn Neil	68 Davis Street
446	Ford	Neil Fraser	6 Drury Street
447	Ford	Simon	1 James Street
448	Ford	Tanya Louise	24 James Street
449	Forrest	Jennifer Carol	16 Kent Road
450	Forrest	Michael John	16 Kent Road
451	Forster	Amanda	9 Fieldhouse Close
452	Forster	Gwyneth May	10 Drury Street
453	Forster	James	10 Drury Street
454	Forster	Lynne	19 Biggs Road
455	Fowler	Alan Claude	34 Fitzroy Road
456	Fowler	Daniel Martin	2 Glasgow Road

457	Fowler	John Andrew Thomas	9 Philomel Street
458	Fowler	Vanessa Kay	34 Fitzroy Road
459	Fowler	Veronica Mary	2 Glasgow Road
460	France	Graham Brian	7 Snake Hill
461	France	Ian Peter	7 Snake Street
462	France	Jane Aileen Marie	7 Snake Street
463	Freeman	Carl Francis	Maiden Haven Cottage
464	Freeman	Dianne May	Maiden Haven Cottage
465	Freeman	Tracy	26 Hansen Hill
466	Freer	Edward Craig	56 John Street
467	Freer	Pamela Jane	56 John Street
468	Freer	Stephen Paul James	56 John Street
469	French	Breda Marie	12 Narrows View
470	French	Robert Alan	12 Narrows View
471	Fullerton	Mary Ellen	1 Yates Place
472	George	Kevin Charles	26 Ross Road East
473	Gilbert	Christopher Paul	11 Campbell Drive
474	Gilbert	Judith Elizabeth	22 Jeremy Moore Avenue
475	Gilbert	Mark Ian	22 Jeremy Moore Avenue
476	Gilbert	Neil Robert	22 Jeremy Moore Avenue
477	Gilbert	Robert Ernest	22 Jeremy Moore Avenue
478	Gilbert	Sharon	11 Campbell Drive
479	Gilson-Clarke	Dustin James	26 Endurance Avenue
480	Gilson-Clarke	Toni Jane	26 Endurance Avenue
481	Gisby	Annie	37 Ross Road East
482	Gleadell	Ian Keith	2 Yates Place
483	Goodwin	Bonita Colleen	21 Eliza Crescent
484	Goodwin	Christopher Sturdee	Lookout Lodge
485	Goodwin	Colin Valentine	86 Davis Street
486	Goodwin	Derek Samuel	21 Eliza Crescent
487	Goodwin	Emily Rose	7 Brisbane Road
488	Goodwin	Gareth Kevin	15 Hansen Hill
489	Goodwin	Hazel Rose	7 Thatcher Drive
490	Goodwin	June Elizabeth	86 Davis Street
491	Goodwin	Kenton John D B	31 Ross Road West
492	Goodwin	Mandy Hazel Minnell	31 Ross Road West
493	Goodwin	Margaret Ann	3 'H' Jones Road
494	Goodwin	Marie-Bernard Therese	15 Hansen Hill
495	Goodwin	Rachel Karen	31 Ross Road West
496	Goodwin	Robin	31 Ross Road West
497	Goodwin	Robin Christopher	27 Callaghan Road
498	Goodwin	Simon James	8 Hansen Hill
499	Goodwin	Una	27 Callaghan Road
500	Goodwin	William John Maurice	7 Brisbane Road
501	Gordon	Robert James Alexander	16 Hansen Hill
502	Goss	Annagret	16 Jeremy Moore Avenue
503	Goss	Carole-ann	24 Shackleton Drive
504	Goss	Dorothy Ellen	4 Discovery Close
505	Goss	Eric Miller	2 Fitzroy Road East
506	Goss	Ian Ernest Earle	98 Davis Street
507	Goss	Jane Alexander	98 Davis Street

508	Goss	Michael Peter	5b Hansen Hill
509	Goss	Morgan Edmund	16 Jeremy Moore Avenue
510	Goss	Roy Shepherd	8 Ross Road
511	Goss	Sandra Kathleen	11 Kent Road
512	Goss	Shirley Ann	2 Fitzroy Road East
513	Goss	Simon Peter Miller	11 Kent Road
514	Goss	Susan Diann	98 Davis Street
515	Goss	William Henry (jnr)	7 Brandon Road
516	Gough	Ivan Carl	8 John Street
517	Gough	Phyllis Candy	8 John Street
518	Gough	Tanzy Jayne	8 John Street
519	Grant	Milly	9 Thatcher Drive
520	Gray	Patricia May	22 Ross Road West
521	Green	David William	5 Fieldhouse Close
522	Greenland	James Andrew William	21 St Mary's Walk
523	Greenland-Elbakidze	Natasha Bonita	Flat 4, 30 Jersey Road
524	Greenough	Geoffrey	13 Snake Hill
525	Greenough	Wanda Rose	13 Snake Hill
526	Grimmer	Edward	21 Hansen Hill
527	Hadden	Alexander Burnett	27 Fitzroy Road
528	Hadden	Sheila Peggy	27 Fitzroy Road
529	Halliday	Cathy Anne	5 Drury Street
530	Halliday	Jeffrey James	9a Philomel Street
531	Halliday	Julie Ann	9a Philomel Street
532	Halliday	Priscilla Alison	12 St Marys Walk
533	Halliday	Raynor	9 Brisbane Road
534	Hancox	Alice Fiona	5 McKay Close
535	Hancox	Emily Clare	5 McKay Close
536	Hancox	Lynette	Jhelum House, 9 RRW
537	Hancox	Robert James	Jhelum House 9 RRW
538	Hansen	Douglas John	6 Fitzroy Road
539	Hansen	Keva Elizabeth	1 Dairy Paddock Road
540	Hansen	Terence Joseph	41 Eliza Crescent
541	Hardcastle	Eileen Beryl	7 Ross Road East
542	Hardcastle	Simon Brook	7 Ross Road East
543	Harris	Angela Jane	5a Ross Road East
544	Harris	Anna Vladimirovna	Lookout Lodge
545	Harris	Christopher James	5 Ross Road East
546	Harris	Dennis Sefton	19 Callaghan Road
547	Harris	Heather	3 Ross Road East
548	Harris	Jill Yolanda Miller	19 Fitzroy Road
549	Harris	Karl Henry	5a Ross Road East
550	Harris	Leeann Watson	10 Dairy Paddock Road
551	Harris	Leslie Sidney	19 Fitzroy Road
552	Harris	Michael Ronald	3 Ross Road East
553	Harris	Ralph Aaron	10 Dairy Paddock Road
554	Harris	Wendy Ann	19 Callaghan Road
555	Harvey	Muriel Elizabeth Elsie	2 King Street
556	Harvey	Sheila	8 Barrack Street
557	Harvey	William	21 Fitzroy Road
558	Hawsworth	Christopher	6b Gleadell Close

559	Hawksworth	David	25 Eliza Crescent
560	Hawksworth	Elane Maria	19 Murray Heights
561	Hawksworth	Mary Catherine	5A Brisbane Road
562	Hawksworth	Ryan	19 Murray Heights
563	Hawksworth	Terence	5A Brisbane Road
564	Hayward	Marjorie	4b St Mary's Walk
565	Hayward	Neville	29 Fitzroy Road
566	Hayward	Pauline May	29 Fitzroy Road
567	Heathcock	Andrew James	7 Drury Street
568	Heathman	Abbie Louise	15 Eliza Cove Road
569	Heathman	Malcolm Keith	15 Eliza Cove Road
570	Heathman	Mandy Gail	15 Eliza Cove Road
571	Heathman	Nyree	7 Allardyce Street
572	Hemming	Graeme John	10 Murray Heights
573	Henry	Alan Richard	8 Beaver Road
574	Henry	Patricia Denise	8 Beaver Road
575	Henry-Roberts	Dominic Patrick Alexander	5 Narrows View
576	Hernandez Manterola	Miguel Angel	3 Murray Heights
577	Hernandez Trevello	Maria Elena	3 Murray Heights
578	Hewitt	Charles David James Murdo	9 Anderson Drive
579	Hewitt	Christine Alison Elizabeth	12a Brandon Road
580	Hewitt	Frances Agnes	5 Thatcher Drive
581	Hewitt	Gary George	3 Hebe Place
582	Hewitt	Margaret Ann	3 Hebe Place
583	Hewitt	Tara Marie	3 Hebe Place
584	Hills	David John	14 Scoresby Close
585	Hirtle	Christine	5 Capricorn Road
586	Hirtle	Debbie Ann	2b Capricorn Road
587	Hirtle	Leonard Lloyd	2 Ian Campbell Drive
588	Hirtle	Michael Barry	2 Ian Campbell Drive
589	Hirtle	Rose Ann Shirley	4 Villiers Street
590	Hirtle	Zane Eric	12 Drury Street
591	Hobman	Anilda Marilu	5 Police Cottages
592	Hobman	Luis Alfonso	5 Police Cottages
593	Howatt	Derek Frank	4 Racecourse Road
594	Howatt	Suzanna Margaret	4 Racecourse Road
595	Howe	Adam Marcus Timothy	36 Davis Street
596	Howe	Alexander Luke Desmond	36 Davis Street
597	Howe	Alison Delia	36 Davis Street
598	Howe	Paul Anthony	36 Davis Street
599	Howe	Thomas Craig Samuel	36 Davis Street
600	Howells	Anne Stephanie	112a Davis Street
601	Howells	Roger	112a Davis Street
602	Hoy	Dawn	2 Dean Street
603	Humphreys	Bruce Adam	7 Dean Street
604	Humphreys	Dennis James	7 Dean Street
605	Humphreys	Hannah Elaine	6a Jeremy Moore Avenue
606	Hutton	Elizabeth Isabella	3 John Street
607	Hutton	Philip	3 John Street
608	Igao	Alejandro Neri	Flat 3 6 Racecourse Road
609	Igao	Noel Neri	10 Goss Road

610	Igao	Pauline Lynx	10 Goss Road
611	Inglis	Alison Anne MacKenzie	9 Short Street
612	Irvine	Andrew Grant McKenzie	9 McKay Close
613	Jackson	Kathleen	23 Fitzroy Road
614	Jackson	Malcolm	23 Fitzroy Road
615	Jackson	Mark Malcolm	5 Drury Street
616	Jacobsen	Alistair	1A Philomel Street
617	Jacobsen	Catherine Joan	1A Philomel Street
618	Jacobsen	Cathy	8 Fitzroy Road
619	Jacobsen	Tanzi	14 Scoresby Close
620	Jacobsen	Toni Rhona	1a Philomel Street
621	Jaffray	Arlette Sharon	7 Jersey Road
622	Jaffray	Ashley Dereck	24 Endurance Avenue
623	Jaffray	Catriona Mhairi	24 Hansen Hill
624	Jaffray	Dereck Charles	2 Arch Green
625	Jaffray	Estelle Anita	11 Snake Street
626	Jaffray	Eva Lynn	47 Callaghan Road
627	Jaffray	Frank Alexander	1 Gleadell Close
628	Jaffray	Gerard Alan	47 Callaghan Road
629	Jaffray	Helen Rose	84 Davis Street
630	Jaffray	Ingrid Joyce	9 Fitzroy Road
631	Jaffray	Janet	3 Fitzroy Road East
632	Jaffray	John	3 Fitzroy Road East
633	Jaffray	John Summers	84A Davis Street
634	Jaffray	John Willie	21 Watson Way
635	Jaffray	June Elizabeth	17 Ross Road East
636	Jaffray	Kenneth Ian	7 Jersey Road
637	Jaffray	Lisa Jane	5 Hebe Street
638	Jaffray	Phyllis	21 Watson Way
639	Jaffray	Shaun Melvin	24 Endurance Avenue
640	Jaffray	Stephen James	5 James Street
641	Jaffray	Tanya Fiona	21 Hansen Hill
642	Jaffray	Terence Roy	24 Hansen Hill
643	Jaffray	Terri-Ann	24 Endurance Avenue
644	Jaffray	Tony	84 Davis Street
645	Jaffray	Tracy	3 Fitzroy Road East
646	Jaffray Bryson	Joanna Phyllis	66 Davis Street
647	Jennings	Hamish Warren	9 Davis Street
648	Jennings	Nancy Elizabeth	7 Philomel Street
649	Jennings	Stephen	5 Fitzroy Road
650	Johnson	Christopher David	11 Rowlands Rise
651	Johnson	Lily Ann	5A Hebe Street
652	Johnson	Michael Neil	30 Jersey Road
653	Johnston	Lisa Marie	33 Davis Street
654	Jones	David Richard	6 Allardyce Street
655	Jones	Deena Marie	7 Discovery Close
656	Jones	Doreen Evlyn Margaret	6 Allardyce Street
657	Jones	Evan Glynn	19 Biggs Road
658	Jones	Karen Diana	5 Anderson Drive
659	Jones	Kevin Richard	3a Brandon Road
660	Jones	Mark Henry	5 Anderson Drive

661	Jones	Yvonne Malvina	Flat 1 6 Racecourse Road
662	Jonson	Nicole Frances	Flat 6, 7 Jeremy Moore Ave
663	Jordan	Cara Jane	12 Goss Road
664	Joshua	Josephine Mary	7 Gleadell Close
665	Joshua	Larry Arthur	7 Gleadell Close
666	Keane	Alva Rose Marie	18 Davis Street
667	Keane	Olaf James	18 Davis Street
668	Keane	Thomas James	18 Davis Street
669	Keenleyside	Charles Desmond	3 Pioneer Row
670	Keenleyside	Manfred Michael Ian	2 Snake Street
671	Keenleyside	Nanette Barbara	2 Snake Street
672	Kenny	Erling	20 James Street
673	Kidd	John Nathan	7 Ross Road West
674	Kidd	Lillian Rose Orissa	7 Ross Road West
675	Kiddle	Robert Karl	Flat 2 1 Moody Street
676	Kilmartin	Kevin Seaton	3 Davis Street East
677	Kilmartin	Nicola Ruth	3 Davis Street East
678	King	Anna Constance Eve	34 Ross Road
679	King	Cherilyn Julie	15 Jersey Road
680	King	Glynis Margaret	20 Hansen Hill
681	King	Michelle Beverley	51 Ross Road East
682	King	Peter Thomas	10 Jeremy Moore Avenue
683	King	Robert John	22/24 Davis Street
684	King	Rosemarie	10 Jeremy Moore Avenue
685	King	Roxanne McCarthy	39 Fitzroy Road
686	Kirkham	Campbell Joseph	5 Capricorn Road
687	Knight	Margaret Anne	6 Yates Place
688	Kultschar	John William	4 Davis Street East
689	Kultschar	Richard Paul	5 Brisbane Road
690	Kultschar	Yvonne Rosina	4 Davis Street East
691	Ladron De Guevara Vilches	Carmen Benilda	22/24 Davis Street
692	Ladron Guevara	Simon	22/24 Davis Street
693	Laffi	Atilio Segundo	3 Brisbane Road
694	Laffi	Kathleen Mary	3 Brisbane Road
695	Lang	Colin David	2 Brisbane Road
696	Lang	David Geoffrey	28 Goss Road
697	Lang	James Patrick	2 Davis Street
698	Lang	Leah Falalimpa	2 Davis Street
699	Lang	Patrick Andrew	8A Moody Street
700	Lang	Sandra Shirleen	3 Yates Place
701	Lang	Theresa Margaret	28 Goss Road
702	Lang	Velma Emily	8A Moody Street
703	Lang	Wendy Diane	2 Brisbane Road
704	Larsen	Ellen	6A Moody Street
705	Larsen	Ronald Ivan	2 Anderson Drive
706	Larsen	Yvonne	2 Anderson Drive
707	Lazo	Javier Waldemar Sanchez	80 Davis Street
708	Lazo	Joanna Rose	80 Davis Street
709	Lee	Alfred Leslie	11 Drury Street
710	Lee	Carole	15 Ian Campbell Drive
711	Lee	Gladys	11 Drury Street

712	Lee	Karen Jane	14 Davis Street
713	Lee	Mandy John	15 James Street
714	Lee	Owen Henry	4 Pioneer Row
715	Lee	Rodney William	15 Ian Campbell Drive
716	Lee	Victoria Jane	Flat 4 Church House
717	Legg	Robert Keith	48 Davis Street
718	Lennie	Gordon Carnie	9 Narrows View
719	Lewis	David James	3 Ian Campbell Drive
720	Lewis	James	2B St. Marys Walk
721	Lewis	Jason	9 Short Street
722	Lewis	Pamela Irene	3 Ian Campbell Drive
723	Leyland	Frank	10 Brandon Road
724	Leyland	Vera	10 Brandon Road
725	Liddle	Alison Catherine	7 Fitzroy Road East
726	Limburn	Monica	2 Brandon Road
727	Livermore	Anton	82 Davis Street
728	Livermore	Isla Karen	Flat 3 30 Jersey Road
729	Livermore	Kirsty Nicole	Flat 4 6 Jersey Road
730	Lloyd	Christopher Sturdee	12 McKay Close
731	Lloyd	Natalie Anne	12 McKay Close
732	Loftus	Geoffrey	15 Biggs Road
733	Loftus	Sara	15 Biggs Road
734	Lowe	Katrina Louise	5 McKay Close
735	Luxton	Anna	4 Biggs Road
736	Luxton	Michael	1A Pioneer Row
737	Luxton	Nicola	1A Pioneer Row
738	Luxton	Robin	1 Jersey Road
739	Luxton	Stephen Charles	Mullet Creek House
740	Luxton	Sybil Grace	38 John Street
741	Luxton	Wendy Jennifer	1 Jersey Road
742	Luxton	Winifred Ellen	15 Fitzroy Road
743	Luxton	Zoe	2 Hansen Hill
744	Lyse	Linda Margaret	65 Fitzroy Road
745	Macaskill	Angus Lindsay	8 Jeremy Moore Avenue
746	Macaskill	Jeanette May	8 Jeremy Moore Avenue
747	Macaskill	John	34 Ross Road West
748	Macaskill	Robert John	1 Brisbane Road
749	Macaskill	Tracey Jayne	1 Brisbane Road
750	MacDonald	Andrew James	29 Callaghan Road
751	MacDonald	Colin George	Flat 2 6 Jersey Road
752	MacDonald	Derek George	Flat 6 7 Jeremy Moore Avenue
753	MacDonald	Irene	Flat 2 6 Jersey Road
754	Maddocks	Robert Charles	11 Murray Heights
755	Marsh	Samantha Ann	7 Jersey Road
756	Martin	Lee Anthony	7 McKay Close
757	Martin	Lisa Maria	7 McKay Close
758	Maskell-Bott	John Malcolm	26 Goss Road
759	Maskell-Bott	Sarah	26 Goss Road
760	May	Angela Jane	11 Jersey Road
761	May	Brian Roy	21 Jeremy Moore Avenue
762	May	Bruce Raymond	9 Kent Road

763	May	Connie	9 Kent Road
764	May	Donna Monica	17 Davis Street
765	May	Heather	1 Glasgow Road
766	May	Jonathan Roy	12 Jeremy Moore Avenue
767	May	Lucinda Vikki	12 Jeremy Moore Avenue
768	May	Monica	21 Jeremy Moore Avenue
769	May	Roger	11 Jersey Road
770	May	Shaun Christopher	9 Callaghan Road
771	May	Tiphanie	9 Callaghan Road
772	May	William Albert	1 Glasgow Road
773	McBain	Arthur	29 Goss Road
774	McBain	Rhoda Margaret	29 Goss Road
775	McCallum	Bettina Kay	14 Drury Street
776	McCallum	Christopher John	8A Jeremy Moore Avenue
777	McCallum	Tanya	Cemetery Cottage
778	McCallum	Timothy Andrew	14A Drury Street
779	McCormick	Dale Ronald	24 Eliza Crescent
780	McCormick	Pauline Margaret Ruth	29 Callaghan Road
781	McCormick	Richard Paul	29 Callaghan Road
782	McCormick	Samantha Laura	3 Jeremy Moore Avenue
783	McCormick	Tamara Ann	Flat 8 6 Jersey Road
784	McCormick	Wayne Stanley James	12 Endurance Avenue
785	McGill	Cara Jane	16 Scoresby Close
786	McGill	Darrel Ian	20 Jeremy Moore Avenue
787	McGill	David William	Gardeners Cottage South
788	McGill	Diane Beverley	2 James Street
789	McGill	Doris Mary	32 Davis Street
790	McGill	Gary	15 Brandon Road
791	McGill	Glenda	1C Capricorn Road
792	McGill	Heather Margaret	Gardeners Cottage South
793	McGill	Ian Peter	1C Capricorn Road
794	McGill	Len Stanford	2 James Street
795	McGill	Teresa Rose	26 Ross Road East
796	McKay	Christine	6 Drury Street
797	McKay	Clara Mary	20 Ross Road West
798	McKay	Heather Valerie	16 Eliza Crescent
799	McKay	Jeannie Paullina	2 Allardyce Street
800	McKay	Jennifer Coral	24 Eliza Cresent
801	McKay	John David Toby	51 Callaghan Road
802	McKay	Leona Ann	30 Jersey Road
803	McKay	Mandy Rose	51 Callaghan Road
804	McKay	Melvyn Andrew	55 Davis Street
805	McKay	Michael John	64 Davis Street
806	McKay	Neil	60 Davis Street
807	McKay	Paul Anthony	Flat 1 Moody Street
808	McKay	Peter John	21 Ross Road West
809	McKay	Rex	16 Eliza Crescent
810	McKay	Shelley Jane	7 Villiers Street
811	McKay	William Robert	20 Ross Road West
812	McKee	Miranda	12 Watson Way
813	McKee	Richard Buick	12 Watson Way

814	McKenzie	Alice Maude	11 Thatcher Drive
815	McKenzie	Charles Alexander Albert J	11 Thatcher Drive
816	McLaren	Caroline Mary	12 Allardyce Street
817	McLaren	Kevin Derek Charles	3D Jersey Road
818	McLaren	Tony Eugene Terence	12 Allardyce Street
819	McLeod	David	49 Callaghan Road
820	McLeod	Glenda Otadoy	49 Callaghan Road
821	McLeod	Henry Donald Alexander	16 Fieldhouse Close
822	McLeod	Ian	55 Davis Street
823	McLeod	Ian James	30 Endurance Avenue
824	McLeod	Janet Wensley	75 Davis Street
825	McLeod	Janice	2 Ross Road West
826	McLeod	Joan May	13 Murray Heights
827	McLeod	John (2)	23 Hansen Hill
828	McLeod	Mally	55 Davis Street
829	McLeod	Margaret Ann	13 Fitzroy Road East
830	McLeod	Michael William	5 Short Street
831	McLeod	Pearl Mary Ann	18 Brandon Road
832	McLeod	Robert	75 Davis Street
833	McLeod	Robert John	2 Ross Road West
834	McLeod	Valorie Marcela	30 Endurance Avenue
835	McMullen	June	8 Brandon Road
836	McMullen	Lucille Anne	6A John Street
837	McMullen	Matthew John	5 Fieldhouse Close
838	McMullen	Tony	8 Brandon Road
839	McPhee	Denise	4 Brandon Road West
840	McPhee	Justin Owen	4 Brandon Road West
841	McRae	Charlotte Melize	28 Jersey Road
842	McRae	David Michael	3 Philomel Place
843	McRae	Elvis Richard	Lookout Lodge
844	McRae	Gloria Linda	2 H Jones Road
845	McRae	Kerry Jane	32 Ross Road West
846	McRae	Michael	2a H Jones Road
847	Middleton	Brian	13 McKay Close
848	Middleton	Callum William	13 McKay Close
849	Middleton	Caren	33 Callaghan Road
850	Middleton	Caroline Ann	7 James Street
851	Middleton	Charlotte Anne	5b Hansen Hill
852	Middleton	Dennis Michael	Dolphin Cottage
853	Middleton	Joan Eliza	8 James Street
854	Middleton	Leif Miles Prindle	5 St Mary's Walk
855	Middleton	Leonard	67 Fitzroy Road
856	Middleton	Megan Shirley Rebecca	7 James Street
857	Middleton	Nevin Alexander	33 Callaghan Road
858	Middleton	Phillip John	5 St Marys Walk
859	Middleton	Sharon Elizabeth	Dolphin Cottage
860	Middleton	Stephanie Anne	13 McKay Close
861	Middleton	Yvonne Allison	50 Davis Street
862	Miller	Andrew Nigel	7 Villiers Street
863	Miller	Bruce Graham	46 John Street
864	Miller	Carol	Mne Cottage Moody Brook

865	Miller	Gail Marie	6A Brisbane Road
866	Miller	Janet Mary	Market Garden Airport Rd
867	Miller	Jayne Elizabeth	27 Davis Street
868	Miller	Jeanette	46 John Street
869	Miller	Simon Roy	Mne Cottage, Moody Brook
870	Miller	Steven Geoffrey	8 Moody Street
871	Miller	Timothy John Durose	Market Garden Airport Rd
872	Mills	Terence Kenneth	1 Thatcher Drive
873	Minnell	Adrian James	1a Capricorn Road
874	Minnell	Hazel Eileen	5 Yates Place
875	Minnell	Michelle Rose	1 Brandon Road
876	Minnell Goodwin	Joanne Hazel Rose	9 Murray Heights
877	Minto	Alistair Daen	Lookout Lodge
878	Minto	Barbra Pennisi	9 Fitzroy Road
879	Minto	Dilys Rose	18 Endurance Avenue
880	Minto	Graham Stewart	18 Endurance Avenue
881	Minto	Karen Joleen	12 Brisbane Road
882	Minto	Patrick Andrew	3B Jersey Road
883	Minto	Timothy Ian	18 Enurance Avenue
884	Minto	Ximena Ida	3b Jersey Road
885	Miranda	Augusto	31 Davis Street
886	Miranda	Carmen	11 Hansen Hill
887	Miranda	Ramon	3 Drury Street
888	Miranda	Winifred Dorothy	3 Drury Street
889	Moffatt	Angela	20 Ross Road East
890	Moffatt	James	20 Ross Road East
891	Moffatt	Jay	5 Gleadell Close
892	Moffatt	Sean	20 Ross Road East
893	Molkenbuhr	Lee Charles	19 Sullivan Street
894	Molkenbuhr	Sara Jayne	8 Ian Campbell Drive
895	Morris	Alana Marie	4 Callaghan Road
896	Morris	David	4 Callaghan Road
897	Morris	Jason Paul	59 Fitzroy Road
898	Morris	Pamela Ruth	7 John Street
899	Morris	Trevor Alan	17 Brandon Road
900	Morrison	Dana Justine	2 Brandon Road West
901	Morrison	Doreen Emily	82 Davis Street
902	Morrison	Edgar Ewen	15 Murray Heights
903	Morrison	Fayan	54 John Street
904	Morrison	Graham Stewart	34A Davis Street
905	Morrison	Jacqueline Denise Anita	13 Ian Campbell Drive
906	Morrison	Joan Margaret	3 Felton Court
907	Morrison	Joleen Coleen	3 Felton Court
908	Morrison	Keiran Kenneth	13 Ian Campbell Drive
909	Morrison	Kenneth	13 Ian Campbell Drive
910	Morrison	Lena	108 Davis Street
911	Morrison	Leslie Theodore Norman	108 Davis Street
912	Morrison	Lewis Ronald	12 Callaghan Road
913	Morrison	Marcus Lewis	24 Shackleton Drive
914	Morrison	Michael John	10 Fitzroy Road East
915	Morrison	Nanette Rose	46 Davis Street

916	Morrison	Nigel Peter	3 Felton Court
917	Morrison	Paul Roderick	3 Racecourse Road East
918	Morrison	Richard Lowry	1 Biggs Road
919	Morrison	Roxanne	13 Ian Campbell Drive
920	Morrison	Russell John Allan	9 Discovery Close
921	Morrison	Stewart	46 Davis Street
922	Morrison	Susan Margaret	10 Fitzroy Road East
923	Morrison	Tamara	2a H Jones Road
924	Morrison	Violet Sarah	6B St Mary's Walk
925	Morrison	William Roderick Halliday	54 John Street
926	Murphy	Andrew Paul	2 King Street
927	Murphy	Ann Susan	2 King Street
928	Murphy	Bessie	4A St Mary's Walk
929	Napier	Lily	2 Racecourse Road
930	Napier	Roderick Bertrand	2 Racecourse Road
931	Neilson	Barry Marwood	23 Ross Road
932	Neilson	Edward Sydney	23 Ross Road
933	Neilson	Harold Ian	74 Davis Street
934	Neilson	Margaret	23 Ross Road
935	Newell	Joseph Orr	3 Villiers Street
936	Newman	Andrew Raymond	51 Ross Road East
937	Newman	Marlene	11 Jeremy Moore Avenue
938	Newman	Tansy Fiona	5 Jersey Road
939	Newman	Terence	24 Endurance Avenue
940	Newton	Elizabeth Eleanor	8 Murray Heights
941	Nightingale	Karl Richard	1 Sullivan Street
942	Norman	Heather Thelma	6a Pioneer Row
943	Nutter	Arthur Albert	9 Brandon Road
944	Nutter	Josephine Lesley	9 Brandon Road
945	O'Dean	Barry Charles	Lookout Lodge
946	Ojeda Gallardo	Roberto Miguel Alejandro	9A Sullivan Street
947	Olmedo	Alex	3 Mink Park
948	Ormond	Christina Helen	6 Goss Road
949	Ormond	Kevin Michael Patrick J	6 Goss Road
950	Ormond	Krysteen Alison	6 Goss Road
951	Ormond	Terrienne Helen	2 Gleadell Close
952	Owen	Sally	1 Biggs Road
953	Oyarzo	Henry Hernan Guala	3 Allardyce Street
954	Padgett	Keith	3 Biggs Road
955	Padgett	Valerie Janet	3 Biggs Road
956	Paice	Corrinne	3 Racecourse Road
957	Paice	Craig Arthur	3 Racecourse Road
958	Parke	James Fred	25 Ross Road West
959	Parke	Janet Margaret	25 Ross Road West
960	Patterson-Smith	Ian Colin	F.I.G.O
961	Pauloni	Hilary Maud	63 Fitzroy Road
962	Paver	Bernadette Marguerite	Moody Brook House
963	Payne	Dilys Agnes	2 Racecourse Road East
964	Payne	Samantha Jane	2 Racecourse Road East
965	Payne	St. John Peter	2 Racecourse Road East
966	Peck	Burnerd Brian	4 Thatcher Drive

967	Peck	Carol Margaret	9 Rowlands Rise
968	Peck	Christine	21 Jersey Road
969	Peck	David John	15 Villiers Street
970	Peck	David Patrick	78 Davis Street
971	Peck	Davina Margaret	Lady Hunt House
972	Peck	Eleanor Margaret	10 Davis Street
973	Peck	Gordon Pedro James	34 Eliza Crescent
974	Peck	Harwood John Charles	26 Eliza Crescent
975	Peck	James	2 Barrack Street
976	Peck	Joshua Dolan	9 Rowlands Rise
977	Peck	Maureen Heather	11 Discovery Close
978	Peck	Patrick William	11 Discovery Close
979	PED		6 Beaver Road
980	Ped	Mila Boybanting	6 Beaver Road
981	Perkins	Vivienne Esther Mary	33 John Street
982	Perry	Hilda Blanche	6A St Marys Walk
983	Perry	Thora Virginia	2 Thatcher Drive
984	Peters	Patricia Ann	30 Eliza Crescent
985	Pettersson	April Samantha	8 Moody Street
986	Pettersson	Derek Richard	3 Anderson Drive
987	Pettersson	Trudi Ann	3 Anderson Drive
988	Phillips	David Albert	35 Fitzroy Road
989	Phillips	David Dawson	35 Fitzroy Road
990	Phillips	Elisa	35 Fitzroy Road
991	Phillips	Lynda	16 Brandon Road
992	Pitt	Myra	6A Pioneer Row
993	Plato	Darren Richard	Tenacres Flat
994	Plato	Martin Neil	2 Hebe Place
995	Plato	Wendy Ann	2 Hebe Place
996	Plunkett	Mark Penson	22 Endurance Avenue
997	Pole-Evans	Amy Rose	4 McKay Close
998	Pole-Evans	John	16 Ross Road East
999	Pole-Evans	Lisa	74 Davis Street
1000	Pole-Evans	Martin	12 Murray Heights
1001	Pole-Evans	Michael Anthony	4 McKay Close
1002	Pollard	Andrew Keith	2 Hansen Hill
1003	Pollard	Elizabeth Eve	23 Ross Road East
1004	Pollard	John	23 Ross Road East
1005	Pollard	Mark John	8 Fitzroy Road
1006	Pompert	Joost Herman Willem	11 Ross Road West
1007	Poncet	Lars Nigel	2 Brandon Road West
1008	Poncet	Sally Elizabeth	2 Brandon Road West
1009	Poole	Andrea Joan	52 John Street
1010	Poole	Christopher William	37 Fitzroy Road
1011	Poole	Ella Josephine	17 Ian Campbell Drive
1012	Poole	Evelyn May	31 Fitzroy Road
1013	Poole	Jody May	13 Hansen Hill
1014	Poole	Juliet Hazel	8 Anderson Drive
1015	Poole	Michael James	19 Davis Street
1016	Poole	Nancy Margaret	52 John Street
1017	Poole	Raymond John	52 John Street

1018	Poole	Ross William	52 John Street
1019	Poole	Steven Charles	8 Anderson Drive
1020	Poole	Toby Raymond	19 Davis Street
1021	Poole	William John	31 Fitzroy Road
1022	Porter	Marcus James	5 Jeremy Moore Avenue
1023	Pratlett	Patricia Carol Ann	10 A James Street
1024	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
1025	Pring	Bernadette Jane Spencer	5A Ross Road West
1026	Pring	Geoffrey Alan	5A Ross Road West
1027	Prior	Claudette	1 Goss Road
1028	Prior	Malcolm	1 Goss Road
1029	Quinto Sallvca	Luis Alberto	4 Hebe Street
1030	Reddick	Keith John	By-Pass Road
1031	Reeves	Carolyn Wendy	2 Moody Street
1032	Reeves	Jill Edith	3 Jeremy Moore Avenue
1033	Reeves	Michael	8 Jersey Road
1034	Reid	Ann	Lois Cottage John Street
1035	Reid	Beverley Rose	12 James Street
1036	Reid	Colleen Rose	9 Fitzroy Road East
1037	Reid	Elizabeth Jayne	4 Fieldhouse Close
1038	Reid	John Alexander	1 Hebe Street
1039	Reid	Paula	5 Biggs Road
1040	Reid	Reynold Gus	5 Biggs Road
1041	Reid	Simon Gus	9 Fitzroy Road East
1042	Reid De Davino	Pamela Ruth	14 Jersey Road
1043	Rendell	Michael	8 Ross Road West
1044	Rendell	Nicholas Simon Oliver	8 Ross Road West
1045	Rendell	Phyllis Mary	8 Ross Road West
1046	Richards	Shirley	8A James Street
1047	Roberts	Cheryl Ann Spencer	49 Ross Road East
1048	Roberts	David Anthony	1 Mountain View
1049	Roberts	Jill Christine	5 Narrows View
1050	Roberts	Laura May	4 Kent Road
1051	Roberts	Lynn	3 Gleadell Close
1052	Roberts	Peter James	49 Ross Road East
1053	Roberts	Simon Theodore Nathaniel	5 Narrows View
1054	Robertson	Janet	11 Ross Road West
1055	Robson	Alison Emily	15 Villiers Street
1056	Robson	Cherry Rose	5 Philomel Street
1057	Robson	Gerard Michael	1 Philomel Place
1058	Robson	Jodie	1 Philomel Place
1059	Robson	Miranda Gaye	6 Brisbane Road
1060	Robson	Patricia Jayne	18 Ross Road East
1061	Robson	Phyllis Ann	1 Philomel Place
1062	Robson	Raymond Nigel	6 Brisbane Road
1063	Robson	William Charles	18 Ross Road East
1064	Ross	Allan John	1 Short Street
1065	Ross	Christine Aislinn	23 Watson Way
1066	Ross	Claudio Javier Ampeuro	30 Jersey Road
1067	Ross	Glenn Stephen	23 Watson's Way
1068	Ross	Janet	23 Watson Way

1069	Ross	Kerri-Anne	23 Watson Way
1070	Ross	Kevin John	19 Jersey Road
1071	Ross	Lachlan Neil	14 Fieldhouse Close
1072	Ross	Marie	3 Beaver Road
1073	Ross	Rebecca Jane	3 Beaver Road
1074	Ross	Roy	19 Jersey Road
1075	Ross	Shirley Vyona	1 Short Street
1076	Rowland	Charlene Rose	19 Jeremy Moore Avenue
1077	Rowland	John Christopher	19 Jeremy Moore Avenue
1078	Rowland	Sarah Anne	9 Hansen Hill
1079	Rowlands	Daisy Malvina	39 John Street
1080	Rowlands	Dorinda Roberta	Camber House
1081	Rowlands	Jane Louise	13 Callaghan Road
1082	Rowlands	Neil	Camber House
1083	Rowlands	Robert John	13 Callaghan Road
1084	Rozee	Betty Ellen	16 Davis Street
1085	Rozee	Derek Robert Thomas	16 Davis Street
1086	Rozee	Karen Michella	3 Discovery Close
1087	Sackett	Albert John	25A Ross Road East
1088	Sackett	Jacqueline	11 Rowlands Rise
1089	Sackett	Michael John Carlos	25A Ross Road East
1090	Sanchez Ladron De Guevara	Karen Pamela	5 Brisbane Road
1091	Sawle	Felicity Anne Hermione	Seaview Cottage Ross Road
1092	Sawle	James Christopher	Seaview Cottage Ross Road
1093	Sawle	Judith Margaret	Seaview Cottage Ross Road
1094	Sawle	Richard	Seaview Cottage Ross Road
1095	Senociain Short	Kylie Deborah	Flat 7 6 Jersey Road
1096	Shcherbich	Zhanna Nikolaevna	13 Biggs Road
1097	Shepherd	Anna Jenine	10 Hansen Hill
1098	Shepherd	Darren Harold	10 Hansen Hill
1099	Shepherd	Ramsey	4 Discovery Close
1100	Shillitoe	Helena De Fatima	The Brook Moody Brook
1101	Shillitoe	Stephen Bruce	43 Ross Road East
1102	Short	Alison	9 Pioneer Row
1103	Short	Brenda	11 Barrack Street
1104	Short	Celia Soledad	7 Pitaluga Place
1105	Short	Christina Ethel	12 Brandon Road
1106	Short	Clint Andrez	4 James Street
1107	Short	Derek Patrick	53 Callaghan Road
1108	Short	Emily Christina	1 Fitzroy Road East
1109	Short	Gavin Phillip	Flat 7 6 Jersey Road
1110	Short	Isobel Rose	1 Brandon Road
1111	Short	Jason	1 Brandon Road
1112	Short	Lindsay Marie	4 James Street
1113	Short	Marc Peter	7 Anderson Drive
1114	Short	Marlene Cindy	9 Pitaluga Place
1115	Short	Montana Tyrone	4 Dairy Paddock Road
1116	Short	Nabil George	21 Murray Heights
1117	Short	Patrick Warburton	1 Brandon Road
1118	Short	Peter Robert	1 Fitzroy Road East
1119	Short	Richard Edward	9 Pitaluga Place

1120	Short	Riley Ethroe	11 Barrack Street
1121	Short	Robert George	4 James Street
1122	Short	Sara Jane	Murray Heights
1123	Short	Tamara Colette	6 Murray Heights
1124	Short	Vilma Alicia	4 Dairy Paddock Road
1125	Simmonds	Donald Rodney Falkland	48 Davis Street
1126	Simpson	Bertha Veronica	8 Rowlands Rise
1127	Simpson	James Alexander Bruce	7 Racecourse Road
1128	Simpson	James Garry	7 Racecourse Road
1129	Simpson	John Frederick	8 Rowlands Rise
1130	Simpson	Mirabel Hermione	7 Racecourse Road
1131	Sinclair	Veronica Joyce	21 Ross Road West
1132	Skene	Greta Winnora Miller	22 Ross Road East
1133	Smallwood	Margo Ameer	105 Davis Street
1134	Smallwood	Michael Anthony	105 Davis Street
1135	Smith	Andrew John	4 Philomel Street
1136	Smith	Anthony David	38 Ross Road
1137	Smith	Colin David	6 James Street
1138	Smith	Crystal Rose	1a Capricorn Road
1139	Smith	Elenore Olive	3 Brisbane Road
1140	Smith	Eric	Flat 2 1 Moody Street
1141	Smith	Gerard Alexander	8 Barrack Street
1142	Smith	Gina Ruth Mary	3 John Biscoe Road
1143	Smith	Heather	19 Watson Way
1144	Smith	Ian Lars	5 Brandon Road
1145	Smith	Ileen Rose	28 Ross Road West
1146	Smith	James Terence	3 Fitzroy Road West
1147	Smith	Jennifer Ethel	6 Watson Way
1148	Smith	John	28 Ross Road West
1149	Smith	John Derek	8 Eliza Crescent
1150	Smith	Martyn James	6A Ross Road West
1151	Smith	Michael Edmund	39 Eliza Crescent
1152	Smith	Nadia Louis	11 Brandon Road
1153	Smith	Natalie Marianne	6 James Street
1154	Smith	Nora Kathleen	5 Fitzroy Road East
1155	Smith	Osmund Raymond	3 Brisbane Road
1156	Smith	Paul	8 Ian Campbell Drive
1157	Smith	Robin Charles	19 Watson Way
1158	Smith	Roy Alan	11 Brandon Road
1159	Smith	Tyssen John Richard	3 John Biscoe Road
1160	Socodo	Pheobe Esther	16 Jersey Road
1161	Spicer	Mark Anthony	16 St Mary's Walk
1162	Spicer	Susan	16 St. Marys Walk
1163	Spink	Roger Kenneth	The Brook Moody Brook
1164	Spinks	Malvina Ellen	8 Yates Place
1165	Spruce	Helena Joan	29 Ross Road West
1166	Spruce	Mark Felton	6 Anderson Drive
1167	Spruce	Terence George	29 Ross Road West
1168	Steen	Allan Graham	32 Ross Road West
1169	Steen	Barbara Ingrid	39 Ross Road West
1170	Steen	Karen Lucetta	32 Fitzroy Road

1171	Steen	Kimberley Joanna	21 St Mary's Walk
1172	Stenning	Anna Rusalka	5b Ross Road West
1173	Stenning	Timothy Charles	5b Ross Road West
1174	Stephenson	Jason	87 Davis Street
1175	Stephenson	Joan Margaret	Moody Valley House
1176	Stephenson	Katrina	4 Davis Street
1177	Stephenson	Zachary	4 Davis Street
1178	Stevens	Adrian John	Lady Hunt House John St
1179	Stevens	Paul Theodore	6 Dairy Paddock Road
1180	Stevens	Valerie Ann	6 Dairy Paddock Road
1181	Stewart	Celia Joyce	14 Allardyce Street
1182	Stewart	Daniel Duane	12 Scoresby Close
1183	Stewart	Hulda Fraser	24 Ross Road West
1184	Stewart	Ian Bremner	34 Ross Road East
1185	Stewart	Irene Anne	6 Discovery Close
1186	Stewart	Kenneth Barry	Flat 5 6 Jersey Road
1187	Stewart	Pam Ellen	18 Endurance Avenue
1188	Stewart	Sheila Olga	34 Ross Road East
1189	Stewart-Reid	Carol Ellen Eva	1 Hebe Street
1190	Strange	Maria Marta	The Dolphins Snake Street
1191	Strange	Matthew	6B Ross Road West
1192	Strange	Shona Marguerite	6B Ross Road West
1193	Stroud	Mark Adrian	10 Sullivan Street
1194	Sullivan	Jonathan Francis	Mullet Creek
1195	Summers	Brian	1 Ross Road East
1196	Summers	Dorothy Constance	42 Eliza Crescent
1197	Summers	Edith Catherine	5 Dean Street
1198	Summers	Irvin Gerard	1 Anderson Drive
1199	Summers	Jacqueline	11 Pioneer Row
1200	Summers	Jonathan Derek	5 Allardyce Street
1201	Summers	Judith Orissa	1 Ross Road East
1202	Summers	Lynn Jane	20 Jeremy Moore Avenue
1203	Summers	Michael Kenneth	6A Brisbane Road
1204	Summers	Michael Victor	11 Pioneer Row
1205	Summers	Naomi Christine	4 Anderson Drive
1206	Summers	Nichola Jane	3 Philomel Place
1207	Summers	Owen William	5 Brandon Road
1208	Summers	Rowena Elsie	5 Allardyce Street
1209	Summers	Roy	32 Eliza Cresent
1210	Summers	Sheila	1 Anderson Drive
1211	Summers	Sybella Catherine Ann	1 Ross Road West
1212	Summers	Sylvia Jean	8 Racecourse Road
1213	Summers	Terence	1 Ross Road West
1214	Summers	Tony	8 Racecourse Road
1215	Summers	Veronica	5 Brandon Road
1216	Sutcliffe	Lindsey Claire	17 Brandon Road
1217	Sutcliffe	Michael Ian	Lookout Lodge
1218	Sutherland	John Gall	3 Mountain View
1219	Sytchov	Dmitri	1 Felton Court
1220	Sytchov	Vladimir	1 Felton Court
1221	Sytchova	Natalia Mikhaylovna	1 Felton Court

1222	Sytchova	Ulia	1 Felton Court
1223	Taylor	Anne Louise	4 Drury Street
1224	Taylor	Graham	55 Fitzroy Road
1225	Taylor	Ruth Eleanor	55 Fitzroy Road
1226	Teale	Colin Edwin	8 Brisbane Road
1227	Tellez	Arturo	Flat 4 1 Jeremy Moore Ave
1228	Thain	John	8 Davis Street
1229	Thain	Stephanie Ann	8 Davis Street
1230	Thom	David Anderson	47 Fitzroy Road
1231	Thom	Dorothy Irene	47 Fitzroy Road
1232	Thom	Norma Ann	92 Davis Street
1233	Thomas	Jacqueline Joyce	11 Callaghan Road
1234	Thomas	Justin Paul	11 Callaghan Road
1235	Thorsen	Carol Margaret	88 Davis Street
1236	Thorsen	David Moller	88 Davis Street
1237	Triggs	David William	3 Fieldhouse Close
1238	Triggs	Diane	3 Fieldhouse Close
1239	Triggs	Donna Louise	14a Brandon Road
1240	Triggs	Michael David	3 Fieldhouse Close
1241	Tuckwood	John Rodney	1 Drury Street
1242	Turner	Betty Ann	8 Fitzroy Road East
1243	Turner	Howard Guy	8 Fitzroy Road East
1244	Turner	Joanne Elizabeth	61 Fitzroy Road
1245	Turner	Ronald	K E M H
1246	Tyrrell	Garry Bernard	1 Beaver Road
1247	Tyrrell	Gina Michelle	1 Beaver Road
1248	Valler	Glyndwr Huw	Flat 6 1 Jeremy Moore Ave
1249	Velasquez	Evan Oscar	16 Brandon Road
1250	Vidal Roberts	Leona Lucila	1 Mountain View
1251	Vilchez Valverde	Maria Yhovana	56 Davis Street
1252	Villalon	Hector Ricardo	28 Davis Street
1253	Villegas	Caroline	7 Fieldhouse Close
1254	Villegas	Pedro Francisco	7 Fieldhouse Close
1255	Vincent	Janette Mary	10 Endurance Avenue
1256	Vincent	Matthew Stephen	10 Endurance Avenue
1257	Vincent	Stephen Lawrence	10 Endurance Avenue
1258	Wade	Donald Harold	Lookout Lodge
1259	Wade	June Rose Elizabeth	17 Murray Heights
1260	Wallace	Fraser Barrett	10 John Street
1261	Wallace	Ian	28 Brandon Road
1262	Wallace	James Barrett	38 Ross Road West
1263	Wallace	Maria Lilian	38 Ross Road West
1264	Wallace	Michael Ian	23 Callaghan Road
1265	Wallace	Stuart Barrett	38 Ross Road West
1266	Wallace	Una	23 Callaghan Road
1267	Wallace-Nannig	Fiona Alice	Tigh Na Mara 2 Mink Park
1268	Ward	Alison Denise	9 Anderson Drive
1269	Ward	Dennis James	9 Anderson Drive
1270	Watson	Andrew James	9 James Street
1271	Watson	Ben	7 Moody Street
1272	Watson	Joanne	9 James Street

1273	Watson	Paul	20 Endurance Avenue
1274	Watson	Ruth Jane	20 Endurance Avenue
1275	Watt	Stephen Robert	11 Narrows View
1276	Watt	Sylvia Ann	11 Narrows View
1277	Watts	Patrick James	13 Brisbane Road
1278	Webb	Gary Colin	58 Davis Street
1279	Webb	Loretta Isobel	58 Davis Street
1280	White	Judy Marie	Flat 1 3 Jeremy Moore Av
1281	White	Victoria Jane	3 Biggs Road
1282	Whitney	Frederick William	1 Police Cottages 9 Ross Rd
1283	Whitney	Jason	15 Ross Road East
1284	Whitney	Kurt Ian	2 Pioneer Row
1285	Whitney	Lana Rose	22 Eliza Crescent
1286	Whitney	Susan Joan	1 Police Cottages 9 Ross Rd
1287	Wilkinson	Alistair Graham	5 Felton Court
1288	Wilkinson	David Clive Walter	24 Goss Road
1289	Wilkinson	Johan	5 Felton Court
1290	Wilkinson	Robert John	2A Brisbane Road
1291	Wilks	Bruce Allan	11 Fieldhouse Close
1292	Wilks	Susan Jean	11 Fieldhouse Close
1293	Williams	Christian Leonard Edward John	5 McKay Close
1294	Williams	Glen	33 Ross Road East
1295	Williams	Lee Perry Adrian John	17 Ian Campbell Drive
1296	Williams	Margaret Elizabeth	33 Ross Road East
1297	Williams	Marlene Rose	23 Ross Road West
1298	Williams	Ray Allen	30 Eliza Crescent
1299	Williamson	Kathleen Laura	5 McKay Close
1300	Williamson	Rachel Mary	5 McKay Close
1301	Wilson	Stephen John	1 Davis Street West
1302	Wilson	Tara	1 Davis Street West
1303	Wylie	Ashley Craig Robert	1 Jersey Road
1304	Wylie	Julian Richard	2 Jeremy Moore Avenue
1305	Zuvic-Bulic	Kuzma Mario	Holdfast House, Holdfast Rd
1306	Zuvic-Bulic	Saul Kuzma	16A Ross Road West
1307	Zuvic-Bulic	Sharon Marie	Holdfast House, Holdfast Rd
1308	Zuvic-Bulic	Zoran Mario	Holdfast House, Holdfast Rd

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THE FALKLAND ISLANDS GAZETTE

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31 May 2010

No. 7

Appointments

Joan Mary McLeod, General Assistant, Health and Social Services Department, 01.05.10.

Sally Ann Bone, Clerk, Public Services Department, 03.05.10.

Anika Doreen Clarke, Senior Clerk, Public Services Department, 03.05.10.

Emma Maj Louise Akesdotter Kallqvist, Fisheries Observer, Fisheries Department, 03.05.10.

Hilary Alison McFarland, Senior Personnel Officer, Human Resources, Department of Procurement and Efficiency, 13.05.10.

Deborah Davidson, Fisheries Observer, Fisheries Department, 14.05.10.

Completion of Contract

Jacqueline Susan Bailey, Senior Staff Nurse, Health and Social Services Department, 27.05.10.

Renewal of Contract

Jacqueline Susan Bailey, Senior Staff Nurse, Health and Social Services Department, 28.05.10.

Promotion

Severine Betts, from Electrician to Foreman, Power and Electrical Section, Public Services Department, 01.05.10.

Resignation

Bruce Allan Wilks, Aerodromes Manager, Stanley Airport, Department of Procurement and Efficiency, 07.05.10.

Henry Hernan Guala Oyarzo, Cook, Health and Social Services Department, 27.05.10.

Joanne Hazel Minnell-Goodwin, Part-time Receptionist, Leisure Centre, Department of Procurement and Efficiency, 31.05.10.

Retirement

David William McGill, Foreman, Power and Electrical Section, Public Services Department, 30.04.10.

Transfer

Joanna Phyllis Bryson, from Senior Clerk, Public Services Department to Senior Assistant Taxation Officer, Taxation Office, 03.05.10.

NOTICES

No. 47

18 May 2010

Banking Ordinance (Title 10.1)

Banking (Amendment) Ordinance 1996

Notice is hereby given pursuant to section 19B(1) of the Banking Ordinance (Title 10.1), as amended, that the audited accounts of Standard Chartered Bank for the year ended 31 December 2009 are available for inspection at the bank branch office, Ross Road, Stanley, or a copy will be supplied on application to the Chief Executive Officer.

R. S. DONOSEPOETRO,

Chief Executive Officer, Standard Chartered Bank.

No. 48

18 May 2010

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **Shirley Louvain Patricia Knight** of Coast Ridge Farm, Fox Bay, Falkland Islands died on the 14th day of April 2010 intestate.

Whereas **Nigel Arthur Knight** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 18 May 2010

C. J. KING,
Registrar, Supreme Court

No. 49

24 May 2010

**Customs Ordinance 2003
Appointment of Temporary Customs Officers**

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint the following persons to be temporary Customs Officers:-

Cpl Stephen David LANE – K8418893 from 3 May to 4 September 2010;

Sgt Steven John McMENEMY – J8408923 from 13 May to 17 September 2010.

Dated 24 May 2010

R. J. KING,
Collector of Customs.

No. 50

25 May 2010

**White Rock (1996) Limited
Company Number: 10809**

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on the 25th day of May 2010.

Dated 25 May 2010

J. C. ROWLAND,
Registrar of Companies.

No. 51

27 May 2010

Application for Falkland Islands Status

Notice is hereby given that **Robert Keith Legg** has applied through the Principal Immigration Officer to be granted Falkland Islands Status by the Governor. Any person who

knows of any reason why Status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley no later than 21 June 2010.

Dated 27 May 2010

C. W. REEVES,
Immigration Officer.

No. 52

28 May 2010

**Electricity Supply Regulations (Title 31.1.1)
(regulation 10)**

Notice is hereby given in accordance with regulation 10 of the Electricity Supply Regulations that the price of electricity will be decreased from 17.5p to 16.53p per unit with effect from 1 July 2010.

Dated 28 May 2010

K. PADGETT,
Director of Corporate Resources.

No. 53

28 May 2010

**Stanley Rates Ordinance (Title 66.1)
sections 30 and 31**

Notice is hereby given of increases in charges imposed under the provisions of sections 30 and 31 of the Stanley Rates Ordinance with effect from 1 July 2010 as follows:-

1. Measured water supply:-
 - 1.1 Falkland Islands Government premises including FIPASS from £4.17 to £4.30 per tonne
 - 1.2 Ministry of Defence premises from £5.61 to £5.78 per tonne
 - 1.3 Other non-domestic premises from £2.06 to £2.16 per tonne
2. Minimum annual charge for measured water supply to all premises at paragraph 1 above - from £30.00 to £31.00
3. Service Charge^(a):-
 - 3.1 Domestic premises from £372.00 to £396.00 per annum
 - 3.2 Reduced charge for domestic premises occupied by persons of retirement pension age or over^(b) from £186.00 to £198.00 per annum
4. Refuse charges in respect of non-domestic premises:-
 - 4.1 For each small bin supplied from £123.00 to £134.00 per annum
 - 4.2 For each large bin supplied from £370.00 to £407.00 per annum

Dated 28 May 2010

K. PADGETT,
Director of Corporate Resources.

(a) The Service Charge is payable by 30 September each year but payment can be made by 12 equal monthly instalments of £33.00 with effect from July each year (£16.50 per month for persons of retirement pension age or over).

The payment by instalment method is applicable to tenants of Government housing by an addition to the monthly rent.

To relieve tenants of Government housing on low income the Service Charge will be treated in the same manner as rent under the Rent Rebate Scheme.

A Service Charge Rebate Scheme is available upon application to relieve other householders on low income.

The full Service Charge is payable on all vacant properties.

(b) Age 64 or over or age 60 or over if a widow or widower.

No. 54

28 May 2010

**Legislative Assembly of the Falkland Islands
Customs Ordinance 2003
(section 113)**

**Customs Resolution of the Legislative Assembly
No 1 of 2010**

It is resolved by the Legislative Assembly, under section 113 of the Customs Ordinance 2003 (No 9 of 2003) that:-

(a) the Customs Order (Title 26.1.2) is amended to increase the customs duties payable for alcoholic drinks and tobacco products as follows:-

on beer from 28p to 29p per litre;
on wines from 72p to 74p per litre;
on fortified wines from 84p to 87p per litre;
on spirituous beverages from £5.77 to £5.94 per litre;
on spirits from £10.54 to £10.86 per litre;
on cigars from £219.86 to £241.85 per kilo;
on cigarettes from £236.74 to £260.41 per kilo; and
on tobacco from £144.51 to £158.96 per kilo,

(b) this amendment of the Customs Order comes into force on 29 May 2010.

Dated 28 May 2010

C. ANDERSON-PRIOR M.B.E.
Clerk of the Legislative Assembly.

No. 55

31 May 2010

**Education Ordinance
(section 50(1)(c))**

Appointment of Members to Committee of Managers

1. Section 50(1)(c) of the Education Ordinance (Title 29.1) provides for the Governor to appoint members to the Committee of Managers (Infant and Junior School/Camp Education) two of whom shall be a parent of one or more children attending that school.

2. In exercise of my powers under section 50(1)(c), I appoint to the Committee of Managers for Infant and Junior School/Camp Education the following persons, all of whom have children attending the school:-

- (a) Sarah Jayne Boyce;
- (b) Sharon Gilbert; and
- (c) Barbara Ingrid Steen.

3. These appointments have effect from the date of signature given below, and continue in effect in accordance with section 50(2) of the Education Ordinance.

Dated 31 May 2010

A. E. HUCKLE,
Governor.

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THE FALKLAND ISLANDS GAZETTE

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30 June 2010

No. 8

Appointments

Rosalind Alice Elsby, Auxiliary Nurse, Health and Social Services Department, 01.06.10

Ruth Jane Watson, Part-time Auxiliary Nurse, Health and Social Services Department, 01.06.10

Richard Lowry Morrison, Firefighter, Fire and Rescue Department, 01.06.10

Peter Lance d'Ambrumentil, Medical Officer, Health and Social Services Department, 01.06.10

Michael Reeves, Storekeeper, Power and Electrical Section, Public Services Department, 09.06.10

Hien Thu Lovett, Temporary Taxation Assistant, Taxation Department, 15.06.10

Ruth Jane Watson, Part-time Relief Warden, Health and Social Services Department, 21.06.10

Completion of Contract

Shaun Minto, General Manager, Falkland Islands Government Air Service, 30.06.10.

Resignation

Susan Jean Wilks, Speech and Language Therapist, Health and Social Services Department, 08.06.10

Dustin Gilson-Clarke, Assistant Taxation Officer, Taxation Department, 10.06.10

Kirsty Nicole Livermore, Receptionist, Leisure Centre, Department of Procurement and Efficiency, 13.06.10.

Dawn Hoy, Housing Officer, Property and Municipal Section, Public Services Department, 30.06.10.

Retirement

Donald Wade, Plant Operator/Handyman, Property and Municipal Section, Public Services Department, 11.06.10.

NOTICES

No. 56

2 June 2010

Stevedore and Fisheries Services (SFS) Navegantes Limited Company Number: 8740

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 2 June 2010

J. C. ROWLAND,
Registrar of Companies

No. 57

4 June 2010

Penguin Express Falkland Islands Limited
Company Number: 11440

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on the 4th day of June 2010.

Dated 4 June 2010

J. C. ROWLAND,
Registrar of Companies.

No. 58

4 June 2010

Administration of Estates Ordinance (Title 68.1)
Appointment of Official Administrator

1. Section 13 of the Administration of Estates Ordinance (Title 68.1) provides for an Official Administrator to be appointed by the Governor to exercise the rights, powers and duties and be subject to the liabilities of the Public Trustee established under the Public Trustee Act 1906, in respect of the administration of estates where the Official Administration is appointed an executor of the will of a deceased person, or in the case of an intestacy where there is no person able or willing to administer the estate of the deceased.

2. In exercise of my powers under section 13 of the Administration of Estates Ordinance, I appoint **Janet Margaret Parke** to be an 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.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 4 June 2010

A. E. HUCKLE,
Governor.

No. 59

8 June 2010

Stanley Dairy Limited
Company Number: 7730

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on the 8th day of June 2010.

Dated 8 June 2010

J. C. ROWLAND,
Registrar of Companies.

No. 60

11 June 2010

Administration of Justice Ordinance (Title 22.1)
Appointment of Registrar of Supreme Court

1. Section 45 of the Administration of Justice Ordinance (Title 22.1) provides for a Registrar of the Supreme Court to be appointed by the Chief Justice with the approval of the Governor.

2. In exercise of my powers under section 45 of the Administration of Justice Ordinance, and with the approval of the Governor, I appoint **Janet Margaret Parke** to be a Registrar of the Supreme Court.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 11 June 2010

C. J. GARDNER,
Chief Justice.

No. 61

11 June 2010

Administration of Justice Ordinance (Title 22.1)
Appointment of Clerk to Magistrate's Court

1. Section 32 of the Administration of Justice Ordinance (Title 22.1) provides for a Clerk to the Magistrate's Court to be appointed by the Senior Magistrate with the approval of the Governor.

2. In exercise of my powers under section 32 of the Administration of Justice Ordinance, and with the approval of the Governor, I appoint **Janet Margaret Parke** to be a Clerk to the Magistrate's Court.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 11 June 2010

A. J. TREVASKIS,
Senior Magistrate

No. 62

21 June 2010

Offshore Installations (Safety Case) Order 2008
(Title 53.1.21)
Notification of Fees

The following fees are notified for the purposes of section 5 of the Offshore Installations (Safety Case) order 2008, in relation to health and safety inspection and assessment work carried out on behalf of the Director or Governor under, or in connection with, that order:

Rate per inspector: £257.00 per hour – with effect from 6 April 2010 to 5 April 2011.

Dated 21 June 2010

P. M. RENDELL,
Director of Mineral Resources.

No. 63

25 June 2010

**Public Health (Amendment) Ordinance 2010
Commencement Notice**

1. Section 2 of the Public Health (Amendment) Ordinance 2010 provides that the Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

2. I give notice that the Ordinance will come into force on 1 July 2010.

Dated 25 June 2010

A. E. HUCKLE,
Governor.

No. 64

25 June 2010

Applications for Permanent Residence

Notice is hereby given that:-

**Carolyn Anne Montgomerie
Hugues Jean Bernard Gerard Delignieres, and
Marie-Paul Adele Alice Guillaumot**

have applied to the Principal Immigration Officer to be granted Permanent Residence Permits.

Any person who knows of any reason why permits should not be granted should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 21 July 2010.

Dated 25 June 2010

C. W. REEVES,
Immigration Officer.

No. 65

28 June 2010

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **Brian Middleton** of 13 McKay Close, Stanley, Falkland Islands died on the 4th day of December 2009 intestate.

Whereas **Stephanie Anne Middleton** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 28 June 2010

J. M. PARKE,
Registrar, Supreme Court.

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31 July 2010

No. 9

Appointments

Aristoteles Jesus Stavrinaky Suarez, Scientific Fisheries Observer, Fisheries Department, 31.05.10.

Robyn Diane Culhane, Staff Nurse, Health and Social Services Department, 14.06.10.

Kristina Vincent, Staff Nurse, Health and Social Services Department, 28.06.10.

Kirsty Nicole Livermore, Receptionist/Data Clerk, Taxation Department, 28.06.10.

Stephen Samuel Bellingham, Staff Nurse, Health and Social Services Department, 12.07.10.

Jacqueline Esther Allen, Biomedical Scientist, Health and Social Services Department, 18.07.10.

Meilin He, Receptionist Part-time, Leisure Centre, 19.07.10.

Completion of Contract

Jacqueline Esther Allen, Biomedical Scientist, Health and Social Services Department, 17.07.10.

Jennifer Ann Smith, Senior Staff Nurse, Health and Social Services Department, 20.07.10.

Promotion

Morgan Edmund Goss, from Maintenance Manager to General Manager, Falkland Islands Government Air Service, 13.07.10.

Resignation

Joan May McLeod, Midday Meals Supervisor, Health and Social Services Department, 31.07.10.

Russell John Allan Morrison, Team Supervisor, Customs and Immigration Department, 30.09.10.

Retirement

John Frederick Simpson, Assistant Foreman, Plant and Vehicle Section, Public Services Department, 30.07.10.

Transfer

Amelia Appleby, from Receptionist/Data Clerk to Assistant Taxation Officer, Taxation Department, 28.06.10.

Anton Livermore, from Administration Officer, Post Office to Housing Officer, Public Services Department, 26.07.10.

NOTICES

No. 66

7 July 2010

Direct Imports Limited Company Number: 13165

Take notice that in accordance with the provisions of section 652 of the Companies Act 1985 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 7 July 2010

J. C. ROWLAND,
Registrar of Companies

No. 67

13 July 2010

Index of Retail Prices

The calculation of the Index for the quarter ended 30 June 2010 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
30.09.09	136.83	(2.4)	(0.3)
31.12.09	136.62	(3.2)	(0.2)
31.03.10	137.55	0.3	0.7
30.06.10	140.70	2.6	2.3

Dated 13 July 2010

L. LYSE,
for Financial Secretary.

No. 68

22 July 2010

J & M Adams (Reflections) Limited

Company Number: 8931

Notice is hereby given that the above named company was dissolved pursuant to section 652 of the Companies Act 1985 on the 22nd day of July 2010.

Dated 22 July 2010

J. C. ROWLAND,
Registrar of Companies.

No. 69

26 July 2010

Customs Ordinance 2003

Appointment of Temporary Customs Officers

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint Cpl Barbara Irene Corkish - C8244390 to be a temporary Customs Officer from 14 June to 16 October 2010.

Dated 26 July 2010

R. J. KING,
Collector of Customs.

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FALKLAND ISLANDS GAZETTE

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31 August 2010

No. 10

Appointments

Karen Rimicans, Senior Community Psychiatric Nurse, Health and Social Services Department, 01.08.10.

Michael Hudspeth, Police Constable, Royal Falkland Islands Police, 16.08.10.

Completion of Contract

Anthony Mark Payne, Environmental Planning Officer, Environmental Planning Department, 24.07.10.

Karen Rimicans, Senior Community Psychiatric Nurse, Health and Social Services Department, 31.07.10.

Judith Brown, Fisheries Scientist (Toothfish), Fisheries Department, 13.08.10.

Wayne Thompson, Physical Education Teacher, Education Department, 31.08.10.

Helen Therese Forbes, Home Economics Teacher, Education Department, 31.08.10.

Katherine Elizabeth Oliver, Mathematics Teacher, Education Department, 31.08.10.

Siobhan Marion Potter, Science Teacher, Education Department, 31.08.10.

Jennifer Mary Downing, Teacher, Education Department, 31.08.10.

Sandra Joyce Campbell, Teacher, Education Department, 31.08.10.

Anna Niomi West Gillham, Teacher, Education Department, 31.08.10.

Elaine Anne Messer, English Teacher, Education Department, 31.08.10.

Linda Margaret Rice, Teacher, Education Department, 31.08.10.

Nicholas Barrett, Head of Primary Education, Education Department, 31.08.10.

Juan Sanchez-Carrascosa Suare, Pharmacist, Health and Social Services Department, 31.08.10.

Renewal of Contract

Anthony Mark Payne, Environmental Planning Officer, Environmental Planning Department, 21.08.10.

Promotion

Martin Pole-Evans, from Mechanic to Assistant Foreman, Plant and Vehicle Section, Public Works Department, 13.07.10.

Resignation

Tiphanie May, Scientific Fisheries Observer, Fisheries Department, 03.08.10.

David Roberts, Sergeant, Royal Falkland Islands Police, 13.08.10.

Donald Jaffray, Painter/Handyman, Public Works Department, 29.08.10.

Karen Minto, Learning Support Assistant, Education Department, 31.08.10.

Gloria Linda McRae, Learning Support Assistant, Education Department, 31.08.10.

Daniel Craig Biggs, Exercise Referral Practitioner, Leisure Centre, 31.08.10.

Michael Reeves, Storekeeper/Handyman, Power and Electrical Section, Public Works Department, 31.08.10.

NOTICES

No. 70 10 August 2010

Customs Ordinance 2003 Appointment of Temporary Customs Officers

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Cpl Simon Andrew Hayward** - L8423452 to be a temporary Customs Officer from 28 July to 2 December 2010.

Dated 10 August 2010

R. J. KING,
Collector of Customs.

No. 71 12 August 2010

Supreme Court of the Falkland Islands Notice under the Administration of Estates Ordinance (Title 68.1)

Take Notice that **Richard Winston McRae** of Flat 6, 6 Jersey Road, Stanley, Falkland Islands died on the 13th day of April 2010 intestate.

Whereas **Charlotte Melizza McRae** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 12 August 2010

J. M. PARKE,
Registrar, Supreme Court.

No. 72 13 August 2010

Falkland Islands Queen's Certificate and Badge of Honour

His Excellency the Governor, acting on the advice of Executive Council, is pleased to announce on this Falkland Day, the first award of the Queen's Certificate and Badge of Honour to:

Mr William Edward Bowles for his services on behalf of those interned by Argentine forces in Goose Green in

May 1982 and for his encouragement of young people interested in woodworking and carpentry.

Mr Stephen Leslie Burston and Mrs Kathleen Burston for their work in running the Shack youth club for the under 15s.

The award ceremony for Mr Bowles will be held at Government House on Tuesday 17 August. That for Mr and Mrs Burston will be arranged for a later date.

Dated 13 August 2010

A. E. HUCKLE,
Governor.

No. 73 13 August 2010

Dangerous Goods Ordinance (Title 36.1) (section 3) Appointment of Licensing Authority

1. Section 3 of the Dangerous Goods Ordinance (Title 36.1) provides that the Governor shall appoint a person to be the Licensing Authority for the purposes of the Ordinance.

2. In exercise of my powers under section 3, I appoint Gary John Finchett to be the Licensing Authority.

3. I further appoint Len Stanford McGill to carry out the duties of the Licensing Authority as required under the Ordinance at any time when Gary John Finchett is unable to carry out those duties.

4. This appointment is deemed to have effect from 5 January 2010, and continues in effect whilst Gary John Finchett holds office as Director of Community Safety, unless terminated sooner.

Dated 13 August 2010

A. E. HUCKLE,
Governor.

No. 74 19 August 2010

Notice of Approved Immigration Applications
It is notified for general information that the following immigration applications were approved by the Governor in Executive Council on 24 June 2010:-

<u>Falkland Islands Status</u>	<u>Effective date of Status</u>
Sarah-Jane Thomas Yon	18 August 2010
Carlin Christopher Yon	18 August 2010

Dated 19 August 2010

G. J. FINCHETT,
Principal Immigration Officer.

**Falkland Islands Development Corporation Ordinance
section 10(1)**

Appointment of Financial Controller

1. Section 10(1) of the Falkland Islands Development Corporation Ordinance provides that the Governor shall appoint a Financial Controller of the Falkland Islands Development Corporation.
2. In exercise of my powers under section 10(1) I appoint Steven Manders to be Financial Controller of the Falkland Islands Development Corporation with effect from 23 August 2010, to continue in effect for the duration of the relevant contract of employment.
3. This appointment has effect and continues in effect as indicated above, unless terminated sooner.

Dated 20 August 2010

A. E. HUCKLE,
Governor.

**Harps Fire Appeal Fund
Charity Number 28**

Section 4(3) of the Charities Act 1960 (which applies in the Falkland Islands – see Title 15 of the Revised Laws of the Falkland Islands) requires a charity to be removed from the Register of Charities if it ceases to operate.

I hereby give Notice that the Harps Fire Appeal Fund has been removed from the Register on that basis with effect from 30 August 2010.

Dated 30 August 2010

D. F. W. PICKUP,
Commissioner of Charities.

**Notice of Application for Vesting Deed
Land Ordinance (Title 45.2)
section 11A**

Notice is given that Paul David Phillips and Shula Louise Phillips of Hope Cottage Farm, East Falkland, Falkland Islands, have made application in accordance with section 11A of the Land Ordinance to have executed in their favour a Vesting Deed of All that parcel of land in the Falkland Islands known as Big Rabbit Island and Little Rabbit Island situate in Port Salvador close to the shore of that part of Hope Cottage Farm known as Moro Point being part of the larger subjects comprised in Crown Grant 363.

The applicant's statutory declaration may be inspected by any person at the Registrar General's Office, Town Hall, Stanley during normal working hours for thirty days following the date of publication of this notice.

Notice is given that any person objecting to the vesting of title to the land in the application may, within thirty days following publication of this notice, lodge a notice in writing, specifying the grounds for objection, delivered to the Registrar General.

Notice is hereby given that unless any objection has been received within thirty 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 Paul David Phillips and Shula Louise Phillips a Vesting Deed of the said land.

Dated 31 August 2010

J. M. PARKE,
Acting Registrar General.

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No. 11

Appointments

Alexandra Sally Birmingham, Learning Support Assistant, Education Department, 30.08.10

Carole-Ann Goss, Learning Support Assistant, Education Department, 30.08.10.

Danielle Louise Greenough, Learning Support Assistant, Education Department, 30.08.10.

Meilin He, Learning Support Assistant, Education Department, 30.08.10.

Catherine Caroline O'Sullivan, Learning Support Assistant, Education Department, 30.08.10.

Samantha Jane Payne, Learning Support Assistant, Education Department, 30.08.10.

Rose Mary Toolan, Learning Support Assistant, Education Department, 30.08.10.

John Paul Carlin, Science Teacher, Education Department, 01.09.10.

Paul Gill, Teacher, Education Department, 01.09.10.

Simon James Isaacs, Home Economics Teacher, Education Department, 01.09.10.

Alexander John Lloyd, Physical Education Teacher, Education Department, 01.09.10.

Susan Nightgale, Primary Teacher, Education Department, 01.09.10.

Clare Louise Ryan, Travelling Teacher, Education Department, 01.09.10.

Andrew Henry Shearer, Mathematics Teacher, Education Department, 01.09.10.

Andrea Stanworth, Primary Teacher, Education Department, 01.09.10.

Laura Priscilla Tench, Primary Teacher, Education Department, 01.09.10.

Helen Toulson, English Teacher, Education Department, 01.09.10.

Kieran Kenneth Morrison, Plumber, Property and Municipal Section, Public Works Department, 06.09.10.

Thomas Elsby, Apprentice Carpenter, Training Unit/Public Works Department, 20.09.10.

George Toolan, Apprentice Carpenter, Training Unit/Public Works Department, 27.09.10.

Completion of Contract

Jacqueline Cooper, Primary Teacher, Education Department, 31.08.10.

Robin Cooper, Primary Teacher, Education Department, 31.08.10.

Wendy Reynolds, Travelling Teacher, Education Department, 31.08.10.

Renewal of Contract

Jacqueline Cooper, Primary Teacher, Education Department, 01.09.10.

Robin Cooper, Primary Teacher, Education Department, 01.09.10.

Wendy Reynolds, Travelling Teacher, Education Department, 01.09.10.

Juan Sanchez-Carrascosa Suare, Pharmacist, Health and Social Services Department, 01.09.10.

Promotion

Lindsay Jane Bonner, from Clerk to Administrative Officer, Post and Telecommunications Department, 01.09.10.

Resignation

Paul Theodore Stevens, Plant Operator/Handyman, Quarry Section, Public Works Department, 09.08.10.

NOTICES

No. 78 1 September 2010

Public Funds Ordinance (Title 19.7) (section 5(3)) Payments out of Insurance Fund

Notice is given in accordance with section 5(3) of the Public Funds Ordinance that the Insurance Fund limit will increase annually by the Retail Price Index as part of the annual Budget Policy report to Executive Council.

The Retail Price Index at the end of March 2010 was 0.7%. The Insurance Fund limit increased by 0.7% to £25,175,000 from 1 July 2010.

Dated 1 September 2010

K. PADGETT,
Financial Secretary.

No. 79 14 September 2010

Customs Ordinance 2003 (section 7(3)) Appointment of Temporary Customs Officers

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint the following persons to be temporary Customs Officers:-

Cpl Kevin Andrew Maini – F8414914 from 3 September 2010 to 7 January 2011; and

Sgt William Miller – G8285091 from 12 September 2010 to 16 January 2011.

Dated 14 September 2010

R. J. KING,
Collector of Customs.

No. 80

16 September 2010

Complaints Commissioners Ordinance 2010 (section 2) Commencement Notice

1. Section 2 of the Complaints Commissioners Ordinance 2010 provides that the Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

2. I give notice that the Ordinance will come into force on 1 October 2010.

Dated 16 September 2010

A. E. HUCKLE,
Governor.

No. 81

16 September 2010

Complaints Commissioners Ordinance 2010 (sections 5 and 35) Notice setting allowances and expenses

1. Section 5 of the Complaints Commissioners Ordinance 2010 provides that a complaints commissioner is entitled to a daily attendance allowance of such amount as the Governor sets by notice published in the Gazette.

2. Sections 5 and 35 of the Complaints Commissioners Ordinance 2010 provide that the Governor may by notice published in the Gazette set a maximum rate of expenses.

3. In exercise of my powers under section 5, I set the daily attendance allowance at £100 per day.

4. In exercise of my powers under sections 5 and 35 I set the maximum rate of expenses that may be claimed by a commissioner or a witness as those rates for subsistence and mileage which are for the time being applicable to Falkland Islands Government employees under the Management Code.

Dated 16 September 2010

A. E. HUCKLE,
Governor.

No. 82

22 September 2010

Customs Ordinance 2003 (section 7(3)) Appointment of Temporary Customs Officers

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **WO Brian John Main** – R8115967 to be a temporary Customs Officer from 4 September 2010 to 8 January 2011.

Dated 22 September 2010

R. J. KING,
Collector of Customs.

Application for Permanent Residence

Notice is hereby given that **Wendy Patricia Reynolds** has applied to the Principal Immigration Officer to be granted a Permanent Residence Permit.

Any person who knows of any reason why a permit should not be granted should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 21 October 2010.

Dated 23 September 2010

C. W. REEVES,
Immigration Officer.

**Harbour Ordinance
(section 4)****Oil in Territorial Waters Ordinance
(section 2(1))****Appointment of Harbour Master**

1. Section 4 of the Harbour Ordinance (Title 57.3) provides that the Governor may appoint a Harbour Master.
2. Section 2(1) of the Oil in Territorial Waters Ordinance (Title 34.3) provides that the Harbour Master is any person appointed by the Governor for the purposes of enforcing the provisions of the Ordinance.
3. In exercise of my powers under section 4 of the Harbour Ordinance and section 2(1) of the Oil in Territorial Waters Ordinance, I appoint Malcolm William Jamieson to be Harbour Master for the purposes of those Ordinances and for all other purposes.
4. This appointment has effect from the date of signature, and continues in effect whilst the appointee continues to hold the post of Marine Officer, unless terminated sooner.

Dated 29 September 2010

R. P. NYE,
Acting Governor.

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No. 12

Appointments

Anna Louise Punter, Health Visitor, Health and Social Services Department, 24.09.10

Vladimir Laptikhovsky, Stock Assessment Scientist, Fisheries Department, 30.09.10.

Rachel Ena Berntsen, Medical Laboratory Assistant, Health and Social Services Department, 01.10.10.

Victoria Louise Collier, Learning Support Assistant, Education Department, 01.10.10.

Warren Joseph Miller, Housing Apprentice, Training Centre, Public Works Department, 05.10.10.

Kenneth William Duvall, Plant Operator/Handyman, Public Works Department, 18.10.10.

Completion of Contract

Ronald Lawrence Rothwell, Medical Engineering Manager, Health and Social Services Department, 28.10.10.

Vladimir Laptikhovsky, Stock Assessment Scientist, Fisheries Department, 29.09.10.

Promotion

Dominique Jane Franks, from Staff Nurse to Senior Staff Nurse, Health and Social Services Department, 01.09.10.

Maryanna Ryan, from Staff Nurse to Senior Staff Nurse, Health and Social Services Department, 01.09.10.

Gemma Marie Wilson, from Staff Nurse to Senior Staff Nurse, Health and Social Services Department, 01.09.10.

Ian Lars Smith, from Licensed Aircraft Engineer to Maintenance Manager, Falkland Islands Government Air Service, 04.10.10.

Resignation

Cathy Jacobsen, Cashier/Clerk, Post and Telecommunications Department, 15.10.10.

Retirement

Vera Joan Bonner, Receptionist, Government House, 30.09.10.

NOTICES

No. 85

20 September 2010

Administration of Estates Ordinance (Title 68.1) (section 13)

Appointment of Official Administrator

1. Section 13 of the Administration of Estates Ordinance (Title 68.1) provides for an Official Administrator to be appointed by the Governor to exercise the rights, powers and duties and be subject to the liabilities of the Public Trustee established under the Public Trustee Act 1906, in respect of the administration of estates where the Official Administration is appointed an executor of the will of a deceased person, or in the case of an intestacy where there is no person able or willing to administer the estate of the deceased.

2. In exercise of my powers under section 13 of the Administration of Estates Ordinance, I appoint **Valerie Janet Padgett** to be an 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.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 20 September 2010

R. P. NYE,
Acting Governor

No. 86

20 September 2010

Administration of Justice Ordinance (Title 22.1)
(section 32)
Appointment of Clerk to Magistrate's Court

1. Section 32 of the Administration of Justice Ordinance (Title 22.1) provides for a Clerk to the Magistrate's Court to be appointed by the Senior Magistrate with the approval of the Governor.

2. In exercise of my powers under section 32 of the Administration of Justice Ordinance, and with the approval of the Governor, I appoint **Valerie Janet Padgett** to be a Clerk to the Magistrate's Court.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 20 September 2010

A. J. TREVASKIS,
Senior Magistrate

No. 87

30 September 2010

Customs Ordinance 2003
(section 7(3))
Appointment of Temporary Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Cpl Adrian Twamley** - S8414959 to be temporary Customs Officer from 24 September 2010 to 25 January 2011.

Dated 30 September 2010

R. J. KING,
Collector of Customs

No. 88

6 October 2010

Land Ordinance (Title 45.2)
(section 11A)
Vesting Deed

Further to an application made by **Paul David Phillips** and **Shula Louise Phillips** of Hope Cottage Farm, East Falkland, Falkland Islands, pursuant to section 11A of the Land Ordinance (Notice of which application was published in the Gazette of 31 August 2010) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter

"WHEREAS on application having been made to me John Christopher Rowland, Registrar General pursuant to section 11A of the Land Ordinance by Paul David Phillips and Shula Louise Phillips of Hope Cottage Farm, East Falkland, Falkland Islands, I am satisfied that the said Paul David Phillips and Shula Louise Phillips are entitled to be registered as the owners of the property in fee simple absolute in possession for 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 in the said owners SUBJECT only to such matters as are mentioned in Crown Grant 363 and to such easements rights privileges and encumbrances as may have been created prior to the date of this Deed

SCHEDULE
(Description of land)

ALL THAT piece or parcel of land situate in the Falkland Islands known as Big Rabbit Island and Little Rabbit Island situate in Port Salvador close to the shore of that part of Hope Cottage Farm known as Moro Point being part of the larger subjects comprised in Crown Grant 363."

Any person aggrieved by the decision of the Registrar General to execute a Vesting Deed in the form set out above may appeal to the Supreme Court within thirty days of the publication in the Gazette of this Notice in accordance with the provisions of section 11A of the Land Ordinance.

Dated 6 October 2010

J. C. ROWLAND,
Registrar General

No. 89

7 October 2010

Direct Imports Limited
Company Number: 13165

Notice is hereby given that the above named company was dissolved pursuant to section 652a of the Companies Act 1985 on 7 October 2010.

Dated 7 October 2010

J. C. ROWLAND,
Registrar of Companies

Administration of Justice Ordinance (Title 22.1)
(section 45)

Appointment of Registrar of Supreme Court

1. Section 45 of the Administration of Justice Ordinance (Title 22.1) provides for a Registrar of the Supreme Court to be appointed by the Chief Justice with the approval of the Governor.

2. In exercise of my powers under section 45 of the Administration of Justice Ordinance, and with the approval of the Governor, I appoint **Valerie Janet Padgett** to be a Registrar of the Supreme Court.

3. This appointment has effect from the date of signature given below, and continues in effect whilst the appointee continues to hold the position of Courts Administrator, unless terminated sooner.

Dated 8 October 2010

C. J. GARDNER,
Chief Justice.

No. 91

12 October 2010

Index of Retail Prices

The calculation of the Index for the quarter ended 30 September 2010 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
31.12.09	136.62	(3.2)	(0.2)
31.03.10	137.55	0.3	0.7
30.06.10	140.70	2.6	2.3
30.09.10	143.40	4.8	1.9

Dated 12 October 2010

L. LYSE,
for Financial Secretary.

No. 92

21 October 2010

Land Ordinance (Title 45.2)
(section 11A)
Notice of Application for Vesting Deed

Notice is given that **Raymond Evans** of Pebble Island, Falkland Islands, has made application in accordance with section 11A of the Land Ordinance to have executed in his favour a Vesting Deed of All that parcel of land in the Falkland Islands known as 6 Barrack Street comprised in Crown Grant 125 and 175. More particularly, that area of land made up of two parts, A and B. Part A, being that irregular area of land immediately adjacent to the North and East side of the dwelling house known as 6 Barrack Street, Stanley, bound by 4.0m on the West, 12.42m on the North and 13.25m on the East together with Part B, being that rectangular area of land adjacent to the East side of the property boundary of 6 Barrack Street, Stanley, bound by

9.0m on the South at John Street and 33.5m on the East side.

The applicant's statutory declaration may be inspected by any person at the Registrar General's Office, Town Hall, Stanley during normal working hours for thirty days following the date of publication of this notice.

Notice is given that any person objecting to the vesting of title to the land in the application may, within thirty days following publication of this notice, lodge a notice in writing, specifying the grounds for objection, delivered to the Registrar General.

Notice is hereby given that unless any objection has been received within thirty 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 Raymond Evans a Vesting Deed of the said land.

Dated 21 October 2010

J. C. ROWLAND,
Registrar General.

No. 93

25 October 2010

Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)

Take Notice that **John Falkland Biggs** of 18 James Street, Stanley, Falkland Islands died on 16 October 1967 intestate.

Whereas **Valerie Ann Harvey, Donald William Betts and Michael Elfed Biggs** have applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 25 October 2010

V. J. PADGETT,
Registrar, Supreme Court.

No. 94

25 October 2010

Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)

Take Notice that **Edith Ann Biggs** of 18 James Street, Stanley, Falkland Islands died on 26 July 1974 intestate.

Whereas **Valerie Ann Harvey, Donald William Betts and Michael Elfed Biggs** have applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 25 October 2010

V. J. PADGETT,
Registrar, Supreme Court.

No. 95 25 October 2010

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **James Garry Simpson** of 7 Racecourse Road, Stanley, Falkland Islands died on 28 August 2010 intestate.

Whereas **Mirabel Hermione Simpson** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 25 October 2010

V. J. PADGETT,
Registrar, Supreme Court.

No. 96 28 October 2010

**Complaints Commissioners (Form of Summons) Order 2010
and
Complaints Commissioners (Maximum Fine) Order 2010
(section 2)
Commencement Notice**

1. Section 2 of the Complaints Commissioners (Form of Summons) Order 2010 and of the Complaints Commissioners (Maximum Fine) Order 2010 provide that the Orders come into force on a date to be fixed by the Governor by notice published in the Gazette.

2. I give notice that the Orders will come into force on 1 November 2010.

Dated 28 October 2010

N. R. HAYWOOD C.V.O.,
Governor.

No. 97

28 October 2010

**Mental Health Ordinance 2010
(section 2)
Commencement Notice**

1. Section 2 of the Mental Health Ordinance 2010 provides that the Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

2. I give notice that the Ordinance will come into force on 1 November 2010.

Dated 28 October 2010

N. R. HAYWOOD C.V.O.,
Governor.

No. 98 28 October 2010

Application for Falkland Islands Status

Notice is hereby given that **Paul Alan Joshua** has applied through the Principal Immigration Officer to be granted Falkland Islands Status by the Governor. Any person who knows of any reason why Status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley no later than 21 November 2010.

Dated 28 October 2010

C. W. REEVES,
Immigration Officer.



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No. 13

Appointments

Allison Clara Carter, Crown Counsel, Attorney General's Chambers, 29.10.10

Henry Browning, Plant Operator/Handyman, Highways Section, Public Works Department, 01.11.10.

Tanya Fiona Jaffray, Cashier/Clerk, Post and Telecommunications Department, 01.11.10.

Robert Legg, Painter/Handyman, Plant and Vehicle Section, Public Works Department, 01.11.10.

Clint Andrez Robert Short, Plant Operator/Handyman, Quarry Section, Public Works Department, 01.11.10.

David Moller Thorsen, Mechanic, Public Works Department, 01.11.10.

Completion of Contract

Andrew Black, Fisheries Observer, Fisheries Department, 01.11.10.

Simon Catton, Technical Engineer, Public Works Department, 16.11.10.

Renewal of Contract

Simon Catton, Technical Engineer, Public Works Department, 17.11.10.

Resignation

Susan Diann Goss, Cook, Health and Social Services Department, 12.11.10.

Margaret Hewitt, Auxiliary Nurse, Health and Social Services Department, 30.11.10.

John Morrison, Mason/Skilled Handyman, Property and Municipal Section, Public Works Department, 30.11.10.

Transfer

Georgina Anderson-Smith, from full time Learning Support Assistant, to part time Learning Support Assistant, Education Department, 15.11.10.

Christine Aislinn Ross, Clerk, Human Resources Department to Agricultural Assistant, Department of Agriculture, 22.11.10.

NOTICES

No. 99

28 October 2010

Customs Ordinance 2003

(section 7(3))

Appointment of Temporary Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint Cpl Jason Murray – J8431769 to be temporary Customs Officer from 16 October 2010 to 21 February 2011.

Dated 28 October 2010

R. J. KING,
Collector of Customs.

Land Ordinance (Title 45.2)
(section 11A)
Vesting Deed

Further to an application made by **Raymond Evans** of Pebble Island, Falkland Islands, pursuant to section 11A of the Land Ordinance (Notice of which application was published in the Gazette of 31 October 2010) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter

"WHEREAS application having been made to me John Christopher Rowland, Registrar General pursuant to section 11A of the Land Ordinance by Raymond Evans of Pebble Island, Falkland Islands, I am satisfied that the said Raymond Evans is entitled to be registered as the owner of the property in fee simple absolute in possession for 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 in the said owners SUBJECT only to such matters as are mentioned in Crown Grant 125 and 175 and to such easements rights privileges and encumbrances as may have been created prior to the date of this Deed

SCHEDULE
(Description of land)

ALL THAT piece or parcel of land situate in the Falkland Islands known as 6 Barrack Street comprised in Crown Grant 125 and 175. More particularly, that area of land made up of two parts, A and B. Part A, being that irregular area of land immediately adjacent to the North and East side of the dwelling house known as 6 Barrack Street, Stanley, bound by 4.0m on the West, 12.42m on the North and 13.25m on the East together with Part B, being that rectangular area of land adjacent to the East side of the property boundary of 6 Barrack Street, Stanley, bound by 9.0m on the South at John Street and 33.5m on the East side."

Any person aggrieved by the decision of the Registrar General to execute a Vesting Deed in the form set out above may appeal to the Supreme Court within thirty days of the publication in the Gazette of this Notice in accordance with the provisions of section 11A of the Land Ordinance.

Dated 26 November 2010

J. C. ROWLAND,
Registrar General.

No. 101

29 November 2010

Interpretation and General Clauses Ordinance
section 72
Appointment of Public Holiday

1. Section 72(3) of the Interpretation and General Clauses Ordinance (Title 67.2) provides the Governor may by notice in the Gazette appoint a day to be a public holiday.

2

2. 29 December 2010 will be a public holiday.

Dated 29 November 2010

R. P. NYE,
Acting Governor.

EXPLANATORY NOTE:

(not forming part of the notice)

Under section 72(1) of the Interpretation and General Clauses Ordinance (Title 67.2), Christmas Day and Boxing Day are public holidays. When one (or, as in 2010, both) of those days falls on a Saturday and/or a Sunday, public holidays are given on the Monday and/or Tuesday instead under section 72(2).

It is also traditional that there is a third public holiday at Christmas but this is not provided for in section 72(1).

In 2010, Christmas Day falls on a Saturday and Boxing Day falls on a Sunday, so the Monday (27 December) and Tuesday (28 December) are public holidays.

The effect of this notice is that, in 2010, the traditional third public holiday at Christmas in 2010 will be taken on the Wednesday (29 December).

No. 102

29 November 2010

Interpretation and General Clauses Ordinance
section 72
Appointment of Public Holiday

1. Section 72(3) of the Interpretation and General Clauses Ordinance (Title 67.2) provides the Governor may by notice in the Gazette appoint a day to be a public holiday.

2. 29 April 2011 will be a public holiday.

Dated 29 November 2010

R. P. NYE,
Acting Governor.

EXPLANATORY NOTE:

(not forming part of the notice)

29 April 2011 will be a public holiday to mark the Royal Wedding of His Royal Highness Prince William and Miss Catherine Middleton.

No. 103

30 November 2010

Register of Members' Interests

The information contained in this Register is provided by every member of the Legislative Council and the Attorney General in accordance with clause 22 of the Falkland Islands Legislative Council Standing Rules and Orders.

The information is current to 30 November 2010.

Information to be provided

Every member of the Legislative Council and the Attorney General is required to notify the Clerk of the Assembly of the following registrable interests.

1. Remunerated directorships and whether or not in companies incorporated in the Falkland Islands, including directorships which are unremunerated, but where remuneration is paid through another company in the same group.
2. Remunerated employment, office or profession.
3. Clients in respect of whom the Member holds a general retainer or in respect of whom he has in the last 12 months, or expects in the next 12 months, to provide services for payment where a Member of the public might reasonably think that the Member's conduct in or in relation to the business of the Legislative Council might have been or might be influenced by the client's interests.
4. Sponsorships. Any form of sponsorship or financial or material support of a Member which involves any payment, benefit or advantage whether to the Member or any other person with whom the Member is closely connected.
5. Gifts, benefits and hospitality.
6. Overseas visits relating to or arising out of membership of the Legislative Council where the cost of any such visit has not been borne wholly by the Member or out of the Falkland Islands public funds.
7. Any gifts or material benefits or advantages received by the Member or the Member's spouse from or on behalf of overseas Governments, organisations or persons.
8. Land or property of a substantial value or from which a substantial income is gained.
9. The names of companies or other bodies in which the Member, or his spouse or partner has, to his knowledge either solely, or with or on behalf of his spouse, partner or children under the age of 18 years, a beneficial interest in shareholding of a nominal value greater than one percent of the issued share capital, or if less than one percent of more than £25,000.
10. Any relevant interest not covered by one of the main categories which falls within the main purpose of the Register, which is to provide information on any pecuniary benefit which a Member receives and which might reasonably be thought by others to influence his or her actions, speeches or votes in the Legislative Assembly or actions taken in his or her capacity as a Member of the Legislative Assembly OR which the Member considers might be thought by others to influence his or her actions in a similar manner, (even though the Member receives no financial benefit).

Notification of registrable interests

Every Member of the Legislative Council and the Attorney General notified the following interests.

Janet Lynda Cheek

1. Director Consolidated Fisheries Ltd incorporated in the Falkland Islands

2. Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House and Land 35 Ross Road East
Area along on side of the San Carlos River, jointly owned with Stuart Wallace (islander and military fishing there make a donation which is split between SAMA and Stephen Jaffray Appeal
9. Kelper Stores Ltd
Consolidated Fisheries Ltd
10. Director Kelper Stores Ltd (Unremunerated)
Director Falklands Conservation (UK charitable company)
Trustee South Georgia Heritage Trust
Trustee Falkland Islands Museum Trust
Falkland Farmers share
Residual Loan to Fortuna Ltd

Emma Jane Edwards

1. None
2. Falkland Islands Government: Education (Geography teacher) Police (Reserved Police Officer)
Member of the Legislative Assembly
Falkland Islands Museum & National Trust (Parttime Museum Assistant)
Bluff Cove Lagoon Tours (Parttime Tour Guide)
3. Falkland Islands Government
Falkland Islands Museum & National Trust
Bluff Cove Lagoon Tours
4. Argos: Sponsored Masters Degree 1998-99
5. Nil
6. UN Decolonisation Committee – New Caledonia (May 2010) – paid by United Nations
7. Nil
8. 41 Ross Road East
9. Nil
10. Nil

Roger Anthony Edwards

1. Director Consolidated Fisheries Ltd
Director Meredith Fishing Co Ltd
2. Owner Lake Sullivan Farm
Member of Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Travel and daily rates paid by EU for attendance at Overseas Countries and Territories Association
7. Travel and daily rates paid by EU for attendance at Overseas Countries and Territories Association
8. Owner Lake Sullivan Farm
8 Sullivan Street
9. Director Consolidated Fisheries Ltd
Director Meredith Fishing Co Ltd
10. Outstanding loan to Seafish Chandlery receiving 7% interest; through Meredith and Consolidated Fishing have interest in South American Atlantic Services
Royal Navy Pension, UK Paymaster General

Sharon Halford

1. Nil
2. Member of the Legislative Assembly
Falkland Islands Government Pension
3. Nil

4. Nil
5. Nil
6. Nil
7. Nil
8. Half share Casaverde, San Carlos
9. Nil
10. Share in Falkland Farmers

William Robert Luxton

1. Chartres Sheep Farming Co. Ltd
Chartres River Properties Ltd
Consolidated Fisheries Ltd
2. Member of the Legislative Assembly
Director of Chartres Sheep Farming Co. Ltd
Director of Chartres River Properties Ltd
Pension from Chartres Sheep Farming Co. Ltd
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Chartres farm
27 Ross Road West
House – Zante, Greece
9. Consolidated Fisheries Ltd
10. Nil

Glenn Ross

1. Nil
2. Falkland Islands Government: Power Station Manager (Chartered Electrical Engineer), Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. A share in a section of the San Carlos River value at the time of purchase £5000 – no income at this time.
23 Watson Way
9. Nil
10. Stanley Golf Club
Civil Service – Power & Electrical Section
Shares in Desire Petroleum – 9900
Shares in Borders and Southern - 10000

Richard Sawle

1. Nil
2. Member of the Legislative Assembly
Occasional driver for Tourist
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Seaview Cottage
House in the UK
9. Nil
10. Unremunerated Directorship of:
Seaview Ltd
Polar Ltd
Seaview Logistics Ltd
Member of the Falkland Islands Motorcycle Association
Hold one share in Seaview Ltd and Seaview Logistics Ltd

Pension (value £6,000 per annum) paid by Seaview Logistics Ltd on Mr Sawle's behalf into a FIG pension fund until the age of 65.

Gavin Phillip Short

1. Nil
2. Cable & Wireless - Employee
Falkland Islands Security Services – Security Officer
Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. General Employees Union
Tenant of Falkland Islands Government Housing

Tim Thorogood

1. Nil
2. Chief Executive, FIG
3. Nil
4. Nil
5. As a result of Alison Thorogood's employment with Cable & Wireless, Mr Thorogood benefits from the staff benefits package in relation to telecommunications provisions.
6. Nil
7. As a result of Alison Thorogood's employment with Cable & Wireless, Mr Thorogood benefits from the staff benefits package in relation to telecommunications provisions.
8. Broad Park, Rhossili, Swansea, SA3 1PL, UK
9. Nil
10. Alison Thorogood is employed by Cable & Wireless

Keith Padgett

1. Nil
2. Financial Secretary, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 3 Biggs Road, Stanley
Apartment, UK
9. Nil
10. Nil

David Francis William Pickup

1. Nil
2. Attorney General, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil (UK Civil Service Pension)
8. None in Falkland Islands
1 Property in UK – Hereford
1 Property in Thailand – Hua Hin
9. Nil
10. Nil

Keith Biles

1. Nil
2. Speaker of the House, Legislative Assembly

3. Nil
4. Nil
5. Nil
6. Nil
7. Pensioner – Standard Chartered Bank Overseas Staff Pension Fund
8. Joint Owner- House and Land 14 Kent Road
Joint Owner – House and Land New House Farm, East Falklands
9. Nil
10. Unremunerated–
Company Secretary – Energise Group Ltd
Company Secretary – Falkland Islands Chamber of Commerce (Ltd)
Director (Trustee) Falklands Conservation (a UK Limited Company and Registered Charity)
Share Holdings:
Minority share holder: Energise Group Ltd,
Falkland Islands Holdings Ltd (a quoted UK Limited Company)
Pecuniary Interest:
Décor Services Ltd

Anton Livermore

1. Nil
2. Housing Officer, FIG
Deputy Speaker of the House
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil

Dated 30 November 2010

C. PRIOR,
Clerk of the Legislative Assembly.

Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands.
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THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 119

31 December 2010

No. 14

Appointments

Ruth Jane Watson, Auxiliary Nurse, Health and Social Services Department, 01.12.10.

Carl Julian Evans, Staff Nurse/Midwife, Health and Social Services Department, 03.12.10.

Elena Juergens, Scientist (Toothfish), Fisheries Department, 06.12.10.

James Peck, Storekeeper, Power and Electrical Section, Public Works Department, 20.12.10.

Completion of Contract

Phillip Sean Kelly, Senior Staff Nurse, Health and Social Services Department, 27.12.10.

Madeleine Jane Evans, Special Needs Teacher, Education Department, 31.12.10.

Renewal of Contract

Madeleine Jane Evans, Special Needs Teacher, Education Department, 01.01.11.

Promotion

Jane Clement, from Deputy Aerodromes Manager to Aerodromes Manager, Falkland Islands Government Air Service, 01.11.10.

Resignations

Stella Margaret Prindle-Middleton, Practice Nurse, Health and Social Services Department, 04.12.10.

Robert James Hancox, Roads Engineer, Highways Section, Public Works Department, 14.12.10.

Sandy Bridget Kelly, General Assistant, Health and Social Services Department, 17.12.10.

Jane Louise Rowlands, Part-time Receptionist, Leisure Centre, 31.12.10.

Anika Doreen Clarke, Senior Clerk, Public Works Department, 31.12.10.

Lucinda Marie Lowe, Laboratory Assistant, Department of Agriculture, 31.12.10.

Avril Margaret Rose Bonner, Clerk, Treasury, 31.12.10.

Sara Loftus, Chief Clerk, Treasury, 31.12.10.

NOTICES

No. 104

29 November 2010

Appointment of Member of Police Committee Police Ordinance section 10(2)

1. Section 10(2) of the Police Ordinance 2000 provides that the Governor may appoint as members of the Police Committee two justices of the peace elected by justices of the police from among their number.
2. Keith Robert Biles JP has been elected to be a member of the Police Committee by the justices of the peace.
3. In exercise of my powers under section 10(2), I appoint Keith Robert Biles JP to be a member of the Police Committee.

4. This appointment has effect from the date below for a period of 3 years, unless terminated sooner.

Dated 29 November 2010

R. P. NYE,
Acting Governor.

No. 105 15 December 2010

**Appointment to Advisory Committee
on the Prerogative of Mercy
Falkland Islands Constitution Order 2008
(section 70)**

1. Section 70(1)(a) of the Falkland Islands Constitution Order 2008 provides that two elected members of the Legislative Assembly shall be appointed to the Advisory Committee on the Prerogative of Mercy by the Governor after consultation with elected members of the Assembly.

2. In exercise of my powers under section 70(1)(a) and after consulting with elected members of the Legislative Assembly, I appoint:-

Sharon Halford; and

Glenn Stephen Ross

to be the two elected members of the Advisory Committee on the Prerogative of Mercy.

3. This appointment has effect from the date below, and continues in effect for four years, unless terminated sooner by section 70(2) of the Falkland Islands Constitution Order 2008.

Dated 15 December 2010

N. R. HAYWOOD,
Governor.

No. 106 17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 37)**

Notice of Total Allowable Effort – Finfish Fishery
Notice is hereby given of the Total Allowable Effort set in respect of the following fishery:-

Fishery: Finfish

Species: All finfish species except Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*)

Period: 1 January – 31 December 2011

Total Allowable Effort: 68 (Vessel Units)

Dated 17 December 2010

A.J. BARTON,
Director of Natural Resources.

No. 107

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 37)**

Notice of Total Allowable Effort – Restricted Finfish Fishery
Notice is hereby given of the Total Allowable Effort set in respect of the following fishery:-

Fishery: Restricted Finfish

Species: All finfish species except Hake (*Merluccius spp.*), Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*)

Period: 1 January – 31 December 2011

Total Allowable Effort: 22.2 (Vessel Units)

Dated 17 December 2010

A.J. BARTON,
Director of Natural Resources.

No. 108

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 37)**

Notice of Total Allowable Effort – Skate Fishery
Notice is hereby given of the Total Allowable Effort set in respect of the following fishery:-

Fishery: Skate

Species: All species of Skate (*Rajidae*)

Period: 1 January – 31 December 2011

Total Allowable Effort: 22.48 (Vessel Units)

Dated 17 December 2010

A.J. BARTON,
Director of Natural Resources.

No. 109

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 37)**

**Notice of Total Allowable Effort –
Squid and Restricted Finfish Fishery**
Notice is hereby given of the Total Allowable Effort set in respect of the following fishery:-

Fishery: Squid and Restricted Finfish

Species: *Illex argentinus*, *Martialia hyadesi*, all finfish species except Hake (*Merluccius spp.*), Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*)

Period: 1 March – 31 May 2011

Total Allowable Effort: 19.6 (Vessel Units)

Dated 17 December 2010

A.J. BARTON,
Director of Natural Resources.

No. 110

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 37)**

Notice of Total Allowable Effort – Squid Fishery
Notice is hereby given of the Total Allowable Effort set in respect of the following fishery:-

Fishery: Squid (*Loligo gahi*)

Species: *Loligo gahi*

Period: 24 February – 14 April 2011

Total Allowable Effort: 27.33 (Vessel Units)

Dated 17 December 2010

A. J. BARTON,
Director of Natural Resources.

No. 111

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 38)**

**Notice of Total Allowable Catch
Restricted Finfish – Pelagic**

Notice is hereby given of the Total Allowable Catch set in respect of the following fishery:-

Fishery: Restricted Finfish – Pelagic

Species: Southern Blue Whiting (*Micromesistius australis*)
Hoki (*Macruronus magellanicus*)

Period: 1 January – 31 December 2011

Total Allowable Catch: 6000 metric tonnes

Dated 17 December 2010

A. J. BARTON,
Director of Natural Resources.

No. 112

17 December 2010

**Fisheries (Conservation and Management) Ordinance
(section 38)**

Notice of Total Allowable Catch – Toothfish Fishery
Notice is hereby given of the Total Allowable Catch set in respect of the following fishery:-

Fishery: Toothfish - Longline

Species: Toothfish (*Dissostichus eleginoides*)

Period: 1 January – 31 December 2011

Total Allowable Catch: 1200 metric tonnes

Dated 17 December 2010

A. J. BARTON,
Director of Natural Resources.

No. 113

18 December 2010

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance
(Title 68.1)**

Take Notice that **Richard Winston McRae** of Flat 6, 6 Jersey Road, Stanley, Falkland Islands died on the 13th day of April 2010 intestate.

Whereas **Elvis Richard McRae** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 18 December 2010

V. J. PADGETT,
Registrar, Supreme Court.

No. 114

20 December 2010

Applications for Permanent Residence
Notice is hereby given that:-

Jacqueline Esther Allen,
Svetlana Laptikhovskaya,
Vladimir Laptikhovsky, and
Karen Rimicans

have applied to the Principal Immigration Officer to be granted a Permanent Residence Permit.

Any person who knows of any reason why permits should not be granted should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 21 January 2011.

Dated 20 December 2010

C. W. REEVES,
Immigration Officer.

No. 115

22 December 2010

**Customs Ordinance 2003
(section 7(3))**

Appointment of Temporary Customs Officer
In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Cpl Mark Ginger** – C8507409 to be temporary Customs Officer from 17 December 2010 to 30 April 2011.

Dated 22 December 2010

R. J. KING,
Collector of Customs.

Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands.
Price: Two pound.

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THE
FALKLAND ISLANDS GAZETTE
Supplement

PUBLISHED BY AUTHORITY

Vol. 21

12 February 2010

No. 1

The following are published in this Supplement –

Public Accounts Committee (Maximum Fine) Order 2010 (SR&O No 1 of 2010);

Public Accounts Committee (Registrable Interests) Order 2010 (SR&O No 2 of 2010);
and

Public Accounts Committee Ordinance (Correction) Order 2010 (SR&O No 3 of 2010).

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Public Accounts Committee (Maximum Fine) Order 2010

S. R. & O. No. 1 of 2010

Made: 3 February 2010

Published: 12 February 2010

Coming into force: on publication

I make this order under section 31(d) of the Public Accounts Committee Ordinance (No. 11 of 2009) on the advice of the Executive Council.

1. Title

This order is the Public Accounts Committee (Maximum Fine) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order, "Committee" means the Public Accounts Committee established by section 81(1) of the Constitution.

4. Maximum fine under section 30 of the Public Accounts Committee Ordinance

(1) This article prescribes the maximum fine that the Committee may impose under section 30 of the Public Accounts Committee Ordinance.

(2) The maximum fine that the Committee may impose is level 6 on the standard scale.

Made 3 February 2010

A.E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Sections 19(4), 20(4), 23(4) and 24 of the Public Accounts Committee Ordinance (No.11 of 2009) provide for the circumstances in which a person is liable to a fine under section 30 of the Ordinance.

Section 31(d) of the Ordinance gives the Governor power to prescribe by order the maximum fine that the Committee may impose under section 30.

This order prescribes that the maximum fine the Committee may impose is level 6 on the standard scale of fines (currently, £7,500).

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Public Accounts Committee (Registrable Interests) Order 2010

S. R. & O. No. 2 of 2010

Made: 3 February 2010

Published: 12 February 2010

Coming into force: on publication

I make this order under section 31(a) of the Public Accounts Committee Ordinance (No. 11 of 2009) on the advice of the Executive Council.

1. Title

This order is the Public Accounts Committee (Registrable Interests) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Prescribed form of particulars of registrable interests

The form set out in the Schedule is prescribed as the form of particulars of registrable interests for the purposes of section 7 of the Public Accounts Committee Ordinance.

SCHEDULE

(article 3)

Public Accounts Committee Ordinance

(section 7)

Public Accounts Committee (Registrable Interests) Order

(article 3)

PARTICULARS OF REGISTRABLE INTERESTS

Please read the following document, the enclosed copies of sections 3 and 7 of the Public Accounts Committee Ordinance and Standing Orders of the Legislative Assembly 18 and 18A together with the guidance notes in 18A(2) carefully before completing the notification.

This notification must be completed and returned to the secretary of the Committee within the period mentioned in the covering letter.

In compliance with section 7 of the Public Accounts Committee Ordinance (No. 11 of 2009), I provide the following notification of my registrable interests:

1. Remunerated directorships and whether or not in companies incorporated in the Falkland Islands, including directorships which are unremunerated, but where remuneration is paid through another company in the same group.

2. Remunerated employment, office or profession

3. Clients in respect of whom the member holds a general retainer or in respect of whom he has in the last 12 months, or expects in the next 12 months, to provide services for payment where a member of the public might reasonably think that the member's conduct in or in relation to the business of the Public Accounts Committee might have been or might be influenced by the client's interests

4. Sponsorships. Any form of sponsorship or financial or material support of a member which involves any payment, benefit or advantage whether to the member or any other person with whom the member is closely connected

5. Gifts, benefits and hospitality

6. Overseas visits relating to or arising out of membership of the Public Accounts Committee where the cost of any such visit has not been borne wholly by the member or out of the Falkland Islands public funds

7. Any gifts or material benefits or advantages received by the member or the member's spouse from or on behalf of overseas Governments, organisations or persons

8. Land or property of a substantial value or from which a substantial income is gained

9. The names of companies or other bodies in which the member has, to his knowledge either with or on behalf of his spouse and children under the age of 18 years, a beneficial interest in shareholding of a nominal value greater than one percent of the issued share capital or less than one percent or more than £25000.00

10. Any relevant interest not covered by one of the main categories which falls within the purpose of the Register (which is to provide information on any pecuniary benefit which a member receives and which might reasonably be thought by others to influence his or her actions, speeches or votes in the Public Accounts Committee **OR** which the member considers might be thought by others to influence his or her actions in a similar manner, even though the member receives no financial benefit

Name of Member _____

Signature of Member _____

Date _____

Made 3 February 2010

A.E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Under section 7(2) of the Public Accounts Committee Ordinance (No.11 of 2009), it is a requirement that, before taking part in the proceedings of the Public Accounts Committee, members appointed to the Committee must complete and furnish to the secretary of the Committee written particulars of their registrable interests in the prescribed form or such other form as the Governor may approve.

Section 3 of the Ordinance defines “registrable interest” (in relation to an appointed member) as “an interest of which the member would be required under the Standing Orders of the Legislative Assembly to furnish particulars to the Clerk of the Legislative Assembly, if he or she were a member of the Assembly”.

Section 31 gives the Governor power to prescribe by order the form of particulars of registrable interests for the purposes of section 7.

This order prescribes the form of particulars of registrable interests to be completed by appointed members of the Public Accounts Committee before taking part in the proceedings of the Committee.

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Public Accounts Committee Ordinance (Correction) Order 2010

S. R. & O. No. 3 of 2010

Made: 10 February 2010

Published: 12 February 2010

Coming into force: 1 February 2010

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance (Title 67.2), I make the following order —

1. Title

This order is the Public Accounts Committee Ordinance (Correction) Order 2010.

2. Commencement

This Order shall be deemed to have come into force on the same date as the Public Accounts Committee Ordinance 2009.

3. Correction of Public Accounts Committee Ordinance 2010

The heading to the Schedule to the Public Accounts Committee Ordinance 2010 (No 11 of 2009) is corrected by omitting “IS TO” and substituting “MAY”.

Made 10 February 2010

D. F. W. Pickup,
Attorney General.

EXPLANATORY NOTE
(not forming part of the above order)

This Order corrects a typographical error.

Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands
Price: Three pound and seventy-five pence.

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THE
FALKLAND ISLANDS GAZETTE
Supplement

PUBLISHED BY AUTHORITY

Vol. 21

1 March 2010

No. 2

The following are published in this Supplement –

Public Accounts Committee (Amendment) Ordinance 2010 (No 1 of 2010); and

Public Accounts Committee Ordinance (Correction)(No 2) Order 2010 (SR&O No 4 of 2010).

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Public Accounts Committee (Amendment) Ordinance 2010

(No: 1 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of the Public Accounts Committee Ordinance
4. Section 9 amended
5. New sections 9A and 9B
6. Correction in various sections

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

PUBLIC ACCOUNTS COMMITTEE (AMENDMENT) ORDINANCE 2010

(No: 1 of 2010)

(assented to: 26 February 2010)
(commencement: in accordance with section 2)
(published: 1 March 2010)

AN ORDINANCE

To amend the Public Accounts Committee Ordinance (No. 11 of 2009).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Public Accounts Committee (Amendment) Ordinance 2010.

2. Commencement

(1) Section 9 of this Ordinance is deemed to have come into force on 1 February 2010.

(2) The remainder of this Ordinance comes into effect on publication in the *Gazette*.

3. Amendment of the Public Accounts Committee Ordinance

This Ordinance amends the Public Accounts Committee Ordinance.

4. Section 9 amended

(1) This section amends section 9.

(2) The heading is repealed and the following substituted —

“9. Secretary and staff”

(3) Sub-section (2) is repealed and the following substituted —

“(2) If the Governor appoints a person other than a public officer to be the secretary —

(a) the Committee may enter, in its own name, into a contract of employment or for services with that person, but

(b) the terms and conditions on which that person is employed or engaged must be agreed between the Governor and the chairperson.”

5. New sections 9A and 9B

The following new sections are inserted after section 9 —

“9A. Assistance

If the Committee invites a person to assist it in its work and participate in its proceedings in accordance with section 81(4) of the Constitution —

(a) it may enter, in its own name, into a contract for services with that person, but

(b) the terms and conditions of that contract must have been agreed beforehand between the Governor and the chairperson.

9B. Other contracts

The Committee may enter into other contracts, in its own name, for the purpose of carrying out its functions but only if either —

(a) the terms and conditions of the contract have been agreed beforehand between the Governor and the chairperson; or

(b) the contract is within the scope of authority that has been agreed between the Governor and the chairperson.”

6. Correction in various sections

Each of the following provisions is corrected by omitting “29” and substituting “30” —

Section 19(4)

Section 20(4)

Section 23(4)

Section 24

Section 31.

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Public Accounts Committee Ordinance (Correction) (No 2) Order 2010

S. R. & O. No. 4 of 2010

Made: 1 March 2010
Published: 1 March 2010
Coming into force: 1 March 2010

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance (Title 67.2), I make the following order —

1. Title

This order is the Public Accounts Committee Ordinance (Correction)(No 2) Order 2010.

2. Commencement

This Order shall be deemed to have come into force on the same date as the Public Accounts Committee (Amendment) Ordinance 2010.

3. Correction of Public Accounts Committee (Amendment) Ordinance 2010

Section 2(1) of the Public Accounts Committee (Amendment) Ordinance 2010 (No 1 of 2010) is corrected by omitting “9” and substituting “6”.

Made 1 March 2010

D. F. W. Pickup,
Attorney General.

EXPLANATORY NOTE

(not forming part of the above order)

This Order corrects a typographical error.

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THE
FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 21

31 March 2010

No. 3

The following is published in this Supplement –

Fishery Products (Hygiene) Designation Order 2010 (SR&O No 5 of 2010).

SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Hygiene) Designation Order 2010

S. R. & O. No. 5 of 2010

Made: 24 March 2010
Published: 31 March 2010
Coming into force: on publication

I make these this order under section 3 of the Fishery Products (Hygiene) Ordinance (Title 39.5) on the advice of Executive Council.

1. Title

This order is the Fisheries Products (Hygiene) Designation Order 2010.

2. Commencement

This order comes into force on publication in the Gazette.

3. Designation of approved factory fishing vessel

(1) The factory fishing vessel "ARGOS MARINE" has been approved by the food authority and designated with unique approval number 1036, in accordance with regulation 3(7)(a) of the Fishery Products (Hygiene) Regulations (Title 39.5.1).

(2) The fishing vessel is now designated under section 3(1) of the Ordinance, and the Ordinance and Regulations apply to it.

Made 24 March 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of this order)

This order designates fishing vessel "ARGOS MARINE" as an approved vessel which the Fishery Products (Hygiene) Ordinance (Title 39.5) and the Fishery Products (Hygiene) Regulations (Title 39.5.1) apply to.

The effect of designation is that the vessel has been inspected and approved as meeting the requirements of the European Union for the production and placing on the market of fishery products.

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THE
FALKLAND ISLANDS GAZETTE
Supplement

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Vol. 21

30 April 2010

No. 4

The following is published in this Supplement –

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2010 (SR&O No 6 of 2010); and

Complaints Commissioner Bill 2010.

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2010

S. R. & O. No. 6 of 2010

Made: 5 April 2010

Published: 30 April 2010

Coming into force: on publication

I make this order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) on the advice of the Standing Finance Committee as required by section 9A(1) of the Ordinance.

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order —

“designated employer” means an employer listed in the Schedule;

“qualifying employee” means a person —

(a) who satisfies the requirements of section 9A of the Ordinance; and

(b) who is employed by a designated employer;

“relevant employment” means —

(a) employment only for the purpose of providing services in the Falkland Islands to Her Majesty's regular armed forces or in the Falkland Islands to the Ministry of Defence of Her Majesty's Government in the United Kingdom; or

(b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) of this definition or by virtue of this paragraph of this definition;

“relevant income” means income from relevant employment; and

“retirement pension contributions” means contributions that an employee is required to pay under the Retirement Pensions Ordinance (No 20 of 1996).

4. Application

(1) Subject to article 5, a qualifying employee is exempt from liability under any law of the Falkland Islands to pay —

(a) income tax on relevant income from a designated employer; and

(b) retirement pension contributions in respect of that employment.

(2) The exemption applies whether the liability arises before or after this order comes into force.

5. Duration

Nothing in this order confers any exemption to pay either —

(a) income tax in relation to earnings after 31 December 2010; or

(b) retirement pension contributions in respect of employment after that date.

6. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2009 (No 21 of 2009) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

British International Helicopter Services Limited

Interserve Defence Limited

MPI Aviation Limited

Navy, Army and Air Force Institutes

Satec Limited

Serco Limited

Services Sound and Vision Corporation

Sodexo Defence Services Limited

Trant Construction Limited

VT Aerospace Limited

VT Communications Limited
Westland Helicopters Limited

Made 5 April 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence-based employment. Such orders can only be made on the advice of the Standing Finance Committee.

This order means that employees who work for one of the employers listed in the Schedule are exempt from income tax and retirement pension contributions, provided that they are engaged in relevant employment (as defined) and the other requirements set out in section 9A of the Ordinance are met.

The Taxes and Duties (Defence Contractors' Employees Exemption) Order 2009 (No 21 of 2009) extended the existing exemption until the end of 2010 and was intended to update the list of employers designated for the purposes of this exemption. However, there were errors in the list of employers and this order replaces the 2009 Order (which is revoked).

An additional employer (VT Aerospace Limited) is also being added to the list at the same time.

Complaints Commissioners Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

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Schedule 2 – Matters in which Complaints Commissioners do not have jurisdiction

COMPLAINTS COMMISSIONERS BILL 2010

(No: of 2010)

(assented to: 20[])
(commencement: in accordance with section 2)
(published: 20[])

A BILL

for

AN ORDINANCE

To prescribe the functions, powers and jurisdiction of Complaints Commissioners who are appointed by the Governor under section 95(1) of the Constitution to investigate complaints of maladministration in the government of the Falkland Islands or such other matters as are prescribed by Ordinance; to prescribe other matters that a Complaints Commissioner may be so appointed to investigate; to make administrative arrangements for those purposes; and for related matters

BE IT ENACTED by the Legislature of the Falkland Islands —

PART I INTRODUCTORY PROVISIONS

1. Title

This Ordinance is the Complaints Commissioners Ordinance 2010.

2. Commencement

This Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

3. Interpretation

(1) In this Ordinance, unless the context otherwise requires —

“action” includes a failure to act;

“aggrieved person” means a member of the public who claims to have suffered injustice in consequence of —

(a) maladministration in the government of the Falkland Islands or in a body mentioned in Schedule 1; or

(b) conduct mentioned in subsection (2);

“Complaints Commissioner” and “Commissioner” mean a person whom the Governor appoints under section 95(1) of the Constitution as a Complaints Commissioner;

“conduct” means an act or an omission;

“Governor’s reference” means a reference of a matter by the Governor to a Complaints Commissioner under section 31;

“member of the public” includes a body of persons (whether incorporated or unincorporated) other than a public body;

“person” includes a body of persons (whether incorporated or unincorporated);

“Principal Complaints Commissioner” means the Commissioner whom the Governor designates under section 4 as the Principal Complaints Commissioner.

(2) In addition to complaints of maladministration, this Ordinance applies to complaints of conduct in respect of which a member of the public would reasonably feel a sense of injustice despite the fact that it does not constitute maladministration.

(3) The conduct mentioned in subsection (2) includes but is not limited to the following conduct, when it does not constitute maladministration —

- (a) discourtesy;
- (b) a failure to provide a service;
- (c) a failure to tell a person about a legal remedy (for example, a right of appeal);
- (d) a refusal to answer a question;
- (e) a refusal to rectify a mistake; or
- (f) unhelpfulness,

in respect of which a member of the public would reasonably feel a sense of injustice.

4. Designation of Principal Complaints Commissioner

(1) On appointing a Complaints Commissioner under section 95(1) of the Constitution the Governor, acting in his or her discretion, may for the purposes of this Ordinance designate the Commissioner as the Principal Complaints Commissioner.

(2) The Principal Complaints Commissioner has, in addition to his or her other functions as a Commissioner, the administrative functions to which this Ordinance refers.

5. Allowances

(1) A Complaints Commissioner is entitled to a daily attendance allowance, for each day on which the Commissioner is engaged in the performance of his or her functions, of such amount as the Governor sets by notice published in the Gazette.

(2) The Governor may set different daily attendance allowances for the Principal Complaints Commissioner and for other Commissioners.

(3) A Complaints Commissioner is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses for each day on which the Commissioner is engaged in the performance of his or her functions.

(4) However, if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, a Complaints Commissioner is not entitled to be reimbursed a greater amount or at a higher rate.

6. Staff

(1) The Governor may appoint a public officer or some other person to be the secretary to the Complaints Commissioners.

(2) The appointment as secretary of a person who is not a public officer shall be on such terms and conditions as the Governor determines.

(3) The Governor may appoint other public officers as staff of the Complaints Commissioners.

(4) The secretary and other members of the staff are subject to the administrative directions of and responsible to the Principal Complaints Commissioner.

7. Funds

The funds for the performance of the Complaints Commissioners' functions consist of money appropriated for the purpose by the Legislative Assembly.

PART II FUNCTIONS AND JURISDICTION OF THE COMMISSIONERS

8. Additional functions of Commissioners

(1) In addition to the function conferred on Complaints Commissioners by section 95(1) of the Constitution (the investigation of complaints of maladministration in the government of the Falkland Islands), Commissioners are to investigate —

(a) complaints of maladministration in bodies mentioned in Schedule 1;

(b) other complaints to which this Ordinance applies, in respect of the government of the Falkland Islands or of those other bodies; and

(c) matters that the Governor refers to Commissioners under Part VII.

(2) The Governor may by Order amend Schedule 1 —

(a) by adding a public body, or a body that has been granted a franchise to provide a service of a public nature; or

(b) by deleting a body.

9. Jurisdiction of Commissioners

(1) The Principal Complaints Commissioner has jurisdiction to investigate any complaint, other than a complaint or class of complaint in respect of which the Governor appoints another Complaints Commissioner.

(2) A Complaints Commissioner (other than the Principal Complaints Commissioner) has jurisdiction to investigate a complaint or class of complaint in respect of which the Governor appoints the Commissioner.

(3) Any Complaints Commissioner has jurisdiction to investigate a matter that the Governor refers to the Commissioner under section 31.

10. Limits of jurisdiction

(1) A Complaints Commissioner does not have jurisdiction to inquire into or question any of the following matters —

(a) the conduct of the Governor when he or she is acting otherwise than under section 66(1) of the Constitution;

(b) conduct of a Member of the Legislative Assembly that does not relate either to standards that the Standing Orders of the Assembly require its Members to observe as holders of public office or to a matter in which the Member has a personal interest;

(c) a matter of policy;

(d) the merits of a decision taken without maladministration by a person or body, in the exercise of a discretion vested in that person or body;

(e) a matter that is mentioned in Schedule 2; or

(f) conduct occurring before this Ordinance commences.

(2) The Governor may by Order amend Part 2 of Schedule 2.

(3) A Complaints Commissioner is not to investigate a complaint in respect of which an aggrieved person has or had —

(a) a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative; or

(b) a remedy by way of proceedings in a court of law,

unless the Commissioner is satisfied that, in the particular circumstances, it is not reasonable to expect the aggrieved person to resort or have resorted to that right or remedy.

11. Personal interests

(1) If any Complaints Commissioner has a personal interest in a complaint or matter that is forwarded or referred to the Commissioner, or considers that he or she may have or may reasonably be perceived as having such an interest, the Commissioner is to inform the Governor forthwith.

(2) The Commissioner may also recuse himself or herself from considering the complaint.

PART III MAKING A COMPLAINT

12. Who may complain

(1) A complaint may be made only by or on behalf of an aggrieved person.

(2) A complaint may be made only if the aggrieved person is resident in the Falkland Islands.

(3) In subsection (2), "resident in the Falkland Islands" means, in the case of a complainant who is not an individual, having an office in the Falkland Islands.

13. Internal remedies

(1) If an internal procedure is available, an aggrieved person or the person acting on his or her behalf must take reasonable steps to obtain a remedy under the procedure before making a complaint under this Ordinance.

(2) An internal procedure is available for the purposes of this section if—

(a) the body concerned has an internal complaints procedure for such complaints;

(b) it has taken reasonable steps to make the availability of the procedure known to the public; and

(c) the complainant has access to that procedure.

(3) In subsection (2), "the body concerned" means a body against which the complaint is made, or against one of whose members, officers or employees the complaint is made.

14. How a complaint is made

(1) A complaint must be in writing.

(2) A complainant who is an individual must ordinarily make a complaint in person.

(3) However, if an aggrieved person is unable to act, the complaint may be made on his or her behalf by a family member; or by any other suitable individual.

(4) A complaint by a person who is not an individual must be made on its behalf by an individual who is authorized by it to act as its representative.

(5) A complaint is made —

(a) by delivering it to any Member of the Legislative Assembly, if it does not relate to a Member; or

(b) by delivering it to the Speaker of the Assembly, if it does relate to a Member.

15. Time limit for complaint

(1) A complaint is not to be entertained unless it is made within three months after the day on which the aggrieved person first has notice of the matters alleged in it.

(2) However, subsection (1) does not apply in any of the following circumstances —

(a) if, in the case of a complaint that does not relate to a Member of the Legislative Assembly, the Member to whom it is delivered considers that there are special circumstances that make it proper that the complaint should be entertained;

(b) if, in the case of a complaint that does relate to a Member of the Legislative Assembly, the Speaker considers that there are such circumstances; and

(c) if, in the case of a complaint that is sent or forwarded to the Governor under section 16, he or she considers that there are such circumstances.

16. Forwarding the complaint

(1) Where a Member of the Legislative Assembly or the Speaker receives a complaint under this Ordinance, he or she is to decide whether or not to forward it to the Principal Complaints Commissioner.

(2) The secretary is to send forthwith to the Governor a copy of each complaint that a Member of the Legislative Assembly forwards to the Principal Complaints Commissioner.

(3) The Clerk of the Legislative Assembly is to send forthwith to the Governor a copy of each complaint that the Speaker forwards to the Principal Complaints Commissioner.

(4) If a complaint that is delivered to a Member of the Legislative Assembly or to the Speaker is not forwarded to the Principal Complaints Commissioner within one month, and the complainant is not told within that time that it has been forwarded, the complainant may forward it to the Governor.

(5) On receiving a complaint under subsection (4) the Governor, acting in his or her discretion, is to decide whether or not to forward it to a Complaints Commissioner.

**PART IV
INVESTIGATING A COMPLAINT**

17. Who is to investigate a complaint

(1) Unless the Governor gives a direction under subsection (2), a complaint is to be investigated by the Principal Complaints Commissioner.

(2) The Governor may in writing direct the Principal Complaints Commissioner that a complaint is to be investigated by another Commissioner specified in the direction.

(3) Where the Governor gives a direction under subsection (2), the secretary is to refer the complaint to that other Complaints Commissioner.

18. Commissioner to consider complaint

(1) The Complaints Commissioner who is to investigate a complaint must proceed to consider it.

(2) For the purpose of deciding whether to conduct an investigation, the Commissioner may conduct such preliminary inquiries as he or she considers appropriate.

19. Investigation to be conducted privately

The investigation of a complaint is to be conducted privately.

20. Mediation

(1) A Complaints Commissioner may appoint a mediator, and refer a complaint to that person for mediation, if the Commissioner considers —

(a) that the complaint does not involve maladministration or other conduct to which this Ordinance applies; or

(b) that it only involves maladministration, or such other conduct, that is of a minor nature.

(2) The Complaints Commissioner is not to participate in the mediation.

(3) Participation by any person as a party in the mediation is voluntary, and no costs are payable by any of the parties.

(4) The mediator may terminate the mediation at any time.

(5) Where mediation does not resolve a complaint —

(a) the complaint is to be treated as if the Complaints Commissioner had not referred it to a mediator; and

(b) evidence of the referral to mediation or of anything admitted or said in the mediation is inadmissible in any subsequent investigation of the complaint and in any legal proceedings relating to the complaint.

21. Procedure

(1) Before investigating a complaint, a Complaints Commissioner is to inform the principal officer of the department or other body concerned of the Commissioner's intention to conduct the investigation, and is to afford —

- (a) the principal officer; and
- (b) each person against whom the complaint is made,

an opportunity to comment on any allegations contained in the complaint.

(2) Subject to the other provisions of this Ordinance, a Complaints Commissioner may determine his or her own procedure in conducting an investigation into a complaint.

(3) In particular —

- (a) a Complaints Commissioner need not hold a hearing;
- (b) the Commissioner may obtain information from such persons and in such manner, as he or she thinks fit;
- (c) the Commissioner may make such inquiries as he or she thinks fit; and
- (d) the Commissioner may determine whether or not a person may be represented, by a legal adviser or by another person, in the investigation,

but this subsection does not limit subsection (2).

(4) If at any time during the course of an investigation, it appears to a Complaints Commissioner that there may be sufficient grounds to make a report or recommendation that may criticize or adversely affect a department or other body or person, the Commissioner is to give the department, body or person an opportunity to be heard.

22. Summons to witness

(1) A Complaints Commissioner may summon a person to appear before the Commissioner and to provide information to the Commissioner, by serving on the person a summons.

(2) A summons is to be in writing in the prescribed form.

23. Evidence

(1) A Complaints Commissioner who has requested or summoned a person to appear before the Commissioner may require the person to give evidence on oath or affirmation.

(2) The Complaints Commissioner or the secretary may administer the oath or take the affirmation.

24. Determining the complaint

(1) On completing the investigation of a complaint, a Complaints Commissioner is to prepare a report setting out —

(a) the Commissioner's findings of fact;

(b) his or her opinion as to whether the aggrieved person has suffered injustice in consequence of maladministration or of other conduct to which this Ordinance applies; and

(c) the Commissioner's reasons for that opinion.

(2) If the aggrieved person has in the opinion of the Complaints Commissioner suffered injustice —

(a) the report is to set out the Commissioner's recommendations for the prevention of a recurrence of the injustice; and

(b) it may include a recommendation that a payment be made for any financial loss or inconvenience that the aggrieved person has suffered because of the injustice.

(3) A recommendation in a report does not bind a body to which the report relates or any other person.

PART V REPORTING TO GOVERNOR ON A COMPLAINT

25. Report to Governor

(1) On completing a report under section 24 (other than one that relates to a Member of the Legislative Assembly), a Complaints Commissioner is to submit the report to the Governor.

(2) The Complaints Commissioner is also to send a copy of the report to the principal officer of the department or other body to which the complaint relates.

26. Consideration of report to Governor

(1) On receiving a report under section 25(1) from a Complaints Commissioner, the Governor in consultation with the principal officer concerned is to consider whether it contains anything that, if disclosed, may damage the public interest.

(2) If the Governor considers that the report does contain material that, if disclosed, would damage the public interest, the Governor acting in his or her discretion may direct the Complaints Commissioner to remove that material from the report before it is disclosed under section 27.

(3) The Governor is to inform the Complaints Commissioner of the outcome of the consideration under this section of the report, and the Commissioner is to comply with any direction given under this section.

(4) In complying with a direction, the Complaints Commissioner is to indicate on the face of the report —

- (a) the fact that material has been removed on the direction of the Governor; and
- (b) the places in the report from which it has been removed.

27. Disclosure of report made to Governor

(1) On being informed under section 26(3) of the outcome of the consideration of the report under that section, and complying with any direction given under the section, the Complaints Commissioner is to send copies of the report to the following persons —

- (a) the complainant;
- (b) the Governor;
- (c) the Member of the Legislative Assembly to whom the complaint was first made;
- (d) the Chief Executive Officer;
- (e) the principal officer of the department or other body concerned;
- (f) each person against whom the complaint was made; and
- (g) each person who is criticized in the report, or may be adversely affected by it.

(2) If so requested by the Member of the Legislative Assembly, the Governor is to explain to the Member the general nature of any material that has been removed and the reasons for its removal.

(3) The Complaints Commissioner may publish the report.

28. Response to report to Governor

(1) If a report to the Governor under section 25(1) contains recommendations that a body to which the report relates should or should not take a course of action, a written response must be submitted to the Complaints Commissioner by whom the report was made within three months after the report is received by the body.

(2) The response is to be made —

- (a) by the Governor, if the body is a department; or
- (b) by the body itself, in any other case.

(3) The response is to state —

- (a) which recommendations are accepted;
- (b) which recommendations are not accepted; and
- (c) if a recommendation to take a course of action is accepted, how it is intended to take that course of action.

PART VI REPORTING TO SPEAKER ON A COMPLAINT

29. Report to Speaker

(1) On completing a report under section 24 that relates to a Member of the Legislative Assembly), a Complaints Commissioner is to submit the report to the Speaker.

(2) The Complaints Commissioner is also to send copies of the report to —

- (a) the complainant;
- (b) the Governor;
- (c) the Member of the Legislative Assembly to whom the complaint relates; and
- (d) the Clerk of the Legislative Assembly.

30. Consideration of report made to Speaker

A report that is received under section 29(1) by the Speaker is to be dealt with in accordance with the Standing Orders of the Legislative Assembly.

PART VII REFERENCES BY THE GOVERNOR

31. Governor may refer matter to Commissioner

The Governor, acting in his or her discretion or on the advice of the Executive Council, may refer to a Complaints Commissioner —

- (a) any question of maladministration in the government of the Falkland Islands or in a body mentioned in Schedule 1; _____
- (b) any conduct mentioned in section 3(2); or
- (c) any other matter that the Governor, so acting, thinks fit to refer to a Commissioner

32. Commissioner to investigate and report to Governor

A Complaints Commissioner to whom the Governor refers a matter under section 31 is to investigate and report to the Governor on the matter.

33. Commissioner's powers on Governor's reference

For the purposes of investigating and reporting on a Governor's reference —

- (a) a Complaints Commissioner may conduct the investigation privately, and must do so if the Governor directs; and
- (b) the Commissioner and the secretary have the same powers as they have under subsections (2) and (3) of section 21, section 22 and section 23.

34. Persons who must be told of investigation

(1) If at any time during the course of an investigation of a Governor's reference, it appears to the Complaints Commissioner who is conducting the investigation that there may be sufficient grounds to make a report or recommendation that may criticize or adversely affect a department or other body or person, the Commissioner is to give the department, body or person an opportunity to be heard.

(2) If a person is criticized in or may be adversely affected by a report by a Complaints Commissioner on a Governor's reference, the Commissioner is to give a copy of the report to the person.

**PART VIII
OTHER PROVISIONS**

35. Witnesses' expenses

(1) A person whom a Complaints Commissioner requests or summons to appear before the Commissioner is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses of doing so.

(2) However, if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, the person is not entitled to be reimbursed a greater amount or at a higher rate.

36. Duty of non-disclosure

(1) Information obtained by a Complaints Commissioner or any member of the staff of the Commissioners in the course of or for the purposes of an investigation under this Ordinance, is not to be disclosed except for the purposes of —

- (a) the investigation and of any report to be made under this Ordinance in respect of the investigation; or
- (b) any proceedings under this Ordinance.

(2) A Complaints Commissioner or member of the staff of the Commissioners cannot be called to give evidence in any proceedings (other than under this Ordinance) of matters coming to his or her knowledge in the course of an investigation under this Ordinance.

37. Privilege

For the purposes of the law of defamation, publication in any of the following circumstances is absolutely privileged —

- (a) the publication by a Complaints Commissioner of a report under this Ordinance, or of any other matter by the Commissioner in making a report under this Ordinance;
- (b) the publication for the purposes of this Ordinance of any matter by the Governor, a Member of the Legislative Assembly or the Speaker in communicating with a Commissioner or any member of the staff of the Commissioners; and
- (c) the publication for the purposes of this Ordinance of any matter by a Commissioner, or by any member of the staff of the Commissioners, in communicating with the Governor, a Member of the Legislative Assembly or the Speaker.

38. Annual report to Assembly

(1) The Principal Complaints Commissioner is to provide to the Governor, before 31st March in each year, a report on the performance by the Complaints Commissioners of their functions in the preceding year.

(2) The Governor is to lay the report before the Legislative Assembly within 3 months after receiving it.

39. Civil offences

(1) If a person, in giving evidence to a Complaints Commissioner (whether or not on oath) knowingly or recklessly makes a statement that is false in a material particular, he or she is liable to a fine determined by a Commissioner in accordance with section 41.

(2) If a person —

(a) without lawful excuse obstructs a Complaints Commissioner in the performance of his or her functions under this Ordinance; or

(b) without lawful excuse obstructs any member of the staff of the Commissioners in the performance of his or her functions under this Ordinance,

he or she is liable to a fine determined by a Commissioner in accordance with section 41.

(3) If, without reasonable excuse, a person on whom a summons is served under this Ordinance —

(a) fails to appear before the Complaints Commissioner concerned, on the day and at the time and place specified in the summons; or

(b) fails to produce to the Commissioner on that day, and at that time and place, any document or publication that the summons requires the person to produce to the Commissioner,

the person is liable to a fine determined by a Commissioner in accordance with section 41.

(4) If a person, without reasonable excuse —

(a) on being required by a Complaints Commissioner to take an oath, refuses to do so or to make an affirmation instead of taking an oath; or

(b) refuses to answer any lawful and relevant question that is put by the Commissioner,

the person is liable to a fine determined by a Commissioner in accordance with section 41.

(5) This section does not require a person —

(a) to produce to a Complaints Commissioner any document or publication in respect of which a certificate is issued under section 43; or

(b) to produce to a Commissioner any document or publication of the Executive Council.

40. Contempt

If a person without lawful excuse commits any act, or makes any omission, in relation to an investigation under this Ordinance that, if the investigation were a proceeding in the Supreme Court, would constitute contempt of court, the person is liable to a fine determined by a Complaints Commissioner in accordance with section 41.

41. Power of Commissioner to impose civil fine

(1) If the Attorney General refers the matter to a Complaints Commissioner, the Commissioner may impose a fine, not exceeding the prescribed maximum fine, on a person who is liable to a fine under either of sections 39 and 40.

(2) The fine is recoverable by civil action in the Supreme Court at the suit of the Attorney General.

42. Service on Governor's staff and British forces

(1) If a Complaints Commissioner wishes to request or summon a member of the Governor's staff to attend before the Commissioner, the request or summons is to be delivered to the office of the Governor.

(2) If a Complaints Commissioner wishes to request or summon a member of Her Majesty's forces or of the civilian component of any of those forces to attend before the Commissioner, the request or summons is to be delivered to the headquarters of the Commander British Forces.

(3) A summons to which either of subsections (1) and (2) refers is served on the person to whom it is addressed when it is delivered in accordance with that subsection.

43. Public interest certificates

(1) The Governor, acting in his or her discretion, may certify in writing for the purposes of this Ordinance that —

- (a) the production of a specified document or publication to a Complaints Commissioner; or
- (b) the provision of any specified information to a Commissioner,

is not in the public interest.

(2) The Governor, acting in his or her discretion, may certify in writing for the purposes of this Ordinance that the public disclosure of any specified evidence is not in the public interest.

44. Orders

The Governor may make Orders for any of the following purposes —

- (a) prescribing the form of a summons to appear before a Complaints Commissioner;
- (b) prescribing procedures to be followed in the investigation of complaints; and
- (c) prescribing the maximum fine that a Commissioner may impose under section 41.

SCHEDULE 1

(section 8)

BODIES IN RESPECT OF WHICH COMPLAINTS MAY BE INVESTIGATED

1. Falkland Islands Development Corporation
2. Falklands Landholdings Corporation
3. Falkland Islands Meat Company Limited
4. Falkland Islands Tourist Board
5. Falkland Islands Museum and National Trust
6. Media Trust.

SCHEDULE 2

(section 10)

MATTERS IN WHICH COMPLAINTS COMMISSIONERS DO NOT HAVE JURISDICTION

PART 1

1. Any complaint in respect of which the Governor, acting in his or her discretion, certifies that it is not in the public interest that a Complaints Commissioner should investigate the matter.
2. The grant by the Crown of honours, awards or privileges.
3. The proceedings and deliberations of the Legislative Assembly.
4. The content of legislation.
5. The proceedings and deliberations of the Executive Council.
6. The conduct of a member of the judiciary.
7. The conduct of the Attorney General in respect of his or her powers under section 72 of the Constitution.
8. The conduct by any person or authority of an audit pursuant to section 80(1) of the Constitution.

PART 2

9. The conduct of any person (other than a member of the judiciary) while acting in a judicial capacity.
10. The commencement or conduct of civil or criminal proceedings before any court of law or civil or military tribunal.
11. The exercise of any function under section 71(1) of the Constitution.
12. The investigation of crime.
13. Action relating to extradition or to fugitive offenders.
14. The conduct of a police officer (other than the Chief of Police).
15. The defence and the security of the Falkland Islands.
16. The conduct of the Commander British Forces or of any other member of Her Majesty's forces.
17. The conduct of any member of the civilian component of Her Majesty's forces in the course of his or her employment.
18. Passports.
19. The conduct of an employee of the Foreign and Commonwealth Office who is a member of the Governor's staff.

20. Any matter relating to the appointment, remuneration, pension, discipline, redundancy of office, suspension, or dismissal or terms of service of an officer or employee of the Government or of any body mentioned in Schedule 1.

21. Any contractual or commercial transaction.

OBJECTS AND REASONS

Under Chapter IX of the Constitution, the Governor may appoint Complaints Commissioners to investigate complaints of maladministration in government, and other matters that may be prescribed by Ordinance.

A Commissioner must be someone other than a Member of the Legislative Assembly or a public officer.

The functions and jurisdiction of a Commissioner are to be prescribed by Ordinance. In carrying out an investigation, he or she is not to be subject to the direction or control of anyone else.

Accordingly, the purposes of this Bill are to set out other matters that Commissioners are to investigate, and their functions and jurisdiction. It also provides for administrative and procedural arrangements in respect of investigations.

The Bill is arranged in the following way —

Part I — Introductory provisions

Clause 1 gives its name.

Clause 2 provides that it will come into force on a day to be fixed by the Governor by a notice published in the Gazette

Clause 3 defines words that are used in the Bill.

Clause 4 enables the Governor, when appointing a Commissioner, to designate him or her to be for the purposes of the Ordinance the Principal Complaints Commissioner

The person designated as the Principal Complaints Commissioner will have the administrative responsibilities to which the Bill refers.

Clause 5 provides for the payment of daily attendance allowances for the Principal Complaints Commissioner, and daily attendance allowances for other Commissioners. They will be set by the Governor, by notice in the Gazette.

The clause also provides for the payment of Commissioners' actual and reasonable expenses in performing their functions.

Clause 6 provides for the appointment of a secretary to the Commissioners and of other staff.

Under *clause 7*, the funds for the discharge of the Commissioners' functions are those that the Legislative Assembly decides to appropriate.

Part II — Functions and jurisdiction of the Commissioners

Clause 8 gives the Complaints Commissioners additional functions to that, already set out in the Constitution, of investigating complaints of maladministration in government.

There will be three other categories –

- (a) complaints of maladministration in public bodies mentioned in Schedule 1;
- (b) conduct (for example discourtesy, or a refusal to provide a service) that would cause a member of the public to reasonably feel a sense of injustice, even though it may not amount to maladministration; and
- (c) matters that the Governor refers to Commissioners under Part VII (which may but will not necessarily relate to complaints).

The Governor may amend Schedule 1 by Order.

Clause 9 provides that the Principal Complaints Commissioner has jurisdiction in respect of any complaint unless the Governor refers it to another Commissioner.

Other Complaints Commissioner have jurisdiction in respect of complaints that the Governor does refer to them.

Every Commissioner has jurisdiction in respect of a matter that the Governor refers to that Commissioner under Part VII.

Clause 10 excludes matters from the jurisdiction of Commissioners.

The Bill will not apply to conduct occurring before it comes into force.

The exceptions include the conduct of the Governor when acting otherwise than under section 66(1) of the Constitution; the conduct of a Member of the Legislative Assembly (except in respect of standards of conduct imposed by its Standing Orders, and matters of personal interest); the content of legislation; the proceeding of the Executive Council; the conduct of members of the Judiciary; policy; and the exercise of a lawful discretion (where it does not amount to maladministration).

They also include matters (not mentioned above) that are set out in Schedule 2. The Governor may by Order amend Part 2 of Schedule 2.

Clause 11 requires a Commissioner to inform the Governor, if the Commissioner has or may be perceived as having a personal interest in a matter. The Commissioner is also entitled to decline to investigate the matter.

Part III — Making a complaint

Clause 12 provides that a complaint may be made only by or on behalf of an aggrieved person who is resident in the Falkland Islands or, in the case of a body corporate or other organization, has an office here.

Clause 13 provides that if a body to which a complaint relates has an accessible internal complaints procedure, a complainant must take reasonable steps to obtain a remedy under it before using the complaints procedure in this Bill.

Clause 14 provides that a complaint under the Bill must be in writing.

A complaint by an individual must ordinarily be made in person. However, a family member or any other suitable person may bring it on behalf of a complainant who is unable to act for himself or herself.

A complaint that does not relate to a Member of the Legislative Assembly is to be made by delivering it to any Member.

Complaints in respect of Members are to be delivered to the Speaker.

Clause 15 provides that a complaint must be made within three months after the aggrieved person first has notice of the matters to which it relates. However, it also provides for extensions of time in special circumstances.

Clause 16:

On receiving a complaint, the Member or the Speaker is to decide whether to forward it to the Principal Complaints Commissioner. If he or she does so, a copy is to be sent to the Governor.

If the complainant is not told within one month that it has been forwarded to the Principal Complaints Commissioner, the complainant may forward it directly to the Governor. In that event, the Governor is to decide whether or not to refer it to a Complaints Commissioner.

Part IV — Investigating a complaint

Clause 17 provides that complaints are to be investigated by the Principal Complaints Commissioner unless, in a particular case, the Governor directs that a matter is to be investigated by another Commissioner.

Clause 18 requires a Commissioner who is to investigate a complaint to proceed to do so. For that purpose, the Commissioner may make preliminary inquiries as he or she sees fit.

Clause 19 provides that investigations are to be conducted privately.

Clause 20 allows a Commissioner to refer a complaint to a mediator.

Participation is voluntary, and no costs will be payable by any party. If the complaint is not resolved, it is to be treated as if it had not been referred to mediation.

Clause 21 relates to the procedure to be followed in an investigation. The principal officer of the body concerned, any person against whom the complaint is made and other persons who may be adversely affected must be given an opportunity to be heard. Subject to this and the other provisions of the Bill, a Commissioner may determine his or her own procedure and need not hold a hearing or take evidence on oath or affirmation. Commissioners will also have a discretion whether to allow parties to be represented.

Clause 22 provides for the summoning of witnesses.

Clause 23 provides for the taking of evidence on oath or affirmation.

Clause 24 provides that on completing an investigation, a Commissioner is to determine the complaint and prepare a report. This must set out his or her findings of fact, conclusions and reasons.

If the Commissioner finds that there has been injustice, the report must also set out his or her recommendations for the prevention of any recurrence of that injustice. These may include a recommendation for compensation.

A Commissioner's report will not be legally binding on any body or person.

Part V — Reporting to Governor on a complaint

This Part applies only to complaints that are not made against Members of the Legislative Assembly.

Clause 25 provides that in the first instance a Commissioner is to submit his or her report to the Governor, and send a copy to the principal officer of the body concerned.

Clause 26 provides that on receiving the report, the Governor is to consider in consultation with the principal officer whether it contains anything that, if disclosed, may damage the public interest.

If the Governor so directs, the Commissioner must remove from the report any material that in the opinion of the Governor may damage the public interest. However, in doing so, the Commissioner must also show on the face of the report the places from which it has been removed.

Clause 27 provides that the Commissioner is then to send copies of the report (as edited, where required under clause 26) to the complainant, the Governor, the Member of the Legislative Assembly to whom the complaint was made, the Chief Executive Officer of the Falkland Islands Government, the body and persons to whom the complaint relates and to anyone else adversely affected by it.

The Commissioner may also decide to publish the report.

The Member is entitled to obtain from the Governor an explanation as to the general nature of the material removed and the reasons for its removal.

Although a Commissioner's report is not binding, *clause 28* requires the body to whom it relates to submit to the Commissioner within three months a written response to any recommendations in the report. This must say which recommendations are and are not accepted, and how it is intended to take any course of action that is recommended in the report.

Part VI — Reporting to Speaker on a complaint

This Part applies only to complaints against Members of the Legislative Assembly.

Clause 29 provides that on completing a report relating to a complaint against a Member of the Legislative Assembly, a Commissioner is to submit it to the Speaker, and send copies to the complainant, the Governor, the Member and the Clerk of the Assembly.

Clause 30 provides for the Commissioner's report to the Speaker to be dealt with in accordance with the Standing Orders of the Legislative Assembly.

Part VII — References by the Governor

This Part applies only to matters that the Governor himself (acting in his own discretion or on the advice of the Executive Council) decides to refer to a Complaints Commissioner.

The reference may relate to a complaint of maladministration in government or a public body, or to other conduct that could be the subject of a complaint by a private person. However, the Governor's power of referral under this Part is not limited to those matters.

Clause 31 provides for the Governor to make such a referral.

Clause 32 provides that the Commissioner is to investigate the matter and report to the Governor.

Clause 33 provides that the Commissioner may do so privately (and shall, if the Governor so directs). It also gives the Commissioner the procedural powers that he or she would have under Part IV if investigating a complaint.

Clause 34 provides that in conducting an investigation, the Commissioner must give persons who may be adversely affected the opportunity to be heard, and a copy of the report to the Governor.

Part VIII — Other provisions

Clause 35 provides for witness expenses.

Clause 36 provides that information obtained in an investigation may only be disclosed for the purposes of a report or proceedings under the Bill.

Clause 37 confers absolute privilege on the Commissioners, their staff, the Governor, a Member of the Assembly and the Speaker in proceedings under the Bill.

Clause 38 requires the Principal Complaints Commissioner to provide an annual report to the Governor, who will lay it before the Legislative Assembly.

Clause 39 (which is to be read with clause 41) provides for civil offences in respect of false statements, the obstruction of Commissioners and their staff, failure to comply with witness summonses and refusals to give evidence.

Clause 40 (which is also to be read with clause 41) provides that conduct before a Complaints Commissioner that, in proceedings in the Supreme Court would amount to contempt, will be a civil offence.

Clause 41 provides that on the reference of the Attorney General, a Commissioner may fine a person who commits an offence under the Bill. The fine may not exceed a maximum amount to be prescribed by the Governor, by Order. It will be recoverable as a civil debt.

Clause 42 provides for service of requests and summonses by a Commissioner on members of the Governor's staff and the armed forces.

Under *clause 43*, the Governor may certify that in a particular instance the production of a document, the provision of information or the public disclosure of evidence would not be in the public interest.

Clause 44 enables the Governor to make Orders prescribing forms, procedure and the maximum permissible civil fine under the Bill.

Schedule 1 lists public bodies (other than the Falkland Islands Government) in respects of which complaints may be investigated.

Schedule 2 sets out matters in respect of which Complaints Commissioners do not have jurisdiction to investigate complaints.

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THE
FALKLAND ISLANDS GAZETTE
Supplement

PUBLISHED BY AUTHORITY

Vol. 21

31 May 2010

No. 5

The following are published in this Supplement –

Coins Order 2010 (SR&O No 7 of 2010);

Appropriation Ordinance 2010 (No 2 of 2010);

Finance Ordinance 2010 (No 3 of 2010);

Complaints Commissioners Ordinance 2010 (No 4 of 2010); and

Public Health (Amendment) Ordinance 2010 (No 5 of 2010).

SUBSIDIARY LEGISLATION

CURRENCY

Coins Order 2010

S. R. & O. No: 7 of 2010

Made: 28 April 2010

Published: 31 May 2010

Coming into force: on publication

I make this order under section 22 of the Currency Ordinance (Title 25.1) on the advice of Executive Council.

1. Title

This Order is the Coins Order 2010.

2. Commencement

This Order comes into force upon publication in the Gazette.

3. New coins

(1) The minting and issue of the coins described and specified in the Schedule to this Order are authorised.

(2) The Schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1);

(b) the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of the coins; and

(c) the design of the obverse and reverse of the coins.

4. Deemed denomination of Crown coins and their value as legal tender

For the purposes of the Ordinance —

(a) Cupro-Nickel Crown coins and Sterling silver Crown coins authorised by this Order are deemed to be of 25 pence denomination;

(b) Gold one fifth Crown coins authorised by this Order are deemed to be of £1 denomination;

(c) Gold one twenty-fifth Crown coins authorised by this Order are deemed to be of 20 pence denomination; and

(d) Gold one sixty-fourth Crown coins authorised by this Order are deemed to be of 10 pence denomination,

and those coins are legal tender in the Falkland Islands in the amount of their deemed denomination.

Made 28 April 2010

A.E. Huckle,
Governor.

SCHEDULE

Specifications of coins of the Falkland Islands: Centenary of the death of Henry Dunant 2010

Type	Cupro-nickel	Silver Proof	Gold Proof	Gold Proof	Gold Proof
<i>Denomination</i>	1 Crown	1 Crown	1/5 th Crown	1/25 th Crown	1/64 th Crown
<i>Weight (grams)</i>	28.28	28.28	6.22	1.24	0.5
<i>Diameter (millimetres)</i>	38.60	38.60	22.00	13.92	11.00
<i>Fineness</i>	Cu 75% Ni 25%	925 Sterling silver	999.9 Gold	999.9 Gold	999.9 Gold
<i>Quality</i>	Brilliant Uncirculated	Proof	Proof	Proof	Proof
<i>Shape</i>	Round	Round	Round	Round	Round
<i>Edge</i>	Milled	Milled	Milled	Milled	Milled
<i>Edition limit for each reverse design</i>	Unlimited	10,000	2,000	5,000	10,000
<i>Mint</i>	Pobjoy Mint Ltd.				
<i>Remedy</i>	Variations to be allowed of the tolerance permitted by the Pobjoy Mint Ltd.				
<i>Obverse design</i>	The uncouped portrait of Her Majesty the Queen by Ian Rank-Broadley surrounded by the inscription "QUEEN ELIZABETH II FALKLAND ISLANDS 2010".				
<i>Reverse design</i>	A portrait of the founder of the Red Cross, Henry Dunant, featuring a cross in the background and the dates '1910 – 2010'. The wording 'HENRY DUNANT' appears in the surround and the denomination at the base.				

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Appropriation Ordinance 2010

(No: 2 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

APPROPRIATION ORDINANCE 2010

(No: 2 of 2010)

(assented to: 31 May 2010)
(commencement: on publication)
(published: 31 May 2010)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of money for the financial year ending 30 June 2011.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Appropriation Ordinance 2010.

2. Commencement

This Ordinance comes into force on publication in the Gazette.

3. Appropriation

(1) The Director of Corporate Resources may withdraw the sum of £42,414,800 from the Consolidated Fund.

(2) Any sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2011 for the purpose of supplying the votes set out in the Schedule.

SCHEDULE

DIRECTORATE	Total Operating Budget	Less Capital Charges	Departmental Expenditure	Less Internal Charges	Net Operating Budget
<i>OPERATING BUDGET</i>	£	£	£	£	£
110 Procurement & Efficiency Health, Social Services and	3,998,020	283,030	3,714,990	127,330	3,587,660
200 Education	12,347,740	1,003,540	11,344,200	243,170	11,101,030
350 Public Services	8,169,140	1,890,240	6,278,900	213,550	6,065,350
410 Natural Resources	5,973,640	58,850	5,914,790	271,690	5,643,100
451 AG's Chambers	881,710	5,860	875,850	4,830	871,020
550 Community Safety	1,613,370	115,530	1,497,840	30,060	1,467,780
600 Executive Management	2,661,740	111,210	2,550,530	20,670	2,529,860
620 Mineral Resources	475,000	2,610	472,390	3,760	468,630
700 Corporate Resources	1,951,540	1,640	1,949,900	14,320	1,935,580
999 Transfer Payments	4,882,790	-	4,882,790	-	4,882,790
TOTAL OPERATING BUDGET	42,954,690	3,472,510	39,482,180	929,380	38,552,800
998 Fund Transfers	3,862,000	-	3,862,000	-	3,862,000
TOTAL EXPENDITURE	46,816,690	3,472,510	43,344,180	929,380	42,414,800

Passed by the Legislature of the Falkland Islands on 28 May 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Finance Ordinance 2010

(No: 3 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Air Navigation (Fees) Regulations
4. Amendment of Companies and Private Partnership Ordinance
5. Amendment of Customs (Fees) Regulations
6. Amendment of Customs (Import Prohibitions)(Fees) Regulations
7. Amendment of Dogs Rules
8. Amendment of Family Allowances Ordinance
9. Amendment of Family Allowances Regulations
10. Amendment of Firearms and Ammunition (Fees) Regulations Order

11. Amendment of Fishery Products (Hygiene)(Fees) Regulations
12. Amendment of Land Charges Fees Rules
13. Amendment of Land (Non-residents)(Fees) Regulations
14. Amendment of Land Ordinance
15. Amendment of Notaries Public Rules
16. Amendment of Plant Importation Regulations
17. Amendment of Post Office Order
18. Amendment of Public Funds Ordinance
19. Amendment of Registration of Marriages Regulations
20. Amendment of Registration of United Kingdom Patents Ordinance
21. Amendment of Registration Regulations
22. Amendment of Retirement Pensions (Prescribed Rates) Regulations
23. Amendment of Road Traffic Ordinance
24. Amendment of Road Traffic (Provisional) Regulations Order
25. Amendment of Taxes Ordinance

Schedule 1: New Schedule to Air Navigation (Fees) Regulations

Schedule 2: New Schedule A to Companies and Private Partnership Ordinance

Schedule 3: New Schedule 1 to Land Charges Fees Rules

Schedule 4: New Schedule to the Land (Non-residents)(Fees) Regulations

Schedule 5: New Schedule 2 to Land Ordinance

Schedule 6: New Schedule 1 to the Post Office Order

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

FINANCE ORDINANCE 2010

(No: 3 of 2010)

(assented to: 31 May 2010)
(commencement: in accordance with section 2)
(published: 31 May 2010)

AN ORDINANCE

To increase various allowances, benefits, charges, contributions, fees, and penalties provided for under the laws of the Falkland Islands and to make new provision for certain new charges and penalties

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Finance Ordinance 2010.

2. Commencement

- (1) This Ordinance comes into force on 1 July 2010, subject to subsection (2).
- (2) Sections 22 and 25 come into force on 1 January 2011.

3. Amendment of Air Navigation (Fees) Regulations

The Schedule to the Air Navigation (Fees) Regulations (SR&O No 9 of 2009) is revoked and the Schedule set out in Schedule 1 is substituted.

4. Amendment of Companies and Private Partnership Ordinance

Schedule A to the Companies and Private Partnership Ordinance (Title 18.1) is repealed and the Schedule set out in Schedule 2 is substituted.

5. Amendment of Customs (Fees) Regulations

Regulation 3 of the Customs (Fees) Regulations (SR&O No 10 of 2006) is amended —

- (a) in paragraph (a)(i) by omitting “£65.10” and substituting “£66.40”;
- (b) in paragraph (a)(ii) by omitting “£32.90” and substituting “£33.20”;
- (c) by omitting “£98.70” in each place where it appears and substituting in each case “£99.60”;
- (d) in paragraph (c)(ii) by omitting “£49.35” and substituting “£49.80”; and
- (e) in paragraph (d)(i) by omitting “£65.80” and substituting “£66.40”.

6. Amendment of Customs (Import Prohibitions)(Fees) Regulations

Regulation 3 of the Customs (Import Prohibitions)(Fees) Regulations (SR&O No 12 of 2009) is amended —

- (a) by omitting “£110.00” in each place where it appears and substituting in each case “£111.10”;
- (b) in paragraph (a)(ii) by omitting “£55.00” and substituting “£55.60”;
- (c) by omitting “£22.00” in each place where it appears and substituting “£22.30”;
- (d) by omitting “£11.00” in each place where it appears and substituting “£11.20”;
- (e) in paragraph (a)(vi) by omitting “£99.00” and substituting “£100.00”;
- (f) in paragraph (b)(i) by omitting “£13.20” and substituting “£13.40”; and
- (g) in paragraph (b)(iii) by omitting “£3.30” and substituting “£3.40”.

7. Amendment of Dogs Rules

Rule 3 of the Dogs Rules (Title 5.2.1) is amended by omitting “£30.00” and substituting “£30.30”.

8. Amendment of Family Allowances Ordinance

Section 3 of the Family Allowances Ordinance (Title 65.1) is amended by repealing subsections (4), (5), (5A), and (7)(a).

9. Amendment of Family Allowances Regulations

Regulation 20 of the Family Allowances Regulations (Title 65.1.1) is revoked.

10. Amendment of Firearms and Ammunition (Fees) Regulations Order

The Schedule of the Firearms and Ammunition (Fees) Regulations Order (Title 23.2.1) is amended —

- (a) by omitting “£61.00” and substituting “£61.50”; and
- (b) by omitting “£33.50” and substituting “£33.75”.

11. Amendment of Fishery Products (Hygiene)(Fees) Regulations

The Schedule to the Fishery Products (Hygiene)(Fees) Regulations (SR&O No 41 of 1998) is amended —

- (a) by omitting “£545.00” and substituting “£550.50”;
- (b) by omitting “£220.00” and substituting “£222.20”; and
- (c) by omitting “£115.00” and substituting “£116.20”.

12. Amendment of Land Charges Fees Rules

Schedule 1 of the Land Charges Fees Rules (SR&O No 3 of 1997) is revoked and the Schedule set out in Schedule 3 is substituted.

13. Amendment of Land (Non-residents)(Fees) Regulations

The Land (Non-residents)(Fees) Regulations (SR&O No 13 of 2007) are amended —

- (a) by revoking section 3 and substituting —

“3. Payment of fees

(1) The fees set out in the Schedule are payable for an application for a licence to hold land under section 5(1).

(2) A fee is payable when the application is submitted and is not repaid if the application is refused.

(3) If the application is for more than one licence, a fee is payable by each applicant included in the application (not for each licence).

(4) No fee is payable for an application made by a registered charity.”; and

- (b) by adding the Schedule set out in Schedule 4.

14. Amendment of Land Ordinance

Schedule 2 of the Land Ordinance (Title 45.2) is repealed and the Schedule set out in Schedule 5 is substituted.

15. Amendment of Notaries Public Rules

The Schedule to the Notaries Public Rules (Title 22.1.2) is amended —

(a) by omitting “£90.00” in each place where it appears and substituting in each case “£90.50”;

(b) by omitting “£26.50” in each place where it appears and substituting in each case “£26.70”;

(c) in paragraph 3(a) by omitting “£31.50” and substituting “£31.70”; and

(d) in paragraph 3(b) by omitting “£18.50” and substituting “£18.60”.

16. Amendment of Plant Importation Regulations

Regulation 7 of the Plant Importation Regulations (Title 4.4.1) is amended —

(a) by omitting “£3.30” and substituting “£3.40”;

(b) by omitting “£110.00” and substituting “£111.10”; and

(c) by omitting “£13.20” and substituting “£13.40”.

17. Amendment of Post Office Order

The Post Office Order (SR&O No 11 of 2006) is amended —

(a) in article 2 by revoking the definition of “Christmas card”;

(b) in article 10 by omitting “£3.00” and substituting “£3.50”;

(c) in article 13 by omitting “£4.00” and substituting “£4.50”;

(d) by revoking Schedule 1 and substituting the schedule set out in Schedule 6; and

(e) in Schedules 2 and 3 by revoking the rate for “Christmas card”.

18. Amendment of Public Funds Ordinance

The Public Funds Ordinance (Title 19.7) is amended —

(a) by repealing section 4 and substituting —

“4. Payments out of the Insurance Fund

The following payments may be made out of the Insurance Fund on the authority of the Director of Finance —

(a) transfer to the Consolidated Fund;

(b) payment of insurance premiums in respect of the insurance of liabilities of the Falkland Islands Government.”

(b) in section 5(1) by omitting “the sum of £25 million” and substituting “the Insurance Fund limit”;

(c) in section 5(2) by omitting “£25 million” and substituting “the Insurance Fund limit”;

(d) by adding to section 5 —

“(3) For the purposes of this section “the Insurance Fund limit” means £25 million or a greater sum notified by the Director of Finance in the Gazette.”

(e) section 7 is amended by adding —

“(2) Subsection (1) does not apply in relation to any payment made out of the Insurance Fund under section 4(b)

19. Amendment of Registration of Marriages Regulations

Section 18 of the Registration of Marriages Regulations (SR&O No 17 of 1999) is amended —

(a) by omitting “£23.00” in each place where it appears and substituting in each case “£24.00”;

(b) in paragraph (1)(b) by omitting “£59.00” and substituting “£61.00”;

(c) by omitting “£18.00” in each place where it appears and substituting in each case “£19.00”; and

(d) in paragraph (1)(h) by omitting “£300.00” and substituting “£309.00”.

20. Amendment of Registration of United Kingdom Patents Ordinance

The Registration of United Kingdom Patents Ordinance (Title 43.1) is amended —

(a) in section 3(d) by omitting “£400.00” and substituting “£500.00”; and

(b) in section 7 by omitting “£35.00” and substituting “£40.00”.

21. Amendment of Registration Regulations

Schedule 2 of the Registration Regulations (Title 62.2.1) is amended by omitting paragraphs 1 to 6 and substituting —

“1. Certified copy of entry of birth	£12.50
2. Certified copy of entry of marriage	£24.00
3. Search of register of births, deaths or marriages within ten years (per name per register)	£12.50
4. Search of register of births, deaths or marriages; each additional year (per name per register)	£2.50
5. Certified copy of death certificate	£10.50
6. Registration of an instrument (includes birth)	£12.50
7. Certified copy of instrument	£12.50
8. Photocopy of document (per page)	30p”.

22. Amendment of Retirement Pensions (Prescribed Rates) Regulations

The Retirement Pensions (Prescribed Rates) Regulations (SR&O No 39 of 1996) is amended —

(a) in regulation 3 —

(i) by omitting “£118” and substituting “£119.00”;

(ii) by omitting “£66” and substituting “£67.00”;

(b) in regulation 5 —

(i) by omitting “£12.50” where it appears in paragraphs (1)(a) and (2), and substituting in each case “£13.50”;

(ii) by omitting “£25.00” in each place where it appears and substituting in each case “£27.00”;

(iii) by omitting paragraph (1)(c) and substituting —

“(c) for a relevant MLA under section 10(3)(d) is £13.50.”

(iv) by omitting paragraph (2A) and substituting —

“(2A) For the purposes of the Pensions Ordinance, the weekly rate of contributions by the Office of the Legislative Assembly under section 10(1A) is £13.50.”

(v) in paragraph (3)(b) by omitting “£31.50” and substituting “£33.10”.

23. Amendment of Road Traffic Ordinance

Section 4(1) of the Road Traffic Ordinance (Title 63.1) is amended —

- (a) in paragraph (a) by omitting “£47.50” and substituting “£47.75”;
- (b) in paragraph (b) by omitting “£109.50” and substituting “£110.25”;
- (c) in paragraph (c) by omitting “£168.50” and substituting “£169.75”; and
- (d) in paragraph (d) by omitting “£40.00” and substituting “£40.25”.

24. Amendment of Road Traffic (Provisional) Regulations Order

The Road Traffic (Provisional) Regulations Order (Title 63.1.1) is amended —

- (a) in regulation 2(5) by omitting “£39.00” and substituting “£39.25”; and
- (b) in regulation 5(4) by omitting “£26.50” in each place where it appears and substituting in each case “£26.75”.

25. Amendment of Taxes Ordinance

The Taxes Ordinance (Title 69.1) is amended —

- (a) in section 8(1) by adding —
 - “(h) allowance payable under the Family Allowances Ordinance.”
- (b) in section 10(a)(i) by omitting “£13,000” and substituting “£12,000”;
- (c) in section 16(1) by omitting “£14,000” and substituting “£12,000”; and
- (d) by repealing section 57(1)(o).

SCHEDULE 1
New Schedule to Air Navigation (Fees) Regulations

(section 3)

Schedule

PART 1

Licences for flight crew

(a) Private pilot's licence:	
issue	£77.50
renewal	£44.30
(b) Commercial pilot's licence:	
issue	£144.00
renewal	£77.50
(c) Airline transport pilot's licence:	
issue	£144.00
renewal	£77.50
(d) Flight navigator's licence:	
issue	£110.70
renewal	£66.40
(e) Flight radiotelegraphy operator's general licence:	
issue or renewal	£44.30
(f) Flight radiotelegraphy operator's restricted licence:	
issue or renewal	£44.30
(g) Flight radiotelegraphy operator's licence:	
issue or renewal	£44.30
(h) Certificate of validity of foreign licence:	
issue	£77.50
renewal or validation	£44.30
(i) Appointment of authorised examiner for aircraft type rating or instrument rating: appointment or re-appointment	£221.50

PART II

Airworthiness

(a) issue or renewal of certificate of airworthiness:	
(i) aircraft not exceeding 2,730kgs	£686.80

(ii) aircraft exceeding 2,730kgs but not exceeding 5,700kgs	£1,440.00
(iii) aircraft exceeding 5,700kgs but not exceeding 30,000kgs	£1,440.00 plus £105.20 per 500kgs (or part of) exceeding 5,700kgs, up to a maximum of £6,650.00
(b) Permit to fly an aircraft without a certificate of airworthiness:	£221.50
(c) Certificate of airworthiness; change of category:	£221.50
(d) Approval of modifications, major repairs to aircraft, engines and equipment:	£221.50
(e) Certificate of approval of aircraft radio installation:	
issue	£132.80
renewal or amendment	£77.50
(f) Approval of maintenance organisation:	
issue	£1,660.00 for each site
Variation:	
(i) aircraft not exceeding 2,730kgs	£553.80
(ii) aircraft exceeding 2,730kgs	£664.60
(g) Aircraft maintenance engineer's licence (AMEL):	
issue	£144.00
renewal, variation, or inclusion of rating:	£77.50
(h) Certificate of validation of AMEL:	
issue	£77.50
renewal or variation	£44.30
(i) Approval of aircraft maintenance schedules:	
issue	£221.50
amendment or variation	£110.70
(j) Noise Certificate:	£132.80

PART III
Flight operations

- (a) Application for air operator's certificate (AOC) or renewal of AOC:
The applicant must pay for the investigations required by the Department of Civil Aviation (DCA). The level of charges will be determined by the DCA based on the estimation of the number of days worked by one or more individuals attributable to investigation, as specified in Table 1.

Table 1

aircraft not exceeding 2 tonnes	4 days
aircraft exceeding 2 tonnes but not exceeding 15 tonnes	45 days
aircraft exceeding 15 tonnes	60 days

- (b) Issue of AOC:
- | | |
|--|-----------|
| (i) aircraft not exceeding 2 tonnes | £2,935.40 |
| (ii) aircraft exceeding 2 tonnes but not exceeding 15 tonnes | £4,563.70 |
| (iii) aircraft exceeding 15 tonnes | £6,535.40 |

- (c) Regulation of AOC:
If an application for AOC is granted, in addition to the issue fee, the operator will be charged for the regulatory oversight and monitoring of the AOC operation for each year or part of the year that the certificate remains valid. The level of charges will be determined by the DCA based on the estimation of the number of days worked by one or more individuals attributable to regulatory oversight, as specified in Table 2.

Table 2

Not exceeding 2 tonnes	Maximum 4 days
Exceeding 2 tonnes but not exceeding 15 tonnes	Maximum 45 days
Exceeding 15 tonnes	Maximum 60 days

- (d) Inclusion of additional aircraft types in the AOC:
- | | |
|--|-----------|
| (i) aircraft not exceeding 2 tonnes | £1,717.00 |
| (ii) aircraft exceeding 2 tonnes but not exceeding 15 tonnes | £2,614.20 |
| (iii) aircraft exceeding 15 tonnes | £2,935.40 |

(e) Annual charge for an AOC (for each aircraft type named on the certificate):

- | | |
|--|-----------|
| (i) aircraft not exceeding 2 tonnes | £1,440.00 |
| (ii) aircraft exceeding 2 tonnes but not exceeding 15 tonnes | £2,160.00 |
| (iii) aircraft exceeding 15 tonnes | £2,880.00 |

(f) Variation of an AOC:

- | | |
|---|---------|
| (i) variation in the operating region | £720.00 |
| (ii) permission to operate on a specified route outside the operating region specified in the certificate | £299.10 |
| (iii) change in the company or trading name where the legal entity is unchanged | £77.50 |
| (iv) change to any of the posts identified in an initial AOC application | £77.50 |

(g) Variable charges:

On the last day of each period of three months during the whole or part of which an AOC remains in force, the holder of the certificate must pay a charge according to the number of hours (rounded to the nearest whole hour, with half hours being rounded up) flown by each aircraft operated pursuant under the certificate as follows:

passenger aircraft in which the number of passenger seats in the aircraft exceeds 20 but does not exceed 100	5 pence per hour per seat
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Nothing in sub-paragraph (f) applies to aircraft fitted with 20 or less seats or aircraft that do not exceed 10 tonnes or which are on non-revenue flights.

For the purposes of paragraph (f) a flight hour is calculated from the time an aircraft becomes airborne to the time the aircraft touches down, as recorded in the aircraft's technical log.

(h) Special Operations:

- | | |
|--|-----------|
| (i) category II low visibility operations (with or without autoland initial) | £1,440.00 |
| (ii) category III low visibility operations (with autoland initial) | £2,880.00 |
| (iii) extended range twin engine operations or extended range operations: | |

application	£3,600.00
each additional aircraft type	£1,717.00
(iv) minimum navigation performance specifications airspace or reduced vertical separation minima	£332.30
(i) Operations under an AOC exemption:	£1,440.00
(j) Route licensing:	
(i) application for route	£365.50
(ii) vetting of business financial plans	£1,329.20
(k) Approval of a scheme to avoid excessive flight crew fatigue	£398.80

PART IV
Air traffic control and aerodromes

(a) Aerodrome licence:	
issue	£996.90
annual renewal (except government or military aerodromes)	£664.60
(b) Assessment of hazards to air navigation, obstructions etc (except government or military aerodromes):	£398.80
(c) Conversion of foreign air traffic control licences, ratings and aerodrome flight information service officer's licences:	£199.40

PART V
Fees not specified elsewhere

(a) Certificate of registration aircraft:	£265.80
(b) Reservation of registration mark:	£66.40
(c) Reservation of specific out of sequence registration mark:	£132.90
(d) Aircraft dealer's certificate:	£1,993.90
(e) Enquiry regarding entries in register of aircraft:	£33.20
(f) Provision of summary copy of register of aircraft:	£22.10

(g) Issue of a copy of any document issues under the Order (but not to exceed cost of original document):	£33.20
(h) For the approval of documents, inspections, investigations, tests, experiments and flight trials conducted in connection with any part of the Order, but not elsewhere specified:	Actual cost £99.70 minimum charge
(i) Any permission, approval, authorisation or exemption in respect of any part of the Order:	£166.10 plus investigation costs
(j) Additional charge when services are performed abroad:	Actual costs incurred
(k) De-registration advice to foreign regulatory authority or removal from register upon export:	£66.40
(l) Title search of the register in respect of an aircraft:	£99.70
(m) Where an aircraft is temporarily transferred to the register and a certificate of airworthiness in respect of that aircraft the fee payable:	
(i) in respect of such temporary transfer to the register; and	
(ii) in respect of that certificate of airworthiness,	
is one half of the amount specified in these Regulations for registration of an aircraft or for a certificate of airworthiness as the case may be	
(n) Investigation conducted in connection with any part of the Order (by reference to each individual working investigation):	£786.50 per day or £99.70 per hour
Plus actual costs incurred, including but not limited to, transportation, accommodation and subsistence:	Travel days will be charged at £398.80 per day
(o) For the grant of an aerodrome certificate to a minor aerodrome:	
initial	£60.40
renewal	£20.10
(p) Cancellation of a certificate of registration:	£66.40

- (q) Flight permission: £10.10
- (r) Annual flight permission: £201.40

SCHEDULE 2
New Schedule A to Companies and Private Partnership Ordinance

(section 4)

SCHEDULE A

(section 4)

<u>Description</u>	<u>Fee</u>
1. Registration of incorporation of a company	£363.00
2. Registration of change of name of a company	£72.50
3. Certificate of registration of a company (other than on incorporation)	£72.50
4. Registration of mortgage, debenture or other charge	£61.00
5. Company file search	£24.00
6. Certified copy of any document held on a company file (plus additional charge of 26 pence per page certified in addition to the first page)	£24.00
7. Filing an annual return; except in relation to a company which the Registrar is satisfied is not trading	£72.50
8. Filing an annual return for a company which the Registrar is satisfied is not trading	£12.50
9. Penalty for the late filing of an annual return	£206.00
10. Notification of change of director or change of registered office	£12.50
11. Penalty for the late notification of a change of director or change of registered office (more than 14 days)	£51.50
12. Penalty for the late notification of a change of company secretary (more than 14 days)	£51.50
13. Notification of increase in nominal capital	£10.50
14. Notification of change of company accounting reference date	£10.50

15. Filing of company accounts	£51.50
16. Return of allotment of shares	£10.50
17. Notification of change in situation or address of registered office	£12.00
18. Notification of change of accounting reference date	£12.00
19. Notification of change of location of register of debenture holders	£12.00
20. Notification of increase in nominal capital	£12.00
21. Notification of particulars of a contract relating to shares allotted as fully or partly paid up otherwise than in cash	£12.00
22. Return by a company purchasing it's own shares	£12.00
23. Declaration in relation to the redemption or purchase of shares out of capital	£12.00
24. Notification of change of location of director's service contract	£12.00
25. Notification of change of location of register of directors' interests in shares etc	£12.00
26. Notification of passing of resolution removing an auditor	£12.00
27. Notification of change of company secretary (less than 14 days)	£12.00

SCHEDULE 3
New Schedule 1 to Land Charges Fees Rules

(section 12)

SCHEDULE 1

(rule 3)

<u>Description</u>	<u>Fee</u>
1. Registration, renewal, rectification or cancellation of entry in register (per name)	£6.50
2. Certificate of cancellation	£3.00
3. Entry of priority notice (per name)	£3.00
4. Inspection of entry (per entry)	£3.00

- | | |
|--|--------|
| 5. Office copy of entry, including plan (per copy) | £3.00 |
| 6. Search of index, including certificate of result (per name) | £12.50 |

SCHEDULE 4
New Schedule to Land (Non-residents)(Fees) Regulations

(section 13)

SCHEDULE

1. A fee of £105 is payable in relation to the following applications:
 - (a) An application from the partner of a person who has Falkland Islands status or a permanent resident permit, to buy or lease a property in joint names with their partner;
 - (b) An application to buy or lease a residential building plot in Stanley, excluding:
 - (i) a plot developed by the Falkland Islands Government and sold at a fixed price;
 - (ii) a private plot developed with the benefit of an infrastructure subsidy provided by the Falkland Islands Government;
 - (c) An application to buy or lease property in camp which is no larger than 2.5 hectares;
 - (d) An application to lease a grazing plot in camp which is no larger than 50 hectares, for a term no longer than 5 years;
 - (e) An application which is ancillary to an offer to buy or lease property from the Falkland Islands Government;
 - (f) An application from a mortgagee.
2. A fee of £210 is payable in relation to the following applications:
 - (a) A retrospective application;
 - (b) All other applications for which a fee is not already prescribed.

SCHEDULE 5
New Schedule 2 to Land Ordinance

(section 14)

SCHEDULE 2

<u>Description</u>	Part I	<u>Fee</u>
		(section 9(3))
1. Registration of order of the Court under section 9		£12.50
2. Registration of any other deed, instrument or document —		
(a) first deed, instrument or document presented on the same occasion and affecting land in the same ownership		£121.00
(b) subsequent deed, instrument or document presented on the same occasion affecting the same title, not being a deed subdividing land under the same title		£24.00
(c) power of attorney —		
(i) the first title for which it is to be registered		£49.00
(ii) every subsequent title		£19.00
(d) revocation of a power of attorney —		
(i) the first title for which it is to be registered		£12.50
(ii) every subsequent title		£6.50
(e) change of name deed —		
(i) the first title for which it is to be registered		£72.50
(ii) every subsequent title		£36.50
(f) severance of joint tenancy in equity		£30.00
(g) discharge of mortgage (for every title affected)		£12.50
(h) assent (for every title affected)		£12.50
3. Certified copy deed, instrument or document (plus additional charge of 26 pence per page certified in addition to the first page)		£12.50

4. Preparation of plan	£30.00
5. Certification of registration of deed, instrument or document	£12.50
6. Preparation of deed, instrument or document, except Crown Grant or Crown Lease; hourly rate (proportion of hourly rate to be paid for every part hour)	£61.00

Part II

1. Title search; hourly rate (proportion of hourly rate to be paid for every part hour)	£48.50	(section 45)
2. Production of register or index for inspection (for each one)	£12.50	
3. Comparing deed with registered deed	£12.50	

SCHEDULE 6
New Schedule 1 to Post Office Order

(section 17)

SCHEDULE 1

Airmail Rates to all Countries

Letter	first 20gm	70 p
	each additional 10gm	25 p
Small packet and printed paper	first 70gm	£1.15
	each additional 10gm	14p
Postcard		60p
Aerogramme		60p
Illustrated Aerogramme		70p

Passed by the Legislature of the Falkland Islands on 28 May 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Complaints Commissioners Ordinance 2010

(No: 4 of 2010)

ARRANGEMENT OF PROVISIONS

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ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

COMPLAINTS COMMISSIONERS ORDINANCE 2010

(No: 4 of 2010)

(assented to: 31 May 2010)
(commencement: in accordance with section 2)
(published: 31 May 2010)

AN ORDINANCE

To prescribe the functions, powers and jurisdiction of Complaints Commissioners who are appointed by the Governor under section 95(1) of the Constitution to investigate complaints of maladministration in the government of the Falkland Islands or such other matters as are prescribed by Ordinance; to prescribe other matters that a Complaints Commissioner may be so appointed to investigate; to make administrative arrangements for those purposes; and for related matters

ENACTED by the Legislature of the Falkland Islands —

PART I
INTRODUCTORY PROVISIONS

1. Title

This Ordinance is the Complaints Commissioners Ordinance 2010.

2. Commencement

This Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

3. Interpretation

(1) In this Ordinance, unless the context otherwise requires —

“action” includes a failure to act;

“aggrieved person” means a member of the public who claims to have suffered injustice in consequence of —

(a) maladministration in the government of the Falkland Islands or in a body mentioned in Schedule 1; or

(b) conduct mentioned in subsection (2);

“Complaints Commissioner” and “Commissioner” mean a person whom the Governor appoints under section 95(1) of the Constitution as a Complaints Commissioner;

“conduct” means an act or an omission;

“Governor’s reference” means a reference of a matter by the Governor to a Complaints Commissioner under section 31;

“member of the public” includes a body of persons (whether incorporated or unincorporated) other than a public body;

“person” includes a body of persons (whether incorporated or unincorporated);

“Principal Complaints Commissioner” means the Commissioner whom the Governor designates under section 4 as the Principal Complaints Commissioner.

(2) In addition to complaints of maladministration, this Ordinance applies to complaints of conduct in respect of which a member of the public would reasonably feel a sense of injustice despite the fact that it does not constitute maladministration.

(3) The conduct mentioned in subsection (2) includes but is not limited to the following conduct, when it does not constitute maladministration —

(a) discourtesy;

(b) a failure to provide a service;

(c) a failure to tell a person about a legal remedy (for example, a right of appeal);

(d) a refusal to answer a question;

(e) a refusal to rectify a mistake; or

(f) unhelpfulness,

in respect of which a member of the public would reasonably feel a sense of injustice.

4. Designation of Principal Complaints Commissioner

(1) On appointing a Complaints Commissioner under section 95(1) of the Constitution the Governor, acting in his or her discretion, may for the purposes of this Ordinance designate the Commissioner as the Principal Complaints Commissioner.

(2) The Principal Complaints Commissioner has, in addition to his or her other functions as a Commissioner, the administrative functions to which this Ordinance refers.

5. Allowances

(1) A Complaints Commissioner is entitled to a daily attendance allowance, for each day on which the Commissioner is engaged in the performance of his or her functions, of such amount as the Governor sets by notice published in the Gazette.

(2) The Governor may set different daily attendance allowances for the Principal Complaints Commissioner and for other Commissioners.

(3) A Complaints Commissioner is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses for each day on which the Commissioner is engaged in the performance of his or her functions.

(4) However, if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, a Complaints Commissioner is not entitled to be reimbursed a greater amount or at a higher rate.

6. Staff

(1) The Governor may appoint a public officer or some other person to be the secretary to the Complaints Commissioners.

(2) The appointment as secretary of a person who is not a public officer shall be on such terms and conditions as the Governor determines.

(3) The Governor may appoint other public officers as staff of the Complaints Commissioners.

(4) The secretary and other members of the staff are subject to the administrative directions of and responsible to the Principal Complaints Commissioner.

7. Funds

The funds for the performance of the Complaints Commissioners' functions consist of money appropriated for the purpose by the Legislative Assembly.

PART II
FUNCTIONS AND JURISDICTION OF THE COMMISSIONERS

8. Additional functions of Commissioners

(1) In addition to the function conferred on Complaints Commissioners by section 95(1) of the Constitution (the investigation of complaints of maladministration in the government of the Falkland Islands), Commissioners are to investigate —

- (a) complaints of maladministration in bodies mentioned in Schedule 1;
- (b) other complaints to which this Ordinance applies, in respect of the government of the Falkland Islands or of those other bodies; and
- (c) matters that the Governor refers to Commissioners under Part VII.

(2) The Governor may by Order amend Schedule 1 —

- (a) by adding a public body, or a body that has been granted a franchise to provide a service of a public nature; or
- (b) by deleting a body.

9. Jurisdiction of Commissioners

(1) The Principal Complaints Commissioner has jurisdiction to investigate any complaint, other than a complaint or class of complaint in respect of which the Governor appoints another Complaints Commissioner.

(2) A Complaints Commissioner (other than the Principal Complaints Commissioner) has jurisdiction to investigate a complaint or class of complaint in respect of which the Governor appoints the Commissioner.

(3) Any Complaints Commissioner has jurisdiction to investigate a matter that the Governor refers to the Commissioner under section 31.

10. Limits of jurisdiction

(1) A Complaints Commissioner does not have jurisdiction to inquire into or question any of the following matters —

- (a) the conduct of the Governor when he or she is acting otherwise than under section 66(1) of the Constitution;
- (b) conduct of a Member of the Legislative Assembly that does not relate either to standards that the Standing Orders of the Assembly require its Members to observe as holders of public office or to a matter in which the Member has a personal interest;
- (c) a matter of policy;

(d) the merits of a decision taken without maladministration by a person or body, in the exercise of a discretion vested in that person or body;

(e) a matter that is mentioned in Schedule 2; or

(f) conduct occurring before this Ordinance commences.

(2) The Governor may by Order amend Part 2 of Schedule 2.

(3) A Complaints Commissioner is not to investigate a complaint in respect of which an aggrieved person has or had —

(a) a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative; or

(b) a remedy by way of proceedings in a court of law,

unless the Commissioner is satisfied that, in the particular circumstances, it is not reasonable to expect the aggrieved person to resort or have resorted to that right or remedy.

11. Personal interests

(1) If any Complaints Commissioner has a personal interest in a complaint or matter that is forwarded or referred to the Commissioner, or considers that he or she may have or may reasonably be perceived as having such an interest, the Commissioner is to inform the Governor forthwith.

(2) The Commissioner may also recuse himself or herself from considering the complaint.

PART III MAKING A COMPLAINT

12. Who may complain

(1) A complaint may be made only by or on behalf of an aggrieved person.

(2) A complaint may be made only if the aggrieved person is resident in the Falkland Islands.

(3) In subsection (2), "resident in the Falkland Islands" means, in the case of a complainant who is not an individual, having an office in the Falkland Islands.

13. Internal remedies

(1) If an internal procedure is available, an aggrieved person or the person acting on his or her behalf must take reasonable steps to obtain a remedy under the procedure before making a complaint under this Ordinance.

(2) An internal procedure is available for the purposes of this section if —

- (a) the body concerned has an internal complaints procedure for such complaints;
- (b) it has taken reasonable steps to make the availability of the procedure known to the public; and
- (c) the complainant has access to that procedure.

(3) In subsection (2), “the body concerned” means a body against which the complaint is made, or against one of whose members, officers or employees the complaint is made.

14. How a complaint is made

- (1) A complaint must be in writing.
- (2) A complainant who is an individual must ordinarily make a complaint in person.
- (3) However, if an aggrieved person is unable to act, the complaint may be made on his or her behalf by a family member; or by any other suitable individual.
- (4) A complaint by a person who is not an individual must be made on its behalf by an individual who is authorized by it to act as its representative.
- (5) A complaint is made —
 - (a) by delivering it to any Member of the Legislative Assembly, if it does not relate to a Member; or
 - (b) by delivering it to the Speaker of the Assembly, if it does relate to a Member.

15. Time limit for complaint

- (1) A complaint is not to be entertained unless it is made within three months after the day on which the aggrieved person first has notice of the matters alleged in it.
- (2) However, subsection (1) does not apply in any of the following circumstances —
 - (a) if, in the case of a complaint that does not relate to a Member of the Legislative Assembly, the Member to whom it is delivered considers that there are special circumstances that make it proper that the complaint should be entertained;
 - (b) if, in the case of a complaint that does relate to a Member of the Legislative Assembly, the Speaker considers that there are such circumstances; and
 - (c) if, in the case of a complaint that is sent or forwarded to the Governor under section 16, he or she considers that there are such circumstances.

16. Forwarding the complaint

(1) Where a Member of the Legislative Assembly or the Speaker receives a complaint under this Ordinance, he or she is to decide whether or not to forward it to the Principal Complaints Commissioner.

(2) The secretary is to send forthwith to the Governor a copy of each complaint that a Member of the Legislative Assembly forwards to the Principal Complaints Commissioner.

(3) The Clerk of the Legislative Assembly is to send forthwith to the Governor a copy of each complaint that the Speaker forwards to the Principal Complaints Commissioner.

(4) If a complaint that is delivered to a Member of the Legislative Assembly or to the Speaker is not forwarded to the Principal Complaints Commissioner within one month, and the complainant is not told within that time that it has been forwarded, the complainant may forward it to the Governor.

(5) On receiving a complaint under subsection (4) the Governor, acting in his or her discretion, is to decide whether or not to forward it to a Complaints Commissioner.

PART IV INVESTIGATING A COMPLAINT

17. Who is to investigate a complaint

(1) Unless the Governor gives a direction under subsection (2), a complaint is to be investigated by the Principal Complaints Commissioner.

(2) The Governor may in writing direct the Principal Complaints Commissioner that a complaint is to be investigated by another Commissioner specified in the direction.

(3) Where the Governor gives a direction under subsection (2), the secretary is to refer the complaint to that other Complaints Commissioner.

18. Commissioner to consider complaint

(1) The Complaints Commissioner who is to investigate a complaint must proceed to consider it.

(2) For the purpose of deciding whether to conduct an investigation, the Commissioner may conduct such preliminary inquiries as he or she considers appropriate.

19. Investigation to be conducted privately

The investigation of a complaint is to be conducted privately.

20. Mediation

(1) A Complaints Commissioner may appoint a mediator, and refer a complaint to that person for mediation, if the Commissioner considers —

(a) that the complaint does not involve maladministration or other conduct to which this Ordinance applies; or

(b) that it only involves maladministration, or such other conduct, that is of a minor nature.

(2) The Complaints Commissioner is not to participate in the mediation.

(3) Participation by any person as a party in the mediation is voluntary, and no costs are payable by any of the parties.

(4) The mediator may terminate the mediation at any time.

(5) Where mediation does not resolve a complaint —

(a) the complaint is to be treated as if the Complaints Commissioner had not referred it to a mediator; and

(b) evidence of the referral to mediation or of anything admitted or said in the mediation is inadmissible in any subsequent investigation of the complaint and in any legal proceedings relating to the complaint.

21. Procedure

(1) Before investigating a complaint, a Complaints Commissioner is to inform the principal officer of the department or other body concerned of the Commissioner's intention to conduct the investigation, and is to afford —

(a) the principal officer; and

(b) each person against whom the complaint is made,

an opportunity to comment on any allegations contained in the complaint.

(2) Subject to the other provisions of this Ordinance, a Complaints Commissioner may determine his or her own procedure in conducting an investigation into a complaint.

(3) In particular —

(a) a Complaints Commissioner need not hold a hearing;

(b) the Commissioner may obtain information from such persons and in such manner, as he or she thinks fit;

(c) the Commissioner may make such inquiries as he or she thinks fit; and

(d) the Commissioner may determine whether or not a person may be represented, by a legal adviser or by another person, in the investigation,

but this subsection does not limit subsection (2).

(4) If at any time during the course of an investigation, it appears to a Complaints Commissioner that there may be sufficient grounds to make a report or recommendation that may criticize or adversely affect a department or other body or person, the Commissioner is to give the department, body or person an opportunity to be heard.

22. Summons to witness

(1) A Complaints Commissioner may summon a person to appear before the Commissioner and to provide information to the Commissioner, by serving on the person a summons.

(2) A summons is to be in writing in the prescribed form.

23. Evidence

(1) A Complaints Commissioner who has requested or summoned a person to appear before the Commissioner may require the person to give evidence on oath or affirmation.

(2) The Complaints Commissioner or the secretary may administer the oath or take the affirmation.

24. Determining the complaint

(1) On completing the investigation of a complaint, a Complaints Commissioner is to prepare a report setting out —

(a) the Commissioner's findings of fact;

(b) his or her opinion as to whether the aggrieved person has suffered injustice in consequence of maladministration or of other conduct to which this Ordinance applies; and

(c) the Commissioner's reasons for that opinion.

(2) If the aggrieved person has in the opinion of the Complaints Commissioner suffered injustice —

(a) the report is to set out the Commissioner's recommendations for the prevention of a recurrence of the injustice; and

(b) it may include a recommendation that a payment be made for any financial loss or inconvenience that the aggrieved person has suffered because of the injustice.

(3) A recommendation in a report does not bind a body to which the report relates or any other person.

PART V
REPORTING TO GOVERNOR ON A COMPLAINT

25. Report to Governor

- (1) On completing a report under section 24 (other than one that relates to a Member of the Legislative Assembly), a Complaints Commissioner is to submit the report to the Governor.
- (2) The Complaints Commissioner is also to send a copy of the report to the principal officer of the department or other body to which the complaint relates.

26. Consideration of report to Governor

- (1) On receiving a report under section 25(1) from a Complaints Commissioner, the Governor in consultation with the principal officer concerned is to consider whether it contains anything that, if disclosed, may damage the public interest.
- (2) If the Governor considers that the report does contain material that, if disclosed, would damage the public interest, the Governor acting in his or her discretion may direct the Complaints Commissioner to remove that material from the report before it is disclosed under section 27.
- (3) The Governor is to inform the Complaints Commissioner of the outcome of the consideration under this section of the report, and the Commissioner is to comply with any direction given under this section.
- (4) In complying with a direction, the Complaints Commissioner is to indicate on the face of the report —

- (a) the fact that material has been removed on the direction of the Governor; and
- (b) the places in the report from which it has been removed.

27. Disclosure of report made to Governor

- (1) On being informed under section 26(3) of the outcome of the consideration of the report under that section, and complying with any direction given under the section, the Complaints Commissioner is to send copies of the report to the following persons —
 - (a) the complainant;
 - (b) the Governor;
 - (c) the Member of the Legislative Assembly to whom the complaint was first made;
 - (d) the Chief Executive Officer;
 - (e) the principal officer of the department or other body concerned;

(f) each person against whom the complaint was made; and

(g) each person who is criticized in the report, or may be adversely affected by it.

(2) If so requested by the Member of the Legislative Assembly, the Governor is to explain to the Member the general nature of any material that has been removed and the reasons for its removal.

(3) The Complaints Commissioner may publish the report.

28. Response to report to Governor

(1) If a report to the Governor under section 25(1) contains recommendations that a body to which the report relates should or should not take a course of action, a written response must be submitted to the Complaints Commissioner by whom the report was made within three months after the report is received by the body.

(2) The response is to be made —

(a) by the Governor, if the body is a department; or

(b) by the body itself, in any other case.

(3) The response is to state —

(a) which recommendations are accepted;

(b) which recommendations are not accepted; and

(c) if a recommendation to take a course of action is accepted, how it is intended to take that course of action.

PART VI REPORTING TO SPEAKER ON A COMPLAINT

29. Report to Speaker

(1) On completing a report under section 24 that relates to a Member of the Legislative Assembly, a Complaints Commissioner is to submit the report to the Speaker.

(2) The Complaints Commissioner is also to send copies of the report to —

(a) the complainant;

(b) the Governor;

(c) the Member of the Legislative Assembly to whom the complaint relates; and

(d) the Clerk of the Legislative Assembly.

30. Consideration of report made to Speaker

A report that is received under section 29(1) by the Speaker is to be dealt with in accordance with the Standing Orders of the Legislative Assembly.

**PART VII
REFERENCES BY THE GOVERNOR**

31. Governor may refer matter to Commissioner

The Governor, acting in his or her discretion or on the advice of the Executive Council, may refer to a Complaints Commissioner —

(a) any question of maladministration in the government of the Falkland Islands or in a body mentioned in Schedule 1;

(b) any conduct mentioned in section 3(2); or

(c) any other matter that the Governor, so acting, thinks fit to refer to a Commissioner

32. Commissioner to investigate and report to Governor

A Complaints Commissioner to whom the Governor refers a matter under section 31 is to investigate and report to the Governor on the matter.

33. Commissioner's powers on Governor's reference

For the purposes of investigating and reporting on a Governor's reference —

(a) a Complaints Commissioner may conduct the investigation privately, and must do so if the Governor directs; and

(b) the Commissioner and the secretary have the same powers as they have under subsections (2) and (3) of section 21, section 22 and section 23.

34. Persons who must be told of investigation

(1) If at any time during the course of an investigation of a Governor's reference, it appears to the Complaints Commissioner who is conducting the investigation that there may be sufficient grounds to make a report or recommendation that may criticize or adversely affect a department or other body or person, the Commissioner is to give the department, body or person an opportunity to be heard.

(2) If a person is criticized in or may be adversely affected by a report by a Complaints Commissioner on a Governor's reference, the Commissioner is to give a copy of the report to the person.

PART VIII OTHER PROVISIONS

35. Witnesses' expenses

(1) A person whom a Complaints Commissioner requests or summons to appear before the Commissioner is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses of doing so.

(2) However, if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, the person is not entitled to be reimbursed a greater amount or at a higher rate.

36. Duty of non-disclosure

(1) Information obtained by a Complaints Commissioner or any member of the staff of the Commissioners in the course of or for the purposes of an investigation under this Ordinance, is not to be disclosed except for the purposes of —

(a) the investigation and of any report to be made under this Ordinance in respect of the investigation; or

(b) any proceedings under this Ordinance.

(2) A Complaints Commissioner or member of the staff of the Commissioners cannot be called to give evidence in any proceedings (other than under this Ordinance) of matters coming to his or her knowledge in the course of an investigation under this Ordinance.

37. Privilege

For the purposes of the law of defamation, publication in any of the following circumstances is absolutely privileged —

(a) the publication by a Complaints Commissioner of a report under this Ordinance, or of any other matter by the Commissioner in making a report under this Ordinance;

(b) the publication for the purposes of this Ordinance of any matter by the Governor, a Member of the Legislative Assembly or the Speaker in communicating with a Commissioner or any member of the staff of the Commissioners; and

(c) the publication for the purposes of this Ordinance of any matter by a Commissioner, or by any member of the staff of the Commissioners, in communicating with the Governor, a Member of the Legislative Assembly or the Speaker.

38. Annual report to Assembly

(1) The Principal Complaints Commissioner is to provide to the Governor, before 31st March in each year, a report on the performance by the Complaints Commissioners of their functions in the preceding year.

(2) The Governor is to lay the report before the Legislative Assembly within 3 months after receiving it.

39. Civil offences

(1) If a person, in giving evidence to a Complaints Commissioner (whether or not on oath) knowingly or recklessly makes a statement that is false in a material particular, he or she is liable to a fine determined by a Commissioner in accordance with section 41.

(2) If a person —

(a) without lawful excuse obstructs a Complaints Commissioner in the performance of his or her functions under this Ordinance; or

(b) without lawful excuse obstructs any member of the staff of the Commissioners in the performance of his or her functions under this Ordinance,

he or she is liable to a fine determined by a Commissioner in accordance with section 41.

(3) If, without reasonable excuse, a person on whom a summons is served under this Ordinance —

(a) fails to appear before the Complaints Commissioner concerned, on the day and at the time and place specified in the summons; or

(b) fails to produce to the Commissioner on that day, and at that time and place, any document or publication that the summons requires the person to produce to the Commissioner,

the person is liable to a fine determined by a Commissioner in accordance with section 41.

(4) If a person, without reasonable excuse —

(a) on being required by a Complaints Commissioner to take an oath, refuses to do so or to make an affirmation instead of taking an oath; or

(b) refuses to answer any lawful and relevant question that is put by the Commissioner,

the person is liable to a fine determined by a Commissioner in accordance with section 41.

(5) This section does not require a person —

(a) to produce to a Complaints Commissioner any document or publication in respect of which a certificate is issued under section 43; or

(b) to produce to a Commissioner any document or publication of the Executive Council.

40. Contempt

If a person without lawful excuse commits any act, or makes any omission, in relation to an investigation under this Ordinance that, if the investigation were a proceeding in the Supreme Court, would constitute contempt of court, the person is liable to a fine determined by a Complaints Commissioner in accordance with section 41.

41. Power of Commissioner to impose civil fine

(1) If the Attorney General refers the matter to a Complaints Commissioner, the Commissioner may impose a fine, not exceeding the prescribed maximum fine, on a person who is liable to a fine under either of sections 39 and 40.

(2) The fine is recoverable by civil action in the Supreme Court at the suit of the Attorney General.

42. Service on Governor's staff and British forces

(1) If a Complaints Commissioner wishes to request or summon a member of the Governor's staff to attend before the Commissioner, the request or summons is to be delivered to the office of the Governor.

(2) If a Complaints Commissioner wishes to request or summon a member of Her Majesty's forces or of the civilian component of any of those forces to attend before the Commissioner, the request or summons is to be delivered to the headquarters of the Commander British Forces.

(3) A summons to which either of subsections (1) and (2) refers is served on the person to whom it is addressed when it is delivered in accordance with that subsection.

43. Public interest certificates

(1) The Governor, acting in his or her discretion, may certify in writing for the purposes of this Ordinance that —

- (a) the production of a specified document or publication to a Complaints Commissioner; or
- (b) the provision of any specified information to a Commissioner,

is not in the public interest.

(2) The Governor, acting in his or her discretion, may certify in writing for the purposes of this Ordinance that the public disclosure of any specified evidence is not in the public interest.

44. Orders

The Governor may make Orders for any of the following purposes —

- (a) prescribing the form of a summons to appear before a Complaints Commissioner;
- (b) prescribing procedures to be followed in the investigation of complaints; and

(c) prescribing the maximum fine that a Commissioner may impose under section 41.

SCHEDULE 1

(section 8)

BODIES IN RESPECT OF WHICH COMPLAINTS MAY BE INVESTIGATED

1. Falkland Islands Development Corporation
2. Falklands Landholdings Corporation
3. Falkland Islands Meat Company Limited
4. Falkland Islands Tourist Board
5. Falkland Islands Museum and National Trust
6. Media Trust.

SCHEDULE 2

(section 10)

MATTERS IN WHICH COMPLAINTS COMMISSIONERS DO NOT HAVE JURISDICTION

PART 1

1. Any complaint in respect of which the Governor, acting in his or her discretion, certifies that it is not in the public interest that a Complaints Commissioner should investigate the matter.
2. The grant by the Crown of honours, awards or privileges.
3. The proceedings and deliberations of the Legislative Assembly.
4. The content of legislation.
5. The proceedings and deliberations of the Executive Council.
6. The conduct of a member of the judiciary.
7. The conduct of the Attorney General in respect of his or her powers under section 72 of the Constitution.
8. The conduct by any person or authority of an audit pursuant to section 80(1) of the Constitution.

PART 2

9. The conduct of any person (other than a member of the judiciary) while acting in a judicial capacity.
10. The commencement or conduct of civil or criminal proceedings before any court of law or civil or military tribunal.

11. The exercise of any function under section 71(1) of the Constitution.
12. The investigation of crime.
13. Action relating to extradition or to fugitive offenders.
14. The conduct of a police officer (other than the Chief of Police).
15. The defence and the security of the Falkland Islands.
16. The conduct of the Commander British Forces or of any other member of Her Majesty's forces.
17. The conduct of any member of the civilian component of Her Majesty's forces in the course of his or her employment.
18. Passports.
19. The conduct of an employee of the Foreign and Commonwealth Office who is a member of the Governor's staff.
20. Any matter relating to the appointment, remuneration, pension, discipline, redundancy of office, suspension, or dismissal or terms of service of an officer or employee of the Government or of any body mentioned in Schedule 1.
21. Any contractual or commercial transaction.

Passed by the Legislature of the Falkland Islands on 28 May 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Public Health (Amendment) Ordinance 2010

(No: 5 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Disapplication of the Public Health (Ships) Regulations 1979
4. Amendment of the Public Health Ordinance

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

PUBLIC HEALTH (AMENDMENT) ORDINANCE 2010

(No: 5 of 2010)

(assented to: 31 May 2010)

(commencement: on publication)

(published: 31 May 2010)

AN ORDINANCE

To disapply the Public Health (Ships) Regulations 1979 (SI 1979/1435) in the Falkland Islands and to make a consequential amendment to the Public Health Ordinance (Title 61.1).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Public Health (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on a date to be fixed by the Governor by notice published in the *Gazette*.

3. Disapplication of the Public Health (Ships) Regulations 1979

The Public Health (Ships) Regulations 1979 (SI 1979/1435) no longer apply in the Falkland Islands.

4. Amendment of the Public Health Ordinance

The Schedule to the Public Health Ordinance (Title 61.1) is amended by omitting the reference to the Public Health (Ships) Regulations 1979.

Passed by the Legislature of the Falkland Islands on 28 May 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands
Price: Eight pound.

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THE
FALKLAND ISLANDS GAZETTE
Supplement

PUBLISHED BY AUTHORITY

Vol. 21

1 July 2010

No. 6

The following are published in this Supplement –

Capital Equalisation Fund Order 2010 (SR&O No 8 of 2010);

Road Traffic (Motorcycling Events at Fairy Cove) Order 2010 (SR&O No 9 of 2010);

Stanley (Various Roads) One Way Order 2010 (SR&O No 10 of 2010);

Public Health (Variation of Fines) Order 2010 (SR&O No 11 of 2010);

Public Health (Ships) Regulations 2010 (SR&O No 12 of 2010);

Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2010 (SR&O No 13 of 2010);

Family Allowance (Amendment) Bill 2010; and

Mental Health Bill 2010.



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Family Allowance (Amendment) Bill 2010; and

Mental Health Bill 2010.

SUBSIDIARY LEGISLATION

PUBLIC FUNDS

Capital Equalisation Fund Order 2010

S. R. & O. No 8 of 2010

Made: 17 June 2010

Published: 1 July 2010

Coming into force: on publication

I make this order under section 11(2) of the Public Funds Ordinance (Title 19.7) —

- (a) on the advice of Executive Council; and
- (b) with the approval of the Secretary of State.

1. Title

This Order is the Capital Equalisation Fund Order 2010.

2. Commencement

This Order comes into force on publication.

3. Appropriation

(1) The Director of Finance may make payments out of the Capital Equalisation Fund not exceeding, in total, nine million, one hundred and sixty eight thousand, four hundred and seventy pounds (£9,168,470) as are required to fund the amendments to the capital programme detailed in the Schedule.

(2) The authorisation given in paragraph (1) authorises payments additional to those authorised by previous orders.

SCHEDULE

	Financial Year 2009/10 £	Financial Year 2010/11 £	Total £
951 General	273,590	15,000	288,590
952 Loans	-	1,000,000	1,000,000
953 Plant & Vehicles	-	1,146,000	1,146,000
954 Roads	524,320	1,350,000	1,874,320
956 Government Land & Buildings	(16,300)	200,000	183,700
957 Municipal Services	(980,950)	4,385,620	3,404,670
958 Air Transportation	70,000	18,000	88,000
959 Consultancies	97,690	200,000	297,690
960 Departmental Assets	(95,340)	980,840	885,500
	<u>(126,990)</u>	<u>9,295,460</u>	<u>9,168,470</u>

Made 17 June 2010

A. E. HUCKLE,
Governor.

EXPLANATORY NOTE

(not forming part of the above Order)

This Order, which is made with the approval of the Secretary of State, authorises the Director of Finance to make additional payments out of the Capital Equalisation Fund totalling £9,168,470.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Road Traffic (Motorcycling Events at Fairy Cove) Order 2010

S. R. & O. No 9 of 2010

Made: 25 June 2010

Published: 1 July 2010

Coming into force: on publication

I make this order under section 2(3) of the Road Traffic Ordinance (Title 63.1).

1. Title

This order is the Road Traffic (Motorcycling Events at Fairy Cove) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order —

“the Association” means the Falkland Islands Motorcycle Association;

“the Company” means the Falkland Islands Company Limited; and

“the land at Fairy Cove” means the land owned by the Company at Fairy Cove on The Camber, north of Stanley Harbour.

4. Exclusion of the land at Fairy Cove from the Ordinance

The land at Fairy Cove is excluded from the provisions of the Ordinance but only in respect of motorcycles used in accordance with the conditions specified in article 5.

5. Conditions for exclusion

(1) This article sets out the conditions that apply to a motorcycle for it to be covered by the exclusion in article 4.

(2) The motorcycle must be one being used by either —

(a) a member of the Association; or

(b) a *bona fide* guest of the Association.

(3) The motorcycle must be one being used at an event —

(a) that has been organised by the Association;

(b) for which the Association has permission from the Company; and

(c) in relation to which notice has been given in writing or by e-mail to the Royal Falkland Islands Police not less than 24 hours in advance.

Made 25 June 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 2(3) of the Road Traffic Ordinance (Title 63.1) provides that the Governor may make an order providing for an open place within Stanley or 4 miles of the Stanley boundary to be excluded from the operation of the subsequent provisions of the Ordinance.

Section 2(4) provides that an order under subsection (3) may be made so as to apply only in respect of vehicles of a class or type or classes or types specified in the order.

The land at Fairy Cove owned by the Falkland Islands Company Limited is within 4 miles of the Stanley boundary. As matters stand, the Falkland Islands Motorcycle Association has permission from the Company to use the land at Fairy Cove for motorcycle events.

This order excludes the land at Fairy Cove from the Ordinance but only in relation to motorcycles being used by members of the Falkland Islands Motorcycle Association or *bona fide* guests of the Association at events organised by the Association for which it has permission from the Company and of which at least 24 hours notice has been given to the Royal Falkland Islands Police.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Stanley (Various Roads) One Way Traffic Order 2010

S. R. & O. No 10 of 2010

Made: 25 June 2010

Published: 1 July 2010

Coming into force: 10 August 2010

I make this order under section 59(1)(j) of the Road Traffic Ordinance (Title 63.1) on the advice of the Executive Council.

1. Title

This order is the Stanley (Various Roads) One Way Traffic Order 2010.

2. Commencement

This order comes into force on 10 August 2010.

3. Interpretation

In this order —

“one way street” means a road or length of road listed in the first column of the Schedule;

“permitted direction” means the direction listed in the second column of the Schedule corresponding to a one-way street; and

“the Town Hall car park” means the road and car parking area around the back and sides of the Town Hall (from the northern side of its western junction with Ross Road between the Public Services Department and the Town Hall to the northern side of its eastern junction with Ross Road between the Town Hall and the Standard Chartered Bank).

4. One way traffic

Traffic may only proceed along a one way street in the permitted direction.

5. Offences

(1) A person who drives, rides, propels, pushes, pulls or tows a motor vehicle, bicycle or trailer along a one way street in a direction other the permitted direction commits an offence.

(2) A person who commits an offence against paragraph (1) is liable to a fine not exceeding £200.

6. Exception

(1) Article 4 does not prohibit a person from either —

- (a) pushing a bicycle along a footpath next to a one way street; or
- (b) reversing in the course of entering or leaving a parking space in the Town Hall car park.

(2) A person does not commit an offence against article 5(2) by doing either of those things.

7. Revocations

The following orders are revoked —

Racecourse Road (One Way Traffic) Order (Title 63.1.11)

Stanley (Various Roads) One Way Street Order (Title 63.1.14)

Dean Street (Part) One Way Traffic Regulations Order (Title 63.1.15)

Eliza Crescent One Way Traffic Regulations Order (S.R. & O. 20 of 1995)

SCHEDULE

Regulation 2

<i>Road or length of road</i>	<i>Permitted direction</i>
Dean Street between the southern side of its junction with John Street and the northern side of its junction with Fitzroy Road	North to South
Drury Street between the western side of its junction with Brisbane Road and the eastern side of its junction with King Street	East to West
Eliza Crescent, along its entire length (from the eastern side of its northern junction with Eliza Cove Road at Callaghan Road to the eastern side of its southern junction with Eliza Cove Road between Eliza Place and Jersey Road)	Clockwise
Hacketts Hill, along its entire length (from the northern side of its junction with Pioneer Row to the southern side of its junction with Drury Street)	South to North
Pencil Lane, along its entire length (from the southern side of its junction with Ross Road to the northern side of its junction with John Street)	North to South

Racecourse Road, along its entire length (from the southern side of its eastern junction with Ross Road West near the Battle Memorial to the southern side of its western junction with Ross Road East near Sullivan House)	Clockwise
Thatcher Drive, along its entire length (from the southern side of its junction with Ross Road to the eastern side of its junction with Reservoir Road)	East to West
The Town Hall car park	Clockwise

Made 25 June 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 59(1)(j) of the Road Traffic Ordinance (Title 63.1) allows the Governor to make regulations providing for controlling or restricting traffic, whether vehicular or pedestrian, including the imposition of one way traffic systems.

This order replaces, with amendments, the existing orders designating one way streets in Stanley.

With two exception, the roads or lengths of road covered by this order are the same as those covered by existing orders.

The exceptions are:

- (a) Pencil Lane, which has informally been a one way street with traffic flowing from South to North (ie from John Street towards Ross Road), is now legally designated as a one way street with the permitted direction being reversed, so that traffic will now flow from North to South (ie from Ross Road towards John Street); and
- (b) the road and car parking area around the back and sides of the Town Hall, which has informally been a one way street flowing clockwise, is now legally designated as a one way street with the same permitted direction.

The order also deals with inconsistencies between the various orders it replaces:

- (a) What constitutes an offence is now the same for all one way streets in Stanley.
- (b) The maximum fine is increased from £100 to £200 for offences committed on Drury Street, Hacketts Hill, Racecourse Road or Thatcher Drive. (The maximum fine was already £200 for offences committed on Dean Street or Eliza Crescent).
- (c) The exemption for pushing or towing bicycles on footpaths that only applied to Dean Street and Eliza Crescent is extended to all one way streets in Stanley.

SUBSIDIARY LEGISLATION

PUBLIC HEALTH

Public Health (Variation of Fines) Order 2010

S. R. & O. No 11 of 2010

Made: 25 June 2010

Published: 1 July 2010

Coming into force: on publication

I make the following order under section 12 of the Criminal Justice Ordinance (Title 24.1), having consulted the Executive Council.

1. Title

This order is the Public Health (Variation of Fines) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Amendment of the Public Health Ordinance

This order amends the Public Health Ordinance (Title 61.1).

4. Section 27 amended - Regulations

Section 27(1)(i) is amended by omitting “£50”, and substituting “level 5 on the standard scale”.

5. Section 30 amended - Penalties

Section 30(1) is amended by omitting “£50” and substituting “level 5 on the standard scale”.

Made 25 June 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 12(1) of the Criminal Justice Ordinance (Title 24.1) provides that the Governor replace outdated provisions in legislation to maximum fines of a fixed amount in money with references to levels on the standard scale of fines.

This order amends two provisions in the Public Health Ordinance (Title 61.1) to update the fine that can be imposed following conviction for a breach or contravention of regulations made under section 27 or for an offence to which section 30(1) applies (an offence against Part 2 of the Ordinance or regulations made under section 27 for which no other penalty is specified).

The fines provided for elsewhere in the Ordinance have not yet been reviewed and are not varied by this order.

Apart from the change made in relation to section 30(1) in 1989 by section 10 of the Criminal Justice Ordinance (abolition of enhanced penalties on subsequent conviction for summary offences), the penalties varied by this order have not been amended or varied since at least 1950 and the provisions appear to date from 1908.

In each case, the maximum fine that can be imposed is increased from £50 to level 5 on the standard scale of fines (currently, £3,000).

Under section 12(2) of the Criminal Justice Ordinance, the variations made by this order do not apply to offences committed before this order is published in the *Gazette*.

SUBSIDIARY LEGISLATION

PUBLIC HEALTH

Public Health (Ships) Regulations 2010

S. R. & O. No 12 of 2010

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Schedule 1 – Model Maritime Declaration of Health

Schedule 2 – Model Ship Sanitation Control Exemption Certificate

Schedule 3 – Additional Measures with respect to some diseases

SUBSIDIARY LEGISLATION

PUBLIC HEALTH

Public Health (Ships) Regulations 2010

S. R. & O. No 12 of 2010

Made: 25 June 2010

Published: 1 July 2010

Coming into force: on publication

I make the following regulations under section 27 of the Public Health Ordinance (Title 61.1) on the advice of the Executive Council.

**PART 1
PRELIMINARY**

1. Title

These regulations are the Public Health (Ships) Regulations 2010.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Interpretation

(1) In these regulations —

“additional measures” means the additional measures specified in Schedule 3 with respect to listed diseases;

“arrival”, in relation to a ship, means the entry within Falkland Islands waters of a ship which has not been subjected elsewhere to relevant measures —

(a) during its voyage; or

(b) since it last —

(i) called at a port outside the Falkland Islands,

(ii) met with an offshore installation, or

(iii) met with a ship which has proceeded from a foreign port;

“authorised officer” means —

- (a) the Chief Medical Officer;
- (b) another medical officer;
- (c) a customs officer;
- (d) an immigration officer;
- (e) the Harbour Master;
- (f) a veterinary officer; or
- (g) another person appointed by the Chief Medical Officer, the Collector of Customs or the Principal Immigration Officer to be an authorised officer for the purposes of these regulations;

“authorised port” means a port authorised to do one or more of the following things —

- (a) issue Ship Sanitation Control Certificates and provide the services referred to in —
 - (i) Annex 1 to the IHR; and
 - (ii) the form set out in Annex 3 to the IHR, reproduced in Schedule 2;
- (b) issue Ship Sanitation Control Exemption Certificates after inspecting ships (including thorough inspections of ships’ holds); or
- (c) extend existing Ship Sanitation Certificates for one month;

“baggage” means the personal effects of a traveller or of a member of the crew;

“captive birds” includes poultry;

“Chief Medical Officer” includes a person acting as Chief Medical Officer;

“Committee” means the Health and Medical Services Committee established by section 3 of the Public Health Ordinance;

“contaminant” means an agent or matter that —

- (a) is infectious, toxic or radioactive; and
- (b) may constitute a public health risk;

“contamination” means the presence of a contaminant;

“crew” means the personnel of a ship who are employed for duties on board;

“customs officer” has the meaning assigned to the term in section 7 of the Customs Ordinance (Title 26.1);

“day” means a period of twenty-four hours;

“decontamination” means the operation in which measures are taken to eliminate contaminants;

“deratting” means the operation in which measures are taken to control or kill rodent vectors of human disease;

“disinsection” means the operation in which measures are taken to kill the insect vectors of human disease;

“foreign port” means a port or other coastal place situated outside the Falkland Islands;

“free pratique” means permission for a ship to disembark and commence operations;

“Harbour Master” has the same meaning as in section 2 of the Harbours Ordinance (Title 57.3);

“IHR” means the International Health Regulations (2005) of the WHO, adopted by the fifty-eighth World Health Assembly on 23 May 2005;

“immigration officer” has the same meaning as in section 3 of the Immigration Ordinance (Title 52.2);

“infected person” means a person who is suffering from a listed disease;

“infected ship” means —

(a) a ship which has on board on arrival a case of a listed disease;

(b) a ship on which a plague-infected rodent is found on arrival; or

(c) a ship which —

(i) has had on board during its voyage —

(aa) a case of human plague which developed more than six days after the embarkation of the person affected;

(bb) a case of cholera within five days before arrival;

(cc) a case of another listed disease; and

(ii) has not been subjected before its arrival to relevant measures (including relevant additional measures);

“infectious disease” means any infectious or contagious disease other than venereal disease or tuberculosis;

“isolation”, when applied to a person or group of persons, means the separation of that person or group of persons from other persons (apart from the health staff on duty) in such a manner as to prevent the spreading of infection;

“listed disease” means one of the following diseases —

(a) plague;

(b) cholera;

(c) yellow fever;

(d) smallpox;

(e) rabies;

(f) viral haemorrhagic fever; or

(g) another infectious or contagious disease, if the Chief Medical Officer has declared that disease to present a significant risk to public health.

“Maritime Declaration of Health” means a declaration in the form set out in Annex 8 to the IHR, reproduced in Schedule 1;

“master” means the person for the time being in charge of or in command of a ship;

“medical officer” means —

(a) the Chief Medical Officer; or

(b) another suitably qualified person appointed by the Chief Medical Officer to be a medical officer for the purposes of these regulations;

“mooring station” means a place which —

(a) may be situated either inside or outside Falkland Islands waters; and

(b) has been specified by the Chief Medical Officer as a place at which ships can be moored for inspection so as not to come into contact with other ships or with the shore;

“National IHR Focal point” means the board or body designated by the Falkland Islands for communications with the WHO IHR Contact Point under the IHR;

“offshore installation” has the same meaning as given by section 36(5)(a) of the Offshore Minerals Ordinance (No. 16 of 1994);

“passenger ship” means a ship that is certified to carry more than 12 passengers;

“postal parcel” means an addressed article or package carried internationally by postal or courier services;

“relevant additional measures” —

(a) means either —

(i) additional measures; or

(ii) equivalent measures under corresponding legislation in another jurisdiction; but

(b) does not include measures carried out on persons, baggage, cargo or postal parcels landed from a ship at a port outside the Falkland Islands;

“relevant measures” —

(a) means either —

(i) measures carried out or other steps taken under these regulations; or

(ii) equivalent measures carried out or other steps taken under corresponding legislation in another jurisdiction; but

(b) does not include measures carried out or other steps taken on persons, baggage, cargo or postal parcels landed from a ship at a port outside the Falkland Islands;

“ship” includes —

(a) every description of vessel used in navigation; and

(b) hovercraft;

“Ship Sanitation Certificate” means a Ship Sanitation Control Certificate or a Ship Sanitation Control Exemption Certificate that in either case —

(a) conforms to the model in Annex 3 to the IHR, reproduced in Schedule 2; and

(b) is issued in accordance with Article 39 of the IHR (ship sanitation certificates);

“suspected person” means a person (other than an infected person) who is considered by a medical officer —

- (a) to have been exposed to infection by an infectious disease; and
- (b) to be capable of spreading that disease;

“suspected ship” means —

- (a) a ship —
 - (i) on which —
 - (aa) there is no case of human plague at the time of arrival; but
 - (bb) there was one or more cases of human plague during the voyage that developed within six days of the person affected embarking; and
 - (ii) in relation to which relevant measures have not yet been taken;
- (b) a ship on which there is evidence of abnormal mortality among rodents, the cause of which is unknown on arrival;
- (c) a ship —
 - (i) on which there was one or more cases of cholera during the voyage that developed more than five days before arrival; and
 - (ii) in relation to which relevant measures have not yet been taken;
- (d) a ship that left an area infected with yellow fever within six days before arriving; or
- (e) a ship on which there is one or more persons board on arrival who the medical officer considers may have been exposed to infection from —
 - (i) rabies;
 - (ii) viral haemorrhagic fever; or
 - (iii) a disease that is a listed disease because the Chief Medical Officer has declared it to present a significant risk to public health.

“veterinary officer” means a person appointed as a veterinary surgeon by the Crown;

“WHO” means the World Health Organisation, a specialized agency within the terms of Article 57 of the Charter of the United Nations, established by the Constitution of the World Health Organisation;

“WHO IHR Contact Point” means the unit within the WHO accessible for communications with the National IHR Focal Point;

“World Health Assembly” has the meaning set out in the Constitution of the WHO adopted by the International Health Conference held in New York from 19 June 1946 to 22 July 1946 and signed on 22 July 1946.

(2) For the purposes of these regulations, a ship is not to be treated as having met another ship or offshore installation unless in the course of the encounter a person has boarded one ship or installation from the other.

4. Application of regulations to ships of Her Majesty’s armed forces and other armed forces

(1) These regulations do not apply to —

(a) a ship forming part of —

(i) Her Majesty’s armed forces

(ii) the armed forces of any country within the Commonwealth;

(iii) the armed forces of any other country to which the Visiting Forces Act 1952 applies in the United Kingdom under section 1 of that Act; or

(b) to the officers and crew of such a ship.

(2) Paragraph (1) does not prevent the officer holding Her Majesty’s commission who has command or charge of a ship forming part of Her Majesty’s armed forces from requesting the issue or extension of a Ship Sanitation Certificate for the ship.

(3) Paragraph (4) applies if —

(a) a request is made under paragraph (2): and

(b) an authorised officer is satisfied that a Ship Sanitation Certificate could be issued or extended under regulation 16, 20 or 21 but for the fact that the ship forms part of Her Majesty’s armed forces.

(4) If this paragraph applies, an authorised officer may either —

(a) issue a Ship Sanitation Certificate; or

- (b) arrange for one to be issued.

PART 2 GENERAL

5. Enforcement and execution of regulations

- (1) It is the duty of the Committee to enforce and execute these regulations.
- (2) The Committee is to exercise its functions through —
 - (a) the Chief Medical Officer;
 - (b) one or more medical officers (including the Chief Medical Officer); and
 - (c) other authorised officers.
- (3) The Committee must make such inquiries and take such other steps as it considers necessary for ensuring the proper exercise of its functions.
- (4) The Committee must —
 - (a) provide the National IHR Focal Point with the current contact details of each authorised port within the Falkland Islands;
 - (b) ensure that no Ship Sanitation Certificate is issued without prior inspection by an authorised officer with appropriate expertise;
 - (c) ensure that any control measures required under regulation 18 are carried out either —
 - (i) by an authorised officer with appropriate expertise; or
 - (ii) under the supervision of an authorised officer with appropriate expertise.
- (5) The Chief Medical Officer may appoint an authorised officer (who need not be a public officer) to —
 - (a) carry out inspections of ships; and
 - (b) prescribe any rectification measures that are necessary.
- (6) If functions under paragraph (5) are contracted out, an authorised officer may —
 - (a) renew an existing Ship Sanitation Certificate to a ship, provided that ship had previously held a valid Ship Sanitation Certificate; or

(b) issue a temporary Ship Sanitation Certificate to a ship, permitting the ship to leave the Falkland Islands to travel to a foreign port for rectification measures to be carried out.

6. Appointments of officers, provision of services and directions

(1) The Chief Medical Officer may appoint medical officers and authorised officers to carry out and enforce these regulations.

(2) The Chief Medical Officer may also —

(a) arrange for the provision of —

(i) premises or waiting rooms for the medical inspection and examination of persons;

(ii) premises for the temporary isolation of persons under these regulations;

(iii) apparatus and other means for cleansing, disinfecting and disinfecting ships, persons, clothing and other articles;

(b) arrange for the reception into hospital of persons requiring to be removed to a hospital under these regulations;

(c) arrange for the provision of transport for the conveyance of persons to premises referred to in paragraph (a) or to a hospital;

(d) do all other things that the Chief Medical Officer or the Committee considers necessary or reasonable —

(i) for the purposes of these regulations; and

(ii) to enable them to be complied with or carried out.

(3) Either the Committee or the Governor may issue directions in relation to the performance of the Chief Medical Officer's duties and functions.

(4) Before issuing a direction under paragraph (3), the Committee or the Governor (as the case may be) must —

(a) seek the advice of the Chief Medical Officer; and

(b) have regard to that advice.

(5) The Chief Medical Officer must immediately notify the Committee of any direction issued under paragraph (3) by the Governor.

(6) The Chief Medical Officer must —

- (a) comply with directions issued under paragraph (3); and
 - (b) ensure that medical officers and authorised officers are aware of directions issued under paragraph (3) to the extent relevant to their duties and functions.
- (7) Each of the following may issue directions in relation to the duties and functions to be performed by the medical officers and authorised officers —
- (a) the Chief Medical Officer;
 - (b) the Collector of Customs;
 - (c) the Principal Immigration Officer; and
 - (d) the Harbour Master.
- (8) Before issuing a direction under paragraph (7), the Collector of Customs, the Principal Immigration Officer or the Harbour Master (as the case may be) must —
- (a) seek the advice of the Chief Medical Officer; and
 - (b) have regard to that advice.
- (9) Medical officers and authorised officers must comply with directions issued under paragraph (7) to the extent relevant to their duties and functions.

PART 3 INCOMING SHIPS

7. Inspection of ships

- (1) An authorised officer —
- (a) may inspect a ship on arrival; and
 - (b) must do so if the master of the ship has made a report to an authorised officer under regulation 13(1) in respect of an event listed at regulation 13(2)(b), (c) or (d).
- (2) An authorised officer —
- (a) may inspect a ship that is already in the Falkland Islands; and
 - (b) must do so if there are reasonable grounds for believing that —
 - (i) there is an infected person or a suspected case of infectious disease on board the ship;
 - or

(ii) the ship or one or more persons on board the ship are contaminated.

(3) The inspection of a ship under paragraph (1) or (2) may include taking from the ship samples of food or water for analysis or examination.

(4) Analysis or examination under paragraph (3) may only be done for one or more of the following purposes —

(a) treating persons affected with any epidemic, endemic or infectious disease or by contamination;

(b) preventing the spread of such disease;

(c) preventing another danger to public health.

8. Direction of ships

An authorised officer may require a ship —

(a) to be brought (at the risk of the master of the ship) to a safe and convenient place for the purpose of inspection under these regulations; and

(b) if necessary, to be moored or anchored (at the risk of the master of the ship) at that place.

9. Examination, etc, of persons on ships

(1) This regulation applies to a person —

(a) who is on board a ship that arrives in (or is already in) the Falkland Islands; and

(b) in relation to whom there are reasonable grounds for suspecting that the person —

(i) is suffering from an infectious disease;

(ii) has been exposed to infection from an infectious disease;

(iii) is verminous; or

(iv) is contaminated.

(2) A medical officer —

(a) may examine a person to whom this regulation applies; and

(b) must do so if requested by the master of the ship.

(3) An authorised officer may —

(a) detain a person to whom this regulation applies for an examination under paragraph (2), either upon the ship or at some place on shore appointed for the purpose;

(b) require one or more of the following things to be done to the clothing and other articles belonging to a person examined under paragraph (2) —

(i) disinfection;

(ii) disinsection; and

(iii) decontamination; and

(c) except as provided in regulation 26, either —

(i) prohibit a person examined under paragraph (2) from leaving the ship; or

(ii) permit the person to leave the ship on such conditions and subject to the taking of such measures as the authorised officer considers reasonably necessary for preventing the spread of infection; and

(d) require the master to take or assist in taking such steps as in the opinion of the authorised officer are reasonably necessary —

(i) for preventing the spread of infection or contamination;

(ii) for disinsection, deratting, the destruction of other vermin and decontamination; and

(iii) for the removal of conditions on the ship likely to convey infection (including conditions the existence of which might facilitate the harbouring of insects or vermin) or spread contamination.

(4) Nothing in this regulation authorises the use of a ship for the isolation of a person who is suffering from (or had been exposed to) an infectious disease, unless such isolation can be effected without delaying or unduly interfering with the movements of the ship.

10. Powers in respect of certain persons on ships

(1) This regulation applies if there are (or the medical officer suspects that there are) on board a ship that arrives in (or is already in) the Falkland Islands one or more persons who are —

(a) suffering from an infectious disease; or

(b) contaminated.

(2) If this regulation applies, a medical officer may —

(a) cause the person —

(i) to be removed from the ship; and

(ii) either —

(aa) isolated; or

(bb) sent to hospital or to some other suitable place approved for that purpose by the Chief Medical Officer;

(b) in the case a person suffering from a listed disease, place the person under surveillance for the appropriate period specified in regulation 30(1); or

(c) except to the extent that regulation 26 applies, issue a written notice to the master of the ship, prohibiting the removal of the person from the ship or that person's disembarkation from the ship without (in either case) the written consent of the medical officer.

(3) If the Chief Medical Officer is satisfied that a grave danger to public health exists by reason of infectious disease or contamination and notifies authorised officers accordingly, an authorised officer may —

(a) require a person disembarking from a ship to provide in writing —

(i) the person's name; and

(ii) the person's intended destination and address; and

(iii) any other information the authorised officer thinks necessary for transmission to a medical officer.

(b) specify a period of not more than 14 days for the purposes of paragraph (4)(b).

(4) This paragraph applies if a person granted permission to leave a ship under paragraph (3) either —

(a) could not provide an intended destination and address to an authorised officer when leaving the ship; or

(b) arrives within a period specified under paragraph (3)(b) at a destination or address different from one provided to the authorised officer under paragraph (3)(a)(ii).

(5) If paragraph (4) applies, the person must notify the person's actual destination and address to an authorised officer immediately after arriving at that destination or address.

11. Supply of information etc, by masters

The master of a ship on arrival or being already in a Falkland Islands must —

- (a) answer all questions as to the health conditions on board which may be put to him by an authorised officer;
- (b) furnish the authorised officer with all such information and assistance as the officer may reasonably require for the purposes of these regulations;
- (c) notify an authorised officer immediately of any circumstances on board which are likely to cause the spread of infectious disease, tuberculosis or contamination or another danger to public health, including particulars of —
 - (i) the sanitary condition of the ship;
 - (ii) the presence of animals or captive birds of any species on the ship; and
 - (iii) mortality or sickness among animals or captive birds on the ship;
- (d) comply with these regulations, and with any directions or requirements of an authorised officer given or made for the purposes of these regulations.

12. Permission to enter Falkland Islands

- (1) Before arriving from a foreign port, the master of a ship must transmit the information specified in paragraph (2) to an authorised officer nominated for the purpose.
- (2) The information that must be transmitted under paragraph (1) is all information relevant to the decision as to whether or not free pratique should be granted to the ship.
- (3) The information must be transmitted to the authorised officer by radio, fax, email or another appropriate method.
- (4) If the authorised officer is satisfied that the arrival of the ship will not result in or contribute towards the spread of infectious disease, tuberculosis or contamination or to another danger to public health, the authorised officer may transmit free pratique to the master of the ship by an appropriate method.

13. Notification of infectious disease, etc, on board

- (1) If one or more of the events listed in paragraph (2) takes place on board a ship during its voyage, the master of the ship must report the following information to an authorised officer —
 - (a) the event that has taken place; and
 - (b) any information that is relevant to the event.
- (2) The events that must be reported are —
 - (a) the death of a person otherwise than as a result of an accident;

(b) illness of a person who —

(i) has (or had) a temperature of 38°C or more that either —

(aa) persisted for more than 48 hours; or

(bb) was accompanied by a rash, glandular swelling or jaundice; or

(ii) has (or had) diarrhoea severe enough to interfere with work or normal activities;

(c) the presence on board of a person who either —

(i) is suffering from an infectious disease or tuberculosis; or

(ii) has symptoms that may indicate the presence of such disease;

(d) any other circumstances on board likely to cause the spread of infectious disease or tuberculosis or another danger to public health; and

(e) mortality or sickness amongst animals or captive birds present on board.

(3) Unless paragraph (5) applies —

(a) the authorised officer to whom a report is made under paragraph (1) must be one who has been nominated for the purpose;

(b) the report must be sent by means of a radio message, fax, e-mail or other appropriate method; and

(c) the report must be sent so as to reach the authorised officer 48 hours before the expected arrival of the ship.

(4) Paragraph (5) applies if —

(a) the ship —

(i) is not a passenger ship; and

(ii) has fewer than 60 persons on board; or

(b) it is not possible to comply with paragraph (3) before arrival (for reasons which must be exceptional).

(5) If this paragraph applies —

(a) the report must be made immediately on arrival by any appropriate method; and

(b) it may be made to any authorised officer (who must forward it without delay to the authorised officer nominated for the purpose).

14. Maritime Declaration of Health

(1) Unless paragraph (3) applies, the master of a ship must complete a Maritime Declaration of Health in the form set out in Schedule 1 if either —

(a) the master is obliged by regulation 13(1) to make a report to an authorised officer, or

(b) the master is directed to complete a Maritime Declaration of Health by an authorised officer.

(2) If the master is obliged by paragraph (1) to complete a Maritime Declaration of Health —

(a) the declaration must be countersigned by the ship's surgeon, if there is one; and

(b) the master must deliver the declaration to an authorised officer, who must forward it to the Chief Medical Officer.

(3) This paragraph applies if —

(a) the master of a ship is obliged by paragraph (1) to complete a Maritime Declaration of Health; but

(b) the master has already delivered a Maritime Declaration of Health within the previous four weeks under paragraph (1).

(4) If paragraph (3) applies —

(a) the master must report to an authorised officer any case or suspected case of infectious disease or tuberculosis that has occurred on board since the declaration was delivered but which has not already been reported; and

(b) the authorised officer must notify the Chief Medical Officer of the information reported.

15. Restriction on boarding or leaving ships

(1) This regulation applies if either —

(a) the master is obliged by regulation 13(1) to make a report to an authorised officer; or

(b) an authorised officer directs.

(2) If this regulation applies —

(a) no person may board or leave the ship until free pratique has been granted, unless either —

- (i) that person is the pilot or an authorised officer; or
 - (ii) an authorised officer has given permission; and
- (b) the master must take all reasonable steps to secure compliance with this regulation.
- (3) Before granting permission to a person to leave the ship, an authorised officer may —
- (a) require the person to provide —
 - (i) the person's name; and
 - (ii) the person's intended destination and address; and
 - (iii) any other information the authorised officer thinks necessary for transmission to a medical officer.
 - (b) specify a period of not more than 14 days for the purposes of paragraph (4)(b).
- (4) This paragraph applies if a person granted permission to leave a ship under paragraph (3) either —
- (a) could not provide an intended destination and address to an authorised officer when leaving the ship; or
 - (b) arrives within a period specified under paragraph (3)(b) at a destination or address different from one provided to the authorised officer under paragraph (3)(a)(ii).
- (5) If paragraph (4) applies, the person must notify the person's actual destination and address to an authorised officer immediately after arriving at that destination or address.

16. Ship Sanitation Certificates: inspections

- (1) Paragraph (2) applies if —
- (a) a written application for a Ship Sanitation Certificate in respect of a ship has been made by either —
 - (i) the owner of the ship; or
 - (ii) the master of the ship, acting for or on behalf of the owner;
 - (b) the master of a ship that has been in a foreign port during its voyage to the Falkland Islands cannot produce a valid Ship Sanitation Certificate for the ship; or
 - (c) an authorised officer has evidence that there is a danger to public health or of infection or contamination from a ship that has been in a foreign port during its voyage to the Falkland

Islands (whether or not there is a Ship Sanitation Certificate for that ship that would otherwise be valid).

(2) If this paragraph applies, a suitably qualified authorised officer may inspect the ship with a view to issuing a Ship Sanitation Certificate for evidence of —

- (a) danger to public health; or
- (b) danger of infection or contamination.

(3) If the ship is not within the area of an authorised port, an authorised officer may direct the ship to proceed (at the risk of the master of the ship) to an area of an authorised port convenient to a customs officer before inspecting the ship under paragraph (2).

(4) An inspection under paragraph (2) must, whenever possible, be carried out when either —

- (a) the ship and its holds are empty; or
- (b) the ship and its holds contain only ballast or other material, unattractive to rodents, of such a nature or so disposed as to make a thorough inspection of the holds possible.

(5) Paragraph (4) does not prevent an inspection from being carried out on an oil tanker with full holds.

17. Issue of Ship Sanitation Control Exemption Certificates following inspection

(1) Paragraph (2) applies if —

- (a) a suitably qualified authorised officer has inspected a ship under regulation 16(2); and
- (b) the authorised officer is satisfied that the ship is exempt from control measures.

(2) If this paragraph applies, the authorised officer must either —

- (a) issue a Ship Sanitation Control Exemption Certificate for the ship; or
- (b) arrange for one to be issued.

18. Control measures

(1) Paragraph (2) applies if —

- (a) a suitably qualified authorised officer has inspected a ship under regulation 16(2); but
- (b) the authorised officer is not satisfied that the ship is exempt from control measures.

(2) If this paragraph applies —

(a) the authorised officer must —

(i) either —

(aa) carry out control measures necessary for the control of danger to public health or of the spread of infection or contamination; or

(bb) require such measures to be carried out under the supervision of a suitably qualified authorised officer; and

(ii) either —

(aa) take any other steps that the authorised officer considers necessary to ensure that the ship does not present a danger to public health and is free of infection and from contamination;

(bb) arrange for such steps to be taken; or

(cc) require such steps to be taken; and

(b) the master of the ship must immediately make arrangements to carry out the control measures and other steps that the authorised officer requires to be taken.

(3) If the ship is not within the area of an authorised port, an authorised officer may direct the ship to proceed (at the risk of the master of the ship) to an area of an authorised port convenient to a customs officer before any control measure or other steps are taken under paragraph (2).

(4) If an authorised officer directs a ship to proceed to an authorised port under paragraph (3), the authorised officer must —

(a) inform an authorised officer at the authorised port of —

(i) the evidence found; and

(ii) the control measures and other steps required; and

(b) if the ship has a Ship Sanitation Certificate (whether or not that Ship Sanitation Certificate is valid), either —

(i) note the matters referred to in sub-paragraph (a) on the Ship Sanitation Certificate; or

(ii) arrange for this to be done.

19. Control measures: supplementary

(1) If a suitably qualified authorised officer requires a control measure to be taken under regulation 18, the officer must ensure that —

- (a) the measure consists of methods or materials advised by the WHO for the procedure; or
 - (b) if another measure is required instead, the methods or materials used are as safe and reliable as those advised by the WHO.
- (2) A suitably qualified authorised officer may require additional health measures to be taken to prevent danger to public health or the spread of infection or contamination in accordance with Article 43 of the IHR, including isolation of the ship at a mooring station or otherwise.
- (3) The authorised officer must report the application of any additional health measures required under paragraph (2) to the Chief Medical Officer, who must report them to the National IHR Focal Point.
- (4) Paragraph (5) applies if —
- (a) control measures or other steps are carried out on a ship under regulation 18; but
 - (b) a suitably qualified authorised officer considers that the conditions under which the control measures or other steps were carried out were such that a satisfactory result could not be obtained.
- (5) If this paragraph applies, the authorised officer must either —
- (a) note the following on the Ship Sanitation Certificate —
 - (i) the control measures or other steps carried out;
 - (ii) the reason why a satisfactory result could not be obtained; and
 - (iii) what control measures or other steps remain to be taken or need to be taken again; or
 - (b) arrange for this to be done.

20. Issue of Ship Sanitation Control Certificates following control measures

Once control measures referred to in regulation 18 have been completed to the satisfaction of a suitably qualified authorised officer, the authorised officer must —

- (a) either —
 - (i) issue a Ship Sanitation Control Certificate; or
 - (ii) arrange for one to be issued; and
- (b) either —
 - (i) note the following on the Ship Sanitation Control Certificate —

- (aa) the evidence found; and
 - (bb) the control measures taken; or
- (ii) arrange for this to be done.

21. Ship Sanitation Certificates: temporary extensions

(1) Paragraph (2) applies if —

- (a) one or more of the following cannot be carried out at a port —
 - (i) an inspection;
 - (ii) control measures; or
 - (iii) other steps.
- (b) there is no evidence of danger to public health or of infection or contamination; and
- (c) the port is authorised to extend the validity of a Ship Sanitation Certificate.

(2) If this paragraph applies, an authorised officer may extend the period of validity of an existing Ship Sanitation Certificate by one month from the date on which it is extended.

(3) A Ship Sanitation Certificate may be extended by one month from the date on which it is extended even if it has already either —

- (a) expired; or
- (b) been extended on one or more previous occasions.

22. Ship Sanitation Certificates: form, period of validity and retention

(1) A Ship Sanitation Certificate must conform to the model in Annex 3 to the IHR, reproduced at Schedule 2.

(2) A Ship Sanitation Certificate is valid for six months, beginning with the date on which it is issued.

(3) The Committee must retain a copy of any Ship Sanitation Certificate issued in the Falkland Islands for at least one year, beginning with the date of issue.

23. Detention of ships, and ships to be taken to mooring stations

(1) Paragraphs (2), (3) and (4) apply when one of the following arrives in the Falkland Islands —

- (a) an infected ship;

- (b) a suspected ship;
 - (c) another ship —
 - (i) on which there has been, either during its current voyage or within the last four weeks before arrival, a case of a listed disease, and
 - (ii) which has not been subjected outside the Falkland Islands to relevant measures (including relevant additional measures); or
 - (d) a ship that is contaminated.
- (2) The master of a ship to which this paragraph applies must take it (at the risk of the master of ship) to a mooring station unless an authorised officer otherwise allows or directs.
- (3) If an authorised officer has reason to believe that a ship arriving in the Falkland Islands may be one to which this paragraph applies, the authorised officer may direct the master of the ship to take it (at the risk of the master of the ship) to either —
- (a) a mooring station; or
 - (b) another place the authorised officer considers appropriate.
- (4) An authorised officer may, for the purposes of these regulations, direct that a ship arriving in the Falkland Islands from a foreign port must be taken on arrival (at the risk of the master of the ship) to a mooring station for medical inspection.
- (5) Paragraph (6) applies if either —
- (a) a case of a listed disease occurs on board a ship after it has arrived from a foreign port; or
 - (b) an animal or captive bird infected with a listed disease is discovered or suspected of being on board a ship that has arrived from a foreign port.
- (6) If this paragraph applies, an authorised officer may direct the master of the ship to take it (at the risk of the master of the ship) to a mooring station.
- (7) A ship that has been taken to a mooring station or directed there by an authorised officer must remain there until it has been inspected by a medical officer.
- (8) An authorised officer may either detain a ship for inspection at either —
- (a) the place where it is moored (even if that place is not a mooring station); or
 - (b) wherever it is being discharged or loaded; or

(9) Paragraph (10) applies if a ship has been either —

- (a) taken or directed to a mooring station under this regulation;
- (b) detained under this regulation.

(10) If this paragraph applies, a medical officer must inspect the ship and the persons on board as soon as possible.

(11) Paragraph (12) applies if —

(a) a ship has been either —

- (i) taken or directed to a mooring station under this regulation;
- (ii) detained under this regulation;

(b) the ship is one in relation to which either of the following must be taken —

- (i) control measures or other steps under regulation 18; or
- (ii) additional measures in Schedule 3; and

(c) the detention or continued detention of the ship is necessary for this to be done.

(12) If this paragraph applies, an authorised officer may either —

- (a) detain the ship; or
- (b) continue a detention to which the ship is already subject.

(13) Paragraph (14) applies if —

(a) a ship has been either —

- (i) taken or directed to a mooring station under this regulation;
- (ii) detained under this regulation;

(b) either —

- (i) rodents have been discovered on board the ship; or
- (ii) there are reasonable grounds for suspecting that there are rodents on board.

(14) If this paragraph applies, an authorised officer may require the master of the ship to take all practicable measures to prevent the escape of rodents from the ship.

24. Persons from infected areas

When a ship arrives, a medical officer may place under surveillance for the appropriate period specified in regulation 30(1) any person disembarking from the ship who has come from an area infected with a listed disease.

25. Removal of infected persons from ships when required by master

If the master of a ship so requires on the arrival of the ship, the medical officer must cause an infected person to be removed from the ship.

26. Additional measures

(1) Schedule 3 applies on the arrival of —

(a) an infected ship;

(b) a suspected ship;

(c) a ship which has, during its voyage, been in an area infected with a listed disease;

(d) a ship (other than an infected ship) on board which there is a person who is a suspected person in relation to smallpox; or

(e) a ship that is contaminated.

(2) Schedule 3 also applies on the arrival of ship, if —

(a) relevant additional measures were carried out at a previous port or during the ship's voyage on —

(i) that ship; or

(ii) one or more persons on board the ship; and

(b) either —

(i) a medical officer is satisfied that, notwithstanding the relevant additional measures —

(aa) there is on board (or has been on board since such the relevant additional measures were carried out) an infected person or a suspected person; and

(bb) it is necessary again to apply any such measure; or

(ii) a medical officer has evidence that the relevant additional measures were not effective.

(3) Measures required to be carried out under Schedule 3 must be carried out in addition to any other measures or other steps required to be carried out or taken under these regulations.

PART 4 OUTGOING SHIPS

27. Examination, etc, of persons proposing to embark

(1) Paragraph (2) applies when a ship is due to depart for a destination, whether final or intermediate, outside the Falkland Islands.

(2) If this paragraph applies, a medical officer may examine a person who proposes to embark on the ship if the medical officer has reasonable grounds for believing that person to be either —

(a) suffering from a listed disease; or

(b) contaminated.

(3) When arranging an examination carried out under paragraph (2), the medical officer must —

(a) take into account any other formalities that need to be carried out; and

(b) as far as possible, avoid delay to the ship.

(4) Paragraph (5) applies if —

(a) a medical officer, after carrying out an examination under paragraph (2), considers that a person shows either —

(i) symptoms of a listed disease; or

(ii) signs of contamination; and

(b) in the case of a person showing symptoms of smallpox, that person cannot satisfy the medical officer that the person is sufficiently protected by either —

(i) vaccination against smallpox;

(ii) previously having had smallpox.

(5) If this paragraph applies, the medical officer must either —

(a) prohibit the person from embarking on the ship; or

(b) if the person is one to whom paragraph (9) applies, deal with the person under that paragraph.

(6) Paragraph (7) applies to a person whom the medical officer considers should be placed under surveillance following an examination under paragraph (2).

(7) The medical officer must notify, by the most expeditious means, the following that the person should be placed under surveillance —

(a) the master of the ship; and

(b) the competent authority for the place to which the person is proceeding.

(8) Paragraph (9) applies to a person on an international voyage who was placed under surveillance on arrival (whether or not the person was examined under paragraph (2) before departure).

(9) If this paragraph applies, the medical officer may —

(a) allow the person to continue the voyage; and

(b) notify, by the most expeditious means, the competent authority for the place to which the person is proceeding that the person should be placed under surveillance.

28. Infected or contaminated places in the Falkland Islands

(1) This regulation applies if —

(a) the Chief Medical Officer declares any place in the Falkland Islands to be either —

(i) infected with a disease; or

(ii) contaminated; and

(b) in the Chief Medical Officer's opinion, the infection or contamination constitutes a menace to other countries by reason of its spread or potential spread.

(2) The Chief Medical Officer may impose requirements to prevent the spread of the disease or contamination.

(3) Medical officers and authorised officers must comply with requirements imposed under paragraph (2).

(4) Paragraph (5) applies if —

(a) a ship is intended to depart from the Falkland Islands for a destination, whether final or intermediate, outside the Falkland Islands; and

(b) the Chief Medical Officer has directed a medical officer to request vaccination certificates from travellers intending to depart on the ship.

(5) If this paragraph applies —

(a) the medical officer must ask each departing traveller to provide a valid vaccination certificate; and

(b) if a departing traveller cannot provide a valid vaccination certificate, the medical officer may —

(i) offer vaccination to the traveller; and

(ii) make a notification under regulation 27(7).

(6) Paragraph (7) applies if a ship is intended to depart from the Falkland Islands for a destination, whether final or intermediate, outside the Falkland Islands.

(7) If this paragraph applies —

(a) a medical officer —

(i) may medically examine a person who —

(aa) proposes to embark on the ship; or

(bb) is already on board the ship; and

(ii) must, if practicable, do so within three hours if requested to do so by the master of the ship; and

(b) an authorised officer may require one or more of the following things to be done to the ship (or any part of it) to the authorised officer's satisfaction if the authorised officer thinks it may be infected or contaminated —

(i) cleansing;

(ii) disinfection;

(iii) disinsection; and

(iv) decontamination.

(8) Paragraph (9) applies —

(a) if a ship is intended to depart from the Falkland Islands for a destination, whether final or intermediate, outside the Falkland Islands; and

(b) to clothing, bedding and other articles that —

(i) either —

(aa) are on board the ship; or

(bb) a person intends to take on board the ship; and

(ii) an authorised officer thinks may have been exposed to infection.

(9) If this paragraph applies —

(a) the master of the ship must disclose to the authorised officer any relevant circumstances; and

(b) the authorised officer —

(i) must inspect the clothing, bedding and other articles; and

(ii) may require the disinfection, decontamination or destruction of any such clothing, bedding or article.

(10) Paragraph (11) applies —

(a) if a ship is intended to depart from the Falkland Islands for a destination, whether final or intermediate, outside the Falkland Islands; and

(b) to any article that —

(i) an authorised officer thinks is capable of carrying infection or spreading contamination; and

(ii) has not been efficiently disinfected (and, if necessary, disinfected or decontaminated) to the authorised officer's satisfaction.

(11) If this paragraph applies, no person may either —

(a) take the article on board the ship; or

(b) cause the article to be taken on board the ship.

(12) Paragraph (13) applies if —

(a) the Chief Medical Officer declares any place in the Falkland Islands to be infected with plague;

(b) a ship is intended to depart from the Falkland Islands for a destination, whether final or intermediate, outside the Falkland Islands; and

(c) there is reason to believe that there are rodents on the ship.

(13) If this paragraph applies, an authorised officer —

(a) may take steps to ensure the deratting of the ship; and

(b) must do so, if required by the Chief Medical Officer.

PART 5 MISCELLANEOUS

29. Provision of information

(1) Every person to whom these regulations apply must provide an authorised officer with all information that the officer may reasonably require for the purposes of these regulations.

(2) Every person who has the custody or charge of a child or other person who is under legal disability must provide an authorised officer with all information in relation to the child or other person that the officer may reasonably require for the purposes of these regulations.

(3) Paragraph (2) does not require the provision of information in relation to a child or other person that the person in charge of the child or other person —

(a) does not know; and

(b) cannot reasonably be expected to find out.

30. Surveillance

(1) Where these regulations permit a medical officer to place a person under surveillance, the period of such surveillance may not exceed whichever of the following periods applies —

(a) in respect of plague, six days;

(b) in respect of cholera, five days;

(c) in respect of yellow fever, six days;

(d) in respect of smallpox, fourteen days;

(e) in respect of viral haemorrhagic fever, twenty-one days;

(f) in respect of a disease that is a listed disease because the Chief Medical Officer has declared it to present a significant risk to public health, a period that the Chief Medical Officer has declared to be appropriate for that disease.

(2) Where a person has been placed under surveillance for a listed disease under regulation 24 by reason of his having come from an area infected with such a disease, the period must be calculated from the date on which that person left the infected area.

(3) When a person has been placed under surveillance under Schedule 3, the period must be calculated according to the appropriate provision in that Schedule.

(4) Every person who is placed under surveillance under these regulations must —

(a) submit to any medical examination required by a medical officer; and

(b) furnish all information that a medical officer mentioned may reasonably require with a view to ascertaining the person's state of health.

(5) If, during the period of surveillance, a person under surveillance arrives at an address other than the one stated as that person's intended address when placed under surveillance, that person must immediately send particulars of that address to the medical officer.

(6) Paragraph (7) applies if the Chief Medical Officer has authorised (either generally or in relation to one or more specific cases) the giving of instructions under that paragraph.

(7) If this paragraph applies, a medical officer may —

(a) instruct a person under surveillance to report to the medical officer for examination or treatment (or both) either —

(i) immediately; or

(ii) at a specified date and time; and

(b) instruct the person to report again at either —

(i) another specified date and time; or

(ii) specified intervals during the period of surveillance.

31. Charges for services

(1) An authorised officer may charge the owner or master of a ship, in accordance with the tariff established under regulation 32, for a service described in paragraph (2) in so far as the purpose of providing the service is to prevent —

(a) danger to the public health from a ship arriving in the Falkland Islands; or

(b) the spread of infection from a ship leaving the Falkland Islands.

(2) The services mentioned in paragraph (1) are —

- (a) the inspection of the ship in connection with the issue of a Ship Sanitation Certificate in respect of the ship;
- (b) the issue of a Ship Sanitation Certificate;
- (c) the renewal of a Ship Sanitation Certificate;
- (d) the extension of the period of validity of a Ship Sanitation Certificate;
- (e) the carrying out of measures carried out or required to be carried out under these regulations;
- (f) the taking of other steps taken or required to be taken under these regulations;
- (g) the supervision under these regulations of the carrying out of measures or the taking of other steps;
- (h) the carrying out, at the request of the master of a ship or another person, of measures that the master or other person is required to carry out under these regulations; and
- (i) the taking, at the request of the master of a ship or another person, of other steps that the master or other person is required to take under these regulations.

(3) An authorised officer may require the whole or part of the amount of a charge for a service under paragraph (1) to be paid or deposited before the service is performed.

(4) Paragraph (5) applies if a request is made by a person required to pay a charge under paragraph (1).

(5) On request by a person required to pay a charge under paragraph (1), an authorised officer must provide that person, free of charge, with written particulars of —

(a) the services provided; and

(b) the reasons why the measures were taken.

(6) On request by a person in relation to whom measures have been taken, or of a person in possession of articles in relation to which measures have been taken, an authorised officer must provide particulars in writing free of charge of the measures taken for which a charge under paragraph (1) is made.

(7) Particulars under paragraph (6) shall include the date on which the measures were taken.

32. Charges for services: tariff

(1) The Chief Medical Officer must establish (and maintain) a tariff for charges for services under regulation 31, which —

(a) must be —

(i) published at least ten days before it comes into force; and

(ii) described sufficiently that the owner or master of the ship is reasonably informed of the likely amount of the charge; and

(b) must not be discriminatory and, in particular —

(i) must not be levied so as to make a distinction based on the nationality, registry or ownership of the ship or containers, cargo, baggage, goods or postal parcels concerned; and

(ii) must not distinguish between national and foreign ships or containers, cargo, baggage, goods or postal parcels.

(2) The amount of each charge on the tariff may not exceed the actual cost of the service.

(3) In calculating the actual cost of a service, the Chief Medical Officer may —

(a) make reasonable estimates as to the likely cost of the service;

(b) average out the costs of similar services; and

(c) take into account capital and overhead costs over a reasonable period.

33. Recovery of charges

Every charge authorised by regulation 31 shall be recoverable either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction.

34. Expenses

Subject to regulations 31 and 32, any expenses incurred by the Committee in the enforcement and execution of these regulations may be defrayed in the same manner as the expenses incurred by it in the execution and discharge of its other powers and duties.

35. Compliance with requirements contained in and imposed under regulations

(1) Every person to whom these regulations apply must —

(a) comply with —

(i) every requirement contained in these regulations that applies to that person; and

(ii) every requirement imposed on that person under these regulations; and

(b) take all reasonable steps to ensure compliance with every requirement imposed in relation to that person under these regulations.

(2) Paragraph (3) applies to —

(a) every requirement contained in these regulations that applies to a child or another person who is under a legal disability; and

(b) every requirement imposed on or in relation to a child or another person who is under a legal disability.

(3) The person who has the custody or charge of a child or another person who is under legal disability must either —

(a) comply with the requirements to which this paragraph applies on behalf of the child or other person; or

(b) take all steps to ensure compliance with those requirements.

36. Provisions that apply if the master of a ship is unwilling to comply with these regulations

(1) This regulation applies if the master of a ship is unwilling to comply with —

(a) one or more provisions of these regulations;

(b) a requirement imposed under these regulations.

(2) If this regulation applies —

(a) the master must notify an authorised officer; and

(b) the authorised officer (or another authorised officer) may require the master to remove the ship immediately from the Falkland Islands.

(3) Paragraph (4) applies if —

(a) an authorised officer has required a ship to be removed under paragraph (2); and

(b) the master of the ship wishes to do one or more of the following things before leaving the Falkland Islands —

(i) discharge cargo;

(ii) disembark passengers;

(iii) take on board fuel, water or stores.

(4) If this paragraph applies —

(a) the master must notify the authorised officer; and

(b) the authorised officer —

(i) must permit the master to do so; but

(ii) may impose such conditions as the authorised officer considers necessary.

(5) If an authorised officer has required the removal of a ship from the Falkland Islands under paragraph (2), the ship must not call anywhere else in the Falkland Islands during its voyage.

37. Offences

(1) It is an offence to contravene regulation 35(1), (2) or (3).

(2) No offence is committed by the master of a ship who complies with regulation 36 but this does not affect any offence committed in relation to a provision or requirement other than one in relation to which the master of the ship invoked regulation 36.

(3) It is an offence for a person to make a statement for the purpose of providing information required under these regulations for either that person or another person to enter or remain in a restricted zone, if —

(a) the statement is false in a material particular; and

(b) the person making the statement either —

(i) knows that the statement is false in a material particular; or

(ii) is reckless as to whether or not the statement is false in a material particular.

(4) A person who commits an offence against paragraph (1) or (3) is liable on conviction to —

(a) imprisonment for up to two months;

(b) a fine not exceeding level 5 on the standard scale; or

(c) both.

38. Saving for existing enactments

Nothing in these regulations affects the following ordinances or subsidiary legislation made under them —

(a) Customs Ordinance;

(b) Falkland Interim Port and Storage System Ordinance (Title 57.1);

(c) Harbours Ordinance; and

(d) Immigration Ordinance.

SCHEDULE 1

regulations 3(1) and 14(1)

MODEL OF MARITIME DECLARATION OF HEALTH

To be completed and submitted to the competent authorities by the masters of the ships arriving from foreign ports.

Submitted at the port of Date

Name of ship or inland navigation vessel Registration IMO No arriving from sailing to

(Nationality)(Flag of vessel) Master's name

Gross tonnage (ship)

Tonnage (inland navigation vessel)

Valid Sanitation Control Exemption Certificate carried on board? yes no Issued at date

Re-inspection required? yes no

Has ship/vessel visited an affected area identified by the World Health Organization? yes no

Port and date of visit

List ports of call from commencement of voyage with dates of departure, or within past thirty days, whichever is shorter:

Upon request of the competent authority at the port of arrival, list crew members, passengers or other persons who have joined ship/vessel since international voyage began or within past thirty days, whichever is shorter, including all ports/countries visited in this period (add additional names to the attached schedule):

(1) Name joined from: (1) (2) (3)

(2) Name joined from: (1) (2) (3)

(3) Name joined from: (1) (2) (3)

Number of crew members on board

Number of passengers on board

Health questions

- (1) Has any person died on board during the voyage otherwise than as a result of accident? yes no
If yes, state particulars in attached schedule Total no. of deaths
- (2) Is there on board or has there been during the international voyage any case of disease which you suspect to be of an infectious nature?
yes no If yes, state particulars in attached schedule
- (3) Has the total number of ill passengers during the voyage been greater than normal/expected? yes no
How many ill persons?
- (4) Is there any ill person on board now? yes no If yes, state particulars in attached schedule
- (5) Was a medical practitioner consulted? yes no If yes, state particulars of medical treatment or advice provided in attached schedule
- (6) Are you aware of any condition on board which may lead to infection or spread of disease? yes no
If yes, state particulars in attached schedule
- (7) Has any sanitary measure (e.g. quarantine, isolation, disinfection or decontamination) been applied on board? yes no
If yes, specify type, place and date
- (8) Have any stowaways been found on board? yes no If yes, where did they join the ship (if known)?
- (9) Is there a sick animal or pet on board? yes no

Note. In the absence of a surgeon, the master should regard the following symptoms as grounds for suspecting the existence of a disease of an infectious nature.

- (a) fever, persisting for several days or accompanied by (i) prostration, (ii) decreased consciousness, (iii) glandular swelling, (iv) jaundice, (v) cough or shortness of breath, (vi) unusual bleeding, or (vii) paralysis,
- (b) with or without fever: (i) any acute skin rash or eruption; (ii) severe vomiting (other than sea sickness); (iii) severe diarrhoea; or (iv) recurrent convulsions.

I hereby declare that the particulars and answers to the questions given in this Declaration of Health (including the schedule) are true and correct to the best of my knowledge and belief

Signed
Master

Countersigned
Ship's Surgeon (if carried)

Date

ATTACHMENT TO MODEL OF MARITIME DECLARATION OF HEALTH

Name	Class or rating	Age	Sex	Nationality	Port. date joined ship/vessel	Nature of illness	Date of onset of symptoms	Reported to a port medical officer?	Disposal of case*	Drugs medicines or other treatment given to patient	Comments

* State: (1) whether the person recovered, is still ill or died; and (2) whether the person is still on board, was evacuated (including the name of the port or airport), or was buried at sea.

SCHEDULE 2

regulations 3(1) and 22(1)

MODEL SHIP SANITATION CONTROL EXEMPTION CERTIFICATE/SHIP SANITATION CONTROL CERTIFICATE

Port of Date

This Certificate records the inspection and 1) exemption from control or 2) control measures applied

Name of ship or inland navigation vessel Flag Registration /IMO No

At the time of inspection the holds were unladen/laden with tonnes of cargo

Name and address of inspecting officer

Ship Sanitation Control Exemption Certificate			
Areas, [systems, and services] inspected	Evidence found ¹	Sample results ²	Documents reviewed
Galley			Medical log
Pantry			Ship's log
Stores			Other
Holds(s) cargo			
Quarters			
- crew			
- officers			
- passengers			
- deck			
Potable water			
Sewage			
Ballast tanks			
Solid and medical waste			
Standing water			
Engine room			
Medical facilities			
Other areas specified – see attached			
Note areas not applicable, by marking N/A			

No evidence found. Ship/vessel is exempted from control measures.

Ship Sanitation Control Certificate		
Control measures applied	Re-inspection date	Comments regarding conditions found

Control measures indicated were applied on the date below

Name and designation of issuing officer Signature and seal Date

¹(a) Evidence of infection or contamination, including: vectors in all stages of growth, animal reservoirs for vectors: rodents or other species that could carry human disease, microbiological, chemical and other risks to human health: signs of inadequate sanitary measures (b) Information concerning any human cases (to be included in the Maritime Declaration of Health)

²Results from samples taken on board. Analysis to be provided to ship's master by most expedient means, and if re-inspection is required, to the next appropriate port of call coinciding with the re-inspection date specified in this certificate.

Sanitation Control Exemption Certificates and Sanitation Control Certificates are valid for a maximum of six months, but the validity period may be extended by one month if inspection cannot be carried out at the port and there is no evidence of infection or contamination

ATTACHMENT TO MODEL SHIP SANITATION CONTROL EXEMPTION CERTIFICATE/SHIP SANITATION CONTROL CERTIFICATE

Areas/facilities/systems inspected	Evidence found	Sample results	Documents reviewed	Control measures applied	Re-inspection date	Comments regarding conditions found
Food						
Source						
Storage						
Preparation						
Service						
Water						
Source						
Storage						
Distribution						
Waste						
Holding						
Treatment						
Disposal						
Swimming pools/spas						
Equipment						
Operation						
Medical facilities						
Equipment and medical devices						
Operation						
Medicines						
Other areas inspected						

Indicate when the areas listed are not applicable by marking N/A

SCHEDULE 3
ADDITIONAL MEASURES WITH RESPECT TO SOME DISEASES

regulations 3(1), 23(11), 26 and 30(3)

PART 1
PLAGUE

1.—(1) This paragraph applies to a person on board a ship who —

- (a) has been infected with plague;
- (b) is suspected of being infected with plague; or
- (c) has been exposed to plague; or
- (d) is suspected of having been exposed to plague.

(2) A medical officer may —

- (a) require a person to whom this paragraph applies to be disinfected;
- (b) place a person to whom this paragraph applies under surveillance for a period of up to six days from the date on which the ship arrives;
- (c) require the disinsecting and, if necessary, disinfection of —
 - (i) the baggage of a person to whom this paragraph applies; and
 - (ii) parts of the ship and articles on board the ship that the medical officer considers to have been contaminated by a person to whom this paragraph applies.

2.—(1) This paragraph applies if there is a rodent infected with plague on board a ship.

(2) An authorised officer must —

- (a) require the ship to be deratted; and
- (b) determine the manner in which the ship is to be deratted.

(3) Subject to sub-paragraphs (4) and (5), the deratting must be carried out as soon as either —

- (a) the holds have been emptied; or
- (b) they contain only ballast or other material, unattractive to rodents, of such a nature or so disposed as to make a thorough inspection of the holds possible.

(4) Deratting may be carried out on an oil tanker with full holds.

(5) One or more preliminary derattings of a ship may be carried out with cargo in situ, or during its unloading, to prevent the escape of infected rodents.

(6) If the complete destruction of rodents on a ship cannot be ensured because only part of the cargo is due to be unloaded —

(a) the ship need not be prevented from unloading that part of the cargo; but

(b) the authorised officer (or another authorised officer) may apply any measure which the authorised officer considers necessary to prevent the escape of infected rodents, including placing the ship in quarantine.

3.—(1) This paragraph applies on the arrival of a ship if either —

(a) there are one or more persons on board who are suffering from pulmonary plague; or

(b) there has been a case of pulmonary plague on board the ship within the six days before arrival.

(2) A medical officer may —

(a) carry out the measures set out in paragraph 1; and

(b) require one or more persons on board the ship to be placed in isolation for up to six days from the date of the last exposure to infection.

4.—(1) This paragraph applies in relation to a ship which has, during its voyage, been in an area infected with plague.

(2) A medical officer may —

(a) place under surveillance any suspected person who disembarks, the period of surveillance being reckoned from the date of the departure of the ship from the infected area;

(b) regard as suspected any person not isolated for 6 days before departure from an area with an epidemic of pulmonary plague; and

(c) in exceptional circumstances and for well founded reasons (of which the medical officer must give the master of the ship notice in writing), require the destruction of rodents on the ship and disinsecting.

PART 2
CHOLERA

5.—(1) Paragraph 6 applies in relation to a ship that —

- (a) is an infected ship or a suspected ship in relation to cholera; or
- (b) has, during its voyage, been in an area infected with cholera.

(2) Paragraph 6 also applies to a ship, if —

(a) relevant additional measures in relation to cholera were carried out at a previous port or during the ship's voyage on —

- (i) that ship; or
- (ii) one or more persons on board the ship; and

(b) either —

(i) a medical officer is satisfied that, notwithstanding the relevant additional measures —

(aa) there is on board (or has been on board since such the relevant additional measures were carried out) a person suffering from cholera or a person who is a suspected person in relation to cholera; and

(bb) it is necessary again to apply any such measure; or

(ii) a medical officer has evidence that the relevant additional measures were not effective.

6.—(1) A medical officer may place under surveillance a person who disembarks from the ship, the period of surveillance being reckoned from the date of disembarkation from the ship.

(2) An authorised officer is responsible for —

(a) the supervision of the removal and safe disposal of any water, food (excluding cargo), human waste, waste water (including bilge water, waste matter and any other matter which is considered to be contaminated); and

(b) the disinfection of water tanks and food handling equipment.

(3) Foodstuffs carried as cargo on board ships in which a case of cholera has occurred during the journey may not be subjected to bacteriological examination except by the health authorities of the country of final destination.

**PART 3
YELLOW FEVER**

7.—(1) Paragraph 8 applies in relation to a ship that —

- (a) is an infected ship or a suspected ship in relation to yellow fever; or
- (b) has, during its voyage, been in an area infected with yellow fever.

(2) Paragraph 8 also applies to a ship, if —

(a) relevant additional measures in relation to yellow fever were carried out at a previous port or during the ship's voyage on —

- (i) that ship; or
- (ii) one or more persons on board the ship; and

(b) either —

(i) a medical officer is satisfied that, notwithstanding the relevant additional measures —

(aa) there is on board (or has been on board since such the relevant additional measures were carried out) a person suffering from yellow fever or a person who is a suspected person in relation to yellow fever; and

(bb) it is necessary again to apply any such measure; or

(ii) a medical officer has evidence that the relevant additional measures were not effective.

8. A medical officer may require the ship to be disinfected for the destruction of vectors of yellow fever which may be on board.

**PART 4
SMALLPOX**

9.—(1) Paragraph 10 applies in relation to a ship that is an infected ship in relation to smallpox.

(2) Paragraph 10 also applies to a ship, if —

(a) relevant additional measures in relation to smallpox were carried out at a previous port or during the ship's voyage on —

- (i) that ship; or

(ii) one or more persons on board the ship; and

(b) either —

(i) a medical officer is satisfied that, notwithstanding the relevant additional measures —

(aa) there is on board (or has been on board since such the relevant additional measures were carried out) a person suffering from smallpox or a person who is a suspected person in relation to smallpox; and

(bb) it is necessary again to apply any such measure; or

(ii) a medical officer has evidence that the relevant additional measures were not effective.

10.—(1) A medical officer must offer vaccination to any person on board or disembarking from the ship who cannot show sufficient evidence of protection from having smallpox —

(a) producing a valid certificate for having been vaccinated against smallpox; or

(b) show sufficient evidence of previously having had smallpox.

(2) A medical officer may either —

(a) place under surveillance any person who disembarks, the period of surveillance being calculated from the date on which the medical officer considers the person was last exposed to infection; or

(b) if he considers any such person is not sufficiently protected against smallpox, isolate him for a similar period.

(3) A medical officer must require the disinfection of —

(a) the baggage of a person suffering from smallpox or who is a suspected person in relation to smallpox; and

(b) parts of the ship and articles on board the ship that the medical officer considers to have been contaminated with smallpox.

11. A medical officer may also apply the provisions of paragraphs 10 of this Part to a person who —

(a) is a suspected person in relation to smallpox; and

(b) disembarks from a ship which is not an infected ship in relation to smallpox.

PART 5
RABIES OR VIRAL HAEMORRHAGIC FEVER

12. —(1) Paragraphs 13 and 14 apply in relation to a ship that —

- (a) is an infected ship or a suspected ship in relation to rabies or viral haemorrhagic fever; or
- (b) has, during its voyage, been in an area infected with rabies or viral haemorrhagic fever;

(2) Paragraphs 13 and 14 also apply to a ship, if —

(a) relevant additional measures in relation to rabies or haemorrhagic fever were carried out at a previous port or during the ship's voyage on —

(i) that ship; or

(ii) one or more persons on board the ship; and

(b) either —

(i) a medical officer is satisfied that, notwithstanding the relevant additional measures —

(aa) there is on board (or has been on board since the relevant additional measures were carried out) a person suffering from rabies or viral haemorrhagic fever or a person who is a suspected person in relation to rabies or viral haemorrhagic fever; and

(bb) it is necessary again to apply any such measure; or

(ii) a medical officer has evidence that the relevant additional measures were not effective.

13. —(1) A medical officer may —

(a) place a suspected person on board under surveillance, the period of surveillance being calculated from the date of arrival of the ship; and

(b) require the disinfection of —

(i) the baggage of a person suffering from rabies or viral haemorrhagic fever or who is a suspected person in relation to rabies or viral haemorrhagic fever; and

(ii) any other article on board and any part of the ship which the medical officer considers to be contaminated.

14. —(1) This paragraph applies if there are one or more rodents on board a ship.

(2) An authorised officer must —

(a) require the ship to be deratted; and

(b) determine the manner in which the ship is to be deratted.

(3) Subject to sub-paragraphs (4) and (5), the deratting must be carried out as soon as either —

(a) the holds have been emptied; or

(b) they contain only ballast or other material, unattractive to rodents, of such a nature or so disposed as to make a thorough inspection of the holds possible.

(4) Deratting may be carried out on an oil tanker with full holds.

(5) One or more preliminary derattings of a ship may be carried out with cargo in situ, or during its unloading, to prevent the escape of infected rodents.

(6) If the complete destruction of rodents on a ship cannot be ensured because only part of the cargo is due to be unloaded —

(a) the ship need not be prevented from unloading that part of the cargo; but

(b) the authorised officer (or another authorised officer) may apply any measure which the authorised officer considers necessary to prevent the escape of infected rodents, including placing the ship in quarantine.

PART 6 OTHER LISTED DISEASES

15. The Chief Medical Officer may specify the additional measures that must be carried out in relation to —

(a) a ship that is either —

(i) an infected ship in relation to a disease that is a listed disease because the Chief Medical Officer has declared it to present a significant risk to public health; or

(ii) a suspected ship in relation to such a disease; and

(b) persons who are (or have been) on board such a ship.

PART 7 CONTAMINATION

16. The Chief Medical Officer may specify the additional measures that must be carried out in relation to —

(a) a ship that is contaminated; and

(b) persons who are (or have been) on board such a ship.

Made 25 June 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the regulations)

The Schedule to the Public Health Ordinance (Title 61.1) applies the Public Health (Ships) Regulations 1979 (as they applied in the United Kingdom on 31 July 2004) in the Falkland Islands.

The Public Health (Amendment) Ordinance (No 5 of 2010) disapplies those regulations on the date on which the Amendment Ordinance comes into force.

It is envisaged that the Public Health (Amendment) Ordinance and these Regulations will be brought into force at the same time, so that these regulations directly replace the Public Health (Ships) Regulations 1979, as they applied in the Falkland Islands.

These regulations (which are made under section 27 of the Public Health Ordinance) are intended to implement the World Health Organisation's International Health Regulations in relation to shipping traffic into and out of the Falkland Islands.

The main change is to replace the regime for deratting certificates with a new regime for Ship Sanitation Certificates.

Part 1 deals with preliminary matters.

Regulation 3 sets out the definitions of various terms that are used elsewhere in the regulations.

Regulation 4 deals with the limited application of the regulations to ships in Her Majesty's armed forces and certain other armed forces.

Part 2 deals with general matters.

Regulation 5 provides that it is the duty of the Health & Medical Services Committee to enforce and execute these regulations but that this is to be done through the Chief Medical Officer and other medical officers (appointed by the Chief Medical Officer) and through other authorised officers (the Chief Medical Officer, other medical officers, customs officers, immigration officers, the Harbour Master, veterinary officers and other persons appointed for the purposes of these regulations). It also provides for various things that the Committee must do to ensure the proper exercise of its functions.

Regulation 6 deals with the appointment of medical officers and authorised officers and also provides for various things that the Chief Medical Officer may do for the purposes of these regulations.

Regulation 6 also provides for the issue of directions to the Chief Medical Officer by the Health & Medical Services Committee or the Governor and for the issue of directions to medical officers and authorised officers by the Chief Medical Officer, the Collector of Customs, the Principal Immigration Officer and the Harbour Master.

Part 3 deals with provisions that apply to ships coming into Falklands Island waters and landing in the Falkland Islands.

Regulation 7 provides for the inspection of ships by an authorised officer and the taking of samples of food or water from the ship for analysis or examination.

Regulation 8 gives authorised officers the power to direct ships for the purposes of inspection.

Regulations 9 and 10 give medical officers and authorised officers various powers in relation to persons who are on board ships.

Regulation 11 places the masters of ships under an obligation to provide information to authorised officers.

Regulation 12 deals with requests for free pratique and the transmission of information before free pratique is granted.

Regulation 13 deals with the requirement to report infectious diseases and other health events that on board ships during voyages to the Falklands. In the case of passenger ships (ships certified to carry more than 12 passengers) or other ships with 60 or more people on board, this must normally be done at least 48 hours before the expected time of arrival. In other cases, this may be done on arrival.

Regulation 14 deals with the obligation to provide a Maritime Declaration of Health if a report has had to be made under regulation 13 or if one is requested by an authorised officer. *Schedule 1* provides for the form in which Maritime Declarations of Health must be made.

Regulation 15 provides for restrictions on boarding and leaving ships if a Maritime Declaration of Health has to be made or if an authorised officer directs.

Regulation 16 deals with the inspections to be carried out prior to the issue of a Ship Sanitation Certificate and the circumstances in which these inspections may be carried out.

Regulation 17 deals with the issue of a Ship Sanitation Control Exemption Certificate to ships that are exempt from control measures.

Regulations 18 and 19 deal with control measures and other steps and *regulation 20* deals with the issue of a Ship Sanitation Control Certificate following control measures and other steps.

Regulation 21 deals with temporary extensions to Ship Sanitation Certificates for periods of one month in certain circumstances.

Regulation 22 provides that Ship Sanitation Certificates must be in the form set out at *Schedule 2*, that Ship Sanitation Certificate is valid for six months from the date on which it is issued and that copies must be retained by the Health & Medical Services Committee for a year after issue.

Regulation 23 deals with the circumstances in which ships may be detained or directed to mooring stations.

Regulation 24 deals with surveillance of persons disembarking from ships who have come from infected areas and *regulation 25* deals with the removal of infected persons from ships.

Regulation 26 and *Schedule 3* deal with additional measures to be taken in relation to the listed diseases (which are plague, cholera, yellow fever, smallpox, rabies, viral haemorrhagic fever or another infectious or contagious disease that the Chief Medical Officer has declared to present a significant risk to public health) or contamination

Part 4 deals with provisions that apply to ships leaving Falklands Island waters and departing from the Falkland Islands.

Regulation 27 deals with the examination of persons embarking on ships about to depart for destinations outside the Falkland Islands and the steps that may be taken in certain circumstances following examination.

Regulation 28 provides for measures that may be taken if there is disease or contamination in the Falkland Islands that constitutes a menace to other countries.

Part 5 deals with miscellaneous matters.

Regulation 29 imposes requirements for the provision of information to authorised officers.

Regulation 30 makes detailed provision in relation to surveillance for disease.

Regulation 31 allows for charges to be made in respect of services, for advance payment and the provision of information in relation to charges. *Regulation 32* provides for the establishment and maintenance of a tariff for such charges and *regulation 33* for the recovery of unpaid charges.

Regulation 34 provides for other expenditure by the Health & Medical Services Committee for the purposes of these regulations.

Regulation 35 imposes obligations on persons to comply with regulations and requirements imposed under the regulations and to take reasonable steps to ensure compliance with them. It also imposes obligations on persons in charge of children and other persons under a legal disability.

Regulation 36 provides for ships to leave the Falkland Islands instead of complying with these regulations or requirements imposed under them. It also makes provision for arrangements that can be made for leaving the Falkland Islands.

Regulation 37 makes it an offence to contravene any of the obligations in regulation 35 except to the extent that regulation 36 applies. It also provides that it is an offence to provide false information.

Regulation 37 also provides that the maximum penalty for an offence against these regulations is imprisonment for 2 months and/or a level 5 fine (currently, £3,000). The same maximum penalty applies under section 30(1) of the Public Health Ordinance for an offence under section 29 of obstructing an officer in the execution of these regulations.

Regulation 38 provides that these regulations do not affect the Customs Ordinance (Title 26.1), the Falkland Interim Port and Storage System Ordinance (Title 57.1), the Harbours Ordinance (Title 57.3) or the Immigration Ordinance (Title 52.2).

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2010

S. R. & O. No 13 of 2010

Made: 25 June 2010

Published: 1 July 2010

Coming into force: on publication

I make this order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) on the advice of the Standing Finance Committee as required by section 9A(1) of the Ordinance.

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order —

“designated employer” means an employer listed in the Schedule;

“qualifying employee” means a person —

- (a) who satisfies the requirements of section 9A of the Ordinance; and
- (b) who is either employed by a designated employer

“relevant employment” means —

- (a) employment only for the purpose of providing services in the Falkland Islands to Her Majesty's regular armed forces or in the Falkland Islands to the Ministry of Defence of Her Majesty's Government in the United Kingdom; or
- (b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) of this definition or by virtue of this paragraph of this definition;

“relevant income” means income from relevant employment; and

“retirement pension contributions” means contributions that an employee is required to pay under the Retirement Pensions Ordinance (No 20 of 1996).

4. Application

(1) Subject to article 5, a qualifying employee is exempt from liability under any law of the Falkland Islands to pay —

(a) income tax on relevant income from a designated employer; and

(b) retirement pension contributions in respect of that employment.

(2) The exemption applies whether the liability arises before or after this order comes into force.

5. Duration

Nothing in this order confers any exemption to pay either —

(a) income tax in relation to earnings after 31 December 2010; or

(b) retirement pension contributions in respect of employment after that date.

6. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2010 (No 6 of 2010) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

British International Helicopter Services Limited

COLAS Limited

David Lomas Limited

Gifford Global Limited

Interserve Defence Limited

MPI Aviation Limited

Navy, Army and Air Force Institutes

Satec Limited

Serco Limited

Services Sound and Vision Corporation

Sodexo Defence Services Limited
Trant Construction Limited
VT Aerospace Limited
VT Communications Limited
Westland Helicopters Limited

Made 25 June 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence-based employment. Such orders can only be made on the advice of the Standing Finance Committee.

This order means that employees who work for one of the employers listed in the Schedule are exempt from income tax and retirement pension contributions until 2010, provided that they are engaged in relevant employment (as defined) and the other requirements set out in section 9A of the Ordinance are met.

The effect of this order (which replaces a previous order) is to add three additional employers (COLAS Limited, David Lomas Limited, and Gifford Global Limited) to the list of qualifying employers.

Family Allowances (Amendment) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of the Family Allowances Ordinance

FAMILY ALLOWANCES (AMENDMENT) BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: 1 July 2010)

(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Family Allowances Ordinance (Title 65.1).

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Family Allowances (Amendment) Ordinance.

2. Commencement

This Ordinance is deemed to have come into force on 1 July 2010.

3. Amendment of Family Allowances Ordinance

Section 4 of the Family Allowances Ordinance is repealed and the following substituted —

“4. Meaning of “child”

A person who has not yet reached the age of 16 is a child for the purposes of this Ordinance.”

OBJECTS AND REASONS

This Bill would amend definition of “child” in section 4 of the Family Allowances Ordinance (Title 65.1).

The amendment implements a decision to remove the entitlement of Family Allowance from children who have reached the age of 16.

The effect of the change would be back-dated to 1 July 2010. However, the proposal was announced on 24 June 2010 and, pending consideration of the Bill, no payments have been made since 1 July 2010 in respect of children affected by the change.

Mental Health Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

PART 1 INTRODUCTORY

1. Title
2. Commencement date
3. Interpretation

PART 2 APPLICATION OF ORDINANCE

4. Application of Ordinance: "mental disorder"

PART 3 COMPULSORY DETENTION IN HOSPITAL

5. Detention for assessment
6. Hospital treatment orders
7. Detention by registered nurse where patient already in hospital
8. Effect of hospital treatment order
9. Duty to keep patients under continuing review
10. Duty of ward manager to give information to detained patients
11. Patient's right to independent examination
12. Patient's right to legal practitioner
13. Discharge of patient
14. Duty of ward manager to inform nearest relative of discharge
15. Chief Medical Officer to consider representations
16. Leave of absence from hospital
17. Patients absent without leave
18. Transportation of patients

PART 4 CONVEYING PATIENTS TO HOSPITAL

19. Warrant to search for and remove patients
20. Mentally disordered persons found in public places
21. Provisions as to custody, conveyance and detention
22. Retaking of patients escaping from custody

PART 5 COMMUNITY TREATMENT ORDERS

23. Community treatment orders
24. Conditions
25. Duration of community treatment order
26. Effect of community treatment order
27. Duty to give information to community patients

28. Power to recall to hospital
29. Powers in respect of recalled patients
30. Effect of revoking community treatment order
31. Effect of expiry of community treatment order

PART 6
GUARDIANSHIP

32. Application for guardianship
33. Effect of guardianship order
34. Duty to keep patients under continuing review
35. Duty to give information to patients subject to guardianship
36. Transfer of guardianship
37. Discharge of guardianship
38. Chief Medical Officer to consider representations on guardianship
39. Patient subject to guardianship absent without leave

PART 7
MENTAL HEALTH TRIBUNAL

40. Composition of Mental Health Tribunal
41. Appeal against hospital treatment order
42. Appeal against community treatment order
43. Appeal against revocation of community treatment order
44. Renewal of hospital treatment order
45. Renewal of community treatment order
46. Tribunal procedure and evidence
47. Tribunal to give reasons

PART 8
PERSONS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

48. Remand to hospital for report on accused's mental condition
49. Remand of accused person to hospital for treatment
50. Power of court to order detention in hospital or guardianship
51. Interim detention orders
52. Information to facilitate criminal guardianship orders
53. Effect of criminal guardianship orders
54. Restriction orders
55. Powers of Governor in respect of patients subject to restriction orders
56. Power to discharge patients subject to restriction orders
57. References and applications concerning conditionally discharged patients
58. Transfer to hospital of prisoners
59. Further provisions as to transfer orders
60. Effect of detention under this Part
61. Variation of orders under this Part
62. Information as to hospitals
63. Detention orders and overseas removal orders
64. Requirements as to evidence

PART 9

REMOVAL OF PATIENTS FROM THE FALKLAND ISLANDS

- 65. Removal of patients from the Falkland Islands
- 66. Restraint of a patient in transit
- 67. Further provisions as to overseas removal orders
- 68. Notifications

PART 10

MEDICAL TREATMENT

- 69. Patients to whom Part 10 applies
- 70. Treatment not requiring consent
- 71. Treatment requiring consent or second opinion
- 72. Plans of treatment
- 73. Withdrawal of consent
- 74. Urgent treatment
- 75. Prohibited treatments

PART 11

MISCELLANEOUS

- 76. Powers of entry and inspection
- 77. Welfare of certain hospital patients
- 78. Code of practice
- 79. General protection of detained patients
- 80. Complaint to the Mental Health Tribunal
- 81. Informal admission of patients
- 82. Accommodation for children
- 83. No duty to make further enquiries
- 84. Conflicts of interest
- 85. Protection for acts done in pursuance of this Ordinance

PART 12

OFFENCES

- 86. Forgery and false statements
- 87. Ill-treatment of patients
- 88. Assisting patients to absent themselves without leave
- 89. Obstruction

PART 13

SUPPLEMENTARY

- 90. Regulations
- 91. Approved practitioners
- 92. Approved medical centre
- 93. "Relative" and "nearest relative"
- 94. Appointment by court of nearest relative
- 95. Repeal

MENTAL HEALTH BILL 2010

(No: of 2010)

(assented to: 2010)
(commencement: in accordance with section 2)
(published: 2010)

A BILL

for

AN ORDINANCE

To make new provision for mentally disabled persons.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTORY

1. Title

This Ordinance may be cited as the Mental Health Ordinance.

2. Commencement date

This Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

3. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

“absent without leave” has the meaning given by section 17;

“Advisory Committee” means the Advisory Committee established by section 70 of the Constitution;

“approved medical centre” has the meaning given by section 92;

“approved doctor” has the meaning given by section 91;

“approved professional” has the meaning given by section 91;

“approved practitioner” means an approved doctor or an approved professional;

“available”, in relation to treatment, does not necessarily mean available in the Falkland Islands;

“Chief Medical Officer” means the person for the time being holding the post of chief medical officer to the Government, including any person acting in that capacity;

“code of practice” has the meaning given by section 78;

“community patient” means a patient in respect of whom a community treatment order is in force;

“community treatment order” has the meaning given by section 23;

“detention order” has the meaning given by section 50;

“guardianship order” has the meaning given by section 32;

“hospital” means the King Edward VII Memorial Hospital in Stanley or any other hospital approved by the Governor by order for the purposes of this Ordinance;

“hospital treatment order” has the meaning given by section 6;

“interim detention order” has the meaning given by section 51;

“justice of the peace” means any person appointed to that office under the Administration of Justice Ordinance (Title 22.1);

“legal practitioner” has the meaning given to it in the Legal Practitioners Ordinance (Title 22.4);

“medical treatment” includes nursing, psychological intervention and specialist mental health habilitation, rehabilitation and care;

“mental disorder” has the meaning given by section 4;

“nearest relative”, in relation to a patient, has the meaning given by section 93;

“order for discharge” has the meaning given by section 13;

“overseas removal order” has the meaning given by section 65;

“patient” means a person suffering or appearing to suffer from mental disorder;

“Principal Immigration Officer” means the person for the time being appointed to that position under the Immigration Ordinance (Title 52.2);

“registered nurse” means a nurse registered with a professional nursing registration board in the United Kingdom, any other country in the European Union, the United States of America, Canada, Australia, New Zealand or any other country approved by the Governor by order for this purpose;

“relative” has the meaning given by section 93;

“restriction order” has the meaning given by section 54;

“Senior Magistrate” means the person for the time being appointed to that position under the Administration of Justice Ordinance (Title 22.1);

“transfer order” has the meaning given by section 58;

“Tribunal” means the Mental Health Tribunal (see section 40); and

“ward manager” means the registered nurse or other medical professional appointed to be in charge of the in-patient accommodation at a hospital or approved medical centre (or in their absence, or in the event of no such appointment having been made, the senior nurse on duty).

(2) A reference in this Ordinance to medical treatment in relation to mental disorder is a reference to medical treatment the purpose of which is to alleviate, or to prevent a worsening of, the disorder or one or more of its symptoms or manifestations.

(3) A reference in this Ordinance to appropriate medical treatment in relation to a person suffering from mental disorder is a reference to medical treatment which is appropriate in his or her case, taking into account the nature and degree of the mental disorder and all other circumstances of his or her case.

(4) Where this Ordinance permits one person to act on another’s behalf (in those terms), express authorisation is not required.

PART 2 APPLICATION OF ORDINANCE

4. Application of Ordinance: “mental disorder”

(1) This Ordinance deals with the reception, care and treatment of mentally disordered patients, and other related matters.

(2) In this Ordinance “mental disorder” means any disorder or disability of the mind.

(3) Dependence on alcohol or drugs is not a disorder or disability of the mind.

(4) For the purposes of hospital treatment orders and community treatment orders—

(a) learning disability is not a disorder or disability of the mind, unless it is associated with abnormally aggressive or seriously irresponsible conduct; and

(b) “learning disability” means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning.

PART 3
COMPULSORY DETENTION IN HOSPITAL

5. Detention for assessment

- (1) A patient may be detained at a hospital or approved medical centre by order of an approved doctor for up to 72 hours for the purposes of assessment.
- (2) An order for detention for assessment may be made on the grounds that the patient—
 - (a) is suffering from mental disorder of a nature or degree which warrants detention in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; and
 - (b) ought to be detained for that purpose for his or her own health or safety or to protect others.
- (3) The approved doctor must—
 - (a) certify at the time of detention that in his or her opinion the conditions set out in subsection (2) are satisfied; and
 - (b) record the reasons for that decision.
- (4) The approved doctor must arrange for the patient to be interviewed by an approved professional as soon as practicable.
- (5) The approved doctor must as soon as practicable decide whether in his or her opinion the patient meets the grounds for detention for treatment.
- (6) An approved doctor who decides that a patient does not meet the grounds for detention for treatment must—
 - (a) record the reasons for that decision; and
 - (b) discharge the patient immediately from detention under this section.
- (7) An approved doctor who decides that a patient does meet the grounds for detention for treatment must—
 - (a) convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient;
 - (b) if practicable, arrange for the conference to include all approved practitioners who have previous acquaintance with the patient; and

(c) arrange for the conference to be held during the first 72 hours of the patient's detention for assessment.

(8) A patient who is not detained for treatment must be discharged immediately after being detained for assessment for 72 hours.

6. Hospital treatment orders

(1) A patient may be detained at a hospital for the purposes of treatment in accordance with an order under this section (a "hospital treatment order").

(2) A hospital treatment order may not be made unless—

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment in a hospital;

(b) it is necessary for the health or safety of the patient or for the protection of others that he or she should receive treatment which cannot be provided unless he or she is detained under this section; and

(c) appropriate medical treatment is available for him or her.

(3) A hospital treatment order may not be made unless—

(a) the patient has been assessed by an approved doctor within the preceding 72 hours (either voluntarily or during detention for assessment); and

(b) a multi-disciplinary conference of approved practitioners has met to consider the findings of the assessment and any other pertinent information relating to the patient and has approved the patient's detention for treatment.

(4) The multi-disciplinary conference must if practicable include all approved practitioners who have previous acquaintance with the patient.

(5) An order must be made by one approved doctor and one approved professional, each of whom —

(a) has seen the patient within the preceding 72 hours;

(b) certifies that in his or her opinion the conditions set out in subsection (2) are satisfied; and

(c) records the reasons for his or her decision.

(6) A patient may be detained in hospital under a hospital treatment order while it has effect.

(7) A hospital treatment order lasts for six months beginning with the date on which it is made; and it ceases to have effect at the end of that period unless—

- (a) the patient is discharged during that period;
- (b) the order is renewed or further renewed by the Tribunal under Part 7; or
- (c) section 30(5) applies (duration of hospital treatment order after revocation of community treatment order).

7. Detention by registered nurse where patient already in hospital

(1) This section applies where a patient is receiving treatment as an in-patient in a hospital or an approved medical centre and a registered nurse thinks that—

- (a) the patient is suffering from mental disorder to such a degree that it is necessary for his or her health or safety or for the protection of others for him or her to be immediately prevented from leaving the hospital or approved medical centre; and
- (b) it is not practicable to secure the immediate attendance of an approved doctor.

(2) The patient may be detained in the hospital or approved medical centre.

(3) Detention in reliance on subsection (2)—

- (a) may last until an approved doctor has arrived and decided whether to make an order under section 5; but
- (b) may not last for more than 6 hours.

(4) A patient may be detained under subsection (2) only if the registered nurse records in writing that subsection (1) is satisfied.

(5) A registered nurse who makes a record under subsection (4) must arrange for it to be delivered to the Chief Medical Officer as soon as possible.

8. Effect of hospital treatment order

Where a hospital treatment order is made in respect of a person, any previous order under this Ordinance for his or her detention or treatment (including a community treatment order) or reception into guardianship ceases to have effect.

9. Duty to keep patients under continuing review

The Chief Medical Officer must keep under review a patient detained for treatment pursuant to a hospital treatment order to ensure that the grounds for detention continue to be met.

10. Duty of ward manager to give information to detained patients

(1) Where a person is detained under this Ordinance the ward manager must as soon as practicable take any practicable steps to ensure that the patient understands —

- (a) under which provision of this Ordinance he or she is for the time being detained;

- (b) the effect of that provision; and
 - (c) what rights to apply to the Tribunal are available
- (2) The ward manager must also as soon as practicable take any practicable steps to ensure that the patient understands any relevant effect of provisions of this Ordinance about —
- (a) independent examination;
 - (b) legal practitioners;
 - (c) nearest relatives;
 - (d) the code of practice; and
 - (e) complaints.
- (3) Information given under subsection (1) or (2) must be given both orally and in writing.
- (4) The ward manager must take any practicable steps to give a copy of information provided in writing in accordance with subsection (3) to any person who appears to be the patient's nearest relative as soon as reasonably practicable after giving the information to the patient.
- (5) But information must not be given under subsection (4) contrary to the patient's wishes.
- (6) The functions of the ward manager under this section may be discharged by —
- (a) an approved practitioner; or
 - (b) a registered nurse involved in the care of the patient.

11. Patient's right to independent examination

- (1) A patient who has been detained under a hospital treatment order is entitled to be examined in private at any reasonable time by an independent psychiatrist or other suitably qualified professional person.
- (2) The nearest relative of a patient who has been detained under a hospital treatment order is entitled to arrange for the patient to be examined in private at any reasonable time by an independent psychiatrist or other suitably qualified professional person.
- (3) But subsection (2) does not allow an examination to which the patient objects.
- (4) This section does not require the Chief Medical Officer or the Falkland Islands Government to arrange or fund an examination.

12. Patient's right of access to legal practitioner

- (1) A patient who has been detained under a hospital treatment order is entitled to meet a legal practitioner in private at any reasonable time.
- (2) The nearest relative of a patient who has been detained under a hospital treatment order is entitled to arrange for the patient to meet a legal practitioner in private at any reasonable time.
- (3) But subsection (2) does not allow a meeting to which the patient objects.
- (4) This section does not require the Chief Medical Officer or the Falkland Islands Government to arrange or fund any services of a legal practitioner.

13. Discharge of patient

- (1) A patient who is liable to be detained under this Part of this Ordinance ceases to be liable if an order is made in writing discharging him or her absolutely from detention (“an order for discharge”).
- (2) A community patient ceases to be liable to recall under Part 5 of this Ordinance if an order for discharge is made.
- (3) Where the Chief Medical Officer thinks that the grounds for detention of a patient under a hospital treatment order no longer apply, or may no longer apply, he or she must arrange for the patient as soon as practicable to be —
 - (a) assessed by an approved doctor; and
 - (b) interviewed by an approved professional.
- (4) Where a patient is assessed under subsection (3), the Chief Medical Officer must as soon as practicable convene a multi-disciplinary conference of approved practitioners, to consider the findings of the assessment and any other pertinent information relating to the patient.
- (5) The conference must if practicable include all approved practitioners who have been professionally concerned with the patient's medical treatment during detention.
- (6) If the conference approves the revocation of the hospital treatment order, an order for discharge must be made by one approved doctor and one approved professional, each of whom—
 - (a) has seen the patient within the preceding 72 hours;
 - (b) certifies that in his or her opinion the grounds for detaining the patient under a hospital treatment order no longer apply; and
 - (c) records the reasons for his or her decision.

14. Duty of ward manager to inform nearest relative of discharge

(1) This section applies where —

(a) a patient who was detained for assessment or treatment under this Part is to be discharged;
or

(b) a community patient is to be discharged from hospital under Part 5.

(2) The ward manager must take such steps as are practicable to inform the person (if any) whom the ward manager thinks is the patient's nearest relative.

(3) The information must be given at least seven days before the discharge, if practicable.

(4) The ward manager must not take steps under subsection (2) against the patient's wishes.

15. Chief Medical Officer to consider representations

(1) The Chief Medical Officer must consider any representations requesting that a person be detained for assessment or treatment if the representations are made by —

(a) one or more relatives of the person; or

(b) an approved practitioner.

(2) The Chief Medical Officer must consider any representations requesting that a patient who is detained under a hospital treatment order be discharged from hospital because the grounds for an order no longer apply, if the representations are made by —

(a) the patient;

(b) the patient's nearest relative; or

(c) an approved practitioner.

(3) Upon receiving representations the Chief Medical Officer must—

(a) review the patient's medical notes if available; and

(b) make such enquiries as the Chief Medical Officer thinks appropriate in the circumstances.

(4) In the case of a patient who is subject to a hospital treatment order, enquiries under subsection (3)(b) must where practicable include consulting all approved practitioners who have been involved in the patient's care since the making of the order.

(5) Enquiries under subsection (3)(b) may include asking the patient voluntarily to be assessed by an approved doctor and interviewed by an approved professional.

(6) If the Chief Medical Officer has been involved with a patient's medical treatment during detention under a hospital treatment order—

(a) the Chief Medical Officer must arrange for another approved doctor to undertake the review under subsection (3);

(b) if the approved doctor concludes that the grounds for detention no longer apply, or may no longer apply, he or she must convene a multi-disciplinary conference of approved practitioners to consider the findings of the review and any other pertinent information relating to the patient; and

(c) the conference must where practicable include all approved practitioners who have been involved in the patient's care since the making of the order.

16. Leave of absence from hospital

(1) This section applies to a patient who is detained in a hospital or approved medical centre under this Part.

(2) The Chief Medical Officer may grant the patient leave to be absent from the hospital or centre.

(3) Leave may be subject to conditions which the Chief Medical Officer thinks necessary in the patient's interests or for the protection of others.

(4) Leave may be granted —

(a) indefinitely;

(b) for specified occasions; or

(c) for a specified period (which may be extended by further leave granted in the patient's absence).

(5) The Chief Medical Officer may not grant leave for a period of seven days or more (or extend a period so that it lasts for seven days or more) without first considering whether the patient should be dealt with under a community treatment order.

(6) In granting leave the Chief Medical Officer may, if it appears to be necessary in the patient's interests or for the protection of others, direct that the patient remain in custody during his or her absence; in which case the patient may be kept in the custody of—

(a) any staff member of the hospital or centre from which the patient is absent; or

(b) any other person authorised in writing by the Chief Medical Officer.

(7) If the Chief Medical Officer thinks it necessary in the interests of a patient's health or safety or for the protection of others, the Chief Medical Officer may by notice in writing revoke the leave of absence and recall the patient to the hospital or centre.

(8) Notice under subsection (7) must be given to the patient or to a person in charge of the patient.

(9) Revocation of leave of absence does not allow detention of a person who has ceased to be liable for detention for treatment.

(10) The functions of the Chief Medical Officer under this section may be discharged on his or her behalf by —

(a) any approved doctor, or

(b) any approved professional authorised in writing by the Chief Medical Officer.

17. Patients absent without leave

(1) This section applies where a patient who is for the time being liable to be detained in a hospital or approved medical centre under this Ordinance for assessment or treatment —

(a) is absent without leave under section 16;

(b) fails to return to the hospital or centre on the expiry of, or in accordance with a condition of, leave under section 16;

(c) fails to return to the hospital or centre on being recalled under section 16; or

(d) fails to comply with a condition of leave under section 16.

(2) The patient may be taken into custody and returned to the hospital or centre by—

(a) any approved professional;

(b) any staff member of the hospital or centre;

(c) a police officer; or

(d) any person authorised in writing by the Chief Medical Officer.

(3) A community patient who is absent from the hospital to which he or she is recalled under Part 5 may be taken into custody and returned to the hospital by —

(a) any approved professional;

(b) any staff member of the hospital;

(c) a police officer; or

(d) any person authorised in writing by the Chief Medical Officer.

(4) A patient may not be taken into custody under this section after the end of the period —

(a) for which he or she is liable to be detained; or

(b) in the case of a community patient, during which the community treatment order is in force.

(5) In this Ordinance a reference to absence without leave is a reference to being liable to be taken into custody under this section.

(6) A reference to “returning” a person who is absent without leave includes a reference to taking them to a hospital or other place for the first time (where they have failed to comply with a requirement to go there).

18. Transfer to hospital

(1) Where a patient is detained for assessment at an approved medical centre, the Chief Medical Officer may arrange for the patient to be transferred to a hospital if the Chief Medical Officer thinks it —

(a) necessary to enable the assessment to be completed; or

(b) otherwise in the patient’s best interests.

(2) If a patient transferred to a hospital under subsection (1) is not detained for treatment and is discharged, the Chief Medical Officer must arrange for the patient to be returned to the approved medical centre as soon as practicable.

(3) But subsection (2) does not apply if the patient declines the offer of transport.

(4) Where a patient who was detained for assessment at an approved medical centre is subsequently detained for treatment before being transferred to a hospital, the Chief Medical Officer must arrange for the transfer as soon as practicable.

PART 4 CONVEYING PATIENTS TO HOSPITAL

19. Warrant to search for and remove patients

(1) Subsection (2) applies where the Senior Magistrate, or two justices of the peace, on information on oath laid by an approved practitioner think that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—

(a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control;

- (b) being unable to care for himself or herself, is living alone in any place; or
- (c) is dangerous to himself or herself or others.

(2) The Senior Magistrate or justices may issue a warrant authorising a police officer —

- (a) to enter, if need be by force, any premises specified in the warrant in which the person is believed to be; and
- (b) if the police officer thinks fit, to remove the person, as quickly as is reasonably practicable, to a hospital or approved medical centre.

(3) Subsection (4) applies where the Senior Magistrate, or two justices of the peace, on information on oath laid by a police officer or a person authorised by virtue of this Ordinance to take (or retake) a patient to any place or into custody, think that —

- (a) there is reasonable cause to believe that the patient is to be found on premises; and
- (b) admission to the premises has been refused or that a refusal of admission is likely.

(4) The Senior Magistrate, or the justices as the case may be, may issue a warrant authorising a police officer to enter, if need be by force, and remove the patient.

(5) A person who is removed to a hospital or approved medical centre in the execution of a warrant issued under this section may be detained there for a period not exceeding 6 hours for the purpose of —

- (a) enabling him or her to be examined by an approved doctor;
- (b) enabling him or her to be interviewed by an approved professional; and
- (c) making any necessary arrangements for his or her treatment or care.

(6) An information or warrant under this section need not name the patient.

20. Mentally disordered persons found in public places

(1) This section applies where a police officer finds, in a place to which the public have access, a person who the police officer thinks is suffering from mental disorder and in immediate need of care or control.

(2) The police officer may, if he or she thinks it necessary in the interests of that person or for the protection of others, take the person, as quickly as is reasonably practicable, to a hospital or approved medical centre.

(3) A person who is taken to a hospital or approved medical centre under this section may be detained there for a period not exceeding 6 hours for the purpose of —

- (a) enabling him or her to be examined by an approved doctor;
- (b) enabling him or her to be interviewed by an approved professional; and
- (c) making any necessary arrangements for his or her treatment or care.

21. Custody, conveyance and detention

(1) A person required or authorised by virtue of this Ordinance to be taken to any place or detained in any place is, while being taken or detained, in legal custody.

(2) A person required or authorised by virtue of this Ordinance to take a person into custody, or to take or detain any person, has all the powers, authorities, protection and privileges of a constable for that purpose.

(3) A person taken into custody or detained by virtue of this Ordinance may be searched by —

- (a) the person taking that person into custody or detaining that person;
- (b) a police officer; or
- (c) an approved practitioner.

(4) A reference in this section to taking a person includes any similar expression used elsewhere in this Ordinance.

22. Retaking of patients escaping from custody

(1) This section applies where a person who is in legal custody by virtue of this Ordinance escapes.

(2) The person may be retaken by—

- (a) the person in whose custody he or she was before the escape;
- (b) a police officer; or
- (c) an approved practitioner.

(3) In addition, if at the time of the escape the person was liable to detention under Part 3, or was a community patient who had been recalled under Part 5, he or she may be retaken by any person who could take him or her into custody in a case of absence without leave.

PART 5
COMMUNITY TREATMENT ORDERS

23. Community treatment orders

- (1) The Chief Medical Officer may by order in writing discharge a patient detained under a hospital treatment order.
- (2) A discharged patient is subject to recall in accordance with this Part.
- (3) An order under this section is a “community treatment order”.
- (4) The Chief Medical Officer may not make a community treatment order unless —
 - (a) an approved doctor records in writing that in his or her opinion the relevant criteria are met; and
 - (b) an approved professional records in writing —
 - (i) that he or she agrees with that opinion; and
 - (ii) that it is appropriate to make the order.
- (5) The relevant criteria are that—
 - (a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate to receive medical treatment;
 - (b) it is necessary for his or her health or safety or for the protection of others that he or she should receive medical treatment;
 - (c) treatment can be provided without the patient continuing to be detained (subject to the possibility of recall);
 - (d) it is necessary that the Chief Medical Officer should be able to exercise the power of recall under this Part; and
 - (e) appropriate medical treatment is available for the patient.
- (6) In considering the criterion in subsection (5)(d) regard must be had in particular to —
 - (a) the patient’s history of mental disorder and any other relevant factors; and
 - (b) what risk there would be of a deterioration of the patient’s condition if he or she were not detained in the hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

24. Conditions

- (1) A community treatment order must specify conditions to which the patient is to be subject while the order remains in force.
- (2) The order may specify conditions only if the approved practitioners acting under section 23 think them necessary or appropriate for one or more of the following purposes —
 - (a) ensuring that the patient receives medical treatment;
 - (b) preventing risk of harm to the patient's health or safety; and
 - (c) protecting others.
- (3) The order must include the condition that the patient makes himself or herself available for assessment by an approved doctor, and for interview by an approved professional, during the last four weeks of the period of six months beginning with the day on which the order was made.
- (4) The Chief Medical Officer may from time to time by order in writing vary or suspend conditions of a community treatment order.
- (5) The Chief Medical Officer must consider any representations received from an approved practitioner about varying or suspending conditions of a community treatment order.
- (6) Failure to comply with a condition of a community treatment order may be taken into account in considering recall under this Part (but recall is not limited to cases of non-compliance).

25. Duration of community treatment order

A community treatment order expires when any of the following occurs —

- (a) the period of six months beginning with the day on which the order was made ends, without the order being renewed by the Tribunal under Part 7;
- (b) the patient is discharged under Part 3;
- (c) the patient is discharged by the Tribunal under Part 7;
- (d) the patient is removed from the Falkland Islands in pursuance of an overseas removal order; or
- (e) the order is revoked.

26. Effect of community treatment order

- (1) A hospital treatment order in respect of a patient does not cease to have effect if the patient becomes a community patient.

(2) But while the patient is a community patient—

(a) authority to detain him or her under the hospital treatment order is suspended; and

(b) he or she is not to be treated as liable to detention, for any purpose of this Ordinance.

27. Duty to give information to community patients

(1) The Chief Medical Officer must take such steps as are practicable, as soon as practicable, to ensure that a community patient understands —

(a) the effect of the provisions of this Ordinance applying to community patients; and

(b) what rights of applying to the Tribunal are available.

(2) For the purposes of subsection (1) information must be given orally and in writing.

(3) The Chief Medical Officer must take such steps as are practicable to furnish the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative with a copy of any information given to the patient in writing under subsection (1); and those steps must be taken when the information is given to the patient or within a reasonable time afterwards.

(4) The Chief Medical Officer must not take steps under subsection (3) against the patient's wishes.

(5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved practitioner.

28. Power to recall to hospital

(1) The Chief Medical Officer may recall a community patient to hospital if the Chief Medical Officer thinks that —

(a) the patient requires medical treatment in hospital for his or her mental disorder; and

(b) there would be a risk of harm to the patient's health or safety or to others if the patient were not recalled to hospital for that purpose.

(2) The Chief Medical Officer may also recall a community patient to hospital if the patient fails to comply with a condition of the community treatment order.

(3) A patient may be "recalled" to a hospital even though he or she is already there.

(4) The power of recall is exercised by giving notice in writing to the patient.

(5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved doctor.

29. Powers in respect of recalled patients

(1) This section applies to a community patient who is detained in a hospital by virtue of a notice recalling him there.

(2) The Chief Medical Officer may by order in writing revoke the community treatment order if—

(a) an approved doctor records in writing that in his or her opinion the grounds for detention pursuant to a hospital treatment order are met, and

(b) an approved professional records in writing—

(i) that he or she agrees with that opinion; and

(ii) that it is appropriate to revoke the community treatment order.

(3) The Chief Medical Officer may at any time by order in writing require the patient to be released; but an order under this subsection may not be made if the community treatment order has been revoked.

(4) If the period of 72 hours expires without either the patient being released or the community treatment order being revoked, the patient must be released.

(5) In subsection (4) “the period of 72 hours” means the period of 72 hours beginning with the time when the patient is first detained in hospital by virtue of the recall notice under section 28.

(6) A reference in this section to release is a reference to being released from detention by virtue of the recall notice; and where a patient is released—

(a) the recall notice lapses; and

(b) the patient remains subject to the community treatment order.

30. Effect of revoking community treatment order

(1) This section applies if a patient’s community treatment order is revoked under this Part.

(2) The patient’s hospital treatment order has effect as if the patient had never been discharged from hospital by virtue of the community treatment order.

(3) The provisions of this or any other Ordinance relating to patients liable to be detained (or detained) in pursuance of a hospital treatment order apply to the patient as they did before the community treatment order was made.

(4) The ward manager must apply the provisions of section 10 about providing information.

(5) If a community treatment order is revoked more than five months after the day on which the hospital treatment order was made or last renewed, the hospital treatment order expires at the end of the period of two months beginning with the date of revocation, unless renewed by the Tribunal under Part 7.

31. Effect of expiry of community treatment order

On expiry of a community treatment order —

- (a) the community patient is discharged absolutely from liability to recall under this Part; and
- (b) the hospital treatment order ceases to have effect.

PART 6 GUARDIANSHIP

32. Application for guardianship

(1) A patient who has attained the age of 16 years may be received into guardianship in pursuance of an order made by the Tribunal (“a guardianship order”).

(2) A guardianship order may not be made unless —

(a) the patient is suffering from mental disorder of a nature or degree which warrants his or her reception into guardianship under this section, and

(b) it is necessary in the patient’s interests or for the protection of others that the patient should be so received.

(3) An application for a guardianship order may not be made unless —

(a) the patient has been assessed by an approved doctor, and interviewed by an approved professional, within the preceding 14 days either voluntarily or during detention for assessment; and

(b) a multi-disciplinary conference of approved practitioners has met to consider the findings of the assessment and any other pertinent information relating to the patient and has approved an application for a guardianship order.

(4) The conference must if practicable include all approved practitioners who have previous acquaintance with the patient.

(5) If the conference approves an application for a guardianship order, the Chief Medical Officer must within 14 days make an application to the Tribunal.

(6) An application must be accompanied by written reports from one approved doctor and one approved professional, each of whom —

(a) has seen the patient within the preceding 28 days;

(b) certifies that in his or her opinion the conditions in subsection (2) are satisfied; and

(c) records the reasons for his or her decision.

(7) An application must nominate to act as the patient's guardian either —

(a) the Crown; or

(b) another person (whether or not a public officer) who is approved by the Chief Medical Officer for the purpose and who confirms in writing willingness to act.

(8) An application must give such information as it reasonably can about how the proposed guardian could be expected to exercise in relation to the patient the powers conferred by a guardianship order.

(9) Before making an application the Chief Medical Officer must consult the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative.

(10) But subsection (9) does not apply if the Chief Medical Officer thinks that in the circumstances consultation is not reasonably practicable or would involve unreasonable delay.

(11) If the Tribunal decides to make a guardianship order, the following rules have effect for the purposes of appointing a guardian —

(a) if the application nominates a person whom the court thinks suitable and willing to act, the Tribunal must appoint that person;

(b) failing (a), the Tribunal may specify a person whom it thinks suitable and willing to act;

(c) failing (a) and (b), the Tribunal must appoint the Crown.

(12) In determining an application for a guardianship order or any other matter under this Part, the Tribunal must apply the same procedure as for applications under Part 7.

(13) For the purposes of this section the functions of the Crown are to be exercised by the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

33. Effect of guardianship order

(1) A guardianship order confers on the person named as guardian, to the exclusion of any other person —

(a) the power to require the patient to reside at a place specified by the guardian;

(b) the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training; and

(c) the power to require access to the patient to be given, at any place where the patient is residing, to any approved practitioner or other person so specified.

(2) Where a patient is received into guardianship, any previous guardianship order or hospital treatment order ceases to have effect.

34. Duty to keep patients under continuing review

(1) The Chief Medical Officer must keep under review any patient received into guardianship to ensure that the grounds for the guardianship order continue to be met.

(2) The Chief Medical Officer must arrange for a patient received into guardianship to be assessed by an approved practitioner at regular intervals of not more than three months.

(3) The Chief Medical Officer must submit to the Tribunal at regular intervals of not more than twelve months written reports from one approved doctor and one approved professional, each of whom —

(a) has seen the patient within the preceding 28 days;

(b) certifies that in his or her opinion —

(i) the patient is suffering from mental disorder of a nature or degree which warrants his or her remaining subject to a guardianship order; and

(ii) it is necessary in the interests of the welfare of the patient or for the protection of others that the patient should remain subject to a guardianship order; and

(c) records the reasons for his or her decision.

35. Duty to give information to patients subject to guardianship

(1) The Chief Medical Officer must take such steps as are practicable, as soon as practicable, to ensure that a patient received into guardianship understands —

(a) the effect of the provisions of this Ordinance applying to patients received into guardianship; and

(b) what rights of applying to the Tribunal are available.

(2) Information given under subsection (1) must be given both orally and in writing.

(3) The Chief Medical Officer must take such steps as are practicable to furnish the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative with a copy of any information given to the patient in writing under subsection (1).

(4) Subsection (3) —

(a) requires information to be given at the same time, or as soon as practicable after, it is given to the patient; and

(b) does not require or permit information to be given against the patient's wishes.

(5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved practitioner.

36. Transfer of guardianship

(1) Subsection (2) applies if the guardian of a patient received into guardianship under this Part—

(a) dies; or

(b) gives notice in writing to the Chief Medical Officer that he or she desires to relinquish the functions of guardian.

(2) The guardianship vests in the Crown (subject to any application to the Tribunal for the transfer of the patient into the guardianship of another person).

(3) While a guardian is incapacitated from acting by illness or any other cause, the guardian's functions may be performed on his or her behalf by —

(a) the Crown; or

(b) any other person approved for the purpose by the Tribunal.

(4) If the Tribunal thinks, on application by the Chief Medical Officer, that a guardian under this Part (other than the Crown) has performed his or her functions negligently or in a manner contrary to the interests of the welfare of the patient, the Tribunal may order that the guardianship of the patient be transferred to —

(a) the Crown; or

(b) any other person approved for the purpose by the Tribunal.

(5) For the purposes of this section the functions of the Crown are to be exercised by the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of subparagraphs (i) to (iii) chosen by the Attorney General.

37. Discharge of guardianship

(1) A guardianship order may be discharged by the Tribunal on the application of —

(a) the Chief Medical Officer;

(b) the patient;

(c) the patient's nearest relative;

(d) a person with whom the patient is living; or

(e) the patient's guardian (other than the Crown).

(2) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is then suffering from mental disorder of a nature or degree which warrants guardianship; and

(b) that guardianship is necessary in the interests of his or her welfare or for the protection of others.

(3) Where an application for the discharge of a guardianship order is made under subsection (1)(c), (d) or (e), the applicant is entitled —

(a) to submit written evidence to the Tribunal;

(b) to be heard by the Tribunal in person;

- (c) to be represented before the Tribunal by a legal representative or by any other person nominated by the patient for this purpose;
- (d) to present written and oral evidence from an independent psychiatrist or other suitably qualified professional person;
- (e) to be accompanied to the Tribunal hearing by relatives or friends; and
- (f) to receive copies of such reports as the Tribunal thinks fit.

38. Chief Medical Officer to consider representations on guardianship

(1) The Chief Medical Officer must consider any representations requesting that a person be received into guardianship, if the representations are received from —

- (a) relatives of the patient; or
- (b) an approved practitioner.

(2) The Chief Medical Officer must consider any representations requesting that an application be made for the discharge of a guardianship order because the grounds for an order no longer apply, if the representations are received from —

- (a) the patient;
- (b) the patient's nearest relative; or
- (c) an approved practitioner.

(3) On receiving representations the Chief Medical Officer must —

- (a) review the patient's medical notes where available; and
- (b) make such enquiries as the Chief Medical Officer thinks appropriate in the circumstances.

(4) The further enquiries may include asking the patient voluntarily to be —

- (a) assessed by an approved doctor; and
- (b) interviewed by an approved professional.

39. Patient subject to guardianship absent without leave

(1) This section applies where a patient who is subject to guardianship is absent without the guardian's leave from the place at which he or she is required by the guardian to reside.

(2) The patient may be taken into custody and returned to that place by —

- (a) any approved practitioner;
- (b) a police officer; or
- (c) any person authorised in writing by the Chief Medical Officer.

PART 7
MENTAL HEALTH TRIBUNAL

40. Composition of Mental Health Tribunal

- (1) There is to be a tribunal, known as the Mental Health Tribunal, for the purpose of dealing with applications and references under this Ordinance.
- (2) The Tribunal is constituted by the Senior Magistrate and two justices of the peace, or in the absence or incapacity of the Senior Magistrate, by three justices of the peace.
- (3) The Tribunal must be chaired —
 - (a) by the Senior Magistrate, if present; or
 - (b) otherwise, by a member chosen by the Tribunal.

41. Appeal against hospital treatment order

- (1) A patient who has been detained pursuant to a hospital treatment order may apply to the Tribunal for an order for discharge.
- (2) An application must be made during the period of three months beginning with the date of the order.
- (3) The Tribunal must direct the discharge of a patient if not satisfied —
 - (a) that he or she is suffering from mental disorder of a nature or degree which warrants detention in hospital for medical treatment for at least a limited period;
 - (b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and
 - (c) that appropriate medical treatment is available for the patient.
- (4) Subsection (3) does not require the Tribunal to direct discharge where the Tribunal thinks it may be appropriate for the patient to be discharged (subject to the possibility of recall) under a community treatment order; and the Tribunal —
 - (a) may recommend the Chief Medical Officer to consider whether to make a community treatment order; and

(b) may (but need not) further consider the patient's case if the Chief Medical Officer does not make a community treatment order.

(5) A direction of the Tribunal that a patient be discharged must specify the date on which it takes effect.

42. Appeal against community treatment order

(1) A community patient may apply to the Tribunal for an order for discharge.

(2) An application must be made during the period of three months beginning with the date of the community treatment order.

(3) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is suffering from mental disorder of a nature or degree which makes it appropriate to receive medical treatment;

(b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment;

(c) that it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and

(d) that appropriate medical treatment is available for the patient.

(4) In determining whether the criterion in subsection (3)(c) is met the Tribunal must, in particular, having regard to the patient's history of mental disorder and any other relevant factors, consider what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in a hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

(5) Subsection (3) does not require the Tribunal to direct the discharge of a patient just because they think it may be appropriate for the conditions attached to the community treatment order to be varied; and the Tribunal —

(a) may recommend that the Chief Medical Officer consider whether to vary the conditions, and

(b) may (but need not) further consider the patient's case if the Chief Medical Officer does not vary the conditions.

(6) A direction of the Tribunal that a patient be discharged must specify the date on which it takes effect.

43. Appeal against revocation of community treatment order

- (1) A patient whose community treatment order is revoked so that he or she becomes liable to detention under a hospital treatment order may apply to the Tribunal for an order for discharge of the hospital treatment order.
- (2) An application must be made during the period of three months beginning with the date of revocation.
- (3) The Tribunal must direct the discharge of a patient if not satisfied —
 - (a) that he or she is suffering from mental disorder of a nature or degree which warrants detention in hospital for medical treatment for at least a limited period;
 - (b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and
 - (c) that appropriate medical treatment is available for the patient.
- (4) Where the Tribunal does not direct the discharge of a patient, the Tribunal must consider the reasons for the revocation of the community treatment order and —
 - (a) may recommend that the Chief Medical Officer consider whether to make a further community treatment order; and
 - (b) may (but need not) further consider the patient's case if the Chief Medical Officer does not make a further community treatment order.

44. Renewal of hospital treatment order

- (1) The Tribunal may renew (or further renew) a hospital treatment order for a period of six months.
- (2) The Chief Medical Officer must arrange for a patient who is detained pursuant to a hospital treatment order to be assessed by an approved doctor, and interviewed by an approved professional, during the period of four weeks ending with the day on which the order would expire unless renewed.
- (3) The Chief Medical Officer must convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient.
- (4) The conference must —
 - (a) be held not less than two weeks before the day on which the hospital treatment order would expire unless renewed; and

(b) if practicable, include all approved practitioners who have been professionally concerned with the patient's medical treatment since the hospital treatment order was made.

(5) If the conference approves the renewal of the hospital treatment order, a recommendation that the patient be detained for treatment for a further period of six months must be made to the Tribunal by one approved doctor and one approved professional, who must each —

(a) certify that in his or her opinion the conditions set out in subsection (6) are satisfied; and

(b) record the reasons for his or her decision.

(6) The conditions are that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment in a hospital;

(b) it is necessary for the patient's health or safety or for the protection of others that he or she should receive such treatment;

(c) treatment cannot be provided unless he or she continues to be detained; and

(d) appropriate medical treatment is available.

(7) An application to the Tribunal for the renewal of the hospital treatment order must be —

(a) made by the Chief Medical Officer during the period of seven days beginning with the date of the conference; and

(b) accompanied by the recommendation from the approved doctor and approved professional.

(8) The Tribunal must renew the hospital treatment order if satisfied —

(a) that the patient is suffering from mental disorder of a nature or degree which warrants his or her detention in hospital for medical treatment for at least a limited period;

(b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and

(c) that appropriate medical treatment is available.

45. Renewal of community treatment order

(1) The Tribunal may renew (or further renew) a community treatment order for a period of six months.

(2) The Chief Medical Officer must arrange for a community patient to be assessed by an approved doctor, and interviewed by an approved professional, during the period of four weeks ending with the day on which a community treatment order would expire if not renewed.

(3) The Chief Medical Officer must convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient.

(4) The conference must —

(a) be held not less than two weeks before the day on which the community treatment order would expire unless renewed; and

(b) if practicable, include all approved practitioners who have been professionally concerned with the patient's medical treatment since the community treatment order was made.

(5) If the conference approves the renewal of the community treatment order, a recommendation that the community treatment order be renewed for a further period of six months must be made to the Tribunal by one approved doctor and one approved professional who must each —

(a) certify that in his or her opinion the conditions set out in subsection (6) are satisfied; and

(b) record the reasons for his or her decision.

(6) The conditions are that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment;

(b) it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment;

(c) subject to the patient's being liable to recall by the Chief Medical Officer in accordance with Part 5, treatment can be provided without detention in hospital;

(d) it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and

(e) appropriate medical treatment is available.

(7) In determining whether subsection (6)(d) is satisfied, the approved practitioners must, having regard to the patient's history of mental disorder and any other relevant factors, consider in particular what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

- (8) An application to the Tribunal for the renewal of community treatment order must —
- (a) be made by the Chief Medical Officer during the period of seven days beginning with the date of the conference; and
 - (b) be accompanied by the recommendation from the approved doctor and approved professional.
- (9) The Tribunal must renew the community treatment order if satisfied—
- (a) that the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment;
 - (b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive such treatment;
 - (c) that it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and
 - (d) that appropriate medical treatment is available.
- (10) In determining whether subsection (9)(c) is satisfied, the Tribunal must, having regard to the patient's history of mental disorder and any other relevant factors, consider in particular what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in a hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

46. Tribunal procedure and evidence

- (1) The Tribunal must convene to consider any application under this Part within the period of fourteen days beginning with the date on which the application is lodged.
- (2) The Chief Medical Officer must make arrangements for the presentation of written and oral evidence to the Tribunal.
- (3) If the patient is represented by a legal practitioner —
- (a) a copy of any reports submitted by or on behalf of the Chief Medical Officer must be given to the legal practitioner; and
 - (b) the legal practitioner may disclose the reports (or their substance) to the patient, unless the Tribunal directs that all or any part of the reports or their substance is to be withheld from the patient in the patient's interests or for other special reasons.
- (4) If the patient is not represented by a legal practitioner, the substance of any reports submitted by or on behalf of the Chief Medical Officer must be disclosed to the patient, unless the Tribunal

directs that all or any part of the substance is to be withheld in the patient's interests or for other special reasons.

(5) The patient is entitled in relation to any application —

(a) to submit written evidence to the Tribunal;

(b) to be heard by the Tribunal in person;

(c) to be represented before the Tribunal by a legal representative or by any other person nominated by the patient;

(d) to present written and oral evidence from an independent psychiatrist or other suitably qualified professional person; and

(e) to be accompanied to the Tribunal hearing by relatives or friends.

(6) A copy of any written evidence submitted to the Tribunal by or on behalf of the patient must be given to the Chief Medical Officer.

(7) A copy of any written evidence submitted to the Tribunal by or on behalf of the patient or the Chief Medical Officer must be provided to the patient's nearest relative unless —

(a) the patient objects; or

(b) the Tribunal directs it to be withheld in the patient's interests or for other special reasons.

(8) The Chief Medical Officer is entitled to legal representation before the Tribunal.

(9) The Tribunal may —

(a) receive evidence in addition to any presented by or on behalf of the Chief Medical Officer or the patient;

(b) direct the Chief Medical Officer or the patient to present evidence.

(10) The Tribunal may determine its procedure (subject to this section and to any rules under subsection (16)); in particular, the Tribunal may give directions —

(a) for disposal of an application without a formal hearing;

(b) regulating the circumstances in which a patient may be represented by persons other than legal practitioners;

(c) for making available to parties interested in the hearing any documents or a statement of any oral information obtained by or furnished to the Tribunal.

(11) An application may not be disposed of without a formal hearing if —

- (a) the patient requests a hearing;
- (b) the Chief Medical Officer requests a hearing; or
- (c) the Tribunal thinks a hearing is necessary.

(12) But an application may be disposed of without a formal hearing despite subsection (11) if the Tribunal decides, on the recommendation of the Chief Medical Officer, that a hearing might be detrimental to the health of the patient.

(13) The Tribunal must meet in private, unless it directs that members of the public, or a specified class of members of the public, may attend specified proceedings.

(14) No report of proceedings of the Tribunal may be published, unless it directs a full or partial report to be published.

(15) Before giving a direction under subsection (13) or (14) the Tribunal must consider whether it would prejudice —

- (a) the interests of justice; or
- (b) the protection of the private lives of the patient or others concerned in the proceedings.

(16) The Governor may make rules about the Tribunal's procedure (subject to the provisions of this section); and before making rules the Governor must consult—

- (a) the Senior Magistrate; and
- (b) the Chief Medical Officer.

47. Tribunal to give reasons

(1) Within the period of fourteen days beginning with the date of a hearing the Tribunal must issue its decision in writing, together with a statement of its reasons.

(2) The decision and reasons must be sent to —

- (a) the Chief Medical Officer;
- (b) the patient's legal practitioner (if any);
- (c) the patient, except where the Tribunal thinks it undesirable in the patient's interests or for other special reasons; and
- (d) the patient's nearest relative, unless the patient objects.

PART 8
PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

48. Remand to hospital for report on accused's mental condition

- (1) A court may remand an accused person to hospital for a report on his or her mental condition.
- (2) An "accused person" is a person who —
 - (a) is awaiting trial before the court for an offence punishable with imprisonment, or
 - (b) is awaiting sentence by the court having entered a guilty plea, or having been convicted after trial, in respect of an offence punishable with imprisonment.
- (3) The powers conferred by this section may be exercised only if —
 - (a) the court is satisfied, on the written or oral evidence of an approved doctor, that there is reason to suspect that the accused person is suffering from a mental disorder;
 - (b) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the accused's admission to hospital; and
 - (c) the court thinks it would be impracticable for a report on the accused's mental condition to be made if he or she were remanded on bail.
- (4) Where a court has remanded an accused person for a report it may further remand him or her if the court, on the written or oral evidence of the Chief Medical Officer or of an approved doctor responsible for making the report, thinks that a further remand is necessary for completing the assessment of the accused person's mental condition.
- (5) A further remand may be ordered without the accused person being brought before the court if —
 - (a) he or she is represented by a legal practitioner; and
 - (b) the legal practitioner is given an opportunity of being heard by the court.
- (6) An accused person may not be remanded (or further remanded) for more than —
 - (a) 28 days at a time; or
 - (b) twelve weeks in all.
- (7) A court which has remanded an accused person may terminate the remand at any time.

(8) An accused person remanded to hospital is entitled to —

(a) be examined privately (at his or her own expense) by a psychiatrist or other suitably qualified professional person chosen by him or her and approved by the court;

(b) obtain (at his or her own expense) a report from that person on the accused person's mental condition; and

(c) apply to the court on the basis of the report for the remand to be terminated.

(9) Where an accused person is remanded under this section a police officer or other person directed to do so by the court must convey the accused person to hospital.

(10) An accused person remanded under this section who absconds from (or on the way to) hospital —

(a) may be arrested without warrant by a police officer; and

(b) after being arrested must be brought as soon as practicable before the court.

(11) Where an accused person is brought before a court under subsection (10) the court may —

(a) terminate the remand; and

(b) deal with the accused person in any way in which it could have dealt with him or her instead of remanding under this section.

49. Remand of accused person to hospital for treatment

(1) A court may, instead of remanding an accused person in custody, remand him or her to hospital if satisfied —

(a) on the written or oral evidence of an approved doctor and an approved professional, that the accused person is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be detained in a hospital for medical treatment;

(b) on the written or oral evidence of an approved doctor and an approved professional, that appropriate medical treatment is available; and

(c) on the written or oral evidence of the Chief Medical Officer or of an approved doctor, that arrangements have been made for the accused person's admission to hospital.

(2) Where a court has remanded an accused person under this section it may further remand him or her if the court, on the written or oral evidence of an approved doctor, thinks that a further remand is warranted.

(3) An accused person may be further remanded without being brought before the court if —

- (a) he or she is represented by a legal practitioner; and
 - (b) the legal practitioner is given an opportunity of being heard by the court.
- (4) An accused person may not be remanded (or further remanded) under this section for more than—
- (a) 28 days at a time; or
 - (b) twelve weeks in all.
- (5) Where a court has remanded an accused person it may terminate the remand at any time.
- (6) An accused person remanded to hospital is entitled to —
- (a) be examined privately (at his or her own expense) by a psychiatrist or other suitably qualified professional person chosen by him or her and approved by the court;
 - (b) obtain (at his or her own expense) a report from that person on the accused person's mental condition; and
 - (c) apply to the court on the basis of the report for the remand to be terminated.
- (7) Where an accused person is remanded under this section a police officer or other person directed to do so by the court must convey the accused person to hospital.
- (8) An accused person remanded under this section who absconds from (or on the way to) hospital —
- (a) may be arrested without warrant by a police officer; and
 - (b) after being arrested must be brought as soon as practicable before the court.
- (9) Where an accused person is brought before a court under subsection (8) the court may —
- (a) terminate the remand; and
 - (b) deal with the accused person in any way in which it could have dealt with him or her instead of remand under this section.
- (10) "Accused person" has the same meaning as in section 48.

50. Power of court to order detention in hospital or guardianship

- (1) This section applies where —

(a) a person ("the offender") is convicted of an offence punishable with imprisonment other than an offence the sentence for which is fixed by law; and

(b) condition 1 or 2 is satisfied.

(2) The convicting court may by order —

(a) authorise the offender's detention in hospital (a "detention order"); or

(b) place the offender, if he or she has attained the age of 16, under the guardianship of the Crown or a person who is named in the order (whether or not a public officer) and who is approved by the Crown for the purpose (a "criminal guardianship order").

(3) Condition 1 is that —

(a) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder of a nature or degree which makes detention in hospital for treatment appropriate;

(b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that treatment is available;

(c) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the offender's admission to hospital; and

(d) the court thinks, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him or her, that an order under this section is the most suitable method of disposing of the case.

(4) Condition 2 is that —

(a) the offender has attained the age of 16;

(b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder of a nature or degree which makes guardianship under Part 6 appropriate;

(c) the court is satisfied that the Crown or another person is willing to receive the offender into guardianship; and

(d) the court thinks, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him or her, that an order under this section is the most suitable method of disposing of the case.

(5) A court may make an order under subsection (2) in respect of a person who has not been convicted if —

- (a) the person is charged with an offence that is triable summarily;
- (b) the court would have power on conviction to make an order under subsection (2); and
- (c) the court is satisfied that the accused committed the offence.

(6) Where an order is made under this section the court may not —

- (a) pass any sentence or make any (other) order for imprisonment or detention in respect of the offence;
- (b) impose a fine or make a probation order in respect of the offence;
- (c) make a supervision order in respect of the offender; or
- (d) make an order binding over a parent or guardian of the offender.

(7) But the court may make any other order which it has power to make apart from this section.

(8) In this section “the Crown” means the Attorney General, acting in the public interest —

- (a) through a person appointed by the Attorney General; and
- (b) in consultation with —
 - (i) the Chief Medical Officer;
 - (ii) one or more approved practitioners;
 - (iii) one or more suitably qualified professional persons chosen by the Attorney General; or
 - (iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

51. Interim detention orders

(1) This section applies where —

- (a) a person (“the offender”) is convicted of an offence punishable with imprisonment (other than an offence the sentence for which is fixed by law);
- (b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder;

(c) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that there is reason to suppose that the mental disorder from which the offender is suffering is such that it may be appropriate for a detention order to be made; and

(d) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the offender's admission to hospital.

(2) The court may, before making a detention order or dealing with the offender in some other way, make an order (an "interim detention order") authorising the offender's detention in hospital.

(3) An interim detention order —

(a) has effect for a period, not exceeding twelve weeks, specified in the order;

(b) may be renewed for further periods of not more than 28 days at a time if the court, on the written or oral evidence of an approved doctor, thinks that the continuation is warranted; and

(c) may not continue in force for more than twelve months in all.

(4) The court must terminate an interim detention order if it —

(a) makes a detention order in respect of the offender; or

(b) decides after considering the written or oral evidence of an approved doctor and an approved professional to deal with the offender in some other way.

(5) An interim detention order may be renewed (or further-renewed) without the offender being brought before the court if —

(a) the offender is represented by a legal practitioner; and

(b) the legal practitioner is given an opportunity of being heard by the court.

(6) An offender who absconds from (or on the way to) hospital in pursuance of an interim detention order —

(a) may be arrested without warrant by a police officer; and

(b) must, after being arrested, be brought before the court as soon as practicable; and the court may terminate the order and deal with the offender in any way in which it could have dealt with him or her if no order had been made.

(7) Where an offender is subject to an interim detention order, the court may make a (full) detention order without the offender being brought before the court if —

- (a) the offender is represented by a legal practitioner; and
- (b) the legal practitioner is given an opportunity of being heard by the court.

52. Information to facilitate criminal guardianship orders

(1) Where a court is considering making a criminal guardianship order in respect of a offender, it may request the Crown —

(a) to inform the court whether a person approved by the Crown is willing to receive the offender into guardianship; and

(b) if so, to give such information as it reasonably can about how the person could be expected to exercise in relation to the offender the powers conferred on the guardian by a criminal guardianship order.

(2) The Crown must comply with a request under subsection (1).

(3) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

53. Effect of criminal guardianship orders

(1) A criminal guardianship order confers on the Crown or other person named as guardian the same powers as are conferred on a guardian by a guardianship order under Part 6.

(2) A criminal guardianship order may be transferred or discharged in the same way as a guardianship order under Part 6.

(3) But a transfer may be made only to a person approved by the Crown.

(4) In this section “the Crown” means the Attorney General, acting in the public interest—

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

- (i) the Chief Medical Officer;
- (ii) one or more approved practitioners;
- (iii) one or more suitably qualified professional persons chosen by the Attorney General;
or
- (iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

54. Restriction orders

(1) A court may make a "restriction order" where —

- (a) a detention order is made in respect of an offender; and
- (b) the court thinks it necessary for the protection of the public from serious harm that the offender be subject to the restrictions specified in this section.

(2) In considering whether to make a restriction order the court must have regard to —

- (a) the nature of the offence;
- (b) the antecedents of the offender; and
- (c) the risk of his or her committing further offences if set at large.

(3) A restriction order may not be made unless at least one of the approved practitioners whose evidence was taken into account by the court in deciding to make the detention order gave oral evidence.

(4) The restrictions under a restriction order are as follows.

(5) Restriction 1 is that —

- (a) the provisions of Parts 3 and 6 about duration, renewal and expiry of authority to detain do not apply; and
- (b) the patient continues to be liable to be detained by virtue of the detention order until discharge under this Part.

(6) Restriction 2 is that the provisions of Part 4 about community treatment orders and community patients do not apply.

(7) Restriction 3 is that the consent of the Governor is required for the exercise of a power under Part 3 —

- (a) to grant leave of absence to the patient; or

(b) to order the patient's discharge.

(8) Restriction 4 is that the Chief Medical Officer's power to recall a patient during leave of absence (and to take the patient into custody and return him) may be exercised by the Governor at any time.

(9) If a restriction order in respect of a patient ceases to have effect while the relevant detention order has effect, this Ordinance applies as if the patient had been admitted to hospital in pursuance of a detention order (without a restriction order) made on the date on which the restriction order ceased to have effect.

(10) While a patient is subject to a restriction order the Chief Medical Officer must arrange for an approved doctor or other suitably qualified professional person to examine the patient and report to the Governor at regular intervals of not more than twelve months.

(11) A report must contain any particulars required by the Governor.

(12) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

55. Powers of Governor in respect of patients subject to restriction orders

(1) If the Governor is satisfied that in the case of any patient a restriction order is no longer required for the protection of the public from serious harm, the Governor may direct that the patient cease to be subject to a restriction order.

(2) At any time while a restriction order is in force in respect of a patient, the Governor may by warrant discharge the patient from hospital; and —

(a) a discharge may be absolute or conditional;

(b) on being absolutely discharged the patient ceases to be liable to detention under the detention order, and the restriction order ceases to have effect; and

(c) while a patient is conditionally discharged the Governor may at any time by warrant recall the patient to a hospital specified in the warrant.

(3) If a restriction order ceases to have effect while a patient is conditionally discharged (and has not been recalled) the patient —

(a) is absolutely discharged on the date when the restriction order ceases to have effect; and

(b) ceases to be liable to be detained under the detention order.

(4) If the Governor is satisfied that a patient subject to a restriction order should attend at a place in the interests of justice or for the purposes of a public inquiry —

(a) the Governor may direct that the patient be taken to that place; and

(b) the patient must be kept in custody while being taken to that place, while there and while being returned, unless the Governor otherwise directs.

(5) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

56. Power to discharge patients subject to restriction orders

(1) A patient who is subject to a restriction order may apply to the Tribunal for an order of absolute or conditional discharge.

(2) Applications may be made —

(a) during the period of six months beginning with the date of the restriction order; and

(b) after that, at intervals of not less than twelve months, or more frequently with the leave of the Tribunal.

(3) If a period of three years during which a patient could make an application ends without an application being made, the Governor must refer the patient's case to the Tribunal, and the referral is to be treated for all purposes as an application for absolute or conditional discharge.

(4) On an application (or referral) the Tribunal must direct the patient's discharge if the Tribunal is not satisfied that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be liable to be detained in a hospital for medical treatment;

(b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment; and

(c) that appropriate medical treatment is available.

(5) The Tribunal must make a discharge —

(a) absolute, if not satisfied that it is appropriate for the patient to remain liable to be recalled to hospital for further treatment; and

(b) conditional, if satisfied that it is appropriate for the patient to remain liable to recall.

(6) A patient who is absolutely discharged ceases to be liable to be detained under the detention order, and the restriction order ceases to have effect.

(7) A patient who is conditionally discharged —

(a) may be recalled by the Governor; and

(b) must comply with any conditions imposed by the Tribunal at the time of discharge or by the Governor later.

(8) The Governor may vary a condition imposed (whether by the Tribunal or by the Governor) under subsection (7).

(9) Where a restriction order ceases to have effect and the patient has been conditionally discharged under this section (and not recalled), the patient is absolutely discharged on the date when the restriction order ceases to have effect, and ceases to be liable to detention under the detention order.

(10) The Tribunal may defer implementation of a direction for conditional discharge of a patient until arrangements have been made to the Tribunal's satisfaction.

(11) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

57. Applications concerning conditionally discharged patients

(1) This section applies where a patient subject to a restriction order is conditionally discharged under section 56.

(2) The patient may apply to the Tribunal for an order of absolute discharge.

(3) Applications may be made —

(a) during the period of twelve months beginning with the date of conditional discharge; and

(b) after that, at intervals of not less than twelve months, or more frequently with the leave of the Tribunal.

(4) If the patient is recalled to hospital the Governor must refer the patient's case to the Tribunal during the period of four weeks beginning with the date of recall; and the referral is to be treated for all purposes as an application for absolute discharge.

(5) On an application (or reference) the Tribunal may —

(a) vary a condition of the discharge;

(b) add a new condition;

(c) direct that the restriction order is to cease to have effect.

(6) If the Tribunal gives a direction under paragraph (c) the patient ceases to be liable to be detained under the detention order.

(7) While a patient is subject to a conditional discharge the Chief Medical Officer must arrange for an approved doctor or other suitable person to examine the patient and report to the Governor at regular intervals of not more than six months.

(8) A report must contain any particulars required by the Governor.

(9) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

58. Transfer of prisoners to hospital

(1) This section applies to —

(a) persons serving a sentence of imprisonment;

(b) other persons detained in a prison or remand centre;

(c) persons remanded in custody;

(d) civil prisoners, that is to say, persons committed by a court to prison for a limited term; and

(e) persons detained under the Immigration Ordinance.

(2) The court or authority which made the order by virtue of which this section applies to a person ("the prisoner") may order that the prisoner be removed to and detained in a specified hospital (a "transfer order").

(3) A transfer order may be made only if the court or authority is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

(a) the prisoner is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be detained in a hospital for medical treatment;

(b) appropriate medical treatment is available; and

(c) arrangements have been made for the prisoner's admission to hospital.

(4) A transfer order has the same effect as a detention order.

(5) A transfer order ceases to have effect —

(a) when the order by virtue of which this section applies ceases to have effect (or would have ceased to have effect but for the transfer order); or

(b) earlier, in accordance with section 59.

59. Further provisions as to transfer orders

(1) This section applies where —

(a) a transfer order is made in respect of a person; and

(b) a decision is then made that the person no longer requires, or can no longer be given, treatment in hospital for mental disorder.

(2) A decision under subsection (1)(b) may be made by —

(a) an approved doctor and an approved professional; or

(b) the Tribunal.

(3) The person who makes the decision must immediately notify the court or authority which made the transfer order.

(4) That court or authority —

(a) may make any order in respect of the person that it thinks necessary or expedient to ensure that the order by virtue of which section 58 applied to the person continues to have effect as if the transfer order had not been made; and

(b) must include provision for terminating the transfer order.

60. Effect of detention under this Part

(1) A person who is detained in hospital in pursuance of a detention order or a transfer order is to be treated for the purposes of this Ordinance as if detained under a hospital treatment order made on the date of the detention or transfer order.

(2) A person's continuing detention in hospital in pursuance of a detention order or a transfer order requires authorisation by the Tribunal under Part 7 of this Ordinance as though he or she were detained under a hospital treatment order, unless he or she is also subject to an overseas removal order.

(3) Time spent detained in hospital under this Part is to be treated as time in custody in calculating time spent towards serving a sentence of imprisonment or other detention.

61. Variation of orders under this Part

(1) The Crown may apply to the court which made an order under this Part for the order to be varied to provide for the person detained to be transferred from the hospital named in the order to another hospital (whether in the Falkland Islands, the United Kingdom or elsewhere).

(2) In considering an application under subsection (1) the court may request the Chief Medical Officer to provide such information as he or she can reasonably obtain with respect to the

hospital (whether in the Falkland Islands, the United Kingdom or elsewhere) to which it is proposed that the person detained be transferred.

(3) The Chief Medical Officer must comply with a request under subsection (2).

(4) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of subparagraphs (i) to (iii) chosen by the Attorney General.

62. Information about hospitals

(1) A court which is considering whether to make an order under this Part in respect of a person may request the Chief Medical Officer to provide such information as he or she can reasonably obtain with respect to any hospital (whether in the Falkland Islands, the United Kingdom or elsewhere) at which arrangements could be made for the admission of the person in pursuance of the order.

(2) The Chief Medical Officer must comply with a request under subsection (1).

(3) Where the person concerned has not attained the age of 18 years, the information which may be requested under subsection (1) includes, in particular, information about the availability of accommodation or facilities designed so as to be specially suitable for patients under that age.

63. Detention orders and overseas removal orders

(1) A detention order, interim detention order or transfer order may be made in conjunction with an overseas removal order, so that the offender is removed from the Falkland Islands to be detained for medical treatment in a hospital elsewhere if the court is satisfied, on the written or oral evidence of the Chief Medical Officer, that —

(a) appropriate medical treatment is available at that hospital; and

(b) arrangements have been made for the offender’s transportation and admission to that hospital.

(2) The overseas removal order may be made at the same time as or after the detention order.

64. Requirements as to evidence

(1) Evidence required from an approved practitioner under this Part may not be presented —

- (a) by a relative of the patient;
- (b) by a person who has a business relationship with the patient; or
- (c) in other circumstances where the court thinks there might be a conflict of interest.

(2) Where a report is tendered in evidence in pursuance of a direction of a court and otherwise than by or on behalf of the person who is the subject of the report —

- (a) if that person is represented by a legal practitioner, a copy of the report must be given to the legal practitioner;
- (b) if that person is not so represented, the substance of the report must be disclosed to him or her or, in the case of a person who has not attained the age of 18, to any parent or guardian present in court; and
- (c) except where the report relates only to arrangements for admission to a hospital, that person may require the signatory of the report to be called to give oral evidence, and may call evidence to rebut the evidence in the report.

PART 9 REMOVAL OF PATIENTS FROM THE FALKLAND ISLANDS

65. Removal of patients from the Falkland Islands

(1) The Tribunal may order the removal of a patient from the Falkland Islands for treatment or detention (“an overseas removal order”).

(2) An overseas removal order may be made only if the Tribunal is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

- (a) the patient is suffering from mental disorder;
- (b) the patient cannot be treated effectively in the Falkland Islands; and
- (c) it is necessary in the patient’s interests or for the protection of the public that the patient be removed from the Falkland Islands.

66. Restraint of a patient in transit

(1) Where a patient is to be removed from the Falkland Islands under an overseas removal order the Tribunal may authorise —

- (a) the forcible administration of medication by a medical practitioner during the journey;

(b) forcible restraint during the journey;

(c) other specified measures during the journey.

(2) Authorisation may be given only if the Tribunal is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

(a) any medication authorised is neither irreversible nor hazardous; and

(b) that the medication, restraint or other measures authorised are the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or herself or to others.

(3) For the purposes of this section treatment —

(a) is irreversible if it has unfavourable and irreversible physical or psychological consequences; and

(b) is hazardous if it entails significant physical hazard.

67. Further provisions as to overseas removal orders

(1) An overseas removal order has the same effect as a hospital treatment order until the patient leaves the Falkland Islands, unless the Tribunal orders otherwise.

(2) An overseas removal order must whenever practicable specify the aircraft or ship in which the patient is to be removed from the Falkland Islands.

(3) An overseas removal order may include directions —

(a) for the conveyance of the patient to his or her destination;

(b) for his or her detention in any place or on board any aircraft or ship until arrival at any specified place.

(4) Where a patient is removed from the Falkland Islands in pursuance of an overseas removal order, any application, order or direction made under this Ordinance ceases to have effect once the patient arrives at —

(a) the destination; or

(b) another place specified in the order for this purpose.

(5) There is no right of appeal against an overseas removal order.

68. Notifications

On making an overseas removal order the Tribunal must send copies of the order to —

- (a) the Governor, and
- (b) the Principal Immigration Officer.

PART 10
MEDICAL TREATMENT

69. Patients to whom Part 10 applies

This Part applies to a patient who is —

- (a) liable to be detained for treatment under this Ordinance; or
- (b) a community patient who has been recalled to hospital.

70. Treatment not requiring consent

- (1) A patient's consent is not required for medical treatment given for his or her mental disorder by or under the direction of an approved doctor.
- (2) Subsection (1) does not permit medicine to be given without consent, to a person detained under this Ordinance, for a period of more than three months.

71. Treatment requiring consent or second opinion

- (1) This section applies to the administration of medicine for mental disorder to a person detained under this Ordinance after the first three months of administering the medicine.
- (2) A patient may not be given treatment unless an approved doctor (other than the approved doctor in charge of the treatment) certifies in writing that it is appropriate for the treatment to be given and that —
 - (a) the patient has consented to the treatment, and is capable of understanding its nature, purpose and likely effects;
 - (b) the patient is not capable of understanding those matters; or
 - (c) the patient is capable of understanding those matters and has not consented, but it is in the patient's best interests for the treatment to be given.
- (3) Before giving a certificate an approved doctor must consult two other persons —
 - (a) neither of whom is the approved doctor in charge of the treatment;
 - (b) both of whom have been professionally concerned with the patient's medical treatment; and
 - (c) at least one of whom is a registered nurse.

72. Plans of treatment

A consent or certificate under section 71 may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more forms of treatment.

73. Withdrawal of consent

(1) Consent of a patient to treatment given for the purposes of this Part may be withdrawn (in which case any continuation of the treatment is to be treated as a separate course).

(2) Where a patient consents to treatment for the purposes of this Part but before the completion of the treatment ceases to be capable of understanding its nature, purpose and likely effects, the patient must be treated as withdrawing consent (and any continuation of the treatment is to be treated as a separate course).

(3) If it is certified for the purposes of this Part that a patient is not capable of understanding the nature, purpose and likely effects of treatment and the patient later becomes capable of understanding its nature, purpose and likely effects, before the treatment is completed, the certificate ceases to apply (and the remainder of the treatment is to be treated as a separate course).

(4) A patient who has consented to a plan of treatment may withdraw consent to further treatment under the plan.

(5) This section is subject to the provisions about urgent treatment in section 74.

74. Urgent treatment

(1) Neither consent of the patient nor a second opinion from an approved doctor is required for treatment—

(a) which is immediately necessary to save the patient's life;

(b) which is immediately necessary to prevent a serious deterioration of his or her condition, and is not irreversible;

(c) which is immediately necessary to alleviate serious suffering by the patient, and is neither irreversible nor hazardous; or

(d) which is immediately necessary, is the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or herself or to others, and is neither irreversible nor hazardous.

(2) The provisions of this Part about withdrawal of consent to treatment do not prevent continuation of treatment (whether or not under a plan) until the provisions requiring consent or a second opinion can be complied with, if the approved doctor responsible for the patient's treatment thinks that discontinuance would cause serious suffering to the patient.

(3) For the purposes of this section treatment —

(a) is irreversible if it has unfavourable and irreversible physical or psychological consequences; and

(b) is hazardous if it entails significant physical hazard.

75. Prohibited treatments

(1) The following treatments are prohibited —

(a) any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue; and

(b) electro-convulsive therapy.

(2) Other provisions of this Ordinance are subject to this section.

PART 11 MISCELLANEOUS

76. Powers of entry and inspection

(1) An approved practitioner may at all reasonable times enter and inspect any premises in which a patient is living, if he or she has reasonable cause to believe that the patient is not under proper care.

(2) Before exercising the power in subsection (1) a practitioner must, if asked to do so, show a document proving that he or she is an approved practitioner.

(3) This section does not permit entry to a hospital.

77. Welfare of certain hospital patients

(1) This section applies to —

(a) children and young persons in the care of the Crown by virtue of a care order within the meaning of the Children Ordinance (No 28 of 1994); and

(b) persons in whose case the functions of nearest relative under this Ordinance have been transferred to the Crown.

(2) Where a patient to whom this section applies is admitted to a hospital (whether or not for treatment for mental disorder) the Chief Medical Officer must —

(a) arrange for regular visits to be made to the patient by an approved professional; and

(b) take such other steps in relation to the patient while in the hospital as would be expected to be taken by parents.

78. Code of practice

- (1) The Chief Medical Officer must ensure that a code of practice (in this Ordinance referred to as “the code of practice”) is prepared —
 - (a) for the guidance of approved practitioners in relation to the detention of patients in hospital for assessment or treatment under this Ordinance;
 - (b) for the guidance of approved practitioners and other professionals in relation to the medical treatment of patients suffering from mental disorder;
 - (c) for the guidance of approved practitioners in relation to the removal of patients from the Falkland Islands under this Ordinance; and
 - (d) dealing with other related matters.
- (2) The code of practice must include a statement of the principles which the Chief Medical Officer thinks should inform decisions under this Ordinance.
- (3) The Chief Medical Officer must, in particular, ensure that each of the following matters is addressed in the statement of principles —
 - (a) respect for patients’ past and present wishes and feelings;
 - (b) respect for diversity generally including, in particular, diversity of religion, culture and sexual orientation;
 - (c) minimising restrictions on liberty;
 - (d) involvement of patients in planning, developing and delivering care and treatment appropriate to them;
 - (e) avoidance of unlawful discrimination;
 - (f) effectiveness of treatment;
 - (g) views of carers and other interested parties;
 - (h) patient wellbeing and safety; and
 - (i) public safety.
- (4) The Chief Medical Officer must also have regard to the desirability of ensuring —
 - (a) the efficient use of resources; and
 - (b) the equitable distribution of services.

(5) In performing functions under this Ordinance approved practitioners must have regard to the code of practice.

(6) The Chief Medical Officer must keep the code of practice under review and arrange for it to be revised from time to time.

(7) Before the code of practice is prepared or revised the Chief Medical Officer must consult —

(a) a suitably qualified and experienced psychiatrist;

(b) all persons appearing on the list of approved practitioners; and

(c) such other persons or bodies as appear to be concerned.

(8) On preparing or revising the code of practice the Chief Medical Officer must send a copy to the Governor.

(9) The Chief Medical Officer must ensure that the code of practice as it has effect at any time—

(a) is published; and

(b) is available at all times to hospital staff, patients, their nearest relatives and legal practitioners.

79. General protection of detained patients

(1) The Chief Medical Officer must keep under review the exercise of functions under this Ordinance in respect of the detention of patients, patients liable to be detained and community patients.

(2) The Chief Medical Officer must investigate —

(a) any complaint made by a person in respect of a matter that occurred while he or she was detained under this Ordinance or recalled to hospital under Part 5 and which he or she thinks has not been satisfactorily dealt with; and

(b) any other complaint as to the exercise of functions under this Ordinance in respect of a person who is or has been detained or liable to detention or who is or has been a community patient.

(3) The Chief Medical Officer may arrange for a suitably qualified person to investigate on his or her behalf a complaint in accordance with subsection (2).

(4) If a complaint alleges negligence or misconduct on the part of the Chief Medical Officer, the Chief Medical officer must arrange for it to be investigated by a suitably qualified person.

(5) For the purpose of a review or investigation under this section the Chief Medical Officer or a person authorised by the Chief Medical Officer may at any reasonable time require the production of, and inspect, records relating to the detention or treatment of a person who is or has been detained under this Ordinance or liable to detention or who is or has been a community patient.

(6) The Chief Medical Officer must consider the results of an investigation and take such steps as may be available to rectify any ongoing defect identified by the investigation concerning the exercise of functions under this Ordinance.

(7) The Chief Medical Officer must send a written report to the complainant about —

(a) the results of the investigation; and

(b) any steps taken as an outcome of the investigation.

80. Complaint to the Mental Health Tribunal

(1) Where a complaint has been investigated under section 79 and the complainant has exhausted any further complaints procedures available, the complainant may refer the complaint to the Tribunal.

(2) A complaint may be referred only if the Governor thinks that condition 1 or 2 is satisfied.

(3) Condition 1 is that —

(a) the matter complained of has a seriously detrimental effect in respect of a person (“the victim”) who is or has been detained under this Ordinance or been liable to detention or who is or has been a community patient; and

(b) the victim or his or her nearest relative has consented to the referral (where the victim is not the complainant).

(4) Condition 2 is that —

(a) the complaint has identified a serious and ongoing defect in the exercise of functions under this Ordinance; and

(b) either the Chief Medical Officer has not taken steps to remedy the defect or the steps have not been effective.

(5) Where a complaint is referred under this section, the Tribunal must take such steps and adopt such procedure as it thinks necessary to investigate and consider the complaint and make findings and recommendations to the Governor.

(6) When considering a complaint, the Tribunal must have regard to the code of practice.

(7) For the purpose of considering a complaint the Tribunal or a person authorised by the Tribunal may at any reasonable time require the production of, and inspect, records relating to the detention or treatment of any person who is or has been detained under this Ordinance or been liable to detention or who is or has been a community patient.

(8) On receipt of findings and recommendations under subsection (5), the Governor must consult such persons and take such steps as the Governor thinks appropriate.

81. Informal admission of patients

(1) Nothing in this Ordinance prevents a patient who requires treatment for mental disorder from being admitted to or remaining in a hospital or medical centre without any order or direction under this Ordinance.

(2) In the case of a patient aged 16 or 17 years who has capacity to consent to the making of arrangements for admission to or remaining in a hospital or medical centre —

(a) arrangements may be made in reliance on the patient's consent even though there are one or more persons who have parental responsibility for him or her within the meaning of the Children Ordinance; and

(b) arrangements may not be made without that consent on the basis of the consent of a person who has parental responsibility for him or her.

82. Accommodation for children

(1) This section applies in respect of a patient who has not attained the age of 18 years and who—

(a) is detained under this Ordinance; or

(b) is admitted to a hospital in pursuance of arrangements of the kind mentioned in section 81.

(2) A patient detained for assessment at an approved medical centre must be transported as soon as reasonably practicable to a hospital.

(3) The Chief Medical Officer must ensure that the patient's environment in the hospital is suitable having regard to his or her age (subject to his or her needs).

(4) For that purpose the Chief Medical Officer must consult a person who appears to have suitable knowledge or experience of cases involving patients who have not attained the age of 18 years.

83. No duty to make further enquiries

An order for the detention or treatment of a patient which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of—

(a) the signature or qualifications of the person by whom the order or recommendation is made or given; or

(b) any matter of fact or opinion stated in it.

84. Conflicts of interest

No action may be taken for the purposes of this Ordinance by an approved practitioner or Tribunal member who —

(a) is a relative of the person concerned;

(b) has a business relationship with him or her; or

(c) might have a conflict of interest for any other reason.

85. Protection for acts done in pursuance of this Ordinance

(1) No person is liable on any ground (including want of jurisdiction) to civil or criminal proceedings by reason only of anything done or purportedly done under or by virtue of this Ordinance.

(2) Subsection (1) does not apply to an act done in bad faith or without reasonable care.

(3) Civil proceedings may not be brought in respect of anything done or purportedly done under or by virtue of this Ordinance, without the leave of the Supreme Court.

(4) This section applies to omissions as to acts.

PART 12 OFFENCES

86. Forgery and false statements

(1) It is an offence to be in possession or control without reasonable excuse of a document to which this subsection applies, knowing or believing it to be false (within the meaning of Part I of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands).

(2) It is an offence to be in possession or control without reasonable excuse of a document so closely resembling a document to which this subsection applies as to be calculated to deceive.

(3) Subsections (1) and (2) apply to —

(a) medical or other recommendations or reports under this Ordinance; and

(b) other documents required or authorised to be made for any purpose of this Ordinance.

(4) It is an offence wilfully to make a false entry or statement in a document required or authorised to be made for any purpose of this Ordinance.

(5) It is an offence for a person with intent to deceive to make use of an entry or statement in a document required or authorised to be made for any purpose of this Ordinance, knowing or believing the entry or statement to be false.

(6) A person guilty of an offence under this section is liable to —

- (a) imprisonment for a term not exceeding two years;
- (b) a fine not exceeding the maximum of level 6 on the standard scale; or
- (c) both.

87. Ill-treatment of patients

(1) It is an offence for a member of staff in a hospital or approved medical centre —

- (a) to ill-treat or wilfully neglect a patient receiving treatment for mental disorder as an in-patient in the hospital or centre; or
- (b) to ill-treat or wilfully neglect, on the premises of the hospital or centre, a patient receiving treatment for mental disorder as an out-patient.

(2) It is an offence for an individual to ill-treat or wilfully neglect a patient who is for the time being in his or her custody or care (whether by virtue of any legal or moral obligation or otherwise).

(3) A person guilty of an offence under this section is liable to —

- (a) imprisonment for a term not exceeding five years;
- (b) a fine not exceeding the maximum of level 10 on the standard scale; or
- (c) both.

88. Assisting patients to absent themselves without leave

(1) It is an offence to induce or knowingly assist a person who is liable to be detained in a hospital or who is a community patient to absent himself or herself without leave.

(2) It is an offence to induce or knowingly assist a person in legal custody by virtue of this Ordinance to escape.

(3) It is an offence —

- (a) knowingly to harbour a patient who is absent without leave or is otherwise at large and liable to be retaken under this Ordinance; or

(b) to give him or her assistance with intent to prevent, hinder or interfere with his or her being taken into custody or returned to the hospital or other place where he or she ought to be.

(4) Any person guilty of an offence under this section is liable to —

(a) imprisonment for a term not exceeding two years;

(b) a fine not exceeding the maximum of level 6 on the standard scale; or

(c) both.

89. Obstruction

(1) It is an offence without reasonable cause —

(a) to refuse to allow premises to be inspected in accordance with this Ordinance;

(b) to refuse to allow a person to be visited, interviewed or examined in accordance with this Ordinance;

(c) to refuse access to a person for any of those purposes;

(d) to refuse to produce a document or record for inspection in accordance with this Ordinance;

(e) otherwise to obstruct a person in the exercise of a function under this Ordinance.

(2) In particular, it is an offence to insist on being present at an examination or interview in accordance with this Ordinance, having been required to withdraw.

(3) A person guilty of an offence under this section is liable to —

(a) imprisonment for a term not exceeding three months;

(b) a fine not exceeding the maximum of level 4 on the standard scale; or

(c) both.

PART 13 SUPPLEMENTARY

90. Regulations

(1) The Governor may by regulations make provision which appears necessary or expedient for the purpose of giving effect to this Ordinance.

(2) Regulations may in particular prescribe forms to be used for any purpose of this Ordinance.

91. Approved practitioners

(1) "Approved doctor" means a medical practitioner approved by the Governor by Order for the purposes of this Ordinance.

(2) "Approved professional" means a nurse, social worker or other professional approved by the Governor by Order for the purposes of this Ordinance.

(3) The list of approved practitioners must be reviewed by the Chief Medical Officer annually and may be amended at any time by the Governor by Order.

(4) Before making or amending the list the Governor must consult the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals —

(a) for initial inclusion on the list; and

(b) to keep their name on the list.

(5) If the Chief Medical Officer is also an approved doctor, he or she may carry out any of the functions of an approved doctor under this Ordinance.

92. Approved medical centre

(1) The Governor may by Order designate any place as an approved medical centre for the purposes of this Ordinance.

(2) Authorisation may be—

(a) permanent or temporary; and

(b) absolute or conditional.

(3) The Governor may by Order amend or revoke an authorisation.

(4) Before exercising a power under this section the Governor must consult the Chief Medical Officer.

93. "Relative" and "nearest relative"

(1) "Relative" means any of the following persons —

(a) partner;

(b) son or daughter;

(c) father or mother;

(d) brother or sister;

- (e) grandparent;
- (f) grandchild;
- (g) uncle or aunt; and
- (h) nephew or niece.

(2) In deducing relationships for the purposes of this section —

(a) a relationship of the half-blood is to be treated as a relationship of the whole blood;

(b) a person is to be treated as the child of his or her father only if the father has parental responsibility within the meaning of the Children Ordinance (or had such parental responsibility immediately before the child's eighteenth birthday); and

(c) any person who is not resident in the Falkland Islands is to be ignored.

(3) In this Ordinance "nearest relative" means the person highest in the list in subsection (1) who is for the time being surviving, regardless of sex; and where there is more than one person qualifying under one paragraph of subsection (1)—

(a) relatives of the whole blood are preferred to relatives of the half-blood; and

(b) subject to paragraph (a), the elder or eldest is preferred.

(4) Where a patient ordinarily resides with or is cared for by one or more of his or her relatives, that relative has, or those relatives have, preference in applying subsection (1) (and subsection (3) is subject to this subsection).

(5) Where a patient ordinarily resided with or was cared for by one or more of his or her relatives before becoming an in-patient in a hospital or approved medical centre, while the patient is in the hospital or centre that relative has, or those relatives have, preference in applying subsection (1) (and subsection (3) is subject to this subsection).

(6) In determining a patient's nearest relative in accordance with this section no account is to be taken of —

(a) a partner of the patient, who is permanently living apart from the patient, either by agreement or under an order of a court, or who has deserted or has been deserted by the patient for a period which has not come to an end; or

(b) a relative, other than the patient's partner, father or mother, who has not attained the age of 18.

(7) In this section “partner” means one of a married couple, an unmarried couple or a civil partnership, who is living with the other party (except in subsection (6)(a)); and “unmarried couple” means two persons who habitually live together in a relationship with some or all of the characteristics of a marriage or civil partnership.

(8) Where a patient ordinarily resides with a person other than a relative, and has been ordinarily residing with that person for a period of not less than five years, that person is treated for the purposes of this section as a relative, coming last in the list in subsection (1).

(9) Where a patient ordinarily resided with or was cared for by a person other than a relative before becoming an in-patient in a hospital or approved medical centre, and had been ordinarily residing with that person for a period of not less than five years, while the patient is in the hospital or centre that person is treated for the purposes of this section as a relative, coming last in the list in subsection (1).

(10) Where a patient is in the care of the Crown by virtue of a care order under the Children Ordinance the Crown is the patient’s nearest relative

(11) Where a residence order under the Children Ordinance is in force with respect to a patient, the person named in the residence order is the patient’s nearest relative.

(12) Where a guardian has been appointed for a patient who has not attained the age of eighteen years, the guardian (or guardians) is (or are together to be taken as) the patient’s nearest relative.

(13) Where a patient is a ward of court any power exercisable in relation to the patient by his or her nearest relative may be exercised only —

(a) by the court; or

(b) with the leave of the court.

94. Appointment by court of acting nearest relative

(1) The Supreme Court may by order direct that the functions of the nearest relative of the patient may be exercised by a specified person.

(2) The order must specify —

(a) any person nominated in the application whom the court thinks suitable and willing to act; or

(b) failing paragraph (a), a person whom the court thinks suitable and willing to act; or

(c) failing paragraphs (a) and (b), the Crown.

(3) An order may be made only on the application of —

- (a) the patient;
- (b) a relative of the patient;
- (c) a person with whom the patient is residing (or was residing immediately before the patient's admission to a hospital or medical centre);
- (d) an approved professional.

(4) An application for an order must be made on one of the following grounds —

- (a) that the patient has no nearest relative within the meaning of this Ordinance, or that it is not reasonably practicable to ascertain whether he or she has such a relative, or who that relative is;
- (b) that the nearest relative is incapable of acting by reason of mental disorder or other illness;
- (c) that the nearest relative has acted without regard to the welfare of the patient or the interests of the public; or
- (d) that the nearest relative is otherwise not suitable to act.

(5) An order may specify a period for which it is to continue in force unless previously discharged.

(6) While an order made under this section is in force, this Ordinance applies in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person specified in the order.

(7) For the purposes of subsection (6) it does not matter whether or not the person who was the patient's nearest relative when the order was made is still the nearest relative.

(8) An order may be discharged by the court on the application of —

- (a) the patient;
- (b) the person specified in the order; or
- (c) the nearest relative of the patient (except a nearest relative in respect of whom the order was made under subsection (4)(c) or (d)).

(9) The court may vary an order so as to substitute another specified person on the application of—

- (a) the patient;

(b) the presently specified person; or

(c) an approved professional.

(10) If the specified person dies, the functions of the nearest relative are not exercisable by any person until the order is discharged or varied.

(11) An order, unless previously discharged, ceases to have effect —

(a) at the end of the period specified in the order; or

(b) where no period is specified, when the patient ceases to be liable to be detained for assessment or treatment.

(12) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with—

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

95. Repeal

(1) The Mental Health Ordinance (Title 50.1) is repealed.

(2) Anything done under that Ordinance continues to have effect after the coming into force of this section as if done under this Ordinance; but—

(a) a detention or other order under that Ordinance lapses unless confirmed by the Chief Medical Officer within two weeks of the coming into force of this section, and

(b) before confirming the detention or other order the Chief Medical Officer must apply, in such manner as appear appropriate, any provisions of this Ordinance which would have applied if the order had been made under this Ordinance (and which had no equivalent under that Ordinance).

OBJECTS AND REASONS

This Bill would replace the Mental Health Ordinance (Title 50.1) in order to reform the law relating to persons suffering from mental illness.

Clause 2 provides that the Bill (if passed) would come into force on a date to be fixed by the Governor and published in the Gazette.

Clause 3 defines the terms that are used elsewhere in the Bill.

Part 2 deals with the application of the Ordinance.

Clause 4 establishes the scope of the Ordinance by establishing the range of mental disorders to which it would apply.

Part 3 deals with the compulsory detention of mental health patients in hospitals and approved medical centres.

Clause 5 would allow patients to be detained for a period of up to 72 hours for medical assessment (and *clause 7* would allow short term detention of in-patients by nurses for up to six hours to permit initial assessment to take place for that purpose).

Clause 6 would allow patients to be detained under a hospital treatment order for up to six months in the first instance but only on the basis of assessment by an approved doctor and following consideration by a multi disciplinary conference of approved practitioners. Renewals beyond the first six months would have to be approved by the new Mental Health Tribunal.

Clause 8 provides that a hospital treatment order would replace any order for short term detention that had been made in respect of that patient.

Clause 9 provides that the Chief Medical Officer must keep patients under continuing review and *clause 10* provides for information to be given to detained patients and, subject to their consent, to their families.

Clauses 11 and 12 would establish new rights for detained patients to be examined by an independent medical professional and to have access to legal advice. Neither provision requires the Chief Medical Officer or FIG to arrange or provide funding for an examination or legal advice.

Clause 13 provides for the discharge of patients in relation to whom the grounds for detention no longer apply, following assessment by an approved doctor, an interview with an approved professional and a multi disciplinary conference of approved practitioners.

Clause 14 provides that the ward manager would have to inform the nearest relative of a patient who is being discharged.

Clause 15 provides that the Chief Medical Officer would have to consider certain representations relating to detention and discharge.

Clause 16 provides for detained patients to be allowed out of hospital on leave, subject to various conditions.

Clause 17 provides for cases in which a patient absconds from detention.

Clause 18 deals with the transfer of detainees from an approved medical centre to a hospital.

Part 4 deals with conveying patients to hospital.

Clause 19 would allow the Senior Magistrate or two JP's to issue a warrant authorising a police officer to enter premises. Such a warrant would, if need be, allow the police officer remove to a hospital someone on the premises who is suffering from mental ill-health. However, the police officer would only be able to do this if the person to be removed has been or is being ill treated, neglected, if he or she is not being kept under proper control or if he or she is living alone and is unable to care for him or herself. It would also allow the person to be detained for a period of up to six hours to enable initial assessment by approved practitioners under *clause 5*. (This is comparable to the power given to nurses under *clause 7*.)

Clause 20 provides for a police officer to remove to a hospital or to an approved medical centre someone who is in a public place who appears to be suffering from mental disorder. However, the police officer would only be able to do this if the person to be removed also appears to be in immediate need of care or control. Again, it would also allow the person to be detained for a period of up to six hours to enable initial assessment by approved practitioners under *clause 5*. (Again, this is comparable to the power given to nurses under *clause 7*.)

Clause 21 deals with custody and movement and *clause 22* would give powers to deal with escapes from custody.

Part 5 deals with community treatment orders.

Clause 23 would allow detained patients to be discharged under a community treatment order where it is necessary for them to receive treatment for mental ill health but that treatment can be provided without continuing to detain them. It also provides that a patient discharged under a community treatment order would be subject to recall to hospital.

Clause 24 provides that a community treatment order would have to be subject to conditions and deals with the conditions that could be imposed.

Clause 25 provides for a community treatment order to last for up to six months but also for it to be superseded in certain situations. Renewals beyond the first six months would have to be approved by the new Mental Health Tribunal.

Clause 26 provides that a patient discharged under a community treatment order would remain subject to the hospital treatment order but could not be detained while the community treatment order remains in force.

Clause 27 requires the Chief Medical Officer to provide information to community patients and, subject to their consent, to their nearest relatives.

Clause 28 would give the Chief Medical Officer the power to recall a community patient to hospital in certain circumstances, and *clause 29* sets out the process that would have to be followed in the case of recall, which could result in the patient being released back into the community, or the community treatment order being revoked.

Clause 30 deals with the effect of revoking a community treatment order and *clause 31* deals with the effect of the expiry of a community treatment order.

Part 6 deals with guardianship of mental health patients.

Clause 32 deals with the process by which a guardianship order could be made, following assessment of a patient by an approved doctor and a multi disciplinary conference of approved practitioners. Guardianship orders would have to be approved by the Mental Health Tribunal.

Clause 33 deals with the effect of a guardianship order and would give the person named as the guardian of a mental health patient various powers over the patient.

Clause 34 provides that the Chief Medical Officer must keep patients under continuing review, and *clause 35* provides for information to be given to patients received into guardianship and, subject to their consent, to their nearest relatives.

Clause 36 provides for a replacement guardian to be appointed in various circumstances.

Clause 37 provides for the discharge of patients from guardianship if the grounds for guardianship no longer apply. A guardianship order could only be discharged by the Tribunal, following an application.

Clause 38 provides that the Chief Medical Officer would have to consider certain representations in relation to guardianship and discharge.

Clause 39 provides for cases in which a patient received into guardianship absconds from the place where the patient's guardian requires the patient to stay.

Part 7 deals with the new Mental Health Tribunal.

Clause 40 establishes the Tribunal and provides for it to be constituted by the Senior Magistrate and two JPs or, in certain circumstances, by three JPs.

Clause 41 provides that a patient detained under a hospital treatment order would be able to apply to the Tribunal for discharge within three months of the order being made. *Clauses 42 and 43* make similar provision in relation to community treatment orders and recall from community treatment orders.

Clause 44 would allow the Tribunal to renew hospital treatment orders for further periods of detention of six months at a time and provides for the procedure to be followed, including a further assessment of the patient by an approved doctor and a multi disciplinary conference of approved practitioners. *Clause 45* makes similar provision in relation to community treatment orders.

Clause 46 makes detailed provision in relation to procedure and evidence in relation to tribunal hearings. In particular, it creates a presumption that tribunal hearings will be private. However, it does allow the Tribunal to open proceedings to the public in certain circumstances in order to ensure that the provision is compatible with sections 6(11) and 6(12)(a) of the Constitution.

Clause 47 provides that the Tribunal must give reasons for its decisions.

Part 8 deals with patients who are concerned in criminal proceedings or who are under sentence.

Clause 48 would give the court power to remand an accused person to hospital for assessment of their mental state and *clause 49* would give the court power to remand the accused person to hospital for treatment. In neither case could the remand be for more than 28 days at a time or more than twelve weeks in total.

Clause 50 would allow the court to order detention in hospital or criminal guardianship in place of a sentence of imprisonment in appropriate circumstances. In the case of criminal guardianship, the guardian would have to be approved by the Crown. Pending a final decision, *clause 51* would allow the court to make an interim detention order (but not for more than 28 days at a time or for more than twelve weeks at a time) and *clause 52* would allow the court to request information from the Crown to enable it to decide whether or not to make a criminal guardianship order against an offender.

Clause 53 deals with the effect of a criminal guardianship order and provides for this to be the same as a guardianship order made under *Part 6*. It also provides that a criminal guardianship order could be transferred or discharged in the same way but that in the case of a transfer, the guardian would have to be approved by the Crown.

Clause 54 would allow the court to impose special restrictions by means of a restriction order when making a detention order under *clause 50*. While a restriction order applies, a detention order would become indefinite in duration and the offender could not be discharged or granted leave of absence without consent of the Governor (who would have to consult the Advisory Committee on the Prerogative of Mercy). The Governor would also have the power recall the offender from any leave of absence that is granted (but, again, would have to consult the Advisory Committee before doing so).

Clause 55 would give the Governor power to discharge a restriction order after consulting the Advisory Committee. It would be possible for the discharge to be absolute or conditional and, if it is conditional, the patient would be subject to recall.

Clause 56 would give an offender who is subject to a restriction order the right to apply to the Tribunal for discharge. It also provides for cases to be referred to the Tribunal without an application in certain circumstances.

Clause 57 deals with offenders who have been conditionally discharged from a restriction order, and would give them the right to apply for an absolute discharge or following recall. It would also impose regular reporting requirements on the Chief Medical Officer.

Clause 58 would allow for prisoners and other detained persons to be transferred to hospital for treatment of mental ill health and *clause 59* deals with situations in which transfer might no longer be appropriate.

Clause 60 provides that a detention order or a transfer order is equivalent to detention under a hospital treatment order, and time spent detained in hospital would be treated as if it were time spent towards serving a sentence of imprisonment or other detention.

Clause 61 provides for patients to be transferred to another hospital (including one outside the Falkland Islands). Both it and *clause 62* would allow the court to request information from the Chief Medical Officer regarding the proposed arrangements.

Clause 63 would allow a detention order, interim detention order or transfer order to be combined with an overseas removal order under *Part 9* to allow for treatment outside the Falkland Islands.

Clause 64 deals with evidence in support of applications made in the context of orders made under *Part 8*.

Part 9 deals with the removal of patients from the Falkland Islands.

Clause 65 would allow the Tribunal to make an overseas removal order under which a patient could be removed from the Falkland Islands for treatment or detention. However, an overseas removal order could only be made in accordance with the requirements as set out in section 8(3)(h) of the Constitution.

Clause 66 would allow for patients being removed from the Falkland Islands to be forcibly administered medication and forcibly restrained during the journey but would also specify certain safeguards in this respect.

Clause 67 provides that there would be no right of appeal from the Tribunal against an overseas removal order and that it would have the same effect as a hospital treatment order until the patient leaves the Falkland Islands. It also makes specific provisions for the arrangements that would need to be made.

Clause 68 would require the Tribunal to send copies of an overseas removal order to the Governor and the Principal Immigration Officer.

Part 10 deals with medical treatment.

Clause 70 would allow for medical treatment to be given to a patient without consent for up to three months in the first instance.

After that three month period, *clause 71* would require the patient's consent or a second medical opinion for further treatment but *clause 72* provides that such consent or opinion could apply to a course of treatment and not just to individual treatments. *Clause 73* would allow a patient to withdraw consent and also deals with situations in which a patient might no longer be capable of giving consent. However, *clause 74* would dispense with the need for either consent or a second opinion in cases of urgency but imposes safeguards as to the nature of the treatment that could be administered under this provision.

Clause 75 would prohibit certain brain surgery operations and electro convulsive therapy.

Part 11 deals with miscellaneous matters.

Clause 76 would give approved practitioners the power to enter and inspect premises to check that patients are under proper care.

Clause 77 would require the Chief Medical Officer to take specific steps to monitor the welfare of patients in hospital who are children subject to a care order under the Children Ordinance (No 28 of 1994) or in relation to whom the Crown has been appointed as the acting nearest relative.

Clause 78 makes detailed provision for a Code of Practice which would have to be kept under review and revised from time to time. Approved practitioners would have to have regard to the Code of Practice when carrying out functions under the Ordinance. There would also be a requirement to consult when the Code is being prepared and whenever it is being revised. Finally, a copy of each version of the Code would have to be sent to the Governor and it would also have to be published and made available to those to whom it applies and those affected by it or involved with it.

Clause 79 would establish a procedure for dealing with complaints regarding the treatment of mental health patients and *clause 80* would allow complaints to be referred to the Mental Health Tribunal.

Clause 81 would make it clear that nothing in the Ordinance would affect voluntary admissions to hospital for mental health treatment. It also provides that 16 and 17 year olds can give consent for their own treatment and that their consent is required rather than that of their parents.

Clause 82 would make special provision for children detained under the Ordinance and for 16 and 17 year olds admitted to hospital on the basis of their own consent rather than that of their parents. Children must be treated in a hospital rather than an approved medical centre, and the

Chief Medical Officer would have obligations to ensure that the patient's age is taken into account in relation to the hospital environment in which they are detained.

Clause 83 would allow those relying on orders to presume that they are valid without having to make further enquiries.

Clause 84 would prevent anyone subject to a conflict of interest from acting under the Ordinance.

Clause 85 would provide an indemnity from civil or criminal liability for actions or omissions under the Ordinance but this would be subject to requirements of good faith and reasonable care. It also imposes a requirement for leave to be obtained from the Supreme Court before civil proceedings could be brought in relation to actions or omissions under the Ordinance.

Part 12 deals with offences.

Clause 86 deals with forgery and false statements. The maximum penalty for offences against this provision would be two years in prison and/or a level 6 fine (£7,500).

Clause 87 deals with the ill treatment of patients. The maximum penalty for an offence against this provision would be two years in prison and/or a level 10 fine (£100,000).

Clause 88 deals with assisting patients to absent themselves without leave. The maximum penalty for an offence against this provision would be two years in prison and/or a level 6 fine (£7,500).

Clause 89 deals with various cases of obstruction. The maximum penalty for an offence against this provision would be three months in prison and/or a level 4 fine (£1,500).

Part 13 deals with supplementary matters.

Clause 90 would give the Governor (normally acting on the advice of the Executive Council) the power to make regulations.

Clause 91 would allow the Governor to make orders approving doctors and nurses, social workers and other professionals for the purposes of the Ordinance. The lists would have to be reviewed annually by the Chief Medical Officer but could be amended at any time. It also provides for the Governor to consult the Chief Medical Officer on the qualifications, training and experience to be required in order for a person to be added to the list or to stay on it.

Clause 92 provides for the Governor to designate any place as an approved medical centre (which could be on a temporary basis and could also be subject to conditions) but the Governor would have to consult the Chief Medical Officer.

Clauses 93 and 94 deal with the relatives and the nearest relatives of patients and *clause 94* would allow a Court to appoint someone (including the Crown, if need be) as an acting nearest relative.

Clause 95 would repeal the existing Mental Health Ordinance (Title 50.1) but it makes transitional provision in relation to actions taken under the existing Ordinance. In particular, it deals with the possible situation that a patient might be in detention under the existing Ordinance at the time of the transition.

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Falkland Islands Status (Amendment) Bill 2010.

Falkland Islands Status (Amendment) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Falkland Islands Status Ordinance
4. Section 2 amended - Interpretation
5. Section 3 amended - Applications for the grant of Falkland Islands status
6. Section 4 amended – Consideration of applications for Falkland Islands status

FALKLAND ISLANDS STATUS (AMENDMENT) BILL 2010

(No: of 2010)

(assented to: 2010)
(commencement: on publication)
(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Falkland Islands Status Ordinance (Title 52.3) in connection with eligibility to apply for Falkland Islands status.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Falkland Islands Status (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of Falkland Islands Status Ordinance

This Ordinance amends the Falkland Islands Status Ordinance.

4. Section 2 amended - Interpretation

(1) This section amends section 2.

(2) The definition of “Falkland Islands status” is amended by omitting “17(5)” and substituting “22(5)”.

(3) The following definitions are inserted immediately after the definition of “Falkland Islands status” —

““the former Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985 (SI 1985/444), as amended by the Falkland Islands Constitution (Amendment) Order 1997 (SI 1997/864) and the Falkland Islands Constitution (Amendment) (No. 2) Order 1997 (SI 1997/2974);

“the new Constitution” means Schedule 1 to the Falkland Islands Constitution Order 2008 (SI 2008/2846);”

(4) The definition of “qualified person” is repealed and the following substituted —

““qualified person” means a person who —

(a) is a Commonwealth citizen; and

(b) either —

(i) has been ordinarily resident in the Falkland Islands for at least 7 years immediately before the date of application under section 3; or

(ii) satisfies each of the following criteria —

(aa) the person held Falkland Islands status under section 17(5)(b)(ii) or section 17(5)(d)(i) of the former Constitution;

(bb) because of a change of domicile, the person no longer held Falkland Islands status immediately before the commencement of the new Constitution, so the person did not acquire Falkland Islands status under section 22(5)(a) of the new Constitution; and

(cc) the person is present, and is ordinarily resident, in the Falkland Islands on the date of application;”

5. Section 3 amended - Applications for the grant of Falkland Islands status

(1) This section amends section 3.

(2) Subsection (2)(b)(ii) is repealed and the following substituted —

“(ii) that the applicant either —

(aa) had not been ordinarily resident in the Falkland Islands for at least 7 years immediately before the date of application; or

(bb) does not satisfy each of the criteria in paragraph (b)(ii) of the definition in section 2 of “qualified person”.”

(3) Subsections (5) and (6) are repealed, and the following substituted —

“(5) An application which has not been rejected by the Principal Immigration Officer under subsection (2) will be considered as soon as reasonably practicable in accordance with section 4.

(6) Before an application made by virtue of paragraph (b)(i) of the definition of qualified person may be considered in accordance with section 4 —

(a) the Principal Immigration Officer must cause a notice of the application to be published in the Gazette and in a newspaper circulating in the Falkland Islands;

(b) the notice must state that any person who intends to object to the grant of the application may do so in writing to the Principal Immigration Officer within 21 days of the publication of the notice; and

(c) the 21 day notice period must have expired.”

6. Section 4 amended – Consideration of application for Falkland Islands status

Section 4 is amended by inserting the following subsection after subsection (1) —

“(1A) An application made by virtue of paragraph (b)(ii) of the definition of qualified person must be considered at the first available meeting of Executive Council, and subsection (1) does not apply to the extent that the application would otherwise be considered by Executive Council at a later meeting.”

OBJECTS AND REASONS

This Bill would amend the Falkland Islands Status Ordinance (Title 52.3) from its publication in the Gazette.

Clause 4 would amend the interpretation provisions in section 2 of the Ordinance.

First, it would update the reference to the Constitution in the definition of “Falkland Islands status” and also distinguish between the former Constitution that applied until the end of 2008 and the new Constitution that came into force at the start of 2009.

Secondly, it would amend the definition of “qualified person” to add a new category of person qualified to apply for Falkland Islands status. This would deal with a situation in which some people were unintentionally disadvantaged by the new Constitution, because they had Falkland Islands status in the past, but, due to a change in domicile, did not have Falkland Islands status immediately before 1 January 2009. These people would be able to apply for Falkland Islands status provided they are present and ordinarily resident in the Falkland Islands on the date of application.

Clause 5 would make consequential amendments to section 3 of the Ordinance and would have effect so that an application made by a person from the new category of qualified persons does not have to be advertised in the usual way.

Clause 6 would provide that an application made by one of the new category of persons would be considered by Executive Council at the first available meeting of Executive Council, and would not have to wait for the usual quarterly consideration of applications.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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No. 8

The following are published in this Supplement –

Banking Regulations (Amendment) Order 2010 (SR&O No 14 of 2010);

Statistics Bill 2010;

Family Allowances (Amendment) Ordinance 2010 (No 6 of 2010);

Mental Health Ordinance 2010 (No 7 of 2010); and

Falkland Islands Status (Amendment) Ordinance 2010 (No 8 of 2010).

SUBSIDIARY LEGISLATION

BANKING

Banking Regulations (Amendment) Order 2010

S. R. & O. No: 14 of 2010

Made: 3 August 2010

Published: 4 August 2010

Coming into force: 1 January 2011

I make this order under section 27 of the Banking Ordinance (Title 10.1) on the advice of Executive Council.

1. Title

This order is the Banking Regulations (Amendment) Order 2010.

2. Commencement

This order comes into force on 1 January 2011.

3. Amendment of regulation 4 – Fees

Regulation 4 of the Banking Regulations Order (Title 10.1.1) is amended by omitting “£1,000” and substituting “£2,000”.

Made 3 August 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE

(not forming part of the this order)

This order increases the annual licence fee payable by financial institutions under section 25 of the Banking Ordinance (Title 10.1) from £1,000 to £2,000, with effect from 1 January 2011.

Statistics Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

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STATISTICS BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: on publication)

(published: 2010)

A BILL

for

AN ORDINANCE

To establish a Statistical Service and for related purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 PRELIMINARY PROVISIONS

1. Title

This Ordinance is the Statistics Ordinance 2010.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Interpretation

In this Ordinance —

“authorised officer” means either —

(a) the Statistician; or

(b) another member of the staff of the Service appointed to be an authorised officer by the Statistician under section 7(1);

“function” includes a power or duty;

“Service” means the Statistical Service established by section 4(1);

“staff of the Service” means —

(a) the Statistician;

(b) the other public officers appointed by the Statistician under section 5(1) to be members of the staff of the Service; and

(c) the other persons appointed by the Statistician under section 5(2) to carry out functions of the Service; and

“the Statistician” means —

(a) the person appointed to the office of Statistician; or

(b) a person for the time being carrying out the functions of the office.

PART 2 STATISTICAL SERVICE

4. Statistical Service

(1) There is established, as the central statistical authority for the Falkland Islands Government, a Statistical Service.

(2) It consists of the Statistician and the other members of the staff of the Service.

(3) The Statistician has the control of, and overall responsibility for, the Service and its staff.

(4) Accordingly, the Statistician must make such arrangements and do everything necessary to ensure that the functions of the Service are carried out.

5. Staff of the Service

(1) The Statistician may appoint public officers to be members of the staff of the Service.

(2) In addition, the Statistician may appoint persons (who need not be public officers) to carry out specific functions of the Service.

(3) A person other than a public officer who is appointed under subsection (2) must enter into a contract with the Statistical Service through the Statistician.

(4) Subsection (5) applies to —

(a) the terms and conditions on which public officers are appointed under subsections (1) and (2); and

(b) the terms and conditions of contracts entered into under subsection (3).

(5) However, the Statistician must ensure that the terms and conditions —

(a) safeguard the confidentiality of the information gathered by the Service and made available to it; and

(b) create no conflict between the interests of the Service and the interests of the person appointed.

(6) Subject to section 9 (which provides for the independence of the Statistician in relation to the confidentiality of information and the integrity of the statistics produced), the functions of the Statistician under this section must be carried out within the scope of the Statistician's delegated authority within the Falkland Islands Government.

6. Oath of office

(1) The staff of the Service must, before entering on their duties under this Ordinance, take and subscribe the oath or affirmation set out in Schedule 1.

(2) If a person appointed by the Statistician to carry out a function of the Service is a body corporate, each of the following persons must take and subscribe the oath or affirmation set out in Schedule 2 —

(a) the chief executive officer of the body corporate; and

(b) each of its officers, employees or agents who will be engaged in carrying out the function.

(3) An oath or affirmation under this section is to be taken before either —

(a) a commissioner for oaths appointed under section 2 of the Commissioners for Oaths Ordinance (Title 22.3); or

(b) if an oath under subsection (2) is taken outside the Falkland Islands, a person with authority to administer oaths in the place where the oath is taken.

7. Authorised officers

(1) The Statistician may appoint a member of the staff of the Service to be an authorised officer.

(2) The appointment must be in writing signed by the Statistician.

8. Delegation of functions

(1) The Statistician may delegate to an authorised officer a function of the Service.

(2) The delegation must be in writing signed by the Statistician.

9. Independence of the Statistician and the Service

(1) No public officer may direct the Statistician or any member of the staff of the Service in any way that would affect either —

(a) the integrity of the statistics produced by the Service;

(b) the confidentiality of the information obtained or held by the Service.

(2) However, the Statistician must ensure that the Service carries out its functions in accordance with directions that do not affect either of these matters.

PART 3
FUNCTIONS OF THE STATISTICAL SERVICE

10. Primary functions of the Service

(1) The primary functions of the Service are —

(a) to assist the Falkland Islands Government in determining its policies by producing —

(i) an annual national account; and

(ii) social, economic and cultural statistics; and

(b) to provide these to the Governor and the Legislative Assembly.

(2) The Governor may prescribe by order the matters in relation to which the Service is to collect, compile, analyse, abstract and include in the annual national account and other statistics produced by the Service.

11. Power of authorised officer to obtain information

(1) This section applies where information is required to enable the Service to carry out its functions.

(2) An authorised officer may require a person who has the information to supply it to the officer.

(3) The officer may require the person to supply the information —

(a) by interviewing the person; or

(b) by giving the person a notice requiring the information to be provided within a specified period.

(4) A notice given under subsection (3)(b) may be —

(a) left at the person's last known address;

(b) posted to the person at that address; or

(c) sent to the person by fax or e-mail.

12. Information held by a governmental body

(1) It is the duty of a governmental body, if required to do so by an authorised officer, to supply to the officer information that is in the possession of the body.

(2) If the information required by the officer is subject to any restriction or prohibition on its supply or publication, it must still be supplied to the authorised officer but, except as provided by this Ordinance, otherwise remains subject to the restriction or prohibition.

(3) The public officer with responsibility for a governmental body must ensure that the body complies with its duty under subsection (1).

(4) In this section, “governmental body ” means —

(a) a department of the Falkland Islands Government;

(b) a court;

(c) a statutory body; or

(d) a company in which the Government owns all or a majority of the shares.

PART 4 CENSUS AND SURVEYS

13. Service to carry out census

(1) It is a further function of the Service —

(a) to organise and to carry out censuses of the population of the Falkland Islands; and

(b) to provide the Governor and the Legislative Assembly with a report on the findings of each such census as soon as reasonably possible after the census has been carried out.

(2) A census is to be carried out in 2011, and in every fifth year thereafter, in a month to be fixed by the Governor by order.

(3) The Governor may, by order, either —

(a) bring forward a census to be held in one year to an earlier year; or

(b) postpone a census to be held in one year to the following year (and may do so even if that census has already been postponed).

(4) The questions to be asked in a census are to be prescribed by the Governor by order.

(5) The Governor may prescribe by order the method by which the census is to be undertaken.

14. Service to hold surveys

(1) It is also a function of the Service to carry out business and household surveys.

(2) It is also the function of the Service to carry out additional business surveys that are more limited in scope, both as to the number of businesses surveyed and the information sought.

(3) As far as possible, business surveys are to be carried out at 12 month intervals and an additional business survey is to be carried out 6 months after each business survey has been carried out.

(4) As far as possible, household surveys are to be carried out at 12 month intervals.

15. Business surveys

(1) When carrying out a business survey, the Service must seek information from each business surveyed relating (to the extent relevant to the business) to each matter prescribed by the Governor by order.

(2) When carrying out an additional business survey, the Service must seek information from each business surveyed relating (to the extent relevant to the business) to some (but not necessarily all) of the matters prescribed by the Governor under subsection (1).

(3) For the purpose of a business survey or an additional business survey, an authorised officer may require a person to do one or more things prescribed by the Governor by order.

16. Household survey

(1) When carrying out a household survey, the Service must seek information from each household surveyed relating (to the extent relevant to the household) to each matter prescribed by the Governor by order.

(2) For the purpose of a household survey, an authorised officer may require a person to do one or more things prescribed by the Governor by order.

PART 5 CONFIDENTIALITY

17. Prohibition on divulging information

(1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following —

(a) the supplier of the information;

(b) the individual, company, body or organisation that it is about; and

(c) the undertaking or business to which it relates.

(2) A person who is or has been a member of the staff of the Service must not —

(a) permit a person who is not a member of the staff of the Service to examine the information; or

(b) otherwise knowingly disclose the information.

(3) Subsection (2) does not apply to information that identifies (or could be used to identify) an undertaking, a business or an organisation solely because the undertaking, a business or an organisation is the only one in the Falkland Islands within a particular sphere of activity.

(4) However, subsection (2) does apply to information that reveals any of the following in relation to an undertaking or business —

(a) the costs of production;

(b) the capital employed; or

(c) the profits made.

(5) This section does not apply to information required for the purposes of either —

(a) proceedings relating to an offence or alleged offence against this Ordinance; or

(b) the reference of the details of an alleged offence to the Attorney General under section 30(1).

18. Publication of information

(1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following —

(a) its supplier;

(b) the individual, company, body or organisation that it is about; or

(c) the undertaking or business to which it relates.

(2) The Service may publish the information if it is already available to the public.

(3) The Service may publish the information, even if it is not already available to the public, but only with the consent of both —

(a) its supplier; and

(b) either —

(i) the individual, company, body or organisation that the information is about; or

(ii) the owner of the undertaking or business to which it relates.

(4) The Service may also publish the information in the form of an index or list of undertakings, businesses and organisations, showing —

(a) their names, addresses and telephone numbers; and

(b) the products they produce, manufacture, process, transport, store, purchase or sell, or the services they provide.

19. Information privileged

(1) This section applies to information supplied to the Service under this Ordinance that the Service is prohibited by this Ordinance from divulging.

(2) The information is privileged and may not be used as evidence in any proceedings (apart from those relating to an offence or alleged offence against this Ordinance).

(3) A person who is or has been a member of the staff of the Service may not, by an order of a court, tribunal or other body, be required in any proceedings (other than those relating to an offence or alleged offence against this Ordinance) —

(a) to give oral testimony in respect of information; or

(b) to produce a record that contains the information.

(4) In this section, “record” means any method of storing information.

PART 6 OFFENCES

Offences by members of the staff of the Service

20. False declarations, statements and reports

(1) A member of the staff of the Service who wilfully makes a false declaration, statement or report when carrying out a function of the Service is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

21. Obtaining information by pretending to carry out function of the Service

(1) A member of the staff of the Service who pretends to be carrying out a function of the Service to obtain information that the officer is not authorised to obtain is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

22. Publishing false or misleading information

(1) A member of the staff of the Service who publishes, under the name of the Service, information that the person knows or ought to reasonably know is false or misleading is guilty of an offence.

(2) A person who is convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

Offences by members (or former members) of the staff of the Service

23. Divulging information

(1) A person who is or has been a member of the staff of the Service and who contravenes section 17 is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

24. Use of information for gain

(1) A member or former member of the staff of the Service who uses for gain (whether by that person or another) information that is held by the Service but that is not available to the public is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —

- (a) forfeiture of the amount gained;
- (b) a fine not exceeding level 6 on the standard scale;
- (c) imprisonment for up to 1 year.

Offences by persons required to provide information

25. Application of sections 26 and 27

Sections 26 and 27 apply to persons required to provide information by an authorised officer carrying out a function of the Service.

26. Failure to provide information

(1) A person who, without reasonable excuse, refuses or neglects to provide information is guilty of an offence.

(2) A person convicted of an offence under subsection (1) is liable —

- (a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or
- (b) in any other case, to a fine not exceeding level 6 on the standard scale.

27. Providing false or misleading information

- (1) A person who knowingly provides information that is false or misleading in a material particular is guilty of an offence.
- (2) A person who provides information but is reckless as to whether the information is false or misleading in a material particular commits an offence.
- (3) A person convicted of an offence under subsection (1) or (2) is liable —
 - (a) in the case of an individual, to a fine not exceeding level 5 on the standard scale; or
 - (b) in any other case, to a fine not exceeding level 7 on the standard scale.

Other offences

28. Hindering or obstructing an authorised officer

- (1) A person who hinders or obstructs an authorised officer carrying out a function of the Service is guilty of an offence.
- (2) A person convicted of an offence under subsection (1) is liable —
 - (a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or
 - (b) in any other case, to a fine not exceeding level 6 on the standard scale.

29. Pretending to be a member of the staff of the Service or an authorised officer to obtain information

- (1) A person who pretends to be a member of the staff of the Service or an authorised officer to obtain information from a person is guilty of an offence.
- (2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —
 - (a) forfeiture of the amount (if any) gained (whether by that person or another) as a result;
 - (b) a fine not exceeding level 6 on the standard scale;
 - (c) imprisonment for up to 1 year.

Civil penalties

30. Civil penalties

- (1) This section applies if the Statistician is satisfied that a person has committed an offence under section 26, 27 or 28.
- (2) The Statistician may refer details of the alleged offence to the Attorney General.

(3) If the Attorney General is satisfied that it is an appropriate case in which to do so, the Attorney General may, instead of bringing a prosecution for the alleged offence, authorise the Statistician to impose a penalty on the person.

(4) If the Attorney General does so, the Statistician may impose a penalty on the person not exceeding —

(a) in the case of an individual, an amount equivalent to a fine of level 1 on the standard scale; or

(b) in any other case, an amount equivalent to a fine of level 5 on the standard scale.

(5) If the Statistician imposes a penalty on a person under subsection (4), the Statistician must notify the person of —

(a) the decision that has been made;

(b) the reasons for it; and

(c) the period (which must be at least 14 days) within which the penalty is to be paid.

(6) A penalty imposed under subsection (4) —

(a) must be paid by the person within the period specified in the notice given under subsection (5); and

(b) if not paid, may be recovered from the person as a statutory debt.

PART 7 FINAL PROVISIONS

31. Subsidiary legislation

The Governor may make regulations and orders necessary or convenient for the purposes of this Ordinance.

32. Census Ordinance and subsidiary legislation repealed

(1) The Census Ordinance (Title 62.1) is repealed.

(2) The following are revoked —

(a) Census Order (No 19 of 2006);

(b) Census (Forms) Regulations (No 20 of 2006); and

(c) Census (Forms) Regulation Order (No 21 of 2006).

SCHEDULE 1

OATH (OR AFFIRMATION) TO BE TAKEN BY MEMBERS OF THE STAFF OF THE SERVICE

section 6(1)

“I,, solemnly swear (or affirm) that:

- (a) I will fulfil my duties as a member of the staff of the Statistical Service (of the Falkland Islands Government*);
- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and
- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so.”

Note: The bracketed words marked “*” are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

SCHEDULE 2

OATH (OR AFFIRMATION) TO BE TAKEN BY INDIVIDUALS IF A BODY CORPORATE IS APPOINTED TO CARRY OUT FUNCTIONS OF THE SERVICE

section 6(2)

“I,, solemnly swear (or affirm) that:

- (a) I will fulfil my duties as an (officer/employee/agent) of (name of body corporate) to enable it to fulfil its contract with the Statistical Service (of the Falkland Islands Government*);
- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and
- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so.”

Note: The bracketed words marked “*” are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

OBJECTS AND REASONS

The purposes of this Bill are as follows:

- (a) to establish a Statistical Service within the Falkland Islands Government;
- (b) to provide for the production of national accounts for the Falkland Islands economy and other social, economic and cultural statistics;
- (c) to provide for the collection of the information necessary for this; and
- (d) to provide for the necessary safeguards in relation to the confidentiality of the information collected and the integrity of the national accounts and other statistics produced.

Clause 3 defines key terms that are used elsewhere in the Bill.

Part 2 of the Bill deals with the proposed new Statistical Service.

Clause 4 would establish the proposed new Statistical Service (“the Service”), to consist of a Statistician (who would have control of and responsibility for the Service and its staff and who would be under a duty to ensure that the functions of the Service are carried out) and the other staff of the Service.

Clause 5 deals with the staff of the Service and allows for others to be appointed to carry out specific functions. It contains safeguards that are intended to ensure confidentiality and prevent conflicts of interest from arising. However, *clause 5(6)* also makes it clear that the Statistician’s functions would have to be exercised within delegated authority.

Clause 6 (and the Schedules) would require oaths (or affirmations) to be taken by the staff of the Service and other carrying out functions on its behalf.

Clause 7 provides for the appointment of authorised officers to carry out various functions under the Ordinance and *clause 8* would allow the Statistician to delegate functions to authorised officers.

Clause 9 provides for the independence of the Statistician and members of the staff of the Service in relation to the integrity of the statistics produced by the Service and the confidentiality of the information obtained by or held by the Service. It does not prevent management of the Statistician and the staff of the Service in other respects.

Part 3 of the Bill deals with the functions of the Service.

Clause 10 provides for the production of an annual national account and other social, economic and cultural statistics by the Service. The Governor would have the power to prescribe matters

to be covered by the Service and the national account and other statistics would have to be presented to both the Governor and the Legislative Assembly.

Clauses 11 and 12 would give authorised officers the power to collect information from both private individuals and businesses and from governmental bodies. *Clause 12(2)* would allow information to be collected even if it would otherwise be protected but the lifting of that protection would be restricted to the purposes of the Ordinance.

Part 4 of the Bill deals with the five-yearly census and surveys of businesses and households.

Clause 13(1) would transfer responsibility for the five-yearly census from the Registrar General and the Attorney General to the Service and the remainder of *clause 13* would make new provision for the carrying out of the five-yearly census. (*Clause 32* would repeal the existing Census Ordinance (Title 62.1).)

Under *clause 14*, the Service would have an additional function of carrying out business and household surveys at regular intervals. *Clause 15* deals with business surveys (and the smaller additional business surveys that would be carried out between the main business surveys) and *clause 16* deals with household surveys. In each case, the Governor would have the power to prescribe the matters to be covered in the surveys and the things that those being surveyed may be required to do.

Part 5 deals with the confidentiality of the information to be obtained by the Service and held by it.

Clause 17 would impose a prohibition (subject only to qualified exceptions) on the divulging of information that would identify (or could be used to identify) who supplied the information or the subject of the information. (Under *clause 23*, a breach of this prohibition by a member of the staff of the Service would be a criminal offence.)

Clause 18 would allow for the publication of information in certain, limited circumstances.

Under *clause 19*, information protected under the proposed Ordinance would be privileged in legal proceedings (other than proceedings relating to offences or alleged offences against the Ordinance itself).

Part 6 of the Bill deals with offences and penalties (including civil penalties in certain cases).

Clauses 20 to 22 deal with offences that could be committed by members of the staff of the Service.

Clause 20 would cover false declarations, statements and returns. The maximum penalty for this offence would be a level 4 fine (currently, £1,500).

Clause 21 would cover pretending to carry out a function of the Service to obtain information. The maximum penalty for this offence would be a level 4 fine (currently, £1,500).

Clause 22 would cover publishing false or misleading information. The maximum penalty for this offence would be a level 4 fine (currently, £1,500).

Clauses 23 and 24 deal with offences that could be committed by members of the staff of the Service or by former members of the staff of the Service.

Clause 23 would cover divulging information in breach of section 17. The maximum penalty for this offence would be a level 4 fine (currently, £1,500).

Clause 24 would cover the use of information for gain. The maximum penalty for this offence would be forfeiture of the amount of the amount gained and/or a level 6 fine (currently, £7,500) and/or imprisonment for up to 1 year.

Clauses 26 and 27 deal with offences that could be committed by persons who are required by an authorised officer to provide information.

Clause 26 would cover refusal or neglect to provide information without reasonable excuse. The maximum penalty for this offence would be a level 3 fine (currently, £800) for an individual or a level 6 fine (currently, £7,500) in any other case (eg for a company). (Alternatively, a civil penalty could be imposed under *clause 30*.)

Clause 27 would cover the provision of false or misleading information (whether knowingly or recklessly). The maximum penalty for this offence would be a level 5 fine (currently, £3,000) for an individual or a level 7 fine (currently, £12,500) in any other case (eg for a company). (Again, alternatively, a civil penalty could be imposed under *clause 30*.)

Clauses 28 and 29 deal with other offences.

Clause 28 would cover hindering or obstructing an authorised officer. The maximum penalty for this offence would be a level 3 fine (currently, £800) for an individual or a level 6 fine (currently, £7,500) in any other case (eg for a company). (Alternatively, a civil penalty could be imposed under *clause 30*.)

Clause 29 would cover pretending to be a member of the staff of the Service or an authorised officer to obtain information. The maximum penalty for this offence would be forfeiture of the amount of any amount gained as a result and/or a fine not exceeding level 6 (£7,500) and/or imprisonment for up to 1 year.

Clause 30 would establish a regime under which civil penalties could be imposed for certain offences in appropriate cases, as an alternative to prosecution. The maximum civil penalty that could be imposed on an individual would be the equivalent of a level 1 fine (currently, £200) and the maximum civil penalty that could be imposed in any other case (eg on a company) would be the equivalent of a level 5 fine (currently, £3,000).

Clause 31 would give the Governor the power to make regulations and orders.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Family Allowances (Amendment) Ordinance 2010

(No: 6 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of the Family Allowances Ordinance

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

FAMILY ALLOWANCES (AMENDMENT) ORDINANCE 2010

(No: 6 of 2010)

(assented to: 3 August 2010)

(commencement: 1 July 2010)

(published: 4 August 2010)

AN ORDINANCE

To amend the Family Allowances Ordinance (Title 65.1).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Family Allowances (Amendment) Ordinance.

2. Commencement

This Ordinance is deemed to have come into force on 1 July 2010.

3. Amendment of Family Allowances Ordinance

Section 4 of the Family Allowances Ordinance is repealed and the following substituted —

“4. Meaning of “child”

A person who has not yet reached the age of 16 is a child for the purposes of this Ordinance.”

Passed by the Legislature of the Falkland Islands on 30 July 2010.

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

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

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Mental Health Ordinance 2010

(No: 7 of 2010)

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ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

MENTAL HEALTH ORDINANCE 2010

(No: 7 of 2010)

(assented to: 3 August 2010)
(commencement: in accordance with section 2)
(published: 4 August 2010)

AN ORDINANCE

To make new provision for mentally disabled persons.

ENACTED by the Legislature of the Falkland Islands —

PART 1
INTRODUCTORY

1. Title

This Ordinance is the Mental Health Ordinance.

2. Commencement date

This Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

3. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

“absent without leave” has the meaning given by section 17;

“Advisory Committee” means the Advisory Committee established by section 70 of the Constitution;

“approved medical centre” has the meaning given by section 92;

“approved doctor” has the meaning given by section 91;

“approved professional” has the meaning given by section 91;

“approved practitioner” means an approved doctor or an approved professional;

“available”, in relation to treatment, does not necessarily mean available in the Falkland Islands;

“Chief Medical Officer” means the person for the time being holding the post of chief medical officer to the Government, including any person acting in that capacity;

“code of practice” has the meaning given by section 78;

“community patient” means a patient in respect of whom a community treatment order is in force;

“community treatment order” has the meaning given by section 23;

“detention order” has the meaning given by section 50;

“guardianship order” has the meaning given by section 32;

“hospital” means the King Edward VII Memorial Hospital in Stanley or any other hospital approved by the Governor by order for the purposes of this Ordinance;

“hospital treatment order” has the meaning given by section 6;

“interim detention order” has the meaning given by section 51;

“justice of the peace” means any person appointed to that office under the Administration of Justice Ordinance (Title 22.1);

“legal practitioner” has the meaning given to it in the Legal Practitioners Ordinance (Title 22.4);

“medical treatment” includes nursing, psychological intervention and specialist mental health habilitation, rehabilitation and care;

“mental disorder” has the meaning given by section 4;

“nearest relative”, in relation to a patient, has the meaning given by section 93;

“order for discharge” has the meaning given by section 13;

“overseas removal order” has the meaning given by section 65;

“patient” means a person suffering or appearing to suffer from mental disorder;

“Principal Immigration Officer” means the person for the time being appointed to that position under the Immigration Ordinance (Title 52.2);

“registered nurse” means a nurse registered with a professional nursing registration board in the United Kingdom, any other country in the European Union, the United States of America, Canada, Australia, New Zealand or any other country approved by the Governor by order for this purpose;

“relative” has the meaning given by section 93;

“restriction order” has the meaning given by section 54;

“Senior Magistrate” means the person for the time being appointed to that position under the Administration of Justice Ordinance (Title 22.1);

“transfer order” has the meaning given by section 58;

“Tribunal” means the Mental Health Tribunal (see section 40); and

“ward manager” means the registered nurse or other medical professional appointed to be in charge of the in-patient accommodation at a hospital or approved medical centre (or in their absence, or in the event of no such appointment having been made, the senior nurse on duty).

(2) A reference in this Ordinance to medical treatment in relation to mental disorder is a reference to medical treatment the purpose of which is to alleviate, or to prevent a worsening of, the disorder or one or more of its symptoms or manifestations.

(3) A reference in this Ordinance to appropriate medical treatment in relation to a person suffering from mental disorder is a reference to medical treatment which is appropriate in his or her case, taking into account the nature and degree of the mental disorder and all other circumstances of his or her case.

(4) Where this Ordinance permits one person to act on another’s behalf (in those terms), express authorisation is not required.

PART 2
APPLICATION OF ORDINANCE

4. Application of Ordinance: “mental disorder”

(1) This Ordinance deals with the reception, care and treatment of mentally disordered patients, and other related matters.

(2) In this Ordinance “mental disorder” means any disorder or disability of the mind.

(3) Dependence on alcohol or drugs is not a disorder or disability of the mind.

(4) For the purposes of hospital treatment orders and community treatment orders—

(a) learning disability is not a disorder or disability of the mind, unless it is associated with abnormally aggressive or seriously irresponsible conduct; and

(b) “learning disability” means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning.

PART 3
COMPULSORY DETENTION IN HOSPITAL

5. Detention for assessment

(1) A patient may be detained at a hospital or approved medical centre by order of an approved doctor for up to 72 hours for the purposes of assessment.

(2) An order for detention for assessment may be made on the grounds that the patient—

(a) is suffering from mental disorder of a nature or degree which warrants detention in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; and

(b) ought to be detained for that purpose for his or her own health or safety or to protect others.

(3) The approved doctor must—

(a) certify at the time of detention that in his or her opinion the conditions set out in subsection (2) are satisfied; and

(b) record the reasons for that decision.

(4) The approved doctor must arrange for the patient to be interviewed by an approved professional as soon as practicable.

(5) The approved doctor must as soon as practicable decide whether in his or her opinion the patient meets the grounds for detention for treatment.

(6) An approved doctor who decides that a patient does not meet the grounds for detention for treatment must—

(a) record the reasons for that decision; and

(b) discharge the patient immediately from detention under this section.

(7) An approved doctor who decides that a patient does meet the grounds for detention for treatment must—

(a) convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient;

(b) if practicable, arrange for the conference to include all approved practitioners who have previous acquaintance with the patient; and

(c) arrange for the conference to be held during the first 72 hours of the patient's detention for assessment.

(8) A patient who is not detained for treatment must be discharged immediately after being detained for assessment for 72 hours.

6. Hospital treatment orders

(1) A patient may be detained at a hospital for the purposes of treatment in accordance with an order under this section (a "hospital treatment order").

(2) A hospital treatment order may not be made unless—

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment in a hospital;

(b) it is necessary for the health or safety of the patient or for the protection of others that he or she should receive treatment which cannot be provided unless he or she is detained under this section; and

(c) appropriate medical treatment is available for him or her.

(3) A hospital treatment order may not be made unless—

(a) the patient has been assessed by an approved doctor within the preceding 72 hours (either voluntarily or during detention for assessment); and

(b) a multi-disciplinary conference of approved practitioners has met to consider the findings of the assessment and any other pertinent information relating to the patient and has approved the patient's detention for treatment.

(4) The multi-disciplinary conference must if practicable include all approved practitioners who have previous acquaintance with the patient.

(5) An order must be made by one approved doctor and one approved professional, each of whom —

(a) has seen the patient within the preceding 72 hours;

(b) certifies that in his or her opinion the conditions set out in subsection (2) are satisfied; and

(c) records the reasons for his or her decision.

(6) A patient may be detained in hospital under a hospital treatment order while it has effect.

(7) A hospital treatment order lasts for six months beginning with the date on which it is made; and it ceases to have effect at the end of that period unless—

(a) the patient is discharged during that period;

(b) the order is renewed or further renewed by the Tribunal under Part 7; or

(c) section 30(5) applies (duration of hospital treatment order after revocation of community treatment order).

7. Detention by registered nurse where patient already in hospital

(1) This section applies where a patient is receiving treatment as an in-patient in a hospital or an approved medical centre and a registered nurse thinks that—

(a) the patient is suffering from mental disorder to such a degree that it is necessary for his or her health or safety or for the protection of others for him or her to be immediately prevented from leaving the hospital or approved medical centre; and

(b) it is not practicable to secure the immediate attendance of an approved doctor.

(2) The patient may be detained in the hospital or approved medical centre.

(3) Detention in reliance on subsection (2)—

(a) may last until an approved doctor has arrived and decided whether to make an order under section 5; but

(b) may not last for more than 6 hours.

(4) A patient may be detained under subsection (2) only if the registered nurse records in writing that subsection (1) is satisfied.

(5) A registered nurse who makes a record under subsection (4) must arrange for it to be delivered to the Chief Medical Officer as soon as possible.

8. Effect of hospital treatment order

Where a hospital treatment order is made in respect of a person, any previous order under this Ordinance for his or her detention or treatment (including a community treatment order) or reception into guardianship ceases to have effect.

9. Duty to keep patients under continuing review

The Chief Medical Officer must keep under review a patient detained for treatment pursuant to a hospital treatment order to ensure that the grounds for detention continue to be met.

10. Duty of ward manager to give information to detained patients

(1) Where a person is detained under this Ordinance the ward manager must as soon as practicable take any practicable steps to ensure that the patient understands —

- (a) under which provision of this Ordinance he or she is for the time being detained;
- (b) the effect of that provision; and
- (c) what rights to apply to the Tribunal are available.

(2) The ward manager must also as soon as practicable take any practicable steps to ensure that the patient understands any relevant effect of provisions of this Ordinance about —

- (a) independent examination;
- (b) legal practitioners;
- (c) nearest relatives;
- (d) the code of practice; and
- (e) complaints.

(3) Information given under subsection (1) or (2) must be given both orally and in writing.

(4) The ward manager must take any practicable steps to give a copy of information provided in writing in accordance with subsection (3) to any person who appears to be the patient's nearest relative as soon as reasonably practicable after giving the information to the patient.

(5) But information must not be given under subsection (4) contrary to the patient's wishes.

- (6) The functions of the ward manager under this section may be discharged by —
- (a) an approved practitioner; or
 - (b) a registered nurse involved in the care of the patient.

11. Patient’s right to independent examination

- (1) A patient who has been detained under a hospital treatment order is entitled to be examined in private at any reasonable time by an independent psychiatrist or other suitably qualified professional person.
- (2) The nearest relative of a patient who has been detained under a hospital treatment order is entitled to arrange for the patient to be examined in private at any reasonable time by an independent psychiatrist or other suitably qualified professional person.
- (3) But subsection (2) does not allow an examination to which the patient objects.
- (4) This section does not require the Chief Medical Officer or the Falkland Islands Government to arrange or fund an examination.

12. Patient’s right of access to legal practitioner

- (1) A patient who has been detained under a hospital treatment order is entitled to meet a legal practitioner in private at any reasonable time.
- (2) The nearest relative of a patient who has been detained under a hospital treatment order is entitled to arrange for the patient to meet a legal practitioner in private at any reasonable time.
- (3) But subsection (2) does not allow a meeting to which the patient objects.
- (4) This section does not require the Chief Medical Officer or the Falkland Islands Government to arrange or fund any services of a legal practitioner.

13. Discharge of patient

- (1) A patient who is liable to be detained under this Part of this Ordinance ceases to be liable if an order is made in writing discharging him or her absolutely from detention (“an order for discharge”).
- (2) A community patient ceases to be liable to recall under Part 5 of this Ordinance if an order for discharge is made.
- (3) Where the Chief Medical Officer thinks that the grounds for detention of a patient under a hospital treatment order no longer apply, or may no longer apply, he or she must arrange for the patient as soon as practicable to be —
- (a) assessed by an approved doctor; and

(b) interviewed by an approved professional.

(4) Where a patient is assessed under subsection (3), the Chief Medical Officer must as soon as practicable convene a multi-disciplinary conference of approved practitioners, to consider the findings of the assessment and any other pertinent information relating to the patient.

(5) The conference must if practicable include all approved practitioners who have been professionally concerned with the patient's medical treatment during detention.

(6) If the conference approves the revocation of the hospital treatment order, an order for discharge must be made by one approved doctor and one approved professional, each of whom—

(a) has seen the patient within the preceding 72 hours;

(b) certifies that in his or her opinion the grounds for detaining the patient under a hospital treatment order no longer apply; and

(c) records the reasons for his or her decision.

14. Duty of ward manager to inform nearest relative of discharge

(1) This section applies where —

(a) a patient who was detained for assessment or treatment under this Part is to be discharged; or

(b) a community patient is to be discharged from hospital under Part 5.

(2) The ward manager must take such steps as are practicable to inform the person (if any) whom the ward manager thinks is the patient's nearest relative.

(3) The information must be given at least seven days before the discharge, if practicable.

(4) The ward manager must not take steps under subsection (2) against the patient's wishes.

15. Chief Medical Officer to consider representations

(1) The Chief Medical Officer must consider any representations requesting that a person be detained for assessment or treatment if the representations are made by —

(a) one or more relatives of the person; or

(b) an approved practitioner.

(2) The Chief Medical Officer must consider any representations requesting that a patient who is detained under a hospital treatment order be discharged from hospital because the grounds for an order no longer apply, if the representations are made by —

- (a) the patient;
 - (b) the patient's nearest relative; or
 - (c) an approved practitioner.
- (3) Upon receiving representations the Chief Medical Officer must—
- (a) review the patient's medical notes if available; and
 - (b) make such enquiries as the Chief Medical Officer thinks appropriate in the circumstances.
- (4) In the case of a patient who is subject to a hospital treatment order, enquiries under subsection (3)(b) must where practicable include consulting all approved practitioners who have been involved in the patient's care since the making of the order.
- (5) Enquiries under subsection (3)(b) may include asking the patient voluntarily to be assessed by an approved doctor and interviewed by an approved professional.
- (6) If the Chief Medical Officer has been involved with a patient's medical treatment during detention under a hospital treatment order—
- (a) the Chief Medical Officer must arrange for another approved doctor to undertake the review under subsection (3);
 - (b) if the approved doctor concludes that the grounds for detention no longer apply, or may no longer apply, he or she must convene a multi-disciplinary conference of approved practitioners to consider the findings of the review and any other pertinent information relating to the patient; and
 - (c) the conference must where practicable include all approved practitioners who have been involved in the patient's care since the making of the order.

16. Leave of absence from hospital

- (1) This section applies to a patient who is detained in a hospital or approved medical centre under this Part.
- (2) The Chief Medical Officer may grant the patient leave to be absent from the hospital or centre.
- (3) Leave may be subject to conditions which the Chief Medical Officer thinks necessary in the patient's interests or for the protection of others.
- (4) Leave may be granted —
- (a) indefinitely;

(b) for specified occasions; or

(c) for a specified period (which may be extended by further leave granted in the patient's absence).

(5) The Chief Medical Officer may not grant leave for a period of seven days or more (or extend a period so that it lasts for seven days or more) without first considering whether the patient should be dealt with under a community treatment order.

(6) In granting leave the Chief Medical Officer may, if it appears to be necessary in the patient's interests or for the protection of others, direct that the patient remain in custody during his or her absence; in which case the patient may be kept in the custody of—

(a) any staff member of the hospital or centre from which the patient is absent; or

(b) any other person authorised in writing by the Chief Medical Officer.

(7) If the Chief Medical Officer thinks it necessary in the interests of a patient's health or safety or for the protection of others, the Chief Medical Officer may by notice in writing revoke the leave of absence and recall the patient to the hospital or centre.

(8) Notice under subsection (7) must be given to the patient or to a person in charge of the patient.

(9) Revocation of leave of absence does not allow detention of a person who has ceased to be liable for detention for treatment.

(10) The functions of the Chief Medical Officer under this section may be discharged on his or her behalf by —

(a) any approved doctor, or

(b) any approved professional authorised in writing by the Chief Medical Officer.

17. Patients absent without leave

(1) This section applies where a patient who is for the time being liable to be detained in a hospital or approved medical centre under this Ordinance for assessment or treatment —

(a) is absent without leave under section 16;

(b) fails to return to the hospital or centre on the expiry of, or in accordance with a condition of, leave under section 16;

(c) fails to return to the hospital or centre on being recalled under section 16; or

(d) fails to comply with a condition of leave under section 16.

- (2) The patient may be taken into custody and returned to the hospital or centre by—
- (a) any approved professional;
 - (b) any staff member of the hospital or centre;
 - (c) a police officer; or
 - (d) any person authorised in writing by the Chief Medical Officer.
- (3) A community patient who is absent from the hospital to which he or she is recalled under Part 5 may be taken into custody and returned to the hospital by —
- (a) any approved professional;
 - (b) any staff member of the hospital;
 - (c) a police officer; or
 - (d) any person authorised in writing by the Chief Medical Officer.
- (4) A patient may not be taken into custody under this section after the end of the period —
- (a) for which he or she is liable to be detained; or
 - (b) in the case of a community patient, during which the community treatment order is in force.
- (5) In this Ordinance a reference to absence without leave is a reference to being liable to be taken into custody under this section.
- (6) A reference to “returning” a person who is absent without leave includes a reference to taking them to a hospital or other place for the first time (where they have failed to comply with a requirement to go there).

18. Transfer to hospital

- (1) Where a patient is detained for assessment at an approved medical centre, the Chief Medical Officer may arrange for the patient to be transferred to a hospital if the Chief Medical Officer thinks it —
- (a) necessary to enable the assessment to be completed; or
 - (b) otherwise in the patient’s best interests.

(2) If a patient transferred to a hospital under subsection (1) is not detained for treatment and is discharged, the Chief Medical Officer must arrange for the patient to be returned to the approved medical centre as soon as practicable.

(3) But subsection (2) does not apply if the patient declines the offer of transport.

(4) Where a patient who was detained for assessment at an approved medical centre is subsequently detained for treatment before being transferred to a hospital, the Chief Medical Officer must arrange for the transfer as soon as practicable.

PART 4 CONVEYING PATIENTS TO HOSPITAL

19. Warrant to search for and remove patients

(1) Subsection (2) applies where the Senior Magistrate, or two justices of the peace, on information on oath laid by an approved practitioner think that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—

(a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control;

(b) being unable to care for himself or herself, is living alone in any place; or

(c) is dangerous to himself or herself or others.

(2) The Senior Magistrate or justices may issue a warrant authorising a police officer —

(a) to enter, if need be by force, any premises specified in the warrant in which the person is believed to be; and

(b) if the police officer thinks fit, to remove the person, as quickly as is reasonably practicable, to a hospital or approved medical centre.

(3) Subsection (4) applies where the Senior Magistrate, or two justices of the peace, on information on oath laid by a police officer or a person authorised by virtue of this Ordinance to take (or retake) a patient to any place or into custody, think that —

(a) there is reasonable cause to believe that the patient is to be found on premises; and

(b) admission to the premises has been refused or that a refusal of admission is likely.

(4) The Senior Magistrate, or the justices as the case may be, may issue a warrant authorising a police officer to enter, if need be by force, and remove the patient.

(5) A person who is removed to a hospital or approved medical centre in the execution of a warrant issued under this section may be detained there for a period not exceeding 6 hours for the purpose of —

- (a) enabling him or her to be examined by an approved doctor;
- (b) enabling him or her to be interviewed by an approved professional; and
- (c) making any necessary arrangements for his or her treatment or care.

(6) An information or warrant under this section need not name the patient.

20. Mentally disordered persons found in public places

(1) This section applies where a police officer finds, in a place to which the public have access, a person who the police officer thinks is suffering from mental disorder and in immediate need of care or control.

(2) The police officer may, if he or she thinks it necessary in the interests of that person or for the protection of others, take the person, as quickly as is reasonably practicable, to a hospital or approved medical centre.

(3) A person who is taken to a hospital or approved medical centre under this section may be detained there for a period not exceeding 6 hours for the purpose of —

- (a) enabling him or her to be examined by an approved doctor;
- (b) enabling him or her to be interviewed by an approved professional; and
- (c) making any necessary arrangements for his or her treatment or care.

21. Custody, conveyance and detention

(1) A person required or authorised by virtue of this Ordinance to be taken to any place or detained in any place is, while being taken or detained, in legal custody.

(2) A person required or authorised by virtue of this Ordinance to take a person into custody, or to take or detain any person, has all the powers, authorities, protection and privileges of a constable for that purpose.

(3) A person taken into custody or detained by virtue of this Ordinance may be searched by —

- (a) the person taking that person into custody or detaining that person;
- (b) a police officer; or
- (c) an approved practitioner.

(4) A reference in this section to taking a person includes any similar expression used elsewhere in this Ordinance.

22. Retaking of patients escaping from custody

- (1) This section applies where a person who is in legal custody by virtue of this Ordinance escapes.
- (2) The person may be retaken by—
 - (a) the person in whose custody he or she was before the escape;
 - (b) a police officer; or
 - (c) an approved practitioner.
- (3) In addition, if at the time of the escape the person was liable to detention under Part 3, or was a community patient who had been recalled under Part 5, he or she may be retaken by any person who could take him or her into custody in a case of absence without leave.

PART 5 COMMUNITY TREATMENT ORDERS

23. Community treatment orders

- (1) The Chief Medical Officer may by order in writing discharge a patient detained under a hospital treatment order.
- (2) A discharged patient is subject to recall in accordance with this Part.
- (3) An order under this section is a “community treatment order”.
- (4) The Chief Medical Officer may not make a community treatment order unless —
 - (a) an approved doctor records in writing that in his or her opinion the relevant criteria are met; and
 - (b) an approved professional records in writing —
 - (i) that he or she agrees with that opinion; and
 - (ii) that it is appropriate to make the order.
- (5) The relevant criteria are that—
 - (a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate to receive medical treatment;
 - (b) it is necessary for his or her health or safety or for the protection of others that he or she should receive medical treatment;

(c) treatment can be provided without the patient continuing to be detained (subject to the possibility of recall);

(d) it is necessary that the Chief Medical Officer should be able to exercise the power of recall under this Part; and

(e) appropriate medical treatment is available for the patient.

(6) In considering the criterion in subsection (5)(d) regard must be had in particular to —

(a) the patient's history of mental disorder and any other relevant factors; and

(b) what risk there would be of a deterioration of the patient's condition if he or she were not detained in the hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

24. Conditions

(1) A community treatment order must specify conditions to which the patient is to be subject while the order remains in force.

(2) The order may specify conditions only if the approved practitioners acting under section 23 think them necessary or appropriate for one or more of the following purposes —

(a) ensuring that the patient receives medical treatment;

(b) preventing risk of harm to the patient's health or safety; and

(c) protecting others.

(3) The order must include the condition that the patient makes himself or herself available for assessment by an approved doctor, and for interview by an approved professional, during the last four weeks of the period of six months beginning with the day on which the order was made.

(4) The Chief Medical Officer may from time to time by order in writing vary or suspend conditions of a community treatment order.

(5) The Chief Medical Officer must consider any representations received from an approved practitioner about varying or suspending conditions of a community treatment order.

(6) Failure to comply with a condition of a community treatment order may be taken into account in considering recall under this Part (but recall is not limited to cases of non-compliance).

25. Duration of community treatment order

A community treatment order expires when any of the following occurs —

- (a) the period of six months beginning with the day on which the order was made ends, without the order being renewed by the Tribunal under Part 7;
- (b) the patient is discharged under Part 3;
- (c) the patient is discharged by the Tribunal under Part 7;
- (d) the patient is removed from the Falkland Islands in pursuance of an overseas removal order; or
- (e) the order is revoked.

26. Effect of community treatment order

- (1) A hospital treatment order in respect of a patient does not cease to have effect if the patient becomes a community patient.
- (2) But while the patient is a community patient—
 - (a) authority to detain him or her under the hospital treatment order is suspended; and
 - (b) he or she is not to be treated as liable to detention, for any purpose of this Ordinance.

27. Duty to give information to community patients

- (1) The Chief Medical Officer must take such steps as are practicable, as soon as practicable, to ensure that a community patient understands —
 - (a) the effect of the provisions of this Ordinance applying to community patients; and
 - (b) what rights of applying to the Tribunal are available.
- (2) For the purposes of subsection (1) information must be given orally and in writing.
- (3) The Chief Medical Officer must take such steps as are practicable to furnish the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative with a copy of any information given to the patient in writing under subsection (1); and those steps must be taken when the information is given to the patient or within a reasonable time afterwards.
- (4) The Chief Medical Officer must not take steps under subsection (3) against the patient's wishes.
- (5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved practitioner.

28. Power to recall to hospital

- (1) The Chief Medical Officer may recall a community patient to hospital if the Chief Medical Officer thinks that —

- (a) the patient requires medical treatment in hospital for his or her mental disorder; and
 - (b) there would be a risk of harm to the patient's health or safety or to others if the patient were not recalled to hospital for that purpose.
- (2) The Chief Medical Officer may also recall a community patient to hospital if the patient fails to comply with a condition of the community treatment order.
- (3) A patient may be "recalled" to a hospital even though he or she is already there.
- (4) The power of recall is exercised by giving notice in writing to the patient.
- (5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved doctor.

29. Powers in respect of recalled patients

- (1) This section applies to a community patient who is detained in a hospital by virtue of a notice recalling him there.
- (2) The Chief Medical Officer may by order in writing revoke the community treatment order if—
- (a) an approved doctor records in writing that in his or her opinion the grounds for detention pursuant to a hospital treatment order are met, and
 - (b) an approved professional records in writing—
 - (i) that he or she agrees with that opinion; and
 - (ii) that it is appropriate to revoke the community treatment order.
- (3) The Chief Medical Officer may at any time by order in writing require the patient to be released; but an order under this subsection may not be made if the community treatment order has been revoked.
- (4) If the period of 72 hours expires without either the patient being released or the community treatment order being revoked, the patient must be released.
- (5) In subsection (4) "the period of 72 hours" means the period of 72 hours beginning with the time when the patient is first detained in hospital by virtue of the recall notice under section 28.
- (6) A reference in this section to release is a reference to being released from detention by virtue of the recall notice; and where a patient is released—
- (a) the recall notice lapses; and

(b) the patient remains subject to the community treatment order.

30. Effect of revoking community treatment order

(1) This section applies if a patient's community treatment order is revoked under this Part.

(2) The patient's hospital treatment order has effect as if the patient had never been discharged from hospital by virtue of the community treatment order.

(3) The provisions of this or any other Ordinance relating to patients liable to be detained (or detained) in pursuance of a hospital treatment order apply to the patient as they did before the community treatment order was made.

(4) The ward manager must apply the provisions of section 10 about providing information.

(5) If a community treatment order is revoked more than five months after the day on which the hospital treatment order was made or last renewed, the hospital treatment order expires at the end of the period of two months beginning with the date of revocation, unless renewed by the Tribunal under Part 7.

31. Effect of expiry of community treatment order

On expiry of a community treatment order —

(a) the community patient is discharged absolutely from liability to recall under this Part; and

(b) the hospital treatment order ceases to have effect.

PART 6 GUARDIANSHIP

32. Application for guardianship

(1) A patient who has attained the age of 16 years may be received into guardianship in pursuance of an order made by the Tribunal ("a guardianship order").

(2) A guardianship order may not be made unless —

(a) the patient is suffering from mental disorder of a nature or degree which warrants his or her reception into guardianship under this section, and

(b) it is necessary in the patient's interests or for the protection of others that the patient should be so received.

(3) An application for a guardianship order may not be made unless —

(a) the patient has been assessed by an approved doctor, and interviewed by an approved professional, within the preceding 14 days either voluntarily or during detention for assessment; and

- (b) a multi-disciplinary conference of approved practitioners has met to consider the findings of the assessment and any other pertinent information relating to the patient and has approved an application for a guardianship order.
- (4) The conference must if practicable include all approved practitioners who have previous acquaintance with the patient.
- (5) If the conference approves an application for a guardianship order, the Chief Medical Officer must within 14 days make an application to the Tribunal.
- (6) An application must be accompanied by written reports from one approved doctor and one approved professional, each of whom —
- (a) has seen the patient within the preceding 28 days;
 - (b) certifies that in his or her opinion the conditions in subsection (2) are satisfied; and
 - (c) records the reasons for his or her decision.
- (7) An application must nominate to act as the patient's guardian either —
- (a) the Crown; or
 - (b) another person (whether or not a public officer) who is approved by the Chief Medical Officer for the purpose and who confirms in writing willingness to act.
- (8) An application must give such information as it reasonably can about how the proposed guardian could be expected to exercise in relation to the patient the powers conferred by a guardianship order.
- (9) Before making an application the Chief Medical Officer must consult the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative.
- (10) But subsection (9) does not apply if the Chief Medical Officer thinks that in the circumstances consultation is not reasonably practicable or would involve unreasonable delay.
- (11) If the Tribunal decides to make a guardianship order, the following rules have effect for the purposes of appointing a guardian —
- (a) if the application nominates a person whom the court thinks suitable and willing to act, the Tribunal must appoint that person;
 - (b) failing (a), the Tribunal may specify a person whom it thinks suitable and willing to act;
 - (c) failing (a) and (b), the Tribunal must appoint the Crown.

(12) In determining an application for a guardianship order or any other matter under this Part, the Tribunal must apply the same procedure as for applications under Part 7.

(13) For the purposes of this section the functions of the Crown are to be exercised by the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

33. Effect of guardianship order

(1) A guardianship order confers on the person named as guardian, to the exclusion of any other person —

(a) the power to require the patient to reside at a place specified by the guardian;

(b) the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training; and

(c) the power to require access to the patient to be given, at any place where the patient is residing, to any approved practitioner or other person so specified.

(2) Where a patient is received into guardianship, any previous guardianship order or hospital treatment order ceases to have effect.

34. Duty to keep patients under continuing review

(1) The Chief Medical Officer must keep under review any patient received into guardianship to ensure that the grounds for the guardianship order continue to be met.

(2) The Chief Medical Officer must arrange for a patient received into guardianship to be assessed by an approved practitioner at regular intervals of not more than three months.

(3) The Chief Medical Officer must submit to the Tribunal at regular intervals of not more than twelve months written reports from one approved doctor and one approved professional, each of whom —

(a) has seen the patient within the preceding 28 days;

(b) certifies that in his or her opinion —

(i) the patient is suffering from mental disorder of a nature or degree which warrants his or her remaining subject to a guardianship order; and

(ii) it is necessary in the interests of the welfare of the patient or for the protection of others that the patient should remain subject to a guardianship order; and

(c) records the reasons for his or her decision.

35. Duty to give information to patients subject to guardianship

(1) The Chief Medical Officer must take such steps as are practicable, as soon as practicable, to ensure that a patient received into guardianship understands —

(a) the effect of the provisions of this Ordinance applying to patients received into guardianship; and

(b) what rights of applying to the Tribunal are available.

(2) Information given under subsection (1) must be given both orally and in writing.

(3) The Chief Medical Officer must take such steps as are practicable to furnish the person (if any) appearing to the Chief Medical Officer to be the patient's nearest relative with a copy of any information given to the patient in writing under subsection (1).

(4) Subsection (3) —

(a) requires information to be given at the same time, or as soon as practicable after, it is given to the patient; and

(b) does not require or permit information to be given against the patient's wishes.

(5) The functions of the Chief Medical Officer under this section may be discharged on the Chief Medical Officer's behalf by any approved practitioner.

36. Transfer of guardianship

(1) Subsection (2) applies if the guardian of a patient received into guardianship under this Part—

(a) dies; or

(b) gives notice in writing to the Chief Medical Officer that he or she desires to relinquish the functions of guardian.

(2) The guardianship vests in the Crown (subject to any application to the Tribunal for the transfer of the patient into the guardianship of another person).

(3) While a guardian is incapacitated from acting by illness or any other cause, the guardian's functions may be performed on his or her behalf by —

(a) the Crown; or

(b) any other person approved for the purpose by the Tribunal.

(4) If the Tribunal thinks, on application by the Chief Medical Officer, that a guardian under this Part (other than the Crown) has performed his or her functions negligently or in a manner contrary to the interests of the welfare of the patient, the Tribunal may order that the guardianship of the patient be transferred to —

(a) the Crown; or

(b) any other person approved for the purpose by the Tribunal.

(5) For the purposes of this section the functions of the Crown are to be exercised by the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of subparagraphs (i) to (iii) chosen by the Attorney General.

37. Discharge of guardianship

(1) A guardianship order may be discharged by the Tribunal on the application of —

(a) the Chief Medical Officer;

(b) the patient;

(c) the patient's nearest relative;

(d) a person with whom the patient is living; or

(e) the patient's guardian (other than the Crown).

(2) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is then suffering from mental disorder of a nature or degree which warrants guardianship; and

(b) that guardianship is necessary in the interests of his or her welfare or for the protection of others.

(3) Where an application for the discharge of a guardianship order is made under subsection (1)(c), (d) or (e), the applicant is entitled —

(a) to submit written evidence to the Tribunal;

(b) to be heard by the Tribunal in person;

(c) to be represented before the Tribunal by a legal representative or by any other person nominated by the patient for this purpose;

(d) to present written and oral evidence from an independent psychiatrist or other suitably qualified professional person;

(e) to be accompanied to the Tribunal hearing by relatives or friends; and

(f) to receive copies of such reports as the Tribunal thinks fit.

38. Chief Medical Officer to consider representations on guardianship

(1) The Chief Medical Officer must consider any representations requesting that a person be received into guardianship, if the representations are received from —

(a) relatives of the patient; or

(b) an approved practitioner.

(2) The Chief Medical Officer must consider any representations requesting that an application be made for the discharge of a guardianship order because the grounds for an order no longer apply, if the representations are received from —

(a) the patient;

(b) the patient's nearest relative; or

(c) an approved practitioner.

(3) On receiving representations the Chief Medical Officer must —

(a) review the patient's medical notes where available; and

(b) make such enquiries as the Chief Medical Officer thinks appropriate in the circumstances.

(4) The further enquiries may include asking the patient voluntarily to be —

(a) assessed by an approved doctor; and

(b) interviewed by an approved professional.

39. Patient subject to guardianship absent without leave

(1) This section applies where a patient who is subject to guardianship is absent without the guardian's leave from the place at which he or she is required by the guardian to reside.

(2) The patient may be taken into custody and returned to that place by —

(a) any approved practitioner;

(b) a police officer; or

(c) any person authorised in writing by the Chief Medical Officer.

PART 7 MENTAL HEALTH TRIBUNAL

40. Composition of Mental Health Tribunal

(1) There is to be a tribunal, known as the Mental Health Tribunal, for the purpose of dealing with applications and references under this Ordinance.

(2) The Tribunal is constituted by the Senior Magistrate and two justices of the peace, or in the absence or incapacity of the Senior Magistrate, by three justices of the peace.

(3) The Tribunal must be chaired —

(a) by the Senior Magistrate, if present; or

(b) otherwise, by a member chosen by the Tribunal.

41. Appeal against hospital treatment order

(1) A patient who has been detained pursuant to a hospital treatment order may apply to the Tribunal for an order for discharge.

(2) An application must be made during the period of three months beginning with the date of the order.

(3) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is suffering from mental disorder of a nature or degree which warrants detention in hospital for medical treatment for at least a limited period;

(b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and

(c) that appropriate medical treatment is available for the patient.

(4) Subsection (3) does not require the Tribunal to direct discharge where the Tribunal thinks it may be appropriate for the patient to be discharged (subject to the possibility of recall) under a community treatment order; and the Tribunal —

(a) may recommend the Chief Medical Officer to consider whether to make a community treatment order; and

(b) may (but need not) further consider the patient's case if the Chief Medical Officer does not make a community treatment order.

(5) A direction of the Tribunal that a patient be discharged must specify the date on which it takes effect.

42. Appeal against community treatment order

(1) A community patient may apply to the Tribunal for an order for discharge.

(2) An application must be made during the period of three months beginning with the date of the community treatment order.

(3) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is suffering from mental disorder of a nature or degree which makes it appropriate to receive medical treatment;

(b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment;

(c) that it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and

(d) that appropriate medical treatment is available for the patient.

(4) In determining whether the criterion in subsection (3)(c) is met the Tribunal must, in particular, having regard to the patient's history of mental disorder and any other relevant factors, consider what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in a hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

(5) Subsection (3) does not require the Tribunal to direct the discharge of a patient just because they think it may be appropriate for the conditions attached to the community treatment order to be varied; and the Tribunal —

(a) may recommend that the Chief Medical Officer consider whether to vary the conditions, and

(b) may (but need not) further consider the patient's case if the Chief Medical Officer does not vary the conditions.

(6) A direction of the Tribunal that a patient be discharged must specify the date on which it takes effect.

43. Appeal against revocation of community treatment order

(1) A patient whose community treatment order is revoked so that he or she becomes liable to detention under a hospital treatment order may apply to the Tribunal for an order for discharge of the hospital treatment order.

(2) An application must be made during the period of three months beginning with the date of revocation.

(3) The Tribunal must direct the discharge of a patient if not satisfied —

(a) that he or she is suffering from mental disorder of a nature or degree which warrants detention in hospital for medical treatment for at least a limited period;

(b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and

(c) that appropriate medical treatment is available for the patient.

(4) Where the Tribunal does not direct the discharge of a patient, the Tribunal must consider the reasons for the revocation of the community treatment order and —

(a) may recommend that the Chief Medical Officer consider whether to make a further community treatment order; and

(b) may (but need not) further consider the patient's case if the Chief Medical Officer does not make a further community treatment order.

44. Renewal of hospital treatment order

(1) The Tribunal may renew (or further renew) a hospital treatment order for a period of six months.

(2) The Chief Medical Officer must arrange for a patient who is detained pursuant to a hospital treatment order to be assessed by an approved doctor, and interviewed by an approved

professional, during the period of four weeks ending with the day on which the order would expire unless renewed.

(3) The Chief Medical Officer must convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient.

(4) The conference must —

(a) be held not less than two weeks before the day on which the hospital treatment order would expire unless renewed; and

(b) if practicable, include all approved practitioners who have been professionally concerned with the patient's medical treatment since the hospital treatment order was made.

(5) If the conference approves the renewal of the hospital treatment order, a recommendation that the patient be detained for treatment for a further period of six months must be made to the Tribunal by one approved doctor and one approved professional, who must each —

(a) certify that in his or her opinion the conditions set out in subsection (6) are satisfied; and

(b) record the reasons for his or her decision.

(6) The conditions are that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment in a hospital;

(b) it is necessary for the patient's health or safety or for the protection of others that he or she should receive such treatment;

(c) treatment cannot be provided unless he or she continues to be detained; and

(d) appropriate medical treatment is available.

(7) An application to the Tribunal for the renewal of the hospital treatment order must be —

(a) made by the Chief Medical Officer during the period of seven days beginning with the date of the conference; and

(b) accompanied by the recommendation from the approved doctor and approved professional.

(8) The Tribunal must renew the hospital treatment order if satisfied —

(a) that the patient is suffering from mental disorder of a nature or degree which warrants his or her detention in hospital for medical treatment for at least a limited period;

(b) that detention is justified in the interests of the patient's own health or safety or with a view to the protection of others; and

(c) that appropriate medical treatment is available.

45. Renewal of community treatment order

(1) The Tribunal may renew (or further renew) a community treatment order for a period of six months.

(2) The Chief Medical Officer must arrange for a community patient to be assessed by an approved doctor, and interviewed by an approved professional, during the period of four weeks ending with the day on which a community treatment order would expire if not renewed.

(3) The Chief Medical Officer must convene a multi-disciplinary conference of approved practitioners to consider the findings of the assessment and any other pertinent information relating to the patient.

(4) The conference must —

(a) be held not less than two weeks before the day on which the community treatment order would expire unless renewed; and

(b) if practicable, include all approved practitioners who have been professionally concerned with the patient's medical treatment since the community treatment order was made.

(5) If the conference approves the renewal of the community treatment order, a recommendation that the community treatment order be renewed for a further period of six months must be made to the Tribunal by one approved doctor and one approved professional who must each—

(a) certify that in his or her opinion the conditions set out in subsection (6) are satisfied; and

(b) record the reasons for his or her decision.

(6) The conditions are that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment;

(b) it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment;

(c) subject to the patient's being liable to recall by the Chief Medical Officer in accordance with Part 5, treatment can be provided without detention in hospital;

(d) it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and

(e) appropriate medical treatment is available.

(7) In determining whether subsection (6)(d) is satisfied, the approved practitioners must, having regard to the patient's history of mental disorder and any other relevant factors, consider in particular what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

(8) An application to the Tribunal for the renewal of community treatment order must —

(a) be made by the Chief Medical Officer during the period of seven days beginning with the date of the conference; and

(b) be accompanied by the recommendation from the approved doctor and approved professional.

(9) The Tribunal must renew the community treatment order if satisfied—

(a) that the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to receive medical treatment;

(b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive such treatment;

(c) that it is necessary that the Chief Medical Officer should continue to be able to exercise the power to recall the patient to hospital; and

(d) that appropriate medical treatment is available.

(10) In determining whether subsection (9)(c) is satisfied, the Tribunal must, having regard to the patient's history of mental disorder and any other relevant factors, consider in particular what risk there would be of a deterioration of the patient's condition if he or she were to continue not to be detained in a hospital (as a result, for example, of refusing or neglecting to receive medical treatment).

46. Tribunal procedure and evidence

(1) The Tribunal must convene to consider any application under this Part within the period of fourteen days beginning with the date on which the application is lodged.

(2) The Chief Medical Officer must make arrangements for the presentation of written and oral evidence to the Tribunal.

(3) If the patient is represented by a legal practitioner —

- (a) a copy of any reports submitted by or on behalf of the Chief Medical Officer must be given to the legal practitioner; and
 - (b) the legal practitioner may disclose the reports (or their substance) to the patient, unless the Tribunal directs that all or any part of the reports or their substance is to be withheld from the patient in the patient's interests or for other special reasons.
- (4) If the patient is not represented by a legal practitioner, the substance of any reports submitted by or on behalf of the Chief Medical Officer must be disclosed to the patient, unless the Tribunal directs that all or any part of the substance is to be withheld in the patient's interests or for other special reasons.
- (5) The patient is entitled in relation to any application —
- (a) to submit written evidence to the Tribunal;
 - (b) to be heard by the Tribunal in person;
 - (c) to be represented before the Tribunal by a legal representative or by any other person nominated by the patient;
 - (d) to present written and oral evidence from an independent psychiatrist or other suitably qualified professional person; and
 - (e) to be accompanied to the Tribunal hearing by relatives or friends.
- (6) A copy of any written evidence submitted to the Tribunal by or on behalf of the patient must be given to the Chief Medical Officer.
- (7) A copy of any written evidence submitted to the Tribunal by or on behalf of the patient or the Chief Medical Officer must be provided to the patient's nearest relative unless —
- (a) the patient objects; or
 - (b) the Tribunal directs it to be withheld in the patient's interests or for other special reasons.
- (8) The Chief Medical Officer is entitled to legal representation before the Tribunal.
- (9) The Tribunal may —
- (a) receive evidence in addition to any presented by or on behalf of the Chief Medical Officer or the patient;
 - (b) direct the Chief Medical Officer or the patient to present evidence.

(10) The Tribunal may determine its procedure (subject to this section and to any rules under subsection (16)); in particular, the Tribunal may give directions —

- (a) for disposal of an application without a formal hearing;
- (b) regulating the circumstances in which a patient may be represented by persons other than legal practitioners;
- (c) for making available to parties interested in the hearing any documents or a statement of any oral information obtained by or furnished to the Tribunal.

(11) An application may not be disposed of without a formal hearing if —

- (a) the patient requests a hearing;
- (b) the Chief Medical Officer requests a hearing; or
- (c) the Tribunal thinks a hearing is necessary.

(12) But an application may be disposed of without a formal hearing despite subsection (11) if the Tribunal decides, on the recommendation of the Chief Medical Officer, that a hearing might be detrimental to the health of the patient.

(13) The Tribunal must meet in private, unless it directs that members of the public, or a specified class of members of the public, may attend specified proceedings.

(14) No report of proceedings of the Tribunal may be published, unless it directs a full or partial report to be published.

(15) Before giving a direction under subsection (13) or (14) the Tribunal must consider whether it would prejudice —

- (a) the interests of justice; or
- (b) the protection of the private lives of the patient or others concerned in the proceedings.

(16) The Governor may make rules about the Tribunal's procedure (subject to the provisions of this section); and before making rules the Governor must consult—

- (a) the Senior Magistrate; and
- (b) the Chief Medical Officer.

47. Tribunal to give reasons

(1) Within the period of fourteen days beginning with the date of a hearing the Tribunal must issue its decision in writing, together with a statement of its reasons.

- (2) The decision and reasons must be sent to —
- (a) the Chief Medical Officer;
 - (b) the patient's legal practitioner (if any);
 - (c) the patient, except where the Tribunal thinks it undesirable in the patient's interests or for other special reasons; and
 - (d) the patient's nearest relative, unless the patient objects.

PART 8
PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

48. Remand to hospital for report on accused's mental condition

- (1) A court may remand an accused person to hospital for a report on his or her mental condition.
- (2) An "accused person" is a person who —
- (a) is awaiting trial before the court for an offence punishable with imprisonment, or
 - (b) is awaiting sentence by the court having entered a guilty plea, or having been convicted after trial, in respect of an offence punishable with imprisonment.
- (3) The powers conferred by this section may be exercised only if —
- (a) the court is satisfied, on the written or oral evidence of an approved doctor, that there is reason to suspect that the accused person is suffering from a mental disorder;
 - (b) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the accused's admission to hospital; and
 - (c) the court thinks it would be impracticable for a report on the accused's mental condition to be made if he or she were remanded on bail.
- (4) Where a court has remanded an accused person for a report it may further remand him or her if the court, on the written or oral evidence of the Chief Medical Officer or of an approved doctor responsible for making the report, thinks that a further remand is necessary for completing the assessment of the accused person's mental condition.
- (5) A further remand may be ordered without the accused person being brought before the court if—
- (a) he or she is represented by a legal practitioner; and

(b) the legal practitioner is given an opportunity of being heard by the court.

(6) An accused person may not be remanded (or further remanded) for more than —

(a) 28 days at a time; or

(b) twelve weeks in all.

(7) A court which has remanded an accused person may terminate the remand at any time.

(8) An accused person remanded to hospital is entitled to —

(a) be examined privately (at his or her own expense) by a psychiatrist or other suitably qualified professional person chosen by him or her and approved by the court;

(b) obtain (at his or her own expense) a report from that person on the accused person's mental condition; and

(c) apply to the court on the basis of the report for the remand to be terminated.

(9) Where an accused person is remanded under this section a police officer or other person directed to do so by the court must convey the accused person to hospital.

(10) An accused person remanded under this section who absconds from (or on the way to) hospital —

(a) may be arrested without warrant by a police officer; and

(b) after being arrested must be brought as soon as practicable before the court.

(11) Where an accused person is brought before a court under subsection (10) the court may —

(a) terminate the remand; and

(b) deal with the accused person in any way in which it could have dealt with him or her instead of remanding under this section.

49. Remand of accused person to hospital for treatment

(1) A court may, instead of remanding an accused person in custody, remand him or her to hospital if satisfied —

(a) on the written or oral evidence of an approved doctor and an approved professional, that the accused person is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be detained in a hospital for medical treatment;

(b) on the written or oral evidence of an approved doctor and an approved professional, that appropriate medical treatment is available; and

(c) on the written or oral evidence of the Chief Medical Officer or of an approved doctor, that arrangements have been made for the accused person's admission to hospital.

(2) Where a court has remanded an accused person under this section it may further remand him or her if the court, on the written or oral evidence of an approved doctor, thinks that a further remand is warranted.

(3) An accused person may be further remanded without being brought before the court if —

(a) he or she is represented by a legal practitioner; and

(b) the legal practitioner is given an opportunity of being heard by the court.

(4) An accused person may not be remanded (or further remanded) under this section for more than —

(a) 28 days at a time; or

(b) twelve weeks in all.

(5) Where a court has remanded an accused person it may terminate the remand at any time.

(6) An accused person remanded to hospital is entitled to —

(a) be examined privately (at his or her own expense) by a psychiatrist or other suitably qualified professional person chosen by him or her and approved by the court;

(b) obtain (at his or her own expense) a report from that person on the accused person's mental condition; and

(c) apply to the court on the basis of the report for the remand to be terminated.

(7) Where an accused person is remanded under this section a police officer or other person directed to do so by the court must convey the accused person to hospital.

(8) An accused person remanded under this section who absconds from (or on the way to) hospital —

(a) may be arrested without warrant by a police officer; and

(b) after being arrested must be brought as soon as practicable before the court.

(9) Where an accused person is brought before a court under subsection (8) the court may —

(a) terminate the remand; and

(b) deal with the accused person in any way in which it could have dealt with him or her instead of remand under this section.

(10) "Accused person" has the same meaning as in section 48.

50. Power of court to order detention in hospital or guardianship

(1) This section applies where —

(a) a person ("the offender") is convicted of an offence punishable with imprisonment other than an offence the sentence for which is fixed by law; and

(b) condition 1 or 2 is satisfied.

(2) The convicting court may by order —

(a) authorise the offender's detention in hospital (a "detention order"); or

(b) place the offender, if he or she has attained the age of 16, under the guardianship of the Crown or a person who is named in the order (whether or not a public officer) and who is approved by the Crown for the purpose (a "criminal guardianship order").

(3) Condition 1 is that —

(a) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder of a nature or degree which makes detention in hospital for treatment appropriate;

(b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that treatment is available;

(c) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the offender's admission to hospital; and

(d) the court thinks, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him or her, that an order under this section is the most suitable method of disposing of the case.

(4) Condition 2 is that —

(a) the offender has attained the age of 16;

(b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder of a nature or degree which makes guardianship under Part 6 appropriate;

(c) the court is satisfied that the Crown or another person is willing to receive the offender into guardianship; and

(d) the court thinks, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him or her, that an order under this section is the most suitable method of disposing of the case.

(5) A court may make an order under subsection (2) in respect of a person who has not been convicted if—

(a) the person is charged with an offence that is triable summarily;

(b) the court would have power on conviction to make an order under subsection (2); and

(c) the court is satisfied that the accused committed the offence.

(6) Where an order is made under this section the court may not —

(a) pass any sentence or make any (other) order for imprisonment or detention in respect of the offence;

(b) impose a fine or make a probation order in respect of the offence;

(c) make a supervision order in respect of the offender; or

(d) make an order binding over a parent or guardian of the offender.

(7) But the court may make any other order which it has power to make apart from this section.

(8) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

51. Interim detention orders

(1) This section applies where —

(a) a person (“the offender”) is convicted of an offence punishable with imprisonment (other than an offence the sentence for which is fixed by law);

(b) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that the offender is suffering from mental disorder;

(c) the court is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that there is reason to suppose that the mental disorder from which the offender is suffering is such that it may be appropriate for a detention order to be made; and

(d) the court is satisfied, on the written or oral evidence of the Chief Medical Officer or an approved doctor, that arrangements have been made for the offender’s admission to hospital.

(2) The court may, before making a detention order or dealing with the offender in some other way, make an order (an “interim detention order”) authorising the offender’s detention in hospital.

(3) An interim detention order —

(a) has effect for a period, not exceeding twelve weeks, specified in the order;

(b) may be renewed for further periods of not more than 28 days at a time if the court, on the written or oral evidence of an approved doctor, thinks that the continuation is warranted; and

(c) may not continue in force for more than twelve months in all.

(4) The court must terminate an interim detention order if it —

(a) makes a detention order in respect of the offender; or

(b) decides after considering the written or oral evidence of an approved doctor and an approved professional to deal with the offender in some other way.

(5) An interim detention order may be renewed (or further renewed) without the offender being brought before the court if —

(a) the offender is represented by a legal practitioner; and

(b) the legal practitioner is given an opportunity of being heard by the court.

(6) An offender who absconds from (or on the way to) hospital in pursuance of an interim detention order —

(a) may be arrested without warrant by a police officer; and

(b) must, after being arrested, be brought before the court as soon as practicable; and the court may terminate the order and deal with the offender in any way in which it could have dealt with him or her if no order had been made.

(7) Where an offender is subject to an interim detention order, the court may make a (full) detention order without the offender being brought before the court if —

(a) the offender is represented by a legal practitioner; and

(b) the legal practitioner is given an opportunity of being heard by the court.

52. Information to facilitate criminal guardianship orders

(1) Where a court is considering making a criminal guardianship order in respect of a offender, it may request the Crown —

(a) to inform the court whether a person approved by the Crown is willing to receive the offender into guardianship; and

(b) if so, to give such information as it reasonably can about how the person could be expected to exercise in relation to the offender the powers conferred on the guardian by a criminal guardianship order.

(2) The Crown must comply with a request under subsection (1).

(3) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

53. Effect of criminal guardianship orders

- (1) A criminal guardianship order confers on the Crown or other person named as guardian the same powers as are conferred on a guardian by a guardianship order under Part 6.
- (2) A criminal guardianship order may be transferred or discharged in the same way as a guardianship order under Part 6.
- (3) But a transfer may be made only to a person approved by the Crown.
- (4) In this section “the Crown” means the Attorney General, acting in the public interest—
 - (a) through a person appointed by the Attorney General; and
 - (b) in consultation with —
 - (i) the Chief Medical Officer;
 - (ii) one or more approved practitioners;
 - (iii) one or more suitably qualified professional persons chosen by the Attorney General;
or
 - (iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

54. Restriction orders

- (1) A court may make a “restriction order” where —
 - (a) a detention order is made in respect of an offender; and
 - (b) the court thinks it necessary for the protection of the public from serious harm that the offender be subject to the restrictions specified in this section.
- (2) In considering whether to make a restriction order the court must have regard to —
 - (a) the nature of the offence;
 - (b) the antecedents of the offender; and
 - (c) the risk of his or her committing further offences if set at large.
- (3) A restriction order may not be made unless at least one of the approved practitioners whose evidence was taken into account by the court in deciding to make the detention order gave oral evidence.
- (4) The restrictions under a restriction order are as follows.

(5) Restriction 1 is that —

(a) the provisions of Parts 3 and 7 about duration, renewal and expiry of authority to detain do not apply; and

(b) the patient continues to be liable to be detained by virtue of the detention order until discharged under this Part.

(6) Restriction 2 is that the provisions of Part 5 about community treatment orders and community patients do not apply.

(7) Restriction 3 is that the consent of the Governor is required for the exercise of a power under Part 3 —

(a) to grant leave of absence to the patient; or

(b) to order the patient's discharge.

(8) Restriction 4 is that the Chief Medical Officer's power to recall a patient during leave of absence (and to take the patient into custody and return him) may be exercised by the Governor at any time.

(9) If a restriction order in respect of a patient ceases to have effect while the relevant detention order has effect, this Ordinance applies as if the patient had been admitted to hospital in pursuance of a detention order (without a restriction order) made on the date on which the restriction order ceased to have effect.

(10) While a patient is subject to a restriction order the Chief Medical Officer must arrange for an approved doctor or other suitably qualified professional person to examine the patient and report to the Governor at regular intervals of not more than twelve months.

(11) A report must contain any particulars required by the Governor.

(12) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

55. Powers of Governor in respect of patients subject to restriction orders

(1) If the Governor is satisfied that in the case of any patient a restriction order is no longer required for the protection of the public from serious harm, the Governor may direct that the patient cease to be subject to a restriction order.

(2) At any time while a restriction order is in force in respect of a patient, the Governor may by warrant discharge the patient from hospital; and —

(a) a discharge may be absolute or conditional;

(b) on being absolutely discharged the patient ceases to be liable to detention under the detention order, and the restriction order ceases to have effect; and

(c) while a patient is conditionally discharged the Governor may at any time by warrant recall the patient to a hospital specified in the warrant.

(3) If a restriction order ceases to have effect while a patient is conditionally discharged (and has not been recalled) the patient —

(a) is absolutely discharged on the date when the restriction order ceases to have effect; and

(b) ceases to be liable to be detained under the detention order.

(4) If the Governor is satisfied that a patient subject to a restriction order should attend at a place in the interests of justice or for the purposes of a public inquiry —

(a) the Governor may direct that the patient be taken to that place; and

(b) the patient must be kept in custody while being taken to that place, while there and while being returned, unless the Governor otherwise directs.

(5) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

56. Power to discharge patients subject to restriction orders

(1) A patient who is subject to a restriction order may apply to the Tribunal for an order of absolute or conditional discharge.

(2) Applications may be made —

(a) during the period of six months beginning with the date of the restriction order; and

(b) after that, at intervals of not less than twelve months, or more frequently with the leave of the Tribunal.

(3) If a period of three years during which a patient could make an application ends without an application being made, the Governor must refer the patient's case to the Tribunal, and the referral is to be treated for all purposes as an application for absolute or conditional discharge.

(4) On an application (or referral) the Tribunal must direct the patient's discharge if the Tribunal is not satisfied that —

(a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be liable to be detained in a hospital for medical treatment;

- (b) that it is necessary for the patient's health or safety or for the protection of others that he or she should receive medical treatment; and
 - (c) that appropriate medical treatment is available.
- (5) The Tribunal must make a discharge —
- (a) absolute, if not satisfied that it is appropriate for the patient to remain liable to be recalled to hospital for further treatment; and
 - (b) conditional, if satisfied that it is appropriate for the patient to remain liable to recall.
- (6) A patient who is absolutely discharged ceases to be liable to be detained under the detention order, and the restriction order ceases to have effect.
- (7) A patient who is conditionally discharged —
- (a) may be recalled by the Governor; and
 - (b) must comply with any conditions imposed by the Tribunal at the time of discharge or by the Governor later.
- (8) The Governor may vary a condition imposed (whether by the Tribunal or by the Governor) under subsection (7).
- (9) Where a restriction order ceases to have effect and the patient has been conditionally discharged under this section (and not recalled), the patient is absolutely discharged on the date when the restriction order ceases to have effect, and ceases to be liable to detention under the detention order.
- (10) The Tribunal may defer implementation of a direction for conditional discharge of a patient until arrangements have been made to the Tribunal's satisfaction.
- (11) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

57. Applications concerning conditionally discharged patients

- (1) This section applies where a patient subject to a restriction order is conditionally discharged under section 56.
- (2) The patient may apply to the Tribunal for an order of absolute discharge.
- (3) Applications may be made —
- (a) during the period of twelve months beginning with the date of conditional discharge; and

(b) after that, at intervals of not less than twelve months, or more frequently with the leave of the Tribunal.

(4) If the patient is recalled to hospital the Governor must refer the patient's case to the Tribunal during the period of four weeks beginning with the date of recall; and the referral is to be treated for all purposes as an application for absolute discharge.

(5) On an application (or reference) the Tribunal may —

(a) vary a condition of the discharge;

(b) add a new condition;

(c) direct that the restriction order is to cease to have effect.

(6) If the Tribunal gives a direction under paragraph (c) the patient ceases to be liable to be detained under the detention order.

(7) While a patient is subject to a conditional discharge the Chief Medical Officer must arrange for an approved doctor or other suitable person to examine the patient and report to the Governor at regular intervals of not more than six months.

(8) A report must contain any particulars required by the Governor.

(9) The Governor must consult the Advisory Committee on the exercise of the Governor's functions under this section.

58. Transfer of prisoners to hospital

(1) This section applies to —

(a) persons serving a sentence of imprisonment;

(b) other persons detained in a prison or remand centre;

(c) persons remanded in custody;

(d) civil prisoners, that is to say, persons committed by a court to prison for a limited term; and

(e) persons detained under the Immigration Ordinance.

(2) The court or authority which made the order by virtue of which this section applies to a person ("the prisoner") may order that the prisoner be removed to and detained in a specified hospital (a "transfer order").

(3) A transfer order may be made only if the court or authority is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

(a) the prisoner is suffering from mental disorder of a nature or degree which makes it appropriate for him or her to be detained in a hospital for medical treatment;

(b) appropriate medical treatment is available; and

(c) arrangements have been made for the prisoner's admission to hospital.

(4) A transfer order has the same effect as a detention order.

(5) A transfer order ceases to have effect —

(a) when the order by virtue of which this section applies ceases to have effect (or would have ceased to have effect but for the transfer order); or

(b) earlier, in accordance with section 59.

59. Further provisions as to transfer orders

(1) This section applies where —

(a) a transfer order is made in respect of a person; and

(b) a decision is then made that the person no longer requires, or can no longer be given, treatment in hospital for mental disorder.

(2) A decision under subsection (1)(b) may be made by —

(a) an approved doctor and an approved professional; or

(b) the Tribunal.

(3) The person who makes the decision must immediately notify the court or authority which made the transfer order.

(4) That court or authority —

(a) may make any order in respect of the person that it thinks necessary or expedient to ensure that the order by virtue of which section 58 applied to the person continues to have effect as if the transfer order had not been made; and

(b) must include provision for terminating the transfer order.

60. Effect of detention under this Part

(1) A person who is detained in hospital in pursuance of a detention order or a transfer order is to be treated for the purposes of this Ordinance as if detained under a hospital treatment order made on the date of the detention or transfer order.

(2) A person's continuing detention in hospital in pursuance of a detention order or a transfer order requires authorisation by the Tribunal under Part 7 of this Ordinance as though he or she were detained under a hospital treatment order, unless he or she is also subject to an overseas removal order.

(3) Time spent detained in hospital under this Part is to be treated as time in custody in calculating time spent towards serving a sentence of imprisonment or other detention.

61. Variation of orders under this Part

(1) The Crown may apply to the court which made an order under this Part for the order to be varied to provide for the person detained to be transferred from the hospital named in the order to another hospital (whether in the Falkland Islands, the United Kingdom or elsewhere).

(2) In considering an application under subsection (1) the court may request the Chief Medical Officer to provide such information as he or she can reasonably obtain with respect to the hospital (whether in the Falkland Islands, the United Kingdom or elsewhere) to which it is proposed that the person detained be transferred.

(3) The Chief Medical Officer must comply with a request under subsection (2).

(4) In this section "the Crown" means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with —

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of subparagraphs (i) to (iii) chosen by the Attorney General.

62. Information about hospitals

(1) A court which is considering whether to make an order under this Part in respect of a person may request the Chief Medical Officer to provide such information as he or she can reasonably obtain with respect to any hospital (whether in the Falkland Islands, the United Kingdom or elsewhere) at which arrangements could be made for the admission of the person in pursuance of the order.

(2) The Chief Medical Officer must comply with a request under subsection (1).

(3) Where the person concerned has not attained the age of 18 years, the information which may be requested under subsection (1) includes, in particular, information about the availability of accommodation or facilities designed so as to be specially suitable for patients under that age.

63. Detention orders and overseas removal orders

(1) A detention order, interim detention order or transfer order may be made in conjunction with an overseas removal order, so that the offender is removed from the Falkland Islands to be detained for medical treatment in a hospital elsewhere if the court is satisfied, on the written or oral evidence of the Chief Medical Officer, that —

(a) appropriate medical treatment is available at that hospital; and

(b) arrangements have been made for the offender's transportation and admission to that hospital.

(2) The overseas removal order may be made at the same time as or after the detention order.

64. Requirements as to evidence

(1) Evidence required from an approved practitioner under this Part may not be presented —

(a) by a relative of the patient;

(b) by a person who has a business relationship with the patient; or

(c) in other circumstances where the court thinks there might be a conflict of interest.

(2) Where a report is tendered in evidence in pursuance of a direction of a court and otherwise than by or on behalf of the person who is the subject of the report —

(a) if that person is represented by a legal practitioner, a copy of the report must be given to the legal practitioner;

(b) if that person is not so represented, the substance of the report must be disclosed to him or her or, in the case of a person who has not attained the age of 18, to any parent or guardian present in court; and

(c) except where the report relates only to arrangements for admission to a hospital, that person may require the signatory of the report to be called to give oral evidence, and may call evidence to rebut the evidence in the report.

PART 9
REMOVAL OF PATIENTS FROM THE FALKLAND ISLANDS

65. Removal of patients from the Falkland Islands

(1) The Tribunal may order the removal of a patient from the Falkland Islands for treatment or detention (“an overseas removal order”).

(2) An overseas removal order may be made only if the Tribunal is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

(a) the patient is suffering from mental disorder;

(b) the patient cannot be treated effectively in the Falkland Islands; and

(c) it is necessary in the patient’s interests or for the protection of the public that the patient be removed from the Falkland Islands.

66. Restraint of a patient in transit

(1) Where a patient is to be removed from the Falkland Islands under an overseas removal order the Tribunal may authorise —

(a) the forcible administration of medication by a medical practitioner during the journey;

(b) forcible restraint during the journey;

(c) other specified measures during the journey.

(2) Authorisation may be given only if the Tribunal is satisfied, on the written or oral evidence of an approved doctor and an approved professional, that —

(a) any medication authorised is neither irreversible nor hazardous; and

(b) that the medication, restraint or other measures authorised are the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or herself or to others.

(3) For the purposes of this section treatment —

(a) is irreversible if it has unfavourable and irreversible physical or psychological consequences; and

(b) is hazardous if it entails significant physical hazard.

67. Further provisions as to overseas removal orders

(1) An overseas removal order has the same effect as a hospital treatment order until the patient leaves the Falkland Islands, unless the Tribunal orders otherwise.

(2) An overseas removal order must whenever practicable specify the aircraft or ship in which the patient is to be removed from the Falkland Islands.

(3) An overseas removal order may include directions —

(a) for the conveyance of the patient to his or her destination;

(b) for his or her detention in any place or on board any aircraft or ship until arrival at any specified place.

(4) Where a patient is removed from the Falkland Islands in pursuance of an overseas removal order, any application, order or direction made under this Ordinance ceases to have effect once the patient arrives at —

(a) the destination; or

(b) another place specified in the order for this purpose.

(5) There is no right of appeal against an overseas removal order.

68. Notifications

On making an overseas removal order the Tribunal must send copies of the order to —

(a) the Governor, and

(b) the Principal Immigration Officer.

PART 10 MEDICAL TREATMENT

69. Patients to whom Part 10 applies

This Part applies to a patient who is —

(a) liable to be detained for treatment under this Ordinance; or

(b) a community patient who has been recalled to hospital.

70. Treatment not requiring consent

(1) A patient's consent is not required for medical treatment given for his or her mental disorder by or under the direction of an approved doctor.

(2) Subsection (1) does not permit medicine to be given without consent, to a person detained under this Ordinance, for a period of more than three months.

71. Treatment requiring consent or second opinion

(1) This section applies to the administration of medicine for mental disorder to a person detained under this Ordinance after the first three months of administering the medicine.

(2) A patient may not be given treatment unless an approved doctor (other than the approved doctor in charge of the treatment) certifies in writing that it is appropriate for the treatment to be given and that —

(a) the patient has consented to the treatment, and is capable of understanding its nature, purpose and likely effects;

(b) the patient is not capable of understanding those matters; or

(c) the patient is capable of understanding those matters and has not consented, but it is in the patient's best interests for the treatment to be given.

(3) Before giving a certificate an approved doctor must consult two other persons —

(a) neither of whom is the approved doctor in charge of the treatment;

(b) both of whom have been professionally concerned with the patient's medical treatment; and

(c) at least one of whom is a registered nurse.

72. Plans of treatment

A consent or certificate under section 71 may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more forms of treatment.

73. Withdrawal of consent

(1) Consent of a patient to treatment given for the purposes of this Part may be withdrawn (in which case any continuation of the treatment is to be treated as a separate course).

(2) Where a patient consents to treatment for the purposes of this Part but before the completion of the treatment ceases to be capable of understanding its nature, purpose and likely effects, the patient must be treated as withdrawing consent (and any continuation of the treatment is to be treated as a separate course).

(3) If it is certified for the purposes of this Part that a patient is not capable of understanding the nature, purpose and likely effects of treatment and the patient later becomes capable of understanding its nature, purpose and likely effects, before the treatment is completed, the certificate ceases to apply (and the remainder of the treatment is to be treated as a separate course).

(4) A patient who has consented to a plan of treatment may withdraw consent to further treatment under the plan.

(5) This section is subject to the provisions about urgent treatment in section 74.

74. Urgent treatment

(1) Neither consent of the patient nor a second opinion from an approved doctor is required for treatment—

(a) which is immediately necessary to save the patient's life;

(b) which is immediately necessary to prevent a serious deterioration of his or her condition, and is not irreversible;

(c) which is immediately necessary to alleviate serious suffering by the patient, and is neither irreversible nor hazardous; or

(d) which is immediately necessary, is the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or herself or to others, and is neither irreversible nor hazardous.

(2) The provisions of this Part about withdrawal of consent to treatment do not prevent continuation of treatment (whether or not under a plan) until the provisions requiring consent or a second opinion can be complied with, if the approved doctor responsible for the patient's treatment thinks that discontinuance would cause serious suffering to the patient.

(3) For the purposes of this section treatment —

(a) is irreversible if it has unfavourable and irreversible physical or psychological consequences; and

(b) is hazardous if it entails significant physical hazard.

75. Prohibited treatments

(1) The following treatments are prohibited —

(a) any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue; and

(b) electro-convulsive therapy.

(2) Other provisions of this Ordinance are subject to this section.

PART 11
MISCELLANEOUS

76. Powers of entry and inspection

- (1) An approved practitioner may at all reasonable times enter and inspect any premises in which a patient is living, if he or she has reasonable cause to believe that the patient is not under proper care.
- (2) Before exercising the power in subsection (1) a practitioner must, if asked to do so, show a document proving that he or she is an approved practitioner.
- (3) This section does not permit entry to a hospital.

77. Welfare of certain hospital patients

- (1) This section applies to —
 - (a) children and young persons in the care of the Crown by virtue of a care order within the meaning of the Children Ordinance (No 28 of 1994); and
 - (b) persons in whose case the functions of nearest relative under this Ordinance have been transferred to the Crown.
- (2) Where a patient to whom this section applies is admitted to a hospital (whether or not for treatment for mental disorder) the Chief Medical Officer must —
 - (a) arrange for regular visits to be made to the patient by an approved professional; and
 - (b) take such other steps in relation to the patient while in the hospital as would be expected to be taken by parents.

78. Code of practice

- (1) The Chief Medical Officer must ensure that a code of practice (in this Ordinance referred to as “the code of practice”) is prepared —
 - (a) for the guidance of approved practitioners in relation to the detention of patients in hospital for assessment or treatment under this Ordinance;
 - (b) for the guidance of approved practitioners and other professionals in relation to the medical treatment of patients suffering from mental disorder;
 - (c) for the guidance of approved practitioners in relation to the removal of patients from the Falkland Islands under this Ordinance; and
 - (d) dealing with other related matters.

(2) The code of practice must include a statement of the principles which the Chief Medical Officer thinks should inform decisions under this Ordinance.

(3) The Chief Medical Officer must, in particular, ensure that each of the following matters is addressed in the statement of principles —

(a) respect for patients' past and present wishes and feelings;

(b) respect for diversity generally including, in particular, diversity of religion, culture and sexual orientation;

(c) minimising restrictions on liberty;

(d) involvement of patients in planning, developing and delivering care and treatment appropriate to them;

(e) avoidance of unlawful discrimination;

(f) effectiveness of treatment;

(g) views of carers and other interested parties;

(h) patient wellbeing and safety; and

(i) public safety.

(4) The Chief Medical Officer must also have regard to the desirability of ensuring —

(a) the efficient use of resources; and

(b) the equitable distribution of services.

(5) In performing functions under this Ordinance approved practitioners must have regard to the code of practice.

(6) The Chief Medical Officer must keep the code of practice under review and arrange for it to be revised from time to time.

(7) Before the code of practice is prepared or revised the Chief Medical Officer must consult —

(a) a suitably qualified and experienced psychiatrist;

(b) all persons appearing on the list of approved practitioners; and

(c) such other persons or bodies as appear to be concerned.

(8) On preparing or revising the code of practice the Chief Medical Officer must send a copy to the Governor.

(9) The Chief Medical Officer must ensure that the code of practice as it has effect at any time—

(a) is published; and

(b) is available at all times to hospital staff, patients, their nearest relatives and legal practitioners.

79. General protection of detained patients

(1) The Chief Medical Officer must keep under review the exercise of functions under this Ordinance in respect of the detention of patients, patients liable to be detained and community patients.

(2) The Chief Medical Officer must investigate —

(a) any complaint made by a person in respect of a matter that occurred while he or she was detained under this Ordinance or recalled to hospital under Part 5 and which he or she thinks has not been satisfactorily dealt with; and

(b) any other complaint as to the exercise of functions under this Ordinance in respect of a person who is or has been detained or liable to detention or who is or has been a community patient.

(3) The Chief Medical Officer may arrange for a suitably qualified person to investigate on his or her behalf a complaint in accordance with subsection (2).

(4) If a complaint alleges negligence or misconduct on the part of the Chief Medical Officer, the Chief Medical officer must arrange for it to be investigated by a suitably qualified person.

(5) For the purpose of a review or investigation under this section the Chief Medical Officer or a person authorised by the Chief Medical Officer may at any reasonable time require the production of, and inspect, records relating to the detention or treatment of a person who is or has been detained under this Ordinance or liable to detention or who is or has been a community patient.

(6) The Chief Medical Officer must consider the results of an investigation and take such steps as may be available to rectify any ongoing defect identified by the investigation concerning the exercise of functions under this Ordinance.

(7) The Chief Medical Officer must send a written report to the complainant about —

(a) the results of the investigation; and

(b) any steps taken as an outcome of the investigation.

80. Complaint to the Mental Health Tribunal

(1) Where a complaint has been investigated under section 79 and the complainant has exhausted any further complaints procedures available, the complainant may refer the complaint to the Tribunal.

(2) A complaint may be referred only if the Governor thinks that condition 1 or 2 is satisfied.

(3) Condition 1 is that —

(a) the matter complained of has a seriously detrimental effect in respect of a person (“the victim”) who is or has been detained under this Ordinance or been liable to detention or who is or has been a community patient; and

(b) the victim or his or her nearest relative has consented to the referral (where the victim is not the complainant).

(4) Condition 2 is that —

(a) the complaint has identified a serious and ongoing defect in the exercise of functions under this Ordinance; and

(b) either the Chief Medical Officer has not taken steps to remedy the defect or the steps have not been effective.

(5) Where a complaint is referred under this section, the Tribunal must take such steps and adopt such procedure as it thinks necessary to investigate and consider the complaint and make findings and recommendations to the Governor.

(6) When considering a complaint, the Tribunal must have regard to the code of practice.

(7) For the purpose of considering a complaint the Tribunal or a person authorised by the Tribunal may at any reasonable time require the production of, and inspect, records relating to the detention or treatment of any person who is or has been detained under this Ordinance or been liable to detention or who is or has been a community patient.

(8) On receipt of findings and recommendations under subsection (5), the Governor must consult such persons and take such steps as the Governor thinks appropriate.

81. Informal admission of patients

(1) Nothing in this Ordinance prevents a patient who requires treatment for mental disorder from being admitted to or remaining in a hospital or medical centre without any order or direction under this Ordinance.

(2) In the case of a patient aged 16 or 17 years who has capacity to consent to the making of arrangements for admission to or remaining in a hospital or medical centre —

(a) arrangements may be made in reliance on the patient's consent even though there are one or more persons who have parental responsibility for him or her within the meaning of the Children Ordinance; and

(b) arrangements may not be made without that consent on the basis of the consent of a person who has parental responsibility for him or her.

82. Accommodation for children

(1) This section applies in respect of a patient who has not attained the age of 18 years and who—

(a) is detained under this Ordinance; or

(b) is admitted to a hospital in pursuance of arrangements of the kind mentioned in section 81.

(2) A patient detained for assessment at an approved medical centre must be transported as soon as reasonably practicable to a hospital.

(3) The Chief Medical Officer must ensure that the patient's environment in the hospital is suitable having regard to his or her age (subject to his or her needs).

(4) For that purpose the Chief Medical Officer must consult a person who appears to have suitable knowledge or experience of cases involving patients who have not attained the age of 18 years.

83. No duty to make further enquiries

An order for the detention or treatment of a patient which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of—

(a) the signature or qualifications of the person by whom the order or recommendation is made or given; or

(b) any matter of fact or opinion stated in it.

84. Conflicts of interest

No action may be taken for the purposes of this Ordinance by an approved practitioner or Tribunal member who —

(a) is a relative of the person concerned;

(b) has a business relationship with him or her; or

(c) might have a conflict of interest for any other reason.

85. Protection for acts done in pursuance of this Ordinance

(1) No person is liable on any ground (including want of jurisdiction) to civil or criminal proceedings by reason only of anything done or purportedly done under or by virtue of this Ordinance.

(2) Subsection (1) does not apply to an act done in bad faith or without reasonable care.

(3) Civil proceedings may not be brought in respect of anything done or purportedly done under or by virtue of this Ordinance, without the leave of the Supreme Court.

(4) This section applies to omissions as to acts.

PART 12 OFFENCES

86. Forgery and false statements

(1) It is an offence to be in possession or control without reasonable excuse of a document to which this subsection applies, knowing or believing it to be false (within the meaning of Part I of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands).

(2) It is an offence to be in possession or control without reasonable excuse of a document so closely resembling a document to which this subsection applies as to be calculated to deceive.

(3) Subsections (1) and (2) apply to —

(a) medical or other recommendations or reports under this Ordinance; and

(b) other documents required or authorised to be made for any purpose of this Ordinance.

(4) It is an offence wilfully to make a false entry or statement in a document required or authorised to be made for any purpose of this Ordinance.

(5) It is an offence for a person with intent to deceive to make use of an entry or statement in a document required or authorised to be made for any purpose of this Ordinance, knowing or believing the entry or statement to be false.

(6) A person guilty of an offence under this section is liable to —

(a) imprisonment for a term not exceeding two years;

(b) a fine not exceeding the maximum of level 6 on the standard scale; or

(c) both.

87. Ill-treatment of patients

(1) It is an offence for a member of staff in a hospital or approved medical centre —

(a) to ill-treat or wilfully neglect a patient receiving treatment for mental disorder as an in-patient in the hospital or centre; or

(b) to ill-treat or wilfully neglect, on the premises of the hospital or centre, a patient receiving treatment for mental disorder as an out-patient.

(2) It is an offence for an individual to ill-treat or wilfully neglect a patient who is for the time being in his or her custody or care (whether by virtue of any legal or moral obligation or otherwise).

(3) A person guilty of an offence under this section is liable to —

(a) imprisonment for a term not exceeding five years;

(b) a fine not exceeding the maximum of level 10 on the standard scale; or

(c) both.

88. Assisting patients to absent themselves without leave

(1) It is an offence to induce or knowingly assist a person who is liable to be detained in a hospital or who is a community patient to absent himself or herself without leave.

(2) It is an offence to induce or knowingly assist a person in legal custody by virtue of this Ordinance to escape.

(3) It is an offence —

(a) knowingly to harbour a patient who is absent without leave or is otherwise at large and liable to be retaken under this Ordinance; or

(b) to give him or her assistance with intent to prevent, hinder or interfere with his or her being taken into custody or returned to the hospital or other place where he or she ought to be.

(4) Any person guilty of an offence under this section is liable to —

(a) imprisonment for a term not exceeding two years;

(b) a fine not exceeding the maximum of level 6 on the standard scale; or

(c) both.

89. Obstruction

(1) It is an offence without reasonable cause —

(a) to refuse to allow premises to be inspected in accordance with this Ordinance;

- (b) to refuse to allow a person to be visited, interviewed or examined in accordance with this Ordinance;
 - (c) to refuse access to a person for any of those purposes;
 - (d) to refuse to produce a document or record for inspection in accordance with this Ordinance;
 - (e) otherwise to obstruct a person in the exercise of a function under this Ordinance.
- (2) In particular, it is an offence to insist on being present at an examination or interview in accordance with this Ordinance, having been required to withdraw.
- (3) A person guilty of an offence under this section is liable to —
- (a) imprisonment for a term not exceeding three months;
 - (b) a fine not exceeding the maximum of level 4 on the standard scale; or
 - (c) both.

PART 13 SUPPLEMENTARY

90. Regulations

- (1) The Governor may by regulations make provision which appears necessary or expedient for the purpose of giving effect to this Ordinance.
- (2) Regulations may in particular prescribe forms to be used for any purpose of this Ordinance.

91. Approved practitioners

- (1) “Approved doctor” means a medical practitioner approved by the Governor by Order for the purposes of this Ordinance.
- (2) “Approved professional” means a nurse, social worker or other professional approved by the Governor by Order for the purposes of this Ordinance.
- (3) The list of approved practitioners must be reviewed by the Chief Medical Officer annually and may be amended at any time by the Governor by Order.
- (4) Before making or amending the list the Governor must consult the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals —
 - (a) for initial inclusion on the list; and

(b) to keep their name on the list.

(5) If the Chief Medical Officer is also an approved doctor, he or she may carry out any of the functions of an approved doctor under this Ordinance.

92. Approved medical centre

(1) The Governor may by Order designate any place as an approved medical centre for the purposes of this Ordinance.

(2) Authorisation may be—

(a) permanent or temporary; and

(b) absolute or conditional.

(3) The Governor may by Order amend or revoke an authorisation.

(4) Before exercising a power under this section the Governor must consult the Chief Medical Officer.

93. “Relative” and “nearest relative”

(1) “Relative” means any of the following persons —

(a) partner;

(b) son or daughter;

(c) father or mother;

(d) brother or sister;

(e) grandparent;

(f) grandchild;

(g) uncle or aunt; and

(h) nephew or niece.

(2) In deducing relationships for the purposes of this section —

(a) a relationship of the half-blood is to be treated as a relationship of the whole blood;

(b) a person is to be treated as the child of his or her father only if the father has parental responsibility within the meaning of the Children Ordinance (or had such parental responsibility immediately before the child’s eighteenth birthday); and

(c) any person who is not resident in the Falkland Islands is to be ignored.

(3) In this Ordinance “nearest relative” means the person highest in the list in subsection (1) who is for the time being surviving, regardless of sex; and where there is more than one person qualifying under one paragraph of subsection (1)—

(a) relatives of the whole blood are preferred to relatives of the half-blood; and

(b) subject to paragraph (a), the elder or eldest is preferred.

(4) Where a patient ordinarily resides with or is cared for by one or more of his or her relatives, that relative has, or those relatives have, preference in applying subsection (1) (and subsection (3) is subject to this subsection).

(5) Where a patient ordinarily resided with or was cared for by one or more of his or her relatives before becoming an in-patient in a hospital or approved medical centre, while the patient is in the hospital or centre that relative has, or those relatives have, preference in applying subsection (1) (and subsection (3) is subject to this subsection).

(6) In determining a patient’s nearest relative in accordance with this section no account is to be taken of—

(a) a partner of the patient, who is permanently living apart from the patient, either by agreement or under an order of a court, or who has deserted or has been deserted by the patient for a period which has not come to an end; or

(b) a relative, other than the patient’s partner, father or mother, who has not attained the age of 18.

(7) In this section “partner” means one of a married couple, an unmarried couple or a civil partnership, who is living with the other party (except in subsection (6)(a)); and “unmarried couple” means two persons who habitually live together in a relationship with some or all of the characteristics of a marriage or civil partnership.

(8) Where a patient ordinarily resides with a person other than a relative, and has been ordinarily residing with that person for a period of not less than five years, that person is treated for the purposes of this section as a relative, coming last in the list in subsection (1).

(9) Where a patient ordinarily resided with or was cared for by a person other than a relative before becoming an in-patient in a hospital or approved medical centre, and had been ordinarily residing with that person for a period of not less than five years, while the patient is in the hospital or centre that person is treated for the purposes of this section as a relative, coming last in the list in subsection (1).

(10) Where a patient is in the care of the Crown by virtue of a care order under the Children Ordinance the Crown is the patient’s nearest relative

(11) Where a residence order under the Children Ordinance is in force with respect to a patient, the person named in the residence order is the patient's nearest relative.

(12) Where a guardian has been appointed for a patient who has not attained the age of eighteen years, the guardian (or guardians) is (or are together to be taken as) the patient's nearest relative.

(13) Where a patient is a ward of court any power exercisable in relation to the patient by his or her nearest relative may be exercised only —

(a) by the court; or

(b) with the leave of the court.

94. Appointment by court of acting nearest relative

(1) The Supreme Court may by order direct that the functions of the nearest relative of the patient may be exercised by a specified person.

(2) The order must specify —

(a) any person nominated in the application whom the court thinks suitable and willing to act; or

(b) failing paragraph (a), a person whom the court thinks suitable and willing to act; or

(c) failing paragraphs (a) and (b), the Crown.

(3) An order may be made only on the application of —

(a) the patient;

(b) a relative of the patient;

(c) a person with whom the patient is residing (or was residing immediately before the patient's admission to a hospital or medical centre);

(d) an approved professional.

(4) An application for an order must be made on one of the following grounds —

(a) that the patient has no nearest relative within the meaning of this Ordinance, or that it is not reasonably practicable to ascertain whether he or she has such a relative, or who that relative is;

(b) that the nearest relative is incapable of acting by reason of mental disorder or other illness;

(c) that the nearest relative has acted without regard to the welfare of the patient or the interests of the public; or

(d) that the nearest relative is otherwise not suitable to act.

(5) An order may specify a period for which it is to continue in force unless previously discharged.

(6) While an order made under this section is in force, this Ordinance applies in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person specified in the order.

(7) For the purposes of subsection (6) it does not matter whether or not the person who was the patient's nearest relative when the order was made is still the nearest relative.

(8) An order may be discharged by the court on the application of —

(a) the patient;

(b) the person specified in the order; or

(c) the nearest relative of the patient (except a nearest relative in respect of whom the order was made under subsection (4)(c) or (d)).

(9) The court may vary an order so as to substitute another specified person on the application of—

(a) the patient;

(b) the presently specified person; or

(c) an approved professional.

(10) If the specified person dies, the functions of the nearest relative are not exercisable by any person until the order is discharged or varied.

(11) An order, unless previously discharged, ceases to have effect —

(a) at the end of the period specified in the order; or

(b) where no period is specified, when the patient ceases to be liable to be detained for assessment or treatment.

(12) In this section “the Crown” means the Attorney General, acting in the public interest —

(a) through a person appointed by the Attorney General; and

(b) in consultation with—

(i) the Chief Medical Officer;

(ii) one or more approved practitioners;

(iii) one or more suitably qualified professional persons chosen by the Attorney General;
or

(iv) any combination of sub-paragraphs (i) to (iii) chosen by the Attorney General.

95. Repeal

(1) The Mental Health Ordinance (Title 50.1) is repealed.

(2) Anything done under that Ordinance continues to have effect after the coming into force of this section as if done under this Ordinance; but—

(a) a detention or other order under that Ordinance lapses unless confirmed by the Chief Medical Officer within two weeks of the coming into force of this section, and

(b) before confirming the detention or other order the Chief Medical Officer must apply, in such manner as appear appropriate, any provisions of this Ordinance which would have applied if the order had been made under this Ordinance (and which had no equivalent under that Ordinance).

Passed by the Legislature of the Falkland Islands on 30 July 2010.

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

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

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Falkland Islands Status (Amendment) Ordinance 2010

(No: 8 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Falkland Islands Status Ordinance
4. Section 2 amended - Interpretation
5. Section 3 amended - Applications for the grant of Falkland Islands status
6. Section 4 amended – Consideration of applications for Falkland Islands status

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

FALKLAND ISLANDS STATUS (AMENDMENT) ORDINANCE 2010

(No: 8 of 2010)

(assented to: 3 August 2010)

(commencement: on publication)

(published: 4 August 2010)

AN ORDINANCE

To amend the Falkland Islands Status Ordinance (Title 52.3) in connection with eligibility to apply for Falkland Islands status.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Falkland Islands Status (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of Falkland Islands Status Ordinance

This Ordinance amends the Falkland Islands Status Ordinance.

4. Section 2 amended - Interpretation

(1) This section amends section 2.

(2) The definition of “Falkland Islands status” is amended by omitting “17(5)” and substituting “22(5)”.

(3) The following definitions are inserted immediately after the definition of “Falkland Islands status” —

““the former Constitution” means Schedule 1 to the Falkland Islands Constitution Order 1985 (SI 1985/444), as amended by the Falkland Islands Constitution (Amendment) Order 1997 (SI 1997/864) and the Falkland Islands Constitution (Amendment) (No. 2) Order 1997 (SI 1997/2974);

“the new Constitution” means Schedule 1 to the Falkland Islands Constitution Order 2008 (SI 2008/2846);”

(4) The definition of “qualified person” is repealed and the following substituted —

““qualified person” means a person who —

(a) is a Commonwealth citizen; and

(b) either —

(i) has been ordinarily resident in the Falkland Islands for at least 7 years immediately before the date of application under section 3; or

(ii) satisfies each of the following criteria —

(aa) the person held Falkland Islands status under section 17(5)(b)(ii) or section 17(5)(d)(i) of the former Constitution;

(bb) because of a change of domicile, the person no longer held Falkland Islands status immediately before the commencement of the new Constitution, so the person did not acquire Falkland Islands status under section 22(5)(a) of the new Constitution; and

(cc) the person is present, and is ordinarily resident, in the Falkland Islands on the date of application;”

5. Section 3 amended - Applications for the grant of Falkland Islands status

(1) This section amends section 3.

(2) Subsection (2)(b)(ii) is repealed and the following substituted —

“(ii) that the applicant either —

(aa) had not been ordinarily resident in the Falkland Islands for at least 7 years immediately before the date of application; or

(bb) does not satisfy each of the criteria in paragraph (b)(ii) of the definition in section 2 of “qualified person”.

(3) Subsections (5) and (6) are repealed, and the following substituted —

“(5) An application which has not been rejected by the Principal Immigration Officer under subsection (2) will be considered as soon as reasonably practicable in accordance with section 4.

(6) Before an application made by virtue of paragraph (b)(i) of the definition of qualified person may be considered in accordance with section 4 —

(a) the Principal Immigration Officer must cause a notice of the application to be published in the Gazette and in a newspaper circulating in the Falkland Islands;

(b) the notice must state that any person who intends to object to the grant of the application may do so in writing to the Principal Immigration Officer within 21 days of the publication of the notice; and

(c) the 21 day notice period must have expired.”

6. Section 4 amended – Consideration of application for Falkland Islands status

Section 4 is amended by inserting the following subsection after subsection (1) —

“(1A) An application made by virtue of paragraph (b)(ii) of the definition of qualified person must be considered at the first available meeting of Executive Council, and subsection (1) does not apply to the extent that the application would otherwise be considered by Executive Council at a later meeting.”

Passed by the Legislature of the Falkland Islands on 30 July 2010.

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

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

A. LIVERMORE C.P.M.,
Clerk of the Legislative Assembly.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 21

31 August 2010

No. 9

The following are published in this Supplement –

United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010 (SR&O No 15 of 2010);

Taxes and Duties (Defence Contractors' Employees Exemption)(No 3) Order 2010 (SR&O No 16 of 2010);

Currency Notes Order 2010 (SR&O No 17 of 2010); and

Smoking (Prohibition) Bill 2010.

The Smoking (Prohibition) Bill 2010 is published in this Supplement to the Falkland Islands Gazette prior to presentation at the Legislative Assembly in October 2010 as approved by Executive Council on 19 August 2010. As permitted by Executive Council, the Bill as gazetted contains drafting changes from the Bill considered by Executive Council, but no changes of substance have been made. The draft Smoking (Signs) Regulations 2010 and Smoking (Amounts of Fixed Penalties) Order 2010 were also considered by Executive Council on 19 August 2010 under paper number 191/10 – copies of the paper number 191/10 containing these Orders can be obtained from the Councillors' Office (email: cclifford@sec.gov.fk).

SUBSIDIARY LEGISLATION

ARMED FORCES

United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010

S. R. & O. No. 15 of 2010

Made: 20 August 2010

Published: 31 August 2010

Coming into force: on publication

I make this order under the United Kingdom Forces (Jurisdiction of Colonial Courts) Order (SI 1965/1203) on the advice of Executive Council.

1. Title

This order is the United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Civilian component of Her Majesty's forces

For the purposes of section 2(5) of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order, "a member of a civilian component of Her Majesty's forces" has the following meaning—

- (a) a person employed by or in the service of the Government of the United Kingdom whose sole or main role is to work in support of any of Her Majesty's forces;
- (b) a retired officer of Her Majesty's forces who is employed by Her Majesty's forces following retirement;
- (c) a member or employee of the following organisations —
 - (i) the Navy, Army and Air Force Institutes;
 - (ii) Service Children's Education;
 - (iii) the Services Sound and Vision Corporation;
 - (iv) the Soldiers, Sailors, Airmen and Families Association – Forces Help;

(d) a person designated by or on behalf of the Defence Council as being subject to the provisions of the Armed Forces Act 2006;

(e) a person residing or staying with any person described in paragraphs (a) to (d).

Made 20 August 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the this order)

This order prescribes the persons who are a member of the civilian component of Her Majesty's armed forces for the purposes of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 (SI 1965/1203).

The principal effect of the order is that the persons within the definition of civilian component of Her Majesty's armed forces are, in certain circumstances, no longer subject to the criminal jurisdiction of Falkland Islands courts.

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption) (No 3) Order 2010

S. R. & O. No. 16 of 2010

Made: 24 August 2010

Published: 31 August 2010

Coming into force: on publication

I make this order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) on the advice of the Standing Finance Committee as required by section 9A(1) of the Ordinance.

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption)(No 3) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order —

“designated employer” means an employer listed in the Schedule;

“qualifying employee” means a person who —

- (a) satisfies the requirements of section 9A of the Ordinance; and
- (b) is employed by a designated employer;

“relevant employment” means —

- (a) employment only for the purpose of providing services in the Falkland Islands to either —
 - (i) Her Majesty's regular armed forces; or
 - (ii) the Ministry of Defence of Her Majesty's Government in the United Kingdom; or

(b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) of this definition or by virtue of this paragraph of this definition;

“relevant income” means income from relevant employment; and

“retirement pension contributions” means contributions that an employee is required to pay under the Retirement Pensions Ordinance (No 20 of 1996).

4. Application

(1) Subject to article 5, a qualifying employee is exempt from liability under any law of the Falkland Islands to pay —

(a) income tax on relevant income from a designated employer; and

(b) retirement pension contributions in respect of that employment.

(2) The exemption applies whether the liability arises before or after this order comes into force.

5. Duration

Nothing in this order confers any exemption to pay either —

(a) income tax in relation to earnings after 31 December 2010; or

(b) retirement pension contributions in respect of employment after that date.

6. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption)(No 2) Order (No 13 of 2010) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

Babcock Aerospace Limited

Babcock Communications Limited

British International Helicopter Services Limited

COLAS Limited

David Lomas Limited

Gifford Global Limited

Interserve Defence Limited

Mott MacDonald Limited

MPI Aviation Limited
Navy, Army and Air Force Institutes
Satec Limited
Serco Limited
Services Sound and Vision Corporation
Sodexo Defence Services Limited
Trant Construction Limited
Westland Helicopters Limited

Made 24 August 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence-based employment. Such orders can only be made on the advice of the Standing Finance Committee.

This order means that employees who work for one of the employers listed in the Schedule are exempt from income tax and retirement pension contributions until 2010, provided that they are engaged in relevant employment (as defined) and the other requirements set out in section 9A of the Ordinance are met.

The effects of this order (which replaces a previous order) are:

- (a) to add an additional employer (Mott MacDonald Limited) to the list of qualifying employers; and
- (b) to reflect changes in the company names of two existing designated employers (Babcock Aerospace Limited and Babcock Communications Limited, which were formerly VT Aerospace Limited and VT Communications Limited).

SUBSIDIARY LEGISLATION

CURRENCY

Currency Notes Order 2010

S. R. & O. No: 17 of 2010

Made: 20 August 2010
Published: 31 August 2010
Coming into force: on publication

I make this order under section 22 of the Currency Ordinance (Title 25.1.1) on the advice of Executive Council.

1. Title

This order is the Currency Notes Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. New notes

(1) The printing and issue of the notes specified in the schedules to this order are authorised.

(2) The schedules to this order specify the denomination, form, design, plates, paper and authentication of the notes.

Made 20 August 2010

A. E. Huckle,
Governor.

Schedule 1
Specification of Falkland Islands £10 Currency Notes

- | | | |
|-----|----------------------------|---|
| 1. | Denomination: | £10 (TEN POUNDS) |
| 2. | Paper: | Mould made banknote paper "F" watermark with Cornerstone TM |
| 3. | Size: | 75 mm x 145 mm |
| 4. | Printings – Front: | 1 Direct Plate/Engraving
2 Security Lithographic Letterpress |
| 5. | Printings - Back: | 2 Security Lithographic |
| 6. | Basic Colour: | Green |
| 7. | Inscription – Front: | The denomination in figures (at lower left and upper right) and in words.

The words:

"THE GOVERNMENT OF THE FALKLAND ISLANDS"
"THESE NOTES ARE LEGAL TENDER
FOR THE PAYMENT OF ANY AMOUNT"
"FOR THE GOVERNMENT OF THE FALKLAND ISLANDS"
"Commissioners of Currency"

The facsimile signatures of the Commissioners of Currency
The date of issue
The series index and serial number at the upper left and lower right |
| 8. | Inscription - Back: | At the top the words:

"THE GOVERNMENT OF THE FALKLAND ISLANDS" |
| 9. | Pictorial Content – Front: | Portrait – HM Queen Elizabeth II
Vignettes – King Penguins and Sea Lions
Insignia – National Coat of Arms
Background – Map of the Falkland Islands |
| 10. | Pictorial Content - Back: | Vignettes – Government House and Christchurch Cathedral |
| 11. | Date of issue: | 1 January 2011 |

12. Signatures of K Padgett; M C Eccles; L M Lyse
Commissioners
of Currency:
13. Series index and serial B to start at 000001
numbering:
14. Quantity: 200,000
15. Printer: De La Rue Currency

Schedule 2
Specification of Falkland Islands £20 Currency Notes

1. Denomination: £20 (TWENTY POUNDS)
2. Paper: Mould made banknote paper "F" watermark with
CornerstoneTM
3. Size: 75 mm x 145 mm
4. Printings – Front: 1 Direct Plate/Engraving
2 Security Lithographic Letterpress
5. Printings - Back: 2 Security Lithographic
6. Basic Colour: Brown
7. Inscription – Front: The denomination in figures (at lower left and upper right)
and in words.

The words:

"THE GOVERNMENT OF THE FALKLAND ISLANDS"

"THESE NOTES ARE LEGAL TENDER

FOR THE PAYMENT OF ANY AMOUNT"

"FOR THE GOVERNMENT OF THE FALKLAND
ISLANDS"

"Commissioners of Currency"

The facsimile signatures of the Commissioners of Currency

The date of issue

The series index and serial number at the upper left and
lower right

8. Inscription - Back: At the top the words:
 "THE GOVERNMENT OF THE FALKLAND ISLANDS"
9. Pictorial Content – Front: Portrait – HM Queen Elizabeth II
 Vignettes – King Penguins and Sea Lions
 Insignia – National Coat of Arms
 Background – Map of the Falkland Islands
10. Pictorial Content - Back: Vignettes – Government House and Christchurch Cathedral
11. Date of issue: 1 January 2011
12. Signatures of K Padgett; M C Eccles; L M Lyse
 Commissioners
 of Currency:
13. Series index and serial B to start at 000001
 numbering:
14. Quantity: 200,000
15. Printer: De La Rue Currency

EXPLANATORY NOTE
(not forming part of this order)

This order provides for the printing and issue of a new series (the B series) of 200,000 £10 notes, very similar in design to the 1986 issue of £10 notes, and of 200,000 £20 notes, very similar in design to the 1984 issue of £20 notes, which are necessary to provide for the needs of the Falkland Islands in relation to currency of those denominations for the foreseeable future.

Smoking (Prohibition) Bill 2010

(No. of 2010)

ARRANGEMENT OF PROVISIONS

Clause

PART 1: INTRODUCTORY PROVISIONS

1. Title
2. Commencement
3. Interpretation

PART 2: SMOKING BAN

4. Smoking ban

PART 3: POWERS TO DESIGNATE ADDITIONAL PLACES AND VEHICLES

5. Designated places
6. Designated vehicles
7. Designations: additional provisions

PART 4: EXEMPTIONS

8. Exemptions
9. Homes
10. Smoking bedrooms in hotels, etc
11. Private clubs and associations
12. Warehouses, garages and shearing sheds
13. Power to amend Part 4
14. Power to grant temporary or specific exemptions

PART 5: DUTIES ON OTHERS

15. Duty to prevent others from smoking
16. Duty on licensee in relation to licensed premises

PART 6: SIGNS AND NOTICES

17. Power to require display of signs or notices
18. Interference with signs and notices

PART 7: ENFORCEMENT

19. Power of entry

20. Powers of search, etc
21. Power to require identification of individuals

PART 8: OFFENCES

22. Smoking in breach of smoking ban
23. Failure to comply with duty to prevent others from smoking
24. Failure by licensee to comply with duty in relation to licensed premises
25. Breach of regulations under section 17
26. Unauthorised interference with sign or notice
27. Obstruction, etc
28. Provision of false or misleading information
29. Failure to provide name and address or identification
30. Providing false name or address
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33. Fixed penalty provisions (and power to vary Schedule)
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35. Fixed penalty notices issued subsequently
36. Withdrawal of fixed penalty notices
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41. Amendment of the Licensing Ordinance
42. Section 5A substituted
43. New sections 5B to 5D

PART 11: SUBSIDIARY LEGISLATION

44. Subsidiary legislation

SCHEDULE: FIXED PENALTY PROVISIONS – DETAILED PROVISIONS

Paragraph

1. Fixed penalty notices
2. Effect of fixed penalty notice
3. Notification of issue of fixed penalty notice
4. Reference to Attorney General in case of repeat offences

5. Decision by Attorney General
6. Effect of revocation
7. Notification of withdrawal of fixed penalty notice
8. Effect of withdrawal of fixed penalty notice
9. Payment of fixed penalty
10. Effect of payment of fixed penalty
11. Provisional notice of hearing
12. Hearings
13. Effect of default
14. Registration of default fine
15. Notice of registration
16. Enforcement of default fine
17. Statutory declaration following notice of registration
18. Extension of time for service of statutory declaration
19. Statutory declarations: additional provisions
20. Effect of statutory declaration
21. Further action following statutory declaration made under paragraph 17(2)(a)
22. Further action following statutory declaration made under paragraph 17(2)(b)
23. Further action following statutory declaration made under paragraph 17(2)(c)

SMOKING (PROHIBITION) BILL 2010

(No. of 2010)

(assented to: 2010)

(commencement: see section 2)

(published: 2010)

A BILL

for

AN ORDINANCE

To make provision for the protection of public health by imposing prohibitions on the smoking of tobacco and tobacco products, and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTORY PROVISIONS

1. Title

This Ordinance is the Smoking (Prohibition) Ordinance 2010.

2. Commencement

This Ordinance comes into force on a date to be fixed by the Governor by notice in the *Gazette*.

3. Interpretation

In this Ordinance—

“Chief Police Officer” means either —

(a) the person appointed by the Governor under section 4(1) of the Police Ordinance (Title 56.1) to be the chief police officer; or

(b) a police officer designated by the Governor under section 4(2) of the Police Ordinance to carry out some or all of the duties of the chief police officer;

“cigarettes” include cut tobacco rolled up in paper, tobacco leaf or another material;

“court of summary jurisdiction” means the Summary Court or the Magistrate’s Court;

“default fine” means a fine for which a person becomes liable under paragraph 13(2) of the Schedule;

“designated place” means a place designated under section 5;

“designated vehicle” means a vehicle designated under section 6;

“employee” means an individual who either —

- (a) works under a contract of service or apprenticeship, regardless of whether —
 - (i) the contract is express or implied; and
 - (ii) whether it was made orally, in writing or in some other way; or
- (b) undertakes voluntary work;

“enclosed public place” means a place —

- (a) to which members of the public (or of any section of the public) have access, regardless of whether —
 - (i) access is as of right or by virtue of express or implied permission; and
 - (ii) payment is required for access or not;
- (b) which is covered, either wholly or substantially, by a roof, ceiling or similar structure, regardless of whether —
 - (i) the roof, ceiling or similar structure is permanent or temporary; and
 - (ii) it is fixed or moveable; and
- (c) which has one or more walls or similar structures (including windows and doors, gates and other means of entry or exit) around more than 50% of its perimeter, regardless of whether the walls or similar structures are permanent or temporary;

“enclosed workplace” means a place —

- (a) which is used as, or as part of, a place of work by one or more employees, and
- (b) which is covered, either wholly or substantially, by a roof, ceiling or similar structure, regardless of whether —
 - (i) the roof, ceiling or similar structure is permanent or temporary; and
 - (ii) it is fixed or moveable; and
- (c) which has one or more walls or similar structures (including windows and doors, gates and other means of entry or exit) around more than 50% of its perimeter, regardless of whether the walls or similar structures are permanent or temporary;

“exemption” means an exemption from the smoking ban which is either —

- (a) provided for in Part 4: or
- (b) granted under section 14;

“expiry date” means, in relation to a fixed penalty notice, the date by which a person must either pay a fixed penalty or serve a hearing notice, which is either —

- (a) the date specified in the notice under paragraph 1(1)(c) of the Schedule; or
- (b) the new expiry date of a notice confirmed by the Attorney General under paragraph 5(2)(a) of the Schedule;

“fixed penalty notice” means a notice issued under section 34(2) or section 35(3), offering a person the opportunity to discharge criminal liability for an offence by paying a fixed penalty instead of being prosecuted for the offence;

“hearing notice” means a notice given by a person under paragraph 1(2)(a)(ii) of the Schedule, requesting a hearing in relation to an offence in order either —

- (a) to contest liability for the offence; or
- (b) to seek a determination by a court regarding the appropriate penalty for the offence;

“hotel or similar establishment” means —

- (a) a hotel;
- (b) a bed and breakfast establishment;
- (c) self-catering holiday accommodation; and
- (d) other short-term accommodation for tourists;

“licence” means a licence or protection order granted under the Licensing Ordinance (Title 48.2);

“nominated police officer” means a police officer nominated by the Chief Police Officer to receive notifications on behalf of the Chief Police Officer;

“offence” includes an alleged offence;

“offence against this Ordinance” includes an offence against subsidiary legislation made under this Ordinance;

“officer”, in relation to a body corporate, has the meaning given to it by section 31(3);

“pilot in command” means, in relation to an aircraft, either —

- (a) the pilot designated by the operator of the aircraft as being in command and charged with the safe conduct of a flight; or,
- (b) if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“place” —

- (a) includes —
 - (i) a building or other premises; and
 - (ii) a stall, tent or other moveable structure; but
- (b) does not include a vehicle, vessel or aircraft;

“public vehicle” means a vehicle which is —

- (a) licensed as or held out as —
 - (i) a taxi;
 - (ii) a private hire vehicle; or
 - (iii) a public service vehicle;
- (b) used to carry one or more passengers who have either —
 - (i) paid a fare for their journey; or
 - (ii) hired the vehicle with its driver;
- (c) used in plying for hire for the purpose of carrying passengers; or
- (d) used as a shelter to which members of the public (or of any section of the public) have access, regardless of whether —
 - (i) access is as of right or by virtue of express or implied permission; and
 - (ii) payment is required for access or not;

“relevant aircraft” means an aircraft —

- (a) to which one or more of the following apply —

- (i) one or more employees are working on board; or
 - (ii) it is being used to carry one or more passengers who have either —
 - (aa) paid a fare for their journey; or
 - (bb) hired the aircraft with its pilot; or
 - (iii) it is being used to carry passengers for commercial purposes; and
- (b) which is —
- (i) on the ground anywhere in the Falkland Islands,
 - (ii) flying from one place in the Falkland Islands to another place in the Falkland Islands;
 - (iii) flying from a place in the Falkland Islands back to the same place, or
 - (iv) within Falkland Islands airspace during a flight to or from anywhere in the Falkland Islands;

“relevant maximum” has the meaning given to it in section 40(7);

“senior police officer” means a police officer with the rank of sergeant or above;

“sheltered accommodation” means accommodation in which part-time personal care is provided to a person who otherwise lives there independently;

“smoking” includes inhaling, exhaling, carrying, holding, or otherwise having control over ignited tobacco or an ignited tobacco product;

“smoking ban” means the prohibition on smoking in section 4;

“tobacco” includes —

- (a) substitutes for tobacco; and
- (b) mixtures containing tobacco or a substitute for tobacco;

“tobacco products” includes cigarettes and cigars; and

“trigger date” has the meaning given to it in paragraph 19(2) of the Schedule.

**PART 2
SMOKING BAN**

4. Smoking ban

Unless an exemption applies, smoking is prohibited in each of the following —

- (a) enclosed public places,
- (b) enclosed workplaces,
- (c) public vehicles,
- (d) relevant aircraft,
- (e) designated places, and
- (f) designated vehicles.

**PART 3
POWERS TO DESIGNATE ADDITIONAL PLACES AND VEHICLES**

5. Designated places

The Governor may by order designate the following to be designated places to which the smoking ban applies —

- (a) one or more specific places; or
- (b) places of a category described in the order.

6. Designated vehicles

The Governor may by order designate the following to be designated vehicles to which the smoking ban applies —

- (a) one or more specific vehicles; or
- (b) vehicles of a category described in the order.

7. Designations: additional provisions

(1) A designation under section 5 or 6 may be made for either —

- (a) an indefinite period; or
- (b) a specified one.

(2) A designation may also have effect either —

- (a) at all times; or
- (b) only while one or more of the following apply —
 - (i) at specific times;
 - (ii) in specific circumstances; and
 - (iii) if specific conditions are satisfied.

PART 4 EXEMPTIONS

8. Exemptions

This Part provides for exemptions from the smoking ban.

9. Homes

- (1) The smoking ban does not apply in a person's home, even if that person is visited by someone for the purpose of working there.
- (2) However, subsection (1) does not allow smoking in a part of a person's home in which —
 - (a) that person (or someone that person lives with) operates a business; and
 - (b) in the course of that business, either —
 - (i) another person is employed; or
 - (ii) customers (or other visitors) are received.
- (3) For the purposes of subsection (1), a person's home does not include —
 - (a) a communal area in shared accommodation;
 - (b) a prison; or
 - (c) a hospital (apart from sheltered accommodation within a hospital); or
 - (d) a hotel or similar establishment (however long it is occupied by the person).

10. Smoking bedrooms in hotels, etc

- (1) The smoking ban does not apply in a bedroom within a hotel or similar establishment if the conditions in subsection (2) are satisfied.
- (2) The conditions that must be satisfied for the purposes of subsection (1) are that —

- (a) the bedroom must have been designated in writing as a smoking bedroom by the proprietor of the hotel or similar establishment or another person in charge of it; and
 - (b) a sign or notice indicating that the bedroom is a smoking bedroom must be displayed —
 - (i) on the door into the bedroom and
 - (ii) in a prominent position inside the bedroom;
 - (c) the bedroom must have a ceiling and (except for doors and windows) must be completely enclosed by solid walls from floor to ceiling;
 - (d) must not have a ventilation system that ventilates into any other part of the building;
- (3) For the purposes of subsection (1), a bedroom does not include —
- (a) a communal area;
 - (b) a dormitory; or
 - (c) another room made available for persons who have made separate arrangements to share it at the same time.

11. Private clubs and associations

- (1) The smoking ban does not apply in premises operated by a private club or association if —
- (a) the conditions in subsection (2) are satisfied; and
 - (b) access to the premises is only available to the individuals identified in subsection (3).
- (2) The conditions that must be satisfied for the purposes of subsection (1) are —
- (a) the club or association must operate on a non-profit basis;
 - (b) the club or association must not have any paid employees;
 - (c) a resolution of the membership of the club or association allowing smoking on the premises must have been passed within the previous 15 months;
 - (d) the resolution must have been passed at a general meeting of the club or association of which proper notice has been given;
 - (e) at least two-thirds of the members of the club or association must have voted in favour of the resolution when it was passed; and

(f) notice of the resolution having been passed must have been given to a nominated police officer and the Attorney General.

(3) Access to the premises must only be available to the following individuals —

(a) those who —

(i) are members of the club or association; and

(ii) either —

(aa) have been members for at least two days; or

(bb) did not become members until at least two days after applying for membership or being nominated for it; and

(b) *bona fide* guests of those identified in paragraph (a).

12. Warehouses, garages and shearing sheds

(1) The smoking ban does not apply in a warehouse, garage or shearing shed if the conditions in subsection (2) are satisfied.

(2) The conditions that must be satisfied for the purposes of subsection (1) are —

(a) the warehouse, garage or shearing shed must have an internal volume of at least 450 cubic metres; and

(b) there can be no more than three employees in the warehouse, garage or shearing shed at the time.

(3) If a warehouse, garage or shearing shed is internally divided (whether the division is permanent or temporary) —

(a) the internal volume of each division must be calculated separately for the purposes of subsection (2)(a);

(b) the internal volume of a division must be at least 450 cubic metres for smoking to be permitted in it.

13. Power to amend Part 4

The Governor may by order amend Part 4 in order to —

(a) create new exemptions from the smoking ban;

(b) vary existing exemptions; or

(c) repeal existing exemptions.

14. Power to grant temporary or specific exemptions

(1) The Governor may by order grant temporary or specific exemptions from the smoking ban.

(2) Exemptions may only be granted under subsection (1) for a specified period.

(3) Exemption granted under subsection (1) may apply —

(a) on specific occasions;

(b) at specific times;

(c) in specific circumstances; or

(d) if specific conditions are satisfied.

**PART 5
DUTIES ON OTHERS**

15. Duty to prevent others from smoking

Each of the following persons is under a duty to prevent others from smoking in a place, vehicle or aircraft to which the smoking ban applies —

(a) in the case of a place, the person in charge of that place;

(b) in the case of a vehicle —

(i) the driver; and

(ii) each other person in charge of a passenger compartment or section;

(c) in the case of an aircraft —

(i) the pilot in command; and

(ii) each other person in charge of a passenger compartment or section;

(d) each other person with management responsibilities for the place, vehicle or aircraft; and

(e) each other person responsible for order or safety in the place, vehicle or aircraft.

16. Duty on licensee in relation to licensed premises

The holder of a licence is under a duty to take reasonable steps to prevent others from smoking in breach of the smoking ban on the premises covered by the licence.

PART 6
SIGNS AND NOTICES

17. Power to require display of signs or notices

(1) The Governor may make regulations requiring the display of signs or notices in places, vehicles and aircraft to which the smoking ban applies.

(2) Regulations made under subsection (1) may include provision for offences against the regulations to be punished by a maximum fine of up to level 6 on the standard scale.

18. Interference with signs and notices

(1) A person who is not authorised to do so must not remove, alter, conceal, deface, damage or destroy a sign or notice displayed in order to comply with regulations made under section 17.

(2) The following persons are authorised for the purpose of subsection (1) —

(a) a person under a duty to ensure that the sign is displayed;

(b) another person acting on the instructions of a person under that duty.

PART 7
ENFORCEMENT

19. Power of entry

(1) A police officer may enter a place, vehicle or aircraft in which the smoking ban applies in order to find out whether or not an offence against this Ordinance has been or is being committed.

(2) The power of entry under subsection (1) may be exercised by reasonable force, if it is necessary to do so.

20. Powers of search, etc

(1) The powers in this section apply —

(a) when a police officer has entered a place, vehicle or aircraft in which the smoking ban applies; and

(b) to the extent that the police officer considers reasonably necessary for the purpose of finding out whether or not an offence against this Ordinance has been or is being committed.

(2) The powers in this section apply whether or not the police officer has entered using the power in section 19(1).

(3) The police officer may —

(a) search the place, vehicle or aircraft;

(b) carry out inspections and examinations; and

(c) take photographs and recordings.

(4) The police officer may require the production of substances and products found in the place, vehicle or aircraft and may —

(a) inspect them;

(b) take and retain possession of them; and

(c) take and retain samples of them or extracts from them for later analysis.

(5) The police officer may also require anyone in the place, vehicle or aircraft to provide facilities, assistance or information.

21. Power to require identification of individuals

(1) The powers in this section apply if a police officer has reason to believe that a person either —

(a) is committing an offence against this Ordinance; or

(b) has committed an offence against it.

(2) The police officer may require a person —

(a) to provide the police officer with the person's name and address; and

(b) to produce identification confirming the person's name and address.

PART 8 OFFENCES

22. Smoking in breach of smoking ban

(1) A person who smokes in breach of the smoking ban is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 2 on the standard scale.

(3) It is not a defence that a sign or notice should have been displayed in the place, vehicle or aircraft in which the offence was committed but either —

(a) was not displayed at all;

(b) was not displayed properly; or

(c) had been altered, concealed, defaced, damaged or destroyed.

23. Failure to comply with duty to prevent others from smoking

(1) A person who is subject to a duty under section 15 and who does not prevent others from smoking in breach of the smoking ban is guilty of an offence.

(2) It is a defence for a person charged with an offence under subsection (1) to show that one or more of the following applies —

(a) the person had taken reasonable steps to prevent others from smoking in the place, vehicle or aircraft;

(b) the person did not know (and could not reasonably have been expected to know) that anyone was smoking there; or

(c) the person had another reasonable excuse in all of the circumstances for not preventing smoking in the place, vehicle or aircraft.

(3) A person convicted of an offence against subsection (1) is liable to a fine of up to level 4 on the standard scale.

24. Failure by licensee to comply with duty in relation to licensed premises

(1) A holder of a licence who does not take reasonable steps to prevent others from smoking in breach of the smoking ban on the premises covered by the licence is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 5 on the standard scale.

25. Breach of regulations under section 17

(1) A person who fails to comply with an obligation imposed in or under regulations made under section 17 is guilty of an offence.

(2) Subsection (1) only applies to the extent (if any) that the failure to comply does not amount to a more specific offence under the regulations themselves.

(3) A person convicted of an offence against subsection (1) is liable to a fine of up to level 4 on the standard scale.

26. Unauthorised interference with sign or notice

(1) A person who intentionally alters, conceals, defaces, damages or destroys a sign or notice in breach of section 18 is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to —

(a) level 4 in the case of an offence committed on premises licensed under the Licensing Ordinance; or

(b) level 3 in any other case.

27. Obstruction, etc

(1) A person who intentionally hinders or obstructs a police officer in the course of enforcing this Ordinance is guilty of an offence.

(2) A person who, without reasonable excuse, fails to provide a police officer with a facility, assistance or information that the police officer reasonably requires under section 20(5) is guilty of an offence.

(3) A person convicted of an offence against subsection (1) or (2) is liable to a fine of up to level 5 on the standard scale.

28. Provision of false or misleading information

(1) This section applies when a police officer has required a person under section 20(5) to provide the police officer with information.

(2) A person who intentionally provides information that is false or misleading in a material particular is guilty of an offence.

(3) A person who provides information but is reckless as to whether the information is false or misleading in a material particular is guilty of an offence.

(4) A person convicted of an offence against subsection (2) or (3) is liable to a fine of up to level 5 on the standard scale.

29. Failure to provide name and address or identification

(1) A person who fails to provide a name or address when required to do so under section 21(2)(a) is guilty of an offence.

(2) A person who, without reasonable excuse, fails to produce identification when required to do so under section 21(2)(b) is guilty of an offence.

(3) A person convicted of an offence against subsection (1) or (2) is liable to a fine of up to level 3 on the standard scale.

30. Providing false name or address

(1) A person who provides a false name or address when required to provide a name and address under section 21(2)(a) is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 4 on the standard scale.

31. Offences by bodies corporate

(1) This section applies if —

- (a) an offence against this Ordinance is committed by a body corporate; and
- (b) it is proved that either —
 - (i) the offence was committed with the consent or connivance of an officer of the body corporate; or
 - (ii) the offence was attributable to neglect on the part of an officer of the body corporate.
- (2) If this section applies, the officer as well as the body corporate is —
 - (a) guilty of the offence; and
 - (b) liable to be proceeded against and punished accordingly.
- (3) For the purposes of this section, “officer” includes, in relation to a body corporate, a person who is purporting (or has done) to act as an officer of the body corporate.
- (4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts and defaults of a member in connection with that member’s functions of management as if the member were an officer of the body corporate.

32. Power to vary penalties

The Governor may by order amend one or more of the sections in this Part in order to vary the maximum fine for an offence by substituting one level on the standard scale for another.

**PART 9
FIXED PENALTIES**

33. Fixed penalty provisions (and power to vary Schedule)

- (1) This Part deals with fixed penalties that may, in certain circumstances, be imposed on persons for offences against this Ordinance instead of prosecutions being brought against them.
- (2) The Schedule makes detailed provision regarding the procedure to be followed in relation to fixed penalties.
- (3) The Governor may by order —
 - (a) amend the Schedule to vary the procedure to be followed in relation to fixed penalties; and
 - (b) make consequential amendments elsewhere in the Ordinance.

34. Fixed penalty notices issued “on the spot”

- (1) Subsection (2) applies if a police officer —

(a) has reason to believe that a person either —

(i) is committing an offence against this Ordinance; or

(ii) has just committed an offence against it; and

(b) that is appropriate in the circumstances to impose a fixed penalty on the person rather than reporting the offence to the Attorney General with a view to prosecution.

(2) If this subsection applies, the police officer may issue the person with a fixed penalty notice for the offence.

(3) A fixed penalty notice issued under subsection (2) must be given to the person by the police officer, either at the time or as soon as possible afterwards.

35. Fixed penalty notices issued subsequently

(1) Subsection (3) applies if a senior police officer is satisfied that —

(a) a person has committed an offence against the Ordinance; and

(b) it is an appropriate case in which to impose a fixed penalty on the person rather than reporting the matter to the Attorney General with a view to prosecution.

(2) Subsection (3) also applies if the Attorney General is satisfied that —

(a) a person has committed an offence against the Ordinance; and

(b) it is an appropriate case in which to impose a fixed penalty on the person rather than bringing a prosecution.

(3) If this subsection applies, the senior police officer or the Attorney General may issue the person with a fixed penalty notice for the offence.

(4) A fixed penalty notice may not be issued —

(a) if a fixed penalty has already been issued for the same offence; or

(b) more than six months after the offence was committed.

(5) A fixed penalty notice issued under subsection (3) must be either —

(a) given to the person by a police officer; or

(b) sent to the person by post.

36. Withdrawal of fixed penalty notices

(1) Subsection (3) applies if, in relation to a fixed penalty notice issued by a police officer under section 34(2), a senior police officer either —

- (a) considers that the fixed penalty notice should not have been issued; or
- (b) becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time.

(2) Subsection (3) also applies if —

(a) in relation to a fixed penalty notice issued by a senior police officer under section 35(3), the Attorney General either —

- (i) considers that the fixed penalty notice should not have been issued; or
- (ii) becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time; or

(b) in relation to a fixed penalty notice issued by the Attorney General under section 35(3), the Attorney General becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time.

(3) If this subsection applies, the senior police officer or the Attorney General may withdraw the fixed penalty notice.

(4) The effect of a fixed penalty notice being withdrawn is that —

- (a) no proceedings (or further proceedings) may be brought in relation to the offence for which the fixed penalty notice had been issued; and
- (b) if the fixed penalty has been paid (or is paid afterwards), it must be refunded.

37. Revocation of fixed penalty notices in case of repeat offences

(1) Subsection (5) applies if a fixed penalty notice is issued to a person who has already been either —

- (a) convicted of one or more offences against this Ordinance; or
- (b) issued with more than three fixed penalty notices.

(2) A conviction does not count for the purposes of subsection (1) if it took place more than 2 years previously.

(3) A fixed penalty does not count for the purposes of subsection (1) if it was issued more than 2 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsection (1) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

(i) the person served a hearing notice; or

(ii) the fixed penalty notice was revoked.

(5) If this subsection applies, the Attorney General may revoke the fixed penalty notice.

38. Power to amend section 37

(1) The Governor may by order amend section 37 in order to vary one or more of the following —

(a) the number of occasions (if any) on which a person may be convicted of an offence against this Ordinance before subsection (5) applies;

(b) the number of fixed penalties that may be issued to a person before subsection (5) applies;

(c) the length of time for which a conviction counts under section 37(2); and

(d) the length of time for which a fixed penalty counts under section 37(3).

39. Effect of revocation of fixed penalty notice

(1) The effect of a fixed penalty notice being revoked is that —

(a) a prosecution may be brought against the person issued with the fixed penalty notice, as if it had not been issued; and

(b) if the fixed penalty has been paid (or is paid afterwards), it must be refunded.

(2) A prosecution may be brought under subsection (1)(a) within six months from the date on which the Attorney General decides to revoke the fixed penalty notice, even if the period within which a prosecution must be commenced under section 51(6) of the Administration of Justice Ordinance (Title 22.1) has expired.

40. Amounts of fixed penalties

(1) The Governor may prescribe by order the amounts of fixed penalties for offences against this Ordinance.

(2) The Governor may prescribe different amounts for —

- (a) different offences, and
 - (b) different cases or classes of case.
- (3) The Governor may, instead of prescribing an amount in money, prescribe it by reference to either —
- (a) a level on the standard scale; or
 - (b) a proportion of a level on the standard scale.
- (4) The Governor must not prescribe an amount for an offence that would be more than 50% of the relevant maximum.
- (5) If the Governor purports to prescribe an amount that is more than 50% of the relevant maximum, the amount of the fixed penalty for that offence is 50% of the relevant maximum.
- (6) If the Governor has not prescribed an amount for an offence, the amount for that offence is 25% of the relevant maximum.
- (7) In this section, “relevant maximum” means, in relation to an offence, the amount of the maximum fine that could be imposed on a person following conviction for the offence.

PART 10

AMENDMENT OF THE LICENSING ORDINANCE

41. Amendment of the Licensing Ordinance

This Part amends the Licensing Ordinance.

42. Section 5A substituted

Section 5A of the Licensing Ordinance is repealed and the following substituted —

“5A. Delegation of licensing to the clerk of the Summary Court

(1) This section and sections 5B and 5C apply to applications for —

- (a) the renewal of a licence under section 9;
- (b) the transfer of a licence under section 10;
- (c) a protection order under section 12;
- (d) an extension of permitted hours on a special occasion under section 48; or
- (e) an occasional licence under section 83.

(2) The clerk of the Summary Court may grant an application to which this section applies if —

(a) the general conditions in section 5B are met; and

(b) if the special condition in section 5C applies to the application, it is also met.”

43. New sections 5B to 5D

The following sections are inserted after section 5A of the Licensing Ordinance —

“5B. Delegation of licensing to the clerk of the Summary Court: general conditions

(1) The general conditions that must be satisfied for the purposes of section 5A(2)(a) are that —

(a) if notice is required to be given in relation to the application, it has been properly given;

(b) the Chief Police Officer (or another police officer acting on behalf of the Chief Police Officer) has notified the clerk that there is no objection from the police to the application being granted;

(c) there has been no other objection to the application;

(d) if one or more conditions are to be imposed, the applicant has agreed to them; and

(e) the applicant has not either —

(i) been convicted of one or more offences against the Smoking (Prohibition) Ordinance (No. 35 of 2010) (or subsidiary legislation made under it); or

(ii) been issued with more than three fixed penalty notices for such an offence.

(2) A conviction does not count for the purposes of subsection (1)(e)(i) if it took place more than 3 years previously,

(3) A fixed penalty notice does not count for the purposes of subsection (1)(e)(ii) if it was issued more than 3 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsections (1)(e)(ii) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

- (i) the person served a hearing notice; or
- (ii) the fixed penalty notice was revoked.

5C. Delegation of licensing to the clerk of the Summary Court: special condition for certain applications

(1) The special condition in subsection (2) applies to applications for —

- (a) the renewal of a licence under section 9, or
- (b) an extension of permitted hours on a special occasion under section 48.

(2) The special condition that must be satisfied for the purposes of section 5A(2)(b) in relation to the applications to which this subsection applies is that there must not have been more than three separate occasions on which one or more persons have been either —

- (a) convicted of an offence against the Smoking (Prohibition) Ordinance (or subsidiary legislation made under it) that was committed on the premises to which the application relates; or
- (b) issued with a fixed penalty notice for such an offence.

(3) An occasion does not count for the purposes of subsection (2) if it took place more than 3 years previously.

(4) A fixed penalty notice does not count for the purposes of subsection (2)(b) if either —

- (a) it was withdrawn; or
- (b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —
 - (i) the person served a hearing notice; or
 - (ii) the fixed penalty notice was revoked.

5D. Power to amend sections 5B and 5C

(1) The Governor may by order amend section 5B in order to vary one or more of the following —

- (a) the number of occasions (if any) on which a person may be convicted before the condition in section 5B(1)(e) is not satisfied;
- (b) the number of fixed penalty notices that may be issued before the condition in section 5B(1)(e) is not satisfied;

- (c) the length of time for which a conviction counts under section 5B(2); and
 - (d) the length of time for which a fixed penalty notice counts under section 5B(3).
- (2) The Governor may by order amend section 5C in order to vary one or more of the following —
- (a) the number of occasions (if any) on which persons may be convicted or issued with fixed penalty notices before the condition in section 5C(1) is not satisfied; and
 - (b) the length of time for which an occasion counts under section 5C(3).”

PART 11 SUBSIDIARY LEGISLATION

44. Subsidiary legislation

The Governor may make regulations and orders that are necessary or convenient for the purposes of this Ordinance.

SCHEDULE FIXED PENALTY PROVISIONS – DETAILED PROVISIONS

section 33(2)

1. Fixed penalty notices

- (1) A fixed penalty notice must contain the following information —
- (a) brief particulars of the offence for which it has been issued;
 - (b) the amount of the fixed penalty for the offence; and
 - (c) the expiry date of the notice.
- (2) A fixed penalty notice must also contain the following statements —
- (a) that the recipient must do one of the following things before the expiry date of the notice —
 - (i) pay the fixed penalty; or
 - (ii) serve a hearing notice.
 - (b) that the fixed penalty must be paid or the hearing notice must be sent to the Courts Administrator at the Courts Office, Town Hall, Stanley; and

(c) that there may still be a prosecution for the offence if the person has been convicted of an offence against the Ordinance or has been issued with more than three notices in the previous 2 years.

(3) The expiry date of the notice must be —

(a) in the case of a fixed penalty notice given to a person by a police officer, at least 21 days from the date on which it is given; or

(b) in the case of a fixed penalty notice sent to a person by post, at least 28 days from the date on which it is posted.

2. Effect of fixed penalty notice

(1) No proceedings may be brought in relation to an offence for which a fixed penalty notice has been issued until after the expiry date of the notice.

(2) Subparagraph (1) does not apply if the fixed penalty notice is revoked by the Attorney General under paragraph 5(2)(b).

(3) Subparagraph (1) does not prevent the Courts Administrator from giving a provisional notice of a hearing under paragraph 11 to a person who has been issued with a fixed penalty notice.

3. Notification of issue of fixed penalty notice

(1) The issue of a fixed penalty notice by a police officer must be notified to a nominated police officer, the Attorney General and the Courts Administrator.

(2) The issue of a fixed penalty notice by a senior police officer must be notified to the Attorney General and the Courts Administrator.

(3) The issue of a fixed penalty notice by the Attorney General must be notified to a nominated police officer and the Courts Administrator.

4. Reference to Attorney General in case of repeat offences

(1) On receiving notification of the issue of a fixed penalty notice, the Courts Administrator must establish whether or not section 37(5) applies.

(2) If section 37(5) applies, the Courts Administrator must —

(a) refer the fixed penalty notice to the Attorney General; and

(b) notify the person issued with the notice and a nominated police officer that this has been done.

(3) If a fixed penalty notice is referred to the Attorney General, the expiry date specified in the notice no longer applies.

5. Decision by Attorney General

(1) This paragraph applies if a fixed penalty notice is referred to the Attorney General under paragraph 4(2)(a).

(2) The Attorney General must decide within three months whether —

- (a) to confirm the fixed penalty notice with a new expiry date; or
- (b) to revoke it.

(3) The Attorney General's decision must be notified to the person issued with the fixed penalty notice, a nominated police officer and the Courts Administrator.

(4) The new expiry date of a fixed penalty notice that is confirmed by the Attorney General must be at least 28 days from the date on which the Attorney General's decision is notified to the person issued with the fixed penalty notice.

(5) Subparagraph (2) does not prevent a senior police officer or the Attorney General from withdrawing the fixed penalty notice under section 36(3).

6. Effect of revocation

If a fixed penalty notice is revoked, section 38 applies.

7. Notification of withdrawal of fixed penalty notice

(1) The withdrawal of a fixed penalty notice by a senior police officer must be notified to —

- (a) the person to whom the fixed penalty notice was issued;
- (b) the Attorney General; and
- (c) the Courts Administrator.

(2) The withdrawal of a fixed penalty notice by the Attorney General must be notified to —

- (a) the person to whom the fixed penalty notice was issued;
- (b) a nominated police officer; and
- (c) the Courts Administrator.

8. Effect of withdrawal of fixed penalty notice

If a fixed penalty notice is withdrawn, section 36(4) applies.

9. Payment of fixed penalty

(1) Payment of a fixed penalty must be made to the Courts Administrator.

(2) Payment of the penalty may be made in any manner in which payment of a fine may be made.

10. Effect of payment of fixed penalty

(1) No proceedings may be brought in relation to an offence for which a fixed penalty has been paid following the issue of a fixed penalty notice.

(2) Subsection (1) does not apply if the fixed penalty notice is revoked by the Attorney General under paragraph 5(2)(b).

11. Provisional notice of hearing

(1) The Courts Administrator may give provisional notice of a hearing to a person who has been issued with a fixed penalty notice.

(2) Subparagraph (1) does not apply if the notice has been either —

(a) withdrawn;

(b) referred to the Attorney General (unless it has since been confirmed).

(3) A notice given under subparagraph (1) must state —

(a) which court of summary jurisdiction would hear the case if the person serves a hearing notice; and

(b) the date on which the case would be heard (which must be after the expiry date of the fixed penalty notice).

12. Hearings

(1) This paragraph applies if —

(a) a fixed penalty notice has been issued for an offence;

(b) the fixed penalty notice has not been either withdrawn or revoked; and

(c) the person issued with the fixed penalty notice serves a hearing notice.

(2) If this paragraph applies —

(a) the Courts Administrator must notify a nominated police officer and the Attorney General;

(b) the Magistrates' Courts Act 1980 applies to the proceedings; and

(c) the fixed penalty notice is to be treated as an information for the same offence laid under section 1(1) of the Magistrates' Courts Act 1980 on the date on which the fixed penalty notice was notified to the Courts Administrator.

(3) If Courts Administrator had given provisional notice of a hearing under paragraph 11 —

(a) the provisional notice is to be treated as a summons which —

(i) had been issued under section 1(1)(a) of the Magistrates' Court Act 1980 by the Senior Magistrate or another justice of the peace on the basis of the information deemed to have been laid under subparagraph (2)(c);

(ii) requires the person to appear in order to answer that information —

(aa) before the court specified in the provisional notice; and

(bb) on the date specified in the provisional notice; and

(iii) was served on the person on the date on which the provisional notice was given; and

(b) section 14 of the Magistrates' Court Act (which provides that proceedings are invalid where an accused did not know of them) does not apply.

(4) If Courts Administrator had not given provisional notice of a hearing under paragraph 11 —

(a) the Senior Magistrate or another justice of the peace may issue a summons under section 1(1)(a) of the Magistrates' Court Act 1980 on the basis of the information deemed to have been laid under subparagraph (2)(c);

(b) if a summons is issued, the Courts Administrator must take steps to arrange for it to be served.

13. Effect of default

(1) This paragraph applies if —

(a) a fixed penalty notice has been issued for an offence;

(b) it has not been either withdrawn or revoked;

(c) it has expired; and

(d) the person issued with the fixed penalty notice has not either —

(i) paid the fixed penalty; or

(ii) served a hearing notice.

(2) If this paragraph applies, the person issued with the fixed penalty notice becomes liable to pay a default fine.

(3) The amount of the default fine is equal to the amount of the fixed penalty for the offence plus 50% of the amount of that penalty.

14. Registration of default fine

(1) This paragraph applies when a default fine becomes payable.

(2) If it appears to the Courts Administrator that the person liable to pay the default fine resides in the Falkland Islands, the Courts Administrator must register the default fine in the register of the Magistrate's Court for enforcement against that person.

(3) For the purposes of subparagraph (2), a body corporate resides at its registered or principal office.

15. Notice of registration

(1) The Courts Administrator must serve notice of the registration of a default fine on the person liable to pay the default fine.

(2) A notice given under subparagraph (1) must contain the following information —

(a) the amount of the default fine, and

(b) details of the fixed penalty notice to which it relates.

(3) A notice given under subparagraph (1) must also state —

(a) that the authority for the imposition of the default fine is paragraph 13(2); and

(b) that the authority for its registration for enforcement is paragraph 14(2).

16. Enforcement of default fine

(1) This paragraph applies to a default fine registered under paragraph 14(2).

(2) Any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on conviction has effect as if the default fine were a fine on the conviction of the defaulter on the date of the registration.

(3) Section 85 of the Magistrates Courts Act 1980 (which gives a court power to remit a fine in certain circumstances) also applies to a fine registered under paragraph 14(2), notwithstanding section 85(4) of that Act (which would otherwise exclude another sum adjudged to be paid on conviction).

17. Statutory declaration following notice of registration

(1) This paragraph applies if a person has been served with notice of the registration of a default fine.

(2) The person may make a statutory declaration containing one of the following statements —

(a) in the case of default fine relating to a fixed penalty notice that was given to a person by a police officer, that the person making the declaration was not the person to whom the fixed penalty notice was given;

(b) in the case of default fine relating to a fixed penalty notice that was sent to a person by post, that the person making the declaration had not received the fixed penalty notice; or

(c) that the person making the declaration served a hearing notice before the expiry date of the fixed penalty notice to which the default fine relates.

(3) A statutory declaration made under subparagraph (2) must be served on the Courts Administrator within 21 days of the date on which the notice of registration was served on the person liable to the default fine.

(4) When the Courts Administrator is served with a statutory declaration under subparagraph (3), the Courts Administrator must notify a nominated police officer and the Attorney General.

18. Extension of time for service of statutory declaration

(1) Subparagraph (2) applies if a person who has received notice of the registration of a default fine applies to a court of summary jurisdiction (which for this purpose may be composed of a single justice) for an extension of the 21 day period provided for in paragraph 17(3).

(2) If the court considers that it was not reasonable to expect the person to serve the statutory declaration within 21 days, it may accept service of the statutory declaration by that person after the 21 day period has expired.

(3) If a statutory declaration is accepted under subparagraph (2), the case must proceed as if the person making the statutory declaration had served it on the date that it is accepted by the court.

(4) When a statutory declaration is accepted by a court under subparagraph (2), the Courts Administrator must notify a nominated police officer and the Attorney General.

19. Statutory declarations: additional provisions

(1) Paragraphs 20 to 23 apply if a statutory declaration is —

(a) made in accordance with paragraph 17(2);

(b) either —

(i) served on the Courts Administrator under paragraph 17(3); or

(ii) accepted by a court under paragraph 18(2).

(2) In paragraphs 21 and 22, “trigger date” means the date on which the statutory declaration is either —

(a) served on the Courts Administrator under paragraph 17(3); or

(b) accepted by the court under paragraph 18(2).

20. Effect of statutory declaration

If this paragraph applies, the following are void —

(a) the registration of the default fine to which the statutory declaration relates; and

(b) proceedings taken to enforce the fine before the declaration was served.

21. Further action following statutory declaration made under paragraph 17(2)(a)

(1) If a statutory declaration is made under paragraph 17(2)(a) —

(a) a corrected fixed penalty notice may be issued to the person who was given the original fixed penalty notice; or

(b) a prosecution may be brought against that person, as if no fixed penalty notice had been issued.

(2) A corrected fixed penalty notice may be issued under subparagraph (1)(a) within three months of the trigger date, even if the six month period provided for in section 35(4)(b) has expired.

(3) A prosecution brought under subparagraph (1)(b) may be commenced within six months of the trigger date, even if the period within which a prosecution must be commenced under section 51(6) of the Administration of Justice Ordinance has expired.

22. Further action following statutory declaration made under paragraph 17(2)(b)

(1) If a statutory declaration is made under paragraph 17(2)(b), a new fixed penalty notice may be issued to the person who did not receive the original fixed penalty notice.

(2) A new fixed penalty notice may be issued under subparagraph (1) within three months of the trigger date, even if the six month period provided for in section 35(4)(b) has expired.

23. Further action following statutory declaration made under paragraph 17(2)(c)

If a statutory declaration is made under paragraph 17(2)(c) —

(a) the case must proceed as if the person making the statutory declaration had served a hearing notice on the date that the declaration is either —

- (i) served on the Courts Administrator under paragraph 17(3);
 - (ii) accepted by a court under paragraph 18(2); and
- (b) that date is to be treated as if it had been before the expiry date of the fixed penalty notice.

OBJECTS AND REASONS

The purposes of this Bill are as follows:

- (a) to protect public health by imposing a smoking ban in enclosed public places and enclosed work places and in certain vehicles and aircraft;
- (b) to impose duties on those in charge of places, vehicles and aircraft covered by the smoking ban (or with responsibilities for them) to prevent smoking there by others;
- (c) to provide for signs and notices to be displayed where the smoking ban applies; and
- (d) to provide for the enforcement of the smoking ban.

Clause 3 defines key terms that are used elsewhere in the Bill.

Part 2 deals with the smoking ban.

Clause 4 sets out the scope of the smoking ban that would apply initially to enclosed public places, enclosed workplaces, public vehicles and relevant aircraft (each of which are defined in *clause 3*). Smoking in breach of the smoking ban would be an offence under *clause 21* with a maximum fine of level 2 (currently, £350).

Part 3 deals with the power to designate additional places and vehicles in which the smoking ban would apply.

Additional places could be designated under *clause 5* and additional vehicles under *clause 6*.

Part 4 deals with exemptions from the smoking ban.

Under *clause 9*, the smoking ban would not apply at home or in sheltered accommodation but there would be exclusions from this exemption (covering businesses carried out from home, communal areas, prisons and hospitals).

Under *clause 10*, it would be possible for the proprietor of a hotel, a b&b, self-catering accommodation or other tourist accommodation (or someone else in charge of it) to designate bedrooms in which smoking is permitted. However, this would be subject to a number of conditions.

Under *clause 11*, it would be possible for private clubs and associations to qualify for an exemption from the smoking ban in their premises. However, this would be subject to a number of conditions, including a requirement that there are no paid employees and that two-thirds of the members agree to smoking on the premises.

Under *clause 12* there would be an exemption from the smoking ban in warehouses, garages and shearing sheds but only those above a minimum size and only when no more than 3 employees are working there.

Clause 13 would allow for these exemptions to be varied and *clause 14* would allow for temporary or "one-off" exemptions to be granted.

Part 5 would impose duties to prevent others from smoking on those with responsibilities for places, vehicles and aircraft in which the smoking ban applies.

Clause 15 would impose this duty generally in relation to those in charge of places, vehicles and aircraft or with responsibility for them. Failure to comply with this duty would be an offence under *clause 23* with a maximum fine of level 4 (currently, £1,500).

Clause 16 would impose a more stringent duty on licensees in relation to the premises covered by their licences. Failure to comply with this duty would be an offence under *clause 24* with a maximum fine of level 5 (currently, £3,000).

Part 6 deals with signs and notices

Under *clause 17*, there would be a power to make regulations imposing requirements for signs or notices to be displayed. Regulations could provide for offences with maximum fines of up to level 6 (currently, £7,500) but, if no more specific offence is provided for in the regulations themselves, there is an offence under *clause 25* with a maximum fine of level 4 (currently, £1,500).

Clause 18 would ban unauthorized interference with signs and notices displayed to comply with regulations. Unauthorised interference with a sign or notice in breach of this would be an offence under *clause 26* with a maximum fine of level 4 (currently, £1,500) on licensed premises and level 3 (currently, £800) elsewhere.

Part 7 deals with enforcement.

Clause 19 would give police officers the power in certain circumstances to enter places, vehicles and aircraft (by means of reasonable force, if need be).

Clause 20 would give police officers the power in certain circumstance to search places, vehicles and aircraft, to collect evidence there and to require facilities, assistance and information to be provided.

Hindering or obstructing a police officer or failing to provide a facility, assistance or information would be an offence under *clause 27* with a maximum fine of level 5 (currently, £3,000) and providing false or misleading information would be an offence under *clause 27* with the same maximum fine.

Clause 21 would give police officers the power in certain circumstances to require individuals to provide their names and addresses and to produce identification.

Failing to provide a name or address or to produce identification would be an offence against *clause 29* with a maximum fine of level 3 (currently, £800). Providing a false name or address would be an offence against *clause 30* with a maximum fine of level 4 (currently, £1,500).

Part 8 deals with offences.

Clauses 22 to 30 deal with the offences dealt with above.

Under *clause 31*, an officer of a body corporate (or someone purporting to act in that capacity) can be held responsible for offences committed by the body corporate.

Under *clause 32*, there would be a power to vary the maximum fines for offences.

Part 9 deals with fixed penalties.

Clause 33 would allow for fixed penalties to be issued for offences (or alleged offences) instead of prosecutions being brought. It also provides that the detailed procedure set out in the *Schedule* would apply in relation to fixed penalties and that there would be power to vary this procedure.

Under *clause 34*, police officers would be able to issue fixed penalty notices when offences are committed and, under *clause 35*, either a police officer with the rank of sergeant or above or the Attorney General would be able to issue fixed penalties afterwards.

Under *clause 36*, a police officer with the rank of sergeant or above would be able to withdraw fixed penalty notices issued by police officers in certain circumstances and the Attorney General would be able to withdraw any fixed penalty notice, again in certain circumstances. This would mean that no further proceedings could be brought in relation to the offence for which the fixed penalty notice had been issued.

Under *clause 37*, the Attorney General would be able to revoke a fixed penalty notice if the person issued with the fixed penalty notice is a repeat offender. It contains the threshold for the provision to apply and, under *clause 38*, there would be a power to vary this threshold.

Clause 39 provides that the effect of a fixed penalty notice being revoked would be that a prosecution could still be brought against the person.

Clause 40 deals with the amounts of fixed penalties.

Part 10 deals with an amendment to the Licensing Ordinance (Title 48.2).

Clauses 42 and 43 would replace the existing Section 5A of the Licensing Ordinance (which delegates power to deal with certain licensing applications to the Clerk of the Summary Court) with new sections 5A to 5D.

These amendments would have two effects:

- (a) It would ensure that all opposed applications must be dealt with by the licensing justices.
- (b) If there are repeated breaches of the smoking ban by applicants or (in certain cases) repeated breaches on the premises, it would also give the licensing justices the opportunity to consider whether or not the applicant is a fit and proper person and whether the premises have been well conducted. There would be a power to vary the thresholds for this provision to apply.

Part 11 deals with subsidiary legislation.

Under *clause 44*, there would be a power to make subsidiary legislation.

The Schedule (which could be amended under clause 33(3)) would make detailed provision for the procedure to be followed in relation to fixed penalties.

Paragraphs 1 to 3 deal with the initial stages of the fixed penalty process.

Paragraphs 4 to 6 deal with the fixed penalty notices to be referred to the Attorney General in the case of repeat offences.

Paragraphs 7 and 8 deal with fixed penalty notices that are withdrawn.

Paragraphs 9 and 10 deal with the payment of fixed penalties.

Paragraphs 11 and 12 deal with hearings of fixed penalty notices that are contested.

Paragraph 13 to 16 would deal with the imposition, registration and enforcement of default fines.

Paragraphs 17 to 23 would deal with statutory declarations that could be made in certain circumstances following the registration of a default fine.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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The following are published in this Supplement –

Complaints Commissioners (Form of Summons) Order 2010 (SR&O No 18 of 2010);

Complaints Commissioners (Maximum Fine) Order 2010 (SR&O No 19 of 2010);

Public Accounts Committee (Form of Summons and Warrant) Order 2010 (SR&O No 20 of 2010); and

Public Accounts Committee (Amendment)(No 2) Bill 2010.

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Complaints Commissioners (Form of Summons) Order 2010

S. R. & O. No. 18 of 2010

Made: 16 September 2010

Published: 30 September 2010

Coming into force: see article 2

I make this order under section 44(a) of the Complaints Commissioners Ordinance (No 4 of 2010) on the advice of the Executive Council.

1. Title

This order is the Complaints Commissioners (Form of Summons) Order 2010.

2. Commencement

This order comes into force on a date to be fixed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this order —

“Complaints Commissioner” means a person whom the Governor appoints under section 95(1) of the Constitution as a Complaints Commissioner; and

“summons” means a summons to appear before a Complaints Commissioner served on a person under section 22(1) of the Complaints Commissioners Ordinance.

4. Form of summons to appear before Complaints Commissioner

The prescribed form for the purposes of section 22(2) of the Complaints Commissioners Ordinance of a summons is set out in the Schedule.

**SCHEDULE
FORM OF SUMMONS**

article 4

COMPLAINTS COMMISSIONERS ORDINANCE
section 22(1)

SUMMONS TO A WITNESS

To *(insert name, address and occupation of witness)*

You are summoned to appear before *(insert name of Complaints Commissioner)*, a Complaints Commissioner.

This summons is served on you under section 22(1) of the Complaints Commissioners Ordinance (No 4 of 2010).

You must attend *(insert place where person must appear)* at *(insert time)* on *(insert date)*.

(You must also bring with you the documents and publications in the list attached to this summons.)*

You will be required to give evidence to *(insert name of Complaints Commissioner)* and you will be required to remain in attendance until your evidence has been completed.

(You will also be required to produce the documents and publications in the attached list.)*

(insert date)

(signature),
Complaints Commissioner.

Note: The bracketed words marked "" may be omitted if the person is not required to produce any documents or publications.*

Made 16 September 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 22(1) of the Complaints Commissioners Ordinance (No 4 of 2010) provides that a Complaints Commissioner may serve a summons on a person to appear and to provide information.

Section 22(2) provides that a summons is to be in writing in the prescribed form and section 44(a) gives the Governor power to prescribe by order the form of a summons.

This order prescribes the form of a summons for the purposes of section 22(2).

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Complaints Commissioners (Maximum Fine) Order 2010

S. R. & O. No. 19 of 2010

Made: 16 September 2010

Published: 30 September 2010

Coming into force: see article 2

I make this order under section 44(c) of the Complaints Commissioners Ordinance (No 4 of 2010) on the advice of the Executive Council.

1. Title

This order is the Complaints Commissioners (Maximum Fine) Order 2010.

2. Commencement

This order comes into force on a date to be fixed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this order, "Complaints Commissioner" means a person whom the Governor appoints under section 95(1) of the Constitution as a Complaints Commissioner.

4. Maximum fine under section 41 of Complaints Commissioners Ordinance

(1) This article prescribes the maximum fine that a Complaints Commissioner may impose under section 41 of the Complaints Commissioners Ordinance.

(2) The maximum fine that a Complaints Commissioner may impose is one at level 6 on the standard scale.

Made 16 September 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Sections 39 and 40 of the Complaints Commissioners Ordinance (No 4 of 2010) provide for the circumstances in which a person is liable to a fine under section 41 of the Ordinance.

Section 44(c) of the Ordinance gives the Governor power to prescribe by order the maximum fine that a Complaints Commissioner may impose under section 41.

This order prescribes that the maximum fine a Complaints Commissioner may impose is one at level 6 on the standard scale of fines (currently, £7,500).

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Public Accounts Committee (Form of Summons and Warrant) Order 2010

S. R. & O. No. 20 of 2010

Made: 16 September 2010

Published: 30 September 2010

Coming into force: see article 2

I make this order under section 31(b) and (c) of the Public Accounts Committee Ordinance (No 11 of 2009) on the advice of the Executive Council.

1. Title

This order is the Public Accounts Committee (Form of Summons and Warrant) Order 2010.

2. Commencement

This order comes into force on a date to be fixed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this order —

“Committee” means the Public Accounts Committee established by section 81(1) of the Constitution;

“summons” means a summons to appear before the Committee served on a person under section 19(1) of the Public Accounts Committee Ordinance; and

“warrant” means a warrant authorizing and directing a police office to detain and bring a person before the Committee issued under section 19(3) of the Public Accounts Committee Ordinance.

4. Form of summons to appear before Committee

The prescribed form for the purposes of section 19(2) of the Public Accounts Committee Ordinance of a summons is set out in Schedule 1.

5. Form of warrant to detain and bring person before Committee

The prescribed form for the purposes of section 19(3) of the Public Accounts Committee Ordinance of a warrant is set out in Schedule 2.

**SCHEDULE 1
FORM OF SUMMONS**

article 4

PUBLIC ACCOUNTS COMMITTEE ORDINANCE
section 19(1)

SUMMONS TO A WITNESS

To *(insert name, address and occupation of witness)*

You are summoned to appear before the Public Accounts Committee.

This summons is served on you under section 19(1) of the Public Accounts Committee Ordinance (No 11 of 2009).

You must attend *(insert place where person must appear)* at *(insert time)* on *(insert date)*.

(You must also bring with you the documents and publications in the list attached to this summons.)*

You will be required to give evidence to the Committee and you will be required to remain in attendance until your evidence has been completed.

(You will also be required to produce the documents and publications in the attached list.)*

(insert date)

(signature),
(Chairperson of the Public Accounts Committee/Secretary to the Public Accounts Committee).

Note: The bracketed words marked “” may be omitted if the person is not required to produce any documents or publications.*

**SCHEDULE 2
FORM OF WARRANT**

article 5

PUBLIC ACCOUNTS COMMITTEE ORDINANCE
section 19(3)

**WARRANT TO DETAIN AND BRING PERSON BEFORE PUBLIC ACCOUNTS
COMMITTEE**

To *(insert name and rank of police officer to whom warrant is addressed)*

(Name, address and occupation of witness was summoned to appear before the Public Accounts Committee at (insert place) at (insert time) on (insert date).

(Insert name of person) has failed to appear before the Committee in accordance with the summons

This warrant is issued under section 19(3) of the Public Accounts Committee Ordinance (No 11 of 2009).

You are authorized and directed to detain and bring *(insert name of person)* before the Committee.

(insert date)

(signature),
Chairperson of the Public Accounts Committee.

Made 16 September 2010

A. E. Huckle,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 19(1) of the Public Accounts Committee Ordinance (No 11 of 2009) provides that the Public Accounts Committee may serve a summons on a person to appear and to provide information.

Section 19(2) provides that a summons is to be in writing in the prescribed form and section 31(b) gives the Governor power to prescribe by order the form of a summons.

Section 19(3) of the Ordinance applies if a person on whom a summons is served under section 19(1) fails to appear before the Committee in accordance with the summons. It provides that the chairperson of the Committee may issue a warrant authorizing and directing a police officer to detain and bring the person before the Committee.

Section 19(3) also provides that a warrant is to be in the prescribed form and section 31(c) gives the Governor power to prescribe by order the form of a warrant.

This order prescribes the form of a summons and a warrant for the purposes of sections 19(2) and (3).

Public Accounts Committee (Amendment)(No 2) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of the Public Accounts Committee Ordinance
4. Section 16 repealed
5. New section 18A
6. Section 21 amended – Exclusion of public
7. Section 31 amended – Orders

PUBLIC ACCOUNTS COMMITTEE (AMENDMENT)(NO 2) BILL 2010

(No: of 2010)

(assented to: 2010)
(commencement: on publication)
(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Public Accounts Committee Ordinance (No 11 of 2009).

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Public Accounts Committee (Amendment)(No 2) Ordinance 2010.

2. Commencement

This Ordinance comes into effect on publication in the *Gazette*.

3. Amendment of the Public Accounts Committee Ordinance

This Ordinance amends the Public Accounts Committee Ordinance.

4. Section 16 repealed

Section 16 is repealed.

5. New section 18A

The following new section is inserted above section 19 —

“18A. Hearings ordinarily to be open to public

(1) Meetings at which the Committee is hearing evidence are to be open to the public, except as provided in section 21.

(2) The secretary is to give at least three clear days’ public notice of —

(a) the time and place of each meeting that is to be open to the public; and

(b) the fact that the documents mentioned in subsection (3) are available for public inspection at all reasonable times during office hours, at the office of the secretary.

(3) The secretary must, from the date of the notice, make available for public inspection the statements, reports, background papers and other documents that are to be considered at the meeting while, in the secretary’s view, it is likely to be open to the public.”

6. Section 21 amended – Exclusion of public

In section 21, the words “or considering” are repealed in both places where they appear.

7. Section 31 amended – Orders

(1) This section amends section 31.

(2) In paragraph (b), “19(1)” is repealed and “19(2)” substituted.

(3) In paragraph (c), “19(2)” is repealed and “19(3)” substituted.

OBJECTS AND REASONS

This Bill would amend the Public Accounts Committee Ordinance (No 11 of 2009) to reflect issues that have arisen since the Committee began its work and to correct two minor cross-referencing errors.

Currently, section 16 of the Ordinance provides that all of the Committee’s meetings are open to the public, subject only to limited exceptions under section 21.

It is proposed that meetings of the Committee at which it is hearing evidence should remain open, still subject to slightly amended exceptions in section 21. On the other hand, it is proposed that other meetings (at which it might, for example, be considering administrative matters or how a particular investigation or particular hearing should be conducted or drafting its reports) should not routinely be open.

Clause 4 would repeal section 16, which contains the existing provision that meetings of the Committee are to be open to the public.

This would be replaced, under *clause 5*, with a new section 18A providing that (subject to section 21, as amended):

- (a) meetings at which evidence is to be heard are to be open to the public; and
- (b) documents (to include statements) are to be made available to the public if they are to be considered while a meeting is likely to be open to the public.

Clause 6 would make a consequential amendment to section 21.

Clause 7 would correct two minor cross-referencing errors in section 31.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 21

31 October 2010

No. 11

The following are published in this Supplement –

Mental Health (Approved Practitioners) Order 2010 (SR&O No 21 of 2010);

Taxes and Duties (Defence Contractors' Employees Exemption)(No 4) Order 2010 (SR&O No 22 of 2010);

Medical Services Tax Bill 2010;

Livestock and Meat Products Bill 2010;

Telecommunications (Amendment) Bill 2010;

Immigration (Amendment) Bill 2010;

Supplementary Appropriation (2010-2011) Ordinance 2010 (No 9 of 2010);

Statistics Ordinance 2010 (No 10 of 2010); and

Public Accounts Committee (Amendment)(No 2) Ordinance 2010.

SUBSIDIARY LEGISLATION

MENTAL HEALTH

Mental Health (Approved Practitioners) Order 2010

S. R. & O. No: 21 of 2010

Made: 28 October 2010

Published: 31 October 2010

Coming into force: 1 November 2010

I make this order under section 91 of the Mental Health Ordinance (No 7 of 2010) —

(a) after consulting the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals for initial inclusion on the list of approved practitioners, as required by section 91(4); and

(b) on the advice of the Executive Council.

1. Title

This order is the Mental Health (Approved Practitioners) Order 2010.

2. Commencement

This order comes into force on 1 November 2010.

3. Approved doctors

Each person named in Schedule 1 is a medical practitioner who is an approved doctor for the purposes of the Ordinance.

4. Approved professionals

Each person named in Schedule 2 is a nurse, social worker or other professional who is an approved professional for the purposes of the Ordinance.

SCHEDULE 1 APPROVED DOCTORS

Mr Ahmad Cheema

Dr Jonathon Clowes

Dr Peter Lance d'Ambrumenil

Dr Roger John Diggle

Dr Bernadette Paver
Dr David Anthony Rocke

SCHEDULE 2
APPROVED PROFESSIONALS

Ms Charlotte Davey
Ms Janice Dent
Mrs Mandy Heathman
Mrs Sharon Kelly
Ms Karen Rimicans
Ms Maryanna Ryan

Made 28 October 2010

N. R. Haywood C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Under section 91(1) of the Mental Health Ordinance (No. 7 of 2010), an approved doctor is a medical practitioner approved by the Governor for the purposes of the Ordinance. The medical practitioners approved by the Governor are named in Schedule 1. They are the approved doctors. Under section 3, they are also approved practitioners.

Under section 91(2), an approved professional is a nurse, social worker or other professional approved by the Governor for the purposes of the Ordinance. The nurses, social workers and other professionals approved by the Governor are named in Schedule 2. They are the approved professionals. Again under section 3, they too are also approved practitioners.

As required by section 91(4), before making the list of approved doctors and approved professionals, the Governor consulted the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals for initial inclusion on the list.

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption)(No 4) Order 2010

S. R. & O. No. 22 of 2010

Made: 28 October 2010
Published: 31 October 2010
Coming into force: on publication

I make this order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) on the advice of the Standing Finance Committee, as required by section 9A(1) of the Ordinance.

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption)(No 4) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Interpretation

In this order —

“designated employer” means an employer listed in the Schedule;

“qualifying employee” means a person who —

- (a) satisfies the requirements of section 9A of the Ordinance; and
- (b) is employed by a designated employer;

“relevant employment” means —

- (a) employment only for the purpose of providing services in the Falkland Islands to either —
 - (i) Her Majesty's regular armed forces; or
 - (ii) the Ministry of Defence of Her Majesty's Government in the United Kingdom; or

(b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) of this definition or by virtue of this paragraph of this definition;

“relevant income” means income from relevant employment; and

“retirement pension contributions” means contributions that an employee is required to pay under the Retirement Pensions Ordinance (No 20 of 1996).

4. Application

(1) Subject to article 5, a qualifying employee is exempt from liability under any law of the Falkland Islands to pay —

(a) income tax on relevant income from a designated employer; and

(b) retirement pension contributions in respect of that employment.

(2) The exemption applies whether the liability arises before or after this order comes into force.

5. Duration

Nothing in this order confers any exemption to pay either —

(a) income tax in relation to earnings after 31 December 2011; or

(b) retirement pension contributions in respect of employment after that date.

6. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption)(No 3) Order 2010 (No 16 of 2010) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

Babcock Aerospace Limited

Babcock Communications Limited

British International Helicopter Services Limited

COLAS Limited

David Lomas Limited

Gifford Global Limited

Interserve Defence Limited

Mott MacDonald Limited

MPI Aviation Limited
Navy, Army and Air Force Institutes
Satec Limited
Serco Limited
Services Sound and Vision Corporation
Sodexo Defence Services Limited
Trant Construction Limited
Van Wijngaarden Marine Services b.v.
Westland Helicopters Limited

Made 28 October 2010

N. R. Haywood C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence-based employment. Such orders can only be made on the advice of the Standing Finance Committee.

This order means that employees who work for one of the employers listed in the Schedule are exempt from income tax and retirement pension contributions until the end of 2011, provided that they are engaged in relevant employment (as defined) and the other requirements set out in section 9A of the Ordinance are met.

The effects of this order (which replaces a previous order) are:

- (a) to add an additional employer (Van Wijngaarden Marine Services b.v.) to the list of qualifying employers; and
- (b) to extend the life of the exemption (which was due to expire on 31 December 2010) for a further year.

Medical Services Tax Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

PART 1: INTRODUCTORY PROVISIONS

1. Title
2. Commencement
3. Interpretation

PART 2: MEDICAL SERVICES TAX

4. Medical Services Tax
5. Rates of Medical Services Tax

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21. Exemptions

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50. Amendment of the Taxes Ordinance
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52. Section 90 amended – Repayment of sums deducted
53. Section 186 amended – Repayment of income tax
54. Section 187 amended – Refund of overpayments of corporation tax
55. Section 203 amended – Disclosure of information

PART 14: AMENDMENT OF MEMBERS' REMUNERATION ORDINANCE

56. Amendment of Members' Remuneration Ordinance
57. Section 7 substituted

58. Section 9 amended – Power to amend Schedule

PART 15: AMENDMENT OF PAYMENT ON ACCOUNT OF TAX (EMPLOYEES' DEDUCTIONS) REGULATIONS

59. Amendment of Payment on Account of Tax (Employees' Deductions) Regulations

PART 16: SUBSIDIARY LEGISLATION

60. Subsidiary legislation

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1. Amendment of Payment on Account of Tax (Employees' Deductions) Regulations
2. Regulation 2 amended – Interpretation
3. Regulation 3 amended – Application of regulations
4. New regulation 8A
5. Regulation 9 amended – Non-resident employees
6. Regulation 10 amended – 'Free of tax' remuneration
7. New regulation 11A
8. Heading above regulation 12 amended
9. Regulation 12 amended – Accounting for deductions and payments on account
10. New Regulation 12B
11. Regulation 13 amended – Information and preservation of records

MEDICAL SERVICES TAX BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: 1 January 2011)

(published: 2010)

A BILL

for

AN ORDINANCE

To impose a tax known as the Medical Services Tax; and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTORY PROVISIONS

1. Title

This Ordinance is the Medical Services Tax Ordinance 2010.

2. Commencement

This Ordinance comes into force on 1 January 2011.

3. Interpretation

(1) In this Ordinance and in the application of provisions of the Taxes Ordinance (Title 69.1) (and subsidiary legislation made under it) for the purposes of this Ordinance —

“accounting date” means the date to which the accounts of a business are usually made up;

“benefit in kind” has the meaning given to it by section 10;

“carrying on a business” includes letting for residential use a building situated in the Falkland Islands; and

“Commissioner” —

(a) means the Commissioner of Taxation appointed under section 5(1) of the Taxes Ordinance; and

(b) includes other public officers carrying out functions or exercising powers under section 22(2).

“earnings” has the meaning given to it by section 6;

“employee” means an individual —

- (a) aged 17 or more; and
- (b) gainfully occupied either —
 - (i) under a contract of service or apprenticeship, regardless of whether —
 - (aa) the contract is express or implied; and
 - (bb) whether it was made orally, in writing or in some other way; or
 - (ii) as the holder of an office (other than as an MLA);

“employer” includes —

- (a) in relation to the employment of public officers, the Falkland Islands Government;
- (b) in relation to employment of the holder of another office (other than that of MLA), the person or body responsible for paying the earnings and benefits in kind of the holder of the office;
- (c) where either section 22 or 22A of the Taxes Ordinance (which deal respectively with workers supplied by agencies and workers supplied by intermediaries) applies, a person or body treated as a worker’s employer for the purposes of the Taxes Ordinance.

“the Falkland Islands” include —

- (a) areas covered by inland and internal waters within the baselines established by article 3 of the Falkland Islands (Territorial Waters) Order 1989 (SI 1989/1993);
- (b) areas covered by territorial waters, as defined in article 2 of that Order;
- (c) the designated areas referred to in article 2 of Proclamation No 1 of 1991 (which was varied by Proclamation No 1 of 1994); and
- (d) the special area defined in article 2 of Proclamation No 1 of 1997;

“Falkland Islands earnings and benefits in kind” means earnings and benefits in kind from —

- (a) work carried out in the Falkland Islands; or
- (b) Falkland Islands employment;

“Falkland Islands employment” means employment the duties of which are wholly or mainly carried out in the Falkland Islands;

“letting” includes, in relation to a building, allowing a person to occupy the building under an arrangement or agreement (whether or not that arrangement or agreement is a lease);

“Medical Services Tax” means the tax payable under section 4;

“MLA” means either —

(a) an elected member of the Legislative Assembly; or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place;

“officer”, in relation to a body corporate, has the meaning given to it by section 47(3);

“pension contributions” means —

(a) payments —

(i) that are made into —

(aa) an approved retirement benefit scheme (as defined in section 64(1) of the Taxes Ordinance);

(bb) an approved personal pension scheme (as also defined in that section); or

(cc) the Falkland Islands Pension Scheme established in accordance with the Falkland Islands Pension Scheme Ordinance (No 18 of 1997); and

(ii) in respect of which either of the following provisions of the Taxes Ordinance applies —

(aa) section 67 (which deals with retirement benefit schemes); or

(bb) section 69 (which deals with employers’ contributions into personal pension schemes); and

(b) retirement pension contributions made under the Retirement Pensions Ordinance (No 20 of 1996);

“period of account” means, in relation to a business, a period for which the accounts of the business are made up;

“POAT Regulations” means regulations relating to payments on account of tax made under section 91 of the Taxes Ordinance;

“protected information” has the meaning given to it by section 32(2);

“relevant information” has the meaning given to it by section 32(1);

“relevant profits” has the meaning given to it by section 14; and

“self-employed person” means an individual who is —

(a) aged 17 or more; and

(b) either —

(i) in business as a sole trader or partner; or

(ii) an MLA.

(2) Terms that are used in the Taxes Ordinance (or subsidiary legislation made under it) but that are not defined in subsection (1) have the same meaning when used in this Ordinance as they do in the Taxes Ordinance or the subsidiary legislation.

PART 2 MEDICAL SERVICES TAX

4. Medical Services Tax

A tax known as the Medical Services Tax is payable by —

(a) employees on the gross amount of their Falkland Islands earnings and benefits in kind;

(b) employers on the gross amount of their employees' Falkland Islands earnings and benefits in kind; and

(c) self-employed persons on relevant profits which are made by them either —

(i) in the Falkland Islands; or

(ii) in a business which is carried on wholly or mainly in the Falkland Islands.

5. Rates of Medical Services Tax

Medical Services Tax is payable —

(a) by employees, at the rate of 1%;

(b) by employers, at the rate of 1½%; and

(c) by self-employed persons, at the rate of 1½%.

PART 3
EMPLOYEES AND EMPLOYERS: EARNINGS AND BENEFITS IN KIND

6. Earnings

The following are earnings —

(a) amounts that are —

(i) chargeable to tax under section 8(1)(b) of the Taxes Ordinance (which deals with gains and profits from employment); and

(ii) not covered by an exemption in section 21.

(b) amounts that are —

(i) taxable under section 58A of the Taxes Ordinance (which deals with the taxation of redundancy payments); and

(ii) not exempt under section 58C of the Taxes Ordinance (which exempts payments not exceeding £20,000 in certain circumstances and contains other exemptions).

7. Value of earnings received otherwise than in money

(1) This section applies to emoluments from employment which are —

(a) received otherwise than in money;

(b) chargeable to tax under section 8(1)(b) of the Taxes Ordinance; and

(c) covered by rules made under section 8(2) of the Taxes Ordinance.

(2) The value of an emolument from employment to which this section applies is the same as the value of that emolument under the rules made under section 8(2) of the Taxes Ordinance.

8. Timing

Section 9(1A) of the Taxes Ordinance (which deals with the time at which gains and profits from employment are treated as being received and paid) applies for the purposes of this Ordinance as if references to income were references to earnings.

9. Allowable deductions from earnings

(1) Subsection (2) applies to the calculation by employees of the earnings on which they must pay Medical Services Tax.

(2) Employees (but not their employers) may make the same deductions as they may make for the purposes of income tax under section 58 of the Taxes Ordinance (which allows deductions for expenses wholly, necessarily and exclusively incurred to produce income from an employment).

(3) No other deductions from earnings are allowed for the purposes of Medical Services Tax, even if those deductions would be allowed for the purposes of income tax under other provisions of the Taxes Ordinance.

10. Benefits in kind

A benefit in kind is a benefit which —

- (a) is received otherwise than in money in respect of employment;
- (b) has been prescribed for the purposes of section 8(1)(c) of the Taxes Ordinance; and
- (c) is not covered by an exemption in section 21.

11. Value of benefits in kind

The value of a benefit in kind is the same as the value prescribed for that benefit under section 8(1)(c) of the Taxes Ordinance.

12. Pension contributions

(1) Pension contributions made by an employer in respect of an employee are not to be treated as either earnings or benefits in kind.

(2) Neither the employer nor the employee is liable for Medical Services Tax on those pension contributions.

(3) Pension contributions made by employees are not deductible from earnings or benefits in kind for the purposes of Medical Services Tax.

13. Workers supplied through agencies and intermediaries

Sections 22 and 22A of the Taxes Ordinance (which deal with workers supplied by agencies and workers supplied by intermediaries) apply for the purposes of this Ordinance as if —

- (a) references in those sections to income tax were references to the Medical Services Tax; and
- (b) references in those sections to remuneration or quasi-remuneration were references to earnings or benefits in kind.

PART 4 SELF-EMPLOYED PERSONS: RELEVANT PROFITS

14. Relevant profits

Relevant profits are the gains and profits made in a business carried on by an individual which are —

- (a) chargeable to tax under section 8(1)(a) of the Taxes Ordinance; and

(b) not covered by an exemption in section 21.

15. MLAs

MLAs are liable for Medical Services Tax on amounts paid to them under the Members' Remuneration Ordinance (No 13 of 2009), as if those amounts had been earned on a self-employed basis.

16. Calculation of relevant profits

(1) The following provisions of the Taxes Ordinance apply for the purpose of calculating relevant profits —

section 59 (which deals with deductions that are not allowed for the purposes of income tax)

section 59A (which provides that corrupt payments are not deductible)

section 67 (which provides, among other things, employers' contributions into approved retirement benefit schemes may, within certain limits, be deducted)

section 97 (which deals with deductions that are allowed for the purposes of income tax)

section 98 (which restricts the deduction of emoluments before they are paid)

section 99 (which deals with entertainment expenses)

section 102 (which allows for augmented deductions in respect of training expenses)

section 103 (which provides for relief in respect of pre-trading expenditure)

(2) No other deductions from relevant profits are allowed for the purposes of Medical Services Tax, even if those deductions would be allowed for the purposes of income tax under other provisions of the Taxes Ordinance.

17. Periods of account

(1) Unless subsection (2) applies, the periods of account for which relevant profits must be calculated are calendar years.

(2) If the Commissioner is satisfied that the accounting date of a business is a date other than 31 December, the Commissioner may allow the relevant profits of that business to be calculated for periods of account ending on that other date in each year.

(3) The accounting date for a business may only be changed if —

(a) the Commissioner requires the change to be made;

(b) the Commissioner approves the change being made;

(c) the change is made as a result of bankruptcy or insolvency; or

(d) the business ceases to be carried on.

(4) If the Commissioner requires or approves the change of an accounting date under section 9(4) of the Taxes Ordinance, that requirement or approval also applies for the purposes of subsection (3).

18. Partnership profits

The relevant profits of a partnership are to be apportioned between the partners in the same shares as they are entitled to them.

19. Each business separate

(1) Subsection (2) applies to an individual if —

(a) the individual carries on more than one business; or

(b) the individual —

(i) carries on one or more businesses; and

(ii) is also an MLA.

(2) If this subsection applies —

(a) the relevant profits of each business are separate; and

(b) losses from one business may not be set off against either —

(i) relevant profits from another business; or

(ii) amounts received as an MLA under the Members' Remuneration Ordinance.

20. Self-employment separate from other activities

(1) This section applies to self-employed persons who are also employees.

(2) Losses made in a business may not be set-off against earnings or benefits in kind.

PART 5 EXEMPTIONS

21. Exemptions

(1) The following are exempt from Medical Services Tax —

(a) earnings and benefits in kind paid to the Governor;

(b) earnings and benefits in kind paid to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;

- (c) earnings and benefits in kind paid out of United Kingdom Government funds to —
 - (i) those serving in the armed forces; and
 - (ii) those serving the United Kingdom Government in a civil capacity;
- (d) gratuities granted to members of the armed forces of the United Kingdom in respect of war services;
- (e) earnings and benefits in kind that are exempt from income tax under the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2);
- (f) allowances paid to employees in addition to their salaries or wages in order to enable them to meet increased expenses incurred (or to be incurred) wholly or mainly as a result of being required to carry out employment duties outside the Falkland Islands;
- (g) payments made to employees to reimburse them for expenses which —
 - (i) are incurred (or to be incurred) by them in the course of their employment; and
 - (ii) would be deductible for income tax purposes.
- (h) payments made by way of bounty to —
 - (i) members of the Falkland Islands Defence Force;
 - (ii) reserve police officers in the Royal Falkland Islands Police; and
 - (iii) retained firefighters in the Falkland Islands Fire and Rescue Service;
- (i) relevant profits made during a period of account that starts before 1 January 2011;
- (j) relevant profits consisting of amounts chargeable to tax under Schedule 2 to the Taxes Ordinance;
- (k) earnings and benefits in kind paid (or payable) to individuals in respect of employment while they are present in the Falkland Islands for less than 30 days in a 12 month period;
- (l) earnings and benefits in kind paid (or payable) in respect of employment on board a fishing vessel to members of the crew of that vessel who are not resident in the Falkland Islands;
- (m) relevant profits made by individuals while they are present in the Falkland Islands for less than 30 days or less in a 12 month period;
- (n) earnings or benefits in kind that are either —

(i) paid to an individual in the calendar month in which that individual's 17th birthday falls; or

(ii) that become payable to the individual during that month;

(o) relevant profits made by an individual during the calendar month in which that individual's 17th birthday falls;

(p) grants paid out of public funds to an individual for the purposes of that individual's education; and

(q) payments received under the Family Allowances Ordinance (Title 65.1).

(2) Welfare payments made out of public funds are exempt from Medical Services Tax (but only to the extent that they are not taxed under the Taxes Ordinance).

PART 6 ADMINISTRATION

22. Administration

(1) The Commissioner is responsible for administering the Medical Services Tax.

(2) Other public officers may —

(a) carry out functions on behalf of the Commissioner in relation to the administration of the Medical Services Tax; and

(b) exercise powers under this Ordinance on behalf of the Commissioner for that purpose.

PART 7 PAYMENTS ON ACCOUNT OF MEDICAL SERVICES TAX

23. Payments on account

(1) Payments on account of the Medical Services Tax payable by employees are to be —

(a) deducted by their employers from payments of earnings made to those employees;

(b) collected from the employers.

(2) These payments are to be deducted and collected in the same way as payments on account of income tax are deducted and collected under Part 4 of the Taxes Ordinance and POAT Regulations.

(3) Payments on account of the Medical Services Tax payable by employers in respect of their employees' earnings and benefits in kind are also to be collected from those employers.

(4) The provisions of the Taxes Ordinance listed in subsection (5) apply for the purposes of payments on account of Medical Services Tax as if —

(a) references to income tax included references to Medical Services Tax;

(b) references to payments on account of tax included references to payments on account of Medical Services Tax;

(c) references to assessable income were references to earnings and benefits in kind; and

(d) references to deductions included payments on account of the Medical Services Tax payable by employers.

(5) The provisions of the Taxes Ordinance that apply for the purposes of payments on account of Medical Services Tax are —

section 83(1) and (2) (which deal with the amounts to be deducted from earned income etc)

section 84 (which deals with payments by intermediaries or to employees of non-resident employers)

section 85 (which deals with non-resident employees etc)

section 86 (which deals with mobile workforces)

section 87 (which contains supplementary provisions relating to payments on account of tax)

section 88 (which deals with the liability of employers with respect to sums deducted etc)

section 89 (which deals with the application of payments on account of tax)

section 90 (which deals with repayments of sums deducted)

apart from subsection (7)(a), section 91 (which deals with the POAT regulations)

section 92 (which deals with bankruptcy and liquidation)

apart from subsection (3), section 93 (which deals with non-resident employees)

24. Extension of power to make POAT Regulations

(1) The Governor's power under section 91 of the Taxes Ordinance to make POAT Regulations is extended to cover the following additional matters —

(a) deductions that an employer must make in respect of payments on account of Medical Services Tax;

(b) payments to be collected from employers in respect of their own liability to Medical Services Tax on their employees' earnings and benefits in kind.

(2) When making POAT Regulations, the Governor may specify which provisions of the regulations apply in relation to Medical Services Tax.

PART 8 OBTAINING INFORMATION

25. Returns of income

(1) Subsection (2) applies to a person if —

(a) the person has not made a return under section 12(1) of the Taxes Ordinance (under which persons can be required to make returns of their income); and

(b) the Commissioner believes that person may be liable to pay Medical Services Tax, whether or not —

(i) that person would be chargeable to income tax; or

(ii) that person's income would be within the personal allowance for income tax purposes).

(2) The Commissioner may by notice require a person to whom this subsection applies to make a return as if section 12(1) of the Taxes Ordinance applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from that person.

26. Provision of accounts etc

(1) Subsection (2) applies to a person if the Commissioner believes that person is carrying on a business in the Falkland Islands, whether or not —

(a) the business —

(i) is carried on with a view to profit; or

(ii) makes a profit;

(b) that person would be chargeable to income tax; or

(c) that person's income (including any profit from the business) would be within the personal allowance for income tax purposes.

(2) The Commissioner may by notice require a person to comply with section 12(2) of the Taxes Ordinance (under which persons can be required to provide business accounts and other information) as if it applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from —

(a) that person;

- (b) a partner of or shareholder in that person;
- (c) anyone employed by that person.

27. Notices as to sources of income

(1) Subsection (2) applies to a person who is liable to pay Medical Services Tax as an employee or a self-employed person who has not —

(a) received a notice under either —

(i) section 26(2); or

(ii) section 12(1) of the Taxes Ordinance;

(b) made a return for income tax purposes; or

(c) given notice under section 12(3) of the Taxes Ordinance (which requires persons to notify their sources of income in certain circumstances).

(2) A person to whom this subsection applies must comply with section 12(3) of the Taxes Ordinance as if it applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from —

(a) that person;

(b) a partner of or shareholder in that person;

(c) anyone employed by that person.

28. End of year returns by employers

(1) This section applies to a person if the Commissioner believes that person is an employer.

(2) The Commissioner may by notice require a person to whom this section applies to provide details at or after the end of a calendar year of —

(a) all payments made to employees during the year;

(b) all benefits provided to employees during the year;

(c) all payments on account of Medical Services Tax deducted from payments made to employees during the year; and

(d) all payments on account of Medical Services Tax made by the employer during the year.

(3) If the Commissioner gives notice to a person under subsection (2), that person must comply with the notice either —

- (a) within sixty days of the date on which the notice was issued; or
- (b) if the Commissioner specifies a longer period in the notice, within that period.

29. End of year returns by employers: penalties

- (1) A person who does not comply with section 28 is liable to a penalty.
- (2) The amount of a penalty for which a person is liable under subsection (1) is —
 - (a) £100, if the person complies with the notice within the first three months after the expiry of the period in section 28(3); or
 - (b) £200, if the person has still not complied with the notice three months after the expiry of the period in section 28(3).
- (3) A penalty for which a person is liable under subsection (1) is recoverable as a statutory debt.
- (4) The payment of a penalty for which a person is liable under subsection (1) does not either —
 - (a) relieve the person of the obligation to comply with the notice to which the penalty relates (if that has not yet been done); or
 - (b) preclude the bringing of a prosecution for an offence against section 44 for refusing or neglecting to provide information.

30. Other returns

The Commissioner may by notice require a person to make a return under section 203(3) of the Taxes Ordinance (under which persons can be required to provide information) as if it applied to that person (whether or not it does) for the purposes of this Ordinance.

31. Provision of information by public officers etc

- (1) The Commissioner may require a public officer or an officer in the employment of a public body to supply, for the purposes of this Ordinance, information that the officer holds.
- (2) Subsection (1) does not oblige an officer to disclose information protected by a statutory obligation of secrecy or confidentiality.
- (3) The following provisions (which deal with official secrecy) are to be disregarded for the purposes of subsection (2) —
 - (a) section 202 of the Taxes Ordinance; and
 - (b) section 220 of the Fisheries (Conservation and Management) Ordinance (No 14 of 2005).

**PART 9
USING INFORMATION**

32. Relevant information and protected information

(1) In sections 33 to 35, "relevant information" means information that the Commissioner has been provided with (or obtained) —

- (a) for the purposes of administering the Medical Services Tax;
- (b) for other purposes (including for the purposes of income tax and corporation tax);
- (c) under a power contained in this Ordinance (or subsidiary legislation made under it); or
- (d) under another power (including a power contained in the Taxes Ordinance or subsidiary legislation made under it).

(2) In section 36, "protected information" means information that the Commissioner has been provided with (or obtained) —

- (a) for the purposes of administering the Medical Services Tax; or
- (b) under a power contained in this Ordinance (or subsidiary legislation made under it).

33. Use of relevant information

(1) The Commissioner may use all relevant information for the purposes of this Ordinance.

(2) The Commissioner may also use relevant information for the purposes of the Taxes Ordinance.

34. Relevant information protected by other legislation

(1) This section applies to relevant information that is subject to a restriction or prohibition on its use under other legislation.

(2) Relevant information to which this section applies may still be used under section 33.

(3) If the other legislation would make it an offence to use the relevant information, that offence does not apply to its use under section 33.

(4) Otherwise, the restriction or prohibition continues to apply.

35. Provision of relevant information to others

(1) The Commissioner may provide relevant information to persons other than public officers who have —

- (a) been appointed to carry out specific functions in relation to the administration of the Medical Services Tax; and

(b) entered into a contract with the Falkland Islands Government that adequately safeguards the confidentiality of the information.

(2) The Governor may authorise the Commissioner to provide relevant information to another person.

36. Prohibitions on misusing protected information

(1) This section applies to the following persons —

(a) those who have access to protected information; and

(b) those who have obtained access to it as a result of a breach of this section.

(2) A person to whom this section applies must not —

(a) permit another person to examine the information if that other person is not entitled to do so; or

(b) knowingly disclose the information in any other way to someone who is not entitled to it.

(3) Subsection (2) does not apply if —

(a) the provision of the information is permitted by section 35(1); or

(b) it has been authorised by the Governor under section 35(2).

(4) A person to whom this section applies must not use protected information for gain (whether by that person or another).

**PART 10
ASSESSMENT OF MEDICAL SERVICES TAX**

37. Assessment of Medical Services Tax for employees, self-employed persons and MLAs

(1) This section applies to individuals who are liable to Medical Services Tax as an employee or a self-employed person (or as both).

(2) In the case of individuals who are also chargeable to income tax, the Commissioner must assess those individuals for Medical Services Tax at the same time as assessing them for income tax.

(3) In the case of individuals who are not also chargeable to income tax, the Commissioner must assess those individuals for Medical Services Tax as if section 171(1) of the Taxes Ordinance applied to them.

38. Assessment of Medical Services Tax for employers

(1) The Commissioner may assess an employer for Medical Services Tax in relation to a calendar year (or a series of calendar years).

(2) An assessment for a calendar year may be made under subsection (1) after the first of the following events takes place —

(a) the employer complies with a notice given under section 28(2) in relation to that year; or

(b) the period in section 28(3) expires for that notice.

(3) An assessment may not be made for a calendar year more than 6 years after the end of that year.

39. Application of additional provisions of the Taxes Ordinance

(1) The provisions of the Taxes Ordinance listed in subsection (2) apply for the purposes of Medical Services Tax as if —

(a) references to income tax included references to Medical Services Tax;

(b) references to payments on account of tax included references to payments on account of Medical Services Tax; and

(c) references to chargeable income included references to —

(i) earnings and benefits in kind; and

(ii) relevant profits.

(2) The provisions of the Taxes Ordinance that apply for the purposes of assessing Medical Services Tax are —

section 11 (which deals with the time at which income tax must be paid and interest on overdue tax)

section 171 (which deals with assessments for income tax)

section 173 (which deals with additional assessments)

section 174 (which deals with late assessments in cases of fraud or neglect)

section 175 (which deals with notices of assessment and objections to and amendments of assessments)

section 176 (which deals with the power to call for documents of taxpayers and others)

section 177 (which deals with the documents excluded from notices under section 176)

section 178 (which contains special provisions relating to third party notices under section 176)

section 179 (which provides that the burden of proof in relation to exemptions and abatements is on the taxpayer)

section 180 (which establishes the Tax Appeal Tribunal)

section 181 (which deals with appeals to the Tribunal)

section 182 (which contains provisions relating to the Clerk to the Tribunal)

section 183 (which deals with the postponement of tax on objection and appeal)

section 184 (which deals with the collection of tax and interest on tax)

section 185 (which deals with the recovery of tax from persons not resident in the Falkland Islands)

section 186 (which deals with repayments of income tax)

section 188 (which contains penal provisions relating to fraud etc)

section 189 (which provides for penalties for failures to make returns, making incorrect returns etc)

section 190 (which provides for the maximum penalty on conviction for offences in relation to which no other penalty is specified)

section 191 (which provides that nothing in the Taxes Ordinance affects other criminal proceedings but that no-one may be prosecuted more than once for the same offence)

section 192 (which provides that prosecutions must be commenced within 6 years)

section 192A (under which accounting records etc must be kept)

40. Set off

(1) Subsection (2) applies if —

(a) a person is entitled to a refund or repayment in respect of —

(i) an overpayment of Medical Services Tax; or

(ii) excess deductions or payments made on account of Medical Services Tax; and

(b) the Commissioner believes that the person is liable to pay an amount under either —

(i) this Ordinance (or subsidiary legislation made under it); or

(ii) the Taxes Ordinance (or subsidiary legislation made under it).

(2) If this subsection applies, the Commissioner may set off the refund or repayment against the liability.

PART 11 OFFENCES

41. Divulging protected information

(1) It is an offence to divulge protected information in breach of section 36(2).

(2) A person convicted of an offence against subsection (1) is liable on conviction to a fine of up to level 4 on the standard scale.

42. Using protected information for gain

(1) It is an offence to use protected information for gain in breach of section 36(4).

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —

(a) forfeiture of the amount gained;

(b) a fine of up to level 6 on the standard scale;

(c) imprisonment for up to 1 year.

43. Obtaining information by pretending to act on behalf of Commissioner

(1) It is an offence to pretend to be acting on behalf of the Commissioner under section 22(2) in order to gain access to relevant information or to obtain information from another person.

(2) A person (whether or not a public officer) convicted of an offence against subsection (1) is liable to one or more of the following penalties —

(a) forfeiture of the amount (if any) gained (whether by that person or another) as a result;

(b) a fine not exceeding level 6 on the standard scale;

(c) imprisonment for up to 1 year.

44. Failure to provide information

(1) This section applies to a person required by the Commissioner to provide information under this Ordinance (or subsidiary legislation made under it).

(2) It is an offence to refuse or neglect to provide the information.

(3) Subsection (2) does not apply if the person had a reasonable excuse for not providing the information.

(4) A person convicted of an offence under subsection (2) is liable to either or both of the following penalties —

- (a) a fine of up to level 7 on the standard scale; and
- (b) imprisonment for up to 3 months.

45. Providing false or misleading information

(1) This section also applies to a person required by the Commissioner to provide information under this Ordinance (or subsidiary legislation made under it).

(2) It is an offence knowingly to provide information that is false or misleading in a material particular.

(3) It is also an offence if the person who provides the information is reckless as to whether the information is false or misleading.

(4) A person convicted of an offence under subsection (2) or (3) is liable to either or both of the following penalties —

- (a) a fine of up to level 7 on the standard scale; and
- (b) imprisonment for up to 3 months.

46. Hindering or obstructing an authorised officer

(1) It is an offence to hinder or obstruct the Commissioner in —

- (a) administering the Medical Services Tax;
- (b) carrying out a function in relation to the administration of the Medical Services Tax; or
- (c) exercising a power under this Ordinance (or subsidiary legislation made under it).

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties —

- (a) a fine of up to level 7 on the standard scale; and
- (b) imprisonment for up to 3 months.

47. Offences by bodies corporate

(1) This section applies if —

- (a) an offence against this Ordinance (or subsidiary legislation made under it) is committed by a body corporate; and

(b) it is proved that either —

(i) the offence was committed with the consent or connivance of an officer of the body corporate; or

(ii) the offence was attributable to neglect on the part of an officer of the body corporate.

(2) If this section applies, the officer as well as the body corporate is —

(a) guilty of the offence; and

(b) liable to be proceeded against and punished accordingly.

(3) For the purposes of this section, “officer” includes, in relation to a body corporate —

(a) a person who was, at the time, acting as an officer of the body corporate; and

(b) a person who is (or who was, at the time) purporting to act as an officer of the body corporate.

(4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts and defaults of a member in connection with that member’s functions of management as if the member were an officer of the body corporate.

PART 12 PENALTIES AND PROSECUTIONS

48. Penalties

(1) Subsection (2) applies if a person is liable for more than one penalty in respect of what is substantially the same act (or failure to act) under —

(a) this Ordinance (or subsidiary legislation made under it);

(b) the Taxes Ordinance (or subsidiary legislation made under it);

(c) provisions of the Taxes Ordinance (or subsidiary legislation made under it) as they apply for the purposes of this Ordinance.

(2) If this subsection applies, the Commissioner must waive all but one of the penalties.

49. Prosecutions

(1) Subsection (2) applies in relation to acts (or failures to act) that are offences against more than one provision of —

(a) this Ordinance (or subsidiary legislation made under it);

(b) the Taxes Ordinance (or subsidiary legislation made under it); or

(c) provisions of the Taxes Ordinance (or subsidiary legislation made under it) as they apply for the purposes of this Ordinance.

(2) If this subsection applies, a person may not be prosecuted more than once for what is substantially the same offence.

(3) Subsection (2) does not prevent a prosecution being brought on each occasion that an offence is committed.

PART 13 AMENDMENT OF THE TAXES ORDINANCE

50. Amendment of the Taxes Ordinance

This Part amends the Taxes Ordinance.

51. Section 59 amended – Deductions not allowed

Section 59 is amended by omitting paragraph (i) and substituting the following —

“(i) any amount paid or payable under the Medical Services Tax Ordinance (No ?? of 2010).”

52. Section 90 amended – Repayment of sums deducted

(1) This section amends section 90.

(2) The existing section is renumbered as subsection (1).

(3) The following subsection is added —

“(2) If the Commissioner believes that a person entitled to a repayment under subsection (2) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the repayment against that liability.”

53. Section 186 amended – Repayment of income tax

Section 186 is amended by inserting the following subsection after subsection (1) —

“(1A) If the Commissioner believes that a person entitled to a refund under subsection (1) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the refund against that liability.”

54. Section 187 amended – Refund of overpayments of corporation tax

Section 187 is amended by inserting the following paragraph after subsection (2) —

“(2A) If the Commissioner believes that a company entitled to a repayment under subsection (2) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the repayment against that liability.”

55. Section 203 amended – Disclosure of information

(1) This section amends section 203.

(2) Subsection (2A) is repealed and the following substituted —

“(2A) The following provisions are to be disregarded for the purposes of subsection (2) —

(a) section 33 of the Medical Services Tax Ordinance (No ?? of 2010); and

(b) section 220 of the Fisheries (Conservation and Management) Ordinance (No 14 of 2005).”

(3) The following subsection is inserted after subsection (2A) —

“(2B) The Commissioner may make use, for the purposes of this Ordinance, of information provided (or obtained) under the Medical Services Tax Ordinance (or subsidiary legislation made under it).”

(4) Subsection (3) is amended by —

(a) omitting paragraph (b) and substituting the following —

“(b) the payments and allowances made to those persons in respect of that employment”;
and

(b) inserting the following paragraph after paragraph (b) —

“(ba) benefits provided to those persons in respect of that employment;”.

(5) Subsection (5) is repealed.

PART 14

AMENDMENT OF THE MEMBERS’ REMUNERATION ORDINANCE

56. Amendment of the Members’ Remuneration Ordinance

This Part amends the Members’ Remuneration Ordinance.

57. Section 7 substituted

(1) Section 7 is repealed and the following substituted —

“7. Income Tax and Medical Services Tax on amounts paid to Members

(1) This section deals with the treatment of amounts paid to Members under this Ordinance for the purposes of —

(a) income tax, under the Taxes Ordinance (Title 69.1);

(b) Medical Services Tax, under the Medical Services Tax Ordinance (No of 2010).

(2) Amounts paid to Members under this Ordinance are to be treated for those purposes as if they had been earned on a self-employed basis.”

58. Section 9 amended – Power to amend Schedule

Section 9 of the Members’ Remuneration Ordinance is amended by inserting the following after subsection (1) —

“(1A) An order made under subsection (1) may also include consequential amendments to the Medical Services Tax Ordinance.”

**PART 15
AMENDMENT OF THE PAYMENT ON ACCOUNT OF TAX (EMPLOYEES’
DEDUCTIONS) REGULATIONS**

59. Amendment of the Payment on Account of Tax (Employees’ Deductions) Regulations

The Schedule amends the Payment on Account of Tax (Employees’ Deductions) Regulations (No 23 of 1997).

**PART 16
SUBSIDIARY LEGISLATION**

60. Subsidiary legislation

The Governor may make regulations and orders that are necessary or convenient for the purposes of this Ordinance.

**SCHEDULE
AMENDMENT OF THE PAYMENT ON ACCOUNT OF TAX (EMPLOYEES’
DEDUCTIONS) REGULATIONS**

1. Amendment of the Payment on Account of Tax (Employees’ Deductions) Regulations

This Schedule amends the Payment on Account of Tax (Employees’ Deductions) Regulations.

2. Regulation 2 amended – Interpretation

(1) This section amends regulation 2.

(2) In paragraph (1) —

(a) the following definitions are inserted before the definition of “monthly paid employee” —
““earnings” —

(a) if regulation 10 applies, must be construed in accordance with that regulation;

(b) if regulation 12B applies, means an amount determined by (or on behalf of) the Commissioner;

(c) otherwise, has the same meaning as under section 3 of the Medical Services Tax Ordinance (No _____ of 2010);

“Medical Services Tax” means the tax imposed under the Medical Services Tax Ordinance;”

(b) the definition of “POAT deduction” is amended by adding “or Part 7 of the Medical Services Tax Ordinance”;

(c) the following definition is inserted after the definition of “POAT deduction” —

““remuneration” —

(a) does not include a pension or annuity;

(b) if regulation 10 applies, must be construed in accordance with that regulation;

(c) if regulation 12B applies, means an amount determined by (or on behalf of) the Commissioner;

(d) otherwise, means, in relation to a person, the gross amount of that person’s earned income, before any deductions;”.

(3) Paragraph (2) is revoked.

3. Regulation 3 amended – Application of regulations

(1) This section amends regulation 3.

(2) The following paragraph is inserted after paragraph (1) —

“(1A) The following regulations listed in paragraph (1B) apply for the purpose of determining deductions to be made for the purposes of payments on account of Medical Service Tax —

(a) regulation 3(4);

(b) regulation 8A;

(c) regulation 9;

(d) regulations 10(1), (2), (2A), (2B), (6) and (7); and

(e) regulations 11A, 12, 12A, 12B and 13.”

(3) Paragraph (2) is amended by inserting “in relation to income tax” after “made”.

(4) The following paragraph is inserted after paragraph (3) —

“(4) Deductions must be made in relation to Medical Services Tax in respect of all employees who are liable to Medical Services Tax, regardless of how many hours the employee worked during the pay period.”

4. New regulation 8A

The following regulation is inserted after regulation 8 —

“8A. Additional deductions in respect of employee’s Medical Services Tax

(1) In addition to the POAT deduction calculated under regulation 4, 5, 6, 7 or 8, the POAT deduction must also include the amount produced by the following formula —

$$M_{-ee} \times E$$

(2) In paragraph (1) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{-ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance.”

5. Regulation 9 amended – Non-resident employees

(1) This section amends regulation 9.

(2) Paragraph (2) is revoked and the following substituted —

“(2) The employer of an employee to whom this regulation applies must make a POAT deduction from each payment of remuneration to the employee.”

(3) The following paragraphs are inserted after paragraph (2) —

“(2A) The amount of the deduction to be made under paragraph (2) is the total of the following amounts —

(a) in respect of income tax, the amount produced by the following formula —

$$T_{RI} \times R$$

(b) in respect of Medical Services Tax, the amount produced by the following formula —

$$M_{ee} \times E$$

(2B) In paragraph (2A) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance;

“*R*” means the employee’s remuneration for the period; and

“*T_{RI}*” means the lower rate of income tax.”

6. Regulation 10 amended – ‘Free of tax’ remuneration

(1) This section amends regulation 10.

(2) Paragraph (1) is amended by inserting “or Medical Services Tax” after “income tax”.

(3) Paragraph (2) is also amended by inserting “or Medical Services Tax” after “income tax”.

(4) The following paragraphs are inserted after paragraph (2) —

“(2A) If remuneration is paid wholly net or free of Medical Services Tax, the amount by reference to which the POAT deduction is to be calculated for the purposes of Medical Services Tax is the amount produced by the following formula —

$$N \times \frac{100}{100 - M_{ee}}$$

(2B) In subsection (2A) —

“*M_{ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance; and

“*N*” means the net amount of the employee’s earnings.”

(5) Paragraph (3) is amended by —

(a) inserting the word “income” after “of” where it first appears; and

(b) inserting the words “for the purposes of income tax” after “calculated”.

(6) Paragraph (4) is amended by —

- (a) omitting “subsection” in the first place where it appears and substituting “paragraph”; and
- (b) omitting “subsection (5)” and substituting “paragraphs (5) and (6)”.

(7) The following paragraph is inserted after paragraph (5) —

“(6) If remuneration is paid wholly free of both Medical Services Tax and income tax, the amount by reference to which the POAT deduction is to be calculated for the purposes of both Medical Services Tax and income tax is the amount produced by performing both calculations in this regulation in the following order —

- (a) the calculation in paragraph (2A); and
- (b) the calculation in paragraph (3).”

7. New regulation 11A

The following regulation is inserted after regulation 11 —

“11A. Payments on account of employer’s Medical Services Tax

(1) In addition to the POAT deduction made from each payment made to an employee, the employer is also liable to make a payment on account of employers’ Medical Services Tax on the earnings represented by that payment.

(2) The amount of each payment on account to be made under paragraph (1) is the amount produced by the following formula —

$$M_{er} \times E$$

(2B) In paragraph (2A) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{er}*” means the rate at which Medical Services Tax is payable by employers under section 5(b) of the Medical Services Tax Ordinance.

(3) Payments on account for which an employer is liable under paragraph (1) must be accounted for in the same way as deductions made by that employer.”

8. Heading above regulation 12 amended

The heading above regulation 12 is amended by adding “and payments on account”.

9. Regulation 12 amended – Accounting for deductions and payments on account

(1) This section amends regulation 12.

(2) Paragraph (1) is revoked and the following substituted —

“(1) This regulation applies to each person required to do one or more of the following things —

(a) deduct a sum under —

(i) these Regulations;

(ii) Part 4 of the Taxes Ordinance; or

(iii) Part 7 of the Medical Services Ordinance; or

(b) make a payment on account of Medical Services Tax payable as an employer under —

(i) regulation 11A; or

(ii) Part 7 of the Medical Services Ordinance.”

(3) The following paragraph is inserted after paragraph (1) —

“(1A) A person to whom this paragraph applies must, by the 14th of each month —

(a) deliver to the Commissioner a return in the prescribed form containing all particulars required to be completed in the return; and

(b) remit to the Commissioner the total amount of the deductions and payments on account required to be made for the previous month.”

10. New Regulation 12B

The following regulation is inserted after regulation 12A.

“12B. Determination of remuneration and earnings

(1) This regulation applies if either —

(a) a person to whom regulation 12 applies fails to deliver a return to the Commissioner in accordance with regulation 12(1A)(a); or

(b) the Commissioner thinks that the return is incomplete or inaccurate.

(2) If this regulation applies —

(a) the Commissioner may make a determination of the amount of the remuneration and earnings of each employee who was (or should have been) included in the return; and

(b) that amount is to be treated for the purposes of these regulations as the employee’s remuneration and earnings for the period covered by the return.

(3) If the Commissioner makes a determination under paragraph (2) —

(a) the Commissioner must give notice of that determination to the person who made (or should have made) the return in relation to which the determination was made;

(b) that person may —

(i) object to the determination; and

(ii) appeal to the Tax Appeal Tribunal.

(4) Sections 175, 181 and 183 apply to objections and appeals made under paragraph (3)(b), as if —

(a) references to an assessment to tax included references to a determination made under paragraph (2); and

(b) references to the tax charged under an assessment included the payments on account of income tax and Medical Services Tax due in respect of the remuneration and earnings determined by the Commissioner.

11. Regulation 13 amended – Information and preservation of records

(1) This section amends regulation 13.

(2) Paragraph (4) is revoked and the following substituted —

“(4) Paragraph (5) applies to a person required to do one or more of the following things —

(a) deduct a sum under —

(i) these Regulations;

(ii) Part 4 of the Taxes Ordinance; or

(iii) Part 7 of the Medical Services Ordinance; or

(b) make a payment on account of Medical Services Tax payable as an employer under —

(i) regulation 11A; or

(ii) Part 7 of the Medical Services Ordinance.”

(3) The following paragraph is inserted after paragraph (4) —

“(5) A person to whom this paragraph applies must —

(a) make a written record of —

(i) the deduction or payment on account; and

(ii) particulars of the employee in respect of whom it was made; and

(b) keep that record until the expiry of a period ending 6 years after the end of the calendar year in which the deduction or payment on account was made.”

OBJECTS AND REASONS

The Bill would impose a tax known as the Medical Services Tax.

Part 1 deals with introductory provisions.

Clause 3(1) defines terms used that are elsewhere in the Bill. *Clause 3(2)* provides that other terms used in the Taxes Ordinance (Title 69.1) have the same meaning in the Bill.

Part 2 deals with the Medical Services Tax itself.

Clause 4 would provide for a tax, to be known as Medical Services Tax, to be payable by each of the following groups: employees; employers; and self-employed persons. The effect of definitions in *clause 3(1)* is that MLAs are treated as being self-employed for the purposes of the Bill and that the holders of other offices are treated as being employed.

Clause 5 would provide for the rates at which Medical Services Tax would be payable: employees would pay 1% (with their employers paying an additional 1½%); and self-employed persons would pay 1½%.

Part 3 deals with earnings and benefits in kind for employees and employers.

Clause 6 defines earnings for the purposes of Medical Services Tax. That definition covers income from employment (including redundancy payments that are not exempt from income tax) that is earned either in the Falkland Islands or from employment based in the Falkland Islands.

Clause 7 deals with the valuation of earnings that are received other than in money and *Clause 8* deals with timing issues relating to earnings. These issues are dealt with for the purposes of Medical Services Tax in the same way as for income tax.

Clause 9(1) would mean that employees could claim the same deductions for the purposes of Medical Services Tax that they can claim for the purposes of income tax under section 58 of the Taxes Ordinance. Under *clause 9(2)*, employers would not be able to claim those deductions and *clause 9(3)* would preclude any other deductions from being claimed for the purposes of Medical Services Tax by employees and their employers.

Clause 10 defines benefits in kind for the purposes of Medical Services Tax and *clause 11* deals with the valuation of benefits in kind. Benefits in kind are dealt with in the same way as for income tax.

Clause 12 deals with the treatment of pension contributions (which are defined in *clause 3*). Medical Services Tax would not be payable on pension contributions made by employers but pension contributions made by employees would not be deductible for the purposes of Medical Services Tax.

Clause 13 would provide for the anti avoidance provisions in sections 22 and 22A of the Taxes Ordinance (which deal with arrangements involving agencies, personal service companies and other intermediaries) to apply also for the purposes of Medical Services Tax.

Part 4 deals with relevant profits for self-employed persons.

Clause 14 defines relevant profits.

Under *Clause 15*, MLAs (who are defined in *clause 3* as being self-employed persons for the purposes of the Bill) would be liable for Medical Services Tax as if their allowances and expenses under the Members' Remuneration Ordinance were earned on a self-employed basis. A corresponding amendment to the Members' Remuneration Ordinance would be made by *clause 57*.

Clause 16 deals with the calculation of relevant profits and would provide for some (but not all) of the provisions of the Taxes Ordinance to apply for the purposes of Medical Services Tax as well.

Clause 17 deals with the periods of account for which relevant profits must be calculated. Normally, these will be calendar years but there would be exceptions (similar to those that apply for the purposes of income tax).

Clause 18 deals with the apportionment of profits within partnerships.

Clause 19 deals with situations in which an individual carries on more than one business (or is also an MLA) and *clause 20* deals with situations in which someone who is self-employed is also an employee.

Part 5 deals with exemptions.

Clause 21 sets out the sources of income that would be exempt from Medical Services Tax.

Part 6 deals with the administration of Medical Services Tax.

Clause 22 would provide for the Commissioner of Taxation to be responsible for administering the Medical Services Tax and for other public officers to carry out functions and exercise powers on behalf of the Commissioner.

Part 7 deals with payments on account of Medical Services Tax.

Clause 23 would provide for payments to be made on account of Medical Services Tax in the same way as payments are made on account of income tax. It would also apply the corresponding provisions of the Taxes Ordinance for that purpose. Employers would have to make deductions from payments made to employees and the deductions would be collected from them together with payments on account of the employers' own liability to Medical Services Tax.

Clause 24 would extend the existing power under section 91 of the Taxes Ordinance to make regulations for the payment on account of tax to cover the deduction of payments on account of Medical Services Tax from employees and payments on account of Medical Services Tax by employers.

Part 8 deals with the way in which information could be obtained for the purposes of the Bill.

Clauses 25 and 26 would allow for powers under sections 12(1) and (2) of the Taxes Ordinance (which deal with tax returns and the provision of business accounts) to be used to obtain information for the purposes of Medical Services Tax.

Under section 12(3) of the Taxes Ordinance, there is an obligation to report sources of income to the Commissioner of Taxation in certain circumstances and *clause 27* would extend that obligation to cover Medical Services Tax as well.

Clause 28 would create a new power under which employers could be required to provide end of year returns for the purposes of Medical Services Tax. *Clause 29* deals with the penalties that could be imposed in the event of non compliance.

Clause 30 would allow for the power under section 203(3) of the Taxes Ordinance (under which persons can be required to provide information) to be exercised for the purposes of Medical Services Tax.

Clause 31 would allow for information to be obtained from other public officers.

Part 9 deals with the way in which information could be used for the purposes of the Bill.

Clause 32 defines "relevant information" and "protected information".

Under *clause 33*, all relevant information could be used for the purposes of administering the Medical Services Tax and *clause 34* would override restrictions and prohibitions on the use of information in other legislation.

Clause 35 would allow for information to be released to others, subject to safeguards.

However, *clause 36* is intended to protect information from misuse.

Part 10 deals with the assessment of Medical Services Tax.

Clause 37 deals with the assessment of Medical Services Tax due from employees and self-employed persons. It provides for this to be done either at the same time as income tax is assessed or for it to be done in the same way.

Clause 38 would allow the Medical Services Tax due from employers to be assessed.

Clause 39 would make further provision for the provisions of the Taxes Ordinance relating to assessment to apply for the purposes of Medical Services Tax as well.

Clause 40 deals with the set-off of refunds or repayments relating to Medical Services Tax against liabilities under the Taxes Ordinance.

Part 11 deals with offences against the Ordinance.

Under *clause 41*, it would be an offence to divulge protected information (which is defined in *clause 32(2)*) and the maximum penalty for such an offence would be a level 4 fine (currently, £1,500).

Under *clause 42*, it would be an offence to use protected information for gain and, under *clause 43*, it would be an offence to pretend to be acting in an official capacity in order to gain access to information or to obtain information from someone else. In both cases, the maximum penalty would be forfeiture of the amount gained and/or a level 6 fine (currently, £7,500) and/or up to 1 year in prison.

Under *clause 44*, it would be an offence to refuse or neglect to provide information required under the Ordinance without a reasonable excuse. Providing false or misleading information (either knowingly or recklessly) would be an offence against *clause 45*. *Clause 46* would create an offence of obstruction. In all three cases, the maximum penalty would be a level 7 fine (currently, £12,500) and/or up to 3 months in prison.

Under *clause 47*, an officer of a body corporate (or someone purporting to act in that capacity) could be held responsible for offences committed by the body corporate.

Part 12 deals with penalties and prosecutions.

Clause 48 would prevent more than one penalty from being imposed for substantially the same infringement and *clause 49* would protect a person from being prosecuted for substantially the same offence committed on the same occasion.

Part 13 would amend the Taxes Ordinance.

Clause 51 would amend section 59 of the Taxes Ordinance to provide that Medical Services Tax is not an allowable deduction for the purposes of income tax or corporation tax.

Clauses 52, 53 and 54 would amend sections 90, 186 and 187 of the Taxes Ordinance to allow for the set off of refunds or repayments of income tax or corporation tax against liabilities for Medical Services Tax.

Clause 55 would amend section 203 of the Taxes Ordinance to allow for information collected under the Medical Services Ordinance to be used for the purposes of the Taxes Ordinance. It would also extend a power to collect information and repeal the provision under which penalties for failure to comply with notices to provide information do not apply in certain circumstances.

Part 14 would amend the Members' Remuneration Ordinance.

Clause 57 would make a consequential amendment to section 7 of the Members' Remuneration Ordinance.

Clause 58 would amend section 9 of the Members' Remuneration Ordinance to allow for orders amending the Schedule to that Ordinance to include consequential amendments to the Medical Services Tax Ordinance.

Part 15 (and the Schedule) would amend the Payments on Account of Tax (Employees' Deductions) Regulations.

Clause 59 would amend the Payments on Account of Tax (Employees' Deductions) Regulations (No. 23 of 1997) in accordance with the *Schedule*.

Part 16 deals with subsidiary legislation.

Under *clause 60*, the Governor would have the power to make regulations and orders to implement the Ordinance.

The Schedule contains the detailed amendments to the Payment on Account of Tax (Employees' Deductions) Regulations.

Paragraph 2 would amend the interpretation provisions in regulation 2.

Paragraph 3 would amend regulation 3 to provide which provisions of the regulations apply in relation to Medical Services Tax and also to provide that deductions must be made for Medical Services Tax regardless of how many hours are worked by the employee.

Paragraph 4 would insert a new regulation 8A, dealing with the additional deductions to be made in respect of employees' Medical Service Tax.

Paragraph 5 would amend regulation 9 to provide for 2 new formulae to be used to calculate the deductions for income tax and Medical Services Tax to be made from remuneration paid to non-resident employees.

Paragraph 6 would make a number of amendments to regulation 10 to deal with the grossing up of income paid free of income tax and/or Medical Services Tax.

Paragraph 7 would insert a new regulation 11A to deal with the payments on account of employers' Medical Service Tax.

Paragraphs 8 and 9 would amend regulation 12 to deal with accounting for deductions and payments on account made in respect of Medical Services Tax.

Paragraph 10 would insert a new regulation 12B, under which the Commissioner of Taxation would be able to make determinations of remuneration and earnings for the purposes of payments on account.

Paragraph 11 would amend regulation 13 to provide for the keeping of records in relation to deductions for and payments on account of Medical Services Tax as well as for income tax.

Livestock and Meat Products Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Interpretation
4. Power to make regulations
5. Application of EU law
6. Application of UK law
7. Officials
8. Licences and certificates
9. Enforcement
10. Notices
11. Repeals

LIVESTOCK AND MEAT PRODUCTS BILL 2010

(No: of 2010)

(assented to: 2010)
(commencement: on publication)
(published: 2010)

A BILL

for

AN ORDINANCE

To provide for: the regulation of the treatment of animals kept for slaughter; the regulation of abattoirs; and treatment of meat products in the course of export or domestic trade; and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Livestock and Meat Products Ordinance 2010.

2. Commencement

This Ordinance comes into force upon publication in the Gazette.

3. Interpretation

(1) In this Ordinance —

“abattoir” has the meaning given by subsection (2),

“designated abattoir” has the meaning given by subsection (3);

“domestic purposes” has the meaning given by subsection (4);

“EU” means the European Union;

“EU legislation” means a Directive, Regulation or any other legislation enacted by an institution of the European Union;

“export season” has the meaning given by subsection (5);

“meat” includes meat products and other animal products;

“Notice” has the meaning given by section 10;

“Regulations” means regulations made by the Governor;

“UK legislation” means —

- (i) an Act of Parliament,
- (ii) an Act of the Scottish Parliament,
- (iii) an Act of the Northern Ireland Assembly,
- (iv) an Act or Measure of the National Assembly for Wales, and
- (v) an enactment or instrument under legislation specified in paragraphs (i) to (iv).

(2) “Abattoir” includes any place used or intended to be used for the slaughtering of animals.

(3) “Designated abattoir” means an abattoir designated by Notice for the purpose of producing meat for export to a Member State of the EU.

(4) “Domestic purposes” means purposes other than export and, in particular, includes —

- (a) commercial and non-commercial purposes, and
- (b) supply for consumption on board a vessel.

(5) “Export season” means a period in each calendar year which —

- (a) begins on a date designated by Notice, and
- (b) ends on a date designated by Notice.

4. Power to make regulations

(1) Regulations may make provision about any aspect of —

- (a) importing animals into the Falkland Islands;
- (b) the conditions under which animals are kept;
- (c) carrying out medical, chemical or other tests on animals;
- (d) the slaughtering of animals;
- (e) the disposal of dead animals (whether or not slaughtered);
- (f) the treatment of animals and meat at abattoirs before and after slaughter;
- (g) the treatment of meat in the course of export or domestic trade (including retail);

- (h) carrying out chemical or other tests on meat;
 - (i) the disposal of waste produced in the course of slaughtering animals or preparing meat;
and
 - (j) importing meat into the Falkland Islands.
- (2) In subsection (1) “animals” means animals of a kind that are commonly kept for slaughter.
- (3) Regulations under subsection (1) may —
- (a) make provision that applies only during the export season;
 - (b) make provision that applies only outside the export season;
 - (c) make provision that applies differently during and outside the export season.
- (4) Regulations under subsection (1) may —
- (a) make provision that applies only to designated abattoirs;
 - (b) make provision that applies only to non-designated abattoirs;
 - (c) make provision that applies differently to designated and non-designated abattoirs.
- (5) Regulations under subsection (1) may —
- (a) make provision that applies only to slaughtering and meat for export;
 - (b) make provision that applies only to slaughtering and meat for domestic purposes;
 - (c) make provision that applies differently in relation to slaughtering and meat for export and for domestic purposes.
- (6) Regulations under subsection (1) may —
- (a) make different provision for different purposes;
 - (b) make provision that applies generally or only for specified purposes;
 - (c) may include incidental or consequential provision (which may, in particular, amend other legislation so as to introduce a reference to the regulations).

5. Application of EU law

- (1) Regulations under section 4(1) may, in particular, include any provision which the Governor thinks necessary or desirable for permitting or facilitating the export of meat to Member States of the EU.
- (2) The regulations may provide for specified EU legislation to apply.
- (3) Application by virtue of subsection (2) may be —
 - (a) subject to modifications specified in the regulations;
 - (b) subject to such modifications as may be specified by Notice.
- (4) The regulations may provide for the automatic application of —
 - (a) any amendment made to EU legislation applied by the regulations (whether made before or after the making or commencement of the regulations);
 - (b) any legislative or administrative instrument made under or by virtue of EU legislation applied by the regulations (whether made before or after the making or commencement of the regulations).
- (5) Regulations applying EU legislation may —
 - (a) specify exceptions;
 - (b) allow exceptions to be provided by Notice;
 - (c) confer power to grant exemptions.
- (6) Regulations must make provision about marks and certificates required in connection with export to Member States of the EU; and the regulations must, in particular, require the Senior Veterinary Officer to make arrangements to ensure that the marks and certificates are used only at designated abattoirs during the export season.

6. Application of UK law

- (1) Regulations under section 4(1) may provide for specified UK legislation to apply.
- (2) Application by virtue of subsection (1) may be —
 - (a) subject to modifications specified in the regulations;
 - (b) subject to such modifications as may be specified by Notice.
- (3) The regulations may provide for the automatic application of —

(a) any amendment made to UK legislation applied by the regulations (whether made before or after the making or commencement of the regulations);

(b) any legislative or administrative instrument made under or by virtue of UK legislation applied by the regulations (whether made before or after the making or commencement of the regulations).

(4) Regulations applying UK legislation may —

(a) specify exceptions;

(b) allow exceptions to be provided by Notice;

(c) confer power to grant exemptions.

7. Officials

(1) In this Ordinance —

(a) “Senior Veterinary Officer” means the Senior Veterinary Officer of the Department of Agriculture,

(b) “Official Veterinarian” means an official of that Department appointed as an Official Veterinarian, and

(c) Meat Hygiene Inspector means an official of that Department appointed as a Meat Hygiene Inspector.

(2) In the exercise of functions under or in connection with Regulations under section 4(1) —

(a) the Senior Veterinary Officer is not subject to the direction or control of any person or authority,

(b) Official Veterinarians and Meat Hygiene Inspectors are not subject to the direction or control of any person other than the Senior Veterinary Officer.

(3) Regulations under section 4(1) may confer functions (including discretionary functions) on—

(a) the Senior Veterinary Officer;

(b) other veterinary officers;

(c) Meat Hygiene Inspectors.

(4) Regulations under section 4(1) may make provision by reference to arrangements to be made by —

(a) the Senior Veterinary Officer;

(b) the Department of Agriculture.

(5) The Senior Veterinary Officer is the “competent authority” for the purposes of any EU legislation applied by or under Regulations under section 4(1).

(6) The Senior Veterinary Officer may authorise persons to carry out functions under or in connection with Regulations under section 4(1); and subsection (2)(b) applies to those persons.

8. Licences and certificates

Regulations under section 4(1) may make provision for slaughtering and export to be controlled by a system of licensing or certificates (or both).

9. Enforcement

(1) Regulations under section 4(1) may include provision for enforcement.

(2) In particular, the regulations may —

(a) create criminal offences;

(b) provide for the imposition of civil penalties;

(c) confer power to serve notices and make provision about the consequences of the service of notices;

(d) confer jurisdiction on a court or tribunal;

(e) include provision for forfeiture of goods or equipment;

(f) confer powers of entry, search and seizure;

(g) require the provision of information;

(h) confer powers to require the provision of information.

(3) If the regulations create an offence they may provide for a maximum penalty of —

(a) 6 months imprisonment,

(b) a fine of level 6 on the standard scale, or

(c) a combination.

10. Notices

(1) In this Act “Notice” means a notice given by the Governor.

(2) The Governor must publish any notice under this Ordinance as soon as reasonably practicable (but a notice may take effect before being published).

11. Repeals

(1) Regulations under section 4(1) may include provision for the repeal, revocation or disapplication of any Ordinance or other legislation if the Governor thinks the repeal, revocation or disapplication necessary or desirable in consequence of the Regulations.

(2) Provision under this section may —

(a) apply to specified legislation generally or only to a specified extent or for specified purposes;

(b) include transitional provision or savings.

OBJECTS AND REASONS

This Bill would provide for a new system of regulation in relation to the production of livestock and meat products and would allow for the implementation of requirements necessary to maintain exports to the European Union and elsewhere.

Clause 3 defines the key terms used in the Bill.

Clause 4 is the key provision in the Bill and would the Governor power to make regulations in relation to a wide range of matters connected with the production of livestock and meat products, covering the entire food chain. It would allow for regulations to cover domestic and export production but would also allow for different requirements to apply to domestic and export production.

Clause 5 would deal with the specific power to apply EU legislation directly (with or without modifications).

Clause 6 would allow for the adoption (with or without modifications) of legislation from the UK or one of the devolved administrations in the UK.

Clause 7 deals with the role of the Senior Veterinary Officer and other officials (including Official Veterinarians and Meat Hygiene Inspectors) and would confirm their existing independence.

Clause 8 deals with licensing and certification.

Clause 9 deals with enforcement issues.

Clause 10 deals with Notices.

Clause 11 would allow the Governor to repeal, revoke or disapply existing legislation in connection with regulations made under *clause 4*.

Telecommunications (Amendment) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Telecommunications Ordinance
4. Section 2 amended – Interpretation
5. New Parts 1A and 1B
6. Section 11 substituted
7. New sections 11A to 11I

TELECOMMUNICATIONS (AMENDMENT) BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: on publication)

(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Telecommunications Ordinance (Title 70.1) in relation to: the appointment of a Regulator; the provision of information by telecommunications utilities; and the establishment by telecommunications utilities of procedures for the handling of complaints and resolution of disputes; and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Telecommunications (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of Telecommunications Ordinance

This Ordinance amends the Telecommunications Ordinance.

4. Section 2 amended – Interpretation

(1) This section amends section 2.

(2) The following definition is inserted after the definition of “Crown” —

““customer” includes a potential customer;”.

(3) The following definition is inserted after the definition of “mobile station” —

““Panel” means the Telecommunications Appeals Panel established by Part 1B;”.

5. New Parts 1A and 1B

The following Parts are inserted after Part 1 —

**“PART 1A
REGULATOR**

2A. Regulator

- (1) The Governor may, in writing, appoint a person as the Regulator for the purposes of this Ordinance.
- (2) The Governor may, in writing, appoint one or more persons to act on behalf of the Regulator.
- (3) A person appointed as the Regulator or to act on the Regulator’s behalf may exercise functions vested by or under this Ordinance in the Government or the Governor.
- (4) Subsection (3) only allows a person to exercise functions on behalf of the Government or the Governor to the extent that person’s appointment allows.
- (5) Subsection (3) does not allow a person to exercise —
 - (a) a function of the Government under section 13; or
 - (b) a function of the Governor under a provision in —
 - (i) Part 1B;
 - (ii) Part 7;
 - (iii) Part 8; or
 - (iv) Part 9.

**PART 1B
TELECOMMUNICATIONS APPEALS PANEL**

2B. Telecommunications Appeals Panel

- (1) This Part establishes a Telecommunications Appeals Panel.
- (2) The Panel will have 3 members to be appointed by the Governor in accordance with sections 2C and 2D.
- (3) The Panel’s role is to deal with appeals under section 11D.
- (4) The Governor may by order amend subsection (3) to extend the role of the Panel.
- (5) Before making an order under subsection (4), the Governor must —
 - (a) consult each telecommunications utility; and

(b) consult users of telecommunications services in the Falkland Islands in whatever way the Governor thinks appropriate.

2C: Appointment of Chairperson

(1) The Governor must appoint a person to be the Chairperson of the Panel.

(2) That person —

(a) must, in the Governor's opinion, have appropriate knowledge and experience;

(b) must not be an employee of or a contractor for either —

(i) the Government; or

(ii) a telecommunications utility; and

(c) must not have another conflict of interest which could reasonably be expected to stop that person from being appointed to be the Chairperson.

(3) A person is not stopped from acting as Chairperson only by being a customer (whether in the Falkland Islands or elsewhere) of either —

(a) a telecommunications utility; or

(b) a competitor of a telecommunications utility.

2D. Appointment of other members

(1) The Governor must appoint two other persons to be the members of the Panel.

(2) The Governor must consult each telecommunications utility before making one of the appointments under subsection (1).

(3) The Governor must consult users of telecommunications services in the Falkland Islands before making the other appointment under subsection (1).

(4) When consulting under subsection (3), the Governor must —

(a) consult the Falkland Islands Chamber of Commerce; and

(b) carry out other consultation, as the Governor thinks appropriate.

2E. Arrangements

(1) The Governor may make arrangements about the following matters —

(a) paying members of the Panel (and different arrangements may be made for the Chairperson and for the other members);

- (b) other terms and conditions of appointment for the members of the Panel (including the period a member will serve);
 - (c) removing a member of the Panel for good cause before the expiry of the period that member was to serve;
 - (d) specific conflict of interests that arise in particular cases to be dealt with by the Panel;
 - (e) filling vacancies on the Panel (including temporary vacancies that arise for specific cases); and
 - (f) the Panel's proceedings.
- (2) Before making arrangements under subsection (1), the Governor must consult —
- (a) the Panel,
 - (b) each telecommunications utility;
 - (c) the Falkland Islands Chamber of Commerce, and
 - (d) other persons the Governor thinks are likely to be interested.
- (3) When making arrangements in relation to filling vacancies, the Governor must follow sections 2C and 2D.
- (4) Decisions of the Panel are to be taken by majority vote and arrangements made by the Governor in relation to the Panel's proceedings must reflect that.

2F. Annual report

- (1) The Panel must prepare a written report as soon as reasonably practicable after the end of each calendar year.
- (2) The written report prepared under subsection (1) must contain details of the Panel's activities (including the number of appeals) in the previous year.
- (3) The Panel must send its reports to the Governor and the Legislative Assembly.
- (4) The Governor must publish the reports.

6. Section 11 substituted

Section 11 is repealed and the following section substituted —

“11. Telecommunications utility to provide Government with information

(1) This section applies if the Government considers that it is necessary to require a telecommunications utility to provide it with information or documents for the purpose of the Government carrying out its functions in relation to telecommunications.

(2) If this section applies, the Government may send a notice to the utility requiring it to provide the information or documents specified in the notice.

(3) The notice to the utility must be accompanied by an explanation why the Government considers the information or documents specified in the notice are necessary for the purpose.

(4) The information or documents must be provided to the Government —

(a) before the end of such reasonable period as may be specified in the notice; and

(b) in such form as the Government may reasonably require.”

7. New sections 11A to 11I

The following sections are inserted after section 11 —

“11A. Representations from utility as to provision of information

(1) Paragraph (2) applies if a telecommunications utility to which a notice is sent under section 11(2) considers that the burden of providing some or all of the information or one or more of the documents specified in the notice would be disproportionate to the benefits to the Government in receiving it.

(2) The utility may send written representations to the Government in which it —

(a) specifies the information or documents in relation to which it considers that the burden to it would be disproportionate to the benefit to the Government; and

(b) sets out in full the reasons why it takes that view.

(3) A written response under subsection (2) must be sent within 20 business days of the utility receiving the notice from the Government.

(4) If the Government receives written representations under subsection (2) —

(a) the Government must —

(i) consider whether or not it would be disproportionate for the utility to provide the information or documents specified in the representations; and

(ii) respond to the utility within 20 business days of receiving the representations, indicating its decision in relation to the information or documents; and

(b) the utility need not provide the information or documents while the Government is considering its response to the utility's representations.

(5) If information or documents specified in the notice sent under section 11(2) is not specified in the utility's representations under subsection (2), the utility must provide that information to the Government within the period originally specified in the notice.

(6) If the Government determines that it would be disproportionate for the utility to have to provide some or all of the information or one or more of the documents specified in the notice sent under section 11(2), the Government —

(a) must withdraw the notice; and

(b) may send a revised notice to the utility.

(7) If the Government determines that it would not be disproportionate to have to provide some or all of the information or documents specified in the notice sent under section 11(2), it may notify the utility of a new reasonable period before the end of which the utility must provide that information to the Government.

11B. Failure to provide information

(1) If the Government considers that there are grounds for believing that a telecommunications utility is in breach of one or more requirements under sections 11 and 11A, it may give a notice in writing to the utility —

(a) setting out the requirement and the alleged breach;

(b) giving the utility a reasonable period to do either or both of the following things —

(i) comply with the requirement; and

(ii) make representations about the allegation to the Government.

(2) The Government must consider any representations made under subsection (1)(b)(ii).

(3) If a utility is or has been in serious or repeated breach of requirements imposed under sections 11 and 11A, the utility's licence may be revoked under Part 7.

11C. Failure to provide information: penalties

(1) Subsection (2) applies if the Government —

(a) has given a notice to a utility under section 11B(1);

(b) has considered any representations made under section 11B(1)(b)(ii); and

(c) is satisfied that the utility is in breach of one or more requirements imposed under section 11.

(2) If this subsection applies, the Government may impose a penalty on the utility that it determines to be both —

- (a) appropriate; and
- (b) proportionate to the breach.

(3) A penalty imposed under subsection (2) may not exceed £20,000.

(4) If the Government imposes a penalty on a utility under subsection (2), it must notify the utility within 10 business days of—

- (a) the decision that has been made;
- (b) the reasons for it; and
- (c) the period for payment.

(5) A penalty imposed under subsection (2) will not be included as a cost of the telecommunications utility under section 46(3).

11D. Failure to provide information: appeals against penalties

(1) A telecommunications utility may appeal to the Panel against —

- (a) the imposition of a penalty on it under section 11C(2);
- (b) the amount of the penalty imposed; or
- (c) both.

(2) Notice of an appeal under subsection (1) must be given within 60 business days of the date of the notice under section 11C(3).

(3) The notice of appeal must set out the full grounds of the appeal, including (in particular) whether it is contended that —

- (a) the decision appealed against is —
 - (i) based on an error of fact;
 - (ii) wrong in law, or
 - (iii) both; or

- (b) the penalty imposed is disproportionate.
- (4) The Panel may —
- (a) uphold both the imposition of a penalty on the utility and the amount of the penalty imposed;
 - (b) uphold the imposition of a penalty on the utility but substitute a lower penalty for the one imposed; or
 - (c) overturn the decision to impose a penalty on the utility.
- (5) The decision of the Panel under subsection (4) is final (subject to the possibility of challenge by way of judicial review).

11E. Failure to provide information: payment of penalties

- (1) A penalty imposed under section 11C(2) must be paid by the telecommunications utility within the period specified under 11C(4)(c).
- (2) Subsection (1) does not apply if the utility appeals to the Panel under section 11D(1).
- (3) If the Panel upholds the imposition of a penalty on the utility's appeal, the following become payable immediately —
- (a) either —
 - (i) the penalty imposed under section 11C(2); or
 - (ii) if the Panel substituted a lower penalty under section 11D(4)(b), that lower penalty; and
 - (b) interest on that amount from the day after the end of the period specified under section 11C(4)(c) until the day on which the Panel gives its decision.
- (4) If an amount due under either subsection (1) or subsection (3) (or part of it) remains unpaid —
- (a) it may be enforced as a statutory debt;
 - (b) interest (or further interest) must be added to the unpaid amount from the date by which it was to have been paid or the date on which it became payable until the date on which it is paid.
- (5) The rate of interest that applies for the purposes of this section is the statutory interest rate fixed under section 8 of the Interest on Debts Ordinance 2002 (No. 13 of 2002).

11F. Complaint handling and dispute resolution

A telecommunications utility is under a duty to establish and maintain a Code of Practice, relating to complaint handling and dispute resolution, which has been approved by the Government.

11G. Draft Code of Practice

(1) A telecommunications utility must submit a draft Code to the Government for approval within —

- (a) 40 business days of this section coming into force, or
- (b) if later, within 40 business days of its licence being granted.

(2) The draft Code must set out how —

- (a) the utility proposes to handle complaints made to it by customers;
- (b) disputes between the utility and customers are to be resolved; and
- (c) the utility proposes to bring the existence of the Code to the attention of customers.

(3) In relation to complaint handling, the draft Code must provide for complaints to be dealt with by the utility in a fair, effective and timely manner without the imposition of a fee or charge.

(4) In relation to dispute resolution, the draft Code must provide for procedures which —

- (a) are administered by a person who is, for practical purposes, independent (so far as decisions in relation to disputes are concerned) of the utility;
- (b) are easy to use, transparent and effective;
- (c) give, to each of the utility's customers, a right to use the procedures free of charge;
- (d) enable any disputes which are found to be frivolous or vexatious to be rejected or brought to an early conclusion;
- (e) ensure that all information necessary for giving effect to the procedures is provided;
- (f) ensure that disputes are effectively investigated;
- (g) confer power to make awards of appropriate compensation in respect of customers' direct losses; and
- (h) enable awards of compensation to be properly enforced.

(5) A draft Code need not provide for compensation in respect of customers' indirect losses.

11H. Approval of Code of Practice

(1) The Government must approve a telecommunication utility's Code of Practice if it is satisfied that —

- (a) the draft Code meets the requirements of sections 11G(3) and (4); and
- (b) if approved, the Code will ensure an appropriate balance is maintained between —
 - (i) the legitimate commercial interests of the telecommunications utility; and
 - (ii) the protection of the interests of the customers of the utility.

(2) The Government may by notice in writing to a utility —

- (a) approve modifications that the utility has proposed to an approved Code;
- (b) withdraw approval of a Code; or
- (c) give notice that approval will be withdrawn from a Code from a date specified in the notice, unless modifications specified in the notice are made to the Code before that date.

11I. Use of procedures

While a telecommunication utility's Code of Practice is approved by the Government, a customer of the utility must exhaust the procedures set out in the Code in relation to a complaint or dispute before bringing proceedings against the utility in relation to that complaint or dispute."

OBJECTS AND REASONS

This Bill would amend the Telecommunications Ordinance (Title 70.1).

It has four main aims:

- (a) to provide for the appointment of a Regulator to carry out some of the functions under the Telecommunications Ordinance that belong to the Government and the Governor;
- (b) to establish a Telecommunications Appeals Panel, which would initially deal with appeals against penalties imposed on telecommunications utilities under the new information provisions;
- (c) to replace the existing provisions relating to the provision of information to the Government by telecommunications utilities with a new regime;

(d) to provide for the establishment by telecommunications utilities of procedures for the handling of complaints and the resolution of disputes.

Clause 4 would amend the interpretation provisions in *section 2* of the Telecommunications Ordinance to include two new definitions. One of these would mean that references to customers also cover potential customers.

Clause 5 would insert two new Parts: new Part 1A would deal with the Regulator and new Part 1B would deal with the Telecommunications Appeals Panel.

New *section 2A* would provide for the appointment of a Regulator to exercise some (but not all) of the functions of the Government and the Governor under the Telecommunications Ordinance. It would also provide for the appointment of one or more other persons to act on behalf of the Regulator.

New *section 2B* would establish a Telecommunications Appeals Panel, which would consist of 3 members. Its initial role would be to deal with appeals under new *section 11D* (which deals with appeals against the penalties that could be imposed on telecommunications utilities for breaches of the new information regime) but there would be power for the Governor to extend that role, following consultation with telecommunications utilities and the users of telecommunications services.

New *sections 2C and 2D* deal with the appointment of the three Panel members: an independent Chairperson and two other members (one to be appointed following consultation with telecommunications utilities and the other following consultation with users of telecommunications services).

New *section 2E* would give the Governor power to make detailed arrangements for the operation of the Panel. It provides for consultation before arrangements are made.

Under new *section 2F*, the Panel would have to prepare an annual report on its activities for publication.

Clauses 6 and 7 would replace section 11 with an amended section 11 and new sections 11A to 11E, dealing with the provision of information by telecommunications utilities. Clause 7 would also insert new sections 11F to 11I to deal with the complaints handling and dispute resolution. The Government's functions under these provisions could be exercised by the Regulator or someone appointed to act on behalf of the Regulator.

Under the amended *section 11*, the Government would be able to serve notices on telecommunications utilities requiring the provision of information and/or documents.

New *section 11A* would allow a telecommunications utility to make representations about the proportionality of providing the required material, balancing the burden on the utility against the benefit to the Government. If the utility does this, it need not provide the material covered by the representations while the Government considers them. However, it must provide the rest of the

material in the original notice. The possible outcomes of the representation process are that a new notice could be served or a new date for compliance set.

New *section 11B* deals with failures to comply with the amended *section 11* and new *section 11A*. The Government would be able to serve a notice setting out the alleged breach and requiring a telecommunications utility comply and/or to make representations (which the Government would have to consider). Serious or repeated breach could result in the revocation of a utility's licence.

Under new *section 11C*, if the Government remained satisfied (after considering any representations made) that a telecommunications utility was still in breach of its requirements to provide information and/or documents, it would be able to impose a penalty of up to £20,000 on the utility and such a penalty could not be counted as a cost for price regulation purposes.

New *section 11D* would allow a telecommunications utility to appeal to the Telecommunications Appeals Panel against a penalty imposed under new *section 11C*. The Panel would be able to overturn the penalty, uphold the penalty but reduce its amount or confirm the original penalty. There would be no further appeal against the Panel's decision but it would still be possible to seek judicial review.

New *section 11E* deals with the payment of penalties and the interest on unpaid penalties.

New *section 11F* would make it a duty for a telecommunications utility to have an approved Code of Practice dealing with complaint handling and dispute resolution.

Under new *section 11G*, a telecommunications utility would have 40 business days to submit a draft Code of Practice. New *section 11G* also sets out what a Code of Practice must contain and new *section 11H* deals with the approval process.

New *section 11I* would require customers to make use of an approved Code of Practice (if one is in place) before bringing proceedings against a telecommunications utility.

Immigration (Amendment) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Section 5 of the Immigration Ordinance amended – General provisions for regulation and control

IMMIGRATION (AMENDMENT) BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: on publication)

(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Immigration Ordinance (Title 52.2).

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Immigration (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Section 5 of Immigration Ordinance amended – General provisions for regulation and control

Section 5(11)(b) of the Immigration Ordinance is amended by omitting “an international organisation or national authority” and substituting “a passport-issuing authority”.

OBJECTS AND REASONS

This Bill would amend section 5(11) of the Immigration Ordinance, which deals with the requirement for certain persons to hold a visa to enter the Falkland Islands.

Section 5(11)(b) currently provides that those travelling on passports from the international organisations and national authorities listed in Part 1 of Schedule 1 are exempt from the requirement to hold a visa.

Clause 3 would make a technical amendment to deal with passports issued by other passport-issuing authorities

The power under section 5(12) to amend Schedule 1 would not be affected.

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

Supplementary Appropriation (2010-2011) Ordinance 2010

(No: 9 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (2010-2011) ORDINANCE 2010

(No: 9 of 2010)

(assented to: 28 October 2010)

(commencement: on publication)

(published: 31 October 2010)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £843,700 for the financial year ending 30 June 2011.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2010-2011) Ordinance 2010.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Withdrawal of additional sum

(1) The Financial Secretary may withdraw an additional sum of £843,700 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2011 in accordance with section 4 and the Schedule.

4. Replenishment of Contingencies Fund

If any sum has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant numbers 1 & 2 of 2010-2011, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

Number	Head of Service	Amount £
	Operating Budget	
0110	Procurement & Efficiency	17,120
0200	Health, Social Services & Education	87,520
0350	Public Works Department	24,920
0410	Natural Resources	60,240
0451	Attorney Generals Chambers	52,060
0550	Community Safety	3,810
0600	Executive Management	11,540
0620	Mineral Resources	65,570
0700	Corporate Resources	168,520
0999	Transfer Payments	352,400
	Total Operating Budget	<hr/> 843,700 <hr/>
	Total Supplementary Expenditure	<hr/> 843,700 <hr/>

Passed by the Legislature of the Falkland Islands on 22 October 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

Statistics Ordinance 2010

(No: 10 of 2010)

ARRANGEMENT OF PROVISIONS

Section

PART 1 - PRELIMINARY PROVISIONS

1. Title
2. Commencement
3. Interpretation

PART 2 - STATISTICAL SERVICE

4. Statistical Service
5. Staff of the Service
6. Oath of office
7. Authorised officers
8. Delegation of functions
9. Independence of the Statistician and the Service

PART 3 - FUNCTIONS OF THE STATISTICAL SERVICE

10. Primary function of the Service
11. Power of authorised officer to obtain information
12. Information held by a governmental body

PART 4 - CENSUS AND SURVEYS

13. Service to carry out census
14. Business surveys
15. Additional business surveys

16. Household surveys

PART 5 - CONFIDENTIALITY

17. Prohibition on divulging information
18. Publication of information
19. Confidentiality and data security: power to make regulations
20. Information privileged

PART 6 - OFFENCES

Offences by members of the staff of the Service

21. False declarations, statements and reports
22. Obtaining information by pretending to carry out function of the Service
23. Publishing false or misleading information

Offences by members (or former members) of the staff of the Service

24. Divulging information
25. Use of information for gain

Offences by persons required to provide information

26. Application of sections 26 and 27
27. Failure to provide information
28. Providing false or misleading information

Other offences

29. Hindering or obstructing an authorised officer
30. Pretending to be a member of the staff of the Service or an authorised officer to obtain information

Civil penalties

31. Civil penalties

PART 7 - FINAL PROVISIONS

32. Subsidiary legislation
33. Census Ordinance and subsidiary legislation repealed

Schedule 1 – Oath (or affirmation) to be taken by members of the staff of the Service

Schedule 2 – Oath (or affirmation) to be taken by individuals if a body corporate is appointed to carry out functions of the Service

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

STATISTICS ORDINANCE 2010

(No: 10 of 2010)

(assented to: 28 October 2010)

(commencement: on publication)

(published: 31 October 2010)

AN ORDINANCE

To establish a Statistical Service and for related purposes.

ENACTED by the Legislature of the Falkland Islands —

**PART 1
PRELIMINARY PROVISIONS**

1. Title

This Ordinance is the Statistics Ordinance 2010.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Interpretation

In this Ordinance —

“authorised officer” means either —

- (a) the Statistician; or

(b) another member of the staff of the Service appointed to be an authorised officer by the Statistician under section 7(1);

“function” includes a power or duty;

“Service” means the Statistical Service established by section 4(1);

“staff of the Service” means —

(a) the Statistician;

(b) the other public officers appointed by the Statistician under section 5(1) to be members of the staff of the Service; and

(c) the other persons appointed by the Statistician under section 5(2) to carry out functions of the Service; and

“the Statistician” means —

(a) the person appointed to the office of Statistician; or

(b) a person for the time being carrying out the functions of the office.

PART 2 STATISTICAL SERVICE

4. Statistical Service

(1) There is established, as the central statistical authority for the Falkland Islands Government, a Statistical Service.

(2) It consists of the Statistician and the other members of the staff of the Service.

(3) The Statistician has the control of, and overall responsibility for, the Service and its staff.

(4) Accordingly, the Statistician must make such arrangements and do everything necessary to ensure that the functions of the Service are carried out.

5. Staff of the Service

(1) The Statistician may appoint public officers to be members of the staff of the Service.

(2) In addition, the Statistician may appoint persons (who need not be public officers) to carry out specific functions of the Service.

(3) A person other than a public officer who is appointed under subsection (2) must enter into a contract with the Statistical Service through the Statistician.

(4) Subsection (5) applies to —

(a) the terms and conditions on which public officers are appointed under subsections (1) and (2); and

(b) the terms and conditions of contracts entered into under subsection (3).

(5) However, the Statistician must ensure that the terms and conditions —

(a) safeguard the confidentiality of the information gathered by the Service and made available to it; and

(b) create no conflict between the interests of the Service and the interests of the person appointed.

(6) Subject to section 9 (which provides for the independence of the Statistician in relation to the confidentiality of information and the integrity of the statistics produced), the functions of the Statistician under this section must be carried out within the scope of the Statistician's delegated authority within the Falkland Islands Government.

6. Oath of office

(1) The staff of the Service must, before entering on their duties under this Ordinance, take and subscribe the oath or affirmation set out in Schedule 1.

(2) If a person appointed by the Statistician to carry out a function of the Service is a body corporate, each of the following persons must take and subscribe the oath or affirmation set out in Schedule 2 —

(a) the chief executive officer of the body corporate; and

(b) each of its officers, employees or agents who will be engaged in carrying out the function.

(3) An oath or affirmation under this section is to be taken before either —

(a) a commissioner for oaths appointed under section 2 of the Commissioners for Oaths Ordinance (Title 22.3); or

(b) if an oath under subsection (2) is taken outside the Falkland Islands, a person with authority to administer oaths in the place where the oath is taken.

7. Authorised officers

(1) The Statistician may appoint a member of the staff of the Service to be an authorised officer.

(2) The appointment must be in writing signed by the Statistician.

8. Delegation of functions

- (1) The Statistician may delegate to an authorised officer a function of the Service.
- (2) The delegation must be in writing signed by the Statistician.

9. Independence of the Statistician and the Service

- (1) No public officer may direct the Statistician or any member of the staff of the Service in any way that would affect either —
 - (a) the integrity of the statistics produced by the Service;
 - (b) the confidentiality of the information obtained or held by the Service.
- (2) However, the Statistician must ensure that the Service carries out its functions in accordance with directions that do not affect either of these matters.

PART 3 FUNCTIONS OF THE STATISTICAL SERVICE

10. Primary functions of the Service

- (1) The primary functions of the Service are —
 - (a) to assist the Falkland Islands Government in determining its policies by producing —
 - (i) an annual national account; and
 - (ii) social, economic and cultural statistics; and
 - (b) to provide these to the Governor and the Legislative Assembly.
- (2) The Governor may prescribe by order the matters in relation to which the Service is to collect, compile, analyse, abstract and include in the annual national account and other statistics produced by the Service.

11. Power of authorised officer to obtain information

- (1) This section applies where information is required to enable the Service to carry out its functions.
- (2) An authorised officer may require a person who has the information to supply it to the officer.
- (3) The officer may require the person to supply the information —
 - (a) by interviewing the person; or

(b) by giving the person a notice requiring the information to be provided within a specified period.

(4) A notice given under subsection (3)(b) may be —

(a) left at the person's last known address;

(b) posted to the person at that address; or

(c) sent to the person by fax or e-mail.

12. Information held by a governmental body

(1) It is the duty of a governmental body, if required to do so by an authorised officer, to supply to the officer information that is in the possession of the body.

(2) If the information required by the officer is subject to any restriction or prohibition on its supply or publication, it must still be supplied to the authorised officer but, except as provided by this Ordinance, otherwise remains subject to the restriction or prohibition.

(3) The public officer with responsibility for a governmental body must ensure that the body complies with its duty under subsection (1).

(4) In this section, "governmental body" means —

(a) a department of the Falkland Islands Government;

(b) a court;

(c) a statutory body; or

(d) a company in which the Government owns all or a majority of the shares.

PART 4 CENSUS AND SURVEYS

13. Service to carry out census

(1) It is a further function of the Service —

(a) to organise and to carry out censuses of the population of the Falkland Islands; and

(b) to provide the Governor and the Legislative Assembly with a report on the findings of each such census as soon as reasonably possible after the census has been carried out.

(2) A census is to be carried out in 2011, and in every fifth year thereafter, in a month to be fixed by the Governor by order.

- (3) The Governor may, by order, either —
- (a) bring forward a census to be held in one year to an earlier year; or
 - (b) postpone a census to be held in one year to the following year (and may do so even if that census has already been postponed).
- (4) The questions to be asked in a census are to be prescribed by the Governor by order.
- (5) The Governor may prescribe by order the method by which the census is to be undertaken.

14. Business surveys

- (1) It is a function of the Service to carry out business surveys.
- (2) As far as possible, business surveys are to be carried out at 12 month intervals.
- (3) The questions to be asked in a business survey are to be prescribed by the Governor by order.
- (4) The Governor may prescribe by order —
- (a) the method by which a business survey is to be carried out; and
 - (b) what an authorised officer may require a person to do for the purposes of a business survey.

15. Additional business surveys

- (1) The Governor may by order make it a function of the Service to carry out additional business surveys that are more limited in scope, both as to the number of businesses surveyed and the information sought.
- (2) An order under subsection (1) may specify —
- (a) the scope of additional business surveys;
 - (b) the intervals at which they are to be carried out;
 - (c) the questions to be asked in an additional business survey; and
 - (d) what an authorised officer may require a person to do for the purposes of an additional business survey.

16. Household surveys

- (1) It is a function of the Service to carry out household surveys.
- (2) As far as possible, household surveys are to be carried out at 12 month intervals.

(3) The questions to be asked in a household survey are to be prescribed by the Governor by order.

(4) The Governor may prescribe by order —

(a) the method by which a household survey is to be carried out; and

(b) what an authorised officer may require a person to do for the purposes of a household survey.

PART 5 CONFIDENTIALITY

17. Prohibition on divulging information

(1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following —

(a) the supplier of the information;

(b) the individual, company, body or organisation that it is about; and

(c) the undertaking or business to which it relates.

(2) A person who is or has been a member of the staff of the Service must not —

(a) permit a person who is not a member of the staff of the Service to examine the information; or

(b) otherwise knowingly disclose the information.

(3) Subsection (2) does not apply to information that identifies (or could be used to identify) an undertaking, a business or an organisation solely because the undertaking, a business or an organisation is the only one in the Falkland Islands within a particular sphere of activity.

(4) However, subsection (2) does apply to information that reveals any of the following in relation to an undertaking or business —

(a) the costs of production;

(b) the capital employed; or

(c) the profits made.

(5) This section does not apply to information required for the purposes of either —

(a) proceedings relating to an offence or alleged offence against this Ordinance; or

(b) the reference of the details of an alleged offence to the Attorney General under section 31(1).

18. Publication of information

(1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following —

(a) its supplier;

(b) the individual, company, body or organisation that it is about; or

(c) the undertaking or business to which it relates.

(2) The Service may publish the information if it is already available to the public.

(3) The Service may publish the information, even if it is not already available to the public, but only with the consent of both —

(a) its supplier; and

(b) either —

(i) the individual, company, body or organisation that the information is about; or

(ii) the owner of the undertaking or business to which it relates.

(4) The Service may also publish the information in the form of an index or list of undertakings, businesses and organisations, showing —

(a) their names, addresses and telephone numbers; and

(b) the products they produce, manufacture, process, transport, store, purchase or sell, or the services they provide.

19. Confidentiality and data security: power to make regulations

The Governor may make regulations in relation to —

(a) the confidentiality of information supplied to the Service; and

(b) the security of data held by it.

20. Information privileged

(1) This section applies to information supplied to the Service under this Ordinance that the Service is prohibited by this Ordinance from divulging.

(2) The information is privileged and may not be used as evidence in any proceedings (apart from those relating to an offence or alleged offence against this Ordinance).

(3) A person who is or has been a member of the staff of the Service may not, by an order of a court, tribunal or other body, be required in any proceedings (other than those relating to an offence or alleged offence against this Ordinance) —

(a) to give oral testimony in respect of information; or

(b) to produce a record that contains the information.

(4) In this section, “record” means any method of storing information.

PART 6 OFFENCES

Offences by members of the staff of the Service

21. False declarations, statements and reports

(1) A member of the staff of the Service who wilfully makes a false declaration, statement or report when carrying out a function of the Service is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

22. Obtaining information by pretending to carry out function of the Service

(1) A member of the staff of the Service who pretends to be carrying out a function of the Service to obtain information that the officer is not authorised to obtain is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

23. Publishing false or misleading information

(1) A member of the staff of the Service who publishes, under the name of the Service, information that the person knows or ought to reasonably know is false or misleading is guilty of an offence.

(2) A person who is convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

Offences by members (or former members) of the staff of the Service

24. Divulging information

(1) A person who is or has been a member of the staff of the Service and who contravenes section 17 is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

25. Use of information for gain

(1) A member or former member of the staff of the Service who uses for gain (whether by that person or another) information that is held by the Service but that is not available to the public is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —

- (a) forfeiture of the amount gained;
- (b) a fine not exceeding level 6 on the standard scale;
- (c) imprisonment for up to 1 year.

Offences by persons required to provide information

26. Application of sections 27 and 28

Sections 27 and 28 apply to persons required to provide information by an authorised officer carrying out a function of the Service.

27. Failure to provide information

(1) A person who, without reasonable excuse, refuses or neglects to provide information is guilty of an offence.

(2) A person convicted of an offence under subsection (1) is liable —

- (a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or
- (b) in any other case, to a fine not exceeding level 6 on the standard scale.

28. Providing false or misleading information

(1) A person who knowingly provides information that is false or misleading in a material particular is guilty of an offence.

(2) A person who provides information but is reckless as to whether the information is false or misleading in a material particular commits an offence.

(3) A person convicted of an offence under subsection (1) or (2) is liable —

- (a) in the case of an individual, to a fine not exceeding level 5 on the standard scale; or
- (b) in any other case, to a fine not exceeding level 7 on the standard scale.

Other offences

29. Hindering or obstructing an authorised officer

(1) A person who hinders or obstructs an authorised officer carrying out a function of the Service is guilty of an offence.

(2) A person convicted of an offence under subsection (1) is liable —

(a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or

(b) in any other case, to a fine not exceeding level 6 on the standard scale.

30. Pretending to be a member of the staff of the Service or an authorised officer to obtain information

(1) A person who pretends to be a member of the staff of the Service or an authorised officer to obtain information from a person is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —

(a) forfeiture of the amount (if any) gained (whether by that person or another) as a result;

(b) a fine not exceeding level 6 on the standard scale;

(c) imprisonment for up to 1 year.

Civil penalties

31. Civil penalties

(1) This section applies if the Statistician is satisfied that a person has committed an offence under section 27, 28 or 29.

(2) The Statistician may refer details of the alleged offence to the Attorney General.

(3) If the Attorney General is satisfied that it is an appropriate case in which to do so, the Attorney General may, instead of bringing a prosecution for the alleged offence, authorise the Statistician to impose a penalty on the person.

(4) If the Attorney General does so, the Statistician may impose a penalty on the person not exceeding —

(a) in the case of an individual, an amount equivalent to a fine of level 1 on the standard scale; or

(b) in any other case, an amount equivalent to a fine of level 5 on the standard scale.

(5) If the Statistician imposes a penalty on a person under subsection (4), the Statistician must notify the person of —

- (a) the decision that has been made;
- (b) the reasons for it; and
- (c) the period (which must be at least 14 days) within which the penalty is to be paid.

(6) A penalty imposed under subsection (4) —

- (a) must be paid by the person within the period specified in the notice given under subsection (5); and
- (b) if not paid, may be recovered from the person as a statutory debt.

PART 7 FINAL PROVISIONS

32. Subsidiary legislation

The Governor may make regulations and orders necessary or convenient for the purposes of this Ordinance.

33. Census Ordinance and subsidiary legislation repealed

(1) The Census Ordinance (Title 62.1) is repealed.

(2) The following are revoked —

- (a) Census Order (No 19 of 2006);
- (b) Census (Forms) Regulations (No 20 of 2006); and
- (c) Census (Forms) Regulation Order (No 21 of 2006).

SCHEDULE 1

OATH (OR AFFIRMATION) TO BE TAKEN BY MEMBERS OF THE STAFF OF THE SERVICE

section 6(1)

“I,, solemnly swear (or affirm) that:

- (a) I will fulfil my duties as a member of the staff of the Statistical Service (of the Falkland Islands Government*);

- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and
- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so.”

Note: The bracketed words marked “*” are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

SCHEDULE 2

OATH (OR AFFIRMATION) TO BE TAKEN BY INDIVIDUALS IF A BODY CORPORATE IS APPOINTED TO CARRY OUT FUNCTIONS OF THE SERVICE

section 6(2)

“I,, solemnly swear (or affirm) that:

- (a) I will fulfil my duties as an (officer/employee/agent) of (name of body corporate) to enable it to fulfil its contract with the Statistical Service (of the Falkland Islands Government*);
- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and
- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so.”

Note: The bracketed words marked “*” are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

Passed by the Legislature of the Falkland Islands on 22 October 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

Public Accounts Committee (Amendment)(No 2) Ordinance 2010

(No: 11 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of the Public Accounts Committee Ordinance
4. Section 16 repealed
5. New section 18A
6. Section 21 amended – Exclusion of public
7. Section 31 amended – Orders

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

PUBLIC ACCOUNTS COMMITTEE (AMENDMENT)(NO 2) ORDINANCE 2010

(No: 11 of 2010)

(assented to: 28 October 2010)

(commencement: on publication)

(published: 31 October 2010)

AN ORDINANCE

To amend the Public Accounts Committee Ordinance (No 11 of 2009).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Public Accounts Committee (Amendment)(No 2) Ordinance 2010.

2. Commencement

This Ordinance comes into effect on publication in the *Gazette*.

3. Amendment of the Public Accounts Committee Ordinance

This Ordinance amends the Public Accounts Committee Ordinance.

4. Section 16 repealed

Section 16 is repealed.

5. New section 18A

The following new section is inserted above section 19 —

“18A. Hearings ordinarily to be open to public

(1) Meetings at which the Committee is hearing evidence are to be open to the public, except as provided in section 21.

(2) The secretary is to give at least three clear days’ public notice of —

(a) the time and place of each meeting that is to be open to the public; and

(b) the fact that the documents mentioned in subsection (3) are available for public inspection at all reasonable times during office hours, at the office of the secretary.

(3) The secretary must, from the date of the notice, make available for public inspection the statements, reports, background papers and other documents that are to be considered at the meeting while, in the secretary’s view, it is likely to be open to the public.”

6. Section 21 amended – Exclusion of public

In section 21, the words “or considering” are repealed in both places where they appear.

7. Section 31 amended – Orders

(1) This section amends section 31.

(2) In paragraph (b), “19(1)” is repealed and “19(2)” substituted.

(3) In paragraph (c), “19(2)” is repealed and “19(3)” substituted.

Passed by the Legislature of the Falkland Islands on 22 October 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 21

30 November 2010

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The following are published in this Supplement –

Statistics Ordinance 2010 (Correction) Order 2010 (SR&O No 23 of 2010);
Taxes (Amendment) Bill 2010;
Smoking (Prohibition) Ordinance 2010 (No 12 of 2010);
Medical Services Tax Ordinance 2010 (No 13 of 2010);
Livestock and Meat Products Ordinance 2010 (No 14 of 2010);
Telecommunications (Amendment) Ordinance 2010 (No 15 of 2010);
Immigration (Amendment) Ordinance 2010 (No 16 of 2010);
Smoking (Signs) Regulations 2010 (SR&O No 24 of 2010);
Smoking (Amounts of Fixed Penalties) Order 2010 (SR&O No 25 of 2010);
Livestock and Meat Products (Identification and Movement of Cattle) Regulations 2010 (SR&O No 26 of 2010);
Livestock and Meat Products (Identification and Movement of Pigs) Regulations 2010 (SR&O No 27 of 2010);
Livestock and Meat Products (Identification and Movement of Sheep) Regulations 2010 (SR&O No 28 of 2010);
Immigration (Visa Exemption for Holders of Taiwanese Passports) Order 2010 (SR&O No 29 of 2010); and
Correction (Various) Order 2010 (SR&O No 30 of 2010).

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Statistics Ordinance 2010 (Correction) Order 2010

S. R. & O. No. 23 of 2010

Made: 4 November 2010

Published: 30 November 2010

Coming into force: 31 October 2010

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance (Title 67.2) I make the following order —

1. Title

This order is the Statistics Ordinance 2010 (Correction) Order 2010.

2. Commencement

This order is deemed to have come into force on 31 October 2010.

3. Correction of Statistics Ordinance 2010

Section 17(2)(b) is amended by inserting “or recklessly” between “knowingly” and “disclose”.

Made 4 November 2010

R. C. Cheek,
Acting Attorney General.

EXPLANATORY NOTE

(not forming part of the above order)

This order corrects an omission.

Taxes (Amendment) Bill 2010

(No: of 2010)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – INTRODUCTORY PROVISIONS

1. Title
2. Commencement

PART 2 – AMENDMENTS TO THE TAXES ORDINANCE FROM 1 JANUARY 2011

3. Amendment of the Taxes Ordinance
4. Section 2 amended – Interpretation
5. Section 8 amended – The charge to income tax
6. Section 11 amended – Time for payment of income tax and interest on overdue tax
7. Section 15 substituted
8. New section 15A
9. Section 49 amended – Tax credits for certain recipients of qualifying distributions
10. Section 57 amended – Exemptions
11. New section 57ZA
12. Section 57A amended – Donations to charities
13. Section 65 amended – Meaning of “relevant earnings”
14. Section 68 amended – Members’ contributions, and payments under schemes
15. Section 81 amended – Requirements relating to contributions
16. Section 97 substituted
17. New sections 97A to 97D
18. Section 99 substituted
19. New sections 99A and 99B
20. Section 116 amended – Initial allowances and writing-down allowances for capital expenditure
21. Section 183 amended – Postponement of tax on objection and appeal
22. Section 195 amended – Special provisions relating to non-residents
23. Section 200 amended – Residence of individuals
24. Section 206 amended – Earned income and unearned income

**PART 3 – AMENDMENT OF THE TAXES ORDINANCE BETWEEN 1 MARCH 2006 AND
31 DECEMBER 2010**

25. Section 3 of the Taxes (Amendment) Ordinance 2006
26. Section 15 of the Taxes Ordinance amended

PART 4 – AMENDMENT OF THE RETIREMENT PENSIONS ORDINANCE

27. Section 16 of the Retirement Pensions Ordinance repealed

PART 5 – AMENDMENT OF THE MEDICAL SERVICES TAX ORDINANCE

28. Section 28 of the Medical Services Tax Ordinance amended – End of year returns by employers

TAXES (AMENDMENT) BILL 2010

(No: of 2010)

(assented to: 2010)

(commencement: see section 2)

(published: 2010)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance (Title 69.1); and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTORY PROVISIONS

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2010.

2. Commencement

(1) Part 3 of this Ordinance is deemed to have come into force on 1 March 2006.

(2) The rest of this Ordinance is deemed to have come into force on 1 January 2011.

PART 2 AMENDMENTS TO THE TAXES ORDINANCE FROM 1 JANUARY 2011

3. Amendment of the Taxes Ordinance

This Part amends the Taxes Ordinance from 1 January 2011.

4. Section 2 amended – Interpretation

(1) This section amends section 2.

(2) Subsection (1) is amended by —

(a) inserting the following definition after the definition of “know-how” —

““letting” includes, in relation to a building, any arrangement or agreement (whether or not a lease) under which a person is allowed to occupy the building;”

(b) omitting the definition of “maintenance payments”; and

(c) inserting the following definition after the definition of “period of account” —

“permitted guests” means, in relation to a person —

(a) either —

(i) that person’s spouse or unmarried partner; or

(ii) one guest invited as the equivalent of a spouse or partner; and

(b) members of that person’s family or household;”.

(3) The following subsection is inserted after subsection (3) —

“(3A) For the purposes of this Ordinance, a director of a company is to be treated as being an employee of that company.”

(4) Subsection (9) is repealed and the following subsection substituted —

“(9) For the purposes of this Ordinance —

(a) letting a building in the Falkland Islands (or part of it) for residential use is to be treated as carrying on a business in the Falkland Islands; and

(b) letting a building outside the Falkland Islands (or part of it) for residential use is to be treated as carrying on a business in the place where the building is situated.”

(5) Subsection (10) is repealed.

5. Section 8 amended – The charge to income tax

Section 8(1)(e) is amended by inserting “distributions,” after “dividends.”

6. Section 11 amended – Time for payment of income tax and interest on overdue tax

Section 11(1)(b) is amended by omitting “the 1st September” and substituting “1 October”.

7. Section 15 substituted

Section 15 is repealed and the following substituted —

“15. Deduction of retirement pension contributions

“(1) Subsection (2) applies to —

(a) compulsory contributions made under section 10 of the Retirement Pensions Ordinance (No. 20 of 1996); and

(b) voluntary contributions made under section 12 of the Retirement Pensions Ordinance.

(2) When calculating the income of an individual for the purposes of income tax, the individual may deduct contributions to which this subsection applies but only if they are made by the individual on the individual's own behalf."

8. New section 15A

The following section is inserted after section 15 —

"15A. Deduction of certain annual subscriptions

(1) Subsection (2) applies when —

(a) an individual pays an annual subscription to a body of persons approved by the Commissioner under subsection (3); and

(b) the activities of the body are relevant to the performance by the individual of the duties of an office or employment.

(2) If this subsection applies, the individual may deduct the subscription from the emoluments of the office or employment.

(3) The Commissioner may approve a body of persons if —

(a) the activities of the body are carried on otherwise than for profit; and

(b) those activities are solely or mainly directed to either or both of the following objects —

(i) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions); and

(ii) the maintenance or improvement of standards of conduct and competence among the members of a profession.

(4) For the purposes of subsection (1)(b), the activities of a body are relevant to the performance of the duties of an office or employment if —

(a) the performance of those duties is directly affected by the knowledge advanced or spread by the body; or

(b) the duties involve the exercise of the profession with which the body is concerned."

9. Section 49 amended – Tax credits for certain recipients of qualifying distributions

(1) This section amends section 49.

(2) Subsection (4) is repealed and the following subsection substituted —

“(4) Subsection (4A) applies to a person entitled to a tax credit in respect of a distribution but it does not apply to companies resident in the Falkland Islands.”

(3) The following subsection is inserted after subsection (4) —

“(4A) A person to whom this subsection applies may claim to have the credit set against the tax chargeable on that person’s income for the year of assessment in which the distribution is made.”

10. Section 57 amended – Exemptions

Section 57(1) is amended by —

(a) omitting paragraph (l) and substituting the following paragraph —

“(l) interest receivable in respect of each of the following —

- (i) funds deposited in an interest-bearing account maintained at a bank or branch of a bank in the Falkland Islands;
- (ii) funds deposited with a registered co-operative society;
- (iii) funds held in the Falkland Landholdings Corporation Provident Fund; and
- (iv) funds held in the Falkland Islands Company Ltd Provident Fund;”

(b) omitting paragraph (q) and substituting the following paragraph —

“(q) payments made by way of bounty to —

- (i) members of the Falkland Islands Defence Force;
- (ii) reserve police officers in the Royal Falkland Islands Police; and
- (iii) retained firefighters in the Falkland Islands Fire and Rescue Service;” and

(c) adding the following paragraphs —

“(r) the income of individuals who are present in the Falkland Islands for less than 30 days in a 12 month period; and

(s) income from employment on board a fishing vessel of members of the crew of that vessel who are not resident in the Falkland Islands.”

11. New section 57ZA

The following section is inserted after section 57 —

“57ZA. Entertainment received by employees and permitted guests

(1) This section applies to entertainment received from a person’s employer by —

- (a) that person; and
- (b) that person’s permitted guests.

(2) If, in a year, the total cost to the employer of the entertainment is £100 or less, no tax is payable in respect of the entertainment.

(3) If, in a year, the total cost to the employer of the entertainment is more than £100, no tax is payable on the first £100 of that cost but the employee is liable to income tax on the amount by which the cost exceeds £100.

(4) For the purposes of this section, the cost of entertainment includes the cost of transport or accommodation incidentally provided in the course of providing that entertainment.”

12. Section 57A amended – Donations to charities

(1) This section amends section 57A.

(2) Subsection (2) is amended by omitting paragraph (a) and substituting the following —

“(a) “a charitable donation” means a donation to a registered charity that is —

- (i) a donation in money; or
- (ii) a donation in kind from a business.”

(3) The following subsection is inserted after subsection (2) —

“(2A) The amount to be deducted for a donation in kind made by a business is —

- (a) the cost to the business of the donation; or
- (b) if it is lower, the value to the charity of what is donated.”

13. Section 65 amended – Meaning of “relevant earnings”

Section 65(4) is repealed.

14. Section 68 amended – Members’ contributions, and payments under schemes

Section 68(2) is amended by omitting paragraph (a) and substituting the following paragraph —

“(a) £15,000;”

15. Section 81 amended – Requirements relating to contributions

Section 81(2) is amended by omitting paragraph (a) and substituting the following paragraph —

“(a) £15,000;”

16. Section 97 substituted

Section 97 is repealed and the following substituted —

“97. Allowable deductions: general principle

(1) Subsection (3) sets out the general principle according to which the income of a business is to be calculated for a relevant accounting period.

(2) The rest of this Chapter sets out rules that apply in specific situations.

(3) The general principle is that that outgoings and expenses may be deducted from the income of the business if (but only if) —

- (a) they were incurred during the relevant accounting period;
- (b) they were incurred wholly and exclusively for the purposes of the business; and
- (c) they are not of a capital nature.”

17. New sections 97A to 97D

The following sections are inserted after section 97 —

“97A. Allowable deductions: specific examples

The following are specific examples of outgoings and expenses that may be deducted when calculating the income of a business for a relevant accounting period —

- (a) interest paid on money borrowed for the purposes of the business, but only to the extent that the Commissioner is satisfied that the interest was payable on capital used to acquire the income of the business;
- (b) the cost (written off over the period of the loan) of incidental expenses reasonably incurred in relation to loan finance wholly and exclusively used for the purposes of the business;
- (c) rent paid for land or buildings occupied for the purposes of the business;
- (d) expenditure on —
 - (i) repairing premises, plant and machinery used in the business; or
 - (ii) renewing, repairing or altering tools and equipment used in the business;
- (e) expenditure reasonably incurred to advertise or promote the business (other than on gifts or entertainment);

(f) bad and doubtful debts incurred in a business, but only if the conditions in section 97B are satisfied; and

(g) other deductions prescribed in rules made under section 97D.

97B. Bad and doubtful debts

(1) This section sets out the three conditions that must be satisfied for a bad or doubtful debt to be deducted under section 97A(1)(f).

(2) The first condition is that the debt must have been due and payable before the start of the relevant accounting period for which the deduction is made.

(3) The second condition is that either —

(a) the Commissioner must be satisfied that the debt became bad during the relevant accounting period; or

(b) in the case of doubtful debts, the Commissioner must be satisfied about the extent to which it is estimated that they became bad during that period.

(4) The third condition is that the Commissioner must be satisfied that all reasonable steps have been taken to recover the debt.

97C. Recovery of bad or doubtful debts

(1) Subsection (2) applies to sums that are recovered on account of amounts previously written off or allowed in respect of bad or doubtful debts.

(2) Sums to which this subsection applies are to be treated for the purposes of this Ordinance as receipts of the business for the period in which they are recovered.

97D. Power to make rules about allowable deductions

The Governor may make rules providing for either or both of the following matters —

(a) prescribing deductions that may be made under section 97A(1)(g); and

(b) the method of calculating or estimating deductions allowed under section 97A or 97B.”

18. Section 99 substituted

Section 99 is repealed and the following section substituted —

“99. Entertaining employees and permitted guests

(1) When calculating the income or profits of a business, expenditure on entertainment may only be deducted in accordance with the rest of this section.

(2) Subsections (3) and (4) apply to persons carrying on business who are also employers.

(3) A person to whom this section applies may deduct, up to the limit in subsection (4), the cost of entertaining —

(a) one or more of that person's employees; and

(b) an employee's permitted guests.

(4) The maximum amount that can be deducted in a single year for each group consisting of an employee and that employee's permitted guests is £100.

(5) For the purposes of subsection (3) and (4), the cost of entertainment includes the cost of transport or accommodation incidentally provided in the course of providing that entertainment.”

19. New sections 99A and 99B

The following sections are inserted after section 99 —

“99A. No other deductions for gifts or entertainment

The following expenditure is wholly disallowed for the purposes of ascertaining the profits of a business —

(a) expenditure on gifts, other than expenditure that is deductible under section 57A (which allows deductions for charitable donations); and

(b) expenditure on entertainment, other than expenditure that is deductible under section 99 (which allows limited deductions for expenditure on entertainment for employees and their permitted guests).

“99B. Wear and tear deduction for residential letting outside the Falkland Islands

(1) This section applies to a business if it consists of letting a building outside the Falkland Islands (or part of one) for residential use.

(2) A deduction of 10% of the gross income of the business may be claimed in respect of wear and tear to the building and its contents and furnishings.

(3) No other deduction may be claimed for repairs to the building or for the provision, renewal or replacement of its contents or furnishings.”

20. Section 116 amended – Initial allowances and writing-down allowances for capital expenditure

(1) This section amends section 116.

(2) Subsection (2) is amended by omitting “110” and substituting “107”.

(3) Subsection (9) is repealed and the following substituted —

“(9) Unless subsection (10) applies, the writing-down allowance for a building is 10% of the expenditure incurred in acquiring the building.”

(4) The following subsection is inserted after subsection (9) —

“(9A) An allowance may not be claimed under subsection (9) for a building outside the Falkland Islands which is let for residential use.”

21. Section 183 amended – Postponement of tax on objection and appeal

Section 183(8)(a)(iii) is amended by omitting “1st September” and substituting “1 October”.

22. Section 195 amended – Special provisions relating to non-residents

(1) This section amends section 195.

(2) Subsection (2) is repealed and the following substituted —

“(2) Subsections (2A) and (2B) apply to a non-resident person who —

(a) is either —

(i) ordinarily resident in the Falkland Islands; or

(ii) present in the Falkland Islands for part of the year immediately preceding a year of assessment; and

(b) does not make a claim under subsection (3).”

(3) The following subsections are inserted after subsection (2) —

“(2A) When the chargeable income of a non-resident person to whom this subsection applies is calculated for the year of assessment, the non-resident person may deduct —

(a) compulsory contributions made under section 10 of the Retirement Pensions Ordinance; and

(b) the personal allowance under section 16(1).

(2B) A non-resident person to whom this subsection applies is not entitled to the following —

(a) deductions under section 15 for voluntary contributions made under section 12 of the Retirement Pensions Ordinance;

(b) deductions under section 15A for annual subscriptions;

(c) relief under section 67 for contributions to an approved retirement benefit schemes or the Falkland Islands Pensions Scheme; or

(d) relief under section 68 for contributions under approved personal pension arrangements.”

23. Section 200 amended – Residence of individuals

Section 200(2) is repealed and the following substituted —

“(2) In this Ordinance, a reference to an individual who is resident in the Falkland Islands in a year immediately preceding a year of assessment is a reference to a person who is actually in the Falkland Islands for 183 days or more in that preceding year.”

24. Section 206 amended – Earned income and unearned income

(1) This section amends section 206.

(2) Subsection (7) is repealed and the following substituted —

“(7) An allowance payable under Part 2 or Part 3 of the Members’ Remuneration Ordinance (No. 13 of 2009) is to be treated as earned income of the recipient.”

(3) Subsection (8) is repealed.

PART 3

AMENDMENT OF THE TAXES ORDINANCE BETWEEN 1 MARCH 2006 AND 31 DECEMBER 2010

25. Section 3 of the Taxes (Amendment) Ordinance 2006

Section 3 of the Taxes (Amendment) Ordinance 2006 (No. 6 of 2006) is deemed never to have come into force.

26. Section 15 of the Taxes Ordinance amended

(1) Section 15 of the Taxes Ordinance is deemed to have been amended by this section from 1 March 2006 until its substitution under section 7.

(2) In subsection (3), paragraph (d) is omitted and the following substituted —

“(d) contributions under the Retirement Pensions Ordinance (No. 20 of 1996) which are —

(i) made by the individual on the individual’s own behalf; and

(ii) deductible under section 16 of the Retirement Pensions Ordinance.”

PART 4
AMENDMENT OF THE RETIREMENT PENSIONS ORDINANCE

27. Section 16 of the Retirement Pensions Ordinance repealed

Section 16 of the Retirement Pensions Ordinance (No. 20 of 1996) is repealed.

PART 5
AMENDMENT OF THE MEDICAL SERVICES TAX ORDINANCE

28. Section 28 of the Medical Services Tax Ordinance amended – End of year returns by employers

Section 28(3) of the Medical Services Tax Ordinance (No 13 of 2010) is repealed and the following substituted —

“(3) If the Commissioner gives notice to a person under subsection (2), the person must comply with the notice within the period specified by the Commissioner in it.”

OBJECTS AND REASONS

This Bill would make a number of minor amendments to the Taxes Ordinance (Title 69.1) and two connected amendments: one to the Retirement Pensions Ordinance (No 20 of 1996) and the other to the Medical Services Tax Ordinance (No 13 of 2010).

Most of the amendments reflect existing practice (including Extra Statutory Concessions 1, 2, 8 and 11, which will be withdrawn in due course).

All but Part 3 would be back-dated to 1 January 2011. However, this Bill is being published in the *Gazette* before that date and the proposals it contains were announced on 30 November 2010.

Part 3 of the Bill would be back-dated to 1 March 2006. This is to correct an error in an amendment made to the Taxes Ordinance by the Taxes (Amendment) Ordinance 2006 (No 6 of 2006), which came into force on that date.

Part 2 of the Bill would amend the Taxes Ordinance from 1 January 2010.

Clause 4 would amend the interpretation provisions in section 2. The following changes are substantive:

- (a) directors will now be treated for all purposes under the Taxes Ordinance (and subsidiary legislation made under it) as employees of the company; and
- (b) letting a building outside the Falkland Islands will now be treated as a business.

Clause 5 would amend section 8 to include all distributions (and not just dividends) in the definition of income chargeable to tax.

Clause 6 would amend section 11 to delay by a month (from 1 September to 1 October) the date in each year by which tax must normally be paid.

Clauses 7 and 8 would replace the existing section 15 (much of which was repealed when earned income relief was abolished) with a substituted section 15 and a new section 15A. The substituted section 15 (to be inserted by *clause 7*) would deal with deductions for Retirement Pension Contributions. The new section 15A (to be inserted by *clause 8*) would deal with deductions for certain annual subscriptions. *Part 3* would amend the existing section 15 from 1 March 2006 until *clauses 7 and 8* come into effect on 1 January 2011.

Clause 9 would amend section 49 to prevent individuals claiming refunds of resident in the Falkland Islands from claiming repayments when they have tax credits on distributions for more than the total amount of income tax they have to pay. The current position still reflects the former system of Advance Corporation Tax.

Clause 10 would amend section 57 to incorporate three Extra Statutory Concessions into the Taxes Ordinance:

- (a) ESC 1 (which deals with individuals who are present in the Falkland Islands for less than 30 days in a 12 month period);
- (b) ESC 2 (which deals with fishing crews); and
- (c) ESC 11 (which deals with the Falkland Islands Company and Falkland Landholdings Corporation Provident Funds).

Clause 10 would also extend the existing exemption for bounties payable to members of the Falkland Islands Defence Force to those payable to reserve police officers and retained firefighters.

Clause 11 would insert a new section 57ZA to incorporate Extra Statutory Concession 8 (as it relates to employees and their permitted guests, which would be defined in section 2) into the Taxes Ordinance.

Clause 12 would amend section 57A to allow businesses to make deductions for donations made to charity in kind rather than in money.

Clause 13 would amend section 65 to remove a provision that became obsolete when independent taxation of husbands and wives was introduced.

Clauses 14 and 15 would amend sections 68 and 81 to increase (from £10,000 to £15,000) the limit on pension contributions for which relief from income tax can be claimed. This reflects existing practice.

Clauses 16 and 17 would replace the existing section 97 with a substituted section 97 and new sections 97A to 97D. The provisions would be made clearer and there would be a substantive

change to clarify that advertising and promotional expenses can be claimed but not most expenditure on gifts or entertainment.

Clauses 18 and 19 would replace the existing section 99 with a substituted section 99 and a new section 99A and would also insert a new section 99B. The substituted section 99 would incorporate Extra Statutory Concession 8 (as it relates to employers) into the Taxes Ordinance and the new section 99A would disallow deductions for expenditure for other entertainment and gifts (other than charitable donations). The new section 99B would allow a flat-rate deduction for wear and tear from income from letting overseas property for residential use.

Clause 20 would correct a cross-reference in section 116 to clarify that writing-down allowances cannot be claimed under section 116 or 117 if they have already been claimed under section 107 for expenditure on scientific research (or under section 112 for expenditure on petroleum exploration and appraisal, intangible drilling costs and plant and machinery used in ring-fence trades). It would also provide for balancing charges to be payable on residential property and exclude overseas property let for residential use from the writing-down allowance system.

Clause 21 would make a consequential amendment to section 183 (which deals with postponement of tax pending an objection and/or appeal) to reflect the delay to the date in each year by which tax must normally be paid that would be made by *clause 6*.

Clause 22 would amend section 195. The substantive change would be that individuals who are not resident in the Falkland Islands for tax purposes (because they were physically present in the Falkland Islands for fewer than 183 days in a year) could claim a deduction for compulsory Retirement Pension Contributions (but not for other pension contributions). It would remain the position that the personal allowance for a non-resident would be apportioned according to the length of time actually spent in the Islands under the Taxes (Apportionment of Deductions) Rules (Title 69.1.1).

Clause 23 would amend section 200. The substantive change would be that individuals are no longer to be regarded as resident in the Falkland Islands in the years in which they arrive or depart (unless they are present for 183 days or more in those years). This reflects existing practice.

Clause 24 would amend section 206 to replace one provision that has been superseded because of a change in the legislation dealing with the allowances and expenses paid to Members of the Legislative Assembly and to remove another that became obsolete when independent taxation was introduced for husbands and wives.

Part 3 would retrospectively amend section 15 of the Taxes Ordinance between 1 March 2006 and 31 December 2010.

Section 3 of the Taxes (Amendment) Ordinance 2006 amended section 15 of the Taxes Ordinance but, because of an incorrect cross-reference, repealed the whole of section 15(3)(d) (including wording in what was thought to be a separate paragraph) and purported to amend that wording.

Clauses 25 and 26 would deal with that by means of a legal fiction that the amendment never came into force and replacing it with a back-dated amendment to achieve the result that was originally intended.

A completely new version of section 15 would be substituted by *clause 7* and that would apply from 1 January 2011.

Part 4 would make a connected amendment to the Retirement Pensions Ordinance.

Clause 27 would repeal section 16 of the Retirement Pensions Ordinance, which makes separate provision for the deduction of Retirement Pension Contributions. These deductions would be dealt with in sections 15 and 195.

Part 5 would make a connected amendment to the Medical Services Tax Ordinance.

Clause 28 would amend section 28 of the Medical Services Tax Ordinance (No 13 of 2010) to bring the period within which employers can be required to make end of year returns for Medical Services Tax into line with that for returns to be made under the Taxes Ordinance.

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

Smoking (Prohibition) Ordinance 2010

(No. 12 of 2010)

ARRANGEMENT OF PROVISIONS

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2. Commencement
3. Interpretation

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4. Smoking ban

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5. Designated places
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15. Duty to prevent others from smoking
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ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

SMOKING (PROHIBITION) ORDINANCE 2010

(No. 12 of 2010)

(assented to: 29 November 2010)

(commencement: in accordance with section 2)

(published: 30 November 2010)

AN ORDINANCE

To make provision for the protection of public health by imposing prohibitions on the smoking of tobacco and tobacco products, and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

**PART 1
INTRODUCTORY PROVISIONS**

1. Title

This Ordinance is the Smoking (Prohibition) Ordinance 2010.

2. Commencement

This Ordinance comes into force on a date to be fixed by the Governor by notice in the *Gazette*.

3. Interpretation

In this Ordinance—

“Chief Police Officer” means either —

(a) the person appointed by the Governor under section 4(1) of the Police Ordinance (Title 56.1) to be the chief police officer; or

(b) a police officer designated by the Governor under section 4(2) of the Police Ordinance to carry out some or all of the duties of the chief police officer;

“cigarettes” include cut tobacco rolled up in paper, tobacco leaf or another material;

“court of summary jurisdiction” means the Summary Court or the Magistrate’s Court;

“default fine” means a fine for which a person becomes liable under paragraph 13(2) of the Schedule;

“designated place” means a place designated under section 5;

“designated vehicle” means a vehicle designated under section 6;

“employee” means an individual who either —

(a) works under a contract of service or apprenticeship, regardless of whether —

(i) the contract is express or implied; and

(ii) whether it was made orally, in writing or in some other way; or

(b) undertakes voluntary work;

“enclosed public place” means a place —

(a) to which members of the public (or of any section of the public) have access, regardless of whether —

(i) access is as of right or by virtue of express or implied permission; and

(ii) payment is required for access or not;

(b) which is covered, either wholly or substantially, by a roof, ceiling or similar structure, regardless of whether —

(i) the roof, ceiling or similar structure is permanent or temporary; and

(ii) it is fixed or moveable; and

(c) which has one or more walls or similar structures (including windows and doors, gates and other means of entry or exit) around more than 50% of its perimeter, regardless of whether the walls or similar structures are permanent or temporary;

“enclosed workplace” means a place —

- (a) which is used as, or as part of, a place of work by one or more employees, and
- (b) which is covered, either wholly or substantially, by a roof, ceiling or similar structure, regardless of whether —
 - (i) the roof, ceiling or similar structure is permanent or temporary; and
 - (ii) it is fixed or moveable; and
- (c) which has one or more walls or similar structures (including windows and doors, gates and other means of entry or exit) around more than 50% of its perimeter, regardless of whether the walls or similar structures are permanent or temporary;

“exemption” means an exemption from the smoking ban which is either —

- (a) provided for in Part 4: or
- (b) granted under section 14;

“expiry date” means, in relation to a fixed penalty notice, the date by which a person must either pay a fixed penalty or serve a hearing notice, which is either —

- (a) the date specified in the notice under paragraph 1(1)(c) of the Schedule; or
- (b) the new expiry date of a notice confirmed by the Attorney General under paragraph 5(2)(a) of the Schedule;

“fixed penalty notice” means a notice issued under section 34(2) or section 35(3), offering a person the opportunity to discharge criminal liability for an offence by paying a fixed penalty instead of being prosecuted for the offence;

“hearing notice” means a notice given by a person under paragraph 1(2)(a)(ii) of the Schedule, requesting a hearing in relation to an offence in order either —

- (a) to contest liability for the offence; or
- (b) to seek a determination by a court regarding the appropriate penalty for the offence;

“hotel or similar establishment” means —

- (a) a hotel;
- (b) a bed and breakfast establishment;

(c) self-catering holiday accommodation; and

(d) other short-term accommodation for tourists;

“licence” means a licence or protection order granted under the Licensing Ordinance (Title 48.2);

“nominated police officer” means a police officer nominated by the Chief Police Officer to receive notifications on behalf of the Chief Police Officer;

“offence” includes an alleged offence;

“offence against this Ordinance” includes an offence against subsidiary legislation made under this Ordinance;

“officer”, in relation to a body corporate, has the meaning given to it by section 31(3);

“pilot in command” means, in relation to an aircraft, either —

(a) the pilot designated by the operator of the aircraft as being in command and charged with the safe conduct of a flight; or,

(b) if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“place” —

(a) includes —

(i) a building or other premises; and

(ii) a stall, tent or other moveable structure; but

(b) does not include a vehicle, vessel or aircraft;

“public vehicle” means a vehicle which is —

(a) licensed as or held out as —

(i) a taxi;

(ii) a private hire vehicle; or

(iii) a public service vehicle;

(b) used to carry one or more passengers who have either —

(i) paid a fare for their journey; or

- (ii) hired the vehicle with its driver;
- (c) used in plying for hire for the purpose of carrying passengers; or
- (d) used as a shelter to which members of the public (or of any section of the public) have access, regardless of whether —
 - (i) access is as of right or by virtue of express or implied permission; and
 - (ii) payment is required for access or not;

“relevant aircraft” means an aircraft —

- (a) to which one or more of the following apply —
 - (i) one or more employees are working on board; or
 - (ii) it is being used to carry one or more passengers who have either —
 - (aa) paid a fare for their journey; or
 - (bb) hired the aircraft with its pilot; or
 - (iii) it is being used to carry passengers for commercial purposes; and
- (b) which is —
 - (i) on the ground anywhere in the Falkland Islands,
 - (ii) flying from one place in the Falkland Islands to another place in the Falkland Islands;
 - (iii) flying from a place in the Falkland Islands back to the same place, or
 - (iv) within Falkland Islands airspace during a flight to or from anywhere in the Falkland Islands;

“relevant maximum” has the meaning given to it in section 41(7);

“senior police officer” means a police officer with the rank of sergeant or above;

“sheltered accommodation” means accommodation in which part-time personal care is provided to a person who otherwise lives there independently;

“smoking” includes inhaling, exhaling, carrying, holding, or otherwise having control over ignited tobacco or an ignited tobacco product;

“smoking ban” means the prohibition on smoking in section 4;

“tobacco” includes —

- (a) substitutes for tobacco; and
- (b) mixtures containing tobacco or a substitute for tobacco;

“tobacco products” includes cigarettes and cigars; and

“trigger date” has the meaning given to it in paragraph 19(2) of the Schedule.

PART 2 SMOKING BAN

4. Smoking ban

Unless an exemption applies, smoking is prohibited in each of the following —

- (a) enclosed public places,
- (b) enclosed workplaces,
- (c) public vehicles,
- (d) relevant aircraft,
- (e) designated places, and
- (f) designated vehicles.

PART 3 POWERS TO DESIGNATE ADDITIONAL PLACES AND VEHICLES

5. Designated places

The Governor may by order designate the following to be designated places to which the smoking ban applies —

- (a) one or more specific places; or
- (b) places of a category described in the order.

6. Designated vehicles

The Governor may by order designate the following to be designated vehicles to which the smoking ban applies —

- (a) one or more specific vehicles; or

(b) vehicles of a category described in the order.

7. Designations: additional provisions

(1) A designation under section 5 or 6 may be made for either —

(a) an indefinite period; or

(b) a specified one.

(2) A designation may also have effect either —

(a) at all times; or

(b) only while one or more of the following apply —

(i) at specific times;

(ii) in specific circumstances; and

(iii) if specific conditions are satisfied.

**PART 4
EXEMPTIONS**

8. Exemptions

This Part provides for exemptions from the smoking ban.

9. Homes

(1) The smoking ban does not apply in a person's home, even if that person is visited by someone for the purpose of working there.

(2) However, subsection (1) does not allow smoking in a part of a person's home in which —

(a) that person (or someone that person lives with) operates a business; and

(b) in the course of that business, either —

(i) another person is employed; or

(ii) customers (or other visitors) are received.

(3) For the purposes of subsection (1), a person's home does not include —

(a) a communal area in shared accommodation;

(b) a prison; or

- (c) a hospital (apart from sheltered accommodation within a hospital); or
- (d) a hotel or similar establishment (however long it is occupied by the person).

10. Smoking bedrooms in hotels, etc

- (1) The smoking ban does not apply in a bedroom within a hotel or similar establishment if the conditions in subsection (2) are satisfied.
- (2) The conditions that must be satisfied for the purposes of subsection (1) are that —
 - (a) the bedroom must have been designated in writing as a smoking bedroom by the proprietor of the hotel or similar establishment or another person in charge of it; and
 - (b) a sign or notice indicating that the bedroom is a smoking bedroom must be displayed —
 - (i) on the door into the bedroom and
 - (ii) in a prominent position inside the bedroom;
 - (c) the bedroom must have a ceiling and (except for doors and windows) must be completely enclosed by solid walls from floor to ceiling;
 - (d) must not have a ventilation system that ventilates into any other part of the building;
- (3) For the purposes of subsection (1), a bedroom does not include —
 - (a) a communal area;
 - (b) a dormitory; or
 - (c) another room made available for persons who have made separate arrangements to share it at the same time.

11. Private clubs and associations

- (1) The smoking ban does not apply in premises operated by a private club or association if —
 - (a) the conditions in subsection (2) are satisfied; and
 - (b) access to the premises is only available to the individuals identified in subsection (3).
- (2) The conditions that must be satisfied for the purposes of subsection (1) are —
 - (a) the club or association must operate on a non-profit basis;
 - (b) the club or association must not have any paid employees;

(c) a resolution of the membership of the club or association allowing smoking on the premises must have been passed within the previous 15 months;

(d) the resolution must have been passed at a general meeting of the club or association of which proper notice has been given;

(e) at least two-thirds of the members of the club or association must have voted in favour of the resolution when it was passed; and

(f) notice of the resolution having been passed must have been given to a nominated police officer and the Attorney General.

(3) Access to the premises must only be available to the following individuals —

(a) those who —

(i) are members of the club or association; and

(ii) either —

(aa) have been members for at least two days; or

(bb) did not become members until at least two days after applying for membership or being nominated for it; and

(b) *bona fide* guests of those identified in paragraph (a).

12. Warehouses, garages and shearing sheds

(1) The smoking ban does not apply in a warehouse, garage or shearing shed if the conditions in subsection (2) are satisfied.

(2) The conditions that must be satisfied for the purposes of subsection (1) are —

(a) the warehouse, garage or shearing shed must have an internal volume of at least 450 cubic metres; and

(b) there can be no more than three employees in the warehouse, garage or shearing shed at the time.

(3) If a warehouse, garage or shearing shed is internally divided (whether the division is permanent or temporary) —

(a) the internal volume of each division must be calculated separately for the purposes of subsection (2)(a);

(b) the internal volume of a division must be at least 450 cubic metres for smoking to be permitted in it.

13. Power to amend Part 4

The Governor may by order amend Part 4 in order to —

- (a) create new exemptions from the smoking ban;
- (b) vary existing exemptions; or
- (c) repeal existing exemptions.

14. Power to grant temporary or specific exemptions

(1) The Governor may by order grant temporary or specific exemptions from the smoking ban.

(2) Exemptions may only be granted under subsection (1) for a specified period.

(3) Exemption granted under subsection (1) may apply —

- (a) on specific occasions;
- (b) at specific times;
- (c) in specific circumstances; or
- (d) if specific conditions are satisfied.

PART 5 DUTIES ON OTHERS

15. Duty to prevent others from smoking

Each of the following persons is under a duty to prevent others from smoking in a place, vehicle or aircraft to which the smoking ban applies —

- (a) in the case of a place, the person in charge of that place;
- (b) in the case of a vehicle —
 - (i) the driver; and
 - (ii) each other person in charge of a passenger compartment or section;
- (c) in the case of an aircraft —
 - (i) the pilot in command; and

- (ii) each other person in charge of a passenger compartment or section;
- (d) each other person with management responsibilities for the place, vehicle or aircraft; and
- (e) each other person responsible for order or safety in the place, vehicle or aircraft.

16. Duty on licensee in relation to licensed premises

The holder of a licence is under a duty to take reasonable steps to prevent others from smoking in breach of the smoking ban on the premises covered by the licence.

PART 6 SIGNS AND NOTICES

17. Power to require display of signs or notices

- (1) The Governor may make regulations requiring the display of signs or notices in places, vehicles and aircraft to which the smoking ban applies.
- (2) Regulations made under subsection (1) may include provision for offences against the regulations to be punished by a maximum fine of up to level 6 on the standard scale.

18. Interference with signs and notices

- (1) A person who is not authorised to do so must not remove, alter, conceal, deface, damage or destroy a sign or notice displayed in order to comply with regulations made under section 17.
- (2) The following persons are authorised for the purpose of subsection (1) —
 - (a) a person under a duty to ensure that the sign is displayed;
 - (b) another person acting on the instructions of a person under that duty.

PART 7 ENFORCEMENT

19. Power of entry

- (1) A police officer may enter a place, vehicle or aircraft in which the smoking ban applies in order to find out whether or not an offence against this Ordinance has been or is being committed.
- (2) The power of entry under subsection (1) may be exercised by reasonable force, if it is necessary to do so.

20. Powers of search, etc

- (1) The powers in this section apply —
 - (a) when a police officer has entered a place, vehicle or aircraft in which the smoking ban applies; and

(b) to the extent that the police officer considers reasonably necessary for the purpose of finding out whether or not an offence against this Ordinance has been or is being committed.

(2) The powers in this section apply whether or not the police officer has entered using the power in section 19(1).

(3) The police officer may —

- (a) search the place, vehicle or aircraft;
- (b) carry out inspections and examinations; and
- (c) take photographs and recordings.

(4) The police officer may require the production of substances and products found in the place, vehicle or aircraft and may —

- (a) inspect them;
- (b) take and retain possession of them; and
- (c) take and retain samples of them or extracts from them for later analysis.

(5) The police officer may also require anyone in the place, vehicle or aircraft to provide facilities, assistance or information.

21. Power to require identification of individuals

(1) The powers in this section apply if a police officer has reason to believe that a person either —

- (a) is committing an offence against this Ordinance; or
- (b) has committed an offence against it.

(2) The police officer may require a person —

- (a) to provide the police officer with the person's name and address; and
- (b) to produce identification confirming the person's name and address.

PART 8 OFFENCES

22. Smoking in breach of smoking ban

(1) A person who smokes in breach of the smoking ban is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 1 on the standard scale.

(3) It is not a defence that a sign or notice should have been displayed in the place, vehicle or aircraft in which the offence was committed but either —

(a) was not displayed at all;

(b) was not displayed properly; or

(c) had been altered, concealed, defaced, damaged or destroyed.

23. Failure to comply with duty to prevent others from smoking

(1) A person who is subject to a duty under section 15 and who does not prevent others from smoking in breach of the smoking ban is guilty of an offence.

(2) It is a defence for a person charged with an offence under subsection (1) to show that one or more of the following applies —

(a) the person had taken reasonable steps to prevent others from smoking in the place, vehicle or aircraft;

(b) the person did not know (and could not reasonably have been expected to know) that anyone was smoking there; or

(c) the person had another reasonable excuse in all of the circumstances for not preventing smoking in the place, vehicle or aircraft.

(3) A person convicted of an offence against subsection (1) is liable to a fine of up to level 3 on the standard scale.

24. Failure by licensee to comply with duty in relation to licensed premises

(1) A holder of a licence who does not take reasonable steps to prevent others from smoking in breach of the smoking ban on the premises covered by the licence is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 4 on the standard scale.

25. Breach of regulations under section 17

(1) A person who fails to comply with an obligation imposed in or under regulations made under section 17 is guilty of an offence.

(2) Subsection (1) only applies to the extent (if any) that the failure to comply does not amount to a more specific offence under the regulations themselves.

(3) A person convicted of an offence against subsection (1) is liable to a fine of up to level 3 on the standard scale.

26. Unauthorised interference with sign or notice

(1) A person who intentionally alters, conceals, defaces, damages or destroys a sign or notice in breach of section 18 is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to —

(a) level 3 in the case of an offence committed on premises licensed under the Licensing Ordinance; or

(b) level 2 in any other case.

27. Obstruction, etc

(1) A person who intentionally hinders or obstructs a police officer in the course of enforcing this Ordinance is guilty of an offence.

(2) A person who, without reasonable excuse, fails to provide a police officer with a facility, assistance or information that the police officer reasonably requires under section 20(5) is guilty of an offence.

(3) A person convicted of an offence against subsection (1) or (2) is liable to a fine of up to level 4 on the standard scale.

28. Provision of false or misleading information

(1) This section applies when a police officer has required a person under section 20(5) to provide the police officer with information.

(2) A person who intentionally provides information that is false or misleading in a material particular is guilty of an offence.

(3) A person who provides information but is reckless as to whether the information is false or misleading in a material particular is guilty of an offence.

(4) A person convicted of an offence against subsection (2) or (3) is liable to a fine of up to level 4 on the standard scale.

29. Failure to provide name and address or identification

(1) A person who fails to provide a name or address when required to do so under section 21(2)(a) is guilty of an offence.

(2) A person who, without reasonable excuse, fails to produce identification when required to do so under section 21(2)(b) is guilty of an offence.

(3) A person convicted of an offence against subsection (1) or (2) is liable to a fine of up to level 2 on the standard scale.

30. Providing false name or address

(1) A person who provides a false name or address when required to provide a name and address under section 21(2)(a) is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to level 3 on the standard scale.

31. Offences by bodies corporate

(1) This section applies if —

(a) an offence against this Ordinance is committed by a body corporate; and

(b) it is proved that either —

(i) the offence was committed with the consent or connivance of an officer of the body corporate; or

(ii) the offence was attributable to neglect on the part of an officer of the body corporate.

(2) If this section applies, the officer as well as the body corporate is —

(a) guilty of the offence; and

(b) liable to be proceeded against and punished accordingly.

(3) For the purposes of this section, “officer” includes, in relation to a body corporate, a person who is purporting (or has done) to act as an officer of the body corporate.

(4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts and defaults of a member in connection with that member’s functions of management as if the member were an officer of the body corporate.

32. Power to vary penalties

The Governor may by order amend one or more of the sections in this Part in order to vary the maximum fine for an offence by substituting one level on the standard scale for another.

**PART 9
FIXED PENALTIES**

33. Fixed penalty provisions (and power to vary Schedule)

(1) This Part deals with fixed penalties that may, in certain circumstances, be imposed on persons for offences against this Ordinance instead of prosecutions being brought against them.

(2) The Schedule makes detailed provision regarding the procedure to be followed in relation to fixed penalties.

(3) The Governor may by order —

(a) amend the Schedule to vary the procedure to be followed in relation to fixed penalties; and

(b) make consequential amendments elsewhere in the Ordinance.

34. Fixed penalty notices issued “on the spot”

(1) Subsection (2) applies if a police officer —

(a) has reason to believe that a person either —

(i) is committing an offence against this Ordinance; or

(ii) has just committed an offence against it; and

(b) that is appropriate in the circumstances to impose a fixed penalty on the person rather than reporting the offence to the Attorney General with a view to prosecution.

(2) If this subsection applies, the police officer may issue the person with a fixed penalty notice for the offence.

(3) A fixed penalty notice issued under subsection (2) must be given to the person by the police officer, either at the time or as soon as possible afterwards.

35. Fixed penalty notices issued subsequently

(1) Subsection (3) applies if a senior police officer is satisfied that —

(a) a person has committed an offence against the Ordinance; and

(b) it is an appropriate case in which to impose a fixed penalty on the person rather than reporting the matter to the Attorney General with a view to prosecution.

(2) Subsection (3) also applies if the Attorney General is satisfied that —

(a) a person has committed an offence against the Ordinance; and

(b) it is an appropriate case in which to impose a fixed penalty on the person rather than bringing a prosecution.

(3) If this subsection applies, the senior police officer or the Attorney General may issue the person with a fixed penalty notice for the offence.

- (4) A fixed penalty notice may not be issued —
- (a) if a fixed penalty has already been issued for the same offence; or
 - (b) more than six months after the offence was committed.
- (5) A fixed penalty notice issued under subsection (3) must be either —
- (a) given to the person by a police officer; or
 - (b) sent to the person by post.

36. Withdrawal of fixed penalty notices

- (1) Subsection (3) applies if, in relation to a fixed penalty notice issued by a police officer under section 34(2), a senior police officer either —
- (a) considers that the fixed penalty notice should not have been issued; or
 - (b) becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time.
- (2) Subsection (3) also applies if —
- (a) in relation to a fixed penalty notice issued by a police officer under section 34(2) or one issued by a senior police officer under section 35(3), the Attorney General either —
 - (i) considers that the fixed penalty notice should not have been issued; or
 - (ii) becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time; or
 - (b) in relation to a fixed penalty notice issued by the Attorney General under section 35(3), the Attorney General becomes aware of information that would have affected the decision to issue the fixed penalty notice had it been known at the time.
- (3) If this subsection applies, the senior police officer or the Attorney General may withdraw the fixed penalty notice.
- (4) The effect of a fixed penalty notice being withdrawn is that —
- (a) no proceedings (or further proceedings) may be brought in relation to the offence for which the fixed penalty notice had been issued; and
 - (b) if the fixed penalty has been paid (or is paid afterwards), it must be refunded.

37. Waiver of payment of fixed penalty on first offence

(1) Subsection (5) applies if a fixed penalty notice is issued to a person who has not already been either —

(a) convicted of an offence against this Ordinance; or

(b) issued with a fixed penalty notice.

(2) A conviction does not count for the purposes of subsection (1) if it took place more than 2 years previously.

(3) A fixed penalty does not count for the purposes of subsection (1) if it was issued more than 2 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsection (1) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

(i) the person served a hearing notice; or

(ii) the fixed penalty notice was revoked.

(5) If this subsection applies —

(a) the person issued with the fixed penalty notice is not required to pay the fixed penalty for the offence to which it relates;

(b) the person may still serve a hearing notice to contest liability for the offence;

(c) unless the person serves a hearing notice, no proceedings may be brought in relation to the offence.

(6) Subsections (2) and (3) may be amended in accordance with section 39(3).

38. Revocation of fixed penalty notices in case of repeat offences

(1) Subsection (5) applies if a fixed penalty notice is issued to a person who has already been either —

(a) convicted of one or more offences against this Ordinance; or

(b) issued with more than three fixed penalty notices.

(2) A conviction does not count for the purposes of subsection (1) if it took place more than 2 years previously.

(3) A fixed penalty does not count for the purposes of subsection (1) if it was issued more than 2 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsection (1) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

(i) the person served a hearing notice; or

(ii) the fixed penalty notice was revoked.

(5) If this subsection applies, the Attorney General may revoke the fixed penalty notice.

39. Power to amend section 38 (and to make consequential amendments to section 37)

(1) The Governor may by order amend section 38 in order to vary either or both of the following —

(a) the number of occasions (if any) on which a person may be convicted of an offence against this Ordinance before subsection (5) applies; and

(b) the number of fixed penalties that may be issued to a person before subsection (5) applies.

(2) The Governor may by order amend section 38 in order to vary either or both of the following —

(a) the length of time for which a conviction counts under section 38(2); and

(b) the length of time for which a fixed penalty notice counts under section 38(3).

(3) If the Governor makes an order under subsection (2), the Governor may amend section 37(2) or 37(3) in the same way.

40. Effect of revocation of fixed penalty notice

(1) The effect of a fixed penalty notice being revoked is that —

(a) a prosecution may be brought against the person issued with the fixed penalty notice, as if it had not been issued; and

(b) if the fixed penalty has been paid (or is paid afterwards), it must be refunded.

(2) A prosecution may be brought under subsection (1)(a) within six months from the date on which the Attorney General decides to revoke the fixed penalty notice, even if the period within which a prosecution must be commenced under section 51(6) of the Administration of Justice Ordinance (Title 22.1) has expired.

41. Amounts of fixed penalties

(1) The Governor may prescribe by order the amounts of fixed penalties for offences against this Ordinance.

(2) The Governor may prescribe different amounts for —

- (a) different offences, and
- (b) different cases or classes of case.

(3) The Governor may, instead of prescribing an amount in money, prescribe it by reference to either —

- (a) a level on the standard scale; or
- (b) a proportion of a level on the standard scale.

(4) The Governor must not prescribe an amount for an offence that would be more than 50% of the relevant maximum.

(5) If the Governor purports to prescribe an amount that is more than 50% of the relevant maximum, the amount of the fixed penalty for that offence is 50% of the relevant maximum.

(6) If the Governor has not prescribed an amount for an offence, the amount for that offence is 25% of the relevant maximum.

(7) In this section, “relevant maximum” means, in relation to an offence, the amount of the maximum fine that could be imposed on a person following conviction for the offence.

PART 10 AMENDMENT OF THE LICENSING ORDINANCE

42. Amendment of the Licensing Ordinance

This Part amends the Licensing Ordinance.

43. Section 5A substituted

Section 5A of the Licensing Ordinance is repealed and the following substituted —

“5A. Delegation of licensing to the clerk of the Summary Court

(1) This section and sections 5B and 5C apply to applications for —

- (a) the renewal of a licence under section 9;
- (b) the transfer of a licence under section 10;
- (c) a protection order under section 12;
- (d) an extension of permitted hours on a special occasion under section 48; or
- (e) an occasional licence under section 83.

(2) The clerk of the Summary Court may grant an application to which this section applies if —

- (a) the general conditions in section 5B are met; and
- (b) if the special condition in section 5C applies to the application, it is also met.”

44. New sections 5B to 5D

The following sections are inserted after section 5A of the Licensing Ordinance —

“5B. Delegation of licensing to the clerk of the Summary Court: general conditions

(1) The general conditions that must be satisfied for the purposes of section 5A(2)(a) are that —

- (a) if notice is required to be given in relation to the application, it has been properly given;
- (b) the Chief Police Officer (or another police officer acting on behalf of the Chief Police Officer) has notified the clerk that there is no objection from the police to the application being granted;
- (c) there has been no other objection to the application;
- (d) if one or more conditions are to be imposed, the applicant has agreed to them; and
- (e) the applicant has not either —
 - (i) been convicted of one or more offences against the Smoking (Prohibition) Ordinance (No 12 of 2010) (or subsidiary legislation made under it); or
 - (ii) been issued with more than three fixed penalty notices for such an offence.

(2) A conviction does not count for the purposes of subsection (1)(e)(i) if it took place more than 3 years previously,

(3) A fixed penalty notice does not count for the purposes of subsection (1)(e)(ii) if it was issued more than 3 years previously.

(4) A fixed penalty notice also does not count for the purposes of subsections (1)(e)(ii) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

(i) the person served a hearing notice; or

(ii) the fixed penalty notice was revoked.

5C. Delegation of licensing to the clerk of the Summary Court: special condition for certain applications

(1) The special condition in subsection (2) applies to applications for —

(a) the renewal of a licence under section 9, or

(b) an extension of permitted hours on a special occasion under section 48.

(2) The special condition that must be satisfied for the purposes of section 5A(2)(b) in relation to the applications to which this subsection applies is that there must not have been more than three separate occasions on which one or more persons have been either —

(a) convicted of an offence against the Smoking (Prohibition) Ordinance (or subsidiary legislation made under it) that was committed on the premises to which the application relates; or

(b) issued with a fixed penalty notice for such an offence.

(3) An occasion does not count for the purposes of subsection (2) if it took place more than 3 years previously.

(4) A fixed penalty notice does not count for the purposes of subsection (2)(b) if either —

(a) it was withdrawn; or

(b) the person issued with the fixed penalty notice was acquitted following a hearing that took place because either —

(i) the person served a hearing notice; or

(ii) the fixed penalty notice was revoked.

5D. Power to amend sections 5B and 5C

(1) The Governor may by order amend section 5B in order to vary one or more of the following —

- (a) the number of occasions (if any) on which a person may be convicted before the condition in section 5B(1)(e) is not satisfied;
- (b) the number of fixed penalty notices that may be issued before the condition in section 5B(1)(e) is not satisfied;
- (c) the length of time for which a conviction counts under section 5B(2); and
- (d) the length of time for which a fixed penalty notice counts under section 5B(3).

(2) The Governor may by order amend section 5C in order to vary one or more of the following —

- (a) the number of occasions (if any) on which persons may be convicted or issued with fixed penalty notices before the condition in section 5C(1) is not satisfied; and
- (b) the length of time for which an occasion counts under section 5C(3).”

**PART 11
SUBSIDIARY LEGISLATION**

45. Subsidiary legislation

The Governor may make regulations and orders that are necessary or convenient for the purposes of this Ordinance.

**SCHEDULE
FIXED PENALTY PROVISIONS – DETAILED PROVISIONS**

section 33(2)

1. Fixed penalty notices

(1) A fixed penalty notice must contain the following information —

- (a) brief particulars of the offence for which it has been issued;
- (b) the amount of the fixed penalty for the offence; and
- (c) the expiry date of the notice.

(2) A fixed penalty notice must also contain the following statements —

- (a) that, if section 37(5) applies —

- (i) the person does not have to make a payment but should treat the notice as a formal warning; but
- (ii) the person may still contest liability for the offence by serving a hearing notice;
- (b) that section 37(5) applies if, within the previous 2 years —
 - (i) the person has been convicted of an offence against this Ordinance; or
 - (ii) the person has been issued with a fixed penalty notice that was not withdrawn, revoked or successfully challenged at a hearing;
- (c) that, if section 37(5) does not apply —
 - (i) the person must do one of the following things before the expiry date of the notice —
 - (aa) pay the fixed penalty; or
 - (bb) serve a hearing notice; and
 - (ii) the fixed penalty must be paid or the hearing notice must be sent to the Courts Administrator at the Courts Office, Town Hall, Stanley;
- (d) that, if section 38(5) applies, there may still be a prosecution for the offence and the decision whether or not to prosecute will be notified to the person; and
- (e) that section 38(5) applies if, within the previous 2 years —
 - (i) the person has been convicted of an offence against this Ordinance; or
 - (ii) the person has been issued with three or more fixed penalty notices that were not withdrawn, revoked or successfully challenged at a hearing.

(3) The expiry date of the notice must be —

- (a) in the case of a fixed penalty notice given to a person by a police officer, at least 21 days from the date on which it is given; or
- (b) in the case of a fixed penalty notice sent to a person by post, at least 28 days from the date on which it is posted.

2. Effect of fixed penalty notice

- (1) No proceedings may be brought in relation to an offence for which a fixed penalty notice has been issued until after the expiry date of the notice.

(2) Subparagraph (1) does not apply if the fixed penalty notice is revoked by the Attorney General under paragraph 5(2)(b).

(3) Subparagraph (1) does not prevent the Courts Administrator from giving a provisional notice of a hearing under paragraph 11 to a person who has been issued with a fixed penalty notice.

3. Notification of issue of fixed penalty notice

(1) The issue of a fixed penalty notice by a police officer must be notified to a nominated police officer, the Attorney General and the Courts Administrator.

(2) The issue of a fixed penalty notice by a senior police officer must be notified to the Attorney General and the Courts Administrator.

(3) The issue of a fixed penalty notice by the Attorney General must be notified to a nominated police officer and the Courts Administrator.

4. Reference to Attorney General in case of repeat offences

(1) On receiving notification of the issue of a fixed penalty notice, the Courts Administrator must establish whether or not section 38(5) applies.

(2) If section 38(5) applies, the Courts Administrator must —

(a) refer the fixed penalty notice to the Attorney General; and

(b) notify the person issued with the notice and a nominated police officer that this has been done.

(3) If a fixed penalty notice is referred to the Attorney General, the expiry date specified in the notice no longer applies.

5. Decision by Attorney General

(1) This paragraph applies if a fixed penalty notice is referred to the Attorney General under paragraph 4(2)(a).

(2) The Attorney General must decide within three months whether —

(a) to confirm the fixed penalty notice with a new expiry date; or

(b) to revoke it.

(3) The Attorney General's decision must be notified to the person issued with the fixed penalty notice, a nominated police officer and the Courts Administrator.

(4) The new expiry date of a fixed penalty notice that is confirmed by the Attorney General must be at least 28 days from the date on which the Attorney General's decision is notified to the person issued with the fixed penalty notice.

(5) Subparagraph (2) does not prevent a senior police officer or the Attorney General from withdrawing the fixed penalty notice under section 36(3).

6. Effect of revocation

If a fixed penalty notice is revoked, section 40 applies.

7. Notification of withdrawal of fixed penalty notice

(1) The withdrawal of a fixed penalty notice by a senior police officer must be notified to —

- (a) the person to whom the fixed penalty notice was issued;
- (b) the Attorney General; and
- (c) the Courts Administrator.

(2) The withdrawal of a fixed penalty notice by the Attorney General must be notified to —

- (a) the person to whom the fixed penalty notice was issued;
- (b) a nominated police officer; and
- (c) the Courts Administrator.

8. Effect of withdrawal of fixed penalty notice

If a fixed penalty notice is withdrawn, section 36(4) applies.

9. Payment of fixed penalty

(1) Unless section 37(5) applies, payment of a fixed penalty must be made to the Courts Administrator.

(2) Payment of the penalty may be made in any manner in which payment of a fine may be made.

10. Effect of payment of fixed penalty

(1) No proceedings may be brought in relation to an offence for which a fixed penalty has been paid following the issue of a fixed penalty notice.

(2) Subsection (1) does not apply if the fixed penalty notice is revoked by the Attorney General under paragraph 5(2)(b).

11. Provisional notice of hearing

(1) The Courts Administrator may give provisional notice of a hearing to a person who has been issued with a fixed penalty notice.

(2) Subparagraph (1) does not apply if the notice has been either —

- (a) withdrawn;
 - (b) referred to the Attorney General (unless it has since been confirmed).
- (3) A notice given under subparagraph (1) must state —
- (a) which court of summary jurisdiction would hear the case if the person serves a hearing notice; and
 - (b) the date on which the case would be heard (which must be after the expiry date of the fixed penalty notice).

12. Hearings

- (1) This paragraph applies if —
- (a) a fixed penalty notice has been issued for an offence;
 - (b) the fixed penalty notice has not been either withdrawn or revoked; and
 - (c) the person issued with the fixed penalty notice serves a hearing notice.
- (2) If this paragraph applies —
- (a) the Courts Administrator must notify a nominated police officer and the Attorney General;
 - (b) the Magistrates' Courts Act 1980 applies to the proceedings; and
 - (c) the fixed penalty notice is to be treated as an information for the same offence laid under section 1(1) of the Magistrates' Courts Act 1980 on the date on which the fixed penalty notice was notified to the Courts Administrator.
- (3) If Courts Administrator had given provisional notice of a hearing under paragraph 11 —
- (a) the provisional notice is to be treated as a summons which —
 - (i) had been issued under section 1(1)(a) of the Magistrates' Court Act 1980 by the Senior Magistrate or another justice of the peace on the basis of the information deemed to have been laid under subparagraph (2)(c);
 - (ii) requires the person to appear in order to answer that information —
 - (aa) before the court specified in the provisional notice; and
 - (bb) on the date specified in the provisional notice; and

(iii) was served on the person on the date on which the provisional notice was given; and

(b) section 14 of the Magistrates' Court Act (which provides that proceedings are invalid where an accused did not know of them) does not apply.

(4) If Courts Administrator had not given provisional notice of a hearing under paragraph 11 —

(a) the Senior Magistrate or another justice of the peace may issue a summons under section 1(1)(a) of the Magistrates' Court Act 1980 on the basis of the information deemed to have been laid under subparagraph (2)(c);

(b) if a summons is issued, the Courts Administrator must take steps to arrange for it to be served.

13. Effect of default

(1) This paragraph applies if —

(a) a fixed penalty notice has been issued for an offence;

(b) section 37(5) does not apply;

(c) it has not been either withdrawn or revoked;

(d) it has expired; and

(e) the person issued with the fixed penalty notice has not either —

(i) paid the fixed penalty; or

(ii) served a hearing notice.

(2) If this paragraph applies, the person issued with the fixed penalty notice becomes liable to pay a default fine.

(3) The amount of the default fine is equal to the amount of the fixed penalty for the offence plus 50% of the amount of that penalty.

14. Registration of default fine

(1) This paragraph applies when a default fine becomes payable.

(2) If it appears to the Courts Administrator that the person liable to pay the default fine resides in the Falkland Islands, the Courts Administrator must register the default fine in the register of the Magistrate's Court for enforcement against that person.

(3) For the purposes of subparagraph (2), a body corporate resides at its registered or principal office.

15. Notice of registration

- (1) The Courts Administrator must serve notice of the registration of a default fine on the person liable to pay the default fine.
- (2) A notice given under subparagraph (1) must contain the following information —
 - (a) the amount of the default fine, and
 - (b) details of the fixed penalty notice to which it relates.
- (3) A notice given under subparagraph (1) must also state —
 - (a) that the authority for the imposition of the default fine is paragraph 13(2); and
 - (b) that the authority for its registration for enforcement is paragraph 14(2).

16. Enforcement of default fine

- (1) This paragraph applies to a default fine registered under paragraph 14(2).
- (2) Any enactment referring (in whatever terms) to a fine imposed or other sum adjudged to be paid on conviction has effect as if the default fine were a fine on the conviction of the defaulter on the date of the registration.
- (3) Section 85 of the Magistrates Courts Act 1980 (which gives a court power to remit a fine in certain circumstances) also applies to a fine registered under paragraph 14(2), notwithstanding section 85(4) of that Act (which would otherwise exclude another sum adjudged to be paid on conviction).

17. Statutory declaration following notice of registration

- (1) This paragraph applies if a person has been served with notice of the registration of a default fine.
- (2) The person may make a statutory declaration containing one of the following statements —
 - (a) in the case of default fine relating to a fixed penalty notice that was given to a person by a police officer, that the person making the declaration was not the person to whom the fixed penalty notice was given;
 - (b) in the case of default fine relating to a fixed penalty notice that was sent to a person by post, that the person making the declaration had not received the fixed penalty notice; or
 - (c) that the person making the declaration served a hearing notice before the expiry date of the fixed penalty notice to which the default fine relates.

(3) A statutory declaration made under subparagraph (2) must be served on the Courts Administrator within 21 days of the date on which the notice of registration was served on the person liable to the default fine.

(4) When the Courts Administrator is served with a statutory declaration under subparagraph (3), the Courts Administrator must notify a nominated police officer and the Attorney General.

18. Extension of time for service of statutory declaration

(1) Subparagraph (2) applies if a person who has received notice of the registration of a default fine applies to a court of summary jurisdiction (which for this purpose may be composed of a single justice) for an extension of the 21 day period provided for in paragraph 17(3).

(2) If the court considers that it was not reasonable to expect the person to serve the statutory declaration within 21 days, it may accept service of the statutory declaration by that person after the 21 day period has expired.

(3) If a statutory declaration is accepted under subparagraph (2), the case must proceed as if the person making the statutory declaration had served it on the date that it is accepted by the court.

(4) When a statutory declaration is accepted by a court under subparagraph (2), the Courts Administrator must notify a nominated police officer and the Attorney General.

19. Statutory declarations: additional provisions

(1) Paragraphs 20 to 23 apply if a statutory declaration is —

(a) made in accordance with paragraph 17(2);

(b) either —

(i) served on the Courts Administrator under paragraph 17(3); or

(ii) accepted by a court under paragraph 18(2).

(2) In paragraphs 21 and 22, “trigger date” means the date on which the statutory declaration is either —

(a) served on the Courts Administrator under paragraph 17(3); or

(b) accepted by the court under paragraph 18(2).

20. Effect of statutory declaration

If this paragraph applies, the following are void —

(a) the registration of the default fine to which the statutory declaration relates; and

(b) proceedings taken to enforce the fine before the declaration was served.

21. Further action following statutory declaration made under paragraph 17(2)(a)

(1) If a statutory declaration is made under paragraph 17(2)(a) —

(a) a corrected fixed penalty notice may be issued to the person who was given the original fixed penalty notice; or

(b) a prosecution may be brought against that person, as if no fixed penalty notice had been issued.

(2) A corrected fixed penalty notice may be issued under subparagraph (1)(a) within three months of the trigger date, even if the six month period provided for in section 35(4)(b) has expired.

(3) A prosecution brought under subparagraph (1)(b) may be commenced within six months of the trigger date, even if the period within which a prosecution must be commenced under section 51(6) of the Administration of Justice Ordinance has expired.

22. Further action following statutory declaration made under paragraph 17(2)(b)

(1) If a statutory declaration is made under paragraph 17(2)(b), a new fixed penalty notice may be issued to the person who did not receive the original fixed penalty notice.

(2) A new fixed penalty notice may be issued under subparagraph (1) within three months of the trigger date, even if the six month period provided for in section 35(4)(b) has expired.

23. Further action following statutory declaration made under paragraph 17(2)(c)

If a statutory declaration is made under paragraph 17(2)(c) —

(a) the case must proceed as if the person making the statutory declaration had served a hearing notice on the date that the declaration is either —

(i) served on the Courts Administrator under paragraph 17(3);

(ii) accepted by a court under paragraph 18(2); and

(b) that date is to be treated as if it had been before the expiry date of the fixed penalty notice.

Passed by the Legislature of the Falkland Islands on 26 November 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

Medical Services Tax Ordinance 2010

(No: 13 of 2010)

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ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

MEDICAL SERVICES TAX ORDINANCE 2010

(No: 13 of 2010)

(assented to: 29 November 2010)

(commencement: 1 January 2011)

(published: 30 November 2010)

AN ORDINANCE

To impose a tax known as the Medical Services Tax; and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

**PART 1
INTRODUCTORY PROVISIONS**

1. Title

This Ordinance is the Medical Services Tax Ordinance 2010.

2. Commencement

This Ordinance comes into force on 1 January 2011.

3. Interpretation

(1) In this Ordinance and in the application of provisions of the Taxes Ordinance (Title 69.1) (and subsidiary legislation made under it) for the purposes of this Ordinance —

“accounting date” means the date to which the accounts of a business are usually made up;

“benefit in kind” has the meaning given to it by section 10;

“carrying on a business” includes letting for residential use a building situated in the Falkland Islands; and

“Commissioner” —

(a) means the Commissioner of Taxation appointed under section 5(1) of the Taxes Ordinance; and

(b) includes other public officers carrying out functions or exercising powers under section 22(2).

“earnings” has the meaning given to it by section 6;

“employee” means an individual —

(a) aged 17 or more; and

(b) gainfully occupied either —

(i) under a contract of service or apprenticeship, regardless of whether —

(aa) the contract is express or implied; and

(bb) whether it was made orally, in writing or in some other way; or

(ii) as the holder of an office (other than as an MLA);

“employer” includes —

(a) in relation to the employment of public officers, the Falkland Islands Government;

(b) in relation to employment of the holder of another office (other than that of MLA), the person or body responsible for paying the earnings and benefits in kind of the holder of the office;

(c) where either section 22 or 22A of the Taxes Ordinance (which deal respectively with workers supplied by agencies and workers supplied by intermediaries) applies, a person or body treated as a worker’s employer for the purposes of the Taxes Ordinance.

“the Falkland Islands” include —

(a) areas covered by inland and internal waters within the baselines established by article 3 of the Falkland Islands (Territorial Waters) Order 1989 (SI 1989/1993);

(b) areas covered by territorial waters, as defined in article 2 of that Order;

(c) the designated areas referred to in article 2 of Proclamation No 1 of 1991 (which was varied by Proclamation No 1 of 1994); and

(d) the special area defined in article 2 of Proclamation No 1 of 1997;

“Falkland Islands earnings and benefits in kind” means earnings and benefits in kind from —

(a) work carried out in the Falkland Islands; or

(b) Falkland Islands employment;

“Falkland Islands employment” means employment the duties of which are wholly or mainly carried out in the Falkland Islands;

“letting” includes, in relation to a building, allowing a person to occupy the building under an arrangement or agreement (whether or not that arrangement or agreement is a lease);

“Medical Services Tax” means the tax payable under section 4;

“MLA” means either —

(a) an elected member of the Legislative Assembly; or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place;

“officer”, in relation to a body corporate, has the meaning given to it by section 47(3);

“pension contributions” means —

(a) payments —

(i) that are made into —

(aa) an approved retirement benefit scheme (as defined in section 64(1) of the Taxes Ordinance);

(bb) an approved personal pension scheme (as also defined in that section); or

(cc) the Falkland Islands Pension Scheme established in accordance with the Falkland Islands Pension Scheme Ordinance (No 18 of 1997); and

(ii) in respect of which either of the following provisions of the Taxes Ordinance applies —

(aa) section 67 (which deals with retirement benefit schemes); or

(bb) section 69 (which deals with employers' contributions into personal pension schemes); and

(b) retirement pension contributions made under the Retirement Pensions Ordinance (No 20 of 1996);

“period of account” means, in relation to a business, a period for which the accounts of the business are made up;

“POAT Regulations” means regulations relating to payments on account of tax made under section 91 of the Taxes Ordinance;

“protected information” has the meaning given to it by section 32(2);

“relevant information” has the meaning given to it by section 32(1);

“relevant profits” has the meaning given to it by section 14; and

“self-employed person” means an individual who is —

(a) aged 17 or more; and

(b) either —

(i) in business as a sole trader or partner; or

(ii) an MLA.

(2) Terms that are used in the Taxes Ordinance (or subsidiary legislation made under it) but that are not defined in subsection (1) have the same meaning when used in this Ordinance as they do in the Taxes Ordinance or the subsidiary legislation.

PART 2 MEDICAL SERVICES TAX

4. Medical Services Tax

A tax known as the Medical Services Tax is payable by —

(a) employees on the gross amount of their Falkland Islands earnings and benefits in kind;

(b) employers on the gross amount of their employees' Falkland Islands earnings and benefits in kind; and

(c) self-employed persons on relevant profits which are made by them either —

(i) in the Falkland Islands; or

(ii) in a business which is carried on wholly or mainly in the Falkland Islands.

5. Rates of Medical Services Tax

Medical Services Tax is payable —

(a) by employees, at the rate of 1%;

(b) by employers, at the rate of 1½%; and

(c) by self-employed persons, at the rate of 1½%.

PART 3

EMPLOYEES AND EMPLOYERS: EARNINGS AND BENEFITS IN KIND

6. Earnings

The following are earnings —

(a) amounts that are —

(i) chargeable to tax under section 8(1)(b) of the Taxes Ordinance (which deals with gains and profits from employment); and

(ii) not covered by an exemption in section 21.

(b) amounts that are —

(i) taxable under section 58A of the Taxes Ordinance (which deals with the taxation of redundancy payments); and

(ii) not exempt under section 58C of the Taxes Ordinance (which exempts payments not exceeding £20,000 in certain circumstances and contains other exemptions).

7. Value of earnings received otherwise than in money

(1) This section applies to emoluments from employment which are —

(a) received otherwise than in money;

(b) chargeable to tax under section 8(1)(b) of the Taxes Ordinance; and

(c) covered by rules made under section 8(2) of the Taxes Ordinance.

(2) The value of an emolument from employment to which this section applies is the same as the value of that emolument under the rules made under section 8(2) of the Taxes Ordinance.

8. Timing

Section 9(1A) of the Taxes Ordinance (which deals with the time at which gains and profits from employment are treated as being received and paid) applies for the purposes of this Ordinance as if references to income were references to earnings.

9. Allowable deductions from earnings

(1) Subsection (2) applies to the calculation by employees of the earnings on which they must pay Medical Services Tax.

(2) Employees (but not their employers) may make the same deductions as they may make for the purposes of income tax under section 58 of the Taxes Ordinance (which allows deductions for expenses wholly, necessarily and exclusively incurred to produce income from an employment).

(3) No other deductions from earnings are allowed for the purposes of Medical Services Tax, even if those deductions would be allowed for the purposes of income tax under other provisions of the Taxes Ordinance.

10. Benefits in kind

A benefit in kind is a benefit which —

(a) is received otherwise than in money in respect of employment;

(b) has been prescribed for the purposes of section 8(1)(c) of the Taxes Ordinance; and

(c) is not covered by an exemption in section 21.

11. Value of benefits in kind

The value of a benefit in kind is the same as the value prescribed for that benefit under section 8(1)(c) of the Taxes Ordinance.

12. Pension contributions

(1) Pension contributions made by an employer in respect of an employee are not to be treated as either earnings or benefits in kind.

(2) Neither the employer nor the employee is liable for Medical Services Tax on those pension contributions.

(3) Pension contributions made by employees are not deductible from earnings or benefits in kind for the purposes of Medical Services Tax.

13. Workers supplied through agencies and intermediaries

Sections 22 and 22A of the Taxes Ordinance (which deal with workers supplied by agencies and workers supplied by intermediaries) apply for the purposes of this Ordinance as if —

(a) references in those sections to income tax were references to the Medical Services Tax; and

(b) references in those sections to remuneration or quasi-remuneration were references to earnings or benefits in kind.

PART 4

SELF-EMPLOYED PERSONS: RELEVANT PROFITS

14. Relevant profits

Relevant profits are the gains and profits made in a business carried on by an individual which are —

(a) chargeable to tax under section 8(1)(a) of the Taxes Ordinance; and

(b) not covered by an exemption in section 21.

15. MLAs

MLAs are liable for Medical Services Tax on amounts paid to them under the Members' Remuneration Ordinance (No 13 of 2009), as if those amounts had been earned on a self-employed basis.

16. Calculation of relevant profits

(1) The following provisions of the Taxes Ordinance apply for the purpose of calculating relevant profits —

section 59 (which deals with deductions that are not allowed for the purposes of income tax)

section 59A (which provides that corrupt payments are not deductible)

section 67 (which provides, among other things, employers' contributions into approved retirement benefit schemes may, within certain limits, be deducted)

section 97 (which deals with deductions that are allowed for the purposes of income tax)

section 98 (which restricts the deduction of emoluments before they are paid)

section 99 (which deals with entertainment expenses)

section 102 (which allows for augmented deductions in respect of training expenses)

section 103 (which provides for relief in respect of pre-trading expenditure)

(2) No other deductions from relevant profits are allowed for the purposes of Medical Services Tax, even if those deductions would be allowed for the purposes of income tax under other provisions of the Taxes Ordinance.

17. Periods of account

(1) Unless subsection (2) applies, the periods of account for which relevant profits must be calculated are calendar years.

(2) If the Commissioner is satisfied that the accounting date of a business is a date other than 31 December, the Commissioner may allow the relevant profits of that business to be calculated for periods of account ending on that other date in each year.

(3) The accounting date for a business may only be changed if —

- (a) the Commissioner requires the change to be made;
- (b) the Commissioner approves the change being made;
- (c) the change is made as a result of bankruptcy or insolvency; or
- (d) the business ceases to be carried on.

(4) If the Commissioner requires or approves the change of an accounting date under section 9(4) of the Taxes Ordinance, that requirement or approval also applies for the purposes of subsection (3).

18. Partnership profits

The relevant profits of a partnership are to be apportioned between the partners in the same shares as they are entitled to them.

19. Each business separate

(1) Subsection (2) applies to an individual if —

- (a) the individual carries on more than one business; or
- (b) the individual —
 - (i) carries on one or more businesses; and
 - (ii) is also an MLA.

(2) If this subsection applies —

- (a) the relevant profits of each business are separate; and
- (b) losses from one business may not be set off against either —
 - (i) relevant profits from another business; or
 - (ii) amounts received as an MLA under the Members' Remuneration Ordinance.

20. Self-employment separate from other activities

- (1) This section applies to self-employed persons who are also employees.
- (2) Losses made in a business may not be set-off against earnings or benefits in kind.

PART 5 EXEMPTIONS

21. Exemptions

- (1) The following are exempt from Medical Services Tax —
 - (a) earnings and benefits in kind paid to the Governor;
 - (b) earnings and benefits in kind paid to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;
 - (c) earnings and benefits in kind paid out of United Kingdom Government funds to —
 - (i) those serving in the armed forces; and
 - (ii) those serving the United Kingdom Government in a civil capacity;
 - (d) gratuities granted to members of the armed forces of the United Kingdom in respect of war services;
 - (e) earnings and benefits in kind that are exempt from income tax under the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2);
 - (f) allowances paid to employees in addition to their salaries or wages in order to enable them to meet increased expenses incurred (or to be incurred) wholly or mainly as a result of being required to carry out employment duties outside the Falkland Islands;
 - (g) payments made to employees to reimburse them for expenses which —
 - (i) are incurred (or to be incurred) by them in the course of their employment; and
 - (ii) would be deductible for income tax purposes.
 - (h) payments made by way of bounty to —
 - (i) members of the Falkland Islands Defence Force;
 - (ii) reserve police officers in the Royal Falkland Islands Police; and
 - (iii) retained firefighters in the Falkland Islands Fire and Rescue Service;

- (i) relevant profits made during a period of account that starts before 1 January 2011;
- (j) relevant profits consisting of amounts chargeable to tax under Schedule 2 to the Taxes Ordinance;
- (k) earnings and benefits in kind paid (or payable) to individuals in respect of employment while they are present in the Falkland Islands for less than 30 days in a 12 month period;
- (l) earnings and benefits in kind paid (or payable) in respect of employment on board a fishing vessel to members of the crew of that vessel who are not resident in the Falkland Islands;
- (m) relevant profits made by individuals while they are present in the Falkland Islands for less than 30 days or less in a 12 month period;
- (n) earnings or benefits in kind that are either —
 - (i) paid to an individual in the calendar month in which that individual's 17th birthday falls; or
 - (ii) that become payable to the individual during that month;
- (o) relevant profits made by an individual during the calendar month in which that individual's 17th birthday falls;
- (p) grants paid out of public funds to an individual for the purposes of that individual's education; and
- (q) payments received under the Family Allowances Ordinance (Title 65.1).

(2) Welfare payments made out of public funds are exempt from Medical Services Tax (but only to the extent that they are not taxed under the Taxes Ordinance).

PART 6 ADMINISTRATION

22. Administration

- (1) The Commissioner is responsible for administering the Medical Services Tax.
- (2) Other public officers may —
 - (a) carry out functions on behalf of the Commissioner in relation to the administration of the Medical Services Tax; and
 - (b) exercise powers under this Ordinance on behalf of the Commissioner for that purpose.

PART 7
PAYMENTS ON ACCOUNT OF MEDICAL SERVICES TAX

23. Payments on account

- (1) Payments on account of the Medical Services Tax payable by employees are to be —
- (a) deducted by their employers from payments of earnings made to those employees;
 - (b) collected from the employers.
- (2) These payments are to be deducted and collected in the same way as payments on account of income tax are deducted and collected under Part 4 of the Taxes Ordinance and POAT Regulations.
- (3) Payments on account of the Medical Services Tax payable by employers in respect of their employees' earnings and benefits in kind are also to be collected from those employers.
- (4) The provisions of the Taxes Ordinance listed in subsection (5) apply for the purposes of payments on account of Medical Services Tax as if —
- (a) references to income tax included references to Medical Services Tax;
 - (b) references to payments on account of tax included references to payments on account of Medical Services Tax;
 - (c) references to assessable income were references to earnings and benefits in kind; and
 - (d) references to deductions included payments on account of the Medical Services Tax payable by employers.
- (5) The provisions of the Taxes Ordinance that apply for the purposes of payments on account of Medical Services Tax are —
- section 83(1) and (2) (which deal with the amounts to be deducted from earned income etc)
 - section 84 (which deals with payments by intermediaries or to employees of non-resident employers)
 - section 85 (which deals with non-resident employees etc)
 - section 86 (which deals with mobile workforces)
 - section 87 (which contains supplementary provisions relating to payments on account of tax)
 - section 88 (which deals with the liability of employers with respect to sums deducted etc)
 - section 89 (which deals with the application of payments on account of tax)
 - section 90 (which deals with repayments of sums deducted)

apart from subsection (7)(a), section 91 (which deals with the POAT regulations)
section 92 (which deals with bankruptcy and liquidation)
apart from subsection (3), section 93 (which deals with non-resident employees)

24. Extension of power to make POAT Regulations

(1) The Governor's power under section 91 of the Taxes Ordinance to make POAT Regulations is extended to cover the following additional matters —

(a) deductions that an employer must make in respect of payments on account of Medical Services Tax;

(b) payments to be collected from employers in respect of their own liability to Medical Services Tax on their employees' earnings and benefits in kind.

(2) When making POAT Regulations, the Governor may specify which provisions of the regulations apply in relation to Medical Services Tax.

PART 8 OBTAINING INFORMATION

25. Returns of income

(1) Subsection (2) applies to a person if —

(a) the person has not made a return under section 12(1) of the Taxes Ordinance (under which persons can be required to make returns of their income); and

(b) the Commissioner believes that person may be liable to pay Medical Services Tax, whether or not —

(i) that person would be chargeable to income tax; or

(ii) that person's income would be within the personal allowance for income tax purposes).

(2) The Commissioner may by notice require a person to whom this subsection applies to make a return as if section 12(1) of the Taxes Ordinance applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from that person.

26. Provision of accounts etc

(1) Subsection (2) applies to a person if the Commissioner believes that person is carrying on a business in the Falkland Islands, whether or not —

(a) the business —

(i) is carried on with a view to profit; or

(ii) makes a profit;

(b) that person would be chargeable to income tax; or

(c) that person's income (including any profit from the business) would be within the personal allowance for income tax purposes.

(2) The Commissioner may by notice require a person to comply with section 12(2) of the Taxes Ordinance (under which persons can be required to provide business accounts and other information) as if it applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from —

(a) that person;

(b) a partner of or shareholder in that person;

(c) anyone employed by that person.

27. Notices as to sources of income

(1) Subsection (2) applies to a person who is liable to pay Medical Services Tax as an employee or a self-employed person who has not —

(a) received a notice under either —

(i) section 26(2); or

(ii) section 12(1) of the Taxes Ordinance;

(b) made a return for income tax purposes; or

(c) given notice under section 12(3) of the Taxes Ordinance (which requires persons to notify their sources of income in certain circumstances).

(2) A person to whom this subsection applies must comply with section 12(3) of the Taxes Ordinance as if it applied to that person (whether or not it does) for the purpose of assessing Medical Services Tax due from —

(a) that person;

(b) a partner of or shareholder in that person;

(c) anyone employed by that person.

28. End of year returns by employers

(1) This section applies to a person if the Commissioner believes that person is an employer.

(2) The Commissioner may by notice require a person to whom this section applies to provide details at or after the end of a calendar year of —

- (a) all payments made to employees during the year;
- (b) all benefits provided to employees during the year;
- (c) all payments on account of Medical Services Tax deducted from payments made to employees during the year; and
- (d) all payments on account of Medical Services Tax made by the employer during the year.

(3) If the Commissioner gives notice to a person under subsection (2), that person must comply with the notice either —

- (a) within sixty days of the date on which the notice was issued; or
- (b) if the Commissioner specifies a longer period in the notice, within that period.

29. End of year returns by employers: penalties

(1) A person who does not comply with section 28 is liable to a penalty.

(2) The amount of a penalty for which a person is liable under subsection (1) is —

- (a) £100, if the person complies with the notice within the first three months after the expiry of the period in section 28(3); or
- (b) £200, if the person has still not complied with the notice three months after the expiry of the period in section 28(3).

(3) A penalty for which a person is liable under subsection (1) is recoverable as a statutory debt.

(4) The payment of a penalty for which a person is liable under subsection (1) does not either —

- (a) relieve the person of the obligation to comply with the notice to which the penalty relates (if that has not yet been done); or
- (b) preclude the bringing of a prosecution for an offence against section 44 for refusing or neglecting to provide information.

30. Other returns

The Commissioner may by notice require a person to make a return under section 203(3) of the Taxes Ordinance (under which persons can be required to provide information) as if it applied to that person (whether or not it does) for the purposes of this Ordinance.

31. Provision of information by public officers etc

(1) The Commissioner may require a public officer or an officer in the employment of a public body to supply, for the purposes of this Ordinance, information that the officer holds.

(2) Subsection (1) does not oblige an officer to disclose information protected by a statutory obligation of secrecy or confidentiality.

(3) The following provisions (which deal with official secrecy) are to be disregarded for the purposes of subsection (2) —

(a) section 202 of the Taxes Ordinance; and

(b) section 220 of the Fisheries (Conservation and Management) Ordinance (No 14 of 2005).

**PART 9
USING INFORMATION**

32. Relevant information and protected information

(1) In sections 33 to 35, “relevant information” means information that the Commissioner has been provided with (or obtained) —

(a) for the purposes of administering the Medical Services Tax;

(b) for other purposes (including for the purposes of income tax and corporation tax);

(c) under a power contained in this Ordinance (or subsidiary legislation made under it); or

(d) under another power (including a power contained in the Taxes Ordinance or subsidiary legislation made under it).

(2) In section 36, “protected information” means information that the Commissioner has been provided with (or obtained) —

(a) for the purposes of administering the Medical Services Tax; or

(b) under a power contained in this Ordinance (or subsidiary legislation made under it).

33. Use of relevant information

(1) The Commissioner may use all relevant information for the purposes of this Ordinance.

(2) The Commissioner may also use relevant information for the purposes of the Taxes Ordinance.

34. Relevant information protected by other legislation

(1) This section applies to relevant information that is subject to a restriction or prohibition on its use under other legislation.

- (2) Relevant information to which this section applies may still be used under section 33.
- (3) If the other legislation would make it an offence to use the relevant information, that offence does not apply to its use under section 33.
- (4) Otherwise, the restriction or prohibition continues to apply.

35. Provision of relevant information to others

(1) The Commissioner may provide relevant information to persons other than public officers who have —

- (a) been appointed to carry out specific functions in relation to the administration of the Medical Services Tax; and
- (b) entered into a contract with the Falkland Islands Government that adequately safeguards the confidentiality of the information.

(2) The Governor may authorise the Commissioner to provide relevant information to another person.

36. Prohibitions on misusing protected information

(1) This section applies to the following persons —

- (a) those who have access to protected information; and
- (b) those who have obtained access to it as a result of a breach of this section.

(2) A person to whom this section applies must not —

- (a) permit another person to examine the information if that other person is not entitled to do so; or
- (b) knowingly disclose the information in any other way to someone who is not entitled to it.

(3) Subsection (2) does not apply if —

- (a) the provision of the information is permitted by section 35(1); or
- (b) it has been authorised by the Governor under section 35(2).

(4) A person to whom this section applies must not use protected information for gain (whether by that person or another).

PART 10
ASSESSMENT OF MEDICAL SERVICES TAX

37. Assessment of Medical Services Tax for employees, self-employed persons and MLAs

(1) This section applies to individuals who are liable to Medical Services Tax as an employee or a self-employed person (or as both).

(2) In the case of individuals who are also chargeable to income tax, the Commissioner must assess those individuals for Medical Services Tax at the same time as assessing them for income tax.

(3) In the case of individuals who are not also chargeable to income tax, the Commissioner must assess those individuals for Medical Services Tax as if section 171(1) of the Taxes Ordinance applied to them.

38. Assessment of Medical Services Tax for employers

(1) The Commissioner may assess an employer for Medical Services Tax in relation to a calendar year (or a series of calendar years).

(2) An assessment for a calendar year may be made under subsection (1) after the first of the following events takes place —

(a) the employer complies with a notice given under section 28(2) in relation to that year; or

(b) the period in section 28(3) expires for that notice.

(3) An assessment may not be made for a calendar year more than 6 years after the end of that year.

39. Application of additional provisions of the Taxes Ordinance

(1) The provisions of the Taxes Ordinance listed in subsection (2) apply for the purposes of Medical Services Tax as if —

(a) references to income tax included references to Medical Services Tax;

(b) references to payments on account of tax included references to payments on account of Medical Services Tax; and

(c) references to chargeable income included references to —

(i) earnings and benefits in kind; and

(ii) relevant profits.

(2) The provisions of the Taxes Ordinance that apply for the purposes of assessing Medical Services Tax are —

section 11 (which deals with the time at which income tax must be paid and interest on overdue tax)

section 171 (which deals with assessments for income tax)

section 173 (which deals with additional assessments)

section 174 (which deals with late assessments in cases of fraud or neglect)

section 175 (which deals with notices of assessment and objections to and amendments of assessments)

section 176 (which deals with the power to call for documents of taxpayers and others)

section 177 (which deals with the documents excluded from notices under section 176)

section 178 (which contains special provisions relating to third party notices under section 176)

section 179 (which provides that the burden of proof in relation to exemptions and abatements is on the taxpayer)

section 180 (which establishes the Tax Appeal Tribunal)

section 181 (which deals with appeals to the Tribunal)

section 182 (which contains provisions relating to the Clerk to the Tribunal)

section 183 (which deals with the postponement of tax on objection and appeal)

section 184 (which deals with the collection of tax and interest on tax)

section 185 (which deals with the recovery of tax from persons not resident in the Falkland Islands)

section 186 (which deals with repayments of income tax)

section 188 (which contains penal provisions relating to fraud etc)

section 189 (which provides for penalties for failures to make returns, making incorrect returns etc)

section 190 (which provides for the maximum penalty on conviction for offences in relation to which no other penalty is specified)

section 191 (which provides that nothing in the Taxes Ordinance affects other criminal proceedings but that no-one may be prosecuted more than once for the same offence)

section 192 (which provides that prosecutions must be commenced within 6 years)

section 192A (under which accounting records etc must be kept)

40. Set off

(1) Subsection (2) applies if —

- (a) a person is entitled to a refund or repayment in respect of —
 - (i) an overpayment of Medical Services Tax; or
 - (ii) excess deductions or payments made on account of Medical Services Tax; and
- (b) the Commissioner believes that the person is liable to pay an amount under either —
 - (i) this Ordinance (or subsidiary legislation made under it); or
 - (ii) the Taxes Ordinance (or subsidiary legislation made under it).

(2) If this subsection applies, the Commissioner may set off the refund or repayment against the liability.

PART 11 OFFENCES

41. Divulging protected information

(1) It is an offence to divulge protected information in breach of section 36(2).

(2) A person convicted of an offence against subsection (1) is liable on conviction to a fine of up to level 4 on the standard scale.

42. Using protected information for gain

(1) It is an offence to use protected information for gain in breach of section 36(4).

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties —

- (a) forfeiture of the amount gained;
- (b) a fine of up to level 6 on the standard scale;
- (c) imprisonment for up to 1 year.

43. Obtaining information by pretending to act on behalf of Commissioner

(1) It is an offence to pretend to be acting on behalf of the Commissioner under section 22(2) in order to gain access to relevant information or to obtain information from another person.

(2) A person (whether or not a public officer) convicted of an offence against subsection (1) is liable to one or more of the following penalties —

- (a) forfeiture of the amount (if any) gained (whether by that person or another) as a result;
- (b) a fine not exceeding level 6 on the standard scale;

(c) imprisonment for up to 1 year.

44. Failure to provide information

(1) This section applies to a person required by the Commissioner to provide information under this Ordinance (or subsidiary legislation made under it).

(2) It is an offence to refuse or neglect to provide the information.

(3) Subsection (2) does not apply if the person had a reasonable excuse for not providing the information.

(4) A person convicted of an offence under subsection (2) is liable to either or both of the following penalties —

(a) a fine of up to level 7 on the standard scale; and

(b) imprisonment for up to 3 months.

45. Providing false or misleading information

(1) This section also applies to a person required by the Commissioner to provide information under this Ordinance (or subsidiary legislation made under it).

(2) It is an offence knowingly to provide information that is false or misleading in a material particular.

(3) It is also an offence if the person who provides the information is reckless as to whether the information is false or misleading.

(4) A person convicted of an offence under subsection (2) or (3) is liable to either or both of the following penalties —

(a) a fine of up to level 7 on the standard scale; and

(b) imprisonment for up to 3 months.

46. Hindering or obstructing an authorised officer

(1) It is an offence to hinder or obstruct the Commissioner in —

(a) administering the Medical Services Tax;

(b) carrying out a function in relation to the administration of the Medical Services Tax; or

(c) exercising a power under this Ordinance (or subsidiary legislation made under it).

(2) A person convicted of an offence under subsection (1) is liable to either or both of the following penalties —

(a) a fine of up to level 7 on the standard scale; and

(b) imprisonment for up to 3 months.

47. Offences by bodies corporate

(1) This section applies if —

(a) an offence against this Ordinance (or subsidiary legislation made under it) is committed by a body corporate; and

(b) it is proved that either —

(i) the offence was committed with the consent or connivance of an officer of the body corporate; or

(ii) the offence was attributable to neglect on the part of an officer of the body corporate.

(2) If this section applies, the officer as well as the body corporate is —

(a) guilty of the offence; and

(b) liable to be proceeded against and punished accordingly.

(3) For the purposes of this section, “officer” includes, in relation to a body corporate —

(a) a person who was, at the time, acting as an officer of the body corporate; and

(b) a person who is (or who was, at the time) purporting to act as an officer of the body corporate.

(4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts and defaults of a member in connection with that member’s functions of management as if the member were an officer of the body corporate.

**PART 12
PENALTIES AND PROSECUTIONS**

48. Penalties

(1) Subsection (2) applies if a person is liable for more than one penalty in respect of what is substantially the same act (or failure to act) under —

(a) this Ordinance (or subsidiary legislation made under it);

(b) the Taxes Ordinance (or subsidiary legislation made under it);

(c) provisions of the Taxes Ordinance (or subsidiary legislation made under it) as they apply for the purposes of this Ordinance.

(2) If this subsection applies, the Commissioner must waive all but one of the penalties.

49. Prosecutions

(1) Subsection (2) applies in relation to acts (or failures to act) that are offences against more than one provision of —

(a) this Ordinance (or subsidiary legislation made under it);

(b) the Taxes Ordinance (or subsidiary legislation made under it); or

(c) provisions of the Taxes Ordinance (or subsidiary legislation made under it) as they apply for the purposes of this Ordinance.

(2) If this subsection applies, a person may not be prosecuted more than once for what is substantially the same offence.

(3) Subsection (2) does not prevent a prosecution being brought on each occasion that an offence is committed.

PART 13 AMENDMENT OF THE TAXES ORDINANCE

50. Amendment of the Taxes Ordinance

This Part amends the Taxes Ordinance.

51. Section 59 amended – Deductions not allowed

Section 59 is amended by omitting paragraph (i) and substituting the following —

“(i) any amount paid or payable under the Medical Services Tax Ordinance (No ?? of 2010).”

52. Section 90 amended – Repayment of sums deducted

(1) This section amends section 90.

(2) The existing section is renumbered as subsection (1).

(3) The following subsection is added —

“(2) If the Commissioner believes that a person entitled to a repayment under subsection (2) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the repayment against that liability.”

53. Section 186 amended – Repayment of income tax

Section 186 is amended by inserting the following subsection after subsection (1) —

“(1A) If the Commissioner believes that a person entitled to a refund under subsection (1) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the refund against that liability.”

54. Section 187 amended – Refund of overpayments of corporation tax

Section 187 is amended by inserting the following paragraph after subsection (2) —

“(2A) If the Commissioner believes that a company entitled to a repayment under subsection (2) is liable to pay an amount under the Medical Services Tax Ordinance (or subsidiary legislation made under it), the Commissioner may set off the repayment against that liability.”

55. Section 203 amended – Disclosure of information

(1) This section amends section 203.

(2) Subsection (2A) is repealed and the following substituted —

“(2A) The following provisions are to be disregarded for the purposes of subsection (2) —

(a) section 33 of the Medical Services Tax Ordinance (No 13 of 2010); and

(b) section 220 of the Fisheries (Conservation and Management) Ordinance (No 14 of 2005).”

(3) The following subsection is inserted after subsection (2A) —

“(2B) The Commissioner may make use, for the purposes of this Ordinance, of information provided (or obtained) under the Medical Services Tax Ordinance (or subsidiary legislation made under it).”

(4) Subsection (3) is amended by —

(a) omitting paragraph (b) and substituting the following —

“(b) the payments and allowances made to those persons in respect of that employment”;
and

(b) inserting the following paragraph after paragraph (b) —

“(ba) benefits provided to those persons in respect of that employment;”.

(5) Subsection (5) is repealed.

PART 14
AMENDMENT OF THE MEMBERS' REMUNERATION ORDINANCE

56. Amendment of the Members' Remuneration Ordinance

This Part amends the Members' Remuneration Ordinance.

57. Section 7 substituted

(1) Section 7 is repealed and the following substituted —

"7. Income Tax and Medical Services Tax on amounts paid to Members

(1) This section deals with the treatment of amounts paid to Members under this Ordinance for the purposes of —

(a) income tax, under the Taxes Ordinance (Title 69.1);

(b) Medical Services Tax, under the Medical Services Tax Ordinance (No 13 of 2010).

(2) Amounts paid to Members under this Ordinance are to be treated for those purposes as if they had been earned on a self-employed basis."

58. Section 9 amended – Power to amend Schedule

Section 9 of the Members' Remuneration Ordinance is amended by inserting the following after subsection (1) —

"(1A) An order made under subsection (1) may also include consequential amendments to the Medical Services Tax Ordinance."

PART 15
AMENDMENT OF THE PAYMENT ON ACCOUNT OF TAX (EMPLOYEES' DEDUCTIONS) REGULATIONS

59. Amendment of the Payment on Account of Tax (Employees' Deductions) Regulations

The Schedule amends the Payment on Account of Tax (Employees' Deductions) Regulations (No 23 of 1997).

PART 16
SUBSIDIARY LEGISLATION

60. Subsidiary legislation

The Governor may make regulations and orders that are necessary or convenient for the purposes of this Ordinance.

SCHEDULE
AMENDMENT OF THE PAYMENT ON ACCOUNT OF TAX (EMPLOYEES’
DEDUCTIONS) REGULATIONS

1. Amendment of the Payment on Account of Tax (Employees’ Deductions) Regulations

This Schedule amends the Payment on Account of Tax (Employees’ Deductions) Regulations.

2. Regulation 2 amended – Interpretation

(1) This section amends regulation 2.

(2) In paragraph (1) —

(a) the following definitions are inserted before the definition of “monthly paid employee” —
““earnings” —

(a) if regulation 10 applies, must be construed in accordance with that regulation;

(b) if regulation 12B applies, means an amount determined by (or on behalf of) the Commissioner;

(c) otherwise, has the same meaning as under section 3 of the Medical Services Tax Ordinance (No 13 of 2010);

“Medical Services Tax” means the tax imposed under the Medical Services Tax Ordinance;”

(b) the definition of “POAT deduction” is amended by adding “or Part 7 of the Medical Services Tax Ordinance”;

(c) the following definition is inserted after the definition of “POAT deduction” —

““remuneration” —

(a) does not include a pension or annuity;

(b) if regulation 10 applies, must be construed in accordance with that regulation;

(c) if regulation 12B applies, means an amount determined by (or on behalf of) the Commissioner;

(d) otherwise, means, in relation to a person, the gross amount of that person’s earned income, before any deductions;”.

(3) Paragraph (2) is revoked.

3. Regulation 3 amended – Application of regulations

(1) This section amends regulation 3.

(2) The following paragraph is inserted after paragraph (1) —

“(1A) The following regulations listed in paragraph (1B) apply for the purpose of determining deductions to be made for the purposes of payments on account of Medical Service Tax —

(a) regulation 3(4);

(b) regulation 8A;

(c) regulation 9;

(d) regulations 10(1), (2), (2A), (2B), (6) and (7); and

(e) regulations 11A, 12, 12A, 12B and 13.”

(3) Paragraph (2) is amended by inserting “in relation to income tax” after “made”.

(4) The following paragraph is inserted after paragraph (3) —

“(4) Deductions must be made in relation to Medical Services Tax in respect of all employees who are liable to Medical Services Tax, regardless of how many hours the employee worked during the pay period.”

4. New regulation 8A

The following regulation is inserted after regulation 8 —

“8A. Additional deductions in respect of employee’s Medical Services Tax

(1) In addition to the POAT deduction calculated under regulation 4, 5, 6, 7 or 8, the POAT deduction must also include the amount produced by the following formula —

$$M_{-ee} \times E$$

(2) In paragraph (1) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{-ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance.”

5. Regulation 9 amended – Non-resident employees

(1) This section amends regulation 9.

(2) Paragraph (2) is revoked and the following substituted —

“(2) The employer of an employee to whom this regulation applies must make a POAT deduction from each payment of remuneration to the employee.”

(3) The following paragraphs are inserted after paragraph (2) —

“(2A) The amount of the deduction to be made under paragraph (2) is the total of the following amounts —

(a) in respect of income tax, the amount produced by the following formula —

$$T_{R1} \times R$$

(b) in respect of Medical Services Tax, the amount produced by the following formula —

$$M_{ee} \times E$$

(2B) In paragraph (2A) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance;

“*R*” means the employee’s remuneration for the period; and

“*T_{R1}*” means the lower rate of income tax.”

6. Regulation 10 amended – ‘Free of tax’ remuneration

(1) This section amends regulation 10.

(2) Paragraph (1) is amended by inserting “or Medical Services Tax” after “income tax”.

(3) Paragraph (2) is also amended by inserting “or Medical Services Tax” after “income tax”.

(4) The following paragraphs are inserted after paragraph (2) —

“(2A) If remuneration is paid wholly net or free of Medical Services Tax, the amount by reference to which the POAT deduction is to be calculated for the purposes of Medical Services Tax is the amount produced by the following formula —

$$N \times \frac{100}{100 - M_{ee}}$$

(2B) In subsection (2A) —

“*M_{ee}*” means the rate at which Medical Services Tax is payable by employees under section 5(a) of the Medical Services Tax Ordinance; and

“*N*” means the net amount of the employee’s earnings.”

(5) Paragraph (3) is amended by —

(a) inserting the word “income” after “of” where it first appears; and

(b) inserting the words “for the purposes of income tax” after “calculated”.

(6) Paragraph (4) is amended by —

(a) omitting “subsection” in the first place where it appears and substituting “paragraph”; and

(b) omitting “subsection (5)” and substituting “paragraphs (5) and (6)”.

(7) The following paragraph is inserted after paragraph (5) —

“(6) If remuneration is paid wholly free of both Medical Services Tax and income tax, the amount by reference to which the POAT deduction is to be calculated for the purposes of both Medical Services Tax and income tax is the amount produced by performing both calculations in this regulation in the following order —

(a) the calculation in paragraph (2A); and

(b) the calculation in paragraph (3).”

7. New regulation 11A

The following regulation is inserted after regulation 11 —

“11A. Payments on account of employer’s Medical Services Tax

(1) In addition to the POAT deduction made from each payment made to an employee, the employer is also liable to make a payment on account of employers’ Medical Services Tax on the earnings represented by that payment.

(2) The amount of each payment on account to be made under paragraph (1) is the amount produced by the following formula —

$$M_{-er} \times E$$

(2B) In paragraph (2A) —

“*E*” means the gross amount of the employee’s earnings during the period;

“*M_{er}*” means the rate at which Medical Services Tax is payable by employers under section 5(b) of the Medical Services Tax Ordinance.

(3) Payments on account for which an employer is liable under paragraph (1) must be accounted for in the same way as deductions made by that employer.”

8. Heading above regulation 12 amended

The heading above regulation 12 is amended by adding “and payments on account”.

9. Regulation 12 amended – Accounting for deductions and payments on account

(1) This section amends regulation 12.

(2) Paragraph (1) is revoked and the following substituted —

“(1) This regulation applies to each person required to do one or more of the following things —

(a) deduct a sum under —

(i) these Regulations;

(ii) Part 4 of the Taxes Ordinance; or

(iii) Part 7 of the Medical Services Ordinance; or

(b) make a payment on account of Medical Services Tax payable as an employer under —

(i) regulation 11A; or

(ii) Part 7 of the Medical Services Ordinance.”

(3) The following paragraph is inserted after paragraph (1) —

“(1A) A person to whom this paragraph applies must, by the 14th of each month —

(a) deliver to the Commissioner a return in the prescribed form containing all particulars required to be completed in the return; and

(b) remit to the Commissioner the total amount of the deductions and payments on account required to be made for the previous month.”

10. New Regulation 12B

The following regulation is inserted after regulation 12A.

“12B. Determination of remuneration and earnings

(1) This regulation applies if either —

(a) a person to whom regulation 12 applies fails to deliver a return to the Commissioner in accordance with regulation 12(1A)(a); or

(b) the Commissioner thinks that the return is incomplete or inaccurate.

(2) If this regulation applies —

(a) the Commissioner may make a determination of the amount of the remuneration and earnings of each employee who was (or should have been) included in the return; and

(b) that amount is to be treated for the purposes of these regulations as the employee’s remuneration and earnings for the period covered by the return.

(3) If the Commissioner makes a determination under paragraph (2) —

(a) the Commissioner must give notice of that determination to the person who made (or should have made) the return in relation to which the determination was made;

(b) that person may —

(i) object to the determination; and

(ii) appeal to the Tax Appeal Tribunal.

(4) Sections 175, 181 and 183 apply to objections and appeals made under paragraph (3)(b), as if —

(a) references to an assessment to tax included references to a determination made under paragraph (2); and

(b) references to the tax charged under an assessment included the payments on account of income tax and Medical Services Tax due in respect of the remuneration and earnings determined by the Commissioner.

11. Regulation 13 amended – Information and preservation of records

(1) This section amends regulation 13.

(2) Paragraph (4) is revoked and the following substituted —

“(4) Paragraph (5) applies to a person required to do one or more of the following things —

(a) deduct a sum under —

(i) these Regulations;

(ii) Part 4 of the Taxes Ordinance; or

(iii) Part 7 of the Medical Services Ordinance; or

(b) make a payment on account of Medical Services Tax payable as an employer under —

(i) regulation 11A; or

(ii) Part 7 of the Medical Services Ordinance.”

(3) The following paragraph is inserted after paragraph (4) —

“(5) A person to whom this paragraph applies must —

(a) make a written record of —

(i) the deduction or payment on account; and

(ii) particulars of the employee in respect of whom it was made; and

(b) keep that record until the expiry of a period ending 6 years after the end of the calendar year in which the deduction or payment on account was made.”

Passed by the Legislature of the Falkland Islands on 26 November 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

Livestock and Meat Products Ordinance 2010

(No: 14 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Interpretation
4. Power to make regulations
5. Application of EU law
6. Application of UK law
7. Officials
8. Licences and certificates
9. Enforcement
10. Notices
11. Repeals

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

LIVESTOCK AND MEAT PRODUCTS ORDINANCE 2010

(No: 14 of 2010)

(assented to: 29 November 2010)
(commencement: on publication)
(published: 30 November 2010)

AN ORDINANCE

To provide for: the regulation of the treatment of animals kept for slaughter; the regulation of abattoirs; and treatment of meat products in the course of export or domestic trade; and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Livestock and Meat Products Ordinance 2010.

2. Commencement

This Ordinance comes into force upon publication in the Gazette.

3. Interpretation

(1) In this Ordinance —

“abattoir” has the meaning given by subsection (2),

“designated abattoir” has the meaning given by subsection (3);

“domestic purposes” has the meaning given by subsection (4);

“EU” means the European Union;

“EU legislation” means a Directive, Regulation or any other legislation enacted by an institution of the European Union;

• “export season” has the meaning given by subsection (5);

• “meat” includes meat products and other animal products;

“Notice” has the meaning given by section 10;

“Regulations” means regulations made by the Governor;

“UK legislation” means —

(i) an Act of Parliament,

(ii) an Act of the Scottish Parliament,

(iii) an Act of the Northern Ireland Assembly,

(iv) an Act or Measure of the National Assembly for Wales, and

(v) an enactment or instrument under legislation specified in paragraphs (i) to (iv).

(2) “Abattoir” includes any place used or intended to be used for the slaughtering of animals.

(3) “Designated abattoir” means an abattoir designated by Notice for the purpose of producing meat for export to a Member State of the EU.

(4) “Domestic purposes” means purposes other than export and, in particular, includes —

(a) commercial and non-commercial purposes, and

(b) supply for consumption on board a vessel.

(5) “Export season” means a period in each calendar year which —

(a) begins on a date designated by Notice, and

(b) ends on a date designated by Notice.

4. Power to make regulations

(1) Regulations may make provision about any aspect of —

(a) importing animals into the Falkland Islands;

- (b) the conditions under which animals are kept;
 - (c) carrying out medical, chemical or other tests on animals;
 - (d) the slaughtering of animals;
 - (e) the disposal of dead animals (whether or not slaughtered);
 - (f) the treatment of animals and meat at abattoirs before and after slaughter;
 - (g) the treatment of meat in the course of export or domestic trade (including retail);
 - (h) carrying out chemical or other tests on meat;
 - (i) the disposal of waste produced in the course of slaughtering animals or preparing meat;
and
 - (j) importing meat into the Falkland Islands.
- (2) In subsection (1) “animals” means animals of a kind that are commonly kept for slaughter.
- (3) Regulations under subsection (1) may —
- (a) make provision that applies only during the export season;
 - (b) make provision that applies only outside the export season;
 - (c) make provision that applies differently during and outside the export season.
- (4) Regulations under subsection (1) may —
- (a) make provision that applies only to designated abattoirs;
 - (b) make provision that applies only to non-designated abattoirs;
 - (c) make provision that applies differently to designated and non-designated abattoirs.
- (5) Regulations under subsection (1) may —
- (a) make provision that applies only to slaughtering and meat for export;
 - (b) make provision that applies only to slaughtering and meat for domestic purposes;
 - (c) make provision that applies differently in relation to slaughtering and meat for export and for domestic purposes.

(6) Regulations under subsection (1) may —

(a) make different provision for different purposes;

(b) make provision that applies generally or only for specified purposes;

(c) may include incidental or consequential provision (which may, in particular, amend other legislation so as to introduce a reference to the regulations).

5. Application of EU law

(1) Regulations under section 4(1) may, in particular, include any provision which the Governor thinks necessary or desirable for permitting or facilitating the export of meat to Member States of the EU.

(2) The regulations may provide for specified EU legislation to apply.

(3) Application by virtue of subsection (2) may be —

(a) subject to modifications specified in the regulations;

(b) subject to such modifications as may be specified by Notice.

(4) The regulations may provide for the automatic application of —

(a) any amendment made to EU legislation applied by the regulations (whether made before or after the making or commencement of the regulations);

(b) any legislative or administrative instrument made under or by virtue of EU legislation applied by the regulations (whether made before or after the making or commencement of the regulations).

(5) Regulations applying EU legislation may —

(a) specify exceptions;

(b) allow exceptions to be provided by Notice;

(c) confer power to grant exemptions.

(6) Regulations must make provision about marks and certificates required in connection with export to Member States of the EU; and the regulations must, in particular, require the Senior Veterinary Officer to make arrangements to ensure that the marks and certificates are used only at designated abattoirs during the export season.

6. Application of UK law

(1) Regulations under section 4(1) may provide for specified UK legislation to apply.

- (2) Application by virtue of subsection (1) may be —
- (a) subject to modifications specified in the regulations;
 - (b) subject to such modifications as may be specified by Notice.
- (3) The regulations may provide for the automatic application of —
- (a) any amendment made to UK legislation applied by the regulations (whether made before or after the making or commencement of the regulations);
 - (b) any legislative or administrative instrument made under or by virtue of UK legislation applied by the regulations (whether made before or after the making or commencement of the regulations).
- (4) Regulations applying UK legislation may —
- (a) specify exceptions;
 - (b) allow exceptions to be provided by Notice;
 - (c) confer power to grant exemptions.

7. Officials

- (1) In this Ordinance —
- (a) “Senior Veterinary Officer” means the Senior Veterinary Officer of the Department of Agriculture,
 - (b) “Official Veterinarian” means an official of that Department appointed as an Official Veterinarian, and
 - (c) Meat Hygiene Inspector means an official of that Department appointed as a Meat Hygiene Inspector.
- (2) In the exercise of functions under or in connection with Regulations under section 4(1) —
- (a) the Senior Veterinary Officer is not subject to the direction or control of any person or authority,
 - (b) Official Veterinarians and Meat Hygiene Inspectors are not subject to the direction or control of any person other than the Senior Veterinary Officer.
- (3) Regulations under section 4(1) may confer functions (including discretionary functions) on—

(a) the Senior Veterinary Officer;

(b) other veterinary officers;

(c) Meat Hygiene Inspectors.

(4) Regulations under section 4(1) may make provision by reference to arrangements to be made by —

(a) the Senior Veterinary Officer;

(b) the Department of Agriculture.

(5) The Senior Veterinary Officer is the “competent authority” for the purposes of any EU legislation applied by or under Regulations under section 4(1).

(6) The Senior Veterinary Officer may authorise persons to carry out functions under or in connection with Regulations under section 4(1); and subsection (2)(b) applies to those persons.

8. Licences and certificates

Regulations under section 4(1) may make provision for slaughtering and export to be controlled by a system of licensing or certificates (or both).

9. Enforcement

(1) Regulations under section 4(1) may include provision for enforcement.

(2) In particular, the regulations may —

(a) create criminal offences;

(b) provide for the imposition of civil penalties;

(c) confer power to serve notices and make provision about the consequences of the service of notices;

(d) confer jurisdiction on a court or tribunal;

(e) include provision for forfeiture of goods or equipment;

(f) confer powers of entry, search and seizure;

(g) require the provision of information;

(h) confer powers to require the provision of information.

(3) If the regulations create an offence they may provide for a maximum penalty of —

- (a) 6 months imprisonment,
- (b) a fine of level 6 on the standard scale, or
- (c) a combination.

10. Notices

- (1) In this Act “Notice” means a notice given by the Governor.
- (2) The Governor must publish any notice under this Ordinance as soon as reasonably practicable (but a notice may take effect before being published).

11. Repeals

- (1) Regulations under section 4(1) may include provision for the repeal, revocation or disapplication of any Ordinance or other legislation if the Governor thinks the repeal, revocation or disapplication necessary or desirable in consequence of the Regulations.
- (2) Provision under this section may ---
 - (a) apply to specified legislation generally or only to a specified extent or for specified purposes;
 - (b) include transitional provision or savings.

Passed by the Legislature of the Falkland Islands on 26 November 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

Telecommunications (Amendment) Ordinance 2010

(No: 15 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Telecommunications Ordinance
4. Section 2 amended – Interpretation
5. New Parts 1A and 1B
6. Section 11 substituted
7. New sections 11A to 11I

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

TELECOMMUNICATIONS (AMENDMENT) ORDINANCE 2010

(No: 15 of 2010)

(assented to: 29 November 2010)
(commencement: on publication)
(published: 30 November 2010)

AN ORDINANCE

To amend the Telecommunications Ordinance (Title 70.1) in relation to: the appointment of a Regulator; the provision of information by telecommunications utilities; and the establishment by telecommunications utilities of procedures for the handling of complaints and resolution of disputes; and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Telecommunications (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Amendment of Telecommunications Ordinance

This Ordinance amends the Telecommunications Ordinance.

4. Section 2 amended – Interpretation

(1) This section amends section 2.

(2) The following definition is inserted after the definition of “Crown” —

“customer” includes a potential customer;”.

(3) The following definition is inserted after the definition of “mobile station” —

“Panel” means the Telecommunications Appeals Panel established by Part 1B;”.

5. New Parts 1A and 1B

The following Parts are inserted after Part 1 —

“PART 1A REGULATOR

2A. Regulator

(1) The Governor may, in writing, appoint a person as the Regulator for the purposes of this Ordinance.

(2) The Governor may, in writing, appoint one or more persons to act on behalf of the Regulator.

(3) A person appointed as the Regulator or to act on the Regulator’s behalf may exercise functions vested by or under this Ordinance in the Government or the Governor.

(4) Subsection (3) only allows a person to exercise functions on behalf of the Government or the Governor to the extent that person’s appointment allows.

(5) Subsection (3) does not allow a person to exercise —

(a) a function of the Government under section 13; or

(b) a function of the Governor under a provision in —

(i) Part 1B;

(ii) Part 7;

(iii) Part 8; or

(iv) Part 9.

PART 1B TELECOMMUNICATIONS APPEALS PANEL

2B. Telecommunications Appeals Panel

(1) This Part establishes a Telecommunications Appeals Panel.

(2) The Panel will have 3 members to be appointed by the Governor in accordance with sections 2C and 2D.

(3) The Panel's role is to deal with appeals under section 11D.

(4) The Governor may by order amend subsection (3) to extend the role of the Panel.

(5) Before making an order under subsection (4), the Governor must —

(a) consult each telecommunications utility; and

(b) consult users of telecommunications services in the Falkland Islands in whatever way the Governor thinks appropriate.

2C. Appointment of Chairperson

(1) The Governor must appoint a person to be the Chairperson of the Panel.

(2) That person —

(a) must, in the Governor's opinion, have appropriate knowledge and experience;

(b) must not be an employee of or a contractor for either —

(i) the Government; or

(ii) a telecommunications utility; and

(c) must not have another conflict of interest which could reasonably be expected to stop that person from being appointed to be the Chairperson.

(3) A person is not stopped from acting as Chairperson only by being a customer (whether in the Falkland Islands or elsewhere) of either —

(a) a telecommunications utility; or

(b) a competitor of a telecommunications utility.

2D. Appointment of other members

(1) The Governor must appoint two other persons to be the members of the Panel.

(2) The Governor must consult each telecommunications utility before making one of the appointments under subsection (1).

(3) The Governor must consult users of telecommunications services in the Falkland Islands before making the other appointment under subsection (1).

(4) When consulting under subsection (3), the Governor must —

- (a) consult the Falkland Islands Chamber of Commerce; and
- (b) carry out other consultation, as the Governor thinks appropriate.

2E. Arrangements

(1) The Governor may make arrangements about the following matters —

- (a) paying members of the Panel (and different arrangements may be made for the Chairperson and for the other members);
- (b) other terms and conditions of appointment for the members of the Panel (including the period a member will serve);
- (c) removing a member of the Panel for good cause before the expiry of the period that member was to serve;
- (d) specific conflict of interests that arise in particular cases to be dealt with by the Panel;
- (e) filling vacancies on the Panel (including temporary vacancies that arise for specific cases); and
- (f) the Panel's proceedings.

(2) Before making arrangements under subsection (1), the Governor must consult —

- (a) the Panel,
- (b) each telecommunications utility;
- (c) the Falkland Islands Chamber of Commerce, and
- (d) other persons the Governor thinks are likely to be interested.

(3) When making arrangements in relation to filling vacancies, the Governor must follow sections 2C and 2D.

(4) Decisions of the Panel are to be taken by majority vote and arrangements made by the Governor in relation to the Panel's proceedings must reflect that.

2F. Annual report

(1) The Panel must prepare a written report as soon as reasonably practicable after the end of each calendar year.

(2) The written report prepared under subsection (1) must contain details of the Panel's activities (including the number of appeals) in the previous year.

(3) The Panel must send its reports to the Governor and the Legislative Assembly.

(4) The Governor must publish the reports.

6. Section 11 substituted

Section 11 is repealed and the following section substituted —

"11. Telecommunications utility to provide Government with information

(1) This section applies if the Government considers that it is necessary to require a telecommunications utility to provide it with information or documents for the purpose of the Government carrying out its functions in relation to telecommunications.

(2) If this section applies, the Government may send a notice to the utility requiring it to provide the information or documents specified in the notice.

(3) The notice to the utility must be accompanied by an explanation why the Government considers the information or documents specified in the notice are necessary for the purpose.

(4) The information or documents must be provided to the Government —

(a) before the end of such reasonable period as may be specified in the notice; and

(b) in such form as the Government may reasonably require."

7. New sections 11A to 11I

The following sections are inserted after section 11 —

"11A. Representations from utility as to provision of information

(1) Paragraph (2) applies if a telecommunications utility to which a notice is sent under section 11(2) considers that the burden of providing some or all of the information or one or more of the documents specified in the notice would be disproportionate to the benefits to the Government in receiving it.

(2) The utility may send written representations to the Government in which it —

(a) specifies the information or documents in relation to which it considers that the burden to it would be disproportionate to the benefit to the Government; and

(b) sets out in full the reasons why it takes that view.

(3) A written response under subsection (2) must be sent within 20 business days of the utility receiving the notice from the Government.

(4) If the Government receives written representations under subsection (2) —

(a) the Government must —

(i) consider whether or not it would be disproportionate for the utility to provide the information or documents specified in the representations; and

(ii) respond to the utility within 20 business days of receiving the representations, indicating its decision in relation to the information or documents; and

(b) the utility need not provide the information or documents while the Government is considering its response to the utility's representations.

(5) If information or documents specified in the notice sent under section 11(2) is not specified in the utility's representations under subsection (2), the utility must provide that information to the Government within the period originally specified in the notice.

(6) If the Government determines that it would be disproportionate for the utility to have to provide some or all of the information or one or more of the documents specified in the notice sent under section 11(2), the Government —

(a) must withdraw the notice; and

(b) may send a revised notice to the utility.

(7) If the Government determines that it would not be disproportionate to have to provide some or all of the information or documents specified in the notice sent under section 11(2), it may notify the utility of a new reasonable period before the end of which the utility must provide that information to the Government.

11B. Failure to provide information

(1) If the Government considers that there are grounds for believing that a telecommunications utility is in breach of one or more requirements under sections 11 and 11A, it may give a notice in writing to the utility —

(a) setting out the requirement and the alleged breach;

(b) giving the utility a reasonable period to do either or both of the following things —

(i) comply with the requirement; and

(ii) make representations about the allegation to the Government.

(2) The Government must consider any representations made under subsection (1)(b)(ii).

(3) If a utility is or has been in serious or repeated breach of requirements imposed under sections 11 and 11A, the utility's licence may be revoked under Part 7.

11C. Failure to provide information: penalties

(1) Subsection (2) applies if the Government —

- (a) has given a notice to a utility under section 11B(1);
- (b) has considered any representations made under section 11B(1)(b)(ii); and
- (c) is satisfied that the utility is in breach of one or more requirements imposed under section 11.

(2) If this subsection applies, the Government may impose a penalty on the utility that it determines to be both —

- (a) appropriate; and
- (b) proportionate to the breach.

(3) A penalty imposed under subsection (2) may not exceed £20,000.

(4) If the Government imposes a penalty on a utility under subsection (2), it must notify the utility within 10 business days of —

- (a) the decision that has been made;
- (b) the reasons for it; and
- (c) the period for payment.

(5) A penalty imposed under subsection (2) will not be included as a cost of the telecommunications utility under section 46(3).

11D. Failure to provide information: appeals against penalties

(1) A telecommunications utility may appeal to the Panel against —

- (a) the imposition of a penalty on it under section 11C(2);
- (b) the amount of the penalty imposed; or
- (c) both.

(2) Notice of an appeal under subsection (1) must be given within 60 business days of the date of the notice under section 11C(3).

(3) The notice of appeal must set out the full grounds of the appeal, including (in particular) whether it is contended that —

(a) the decision appealed against is —

(i) based on an error of fact;

(ii) wrong in law, or

(iii) both; or

(b) the penalty imposed is disproportionate.

(4) The Panel may —

(a) uphold both the imposition of a penalty on the utility and the amount of the penalty imposed;

(b) uphold the imposition of a penalty on the utility but substitute a lower penalty for the one imposed; or

(c) overturn the decision to impose a penalty on the utility.

(5) The decision of the Panel under subsection (4) is final (subject to the possibility of challenge by way of judicial review).

11E. Failure to provide information: payment of penalties

(1) A penalty imposed under section 11C(2) must be paid by the telecommunications utility within the period specified under 11C(4)(c).

(2) Subsection (1) does not apply if the utility appeals to the Panel under section 11D(1).

(3) If the Panel upholds the imposition of a penalty on the utility's appeal, the following become payable immediately —

(a) either —

(i) the penalty imposed under section 11C(2); or

(ii) if the Panel substituted a lower penalty under section 11D(4)(b), that lower penalty; and

(b) interest on that amount from the day after the end of the period specified under section 11C(4)(c) until the day on which the Panel gives its decision.

(4) If an amount due under either subsection (1) or subsection (3) (or part of it) remains unpaid —

- (a) it may be enforced as a statutory debt;
- (b) interest (or further interest) must be added to the unpaid amount from the date by which it was to have been paid or the date on which it became payable until the date on which it is paid.

(5) The rate of interest that applies for the purposes of this section is the statutory interest rate fixed under section 8 of the Interest on Debts Ordinance 2002 (No 13 of 2002).

11F. Complaint handling and dispute resolution

A telecommunications utility is under a duty to establish and maintain a Code of Practice, relating to complaint handling and dispute resolution, which has been approved by the Government.

11G. Draft Code of Practice

(1) A telecommunications utility must submit a draft Code to the Government for approval within —

- (a) 40 business days of this section coming into force, or
- (b) if later, within 40 business days of its licence being granted.

(2) The draft Code must set out how —

- (a) the utility proposes to handle complaints made to it by customers;
- (b) disputes between the utility and customers are to be resolved; and
- (c) the utility proposes to bring the existence of the Code to the attention of customers.

(3) In relation to complaint handling, the draft Code must provide for complaints to be dealt with by the utility in a fair, effective and timely manner without the imposition of a fee or charge.

(4) In relation to dispute resolution, the draft Code must provide for procedures which —

- (a) are administered by a person who is, for practical purposes, independent (so far as decisions in relation to disputes are concerned) of the utility;
- (b) are easy to use, transparent and effective;
- (c) give, to each of the utility's customers, a right to use the procedures free of charge;

- (d) enable any disputes which are found to be frivolous or vexatious to be rejected or brought to an early conclusion;
 - (e) ensure that all information necessary for giving effect to the procedures is provided;
 - (f) ensure that disputes are effectively investigated;
 - (g) confer power to make awards of appropriate compensation in respect of customers' direct losses; and
 - (h) enable awards of compensation to be properly enforced.
- (5) A draft Code need not provide for compensation in respect of customers' indirect losses.

11H. Approval of Code of Practice

(1) The Government must approve a telecommunication utility's Code of Practice if it is satisfied that —

- (a) the draft Code meets the requirements of sections 11G(3) and (4); and
 - (b) if approved, the Code will ensure an appropriate balance is maintained between —
 - (i) the legitimate commercial interests of the telecommunications utility; and
 - (ii) the protection of the interests of the customers of the utility.
- (2) The Government may by notice in writing to a utility —
- (a) approve modifications that the utility has proposed to an approved Code;
 - (b) withdraw approval of a Code; or
 - (c) give notice that approval will be withdrawn from a Code from a date specified in the notice, unless modifications specified in the notice are made to the Code before that date.

11I. Use of procedures

While a telecommunication utility's Code of Practice is approved by the Government, a customer of the utility must exhaust the procedures set out in the Code in relation to a complaint or dispute before bringing proceedings against the utility in relation to that complaint or dispute."

Passed by the Legislature of the Falkland Islands on 26 November 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

Immigration (Amendment) Ordinance 2010

(No: 16 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Section 5 of the Immigration Ordinance amended – General provisions for regulation and control

ELIZABETH II



FALKLAND ISLANDS

RICHARD PAUL NYE,
Acting Governor.

IMMIGRATION (AMENDMENT) ORDINANCE 2010

(No: 16 of 2010)

(assented to: 29 November 2010)

(commencement: on publication)

(published: 30 November 2010)

AN ORDINANCE

To amend the Immigration Ordinance (Title 52.2).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Immigration (Amendment) Ordinance.

2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

3. Section 5 of Immigration Ordinance amended – General provisions for regulation and control

Section 5(11)(b) of the Immigration Ordinance is amended by omitting “an international organisation or national authority” and substituting “a passport-issuing authority”.

Passed by the Legislature of the Falkland Islands on 26 November 2010.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

PUBLIC HEALTH

Smoking (Signs) Regulations 2010

S. R. & O. No. 24 of 2010

Made: 29 November 2010

Published: 30 November 2010

Coming into force: see regulation 2

I make the following regulations under section 17 of the Smoking (Prohibition) Ordinance (No 12 of 2010) on the advice of the Executive Council.

PART 1 INTRODUCTORY PROVISIONS

1. Title

These regulations are the Smoking (Signs) Regulations 2010.

2. Commencement

These regulations come into force on a date to be fixed by the Governor by notice in the *Gazette*.

3. Interpretation

In these regulations —

“entrance” means an entrance intended for use by persons;

“full-size no-smoking sign” means a sign that meets the requirements set out in regulation 4;

“licence” means a licence or protection order granted under the Licensing Ordinance (Title 48.2);

“mini no-smoking sign” means a sign that meets the requirement set out in regulation 5;

“no-smoking symbol” means a symbol that consists solely of a graphic representation of a single burning cigarette enclosed in a red circle of at least 70 millimetres in diameter with a red bar across it; and

“smoking ban” means the prohibition on smoking in section 4 of the Smoking (Prohibition) Ordinance.

PART 2 REQUIREMENTS FOR SIGNS

4. Requirements for full-size no-smoking signs

(1) Full-size smoking signs must meet the following requirements —

(a) they must be at least 200 millimetres by 140 millimetres in size;

(b) they must include the following elements —

(i) the no-smoking symbol; and

(ii) in characters that can be read easily, the words —

“No smoking. It is against the law to smoke in this place.”

(2) A sign meets the requirement in paragraph (1)(b)(ii) if, for “this place”, there is substituted either —

(a) “these premises”; or

(b) other words that describe more specifically the place to which it refers.

5. Requirements for mini no-smoking signs

Mini no-smoking signs must contain (or consist of) the no-smoking symbol.

PART 3 SIGNS AT ENTRANCES TO PLACES

6. Full-size no-smoking signs at entrances to places

A full-size no-smoking sign must be displayed in a prominent position at each entrance to every place in which the smoking ban applies.

7. Duties to ensure compliance with regulation 6

(1) It is the duty of the occupier of a place in which the smoking ban applies to take all reasonable steps to ensure that signs are displayed at the entrances to that place in order to comply with regulation 6.

(2) It is also the duty of each of following persons to take reasonable steps to ensure that signs are displayed at the entrances to a place in which the smoking ban applies in order to comply with regulation 6 —

(a) the person in charge of the place;

(b) each other person with management responsibilities for the place; and

- (c) each other person responsible for order or safety on the premises.

PART 4 ADDITIONAL SIGNS INSIDE LICENSED PREMISES

8. Additional full-size and mini no-smoking signs inside licensed premises

- (1) This regulation applies in relation to premises covered by a licence.
- (2) Additional full-size no-smoking signs must be displayed in prominent positions in each of the following parts of the premises —
 - (a) at the bar; and
 - (b) in each toilet facility on the premises.
- (3) Additional mini no-smoking signs must be displayed on each table on the premises.

9. Duties to ensure compliance with regulation 8

- (1) It is the duty of the holder of a licence to take reasonable steps to ensure that signs are displayed inside the premises covered by the licence in order to comply with the requirements of regulation 8.
- (2) It is also the duty of each of following persons to take reasonable steps to ensure that signs are displayed inside premises covered by a licence in order to comply with the requirements of regulation 8 —
 - (a) the person in charge of the premises;
 - (b) each other person with management responsibilities for the premises; and
 - (c) each other person responsible for order or safety on the premises.

PART 5 SIGNS INSIDE VEHICLES

10. Mini no-smoking signs inside vehicles

- (1) A mini no-smoking sign must be displayed in a prominent position in the passenger compartment or section of every vehicle in which the smoking ban applies.
- (2) Paragraph (3) applies if there is more than one passenger compartment or section in a vehicle in which the smoking ban applies.
- (3) If this paragraph applies, a mini no-smoking sign must be displayed in a prominent position in each passenger compartment or section.

(4) Paragraph (5) applies if the driver of a vehicle in which the smoking ban applies occupies a compartment or section separate from the passengers in the vehicle.

(5) If this paragraph applies, a mini no-smoking sign must also be displayed in a prominent position in the driver's compartment or section.

11. Duties to ensure compliance with regulation 10

(1) It is the duty of the owner of a vehicle in which the smoking ban applies to take all reasonable steps to ensure that signs are displayed in the vehicle in order to comply with the applicable requirements of regulation 10.

(2) It is also the duty of each of following persons to take reasonable steps to ensure that signs are displayed in a vehicle to which the smoking ban applies in order to comply with the applicable requirements of regulation 10 —

- (a) the driver of the vehicle;
- (b) each other person in charge of a passenger compartment or section in the vehicle; and
- (c) each other person with management responsibilities for the vehicle.

PART 6 OFFENCES

12. Failure to comply with duty in relation to signs

(1) A person who does not comply with a duty imposed on that person by a provision of these regulations is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine of up to —

- (a) level 3 on the standard scale, in the case of an offence committed by the holder of a licence in relation to the premises covered by the licence; or
- (b) level 2 on the standard scale, in any other case.

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE
(not forming part of the regulations)

Under section 17 of the Smoking (Prohibition) Ordinance (No 12 of 2010), the Governor may make regulations requiring the display of signs or notices in places, vehicles and aircraft to which the smoking ban applies.

These regulations impose requirements for no-smoking signs to be displayed in places in which the smoking ban applies, with additional requirements that apply on licensed premises.

They also impose requirements for no-smoking signs to be displayed in public vehicles but do not impose any requirements in relation to aircraft.

The regulations also imposes duties on those in charge of places and vehicles (or with responsibility for them) to ensure that these no-smoking signs are displayed.

Failure to comply with that duty is an offence under regulation 12 with a maximum fine of level 3 (currently, £800) for a licensee (in relation to the licensed premises) and level 2 (currently, £350) for anyone else.

Because the specific offence under regulation 12 applies to breaches of these regulations, the offence under section 25 of the Smoking (Prohibition) Ordinance does not apply.

The signs that must be displayed in order to comply with these regulations are signs that are protected by sections 18 of the Smoking (Prohibition) Ordinance. Unauthorised interference with any of these signs is an offence under section 26 with a maximum fine of level 3 (currently, £800) on licensed premises and level 2 (currently, £350) elsewhere.

SUBSIDIARY LEGISLATION

PUBLIC HEALTH

Smoking (Amounts of Fixed Penalties) Order 2010

S. R. & O. No: 25 of 2010

Made: 29 November 2010
Published: 30 November 2010
Coming into force: see article 2

I make the following order under section 38(1) of the Smoking (Prohibition) Ordinance (No 12 of 2010) on the advice of the Executive Council.

1. Title

This order is the Smoking (Amounts of Fixed Penalties) Order 2010.

2. Commencement

This order comes into force on a date to be fixed by the Governor by notice in the *Gazette*.

3. Amounts of fixed penalties

(1) The amount of the fixed penalty for an offence against each provision of the Smoking (Prohibition) Ordinance listed in the first column of the Schedule is the corresponding amount listed in the second column.

(2) The amount of the fixed penalty for an offence against regulation 12 (Failure to comply with duty in relation to signs) of the Smoking (Signs) Regulations (No 00 of 2010) is —

(a) £200, in the case of an offence committed by the holder of a licence or protection order granted under the Licensing Ordinance (Title 48.2) in relation to the premises covered by the licence; or

(b) £100, in any other case.

SCHEDULE

article 3(1)

<i>Offence under the Smoking (Prohibition) Ordinance</i>	<i>Amount of fixed penalty for offence</i>
Section 22(1) (Smoking in breach of the smoking ban)	£50
Section 23(1) (Failure to comply with duty to prevent others from smoking)	£200
Section 24(1) (Failure by licensee to comply with duty in relation to licensed premises)	£500
Section 26(1) (Unauthorised interference with sign or notice)	£100
Section 29(1) (Failure to provide name or address)	£50
Section 29(2) (Failure to produce identification)	£50
Section 30(1) (Providing false name or address)	£100

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE
(not forming part of the regulations)

Under section 40(1) of the Smoking (Prohibition) Ordinance (No 00 of 2010), the Governor has the power to prescribe by order the amounts of fixed penalties for offences against the Ordinance (or against subsidiary legislation made under it).

Section 40(2) allows the Governor to prescribe different amounts for different offences and for different cases or classes of case.

This order prescribes the fixed penalties for some (but not all) of the offences against the Ordinance.

It also prescribes the fixed penalty for offences against the Smoking (Signs) Regulations (No 00 of 2010) but distinguishes between offences committed by licensees in relation to the licensed premises and other offences against the regulations.

In relation to offences against sections 27(1), 28(2) and 28(3) of the Ordinance, no fixed penalties are prescribed. However, the effect of section 40(6) is that the amount of the fixed penalty for each of these offences is 25% of the maximum fine that could be imposed following conviction for the offence. In each case, the maximum fine is level 4 (currently, £1,500) and the amount of the fixed penalty would currently be £375.

No fixed penalty has been prescribed for offences against section 25(1) because that does not currently apply – regulation 12 of the Smoking (Signs) Regulations provides for a specific offence in relation to all breaches of the regulations and a fixed penalty has been prescribed for that offence.

SUBSIDIARY LEGISLATION

ANIMALS

Livestock and Meat Products (Identification and Movement of Cattle) Regulations 2010

S.R & O. No: 26 of 2010

Made: 29 November 2010
Published: 30 November 2010
Coming into force: in accordance with regulation 2

I make these regulations under section 4 of the Livestock and Meat Products Ordinance 2010 (No 14 of 2010) on the advice of the Executive Council.

1. Title

These Regulations are the Livestock and Meat Products (Identification and Movement of Cattle) Regulations 2010.

2. Commencement

- (1) Regulations 1 to 4 come into force on publication of these regulations in the *Gazette*.
- (2) The remaining provisions come into force on 1 January 2012.

3. Interpretation

In these Regulations —

“domestic season” means any time outside the export season within the meaning of the Livestock and Meat Products Ordinance;

“holding” means any place where animals are kept; and

“keeper” of an animal means any person (natural or legal) with control of the animal.

4. Arrangements

- (1) This regulation applies to the arrangements approved, operated and made under regulations 5, 6 and 7.
- (2) The arrangements may —
 - (a) apply generally or only in relation to specified classes of cattle or specified circumstances;

(b) make different provision for different classes of cattle or different circumstances;

(c) include exceptions or exemptions;

(d) in particular, apply only in relation to cattle of a specified age or apply differently in relation to cattle of different ages.

(3) The Department of Agriculture must publish details of the arrangements in the *Gazette*.

5. Ear tagging

Cattle must be tagged in accordance with arrangements approved by the Department of Agriculture.

6. Registration documents

(1) Cattle must be registered in accordance with arrangements operated by the Department of Agriculture.

(2) The arrangements must be designed to ensure that the Department is able to trace the history of the holding of each animal from its birth to its death.

(3) The arrangements must provide for a registration document —

(a) to be kept by the keeper of each animal from time to time; and

(b) to be returned to the Department for updating when the animal is moved between holdings.

(4) The arrangements must require information about the addition or substitution of tags to be given to the Department of Agriculture as soon as reasonably practicable for noting in the register.

7. Movement certificates

(1) Cattle may not be moved between holdings except with the authorisation of a movement certificate issued in accordance with arrangements made by the Department of Agriculture.

(2) The arrangements must include provision for all movements to be recorded by the Department of Agriculture.

8. Responsibility

Each person (natural or legal) who has care or control of cattle (to any degree, and whether or not shared with others) is responsible for ensuring compliance with regulations 5 and 6.

9. Offences

(1) It is an offence for a responsible person to fail without reasonable excuse to ensure compliance with regulation 5 or 6.

(2) It is an offence to cause or permit one or more cattle to be moved in contravention of regulation 7.

(3) It is a defence for a person charged with an offence against paragraph (2) to prove that either —

(a) the animal was moved from the holding for the purposes of emergency veterinary treatment; or

(b) the animal had strayed from one holding to another.

(4) A person convicted of an offence under this regulation is liable to either or both of the following penalties —

(a) a fine of up to level 5 on the standard scale; and

(b) imprisonment for up to 6 months.

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE
(not forming part of the Regulations)

These Regulations are made under section 4 of the Livestock and Meat Products Ordinance (No 14 of 2010).

They introduce a new regime for the identification, registration and movement of cattle.

The requirements of the Livestock Ordinance (Title 5.1) will continue to apply.

The effect of *regulation 2* is that the new regime will come into force on 1 January 2012.

Regulation 3 defines terms used elsewhere in the Regulations.

Regulation 4 contains general provisions about the arrangements to be approved, operated and made by the Department of Agriculture under *regulations 5, 6 and 7*.

Regulation 5 will introduce a requirement to ear tag cattle in addition to the existing requirement for ear marking.

Regulation 6 will introduce a compulsory system of registration for cattle.

Regulation 7 will make it a requirement for movements of cattle to be authorised by means of movement certificates issued by the Department of Agriculture.

Regulation 8 will place responsibility for ensuring compliance with the ear tagging and registration requirements on everyone with any responsibility for the care or control of cattle.

Regulation 9 will make it an offence not to take steps to comply with *regulation 5 or 6* or to breach *regulation 7* and the maximum penalty will be a level 5 fine (currently, £5,000) and/or up to 6 months in prison. However, it does provide for a defence in certain circumstances for what would otherwise be a breach of *regulation 7*.

SUBSIDIARY LEGISLATION

ANIMALS

Livestock and Meat Products (Identification and Movement of Pigs) Regulations 2010

S.R & O. No: 27 of 2010

Made: 29 November 2010
Published: 30 November 2010
Coming into force: in accordance with regulation 2

I make these regulations under section 4 of the Livestock and Meat Products Ordinance (No 14 of 2010) on the advice of the Executive Council.

Introductory

1. Title

These Regulations are the Livestock and Meat Products (Identification and Movement of Pigs) Regulations 2010.

2. Commencement

- (1) Regulations 1 to 4 come into force on publication of these regulations in the *Gazette*.
- (2) The remaining provisions come into force on 1 January 2012.

3. Interpretation

In these Regulations —

“holding” means any place where animals are kept, and

“keeper” of an animal means any person (natural or legal) with control of the animal.

4. Arrangements

- (1) This regulation applies to the arrangements approved and made under regulations 5, 6 and 7.
- (2) The arrangements may —
 - (a) apply generally or only in relation to specified classes of pig or specified circumstances;
 - (b) make different provision for different classes of pig or different circumstances;

(c) include exceptions or exemptions;

(d) in particular, apply only in relation to pigs of a specified age or apply differently in relation to pigs of different ages.

5. Ear marking

(1) Pigs must be marked with an ear mark, in accordance with arrangements approved by the Department of Agriculture.

(2) The arrangements must include a register of approved ear marks, which must be published in the *Gazette* from time to time.

6. Ear tagging

(1) Pigs must be tagged with one or more ear tags, in accordance with arrangements approved by the Department of Agriculture.

(2) The arrangements —

(a) must ensure that each tag bears a code identifying a holding,

(b) may require tags to include other information,

(c) must require tags to be added when pigs are moved between holdings, so that each pig carries a tag for each holding on which it has been held,

(d) must include a register of approved ear tags, which must be published in the *Gazette* from time to time, and

(e) may provide for a system of paint-branding which may be used, to the extent and in the circumstances permitted by the arrangements (for example, on movement from a holding to an abattoir), instead of tags.

7. Movement certificates

Pigs may not be moved between holdings except with the authorisation of a movement certificate issued in accordance with arrangements made by the Department of Agriculture.

8. Responsibility

Each person (natural or legal) who has care or control of pigs (to any degree, and whether or not shared with others) is responsible for ensuring compliance with regulations 4 and 5.

9. Offences

(1) It is an offence for a responsible person to fail without reasonable excuse to ensure compliance with regulation 5 or 6.

(2) It is an offence to cause or permit one or more pigs to be moved in contravention of regulation 7.

(3) It is a defence for a person charged with an offence against paragraph (2) to prove that either —

(a) the pig was moved from the holding for the purposes of emergency veterinary treatment;
or

(b) the pig had strayed from one holding to another.

(4) A person convicted of an offence under this regulation is liable to either or both of the following penalties —

(a) a fine of up to level 5 on the standard scale; and

(b) imprisonment for up to 6 months.

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE
(not forming part of the Regulations)

These Regulations are made under section 4 of the Livestock and Meat Products Ordinance (No 14 of 2010). They introduce a new regime for the identification and movement of pigs.

The effect of *regulation 2* is that the new regime will come into force on 1 January 2012.

Regulation 3 defines terms used elsewhere in the Regulations.

Regulation 4 contains general provisions about the arrangements to be approved, operated and made by the Department of Agriculture under *regulations 5, 6 and 7*.

Regulation 5 will introduce a requirement to ear mark pigs.

Regulation 6 will introduce a requirement to ear tag pigs.

Regulation 7 will make it a requirement for movements of pigs to be authorised by means of movement certificates issued by the Department of Agriculture.

Regulation 8 will place responsibility for ensuring compliance with the ear marking and ear tagging requirements on everyone with any responsibility for the care or control of pigs.

Regulation 9 will make it an offence not to take steps to comply with *regulation 5 or 6* or to breach *regulation 7* and the maximum penalty will be a level 5 fine (currently, £5,000) and/or up to 6 months in prison. However, it does provide for a defence in certain circumstances for what would otherwise be a breach of *regulation 7*.

SUBSIDIARY LEGISLATION

ANIMALS

Livestock and Meat Products (Identification and Movement of Sheep) Regulations 2010

S.R & O. No: 28 of 2010

Made: 29 November 2010

Published: 30 November 2010

Coming into force: in accordance with regulation 2

I make these regulations under section 4 of the Livestock and Meat Products Ordinance (No 14 of 2010) on the advice of the Executive Council.

Introductory

1. Title

These Regulations are the Livestock and Meat Products (Identification and Movement of Sheep) Regulations 2010.

2. Commencement

(1) Regulations 1 to 4 come into force on publication of these regulations in the *Gazette*.

(2) The remaining provisions come into force on 1 January 2012.

3. Interpretation

In these Regulations —

“holding” means any place where animals are kept, and

“keeper” of an animal means any person (natural or legal) with control of the animal.

4. Arrangements

(1) This regulation applies to the arrangements approved and made under regulations 5, 6 and 7.

(2) The arrangements may —

(a) apply generally or only in relation to specified classes of sheep or specified circumstances;

(b) make different provision for different classes of sheep or different circumstances;

(c) include exceptions or exemptions;

(d) in particular, apply only in relation to sheep of a specified age or apply differently in relation to sheep of different ages.

5. Ear marking

(1) Sheep must be marked with an ear mark, in accordance with arrangements approved by the Department of Agriculture.

(2) The arrangements must include a register of approved ear marks, which must be published in the *Gazette* from time to time.

6. Ear tagging

(1) Sheep must be tagged with one or more ear tags, in accordance with arrangements approved by the Department of Agriculture.

(2) The arrangements —

(a) must ensure that each tag bears a code identifying a holding,

(b) may require tags to include other information,

(c) must require tags to be added when sheep are moved between holdings, so that each sheep carries a tag for each holding on which it has been held,

(d) must include a register of approved ear tags, which must be published in the *Gazette* from time to time, and

(e) may provide for a system of paint-branding which may be used, to the extent and in the circumstances permitted by the arrangements (for example, on movement from a holding to an abattoir), instead of tags.

7. Movement certificates

Sheep may not be moved between holdings except with the authorisation of a movement certificate issued in accordance with arrangements made by the Department of Agriculture.

8. Responsibility

Each person (natural or legal) who has care or control of sheep (to any degree, and whether or not shared with others) is responsible for ensuring compliance with regulations 5 and 6.

9. Offences

(1) It is an offence for a responsible person to fail without reasonable excuse to ensure compliance with regulation 5 or 6.

(2) It is an offence to cause or permit one or more sheep to be moved in contravention of regulation 7.

(3) It is a defence for a person charged with an offence against paragraph (2) to prove that either —

(a) the sheep was moved from the holding for the purposes of emergency veterinary treatment; or

(b) the sheep had strayed from one holding to another.

(4) A person convicted of an offence under this regulation is liable to either or both of the following penalties —

(a) a fine of up to level 5 on the standard scale; and

(b) imprisonment for up to 6 months.

10. Revocation

The Animal Health (Livestock Movement and Identification) (Provisional) Order 2002 (SR&O No 34 of 2002) is revoked.

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE

(not forming part of the Regulations)

These Regulations are made under section 4 of the Livestock and Meat Products Ordinance (No 14 of 2010).

They introduce a new regime for the identification, and movement of sheep, replacing the provisional regime introduced by the Animal Health (Livestock Movement and Identification)(Provisional) Order 2002 (SR&O No 34 of 2002) (which is to be revoked).

The requirements of the Livestock Ordinance (Title 5.1) will continue to apply.

The effect of *regulation 2* is that the new regime will come into force on 1 January 2012.

Regulation 3 defines terms used elsewhere in the Regulations.

Regulation 4 contains general provisions about the arrangements to be approved and made by the Department of Agriculture under *regulations 5, 6 and 7*.

Regulation 5 will supplement the existing requirement under the Livestock Ordinance to ear mark sheep with a power for the Department of Agriculture to approve and publish arrangements for ear marking.

Regulation 6 will replace the existing requirement to ear tag sheep with a new power for the Department of Agriculture to approve and publish arrangements for ear tagging.

Regulation 7 will replace the existing system for regulating movements of sheep (based on waybills) with a new system (to be based on movement certificates) operating under arrangements to be made and published by the Department of Agriculture.

Regulation 8 will place responsibility for ensuring compliance with the ear marking and ear tagging requirements on everyone with any responsibility for the care or control of sheep.

Regulation 9 will make it an offence not to take steps to comply with *regulation 5 or 6* or to breach *regulation 7* and the maximum penalty will be a level 5 fine (currently, £5,000) and/or up to 6 months in prison. However, it does provide for a defence in certain circumstances for what would otherwise be a breach of *regulation 7*.

Regulation 10 will revoke the Animal Health (Livestock Movement and Identification)(Provisional) Order 2002 but only as from 1 January 2012.

SUBSIDIARY LEGISLATION

NATIONALITY AND IMMIGRATION

Immigration (Visa Exemption for Holders of Taiwanese Passports) Order 2010

S. R. & O. No: 29 of 2010

Made: 29 November 2010
Published: 30 November 2010
Coming into force: on publication

I make this order under section 5(12) of the Immigration Ordinance (Title 52.2) on the advice of the Executive Council.

1. Title

This order is the Immigration (Visa Exemption for Holders of Taiwanese Passports) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Amendment of Schedule 1 to the Immigration Ordinance

(1) This article amends Schedule 1 to the Immigration Ordinance.

(2) Paragraph (b) of Part 1 is amended by —

(a) omitting “parts of countries” and substituting “territories”; and

(b) inserting “Taiwan” into the list after “Switzerland”.

Made 29 November 2010

R. P. Nye,
Acting Governor.

EXPLANATORY NOTE
(not forming part of the order)

The holders of passports issued by the authorities listed in Part 1 of Schedule 1 to the Immigration Ordinance (Title 52.2) are exempt from the requirement under section 5(11) to hold a visa to enter the Falkland Islands.

Under section 5(12) of the Immigration Ordinance, the Governor has the power to amend Schedule 1 by order.

The effect of this order is that holders of Taiwanese passports will be able to enter the Falkland Islands without a visa but will still need to comply with the other requirements of the Immigration Ordinance.

SUBSIDIARY LEGISLATION

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Correction (Various) Order 2010

S. R. & O. No: 30 of 2010

Made: 30 November 2010

Published: 30 November 2010

Coming into force: on publication

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance (Title 67.2) I make the following order —

1. Title

This order is the Correction (Various) Order 2010.

2. Commencement

This order comes into force on publication in the *Gazette*.

3. Correction of Medical Services Tax Ordinance 2010

(1) This article amends the Medical Services Tax Ordinance (No 13 of 2010).

(2) Section 51(i) is amended by replacing “??” with “13”.

(3) The Schedule is amended —

(a) in paragraph 9 —

(i) in substituted regulation 12(1)(a)(iii); and

(ii) in substituted regulation 12(1)(b)(ii);

(b) in paragraph 11 —

(i) in substituted regulation 13(4)(a)(iii); and

(ii) in substituted regulation 13(4)(b)(ii),

by inserting “Tax” between “Services” and “Ordinance”.

4. Correction of Livestock and Meat Products Ordinance 2010

Section 10 of the Livestock and Meat Products Ordinance 2010 (No 14 of 2010) is amended by replacing “Act” with “Ordinance”.

5. Correction of Telecommunications (Amendment) Ordinance 2010

Section 5 of the Telecommunications (Amendment) Ordinance 2010 (No 15 of 2010) is amended in new section 2C(3)(b) by replacing “telecommuncations” with “telecommunications”.

6. Correction of Smoking (Amounts of Fixed Penalties) Order 2010

The Smoking (Amounts of Fixed Penalties) Order 2010 (SR&O No 25 of 2010) is amended —

(a) in article 3(2) by replacing “No 00” with “No 24”;

(b) in the explanatory note by replacing “No 00” in the first place it appears with “No 12”;
and

(c) in the explanatory note by replacing “No 00” in the second place it appears with “No 24”.

7. Correction of Livestock and Meat Products (Identification and Movement of Pigs) Regulations 2010

The Livestock and Meat Products (Identification and Movement of Pigs) Regulations 2010 (SR&O No 27 of 2010) are amended by the deletion of the cross heading “*Introductory*”.

8. Correction of Livestock and Meat Products (Identification and Movement of Sheep) Regulations 2010

The Livestock and Meat Products (Identification and Movement of Sheep) Regulations 2010 (SR&O No 28 of 2010) are amended by the deletion of the cross heading “*Introductory*”.

Made 30 November 2010

D. F. W. Pickup,
Attorney General.

EXPLANATORY NOTE
(not forming part of the above order)

This order corrects several typographical errors.

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