



FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 123

31 January 2014

No. 1

Appointment

Natalie Winward, Learning Support Assistant, Education Department, 16.12.13.

Caroline Ann Makris, Staff Nurse, Health and Social Services Department, 30.12.13.

Pauline Margaret Ruth McCormick, Home Help, Health and Social Services Department, 06.01.14.

Lynsey Leander Trevaskis, Clerk (part time), Education Department, 07.01.14.

Emma Rose Burton, Clerk, Environmental Planning Office, Policy Unit, 09.01.14.

Graeme Alan Jackson, Director of Human Resources, Human Resources Department, 18.01.14.

Madeleine Joyce Dianna Findlay, General Assistant, Health and Social Services Department, 20.01.14.

Donna Marie Ryan, Advanced Childcare Practitioner, Health and Social Services Department, 22.01.14.

Zoe Alexandra Gill, English Teacher, Education Department, 27.01.14.

Wendy Jane Wilson, English Teacher, Education Department, 27.01.14.

Completion of contract

Edward Laurence Bragger, Filtration Plant Operator, Public Works Department, 02.01.14.

Determination of contract

Normann Ford, Senior Police Constable, Royal Falkland Islands Police Force, 15.11.13.

Determination of appointment

Tony Eugene Terrence McLaren, Senior Carpenter, Public Works Department, 23.12.13.

Promotion

Gene Stanley Berntsen, from Fire Fighter to Watch Manager A, Fire and Rescue Service, 01.01.14.

Terrianne Helen Ormond, from Technical Assistant to Assistant Director of Civil Aviation, Regulatory Services, 01.01.14.

Edgar Ewen Morrison, from Plant Operator/Handyperson to Assistant Foreman, Highways Section, Public Works Department, 20.01.14.

Transfer

Wayne Ian Summers James Clasen, from Plant Operator/Handyperson, Water Section to Plant Operator/Handyperson, Highways Section, Public Works Department, 01.01.14.

Nicholas Bonner, from Handyperson/Painter to Plumber, Property and Municipal Section, Public Works Department, 06.01.14.

Resignation

Denzil George Gustavius Clausen, Medical Engineering Manager, Health and Social Services Department, 01.01.14.

Evan Oscar Christopher Velasquez, Plant Operator/Handyperson, Public Works Department, 17.01.14.

Sebastian Armando Socodo, Assistant Foreman, Public Works Department, 24.01.14.

Dennis David Summers, Plant Operator/Handyperson, Public Works Department, 31.01.14.

NOTICES

No. 1

17 December 2013

Medical Practitioners, Midwives and Dentists Ordinance *section 4*

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 published:-

Doctors

Dr Barry Elsbey MBBS BSc DRCOG MRCP
Mr Ahmad Cheema MBBS FRCS
Dr Rebecca Edwards MBBS DRCOG DFFPRH
Dr Bernadette Paver MBBS MRCP
Dr Angela Rowlands MBBS BSc Dip Occ Med
Dr Christine Bradshaw BSc DipEd MBBS MRCP MRCP DMM
Dr Bruce Chipps MBChB BSc
Dr Narendra Dave MBBS MRCP DRCOG
Mr Mohamed Jamous MD MSc
Dr Gavin Thoms MBChB FRCA
Dr Quentin Cox MBBS FRCS(Ed) ortho FRCS
Mr M Rogers MBBS MBA PdD FRCS
Mr Adrian Scott Diabetic Consultant
Dr Eamon Staunton MBBS DCH MRCP DMM
Dr Tim McInerney Cons Psychiatrist MBBS FRCPsych Dip for Psych
Mr N Binnie Cons Surgeon BSc MBChB MD FRCSB
Mr Richard Sill MBChB FRCoG
Dr Donald MacLeod MBChB FFARCSI
Dr Ian Goulbourne MBChB chM FRCS(Ed)
Dr Vanesa Lawton MBChB MD MRCOG MRCP
Dr Arthur Allison BSc MBChB FRCA
Dr Maurice Betts MBChB JCPTGP
Dr Chandrasikhar MBBS MD DRCOG DFFP
Dr Andrew Hothersall MBChB FRCA
Dr Vincent Argent FIMC FCEM FRCA FROCG
Mr Kevin Baird FRCS Orthopaedics
Mr Daniel Archer MBBS BDS MRCS MRCP FDSRCS FRCS
Dr Brett Lockuer BM BSc (Pathologist)
Dr Matthew Dryden MBBS MA MSc MD FRCPATH
Dr Neil Ineson MB BS FRCP
Dr Oliver Cooper MBBS MRCP
Mr Matthew Hayes BM DM FRCS FRCS(Urology)

Dentists

Dr Sally Owen BChD
Dr Ben Walters LLM(U Wales) CPE(UCLAN) BDS
Dr Pervi Patel BDS

Midwives

Mrs Mandy Heathman SRN SCM
Miss Jacqueline Earnshaw SRN SCM
Mr Carl Evans BSc ENB346 Ophth RM
Mrs Claire Evans BSc RGN RM
Ms Vimbainashe Doherty BSc RGN MSc Hons Midwifery
Ms Mavis Kachimba RGN RM BSc Nursing

Dated 17 December 2013

A. ROWLANDS,
Chief Medical Officer.

No. 2

18 December 2013

Administration of Justice Ordinance *Schedule 3, para 3* **Appointment of Temporary Bailiff**

1. Paragraph 3(1) of Schedule 3 to the Administration of Justice Ordinance (Title 22.1) provides for a bailiff to the Courts of the Falkland Islands to be appointed by the Governor following consultation with the Chief Justice or such person as is nominated by the Chief Justice for the purpose.

2. Following such consultation and in exercise of my powers under paragraph 3(1) of Schedule 3 to the Administration of Justice Ordinance, I appoint **Jeremy Andrew Pierce** to be a bailiff to the Courts of the Falkland Islands.

3. This appointment has effect from the date of signature given below, and continues in effect until further order or revocation.

Dated 18 December 2013

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

No. 3

3 January 2014

Scaled PR Limited **Company number: 13137**

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 on 30 December 2013.

Dated 3 January 2014

E. J. DENT,
Registrar of Companies.

No. 4

3 January 2014

Two Sisters Limited **Company number: 12841**

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 on 30 December 2013.

Dated 3 January 2014

E. J. DENT,
Registrar of Companies.

**Public Accounts Committee
Register of Members' Interests**

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

The information is current to 13 January 2014.

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.

Andrea Clausen:
Falkland Islands Tours and Travel Limited
Falkland Islands Tourist Board

MLA Michael Poole:
None

Steve Dent:
Invenio Falkland Islands Limited

MLA Ian Hansen:
None

Richard Cockwell:
None

2. Remunerated employment, office or profession

Andrea Clausen:
None

MLA Michael Poole:
Falkland Islands Fishing Companies Association (due to finish 01.02.14)
Full Time Member of Legislative Assembly

Steve Dent:
Managing Director Invenio Falkland Islands Limited
Reserve Constable Royal Falkland Islands Police
Casual employee North Pond Tours Tour Driver
Casual employee Falkland Islands Tours and Travel Limited Tour Driver
Casual employee Falkland Islands Company Limited Tour Driver

MLA Ian Hansen:
Income from Main Point Farm
Full Time Member of Legislative Assembly

Richard Cockwell:
Watercolour Artist, Instructor and paint maker

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

Andrea Clausen:
None

MLA Michael Poole:
None

Steve Dent:
Premier Oil
Noble Energy
Falkland Islands Tours and Travel Limited
Falkland Islands Company Limited
Seafish (Falklands) Limited
Hydro Martech Limited
P K McKay and Son

MLA Ian Hansen:
None

Richard Cockwell:
None

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

Andrea Clausen:
None

MLA Michael Poole:
None

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
None

5. Gifts, benefits and hospitality

Andrea Clausen:
None

MLA Michael Poole:
None

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
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

Andrea Clausen:
None

MLA Michael Poole:
None

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
None

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

Andrea Clausen:
None

MLA Michael Poole:
None

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
None

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

Andrea Clausen:
3 St Mary's Walk (jointly with spouse)

MLA Michael Poole:
19 Davis Street (jointly owned with Mr Toby Poole)
West Tyson Island in Falkland Sound

Steve Dent:
None

MLA Ian Hansen:
Main Point Farm

Richard Cockwell:
14 Ross Road West

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

Andrea Clausen:
Falkland Islands Tours and Travel Ltd

MLA Michael Poole:
None

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
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

Andrea Clausen:
None

MLA Michael Poole:
Member of Falkland Islands Football Club Committee
Treasurer for Flying Santa Appeal

Steve Dent:
None

MLA Ian Hansen:
None

Richard Cockwell:
Trustee of Falkland Islands Museum and National Trust

No. 6

21 January 2014

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

Take notice that **James Martin Clarke** of 3 H Jones Road, Stanley, Falkland Islands, died on 7 January 2014.

Whereas **Margaret Ann Goodwin** 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 21 January 2014

A. MEADOWS,
Registrar, Supreme Court.

28 January 2014

Falkland Islands Constitution Order 2008

section 95

Complaints Commissioners Ordinance 2010

section 4

**Appointment of Complaints Commissioner and
Designation of Principal Complaints Commissioner**

1. Section 95(1) of the Falkland Islands Constitution Order 2008 provides for the Governor acting in his discretion to appoint a Complaints Commissioner.

2. In exercise of my powers under section 95(1), I appoint Richard Sawle to be a Complaints Commissioner.

3. Section 4 of the Complaints Commissioners Ordinance 2010 provides for the Governor acting in his discretion to designate a Commissioner as the Principal Complaints Commissioner.

4. In exercise of my powers under section 4, I designate Richard Sawle to be the Principal Complaints Commissioner.

5. This appointment and designation have effect from 15 January 2014 for two years, unless terminated sooner.

Dated 28 January 2014

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

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No. 2

Appointment

Sitthambaranatha Gandhi Suppiah, Head of Design Engineering, Public Works Department, 23.01.14.

Christopher John Bowden, Internal Auditor, Central Services Department, 27.01.14

Kareen Mhairi Brand, Advanced Childcare Practitioner, Health and Social Services Department, 27.01.14.

Sarah Jayne Shepherd, Health Care Assistant, Health and Social Services Department, 03.02.14.

Angela Sindy Clarke, Evening Security Officer, Health and Social Services Department, 05.02.14.

Penelope Hope Nicholson, Crown Counsel, Attorney General's Chambers, 13.02.14.

Paul Christopher Jonas, Plant Operator/Handyperson, Highways Section, Public Works Department, 17.02.14.

Kathleen Laura Williamson, Health Care Assistant, Health and Social Services Department, 19.02.14.

Completion of contract

Ronald John MacLennan Baird, Legislative Drafter, Attorney General's Chambers, 23.02.14.

Natalie Elaine Hill, Physiotherapist, Health and Social Services Department, 28.02.14.

Promotion

John Morrison, from Plant Operator/Handyperson to Assistant Foreman, Property and Municipal Section, Public Works Department, 01.02.14.

Resignation

Christian Olaf Alexander Berntsen, Assistant Water Supervisor, Public Works Department, 02.01.14.

Mandy Hazel Minnell-Goodwin, Cleaner, Stanley House, Education Department, 24.01.14.

Geoffrey Loftus, Fireman, Emergency Services Department, 31.01.14.

Carolyn Wendy Shelbourne, Immigration Officer, Emergency Services Department, 07.02.14.

Sarah Anne Peters, Learning Support Assistant, Education Department, 28.02.14

Retirement

Caroline Mary Aldridge, Home Help, Health and Social Services Department, 03.01.14.

NOTICES

No. 8

3 February 2014

Altamar Enterprises Limited Company number: 9481

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 on 30 January 2014.

Dated 3 February 2014

E. J. DENT,
Registrar of Companies.

No. 9

3 February 2014

Altamar Heroya Primero Limited
Company number: 11075

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 on 30 January 2014.

Dated 3 February 2014

E. J. DENT,
Registrar of Companies.

No. 10

6 February 2014

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

Take notice that **Mila Boybanting Ped** of 33 Eliza Cove, Stanley, Falkland Islands, died on 3 February 2014.

Whereas **Ped** 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 6 February 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 11

11 February 2014

Tax - Extra Statutory Concession 16 (Revised)
Deferral of date when tax is due
for farm in and carry agreements

Where a seller, prior to commencement of petroleum production from this or any other licence, makes a part disposal of a licence which accrues a chargeable gain under section 141 Taxes Ordinance 1997 and the receipt of all or part of the consideration is deferred, the payment of the tax charged on the disposal of the licence may be deferred as below, subject to a formal written agreement being entered into between the taxpayer and the Falkland Islands Government.

The gain on the disposal will be calculated on the basis of the total consideration received and the corporation tax liability calculated on this gain. The tax will then be divided between the cash and non cash elements, and the deferred and non deferred elements, on the basis of the proportion that each bears to the total consideration received.

For the tax on any deferred cash consideration, deferral of payment will be to the earliest of:

- Receipt of the cash amount
- The date on which the royalty is due on 'first oil' production from the licence interest disposed of

- The date on which the seller otherwise realises value from the licence (including, without limitation, the date on which cash or non cash consideration is received on a pre-sale of oil or a subsequent disposal of all or part of the seller's remaining interest in the licence)

For the tax on any deferred non cash consideration, payment will be due at the earliest of:

- The date on which the royalty is due on 'first oil' production from the licence interest disposed of
- The date on which the seller otherwise realises value from the licence (including, without limitation, the date on which cash or non cash consideration is received on a pre-sale of oil or a subsequent disposal of all or part of the seller's remaining interest in the licence)

In all cases payment of the deferred tax must be made by the later of the normal due date and 30 days from the date to which the charge has been deferred.

To benefit from this deferral, taxpayers will be required to enter into a formal written agreement with the Falkland Islands Government. This relaxation to allow deferral of the due date for payment of tax will be kept under review and may be withdrawn if it appears to be abused. The Falkland Islands Government may also require additional specific terms to be entered into to secure the payment of the deferred tax and to protect itself from the avoidance of tax.

Example

Truman Limited has incurred £320m exploration costs eligible for depreciation allowances under section 111(1) Taxes Ordinance 1997. Boycott Limited farms in part of the licence for a cash reimbursement of £200m for historical costs and a development drilling agreement which is considered to have a net present value of £400m. Under Schedule 2 paragraph 1(4) Taxes Ordinance 1997, Truman claims the balance of expenditure eligible under section 111 which has not passed over to Boycott against the chargeable gain.

Assuming no other allowable base costs, the chargeable gain is:

Total consideration £200m + £400m	£m
Less Schedule 2 Para 1(4) costs £320m - £200m	600
Gain	<u>(120)</u>
	<u>£480</u>
Corporation tax due at 26%	<u>£124.8</u>
Tax on cash consideration £124.8 x 200/600	<u>£41.6</u>
Tax on non cash consideration £124.8 x 400/600	<u>£83.2</u>

Explanation

Petroleum exploration and production is a relatively new industry in the Falkland Islands and the tax legislation dealing with it is mostly untested.

This Extra Statutory Concession applies to a part disposal of a licence which accrues a chargeable gain under section 141 Taxes Ordinance 1997 where the consideration is not received immediately.

There is a tax charge on the profit made on disposing of a licence and this includes farm in and carry contracts. The tax charged is based on both the value of the work programme envisaged and any other consideration, including cash paid to

reimburse the seller's previous expenses. However, because some of the tax charge is based on an amount where no money or other benefit has been received by the seller there can be situations where the seller has insufficient funds to pay the tax at the time it arises or where payment of the tax would reduce the funds available for future development within the Falkland Islands. This Extra Statutory Concession therefore allows the taxpayer to enter into an agreement with the Falkland Islands Government to defer the payment of the tax in such situations.

Dated 11 February 2014

D. MURPHY,
Head of Taxation.

No. 12

21 February 2014

Marsur Limited
Company number: 10590

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 21 February 2014

E. J. DENT,
Registrar of Companies.

No. 13

25 February 2014

Application for Falkland Islands Status

Notice is hereby given that:

Stephen William Lapham; Larissa Celly Blake; Gonzalo Patricio Ibarra Espinosa; Stuart Dave Duncan; Carla Marie Francis; and Darren Martin Wade,

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 2014.

Dated 25 February 2014

R. J. KING,
Collector of Customs.

No. 14

25 February 2014

Education Ordinance (Title 29.1)
section 57
Academic Year 2014 – 2015
Term Dates

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

Term One

Tuesday 2 September – Thursday 18 December 2014

Half Term

Monday 27 October – Friday 31 October 2014 (inclusive)

Term Two

Monday 26 January – Friday 17 April 2015

Half Term

Monday 2 March – Friday 6 March 2015 (inclusive)

Term Three

Monday 4 May – Friday 7 August 2015

Half Term

Monday 15 June – Friday 19 June 2015 (inclusive)

Public Holidays (schools closed)

Monday 6 October 2014	Peat Cutting Monday
Monday 8 December 2014	Battle Day
Friday 3 April 2015	Good Friday

Professional Development Training Days for Teaching and Non-Teaching Staff

Monday 1 September 2014

Friday 31 October 2014

The equivalent of three Professional Development days to be organised at the discretion of the Headteachers.

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 dates are agreed with the Headteacher of Infant Junior School/Camp Education in advance.

Dated 25 February 2014

A. TEMPEST,
Director of Education.

No. 15

26 February 2014

Index of Retail Prices

The Index for the quarter ended 31 December 2013 has now been completed and submitted to the Treasury, by Synergy. This is the first Index published using the new basket of goods – data for the new basket of goods has been collected over the preceding 12 months such that there is now a sufficient time series to allow re-basing of the Index. Hence, the Retail Price Index has now been rebased to 1 October 2012, the first data point for the new basket of goods.

The Index increased during the quarter to 100.91; this equates to a 0.03% increase as shown below:

Date	Index	Annual % Increase/(Decrease)	Quarter % Increase/(Decrease)
31.12.13	100.91	0.6	0.03

For information, the revised continuous Index as at 31 December 2013 is 1,456.795.

Dated 26 February 2014

L. LYSE,
for Financial Secretary.

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FALKLAND ISLANDS GAZETTE

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31 March 2014

No. 3

Appointment

Kelly Patricia Wild, Physiotherapist, Health and Social Services Department, 01.03.14

Martyn Liam Barlow, Building Maintenance Co-ordinator, Property and Municipal Section, Public Works Department, 10.03.14

Jonathan Nicholson, Senior Biomedical Scientist, Health and Social Services Department, 10.03.14

Syeda Uzma Kazmi, Learning Support Assistant, Education Department, 10.03.14

Kenton John Douglas Benjamin Goodwin, Plant Operator/Handyperson, Property and Municipal Section, Public Works Department, 17.03.14

Isabel Margaret Simon, Clerk, Customs, Emergency Services Department, 17.03.14

Christopher John James Butler, Senior Police Constable, Emergency Services Department, 17.03.14

Michael Jean-Luc Gras, Stock Assessment Scientist, Natural Resources Department, 17.03.14

Mark Wilkinson, Adult Support Worker, Health and Social Services Department, 17.03.14

Scott James Peter Betts, Medical Stores Assistant, Health and Social Services Department, 17.03.14

Vince Otadoy, Aircraft Fitter, Falkland Islands Government Air Service, 17.03.14

Bernadette Mary Eivers, Hospital Manager, Health and Social Services Department, 20.03.14

Charles Peter Judge, Attorney General, Attorney General's Chambers, 20.03.14

Daniel Martin Fowler, Biosecurity Officer, Natural Resources Department, 24.03.14

Serena Samantha Sinclair, Clerk, Policy, 24.03.14

Brandon Keith Greenough, Sports Attendant, Leisure Centre, 24.03.14

Completion of contract

Sara Ann Fleming, Police Constable, Emergency Services Department, 28.03.14

Mark David Lewis, Attorney General, Attorney General's Chambers, 28.03.14

Renewal of contract

Simon John Catton, Roads Engineer, Public Works Department, 10.03.14

Determination of appointment

Alastair Gordon Biggs, Plant Operator/Handyperson, Highways Section, Public Works Department, 08.02.14

Kevin Derek Charles McLaren, Plant Operator/Handyperson, Highways Section, Public Works Department, 10.03.14

Promotion

Wanda Rose Greenough, from Plant Operator/Handyperson to Assistant Foreman, Highways Section, Public Works Department, 18.03.14

Resignation

Clint Short, Plant Operator/Handyperson, Highways Section, Public Works Department, 28.02.14

Simon Isaacs, Teacher, Education Department, 10.03.14

Dawn Isaacs, Learning Support Assistant, Education Department, 10.03.14

Graham Stewart Morrison, Plant Operator/Handyperson, Highways Section, Public Works Department, 14.03.14.

Dennis James Humphreys, Driver/Handyperson, Health and Social Services Department, 31.03.14.

Yesenia Fernandez Acosta, General Assistant, Health and Social Services Department, 31.03.14

Transfer

Juan Campos Bustos, from Refueller/Handyperson, Falkland Islands Government Air Service to Cemetery Caretaker, Property and Municipal Section, Public Works Department, 17.03.14.

Richard Lowry Morrison, from Airport Firefighter, Falkland Islands Government Air Service to Assistant Water Supervisor, Water Section, Public Works Department, 17.03.14.

Peter James Crowie, from Plant Operator/Handyperson, Property and Municipal Services to Plant Operator/Handyperson, Water Section, Public Works Department, 17.03.14.

NOTICES

No. 16

4 March 2014

Falkland Islands Constitution

section 38

Proclamation Appointing Dates, Times and Place for Sittings of the Legislative Assembly (Proclamation No 1 of 2014)

1. Section 38(1) of the Constitution provides that each sitting of the Legislative Assembly shall be held at such place and at such time as the Governor may appoint by proclamation published in the Gazette.

2 I proclaim that the following places and times are appointed for sittings of the Legislative Assembly:

Friday 31 January 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 27 February 2014	9.00 am Chamber of Commerce, Stanley
Thursday 27 March 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 24 April 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Wednesday 4 June 2014	9.30 am Court and Assembly Chamber, Town Hall, Stanley
Friday 6 June 2014	2.00 pm Court and Assembly Chamber, Town Hall, Stanley
Thursday 26 June 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 31 July 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 28 August 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 25 September 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 30 October 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 27 November 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley
Thursday 18 December 2014	9.00 am Court and Assembly Chamber, Town Hall, Stanley

3. If a change of place or time is necessary, reasonable efforts will be made to publish that change through appropriate means.

Dated 4 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 17

4 March 2014

Public Health Ordinance *section 3*

Appointment of Member of Health and Medical Services Committee

1. Section 3(2)(c) of the Public Health Ordinance (Title 61.1) provides for the Governor to appoint a member of the public to be a member of the Health and Medical Services Committee.

2. In exercise of my powers under section 3(2)(c) I appoint **Melanie Carol Gilding** to be a member of the Health and Medical Services Committee.

3. This appointment has effect from 29 January 2014, and continues in effect for three years expiring on 29 January 2017 in accordance with section 3 of the Public Health Ordinance, unless terminated sooner.

Dated 4 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 18

4 March 2014

Museum and National Trust Ordinance *section 4(1)*

Appointment of Members of Museum and National Trust

1. Section 4(1) of the Museum and National Trust Ordinance (Title 34.2) provides that the Governor may appoint members to the Museum and National Trust.

2. In exercise of my powers under section 4(1) I appoint:

Lionel Geoffrey Blake from 1 November 2013 to 1 May 2015;
John Richard Cockwell from 1 November 2013 to 1 May 2015;
Denise McPhee from 1 November 2013 to 1 May 2015;
Vernon Robert Steen from 1 November 2013 to 1 November 2014; and
Kurt Ian Whitney from 1 November 2013 to 1 November 2014

to be members of the Museum and National Trust.

3. Section 16(1) of the Museum and National Trust Ordinance provides that the Governor may designate one of the members of the Museum and National Trust to be Chairman.

4. In exercise of my powers under section 16(1) I designate Lionel Geoffrey Blake to be Chairman of the Museum and National Trust.

5. These appointments have effect and continue in effect as detailed in paragraph 2 above and in accordance with the

Museum and National Trust Ordinance, unless terminated sooner.

Dated 4 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 19

4 March 2014

Administration of Justice Ordinance
Schedule 3, Part I, paragraph 3

Revocation of Appointment of Temporary Bailiff

1. Paragraph 3(1) of Part I of Schedule 3 to the Administration of Justice Ordinance (Title 22.1) provides for the Governor to remove any person from office as Bailiff.

2. **Jeremy Andrew Pierce** was appointed Temporary Bailiff on 18 December 2013, in exercise of my powers as above I now remove **Jeremy Andrew Pierce** from office as Temporary Bailiff with effect from 31 January 2014.

Dated 4 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 20

7 March 2014

Administration of Justice Ordinance
Schedule 3, Part I, paragraph 3
Appointment of Bailiffs

1. Paragraph 3(1) of Part I of Schedule 3 to the Administration of Justice Ordinance (Title 22.1) provides that the Governor may, after consulting with the Chief Justice or such person as is nominated by the Chief Justice for the purpose, appoint any person to be a bailiff.

2. In exercise of my powers under paragraph 3(1) and following consultation with the Chief Justice, I now appoint **Stephen John Dent, Thomas Mark Whistler and Stephen William Lapham** to be bailiffs.

3. This appointment has effect from 7 March 2014, and continues in effect whilst agreement for provision of bailiff services exists between Invenio Falkland Islands Ltd and the Falkland Islands Government, and in accordance with Part I of Schedule 3 to the Administration of Justice Ordinance, unless terminated sooner.

Dated 7 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 21

13 March 2014

Prison Ordinance (Title 60.1)
section 7(2)

Appointment of Prison Visitors

1. In exercise of my powers under section 7(2) of the Prison Ordinance, I appoint the following persons to be members of the Board of Visitors:-

Terence George Spruce;
Elizabeth Eve Pollard;
Joost Herman Willem Pompert; and
Elizabeth Mary Luxton.

2. These appointments have effect from 10 August 2013, and continue in effect for eighteen months expiring on 10 February 2015, unless terminated sooner.

Dated 13 March 2014

J. DUNCAN O.B.E.,
Acting Governor.

No. 22

21 March 2014

Falkland Islands Constitution Order 2008
section 84(4)

Appointment of Attorney General

1. Section 84(4) of the Falkland Islands Constitution Order 2008 (Title 1) provides that the power to appoint to the office of Attorney General is vested in and shall be exercised by the Governor.

2. In exercise of my powers under section 84(4), I appoint **Charles Peter Judge** to be Attorney General.

3. This appointment has effect from 24 March 2014 and continues in effect until the completion of Charles Peter Judge's contract of employment with the Falkland Islands Government.

4. In consequence of this appointment, Mark David Lewis' appointment as Attorney General is revoked with effect from 24 March 2014.

Dated 21 March 2014

J. S. DUNCAN O.B.E.,
Acting Governor.

No. 23

21 March 2014

Administration of Justice Ordinance
section 47

Appointment of Notary Public

1. Section 47 of the Administration of Justice Ordinance (Title 22.1) provides that the Governor may appoint any person to be a notary public.

2. In exercise of my powers under section 47, I appoint **Charles Peter Judge** to be a Notary Public.

3. This appointment has effect from the date given below and continues in effect until the completion of Charles Peter Judge's contract of employment with the Falkland Islands Government.

Dated 21 March 2014

J. S. DUNCAN O.B.E.,
Acting Governor.

No. 24

21 March 2014

Commissioners for Oaths Ordinance
section 2(2)

Appointment of Commissioner for Oaths

1. Section 2(2) of the Commissioners for Oaths Ordinance 1969 (Title 22.3) provides that the Governor may appoint commissioners for oaths.

2. In exercise of my powers under section 2(2), I appoint **Charles Peter Judge** to be a commissioner for oaths.

3. This appointment has effect from 24 March 2014, and continues in effect whilst Charles Peter Judge continues to hold the position of Attorney General, unless terminated sooner.

Dated 21 March 2014

J. S. DUNCAN O.B.E.,
Acting Governor

No. 25

27 March 2014

Legislative Assembly of the Falkland Islands
Stanley Common Ordinance
Stanley Common (Megabid Spoil Tip) Regulations 2014

RESOLUTION OF THE LEGISLATIVE ASSEMBLY
No. 1 of 2014

It was **RESOLVED** by the Legislative Assembly on 27 March 2014, pursuant to section 10 of the Stanley Common Ordinance (Title 34.5), that the Stanley Common (Megabid Spoil Tip) Regulations 2013 are approved.

Dated 27 March 2014

C. PRIOR M.B.E.,
Clerk to the Assembly

No. 26

27 March 2014

Application for Naturalisation

Notice is hereby given that **Rodrigo Cordeiro Garcia** 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 Principal Immigration Officer,

Customs and Immigration Department, Stanley no later than 21 April 2014.

Dated 27 March 2014

R. J. KING,
Collector of Customs.

No. 27

27 March 2014

Application for Falkland Islands Status

Notice is hereby given that **Graeme James Hay** 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 Principal Immigration Officer, Customs and Immigration Department, Stanley no later than 21 April 2014.

Dated 27 March 2014

R. J. KING,
Collector of Customs.

No. 28

27 March 2014

Application for Permanent Residence

Notice is hereby given that:

Mark Nicholas Street; and
Karina Daniela Dominguez Aguilar

have 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 Principal Immigration Officer, Customs and Immigration Department, Stanley by 21 April 2014.

Dated 27 March 2014

R. J. KING,
Collector of Customs.



FALKLAND ISLANDS GAZETTE

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30 April 2014

No. 4

Appointment

Clair Howes, Learning Support Assistant, Falkland Islands Community School, Education Department, 17.03.14.

Matthew Paul Freer, Apprentice Carpenter, Training Centre, Education Department, 24.03.14.

Kane David Smith, Apprentice Carpenter, Training Centre, Education Department, 24.03.14.

Duane Andrew Roy Allen, Legislative Drafter, Attorney General's Chambers, 31.03.14.

Nicholas Davis, Plant Operator/Handyperson, Materials Section, Public Works Department, 01.04.14.

Andrew Gordon Gowdie, Technical Assistant, Regulatory Services, 01.04.14.

Nicole Dawn Jaffray, Clerk, Public Works Department, 01.04.14.

Stephen William Lapham, Fire-fighter, Fire and Rescue Section, Emergency Services Department, 01.04.14.

Gabrielle Leigh Ross, Part-time Pensions Assistant, Treasury, 01.04.14.

Paul Theodore Stevens, Plant Operator/Handyperson, Materials Section, Public Works Department, 01.04.14.

Hannah Jayne Collier, Learning Support Assistant, Falkland Islands Community School, Education Department, 07.04.14.

Henry Buzibwa Kizito, Capital Accountant, Treasury, 07.04.14.

Rebecca Roberts, Probation Officer, Health and Social Services Department, 21.04.14.

Tiphanie May, Projects Officer, Mineral Resources Department, 25.04.14.

Yvette Sherriff, Staff Nurse, Health and Social Services Department, 27.04.14.

Completion of contract

Francis Chiverton, Maintenance Manager, Property and Municipal Section, Public Works Department, 30.04.14.

Determination of appointment

Alan Daniels, Mathematics Teacher, Falkland Islands Community School, Education Department, 30.04.14.

Resignation

Neil Mitchell, Police Officer, Royal Falkland Islands Police Force, Emergency Services Department, 02.04.14.

Gaynor Richards, Station Enquiry Officer, Royal Falkland Islands Police Force, Emergency Services Department, 21.04.14.

Lyndsay Marie Short, Plant Operator/Handyperson, Highways Section, Public Works Department, 25.04.14.

Retirement

Michael Anthony Pole-Evans, Mechanical Supervisor, Power and Electrical Section, Public Works Department, 30.04.14.

Transfer

Timothy Ian Minto, from Plant Operator/Handyperson, Quarry Section to Plant Operator/Handyperson, Highways Section, Public Works Department, 03.04.14.

NOTICES

No. 29

6 March 2014

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at <http://www.legislation.gov.uk> :-

2014 No 497 – The Ukraine (Sanctions) (Overseas Territories) Order 2014.

Dated 6 March 2014

B. I. STEEN,
for Attorney General.

No. 30

31 March 2014

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 2013 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.

Dated 31 March 2014

B. KARIA,
Chief Executive Officer, Standard Chartered Bank.

No. 31

3 April 2014

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

Prohibition Notice

In exercise of the powers provided under section 6(4) of the Highways (Weight Limits) Ordinance 2004, I hereby notify that the use of any motor vehicle, trailer or vehicle combination the authorised weight of which exceeds 15 metric tons is prohibited with effect from 5 May 2014 until 28 September 2014 inclusive 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, other than the spine road to New Haven;

(v) the Saladero Road from its junction with the Darwin Road to New Haven Road to its end at Saladero settlement; and

(vi) the Abattoir Road from its junction with the Stanley to Darwin Road to its end at the Abattoir.

(b) on West Falkland —

all publicly maintainable highways.

Dated 3 April 2014

M. M. KEENLEYSIDE,
Director of Public Works.

No. 32

4 April 2014

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

Take notice that **Gerard Michael Robson** of 1 Philomel Place, Stanley, Falkland Islands, died on 14 November 2012.

Whereas **Phyllis Ann Robson** 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 4 April 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 33

10 April 2014

Administration of Justice Ordinance Schedule 3, Part I, paragraph 3

Appointment of Bailiffs

1. Paragraph 3(1) of Part I of Schedule 3 to the Administration of Justice Ordinance (Title 22.1) provides that the Governor may, after consulting with the Chief Justice or such person as is nominated by the Chief Justice for the purpose, appoint any person to be a bailiff.

2. In exercise of my powers under paragraph 3(1) and following consultation with the Chief Justice, I now appoint **Jeremy Andrew Pierce** and **Philip Robinson** to be bailiffs.

3. This appointment has effect from 3 April 2014, and continues in effect whilst agreement for provision of bailiff services exists between Invenio Falkland Islands Ltd and the

Falkland Islands Government, and in accordance with Part I of Schedule 3 to the Administration of Justice Ordinance, unless terminated sooner.

Dated 10 April 2014

J. S. DUNCAN O.B.E.,
Acting Governor.

No. 34

11 April 2014

Index of Retail Prices

The Index for the quarter ended 31 March 2014 has now been completed.

The Index increased during the quarter to 101.22; this equates to a 0.3% increase as shown below:

Date	Index	Annual % Increase/(Decrease)	Quarter % Increase/(Decrease)
31.12.13	100.91	0.6	0.03
31.03.14	101.22	1.6	0.3

Dated 11 April 2014

L. LYSE,
for Financial Secretary.

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No. 5

Appointment

Rebecca Edwards, Chief Medical Officer, Health and Social Services Department, 01.05.14

David Blockley, Marine Ecologist, South Atlantic Environmental Research Institute, 05.05.14

Ashley Winnett, Complex Needs Teacher, Falkland Islands Community School, Education Department, 05.05.14

Francesca Blyth, Senior Assistant Taxation Officer, Treasury, 06.05.14.

John Summers Jaffray, Plant Operator/Handyperson, Highways Section, Public Works Department, 06.05.14.

Scott Short, Apprentice Electrician, Power and Electrical Section, Public Works Department, 06.05.14.

Jacqueline Shute, Financial Accountant, Treasury, 09.05.14.

Caroline Drew, Examinations Officer and Vocational Studies Co-ordinator, Falkland Islands Community School, Education Department, 12.05.14.

Jeremy Pierce, Examinations Officer and Vocational Studies Co-ordinator, Falkland Islands Community School, Education Department, 12.05.14.

Ellen Suppiah, Examinations Officer and Vocational Studies Co-ordinator, Falkland Islands Community School, Education Department, 12.05.14.

John Didlick, Airport Fire-fighter, Falkland Islands Government Air Service, 19.05.14.

Nadia Smith, Trainee Human Resources Adviser, Human Resources Department, 20.05.14.

Resignation

Angela Mary Rowlands, Chief Medical Officer, Health and Social Services Department, 10.05.14.

Kenneth Duvall, Plant Operator/Handyperson, Highways Section, Public Works Department, 22.05.14.

Kerry Middleton, Warden, Health and Social Services Department, 23.05.14.

Matt Tanner, Storesperson/Handyperson, Property and Municipal Section, Public Works Department, 30.05.14.

Retirement

James Woodward, Travelling Teacher, Infant Junior School and Camp Education, Education Department, 28.05.14

Transfer

Margaret Mary Battersby, from Houseparent, Stanley House to Quality Assurance Co-ordinator, Training Centre, Education Department, 01.05.14.

Jennifer Ethel Smith, from Personnel Officer, Human Resources Department to Immigration Officer, Customs and Immigration Department, 01.05.14.

NOTICES

No. 35

28 April 2014

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 the following persons to be temporary Customs Officers:-

WO David Arnold Newing – C8183090 from 3 April to 3 October 2014; and
Cpl Rebecca Lynne Rothery – 30029315 from 10 April to 10 September 2014.
Dated 28 April 2014

R. J. KING,
Collector of Customs

No. 36

16 May 2014

Gojo's Limited
Company number: 14579

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 16 May 2014

E. J. DENT,
Registrar of Companies

No. 37

22 May 2014

Application for Permanent Residence

Notice is hereby given that:

Paul Edwin Brewin; and
Kathryn McGeachie

have 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 June 2014.

Dated 22 May 2014

J. E. SMITH,
Immigration Officer.

No. 38

22 May 2014

Application for Naturalisation

Notice is hereby given that **Vanessa Elisa Ramirez Mardones** 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 June 2014.

Dated 22 May 2014

J. E. SMITH,
Immigration Officer.

No. 39

22 May 2014

Application for Falkland Islands Status

Notice is hereby given that **Garry Stuart Thomas** has applied through the Principal Immigration Officer to be granted Falkland Islands Status by the Governor. Any person who knows of any reason why such 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 2014.

Dated 22 May 2014

J. E. SMITH,
Immigration Officer.

No. 40

29 May 2014

Marriage Ordinance (Title 38(2).7)
section 25

Appointment of Registrars

1. Section 25(1) of the Marriage Ordinance provides that the Governor may appoint any person to be a Registrar, either generally or for the purposes of a particular marriage or marriages.

2. In exercise of my powers under section 25(1), I appoint the following persons to be Registrars generally:-

Duane Andrew Roy Allen;
Charles Peter Judge;
Idah Lorato Motsamai;
Penelope Hope Nicholson; and
Simon Alan Rowe.

3. These appointments continue in effect for so long as the individuals are employed in their current role (or in a similar role) in the Attorney General's Directorate; unless their appointment as a Registrar is terminated sooner.

Dated 29 May 2014

C. ROBERTS C.V.O.,
Governor.

No. 41

29 May 2014

Constitution (SI 2008/2846)
(section 84(4))

Police Ordinance (Title 56.1)
(section 4)

Prison Ordinance (Title 60.1)
(section 3)

Appointment of Chief Police Officer

1. Section 84 of the Constitution provides that the power to make appointment to the office of Chief of Police is vested in, and shall be exercised by the Governor, in his discretion.

2. Section 4(1) of the Police Ordinance provides that the Governor, acting with his discretion, shall appoint a person to be the chief police officer.

3. Section 3 of the Prison Ordinance provides that the Governor may appoint an Officer in Charge of the prison, but

unless another person holds appointment, the Chief Police Officer shall be deemed to have been appointed to be Officer in Charge of the prison.

4. In exercise of my powers under the Constitution and Police Ordinance, I appoint Len Stanford McGill to be the Chief Police Officer.

5. I confirm that it is intended that Len Stanford McGill will hold the position of Officer in Charge of the Prison in accordance with section 3 of the Prison Ordinance.

6. The appointment of Chief Police Officer has effect from 1 June 2014 and continues in effect for the duration of Len Stanford McGill's contract of employment, unless terminated sooner.

Dated 29 May 2014

C. ROBERTS C.V.O.,
Governor.

No. 42

29 May 2014

Constitution (SI 2008/2846)

(section 84(4))

Police Ordinance (Title 56.1)

(section 4)

Prison Ordinance (Title 60.1)

(section 3)

Designation as Acting Chief Police Officer

1. Section 84 of the Constitution provides that the power to make appointment to the office of Chief of Police is vested in, and shall be exercised by the Governor, in his discretion.

2. Section 4(2) of the Police Ordinance provides that in the absence of the chief police officer from the Falkland Islands, or if the officer is by illness or any other reason incapable of carrying out the duties of office or unavailable to carry out the duties of office, the Governor, acting in his discretion, may designate another police officer to carry out the duties of the chief police officer or such of them as the Governor may so designate the officer to carry out.

3. Section 3 of the Prison Ordinance provides that the Governor may appoint an Officer in Charge of the prison, but

unless another person holds appointment, the Chief Police Officer shall be deemed to have been appointed to be Officer in Charge of the prison.

4. In exercise of my powers under the Constitution and Police Ordinance, I designate David Charles Street to carry out the duties of the chief police officer:

(a) in the absence of Len Stanford McGill from the Falkland Islands; and

(b) if Len Stanford McGill is by illness or any other reason incapable of carrying out the duties of office or unavailable to carry out the duties of office.

5. In exercise of my powers under the Prison Ordinance I appoint David Charles Street as Officer in Charge of the prison during any time when he is carrying out the duties of the chief police officer in accordance with paragraph 4.

6. This designation and appointment has effect from 1 June 2014 and continues in effect for the duration of David Charles Street's contract of employment, unless terminated sooner.

Dated 29 May 2014

C. ROBERTS C.V.O.,
Governor.

No. 43

30 May 2014

Marsur Limited

Company number: 10590

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 with effect from today's date.

Dated 30 May 2014

E. J. DENT,
Registrar of Companies.



FALKLAND ISLANDS GAZETTE

Extraordinary

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2 June 2014

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 2 June 2014

1	Alazia	Hazel	Teal Inlet, E.F.I
2	Alazia	Keith	Goose Green, E.F.I
3	Alazia	Michael Robert	Port Edgar Farm, W.F.I
4	Anderson	Tony James	Port Howard Farm, W.F.I
5	Ashworth	Glennis	Fitzroy Ridge, E.F.I
6	Ashworth	Malcolm	Fitzroy Ridge, E.F.I
7	Bagley	Jacqueline Elizabeth	Riverview Farm, E.F.I
8	Barrientos	Jose Sixto Ruiz	North Arm, E.F.I
9	Battersby	Jon Alan	Hawkbit, Fitzroy, E.F.I
10	Battersby	Margaret Mary	Hawkbit, Fitzroy, E.F.I
11	Beattie	Ian Robert Ewen	North Arm, E.F.I
12	Bendyshe	Angela Geraldine Mary	Gibraltar Station, E.F.I
13	Bendyshe Pitaluga	Antoinette Margaretha Mary	Gibraltar Station, E.F.I
14	Berntsen	Arina Janis	Pebble Island, W.F.I
15	Berntsen	Benjamin John	Elephant Beach, E.F.I
16	Berntsen	Iain Kenneth	Sheffield Farm, W.F.I
17	Betts	Bernard Keith	Boundary Farm, W.F.I
18	Betts	Diane Joan	Fox Bay East, W.F.I
19	Bonner	Katie Jean	Port Howard, W.F.I
20	Bonner	Simon	Port Howard, W.F.I
21	Bonner	Susan Anne	Port Howard, W.F.I
22	Castro Barrientos	Gilberto Enrique	No. 2 Goose Green, E.F.I
23	Clark	Alan Neil	Port Howard, W.F.I
24	Clarke	Jeanette	Kings Ridge Farm, E.F.I
25	Clarke	Michael Jan	Kings Ridge Farm, E.F.I
26	Clarke-Turner	Stefen Michael	Rincon Grande Farm, E.F.I
27	Clausen	Sophie Marina	North Arm, E.F.I
28	Cockwell	Benjamin William	Fox Bay Village, W.F.I
29	Cockwell	Clare Marie	Fox Bay Village, W.F.I
30	Cockwell	Grizelda Susan	Chartres, W.F.I
31	Cordero	Crystal Rose	Port Howard Farm, W.F.I
32	Davis	Aase	Evelyn Station, E.F.I
33	Davis	Ian John	Evelyn Station, E.F.I
34	Decroliere	Carrie Madeline Helen	Fox Bay Village, W.F.I
35	Decroliere	Eric Ernest Albert	Fox Bay Village, W.F.I
36	Dickson	Charles George	Brookfield, E.F.I
37	Dickson	Doreen	Wreck Point, E.F.I
38	Dickson	Gerald William	Wreck Point, E.F.I
39	Dickson	Steven Charles	North Arm, E.F.I
40	Didlick	Fiona Margaret	Commerson Cottage, Darwin, E.F.I
41	Didlick	Graham John	Commerson Cottage, Darwin, E.F.I
42	Donnelly	Daniel	Crooked Inlet, W.F.I
43	Donnelly	Joyce Elizabeth	Crooked Inlet, W.F.I
44	Dunford	David Philip	Saddle Farm, W.F.I
45	Edwards	Norma	Lake Sullivan, W.F.I
46	Edwards	Rebecca Elizabeth	Port Howard Farm, W F I
47	Edwards	Roger Anthony	Lake Sullivan, W.F.I
48	Evans	Donna Newell	Spring Point Farm, W.F.I

49	Evans	Michael David	Spring Point Farm, W.F.I
50	Evans	Raymond	Pebble Island, W.F.I
51	Evans	Richard Gregory	Bold Cove Farm, W.F.I
52	Evans	Tracy	Pebble Island, W.F.I
53	Finlayson	Neil Roderick	North Arm, E.F.I
54	Ford	Daniel Timothy	Peaks Farm, W.F.I
55	Ford	David	Port Louis, E.F.I
56	Ford	Tanya Louise	Albemarle Station, W.F.I
57	Gartland	Caroline	Fitzroy Farm, E.F.I
58	Gilding	Amy Heather	Port Louis, E.F.I
59	Gilding	Melanie Carol	Port Louis, E.F.I
60	Gilding	Peter Bernard	Port Louis, E.F.I
61	Gilding	Petra Sophie	Port Louis, E.F.I
62	Gleadell	Marklin John	No. 5 Walker Creek, E.F.I
63	Goodwin	Neil Alexander William	North Arm, E.F.I
64	Goss	Kimberley Rose	Horseshoe Bay, E.F.I
65	Goss	Margaret Rose	Horseshoe Bay, E.F.I
66	Goss	Michael Peter	Horseshoe Bay, E.F.I
67	Goss	Peter	Horseshoe Bay, E.F.I
68	Gould	Alexander Philip	Dunnose Head Farm, W.F.I
69	Gould	Dorothy Ruth	Dunnose Head Farm, W.F.I
70	Green	Carol Ann	No. 13 Fitzroy, E.F.I
71	Greenland	Bonita Doreen	Valkyrie House, Darwin, E.F.I
72	Greenland	Kenneth David	Valkyrie House, Darwin, E.F.I
73	Grierson	Hew McInnes	Blue Beach, San Carlos E.F.I
74	Grimmer	Edward	Clear View, Fitzroy River, E.F.I
75	Grimmer	Keith	The Dunes, Fitzroy River, E.F.I
76	Grimmer	Marilyn	The Dunes, Fitzroy River, E.F.I
77	Halford	Rodney John	Casa Verde, San Carlos, E.F.I
78	Halford	Sara Jayne	Casa Verde, San Carlos, E.F.I
79	Halford	Sharon	Casa Verde, San Carlos, E.F.I
80	Hansen	Ian	Main Point Farm, W.F.I
81	Hansen	Rose Idina	Hill Cove, W.F.I
82	Hansen	Susan Ann	Main Point Farm, W.F.I
83	Harris	Brian Frederick	Mount Pleasant Complex, E.F.I
84	Harvey	Jen	Hill Cove, W.F.I
85	Harvey	Valerie Ann	Hill Cove, W.F.I
86	Harwood	Reuben Joseph	Rum Station, Port Stephens, W.F.I
87	Heathman	Ailsa	Estancia, E.F.I
88	Heathman	Ewart Tony	Estancia, E.F.I
89	Hemming	Graeme John	Sea Lion Island, E.F.I
90	Hill	Jennifer Eileen	Saladero Farm, E.F.I
91	Hirtle	Anthony	Peaks Farm, W.F.I
92	Hirtle	Doris Linda	Port Howard, W.F.I
93	Hirtle	Samantha Lee	Peaks Farm, W.F.I
94	Hirtle	Susan Mary	Peaks Farm, W.F.I
95	Hobman	John Malcolm	Goose Green, E.F.I
96	Hobman	Juan Jose Eleuterio	Westley Farm, W.F.I
97	Hobman	Vivien	Goose Green, E.F.I
98	Hoy	Dawn	Sheffield Farm, W.F.I
99	Hoy	Gabriella Daisy	Sheffield Farm, W.F.I

100	Innes	Gordon	Hill Cove, W.F.I
101	Innes	Isabella Alice	Hill Cove, W.F.I
102	Jaffray	Tanya Fiona	Clear View, Fitzroy River, E.F.I
103	Jamieson	Brian Neil	South Harbour, W.F.I
104	Jamieson	Kerri Yeoman	South Harbour, W.F.I
105	Jennings	Jacqueline	Pebble Island, W.F.I
106	Jones	John Hugh	Race Point Farm, E.F.I
107	Jones	Karen Diana	Fox Bay East, W.F.I
108	Jones	Mark Henry	Fox Bay East, W.F.I
109	Jones	Michael David	Head Of Bay, E.F.I
110	Jones	Michelle	Race Point Farm, E.F.I
111	Jones	Sheila Janice	Head Of Bay, E.F.I
112	Joshua	Angeline Gloria	The Galley, North Arm, E.F.I
113	Joshua	Paul Alan	The Galley, North Arm, E.F.I
114	Kilmartin	Kevin Seaton	Bluff Cove Farm, E.F.I
115	Kilmartin	Nicola Ruth	Bluff Cove Farm, E.F.I
116	Knight	Justin Robert Campbell	Leicester Creek Farm, Fox Bay, W.F.I
117	Knight	Nigel Arthur	Coast Ridge, W.F.I
118	Lee	Christopher	Port Howard, W.F.I
119	Lee	Elizabeth	Goose Green, E.F.I
120	Lee	John Alfred	Goose Green, E.F.I
121	Lee	Leslie James	Galley Café, Goose Green, E.F.I
122	Lee	Mervyn Richard	North Arm, E.F.I
123	Lee	Myles	Port Howard, W.F.I
124	Lee	Trudi Dale	Galley Café, Goose Green, E.F.I
125	Livermore	Darren	Fitzroy Farm, E.F.I
126	Livermore	Isla Karen	No. 3 Goose Green, E.F.I
127	Lloyd	Melvyn John	Point View, Goose Green, E.F.I
128	Lloyd	Valerie Ann	Point View, Goose Green, E.F.I
129	Lowe	Adrian Stewart	Murrell Farm, E.F.I
130	Lowe	Lisa Helen	Murrell Farm, E.F.I
131	Luxton	William Robert	Chartres, W.F.I
132	MacDonald	Derek George	No. 3 Goose Green, E.F.I
133	Marsh	Alastair Roy	Shallow Harbour, W.F.I
134	Marsh	Anna Deirdre	Fox Bay, W.F.I
135	Marsh	Gavin Nicholas	Fox Bay, W.F.I
136	Marsh	Helen Rose	Rincon Ridge, W.F.I
137	Marsh	Kevin Roy	Fern Ridge Farm, W.F.I
138	Marsh	Leon Peter	Rincon Ridge, W.F.I
139	Marsh	Marlane Rose	Shallow Harbour, W.F.I
140	Marsh	Patricia Ann	Lakelands, W.F.I
141	Marsh	Rachel Mandy	Fox Bay, W.F.I
142	Marsh	Robin Frank	Lakelands, W.F.I
143	Maskell-Bott	John Malcolm	Hill Cove, W.F.I
144	Maskell-Bott	Sarah	Hill Cove, W.F.I
145	May	Christopher Raymond	George Island, E.F.I
146	May	Lindsey Olga	George Island, E.F.I
147	May	Shaun Christopher	Albemarle Station, W.F.I
148	McGhie	James	Saladero Farm, E.F.I
149	McGhie	Jodie Kim	Port North, W.F.I
150	McGhie	Roy	Port North, W.F.I

151	McGill	Lorraine Iris	Carcass Island, W.F.I
152	McGill	Robin Perry	Carcass Island, W.F.I
153	McKay	Fraser Roderick	Teal River, W.F.I
154	McKay	Glyn Ronald	Teal River, W.F.I
155	McKay	Josephine Ann	Greenhill Farm, Chartres, W.F.I
156	McKay	Kenneth Andrew	Greenhill Farm, Chartres, W.F.I
157	McKay	Penelope Rose	Westley Farm, W.F.I
158	McKay	Roy Derek	Greenhill Farm, Chartres, W.F.I
159	McLeod	Albert John	Camilla Creek, E.F.I
160	McLeod	John	Dunvegan Cabin, E.F.I
161	McLeod	Madeline Jean	Dunvegan Cabin, E.F.I
162	McLeod	Sarah Rose	Camilla Creek, E.F.I
163	McMullen	Matthew John	Kingsford Valley Farm, San Carlos, E.F.I
164	McPhee	Mark	Brookfield, E.F.I
165	McPhee	Sheila Margaret	No 16 The Beach House, Goose Green E.F.I
166	McPhee	Terence Owen	No 16 The Beach House, Goose Green E.F.I
167	McPhee	Trudi Lynette	Brookfield, E.F.I
168	McRae	David Michael	Cape Dolphin, E.F.I
169	Middleton	Charlotte Anne	Horseshoe Bay, E.F.I
170	Middleton	Kerry Ann	Goose Green, E.F.I
171	Miller	Betty Larsen	North Arm, E.F.I
172	Miller	Catherine McLeod	Fox Bay Village, W.F.I
173	Miller	James Albert	Fox Bay Village, W.F.I
174	Minnell	Donna Marie	Moss Side, E.F.I
175	Minnell	Michael Robert	Moss Side, E.F.I
176	Mitchell	Leon John	Mount Kent Farm, E.F.I
177	Molkenbuhr	Lee Charles	Beach House, Johnson's Harbour, E.F.I
178	Morrison	Gerald	Goose Green, E.F.I
179	Morrison	Kathleen Iris	Goose Green, E.F.I
180	Morrison	Nigel Peter	No. 7 Goose Green, E.F.I
181	Murphy	Roy David	Port Howard, W.F.I
182	Newman	Glynnis Karen	Goose Green, E.F.I
183	Newman	Lisa Jeraine	Fern Ridge Farm, W.F.I
184	Nightingale	Charlene	West Lagoons, W.F.I
185	Nightingale	Peter Richard	West Lagoons, W.F.I
186	Oliver	Cynthia Dawn	Fitzroy, E.F.I
187	Oliver	Paul	Fitzroy, E.F.I
188	Ovenden	Philip David	No. 13 Fitzroy, E.F.I.
189	Peck	Paul	Shallow Bay, W.F.I
190	Peck	Rebekah Roxanne	Shallow Bay, W.F.I
191	Phillips	Lynda	North Arm, E.F.I
192	Phillips	Paul David	Hope Cottage, E.F.I
193	Phillips	Shula Louise	Hope Cottage, E.F.I
194	Pitaluga	Nicholas Alexander Robinson	Gibraltar Station, E.F.I
195	Pitaluga	Robin Andreas McIntosh	Gibraltar Station, E.F.I
196	Platt	Claire	Lakelands Farm, W.F.I
197	Pole-Evans	Carole Suzan	Saunders Island, W.F.I
198	Pole-Evans	David Llewellyn	Saunders Island, W.F.I
199	Pole-Evans	Louise Suzan	Saunders Island, E.F.I
200	Pole-Evans	Shirley Helen	Manybranch, W.F.I
201	Pole-Evans	Suzan	Saunders Island, W.F.I

202	Pole-Evans	William Reginald	Manybranch, W.F.I
203	Poncet	Dion Michael	Beaver Island, W.F.I
204	Poncet	Jerome Pierre	Beaver Island, W.F.I
205	Poncet	Leiv Sigismond	Beaver Island, W.F.I
206	Porter	Joan	Shallow Harbour, W.F.I
207	Reeves	Ronald James	Port Howard, W.F.I
208	Reid	Emily Margaret	North Arm, E.F.I
209	Rendell	Michael	Bleaker Island, E.F.I
210	Rendell	Phyllis Mary	Bleaker Island, E.F.I
211	Robertson	Ann	Port Stephens, W.F.I
212	Robertson	Paul Jonathan	Port Stephens, W.F.I
213	Robertson	Peter Charles	Port Stephens, W.F.I
214	Ross	Marie	Port Louis, E.F.I
215	Rowlands	Neil	River House, Fitzroy River, E.F.I
216	Sackett	Pauline	No. 22 Fitzroy Farm, E.F.I
217	Shepherd	Colin David	Goose Green, E.F.I
218	Short	Andrez Peter	Swan Inlet, E.F.I
219	Short	Elaine Elizabeth	Bleaker Island, E.F.I
220	Short	Robert Charles	Bleaker Island, E.F.I
221	Short	Robert George	Rancho Grande, E.F.I
222	Sinclair	Simon Keith	Fitzroy Farm, E.F.I
223	Smith	Julia Trinidad	Rincon Grande, E.F.I
224	Smith	Kaylee Simone	Lakelands Farm, W.F.I
225	Steen	Gail	Paragon House, Lafonia, E.F.I
226	Steen	Vernon Robert	Paragon House, Lafonia, E.F.I
227	Stevens	Richard James	Port Sussex, E.F.I
228	Stevens	Toni Donna	Port Sussex, E.F.I
229	Strange	Ian John	New Island, W.F.I
230	Street	David Charles	Plot 13A Fitzroy Ridge, E.F.I
231	Street	Edith Mary	Plot 13A Fitzroy Ridge, E.F.I
232	Summers	Nichola Jane	Cape Dolphin, E.F.I
233	Taylor	Christopher John	No.19 Goose Green, E.F.I
234	Tellez	Rodolfo	Goose Green, E.F.I
235	Thom	John Currie	No. 22 Fitzroy Farm, E.F.I
236	Thorsen	Carol Margaret	Old Post Office House, Fox Bay, W.F.I
237	Towersey	Diane Katherine	Port Stephens, W.F.I
238	Turner	Arthur Leonard Pitaluga	Rincon Grande, E.F.I
239	Turner	Elaine Ellen	Rincon Grande, E.F.I
240	Tuson	Michael Anthony	Saunders Island, W.F.I
241	Tuson	Olwen Carol	Saunders Island, W.F.I
242	Velasquez	Arleen	North Arm, E.F.I
243	Velasquez	Oscar Hernan	North Arm, E.F.I
244	Watson	Glenda Joyce	Long Island, E.F.I
245	Watson	Neil	Long Island, E.F.I
246	White	Allan Paul George	Pebble Island, W.F.I
247	Whitney	Daniela Grace	Mount Kent Farm, E.F.I
248	Whitney	Dennis	Arkvilla MPA Plot, E.F.I
249	Whitney	Sara Marie	Home Farm, Douglas, E.F.I
250	Whitney	Tyrone	Home Farm, Douglas, E.F.I
251	Wilkinson	Rosemary	Dunnose Head, W.F.I
252	Woodward	James Gregory	Little Chartres Farm, W.F.I

253 Woodward
254 Young

Lesley Ann
Julie

Little Chartres Farm, W.F.I
Pond House, Darwin, E.F.I

Register of Electors for Stanley Constituency at 2 June 2014

1	Adams	John Harvey	21 Ross Road East
2	Adams	Marjorie Rose	21 Ross Road East
3	Adams-Leach	Shirley	4 Moody Street
4	Adeoye	Anneliese Rose	39 Callaghan Road
5	Alazia	Andrew	36 Callaghan Road
6	Alazia	Eva Rose	37 Fitzroy Road
7	Alazia	Freda Evelyn	KEMH
8	Alazia	George Robert	9 Thatcher Drive
9	Alazia	Mandy Gwyneth	2 'H' Jones Road
10	Alazia	Sandra Marie	36 Callaghan Road
11	Alazia	Yvonne	5 Thatcher Drive
12	Alazia-Evans	Colleen	1 Hebe Place
13	Aldridge	Brian George	17 James Street
14	Aldridge	Caroline Mary	2 McKay Close
15	Aldridge	Diana Mary	17 James Street
16	Aldridge	Jody May	13 Hansen Hill
17	Aldridge	Kenneth John	2 McKay Close
18	Aldridge	Nina Ann	2 Mountain View
19	Aldridge	Stephen John	13 Hansen Hill
20	Allan	Joyce Ena	39 Ross Road
21	Allan	Valerie Anne	6A Jeremy Moore Avenue
22	Allen	Jacqueline Esther	26 Callaghan Road
23	Almonacid	Orlando	1 Villiers Street
24	Almond	Adrian Arthur James	4 Allardyce Street
25	Anderson	Carol Anne	22 Endurance Avenue
26	Anderson	Chloe	22 Endurance Avenue
27	Anderson	Eddie	22 Endurance Avenue
28	Anderson	Jenny	8 Goss Road
29	Anderson	Margaret Kathleen	18 Murray Heights
30	Anderson	Paul James	9 Fieldhouse Close
31	Anderson	Reginald Stanford	18 Murray Heights
32	Anderson	Richard Louis	7 Yates Place
33	Anderson	Rupert William	Camber House
34	Anderson	Stephen Robert	25 Callaghan Road
35	Anderson	Tony James	8 Goss Road
36	Anderson-Smith	Georgina Carol	11 Fitzroy Road East
37	Anthony	Enid Elizabeth	6 Dairy Paddock Road
38	Appleby	Amelia	15 Fieldhouse Close
39	Arkhipkin	Alexander Ivanovich	13 Biggs Road
40	Arkhipkina	Nadezhda Alexandrovna	13 Biggs Road
41	Arkhipkina	Sofia Alexandrovna	13 Biggs Road
42	Armstrong-Ford	Karen Jane	2 Sullivan Street
43	Arthur-Almond	Daphne Margaret	4 Allardyce Street
44	Arthur-Almond	Rebecca Kathryn	4 Allardyce Street
45	Ashbridge	Corina Rose	116 Davis Street
46	Ashworth	Iain	5A Kent Road
47	Bagley	Corey Darren	9 Murray Heights
48	Bagley	Darren Clive	2 Rowlands Rise

49	Bahamonde Salazar	Luis Alberto	21 Mink Park
50	Baker	Alison Margaret	19 Biggs Road
51	Barker	Jane Elizabeth Diana	5 Pitaluga Place
52	Barker	Philip Craig	5 Pitaluga Place
53	Barkman	Teslyn Siobhan	6 Watson Way
54	Barlow	Andrea Joanna	Mullet Creek
55	Barlow	Martyn Liam	Mullet Creek
56	Barnes	Dierdre	8 Discovery Close
57	Barnes	Karen Rose	26 Ross Road West
58	Barnes	Marshall	8 Discovery Close
59	Barnes	Paul	26 Ross Road West
60	Barton	Alison Mary	6 Villiers Street
61	Barton	Arthur John	6 Villiers Street
62	Barton	David Arthur	6 Villiers Street
63	Barton	John David	41 Fitzroy Road
64	Barton	Julian George	6 Villiers Street
65	Bates	Barbara	8 Watson Way
66	Bates	James William	8 Watson Way
67	Benjamin	Sheena Marie	18 Callaghan Road
68	Bermtsen	Brenda Diann Joanna	6 McKay Close
69	Bermtsen	Christian Olaf Alexander	15A James Street
70	Bermtsen	Erica Dawn	34 John Street
71	Bermtsen	Falkland	10 Fitzroy Road
72	Bermtsen	Gene Stanley	8 Fieldhouse Close
73	Bermtsen	Harley-Dee	Flat 6, 7 Jeremy Moore Avenue
74	Bermtsen	John Alexander	Flat 1, 7 Jeremy Moore Avenue
75	Bermtsen	Kenneth Frederick	1 Racecourse Road East
76	Bermtsen	Lucas Delhi John	2 Rex Hunt Road
77	Bermtsen	Matthew John	5 Murray Heights
78	Bermtsen	Olaf Christian Alexander	35 Eliza Crescent
79	Bermtsen	Patrick	10A James Street
80	Bermtsen	Rachel Ena	15A James Street
81	Bermtsen	Robyn Chanelle	2 Auster Place
82	Bermtsen	Saphena Anya Jane	20 Teaberry Way
83	Bermtsen	Trevor John	6 McKay Close
84	Bermtsen	Valdamar Lars	14 St Marys Walk
85	Besley-Clark	Barbara June	16 Ross Road West
86	Besley-Clark	Norman	16 Ross Road West
87	Betts	Arlette	Lafone House, Ross Road
88	Betts	Boonruam Phisil	7 Short Street
89	Betts	Coral Elizabeth	15 Pioneer Row
90	Betts	Daniel William	Flat 3, 3 Jeremy Moore Avenue
91	Betts	Dion James	2 Hansen Hill
92	Betts	Donald William	7 Jeremy Moore Avenue
93	Betts	George Winston Charles	35 Ross Road West
94	Betts	Ian	1 Villiers Street
95	Betts	Lucia Elizabeth	35 Ross Road West
96	Betts	Michael George	35 Ross Road West
97	Betts	Owen	9B Sullivan Street
98	Betts	Peter James	50A Davis Street
99	Betts	Priscilla Violet Morrison	Stanley Cottage South

100	Betts	Scott James Peter	9 Brandon Road
101	Betts	Severine	15 Pioneer Row
102	Betts	Shirley Rose	7 Jeremy Moore Avenue
103	Betts	Trudi Ann	50A Davis Street
104	Betts	Tyrone Trevor	7 Short Street
105	Biggs	Ailie Christine	9 Brandon Road
106	Biggs	Alastair Gordon	Trehayle, 50 John Street
107	Biggs	Althea Maria	3 Dairy Paddock Road
108	Biggs	Christopher David	Harbour View Knott
109	Biggs	Coleen Margot	9 Moody Street
110	Biggs	Daniel Craig	16 Endurance Avenue
111	Biggs	Edith Joan	KEMH
112	Biggs	Frances	16 Endurance Avenue
113	Biggs	Kyle Alexander	16 Endurance Avenue
114	Biggs	Lucas Sebastian	16 Endurance Avenue
115	Biggs	Michael Elfed	21 Fitzroy Road
116	Biggs	Peter Julian Basil	16 Endurance Avenue
117	Biggs	Terri-Sue	Harbour View Knott
118	Biles	Kathleen Anne	14 Kent Road
119	Biles	Keith Robert	14 Kent Road
120	Binnie	Linda Rose	6 Fieldhouse Close
121	Binnie	Ronald Eric	6 Fieldhouse Close
122	Binnie	Susana	3 Brandon Road
123	Birmingham	Alexandra Sally	5A Hansen Hill
124	Birmingham	John	4 Drury Street
125	Birmingham	Joseph John	4 Drury Street
126	Bishop	Nigel Ian	5 Jersey Road
127	Bishop	Tansy Fiona	5 Jersey Road
128	Blackley	Candy Joy	4 Barrack Street
129	Blackley	Maurice	German Camp, Callaghan Road
130	Blackley	Shane David	4 Barrack Street
131	Blake	Alexander Charles	38 Eliza Crescent
132	Blake	Anthony Thomas	14 Watson Way
133	Blake	Larissa Celly	12 Ross Road West
134	Blake	Lionel Geoffrey	1 Ross Road
135	Blake	Mariela	14 Watson Way
136	Blake	Sally Gwynfa	1 Ross Road
137	Blake	Thomas Patrick	12 Ross Road West
138	Blizard	Malvina Mary	KEMH
139	Bolt	Dennis John	4 Watson Way
140	Bone	Andrew James	7 Discovery Close
141	Bonner	Avril Margaret Rose	4 Felton Court
142	Bonner	Cheryl Anne	10 Racecourse Road
143	Bonner	Donald William	8 Thatcher Drive
144	Bonner	Ewen Shane	7 Murray Heights
145	Bonner	Hayley Trina	10 Watson Way
146	Bonner	Linda Jane	4A Ross Road West
147	Bonner	Lindsay Jane	10 Rex Hunt Road
148	Bonner	Nicholas	4A Ross Road West
149	Bonner	Odette Ellen May	1A Capricorn Road
150	Bonner	Paul Roderick	5 John Street

151	Bonner	Tansie Rebecca	9 Murray Heights
152	Bonner	Terence Leslie	1A Capricorn Road
153	Bonner	Timothy	Chauffeurs Cottage
154	Bonner	Vera Ann	5 John Street
155	Bonner	Vera Joan	Chauffeurs Cottage
156	Booth	Jessie	Racecourse Cottage
157	Booth	Myriam Margaret Lucia	7 Philomel Street
158	Booth	Stuart Alfred	Racecourse Cottage
159	Bowers	Arlene Elizabeth	14 Endurance Avenue
160	Bowles	Norma Evangeline	1A Villiers Street
161	Bowles	Sarah	9 Drury Street
162	Bowles	William Edward	1A Villiers Street
163	Bowles	William George Troyd	9 Drury Street
164	Bragger	Edward Laurence	14 Jeremy Moore Avenue
165	Bragger	Stacy John	7 Eliza Crescent
166	Brickle	Paul	32 Fitzroy Road
167	Briones Sepúlveda	Vivien Delia	2 Discovery Close
168	Brock	Juanita Lois	20 Drury Street
169	Brook	Emma Jane	41 Ross Road East
170	Brooks	Cheryl Rose	The Flat, 29 Fitzroy Road
171	Browning	Anita Jayne	29 Brandon Road
172	Browning	Edwina	96 Davis Street
173	Browning	Gavin	29 Brandon Road
174	Browning	Henry Stanbury	36 John Street
175	Browning	Joan Lucy Ann	5 Villiers Street
176	Browning	Nathan David	3 Dairy Paddock Road
177	Browning	Rex	35 Davis Street
178	Browning	Richard William	96 Davis Street
179	Browning	Terence Irving	8 Fitzroy Road
180	Browning	Trevor Osneth	5 Villiers Street
181	Brownlee	Andrew Samuel	19 Ross Road East
182	Brownlee	Lynn Frances	19 Ross Road East
183	Brownlee	Michael Stewart	19 Ross Road East
184	Brownlee	Samantha Louise	19 Ross Road East
185	Buckett	Kimberley Louise	49 Fitzroy Road
186	Buckett	Ronald Peter	49 Fitzroy Road
187	Buckett	Roy Peter	22 James Street
188	Buckett	Ryan Peter	Flat 3, 7 Jeremy Moore Avenue
189	Buckland	Carole Lynda Jane	8 Moody Street
190	Buckland	Darlene Joanna	5 James Street
191	Buckland	Kristy Lesley Anne	1B Capricorn Road
192	Buckley-Whitney	Helena Jane	2 Pioneer Row
193	Budd	Dennis Raymond	5 Ian Campbell Drive
194	Budd	Grant William	1 Ian Campbell Drive
195	Budd	Pamela Joan	5 Ian Campbell Drive
196	Burston	Catherine	91 Davis Street
197	Burston	Stephen Leslie	91 Davis Street
198	Bury	Ian Thomas	63 Davis Street
199	Butcher	Michael George	3A Dairy Paddock Road
200	Butcher	Trudi	3A Dairy Paddock Road
201	Butler	Charmaine Sarah	Flat 2, 6 Racecourse Road

202	Butler	George Joseph	1 A Moody Street
203	Butler	Laurence Jonathan	2 Davis Street East
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	Terence James	18 Ross Road West
214	Cartwright	Stephen	39 Ross Road West
215	Castle	David Peter	26 John Street
216	Castle	Isobel	26 John Street
217	Ceballos	Eulogio Gabriel	28 Endurance Avenue
218	Ceballos	Isabel	52 Callaghan Road
219	Chaloner	Anthony Ross	8 Endurance Avenue
220	Chaloner	Karl Iain Roderick	8 Endurance Avenue
221	Chaloner	Sheila Catherine	4 Racecourse Road
222	Chantada	Pamela Margaret	The Cabin, 72 Davis Street
223	Chapman	Paul	25 Fitzroy Road
224	Chapman	Samantha Helen	25 Fitzroy Road
225	Chater	Jane	3 Short Street
226	Chater	Thomas Frederick	3 Short Street
227	Cheek	Gerald Winston	9 Biggs Road
228	Cheek	Janet Lynda	35 Ross Road East
229	Cheek	Marie	9 Biggs Road
230	Cheek	Rosalind Catriona	32 Goss Road
231	Cheema	Ahmad Masood	17 Callaghan Road
232	Christie	Darren James	3 Narrows View
233	Christie	Phillippa Josephine	3 Narrows View
234	Clapp	Kevin Christopher	1 Murray Heights
235	Clark	Douglas James	39 Fitzroy Road
236	Clark	Hector	27 Eliza Crescent
237	Clarke	Aaron Charles	4 Philomel Street
238	Clarke	Angela Sindy	32 Teaberry Way
239	Clarke	Camilla Marie	8 Drury Street
240	Clarke	David James	17A Ross Road West
241	Clarke	Derek Simon	23 Jeremy Moore Avenue
242	Clarke	Doreen	17 Ross Road West
243	Clarke	Gwynne Edwina	17 Jeremy Moore Avenue
244	Clarke	Ian	3A Racecourse Road
245	Clarke	Isabel Joan	12 Fieldhouse Close
246	Clarke	Jane Rebecca	12 Fieldhouse Close
247	Clarke	Jeremy Ian Thomas	11 Fitzroy Road
248	Clarke	Joan Patricia Marion	Cemetery Cottage
249	Clarke	Jonathan Terence	3A Brandon Road
250	Clarke	Joseph Gwyn	17 Jeremy Moore Avenue
251	Clarke	Julie Ann	2A Racecourse Road
252	Clarke	Mari-Ann Lucille	12 Fieldhouse Close

253	Clarke	Marvin Thomas	13 Davis Street
254	Clarke	Ronald John	17 Ross Road West
255	Clarke	Rudy Thomas	8 Drury Street
256	Clarke	Stephen Boyd	14A Brandon Road
257	Clarke	Terence John	17 Jeremy Moore Avenue
258	Clarke	Tracey Clare	23 Jeremy Moore Avenue
259	Clarke	Trudi Ann	13 Davis Street
260	Clarke	Violet Rose	23 Murray Heights
261	Clasen	Donna Monica	15 Davis Street
262	Clasen	Wayne Ian Summers James	15 Davis Street
263	Clausen	Andrea Patricia	3 St Mary's Walk
264	Clausen	Denzil	24 Murray Heights
265	Clausen	Denzil George Gustavius	3 St Mary's Walk
266	Clausen	Melanie	5 Philomel Street
267	Clement	Gary	9 Snake Hill
268	Clement	Jacqueline Ann	25 Hansen Hill
269	Clement	Jane	Gift Shop Flat, Villiers Street
270	Clement	Lee	25 Hansen Hill
271	Clement	Sarah Jane	10 Snake Hill
272	Clement	Wayne	10 Snake Hill
273	Clifford	Cherie Yvonne	Beckside Farm House
274	Clifford	John Owen	Beckside Farm House
275	Clifford	Rhys John David	Harbour View Knott
276	Clifton	Darwin Lewis	53 Davis Street
277	Clifton	Heidi Monica	Room 2, YMCA
278	Clifton	Leonard	2 Murray Heights
279	Clifton	Marie	16 Fieldhouse Close
280	Clifton	Melvyn	12 Callaghan Road
281	Clifton	Neil	8 Anderson Drive
282	Clifton	Stephen Peter	61 Fitzroy Road
283	Clifton	Teresa Ann	2 Strawberry Way
284	Clifton	Thora Janeene	2 Murray Heights
285	Clifton	Valerie Ann	10 Pioneer Row
286	Cockwell	Jennifer Marie	90 Davis Street
287	Cockwell	John Richard	14 Ross Road West
288	Cockwell	Maurice Adam	90 Davis Street
289	Cofre	Anya Evelyn	37 Eliza Crescent
290	Cofre	Ashton Laura	9 Eliza Crescent
291	Cofre	Elvio Miguel	37 Eliza Crescent
292	Cofre	Reuben Patrick	37 Eliza Crescent
293	Collier	Victoria Louise	13 Ian Campbell Drive
294	Collins	Brian Richard	41 Davis Street
295	Collins	Christopher Allan	Flat 2, 5 Jeremy Moore Avenue
296	Collins	Hazel	41 Davis Street
297	Collins	Michael William Archibald	Flat 5, 7 Jeremy Moore Avenue
298	Collins	Steven Paul	Flat 4, 7 Jeremy Moore Avenue
299	Collins Finlay	Shiralee	9 Rowlands Rise
300	Connolly	Kevin Barry	1 King Street
301	Cordeiro Otero	Jose Antonio	1 Narrows View
302	Cotter	Caroline Jane	6 Capricorn Road
303	Cotter	Jacqueline Ann	18 Mink Park

304	Cotter	Mary Jane	9 Jeremy Moore Avenue
305	Cotter	Timothy Stewart	9 Jeremy Moore Avenue
306	Coulter	Julian Anthony	16 Murray Heights
307	Courtney	Anthony Clive	30 Goss Road
308	Courtney	Julie Doris	30 Goss Road
309	Courtney	Marc Anthony	30 Goss Road
310	Coutts	John	36 Ross Road West
311	Coutts	Marie Anne	36 Ross Road West
312	Coutts	Olga	33 Ross Road
313	Crabb	Elizabeth Ann	34A Davis Street
314	Crowie	Alan John	17 Ian Campbell Drive
315	Crowie	Ana Bonita	72 Davis Street
316	Crowie	Bradley Rhys	72 Davis Street
317	Crowie	Clare Frances	8 Jersey Road
318	Crowie	Dave Mark	10 James Street
319	Crowie	David Martin	39 Callaghan Road
320	Crowie	Layla Alicia	19 James Street
321	Crowie	Nicola Jane	35 Callaghan Road
322	Crowie	Rachael	10 James Street
323	Crowie	Robert John	35 Callaghan Road
324	Curtis	Alfred William Hamilton	6A Brandon Road West
325	Curtis	Bonnie Elizabeth Hamilton	22 Mink Park
326	Curtis	James Earl Hamilton	2 Auster Place
327	Curtis	James William Hamilton	19A Mink Park
328	Curtis	Tanya	19A Mink Park
329	Davies	Anthony Warren	7 Callaghan Road
330	Davies	Colin George	15 Ross Road West
331	Davies	Eileen Wynne	15 Ross Road West
332	Davies	Helen Louise	15 Ross Road West
333	Davies	Jacqueline Nancy	7 Callaghan Road
334	Davies	Samantha	7 Callaghan Road
335	Davies	Sian Karen	7 Callaghan Road
336	D'Avino	Damaris Priscila	14 Jersey Road
337	D'Avino	Juan Marcelo	14 Jersey Road
338	D'Avino	Pamela Martha	7 Biggs Road
339	D'Avino	Pamela Ruth	14 Jersey Road
340	Davis	Doreen Susan	11 Callaghan Road
341	Davis	Ellen Rose	55 Davis Street
342	Davis	Macauley John	37 Davis Street
343	Davis	Maurice	39 Davis Street
344	Davis	Nicholas	31 Davis Street
345	Davis	Roy George Victor	6 Narrows View
346	Davis	Samantha Jane	21 Kent Road
347	Davis	Stacey Elizabeth	2 Rowlands Rise
348	Davis	Yona	37 Davis Street
349	Dent	Elizabeth Jayne	4 Fieldhouse Close
350	Dent	Janice Vanessa	19 Hansen Hill
351	Dent	Stephen John	4 Fieldhouse Close
352	Dickson	Iris	2 Dairy Paddock Road
353	Dickson	Jason Edward	14 Jersey Road
354	Dickson	Michael Keith	12 Dairy Paddock Road

355	Dickson	Ronald Edward	2 Dairy Paddock Road
356	Didlick	Imogen Fiona	Flat 10, 6 Jersey Road
357	Didlick	John Charles Hilson	5 Pioneer Row
358	Dobbys	Kathleen Gay	60 Davis Street
359	Dodd	Alison	10 Beaver Road
360	Dodd	Mark Thomas	8 Mink Park
361	Dodd	Nigel Keith	10 Beaver Road
362	Dodd	Samantha Jane	10 Beaver Road
363	Drysdale	Karen Margaret	1 Watson Way
364	Eagle	Rex Edward	13 Eliza Crescent
365	Earnshaw	Jacqueline Elizabeth	37 Ross Road West
366	East	Justin Clive Richard	1 Fieldhouse Close
367	Eccles	Bernard Leslie	18 Jeremy Moore Avenue
368	Eccles	Matthew James	9 Eliza Crescent
369	Eccles	Mhairi-Anne	18 Jeremy Moore Avenue
370	Eccles	Moir Cameron	18 Jeremy Moore Avenue
371	Elbakidze	Zaza	10 Mink Park
372	Ellick	Joanne Marie	11 McKay Close
373	Elliot	Elizabeth Rose	15 Callaghan Road
374	Elliot	Henry James	15 Callaghan Road
375	Ellis	Cyril	24 Ross Road East
376	Ellis	Louise	34 Davis Street
377	Ellis	Lucy	11 James Street
378	Ellis	Paul	43 John Street
379	Ellis	Sally Jean	43 John Street
380	Ellis	Valerie	24 Ross Road East
381	Elsby	Barry	Moody Brook House
382	Elsby	Rosalind Alice	Moody Brook House
383	Elsby	Thomas	Moody Brook House
384	Eriksen	Bjorn Kyle	2 Ian Campbell Drive
385	Eriksen	Fiona Alison	Flat 2, 6 Jersey Road
386	Evans	Duane Richard	14 Murray Heights
387	Evans	Kyran Binnie	Murray Heights
388	Evans	Michele Paula	Murray Heights
389	Eynon	Carol	8 Villiers Street
390	Eynon	David John	8 Villiers Street
391	Faria	April Marie	3A Brisbane Road
392	Faria	Basil Harry	3A Brisbane Road
393	Faria	Maria Anne	3A Brisbane Road
394	Faria	Mary Ann	2A St Mary's Walk
395	Faria	Paul	22 Hansen Hill
396	Faria	Sarah Louise	22 Hansen Hill
397	Faria	Susana Caroline Bermtsen	22 Hansen Hill
398	Felton-Eagle	Trudi Eileen	3 Drury Street
399	Felton-Short	Scott Daniel	12A Brandon Road
400	Ferguson	John William	47 Ross Road East
401	Ferguson	Robert John Andrew	47 Ross Road East
402	Ferguson	Rose	6 Thatcher Drive
403	Ferguson	Stephanie Janet	47 Ross Road East
404	Ferguson	Thelma	4A St Mary's Walk
405	Ferriby	Debora Susana	56 Davis Street

406	Ferriby	Lee Robert	56 Davis Street
407	Fiddes	Douglas Graham	The Stables, Moody Brook
408	Fiddes	Gardner Walker	3 Watson Way
409	Fiddes	Julia Bertrand	6 Rowlands Rise
410	Fiddes	Keelan Shaun	The Stables, Moody Brook
411	Fiddes	Kelly Melody	Flat 3, 30 Jersey Road
412	Fiddes	Melody Christine	3 Watson Way
413	Finlay	Andrew John	9 Rowlands Rise
414	Finlayson	Marc Ian	19 James Street
415	Finlayson	Marilyn Christine	24 James Street
416	Finlayson	Peter	24 James Street
417	Finlayson	Phyllis	6 Brandon Road
418	Fisher-Smith	Julie Anne	8 Fieldhouse Close
419	Floyd	Michael	7 Pitaluga Place
420	Floyd	Stephen Paul	26 Hansen Hill
421	Floyd	Tracy	26 Hansen Hill
422	Fogerty	Richard Edwin John	Stone Cottage, Airport Road
423	Ford	Alison Jane Marie	9 Jersey Road
424	Ford	Arthur Henry	KEMH
425	Ford	Cara Michelle	5A Kent Road
426	Ford	Chloe Elizabeth	Flat 4, Moody Street
427	Ford	Christine	6 Drury Street
428	Ford	Christopher James	6 Felton Court
429	Ford	Colin Stewart	15 Kent Road
430	Ford	Colleen Mary	12 Davis Street
431	Ford	Darrel Michael	5 Philomel Street
432	Ford	Debbi Louisa	6 Felton Court
433	Ford	Donna Marie	19 Kent Road
434	Ford	Gerard Allan	12 Hansen Hill
435	Ford	Jill Edith	12 Hansen Hill
436	Ford	Jonathan	3 Pitaluga Place
437	Ford	Julie Ann	3 Pitaluga Place
438	Ford	Leann Caroline	15 Kent Road
439	Ford	Leonard	9 Jersey Road
440	Ford	Mandy	1 James Street
441	Ford	Mikaela Jayne	10 Murray Heights
442	Ford	Neil Frazer	6 Drury Street
443	Ford	Paul Edward	2 Sullivan Street
444	Ford	Simon	1 James Street
445	Forrest	Jennifer Carol	6 Fitzroy Road East
446	Forrest	Michael John	6 Fitzroy Road East
447	Forster	Amanda	9 Fieldhouse Close
448	Forster	Gwyneth May	10 Drury Street
449	Forster	James	10 Drury Street
450	Forster	Lynne	112A Davis Street
451	Fowler	Alan Claude	4 Capricorn Road
452	Fowler	Daniel Martin	2 Glasgow Road
453	Fowler	John Andrew Thomas	2 Glasgow Road
454	Fowler	Vanessa Kay	4 Capricorn Road
455	Fowler	Veronica Mary	1 Narrows View
456	Fowler	Zoe	2 Glasgow Road

457	France	Graham Brian	7 Snake Hill
458	France	Ian Peter	4 Sullivan Street
459	Freeman	Carl Francis	Maiden Haven Cottage
460	Freeman	Dianne May	Maiden Haven Cottage
461	Freer	Edward Craig	7 Fitzroy Road East
462	Freer	Matthew Paul	7 Fitzroy Road East
463	Freer	Pamela Jane	7 Fitzroy Road East
464	Freer	Stephen Paul James	7 Fitzroy Road East
465	French	Breda Marie	Flat 3, 6 Jersey Road
466	French	Robert Alan	12 Narrows View
467	George	Kevin Charles	26 Ross Road East
468	George	Robert Ziggy	26 Ross Road East
469	Gilbert	Christopher Paul	11 Ian Campbell Drive
470	Gilbert	Mark Ian	13 Beaver Road
471	Gilbert	Neil Robert	17 Sullivan Street
472	Gilbert	Robert Ernest	22 Jeremy Moore Avenue
473	Gilbert	Sharon	11 Ian Campbell Drive
474	Gilson-Clarke	Martyn Ian	11A Racecourse Road
475	Gisby	Annie	37 Ross Road East
476	Glanville	Adam James	12 James Street
477	Gleadell	Ian Keith	2 Yates Place
478	Goodwin	Bonita Colleen	21 Eliza Crescent
479	Goodwin	Catherine Dawn	8 Hansen Hill
480	Goodwin	Colin Valentine	86 Davis Street
481	Goodwin	Derek Samuel	21 Eliza Crescent
482	Goodwin	Emily Rose	7 Brisbane Road
483	Goodwin	Gareth Kevin	15 Hansen Hill
484	Goodwin	Hazel Rose	7 Thatcher Drive
485	Goodwin	June Elizabeth	86 Davis Street
486	Goodwin	Kenton John Douglas Benjamin	9 Discovery Close
487	Goodwin	Margaret Ann	3 'H' Jones Road
488	Goodwin	Margo Jane	5C Hansen Hill
489	Goodwin	Marie-Bernard Therese	15 Hansen Hill
490	Goodwin	Rachel Karen	31 Ross Road West
491	Goodwin	Robin	31 Ross Road West
492	Goodwin	Robin Christopher	27 Callaghan Road
493	Goodwin	Simon James	8 Hansen Hill
494	Goodwin	Una	27 Callaghan Road
495	Goodwin	William John Maurice	7 Brisbane Road
496	Gordon	Robert James Alexander	8 Murray Heights
497	Goss	Annagret	16 Jeremy Moore Avenue
498	Goss	Ariane Storm	16 Jeremy Moore Avenue
499	Goss	Eric Miller	2 Fitzroy Road East
500	Goss	Ian Ernest Earle	98 Davis Street
501	Goss	Jane Alexander	3A Brandon Road
502	Goss	Morgan Edmund	16 Jeremy Moore Avenue
503	Goss	Sandra Kathleen	11 Kent Road
504	Goss	Shirley Ann	2 Fitzroy Road East
505	Goss	Simon Peter Miller	11 Kent Road
506	Goss	Susan Diann	98 Davis Street
507	Goss	William Henry	7 Brandon Road

508	Gough	Phyllis Candy	39 Davis Street
509	Gough	Tanzev Jayne	3 Police Cottages
510	Gray	Patricia May	22 Ross Road West
511	Green	David William	4 Discovery Close
512	Greenland	James Andrew William	21 St Mary's Walk
513	Greenland-Elbakidze	Natasha Bonita	10 Mink Park
514	Greenough	Geoffrey	26 Shackleton Drive
515	Greenough	Wanda Rose	26 Shackleton Drive
516	Greentree	Irene Anne	8 Ian Campbell Drive
517	Guala Oyarzo	Henry Herman	Flat 2, 7 Jeremy Moore Avenue
518	Hadden	Alexander Burnett	8A St Mary's Walk
519	Hadden	Sheila Peggy	8A St Mary's Walk
520	Halliday	Cathy Anne	5 Drury Street
521	Halliday	Jeffrey James	9A Philomel Street
522	Halliday	Joyce Isabella Patience	5 Fieldhouse Close
523	Halliday	Julie Ann	9A Philomel Street
524	Halliday	Kenneth William	5 Fieldhouse Close
525	Halliday	Raynor	9 Brisbane Road
526	Hancox	Alice Fiona	5 McKay Close
527	Hancox	Emily Clare	7 Racecourse Road
528	Hansen	Douglas John	6 Fitzroy Road
529	Hansen	Keva Elizabeth	1 Dairy Paddock Road
530	Hardcastle	Eileen Beryl	7 Ross Road East
531	Hardcastle	Simon Brook	7 Ross Road East
532	Harris	Angela Jane	10 Haskard Rise
533	Harris	Christopher James	4A Ross Road East
534	Harris	Dennis Sefton	19 Callaghan Road
535	Harris	Heather	3 Ross Road East
536	Harris	Jill Yolanda Miller	19 Fitzroy Road
537	Harris	Karl Henry	10 Haskard Rise
538	Harris	Leeann Watson	11 Dairy Paddock Road
539	Harris	Leslie Sidney	19 Fitzroy Road
540	Harris	Michael Ronald	3 Ross Road East
541	Harris	Ralph Aaron	11 Dairy Paddock Road
542	Harris	Wendy Ann	19 Callaghan Road
543	Harte	Emuna Louise	9A Philomel Street
544	Harte	Jessica Elise	7 Biggs Road
545	Harvey	Sheila	8 Barrack Street
546	Hawksworth	Christopher	6B Gleadell Close
547	Hawksworth	David	25 Eliza Crescent
548	Hawksworth	Mary Catherine	5A Brisbane Road
549	Hawksworth	Ryan	2 Goss Road
550	Hayward	Marjorie	4B St Mary's Walk
551	Hayward	Neville	29 Fitzroy Road
552	Hayward	Pauline May	29 Fitzroy Road
553	Heathcock	Andrew James	7 Drury Street
554	Heathman	Abbie Louise	15 Eliza Cove Road
555	Heathman	Malcolm Keith	15 Eliza Cove Road
556	Heathman	Mandy Gail	15 Eliza Cove Road
557	Heathman	Nyree	7 Allardyce Street
558	Heathman	Sally Hermione	15 Eliza Cove Road

559	Henry	Adam Robert	8 Beaver Road
560	Henry	Alan Richard	8 Beaver Road
561	Henry	Donna Louise	3 Davis Street
562	Henry	John Stuart	15 Villers Street
563	Henry	Patricia Denise	8 Beaver Road
564	Hewitt	Bernice Marilyn Sarah	40 Ross Road West
565	Hewitt	Christine Alison Elizabeth	16 Sullivan Street
566	Hewitt	Frances Agnes	KEMH
567	Hewitt	Gary George	3 Hebe Place
568	Hewitt	Margaret Ann	3 Hebe Place
569	Hewitt	Tara Marie	Flat 1, 30 Jersey Road
570	Hills	David John	19 Scoresby Close
571	Hirtle	Christine	5 Capricorn Road
572	Hirtle	Debbie Ann	2B Capricorn Road
573	Hirtle	Leonard Lloyd	2 Ian Campbell Drive
574	Hirtle	Michael Barry	2 Ian Campbell Drive
575	Hirtle	Rose Ann Shirley	4 Villiers Street
576	Hirtle	Zane Eric	12 Drury Street
577	Hobman	Anilda Marilu	5 Police Cottages
578	Hobman	Anola Zoey	Camber House
579	Hobman	Luis Alfonso	5 Police Cottages
580	Howe	Adam Marcus Timothy	36 Davis Street
581	Howe	Alexander Luke Desmond	36 Davis Street
582	Howe	Alison Delia	36 Davis Street
583	Howe	Paul Anthony	36 Davis Street
584	Howe	Thomas Craig Samuel	36 Davis Street
585	Hutton	Elizabeth Isabella	3 John Street
586	Hutton	Philip	3 John Street
587	Igao	Alejandro Neri	Flat 3, 6 Racecourse Road
588	Igao	Noel Neri	10 Goss Road
589	Igao	Pauline Lynx	10 Goss Road
590	Inglis	Alison Anne MacKenzie	9 Short Street
591	Irvine	Andrew Grant McKenzie	9 McKay Close
592	Jackson	Kathleen	7 Drury Street
593	Jackson	Malcolm	7 Drury Street
594	Jackson	Mark Malcolm	5 Drury Street
595	Jacobsen	Alistair	1A Philomel Street
596	Jacobsen	Catherine Joan	1A Philomel Street
597	Jacobsen	Cathy	5 Jeremy Moore Avenue
598	Jacobsen	Tanzi	19 Scoresby Close
599	Jacobsen	Toni Rhona	8 Fitzroy Road
600	Jaffray	Alexander	8A Brisbane Road
601	Jaffray	Anika Doreen	2 Arch Green
602	Jaffray	Arlette Sharon	7 Jersey Road
603	Jaffray	Ashley Dereck Porter	79 Davis Street
604	Jaffray	Dereck Charles	2 Arch Green
605	Jaffray	Dominic Summers	84A Davis Street
606	Jaffray	Eileen	5 Hebe Street
607	Jaffray	Elliott Jessie	8A Brisbane Road
608	Jaffray	Estelle Anita	11 Snake Hill
609	Jaffray	Eva Lynn	47 Callaghan Road

610	Jaffray	Frank Alexander	1 Gleadell Close
611	Jaffray	Gerard Alan	47 Callaghan Road
612	Jaffray	Helen Rose	84 Davis Street
613	Jaffray	Ian	5 Hebe Street
614	Jaffray	Ingrid Joyce	9 Fitzroy Road
615	Jaffray	Janet	3 Ross Road West
616	Jaffray	John	3 Ross Road West
617	Jaffray	John Summers	84A Davis Street
618	Jaffray	John Willie	21 Watson Way
619	Jaffray	June Elizabeth	17 Ross Road East
620	Jaffray	Kenneth Ian	7 Jersey Road
621	Jaffray	Lisa Jane	7 Hebe Street
622	Jaffray	Nicole Dawn	5A Hebe Street
623	Jaffray	Phyllis	21 Watson Way
624	Jaffray	Shaun Melvyn	28 Davis Street
625	Jaffray	Stephen James	5 James Street
626	Jaffray	Terri-Ann	24 Endurance Avenue
627	Jaffray	Tony	84 Davis Street
628	Jaffray	Tracy	3 Fitzroy Road East
629	Jamieson	Malcolm William	5 Nutt Cartmell Close
630	Jamieson	Patricia Anne	5 Nutt Cartmell Close
631	Jennings	Hamish Warren	9A Davis Street
632	Jennings	Nancy Elizabeth	7 Philomel Street
633	Johnson	Lily Ann	11 Thatcher Drive
634	Johnson	Michael Neil	30 Jersey Road
635	Jones	Deena Marie	6 Allardyce Street
636	Jones	Evan Glynn	12 Endurance Avenue
637	Jones	Kevin Richard	3A Brandon Road
638	Jones	Yvonne Malvina	2 Thatcher Drive
639	Jonson	Amy Elizabeth	41 Eliza Crescent
640	Jonson	Nicole Frances	30 Endurance Avenue
641	Jordan	Cara Jane	12 Goss Road
642	Joshua	Josephine Mary	7 Gleadell Close
643	Joshua	Rosemond Patricia	3 Felton Stream
644	Keane	Alva Rose Marie	18 Davis Street
645	Keane	Olaf James	18 Davis Street
646	Keane	Thomas James	18 Davis Street
647	Keenleyside	Charles Desmond	3 Pioneer Row
648	Keenleyside	Manfred Michael Ian	2 Snake Hill
649	Keenleyside	Nanette Barbara	2 Snake Hill
650	Kenny	Erling	20 James Street
651	Kidd	John Nathan	7 Ross Road West
652	Kidd	Lillian Rose Orissa	7 Ross Road West
653	Kiddle	Robert Karl	10 Thatcher Drive
654	Kilmartin	Clovis Sebastian	5 Pioneer Row
655	King	Anna Constance Eve	34 Ross Road
656	King	Glynis Margaret	Stanley Arms Flat
657	King	Michelle Beverly	4 Biggs Road
658	King	Peter Thomas	10 Jeremy Moore Avenue
659	King	Robert John	22/24 Davis Street
660	King	Rosemarie	10 Jeremy Moore Avenue

661	King	Roxanne McCarthy	39 Fitzroy Road
662	Kirkham	Campbell Joseph	5 Capricorn Road
663	Knight	Margaret Anne	6 Yates Place
664	Knipe	Chedwin Norman	3 Davis Street West
665	Knipe	Susan Jane Helena	3 Davis Street West
666	Kultschar	John William	33C Davis Street
667	Kultschar	Richard Paul	5 Brisbane Road
668	Kultschar	Yvonne Rosina	33C Davis Street
669	Ladron De Guevara	Simon	22/24 Davis Street
670	Ladron De Guevara Barnes	Jeremy Marshall	22/24 Davis Street
671	Ladron De Guevara Vilches	Carmen Benilda	22/24 Davis Street
672	Laffi	Atilio Segundo	3 Brisbane Road
673	Laffi	Kathleen Mary	3 Brisbane Road
674	Lang	Colin David	2 Brisbane Road
675	Lang	David Geoffrey	KEMH
676	Lang	James Patrick	2 Davis Street West
677	Lang	Leah Falalimpa	2 Davis Street West
678	Lang	Sandra Shirleen	3 Yates Place
679	Lang	Theresa Margaret	28 Goss Road
680	Lang	Valma Emily	8A Moody Street
681	Lang	Wendy Diane	2 Brisbane Road
682	Lapham	Stephen William	18 Hansen Hill
683	Lapham	Suzanna	18 Hansen Hill
684	Larsen	Ellen	6A Moody Street
685	Larsen	Ronald Ivan	2 Anderson Drive
686	Larsen	Yvonne	2 Anderson Drive
687	Lazo	Javier Waldemar Sanchez	80 Davis Street
688	Lazo	Joanna Rose	80 Davis Street
689	Lazo	Matthew Derek	80 Davis Street
690	Leach	Nigel Jon	4 Moody Street
691	Lee	Beverley Christina	4 Police Cottages
692	Lee	Carole	15 Ian Campbell Drive
693	Lee	Gladys	11 Drury Street
694	Lee	Karen Jane	14 Davis Street
695	Lee	Mandy John	15 James Street
696	Lee	Owen Henry	4 Pioneer Row
697	Lee	Rodney William	15 Ian Campbell Drive
698	Lee	Victoria Jane	2 Rex Hunt Road
699	Lennie	Gordon Carmie	9 Narrows View
700	Lewis	David James	3 Ian Campbell Drive
701	Lewis	Jason	9 Short Street
702	Lewis	Pamela Irene	3 Ian Campbell Drive
703	Leyland	Frank	10 Brandon Road
704	Leyland	Vera	10 Brandon Road
705	Limburn	Monica	2 Brandon Road
706	Livermore	Anton	82 Davis Street
707	Livermore	Doreen Emily	82 Davis Street
708	Livermore	Kirsty Nicole	6 Hansen Hill
709	Livermore	Verity Anne	8 Murray Heights
710	Lloyd	Christopher Sturdee	12 McKay Close
711	Lloyd	Natalie Anne	12 McKay Close

712	Lloyd	Roanna Eileen	34 Teaberry Way
713	Loftus	Geoffrey	15 Biggs Road
714	Loftus	Sara	15 Biggs Road
715	Lowe	Katrina Louise	9 Discovery Close
716	Luxton	Anna	1A Pioneer Row
717	Luxton	Jennifer Mary	4 Hebe Place
718	Luxton	Michael	1A Pioneer Row
719	Luxton	Nicola	1A Pioneer Row
720	Luxton	Robin	1 Jersey Road
721	Luxton	Stephen Charles	1 Mullet Creek
722	Luxton	Susan Vera	1 Mullet Creek
723	Luxton	Wendy Jennifer	1 Jersey Road
724	Luxton	Winifred Ellen	15 Fitzroy Road
725	Lyse	Linda Margaret	65 Fitzroy Road
726	Macaskill	Angus Lindsay	11 Short Street
727	Macaskill	John	34 Ross Road West
728	Macaskill	Robert John	1A Brisbane Road
729	Macaskill	Tracey Jayne	1A Brisbane Road
730	MacDonald	Alexander Colin	41 Eliza Crescent
731	MacDonald	Irene	Flat 3, 5 Jeremy Moore Avenue
732	Maciello	Jorge Diego	33 Ross Road
733	Maciello	Susan Ovedia Franz	33 Ross Road
734	Maddocks	Robert Charles	11 Murray Heights
735	Marsh	June Helen	KEMH
736	Marsh	Samantha Ann	Whyteways, James Street
737	Martin	Lee Anthony	7 McKay Close
738	Martin	Lisa Maria	7 McKay Close
739	May	Angela Jane	11 Sullivan Street
740	May	Bruce Raymond	9 Kent Road
741	May	Bryan Roy	21 Jeremy Moore Avenue
742	May	Connie	9 Kent Road
743	May	Heather	1 Glasgow Road
744	May	Jonathan Roy	12 Jeremy Moore Avenue
745	May	Lucinda Vikki	12 Jeremy Moore Avenue
746	May	Monica	21 Jeremy Moore Avenue
747	May	Roger	11 Sullivan Street
748	May	Tiphannie	7 Narrows View
749	May	William Albert	1 Glasgow Road
750	McBain	Arthur	29 Goss Road
751	McBain	Rhoda Margaret	29 Goss Road
752	McCallum	Bettina Kay	14 Drury Street
753	McCallum	Christopher John	8A Jeremy Moore Avenue
754	McCallum	Rampai	14A Drury Street
755	McCallum	Shanice	19 Murray Heights
756	McCallum	Timothy Andrew	14A Drury Street
757	McCormick	Dale Ronald	24 Eliza Crescent
758	McCormick	Pauline Margaret Ruth	29 Callaghan Road
759	McCormick	Richard Paul	29B Callaghan Road
760	McCormick	Samantha Laura	12 Hansen Hill
761	McCormick	Tamara Ann	54 Davis Street
762	McCormick	Wayne Stanley James	19 Biggs Road

763	McCrea	Robert Thomas	4 Racecourse Road
764	McDade	Priscilla Alison	12 St Marys Walk
765	McGhie	Thomas Forsyth	4 Yates Place
766	McGill	Cara Jane	Flat 7, 6 Jersey Road
767	McGill	Daniel Stanford	2 James Street
768	McGill	Darrel Ian	20 Jeremy Moore Avenue
769	McGill	David William	Gardeners Cottage South
770	McGill	Diane Beverley	2 James Street
771	McGill	Doris Mary	1 Philomel Place
772	McGill	Gary	15 Brandon Road
773	McGill	Glenda	1C Capricorn Road
774	McGill	Heather Margaret	Gardeners Cottage South
775	McGill	Ian Peter	1C Capricorn Road
776	McGill	Len Stanford	2 James Street
777	McGill	Odette Susan	15 Brandon Road
778	McGill	Teresa Rose	26 Ross Road East
779	McGill	Travis Ian	1C Capricorn Road
780	McKay	Bono John	3A Brandon Road West
781	McKay	Clara Mary	20 Ross Road West
782	McKay	Heather Valerie	16 Eliza Crescent
783	McKay	Jennifer Coral	24 Eliza Crescent
784	McKay	Lauren Joyce	21 Ross Road West
785	McKay	Michael John	64 Davis Street
786	McKay	Michelle Jane	64 Davis Street
787	McKay	Neil	10 Watson Way
788	McKay	Peter John	21 Ross Road West
789	McKay	Rex	16 Eliza Crescent
790	McKay	Stacey Jane	33 Davis Street
791	McKee	Miranda	12 Watson Way
792	McKee	Richard Buick	12 Watson Way
793	McKenzie	Alice Maud	2B St Mary's Walk
794	McKenzie	Charles Alexander Albert J	2B St Mary's Walk
795	McLaren	Caroline Mary	24 Shackleton Drive
796	McLaren	Heather Maureen	24 Shackleton Drive
797	McLeod	David	49 Callaghan Road
798	McLeod	Glenda Otadoy	49 Callaghan Road
799	McLeod	Henry Donald Alexander	16 Fieldhouse Close
800	McLeod	Ian	17 Davis Street
801	McLeod	Ian James	7 Ian Campbell Drive
802	McLeod	Janet Wensley	75 Davis Street
803	McLeod	Janice	2 Ross Road West
804	McLeod	Joan May	13 Murray Heights
805	McLeod	John	23 Hansen Hill
806	McLeod	Mally	17 Davis Street
807	McLeod	Margaret Ann	13 Fitzroy Road East
808	McLeod	Michael William	5 Short Street
809	McLeod	Pearl Mary Ann	18 Brandon Road
810	McLeod	Robert	75 Davis Street
811	McLeod	Robert John	2 Ross Road West
812	McLeod	Valerie Marcela	7 Ian Campbell Drive
813	McMullen	June	8 Brandon Road

814	McMullen	Lucille Anne	6A John Street
815	McMullen	Tony	8 Brandon Road
816	McPhee	Denise	4 Brandon Road West
817	McPhee	Justin Owen	4 Brandon Road West
818	McRae	Charlotte Melize	18 Jersey Road
819	McRae	Gloria Linda	9 Snake Hill
820	McRae	Kerry Jane	15 Sullivan Street
821	McRae	Michael	2A 'H' Jones Road
822	Merrey	Adrianna Janine	36 John Street
823	Middleton	Callum William	14 Mink Park
824	Middleton	Caren	4 Rowlands Rise
825	Middleton	Caroline Ann	7 James Street
826	Middleton	Dennis Michael	Dolphin Cottage
827	Middleton	Joan Eliza	8 James Street
828	Middleton	Leonard	67 Fitzroy Road
829	Middleton	Macauley Brian	13 McKay Close
830	Middleton	Megan Shirley Rebecca	79 Davis Street
831	Middleton	Murray Alexander	4 Rowlands Rise
832	Middleton	Nevin Alexander	4 Rowlands Rise
833	Middleton	Phillip John	5 St Marys Walk
834	Middleton	Sharon Elizabeth	Dolphin Cottage
835	Middleton	Stephanie Anne	13 McKay Close
836	Middleton	Yvonne Allison	50 Davis Street
837	Miller	Andrew Nigel	7 Villiers Street
838	Miller	Carol	Marine Cottage
839	Miller	Gail Marie	6A Brisbane Road
840	Miller	Janet Mary	Market Garden, Airport Road
841	Miller	Jayne Elizabeth	27 Davis Street
842	Miller	Samuel Andrew	27 Davis Street
843	Miller	Simon Roy	Marine Cottage
844	Miller	Timothy John Durose	Market Garden, Airport Road
845	Mills	Terence Kenneth	1 Thatcher Drive
846	Milne	Teresa	34 John Street
847	Minnell	Adrian James	8 Moody Street
848	Minnell	Amy Anne	1 Brandon Road
849	Minnell	Ella Josephine	17 Ian Campbell Drive
850	Minnell	Hazel Eileen	5 Yates Place
851	Minnell	Michelle Rose	1 Brandon Road
852	Minnell	Tamara Rose	1 Brandon Road
853	Minnell-Goodwin	Joanne Hazel Rose	20 Eliza Crescent
854	Minnell-Goodwin	Mandy Hazel	31 Ross Road West
855	Minto	Adam Daniel	18 Endurance Avenue
856	Minto	Alistair Daem	Flat 5, 1 Jeremy Moore Avenue
857	Minto	Christian Ian	6 Biggs Road
858	Minto	Dilys Rose	18 Endurance Avenue
859	Minto	Graham Stewart	12 Brisbane Road
860	Minto	Karen Joleen	52 Callaghan Road
861	Minto	Laura Jayne	52 Callaghan Road
862	Minto	Patrick Andrew	5C Hansen Hill
863	Minto	Sally Ann	12 Brisbane Road
864	Minto	Sean Daem	18 Endurance Avenue

865	Minto	Timothy Ian	18 Endurance Avenue
866	Minto	Ximena Ida	Flat 1, Moody Street
867	Miranda	Augusto	3 Thatcher Drive
868	Miranda	Carmen	8 Anderson Drive
869	Miranda	Ramon	3 Drury Street
870	Miranda	Winifred Dorothy	3 Drury Street
871	Mitchell	Paige	16 Fieldhouse Close
872	Mitchell	Shane Leon	16 Fieldhouse Close
873	Moffatt	Angela	20 Ross Road East
874	Moffatt	James	20 Ross Road East
875	Moffatt	Jay	5 Gleadell Close
876	Moffatt	Sean	20 Ross Road East
877	Molkenbuhr-Smith	Sara Jayne	1 Callaghan Road
878	Montgomerie	Delen Ann Nicola	1 McKay Close
879	Montgomerie	Kerys Elizabeth Victoria	1 McKay Close
880	Morris	Aiden Liam	1 Moody Street
881	Morris	Alana Marie	4 Callaghan Road
882	Morris	David	4 Callaghan Road
883	Morris	Jason Paul	Flat 4, 30 Jersey Road
884	Morris	Trevor Alan	1 Moody Street
885	Morrison	Dana Justine	10 Rowlands Rise
886	Morrison	Edgar Ewen	5 Racecourse Road
887	Morrison	Elane Maria	14 Scoresby Close
888	Morrison	Fayan	54 John Street
889	Morrison	Graham Stewart	34A Davis Street
890	Morrison	Jacqueline Denise Anita	13 Ian Campbell Drive
891	Morrison	Joan Margaret	3 Felton Court
892	Morrison	John	14 Scoresby Close
893	Morrison	Joleen Coleen	3 Felton Court
894	Morrison	Keiran Kenneth	13 Ian Campbell Drive
895	Morrison	Kenneth	13 Ian Campbell Drive
896	Morrison	Lena	108 Davis Street
897	Morrison	Leslie Theodore Norman	108 Davis Street
898	Morrison	Lewis Ronald	Stanley Cottage South
899	Morrison	Marcus Lewis	5 Mink Park
900	Morrison	Michael John	10 Fitzroy Road East
901	Morrison	Nanette Rose	46 Davis Street
902	Morrison	Paul Roderick	3 Racecourse Road East
903	Morrison	Richard Lowry	1 Biggs Road
904	Morrison	Russell John Allan	16 Mink Park
905	Morrison	Stewart	46 Davis Street
906	Morrison	Susan Margaret	10 Fitzroy Road East
907	Morrison	Tamara	2A 'H' Jones Road
908	Morrison	Violet Sarah	6B St Mary's Walk
909	Morrison	William Roderick Halliday	54 John Street
910	Morrison-Sanchez	Angely Susanne	16 Mink Park
911	Munro	Grant Mackintosh	69 Fitzroy Road
912	Murphy	Andrew Paul	2 King Street
913	Murphy	Ann Susan	2 King Street
914	Napier	Lily	2 Racecourse Road
915	Napier	Roderick Bertrand	2 Racecourse Road

916	Neilson	Barry Marwood	6 Barrack Street
917	Neilson	Edward Sydney	12 Goss Road
918	Neilson	Harold Ian	74 Davis Street
919	Neilson	Margaret	6 Barrack Street
920	Nethercott	Matthew Robert	5 Pioneer Row
921	Newell	Joseph Orr	3 Villiers Street
922	Newman	Andrew Raymond	51 Ross Road East
923	Newman	Marlene	11 Jeremy Moore Avenue
924	Newman	Terence	24 Endurance Avenue
925	Nightingale	Karl Richard	1 Sullivan Street
926	Nightingale	Sian Yvonne	1 Sullivan Street
927	Norman	Heather Thelma	6A Pioneer Row
928	Ojeda Gallardo	Roberto Miguel Alejandro	9A Sullivan Street
929	Olmedo	Alex	20 Hansen Hill
930	Olmedo Apablaza	Marcelo Rodrigo	14 Endurance Avenue
931	Ormond	Christina Helen	6 Goss Road
932	Ormond	Kevin Michael Patrick J	6 Goss Road
933	Ormond	Krysteen Alison	19 Jeremy Moore Avenue
934	Ormond	Terrienne Helen	2 Gleadell Close
935	Owen	Sally	1 Biggs Road
936	Padgett	Keith	Sullivan House, Ross Road West
937	Padgett	Valerie Janet	Sullivan House, Ross Road West
938	Paice	Corrinne	3 Racecourse Road
939	Paice	Craig Arthur	3 Racecourse Road
940	Parke	James Fred	25 Ross Road West
941	Parke	Janet Margaret	25 Ross Road West
942	Passfield	Kenneth Alexander	2A Brandon Road West
943	Paver	Bernadette Marguerite	Moody Brook House
944	Peck	Burnerd Brian	4 Thatcher Drive
945	Peck	Carol Margaret	14 Hansen Hill
946	Peck	Christine	21 Jersey Road
947	Peck	David John	26 Eliza Crescent
948	Peck	David Patrick	5 Sullivan Street
949	Peck	Davina Margaret	Stanley House Hostel
950	Peck	Eleanor Margaret	10 Davis Street
951	Peck	Farrah Louise	5 Moody Street
952	Peck	Gordon Pedro James	34 Eliza Crescent
953	Peck	Harwood John Charles	26 Eliza Crescent
954	Peck	Joshua Dolan	14 Hansen Hill
955	Peirega	Naomi Renee	1 Hebe Street
956	Pennisi Minto	Barbara	8A Moody Street
957	Perry	Hilda Blanche	6A St Marys Walk
958	Peters	Justina Kaye	17 Sullivan Street
959	Peters	Patricia Ann	30 Eliza Crescent
960	Pettersson	April Samantha	4 Beaver Road
961	Pettersson	Derek Richard	3 Anderson Drive
962	Pettersson	Trudi Ann	3 Anderson Drive
963	Phillips	Antony Vincent	35 Fitzroy Road
964	Phillips	Carol Joan	32 Davis Street
965	Phillips	David Dawson	35 Fitzroy Road
966	Phillips	Elisa	35 Fitzroy Road

967	Phillips	Jordan Liam	19 Sullivan Street
968	Phillips	Terence	32 Davis Street
969	Pitt	Myra May	6A Pioneer Row
970	Plato	Darren Richard	2 Jersey Road
971	Pole-Evans	Amy Rose	4 McKay Close
972	Pole-Evans	John	16 Ross Road East
973	Pole-Evans	Lisa	74 Davis Street
974	Pole-Evans	Marcus Samuel	12 Murray Heights
975	Pole-Evans	Martin	19 Kent Road
976	Pole-Evans	Michael Anthony	4 McKay Close
977	Pollard	Andrew Keith	4 Fitzroy Road East
978	Pollard	Elizabeth Eve	23 Ross Road East
979	Pollard	John	23 Ross Road East
980	Pollard	Mark John	5 Jeremy Moore Avenue
981	Pompert	Joost Herman Willem	11 Ross Road West
982	Poncet	Jeremy Nigel	2A Brandon Road West
983	Poncet	Sally Elizabeth	2A Brandon Road West
984	Poole	Evelyn May	31 Fitzroy Road
985	Poole	Juliet Hazel	28 Davis Street
986	Poole	Michael James	19 Davis Street
987	Poole	Nancy Margaret	1 Racecourse Road
988	Poole	Raymond John	1 Racecourse Road
989	Poole	Toby Raymond	19 Davis Street
990	Poole	William John	31 Fitzroy Road
991	Pratlett	Patricia Carol Ann	10A James Street
992	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
993	Pring	Bernadette Jane Spencer	5A Ross Road West
994	Pring	Geoffrey Alan	5A Ross Road West
995	Prior	Claudette	1 Goss Road
996	Prior	Malcolm	1 Goss Road
997	Quinto Salluca	Luis Alberto	88 Davis Street
998	Reddick	Keith John	By-Pass Road
999	Reeves	Michael	3A Hebe Street
1000	Regalado	Roxanne	25 Shackleton Drive
1001	Reid	Ann	3A Hansen Hill
1002	Reid	Beverley Rose	12 James Street
1003	Reid	Colleen Rose	9 Fitzroy Road East
1004	Reid	John Alexander	7 Fitzroy Road
1005	Reid	Joseph Reynold Benjamin	26 Kent Road
1006	Reid	Paula	5 Biggs Road
1007	Reid	Reynold Gus	5 Biggs Road
1008	Rendell	Nicholas Simon Oliver	5 Moody Street
1009	Richards	Shirley	8A James Street
1010	Riddell	Jacob David	33 Davis Street
1011	Roberts	Aaron Huw	13 Rowlands Rise
1012	Roberts	Bradley Gerard	2 Hansen Hill
1013	Roberts	Cheryl Ann Spencer	49 Ross Road East
1014	Roberts	David Anthony	1 Mountain View
1015	Roberts	Laura May	4 Kent Road
1016	Roberts	Lynn	3 Gleadell Close
1017	Roberts	Nicholas Daniel	1 Mountain View

1018	Roberts	Peter James	49 Ross Road East
1019	Roberts	Simon Theodore Nathaniel	5 Narrows View
1020	Robertson	Dion Sebastian	37 Ross Road
1021	Robertson	Drew Alexander	37 Ross Road
1022	Robertson	Janet	11 Ross Road West
1023	Robertson	Leigh Francesca	14 Murray Heights
1024	Robson	Alison Emily	15 Villiers Street
1025	Robson	Cherry Rose	5 Philomel Street
1026	Robson	Jodie	1 Philomel Place
1027	Robson	Miranda Gaye	10 Hansen Hill
1028	Robson	Patricia Jayne	18 Ross Road East
1029	Robson	Phyllis Ann	1 Philomel Place
1030	Robson	Raymond Nigel	10 Hansen Hill
1031	Robson	William Charles	18 Ross Road East
1032	Ross	Allan John	1 Short Street
1033	Ross	Christine Aislinn	7 Murray Heights
1034	Ross	Claudio Javier Ampuero	2 Mullet Creek
1035	Ross	Gabrielle Leigh	1 Mountain View
1036	Ross	Glenn Stephen	23 Watson Way
1037	Ross	Janet	23 Watson Way
1038	Ross	Kerri-Anne	8 Mink Park
1039	Ross	Kevin John	12 Snake Hill
1040	Ross	Lachlan Neil	14 Fieldhouse Close
1041	Ross	Rebecca Jane	3 Beaver Road
1042	Ross	Roy	19 Jersey Road
1043	Ross	Sheena Margaret	1 Mountain View
1044	Ross	Shirley Vyona	1 Short Street
1045	Rowland	Charlene Rose	19 Jeremy Moore Avenue
1046	Rowland	John Christopher	19 Jeremy Moore Avenue
1047	Rowland	Sarah Anne	9 Hansen Hill
1048	Rowlands	Daisy Malvina	39 John Street
1049	Rowlands	Dorinda Roberta	3 Hebe Street
1050	Rowlands	Robert John	13 Callaghan Road
1051	Rozee	Betty Ellen	16 Davis Street
1052	Rozee	Derek Robert Thomas	16 Davis Street
1053	Rozee	Karen Michella	3 Discovery Close
1054	Sackett	Albert John	25A Ross Road East
1055	Sackett	Jacqueline	25 Callaghan Road
1056	Sackett	Michael John Carlos	25 Callaghan Road
1057	Sanchez	Jennifer Helen	26 Endurance Avenue
1058	Sanchez Ladron De Guevara	Karen Pamela	5 Brisbane Road
1059	Sawle	Felicity Anne Hermione	Seaview Cottage, Ross Road
1060	Sawle	James Christopher	Seaview Cottage, Ross Road
1061	Sawle	Judith Margaret	Seaview Cottage, Ross Road
1062	Sawle	Richard	Seaview Cottage, Ross Road
1063	Sell	Hannah Rachael	4 Allardyce Street
1064	Senociain Short	Kylie Deborah	6 Police Cottages
1065	Shcherbich	Zhanna Nikolaevna	13 Biggs Road
1066	Shelbourne	Carolyn Wendy	39 Brandon Road
1067	Shepherd	Anna Jenine	6 Brisbane Road
1068	Shepherd	Darren Harold	6 Brisbane Road

1069	Shepherd	Ramsey	1 A Hansen Hill
1070	Shepherd	Roy	23 Mink Park
1071	Shepherd	Sarah Jayne	23 Mink Park
1072	Shillitoe	Helena De Fatima	The Brook, Moody Brook
1073	Shillitoe	Roger William	The Brook, Moody Brook
1074	Shillitoe	Ryan Lawrence	The Brook, Moody Brook
1075	Shillitoe	Stephen Bruce	4 Mink Park
1076	Short	Alison	9 Pioneer Row
1077	Short	Brenda	11 Barrack Street
1078	Short	Celia Soledad	7 Pitaluga Place
1079	Short	Christina Ethel	12 Brandon Road
1080	Short	Clint Andrez Robert	48 Davis Street
1081	Short	Emily Christina	1 Fitzroy Road East
1082	Short	Gavin Phillip	6 Police Cottages
1083	Short	Isabel Rose	6 Davis Street
1084	Short	Jason Francis	6 Davis Street
1085	Short	Lyndsay Marie	48 Davis Street
1086	Short	Marc Peter	7 Anderson Drive
1087	Short	Marlene Cindy	9 Pitaluga Place
1088	Short	Montana Tyrone	4 Dairy Paddock Road
1089	Short	Patrick Warburton	6 Davis Street
1090	Short	Peter Robert	1 Fitzroy Road East
1091	Short	Richard Edward	9 Pitaluga Place
1092	Short	Riley Ethroe	11 Barrack Street
1093	Short	Vilma Alicia	4 Dairy Paddock Road
1094	Simpson	Bertha Veronica	8 Rowlands Rise
1095	Simpson	James Alexander Bruce	7 Racecourse Road
1096	Simpson	John Frederick	8 Rowlands Rise
1097	Sinclair	Serena Samantha	62 Davis Street
1098	Sinclair	Veronica Joyce	21 Ross Road West
1099	Skene	Greta Winnora Miller	22 Ross Road East
1100	Smallwood	Margo Amee	105 Davis Street
1101	Smallwood	Michael Anthony	105 Davis Street
1102	Smith	Aidan James	11 Brandon Road
1103	Smith	Andrew John	11 Fitzroy Road East
1104	Smith	Antony David	33A Davis Street
1105	Smith	Anya Deirdre	8 Eliza Crescent
1106	Smith	Colin David	6 James Street
1107	Smith	Elenore Olive	3 Brisbane Road
1108	Smith	Ellis Nia	8 Fieldhouse Close
1109	Smith	Felicity Marie	5 Brandon Road
1110	Smith	George Patterson	15 Watson Way
1111	Smith	Gerard Alexander	8 Barrack Street
1112	Smith	Heather	19 Watson Way
1113	Smith	Ian Lars	5 Brandon Road
1114	Smith	Ileen Rose	28 Ross Road West
1115	Smith	James Terence	3 Fitzroy Road
1116	Smith	Jennifer Ethel	6 Watson Way
1117	Smith	Jenny Lorraine	15 Watson Way
1118	Smith	John	28 Ross Road West
1119	Smith	John Derek	8 Eliza Crescent

1120	Smith	Martyn James	6A Ross Road West
1121	Smith	Michael Edmund	39 Eliza Crescent
1122	Smith	Nadia Louise	11 Brandon Road
1123	Smith	Natalie Marianne	6 James Street
1124	Smith	Nora Kathleen	5 Fitzroy Road East
1125	Smith	Osmund Raymond	3 Brisbane Road
1126	Smith	Paul	1 Callaghan Road
1127	Smith	Robin Charles	19 Watson Way
1128	Smith	Roy Alan	11 Brandon Road
1129	Smith	Susan	17 Jersey Road
1130	Socodo	Phoebe Esther	20 Mink Park
1131	Spicer	Mark Anthony	16 St Mary's Walk
1132	Spicer	Susan	16 St Mary's Walk
1133	Spink	Roger Kenneth	The Brook, Moody Brook
1134	Spinks	Malvina Ellen	8 Yates Place
1135	Spruce	Helena Joan	Milestone, 29 Ross Road West
1136	Spruce	Mark Felton	6 Anderson Drive
1137	Spruce	Terence George	Milestone, 29 Ross Road West
1138	Steen	Allan Graham	15 Sullivan Street
1139	Steen	Barbara Ingrid	39 Ross Road West
1140	Steen	Karen Lucetta	32 Fitzroy Road
1141	Steen	Kimberley Joanna	21 St Mary's Walk
1142	Stenning	Timothy Charles	5B Ross Road West
1143	Stephenson	Dylan	4 Davis Street
1144	Stephenson	Joan Margaret	Moody Valley House
1145	Stephenson	Katrina	4 Davis Street
1146	Stephenson	Zachary	4 Davis Street
1147	Stevens	Caris Kirsten	30 Davis Street
1148	Stevens	Kelly-Marie	18 Jersey Road
1149	Stevens	Paul Theodore	6 Dairy Paddock Road
1150	Stewart	Celia Joyce	14 Allardyce Street
1151	Stewart	Daniel Duane	18 Jersey Road
1152	Stewart	Duane William	17 Scoresby Close
1153	Stewart	Hulda Fraser	24 Ross Road West
1154	Stewart	Ian Bremner	34 Ross Road East
1155	Stewart	Kenneth Barry	Flat 5, 6 Jersey Road
1156	Stewart	Ruth Jane	17 Scoresby Close
1157	Stewart	Sheila Olga	34 Ross Road East
1158	Stewart-Reid	Carol Ellen Eva	7 Fitzroy Road
1159	Stewart-Reid	Roisin Mary Adreanna	7 Fitzroy Road
1160	Strange	Maria Marta	The Dolphins, Snake Street
1161	Strange	Shona Marguerite	6B Ross Road West
1162	Stroud	Mark Adrian	10 Sullivan Street
1163	Sullivan	Jonathan Francis	1 Mullet Creek
1164	Summers	Brian	1 Ross Road East
1165	Summers	Dorothy Constance	42 Eliza Crescent
1166	Summers	Edith Catherine	5 Dean Street
1167	Summers	Irvin Gerard	1 Anderson Drive
1168	Summers	Jacqueline	11 Pioneer Row
1169	Summers	Jonathan Derek	17 Brandon Road
1170	Summers	Judith Orissa	1 Ross Road East

1171	Summers	Lynn Jane	20 Jeremy Moore Avenue
1172	Summers	Michael Kenneth	6A Brisbane Road
1173	Summers	Michael Victor	11 Pioneer Row
1174	Summers	Owen William	5 Brandon Road West
1175	Summers	Rowena Elsie	5 Allardyce Street
1176	Summers	Roy	32 Eliza Crescent
1177	Summers	Sheila	1 Anderson Drive
1178	Summers	Sybella Catherine Ann	1 Ross Road West
1179	Summers	Sylvia Jean	8 Racecourse Road
1180	Summers	Terence	1 Ross Road West
1181	Summers	Tony	8 Racecourse Road
1182	Summers	Veronica	5 Brandon Road West
1183	Sutcliffe	Lynsey Claire	1 Moody Street
1184	Sutcliffe	Michael Ian	1 Moody Street
1185	Sutherland	John Gall	3 Mountain View
1186	Sytchov	Dmitri	1 Felton Court
1187	Sytchov	Vladimir	1 Felton Court
1188	Sytchova	Natalia Mikhaylovna	1 Felton Court
1189	Sytchova	Ulia	1 Felton Court
1190	Taylor	Anne Louise	4 Drury Street
1191	Taylor	Graham	55 Fitzroy Road
1192	Taylor	Ruth Eleanor	55 Fitzroy Road
1193	Tellez	Tylor Mathew James	18 Jersey Road
1194	Thain	Craig John	8 Davis Street
1195	Thain	John	8 Davis Street
1196	Thain	Stephanie Ann	8 Davis Street
1197	Thom	Dorothy Irene	47 Fitzroy Road
1198	Thom	Norma Ann	92 Davis Street
1199	Thomas	Andrew Neil	11 Jersey Road
1200	Thomas	Jacqueline Joyce	3 Moody Street
1201	Thomas	Jane Lilian Louisa	11 Jersey Road
1202	Thomas	Justin Paul	3 Moody Street
1203	Thorsen	David Moller	21 Ross Road East
1204	Thorsen	Gloria Penelope	Staff accommodation, Market Garden
1205	Thorsen	Kristiane Annergret Helena	Staff accommodation, Market Garden
1206	Toolan	George Benjamin	13 Sullivan Street
1207	Toolan	Rose Mary	13 Sullivan Street
1208	Toolan	Stephen David John	13 Sullivan Street
1209	Triggs	Diane Elizabeth	3 Fieldhouse Close
1210	Triggs	Michael David	3 Fieldhouse Close
1211	Trinidades Burucua	Dahiana	14 Watson Way
1212	Tuckwood	John Rodney	1 Drury Street
1213	Turner	Betty Ann	8 Fitzroy Road East
1214	Turner	Howard Guy	8 Fitzroy Road East
1215	Turner	Joanne Elizabeth	61 Fitzroy Road
1216	Turner	Ronald	KEMH
1217	Tyrrell	Garry Bernard	1 Beaver Road
1218	Tyrrell	Gina Michelle	1 Beaver Road
1219	Tyrrell	Tasmin Andrea	1 Beaver Road
1220	Valler	Glyndwr Huw	11 Mink Park
1221	Velasquez	Evan Oscar	36 John Street

1222	Vidal Roberts	Leona Lucila	1 Mountain View
1223	Vilchez Valverde	Maria Yhovana	88 Davis Street
1224	Villalon	Hector Ricardo	7A McKay Close
1225	Villegas	Caroline	7 Fieldhouse Close
1226	Villegas	Pedro Francisco	7 Fieldhouse Close
1227	Vincent	Elliott Lawrence	11 Ross Road East
1228	Vincent	Janette Mary	10 Endurance Avenue
1229	Vincent	Matthew Stephen	11 Ross Road East
1230	Vincent	Stephen Lawrence	10 Endurance Avenue
1231	Wade	Donald Harold	Cabin, 12 St Mary's Walk
1232	Wade	June Rose Elizabeth	17 Murray Heights
1233	Wallace	Fraser Barrett	10 John Street
1234	Wallace	Ian	28 Brandon Road
1235	Wallace	Maria Lilian	38 Ross Road West
1236	Wallace	Michael Ian	23 Callaghan Road
1237	Wallace	Stuart Barrett	38 Ross Road West
1238	Wallace	Una	23 Callaghan Road
1239	Wallace-Nannig	Fiona Alice	Tigh Na Mara, Moody Brook Road
1240	Ward	Alison Denise	9 Anderson Drive
1241	Ward	Dennis James	9 Anderson Drive
1242	Watson	Andrew James	9 James Street
1243	Watson	Dominic Robert	20 Endurance Avenue
1244	Watson	Joanne	19 Sullivan Street
1245	Watson	Lisa Marie	33 Davis Street
1246	Watson	Paul	20 Endurance Avenue
1247	Watt	Stephen Robert	7 Hebe Street
1248	Watts	Patrick James	13 Brisbane Road
1249	Webb	Gary Colin	58 Davis Street
1250	Webb	Loretta Isobel	58 Davis Street
1251	White	Judy Marie	Flat 1, 3 Jeremy Moore Avenue
1252	Whitney	Frederick William	1 Police Cottages, 9 Ross Road
1253	Whitney	Jason	15 Ross Road East
1254	Whitney	Kurt Ian	2 Pioneer Row
1255	Whitney	Lana Rose	22 Eliza Crescent
1256	Whitney	Susan Joan	1 Police Cottages, 9 Ross Road
1257	Wilkinson	Alistair Graham	3 St Mary's Walk
1258	Wilkinson	David Clive Walter	24 Goss Road
1259	Wilkinson	Johan	3 St Mary's Walk
1260	Williams	Christian Leonard Edward John	7 Eliza Crescent
1261	Williams	Glen	33 Ross Road East
1262	Williams	Kirsty Michelle	16 Jersey Road
1263	Williams	Margaret Elizabeth	33 Ross Road East
1264	Williams	Marlene Rose	23 Ross Road West
1265	Williams	Ray Allan	30 Eliza Crescent
1266	Williamson	Kathleen Laura	5 McKay Close
1267	Williamson	Rachel Mary	5 McKay Close
1268	Wilson	Stephen John	1 Davis Street West
1269	Wilson	Tara	1 Davis Street West
1270	Wylie	Ashley Craig Robert	2 Hansen Hill
1271	Wylie	Julian Richard	1 McKay Close
1272	Yon	Julian Lemarc Patrick	3 Davis Street West

1273	Zuvic-Bulic	Kuzma Mario	Holdfast House, Holdfast Road
1274	Zuvic-Bulic	Saul Kuzma	Holdfast House, Holdfast Road
1275	Zuvic-Bulic	Sharon Marie	Holdfast House, Holdfast Road
1276	Zuvic-Bulic	Zoran Mario	Holdfast House, Holdfast Road

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No. 7

Appointment

Jessica Elise Harte, Learning Support Assistant, Education Department, 07.05.14.

Kate Christina Scott, Primary Classroom Teacher, Education Department, 19.05.14.

John Harvey Adams, Customer Services Officer, Central Services, 22.05.14.

Charlotte-Anne Mary Middleton, Childcare Apprentice, Education Department, 02.06.14.

Kevin Michael Patrick Joseph Ormond, Driver/Handyman, Health and Social Services Department, 02.06.14.

Chanelle White, Childcare Apprentice, Education Department, 02.06.14.

Matthew Marc Young, Sports Attendant, Stanley Leisure Centre, Central Services, 12.06.14.

Ryan Neil Watson, Apprentice Mechanic, Education Department, 17.06.14.

Completion of contract

Joanne Louise Tanner, Agricultural Advisor, Natural Resources Department, 08.06.14.

Francisco Sobrado Llompert, Scientific Fisheries Observer, Natural Resources Department, 15.06.14.

Marcin Martychiewicz, Veterinary Officer, Natural Resources Department, 30.06.14.

Promotion

Len Stanford McGill, Chief of Police, Royal Falkland Islands Police, Emergency Services Department, 01.06.14.

Resignation

John Frederick Evans, Driver/Handyperson, Health and Social Services Department, 30.05.14.

Kerry Middleton, Warden Social Services, Health and Social Services Department, 31.05.14.

Jason Alazia, Plant Operator/Handyperson, Materials Section, Public Works Department, 02.06.14.

Angela Sindy Clarke, Evening Security Officer/Driver, Health and Social Services Department, 14.06.14.

Ian Price, Constable, Royal Falkland Islands Police, Emergency Services Department, 18.06.14.

Kelly Patricia Wild, Physiotherapist, Health and Social Services Department, 19.06.14.

Transfer

Carmen Miranda, Storesperson/Handyperson, Property and Municipal Section, Public Works Department, 06.06.14.

NOTICES

No. 44

6 June 2014

Legislative Assembly of the Falkland Islands
Customs Ordinance 2003
section 113
Customs Resolution of the Legislative Assembly
No 1 of 2014

It is resolved by the Legislative Assembly, under section 113 of the Customs Ordinance 2003 (Title 26.1) that:-

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

on beer from 31p to 32p per litre;
on wines from 78p to 80p per litre;
on fortified wines from 93p to 96p per litre;
on spirituous beverages from £6.30 to £6.49 per litre;
on spirits from £11.53 to £11.88 per litre;
on cigars from £298.63 to £313.56 per kilo;
on cigarettes from £321.55 to £337.63 per kilo;
on tobacco from £196.29 to £206.10 per kilo; and

(b) this amendment of the Customs Order comes into force on 6 June 2014.

Dated 6 June 2014

C. Y. CLIFFORD,
Deputy Clerk of the Legislative Assembly

No. 45

6 June 2014

Electricity Supply Regulations (Title 31.1.1)
regulation 10A(5)
Variation of electricity price

Notice is given to comply with regulation 10A(5) of the Electricity Supply Regulations. A variation in electricity prices was announced on 6 June 2014 and came into effect on 6 June 2014. The overall price of electricity per unit for all consumers was decreased from 22p to 21p. For consumers supplied via pre-payment meters, electricity is still being supplied at 19p per unit but a 10.5% surcharge is now being applied to the face value of pre-payment cards. For all other consumers, electricity is now being supplied at 21p per unit.

Dated 6 June 2014

N. J. GRANGER,
Financial Secretary

No. 46

18 June 2014

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 Daniel Burton – 30004244 from 01 May to 01 November 2014;

FS Richard William Sargeant – K8410376 from 15 May to 11 November 2014;

Cpl Adrian Jose – E8435618 from 19 May to 20 November 2014; and

Cpl Martin James Dandy – 25204340 from 26 May to 26 November 2014.

Dated 18 June 2014

R. J. KING,
Collector of Customs

No. 47

23 June 2014

Public Health Ordinance (Title 61.1)
Notice of Charges

1. Section 44 of the Public Health Ordinance provides that such charges may be made in respect of medical services as are from time to time approved by the Governor and published in the Gazette.

2. The charges listed in the Schedule have been approved by the Governor in Council with effect from 1 July 2014.

Dated 23 June 2014

S. H. ROWLAND,
Director of Health and Social Services

SCHEDULE
Medical and Dental Charges 2014/15

The charges below are imposed on patients that are not entitled to free healthcare within the Falkland Islands.

These charges do not apply to Military personnel, Ministry of Defence civilians or contractors, or their dependants, all of whom are covered by a separate Memorandum of Understanding.

The following are not entitled to treatment and will be expected to meet the costs of their treatment together with associated administrative and travel (medical evacuation) expenses:

- Tourists and visitors to the Islands unless they are normally resident in a country with which the FIG has a reciprocal agreement (at present only with the UK for local treatments only (see Note 1)).
- Merchant seamen, fishermen and crews of ships visiting the Falkland Islands or operating in the Falkland Islands Conservation Zone (FICZ) unless they, as individuals, are normally resident in a country with which the Falkland Islands Government has a reciprocal agreement (at present only with the UK for local treatments only (see Note 2)).
- Anyone not covered by the UK/FI reciprocal health care agreement and who is employed in the Islands on a contract of less than six months. Anyone in this category should be in possession of a medical insurance policy to a value of at least US Dollars \$200,000 which includes provision for emergency medical evacuation to South America, the United

Kingdom, or their home country, and repatriation costs where necessary.

In the event that a non-entitled person is unable to pay and/or is uninsured, FIG may in its discretion provide treatment to stabilise their condition but will not meet repatriation or medical evacuation costs.

Note 1: For clarification, local treatment excludes any costs associated with aeromedical evacuation or medical treatment overseas.

Note 2: For clarification, this excludes British citizens who are not entitled at the time to treatment under the NHS of the UK

Section 1: Non-entitled patient charges

Other patient charges (for entitled and non-entitled patients)	Charges
Meals on Wheels	£3.20
Day Centre Meals	£2.00

Section 2: General patient charges

Non-entitled patient charges	Charges
Administration charge (to be added to all invoices)	£16.50
Inpatient day inclusive all treatment	£689
Outpatient appointment (exc. diagnostics)	
under 15 minutes	£98
over 15 minutes	£128
A&E attendance (exc. Diagnostics)	£204
ECGs	£60
X-rays	£98
Drugs	£25 min or cost price + 137.5%
Medical Report	£71
Physiotherapist per 10 min session	£51
Mortuary Charge	£420 + £26 per day
Certificate of death	£118
Certificate of repatriation of remains	£118
Ambulance in the vicinity of Stanley	£142
Ambulance – Stanley Airport to KEMH	£210
Ambulance – KEMH to MPA	£281
Lab tests	£29 per test

Dental charges

Based on actual costs to Falkland Islands Government, charges will be made for the following items including departmental charges, except for exempt patients – pensioners and those in full time education (inc. Further Education students), as follows:

Other patient charges (for entitled and non-entitled patients)	Charges
Emergency appointment for dental pain ¹ (if the individual has not attended the dentist for two years or more)	£110.65
White fillings (on back teeth)	£113.70
Crowns	£188.80
Bridges	£326.85
Inlays – per tooth	£188.80
Partial denture – each	£188.80

¹ A dental emergency is dental pain which cannot be controlled with paracetamol, or a dental injury, or bleeding or swelling. Broken fillings or teeth which do not cause pain are NOT deemed emergencies.

Full denture - each	£313.65
Repairs	£14
Dental fitness treatment	£110.65
	+
	treatment at cost
Dental fitness letter	£110.65

The following will incur a charge for non-entitled patients only:

- Routine dental examinations and checkups
- X-rays/Oral surgery
- Extractions
- Biopsies
- Routine fillings (mercury fillings for back teeth and white composites for front teeth (incisors and canines)
- Root canal work on front teeth (incisors and canines)
- Preventive works such as fissure sealing of children's teeth, oral hygiene work and advice, scale and polish
- Dentures for pensioners, but only one set per pensioner every five years
- Mouth guards (first only – replacements for loss/damage £31 each)
- Orthodontic braces for straightening teeth (first brace only – replacements for loss/damage £31 each)
- Restoration work resulting from injury

The fee for non-entitled patients is £110.65 per consultation but with the addition of a fee of £63.25 if the consultation is required out of normal working hours (8.30am – 5pm).

Over-the-counter Pharmacy Charges:

Item - Pack Size, Price	
Aciclovir Cream 5% - 2gm	£0.60
Aciclovir Cream 5% - 10gm	£1.40
Aluminium Chloride Antiperspirant 20% - 60ml	£5.65
Anusol Ointment - 25gm	£4.80
Anusol Suppositories - 12 suppositories	£4.45
Anusol-HC Ointment - 30gm	£6.60
Anusol-HC Suppositories - 12 suppositories	£4.65
Aqueous Cream - 500gm	£2.10
Aspirin Dispersible Tablets 300mg - 100 tablets	£1.20
Aspirin Dispersible tablets 75mg - 28 tablets	£0.30
Aspirin E/C Tablets 75mg - 56 tablets	£0.50
Aviva Blood Glucose Monitor - 1 unit	£17.55
Balneum Plus Bath Oil - 500ml	£15.00
Balneum Bath Oil - 200ml	£5.60
Beclomethasone Aqueous Nasal Spray 50mcg - 1 spray	£2.85
Benzydamine Oral Solution 0.15% - 300ml	£14.65
Bisacodyl E/C Tablets 5mg - 60 tablets	£6.00
Bisacodyl Suppositories 10mg - 12 suppositories	£7.95
Calmurid Cream 10% - 100gm	£20.90
Calamine Lotion - 200ml	£1.85
Calceos Chewable Tablets - 20 tablets	£2.70
Calgel teething gel - under 16s - 10gm	£3.55
Canesten HC Cream - 30gm	£5.45
Capasal Shampoo - 250ml	£10.60
Carbomer 980 Gel 0.2% - 10gm	£3.20
Cetrimide cream (Cetavlex) - 50gm	£4.95
Cetirizine Sugar Free Syrup 5mg/5ml - 200ml	£2.25
Cetirizine Tablets 10mg - 30 tablets	£0.70
Chlorhexidine Gluconate Dental Gel 1% - 50gm	£3.15
Chlorhexidine Gluconate Mouthwash 0.2% - 300ml	£4.15
Chlorpheniramine Maleate Syrup 2mg/5ml - 150ml	£1.85
Chlorpheniramine Maleate Tablets 4mg - 30 tablets	£0.50
Choline Salicylate Oral Gel 8.7% <i>Bonjela</i> - not for under 16s - 15gm	£5.10
Cinnarazine Tablets 15mg - 100 tablets	£9.45
Cinnarazine Tablets 15mg - 15 tablets	£3.60
Clearblue Pregnancy Test Kit - pack 2	£10.15
Clotrimazole Cream 1% - 20gm	£2.95

Clotrimazole Pessary 100mg - 6 pessaries	£7.90	pack	
Clotrimazole Pessary 500mg - 1 pessary	£6.20	K.Y. Jelly (or equivalent) - 42gm	£2.25
Co-Codamol 8/500 Dispersible Tablets - 32 tablets	£5.10	Ketoconazole Shampoo 2% - 120ml	£5.20
Co-Codamol 8/500 Dispersible Tablets - 100 tablets	£11.80	Lactulose Solution 3.35g/5ml - 300ml	£3.90
Co-Codamol 8/500 Tablets - 32 tablets	£0.75	Laxido Orange Oral Powder Sachets Sugar Free - 30 sachets	£12.05
Cocoids Ointment - 100gm	£26.35	Loperamide Hydrochloride Capsules 2mg - 30 capsules	£3.05
Colief Infant Drops 50,000 units/gram - 7ml	£18.90	Loratadine tablets 10mg - 30 tablets	£2.40
Conotrane Cream - 100gm	£1.85	Magnesium Trisilicate Mixture - 200ml	£2.65
Cranberry Forte Capsules 200mg - 50 capsules	£6.70	Magnesium Sulphate Paste - 50gm	£2.30
Crotamiton Cream 10% - 30gm	£8.55	Maxijul Super Soluble Powder - 200 gm	£5.55
Crotamiton Lotion 10% - 100ml	£7.10	Mebendazole Tablets 100mg - 6 tablets	£3.05
Cuplex Gel - 5gm	£6.50	Medidos Tablet Dispenser (no. 1) - 1 pack	£19.25
Dalivit - children's vitamin drops - 25ml	£7.40	Menthol Solid BP - 5gm	£2.25
Dequadin lozenges - 20 lozenges	£3.30	Miconazole Nitrate Cream 2% - 30gm	£4.10
Dermacool - 1% Menthol in Aqueous Cream - 100gm	£8.10	Miconazole Oral Gel 24mg/ml - 80gm	£9.90
Dermol Cream - 500gm	£14.95	Miconazole Nitrate Spray Powder 0.16% (Daktarin Aktiv) - 1 spray	£7.00
Dermol 200 Shower Emollient - 200ml	£8.00	Migraleve Pink Tablets - 12 tablets	£6.55
Dermol 500 Lotion - 500ml	£13.60	Minims Sodium Chloride Single Eye Drops 0.9% - 20 eye drops	£16.10
Dioralyte Oral Powder - plain - 6 sachets	£4.70	Movelat Cream - 125gm	£16.20
Dioralyte Oral Powder - citrus - 6 sachets	£4.70	Movelat Gel - 125gm	£16.20
Dioralyte Oral Powder - blackcurrant - 6 sachets	£5.10	Multivitamin Tablets/Capsules - 100 tablets/capsules	£1.15
Diprobase Cream - 500gm	£14.25	Multivitamin Tablets/Capsules - 30 tablets/capsules	£0.35
Diprobase Cream - 50gm	£2.90	Nit comb - Plastic - 1 comb	£0.35
Domperidone Tablets 10mg - 30 tablets	£0.55	Nit comb - Metal - 1 comb	£5.65
Doublebase Emollient Shower Gel - 200gm	£11.75	Nit comb - Easy Grip - 1 comb	£5.50
Durex Sensilube vaginal moisturiser - 40ml	£7.85	Oilatum Bath Emollient - 250ml	£6.20
E45 Cream - 500gm	£12.65	Olive Oil (for ear drops) - 10ml	£2.85
E45 Cream - 125gm	£6.05	Olive Oil BP - 92ml	£2.15
E45 Cream - 50 grams	£3.65	Otrivine-Antistin Eye Drops - 10ml	£4.80
Earcalm Ear Spray 2% - 1 spray	£8.35	Paracetamol Paediatric Suspension - 120mg/5ml - 100ml	£1.50
Effercitrate tablets - 12 tablets	£7.90	Paracetamol Paediatric Suspension - 250mg/5ml - 100ml	£1.55
Emulsiderm Emollient - 300ml	£8.70	Paracetamol Soluble Tablets 500mg - 100 tablets	£18.00
Enfamil O-Lac milk powder - 400gm	£11.05	Paracetamol Soluble Tablets 500mg - 20 tablets	£3.60
Ephedrine Hydrochloride Nasal Drops 0.5% - 10ml	£3.05	Paracetamol Suppositories 120mg - 10 suppositories	£24.25
Epiderm Ointment - 125gm	£8.00	Paracetamol Suppositories 240mg - 10 suppositories	£47.40
Epiderm Ointment - 500gm	£13.55	Paracetamol Suppositories 500mg - 10 suppositories	£89.70
Ferrous Fumarate Syrup 140mg/5ml - 200ml	£8.40	Paracetamol Tablets 500mg - 32 tablets	£0.45
Ferrous Sulphate Tablets 200mg - 28 tablets	£1.35	Paraffin - White Soft Petroleum Jelly BP - 500gm	£7.10
Fluconazole Capsule 150mg - 1 capsule	£1.60	Peppermint Oil Capsules 0.2ml - 100 capsules	£27.15
Folic Acid Tablets 400mcg - 90 tablets	£1.25	Peppermint Oil Capsules 0.2ml - 10 capsules	£2.70
Full Marks head lice treatment - 1 x 2 x 50ml	£9.40	Permethrin Dermal Cream 5% - 30gm	£12.35
Gaviscon Advance Oral Suspension - 250ml	£5.80	Pholcodeine Sugar Free Linctus 5mg/5ml - 150ml	£1.95
Gaviscon Advance Oral Suspension - 500ml	£11.55	Picolax sachets 10mg/sachet - 2 sachets	£7.65
Gaviscon Advance Chewable Tablets - 60 tablets	£6.95	Pillmate Pillcutter - 1 unit	£2.90
Glucogel Gel 40% - 3 x 25gm	£16.15	Piroxicam Gel 5mg/gm - 60gm	£5.30
Glucogel Gel 40% - 25gm	£5.40	Potassium Permanganate Tablets 400mg - 30 tablets	£32.85
Glycerol Liquid - 200ml	£5.15	Povidone Iodine Dry Powder spray 2.5% - 1 spray	£8.55
Glycerol (Adult) Suppositories 4G - 12 suppositories	£2.95	Promethazine Hydrochloride Elixir 5mg/5ml - 100ml	£5.85
Glycerol (Infant) Suppositories 1G - 12 suppositories	£2.00	Promethazine Hydrochloride Tablet 25mg - 56 tablets	£9.45
Glycerol Trinitrate Spray 400mcg/dose - 1 spray	£5.85	Promethazine Hydrochloride Tablet 25mg - 28 tablets	£4.75
Hearing Aid batteries - Non residents - per card	£3.25	Promethazine Theoclate Tablets 25mg - 10 tablets	£2.30
Haliborange Effervescent Vitamin C Tablets - 1gm - 20 tablets	£4.95	Pseudoephedrine Hydrochloride Tablets 60mg - 12 tablets	£4.05
Hedrin Head Lice Lotion - 50ml	£6.10	Quinoderm Cream 10 - 50gm	£5.75
Hydrocortisone Cream 1% - 15gm	£1.20	Quinoderm Cream 5 - 50gm	£5.50
Hydrocortisone Ointment 1% - 15gm	£1.35	Quinoderm Face Wash - 150ml	£4.70
Hydrocortisone Sodium Succinate Lozenge 2.5mg - 20 lozenges	£9.55	Ranitidine Tablets 150mg - 10 tablets	£0.30
Hydrogen Peroxide Solution 6% (20 Vol) - 200ml	£1.25	Ranitidine Tablets 150mg - 60 tablets	£1.75
Hyoscine Hydrobromide Transdermal Patch 1.5mg/72hrs - 5 patches	£22.90	Salactol Paint - 10ml	£3.85
Hypromellose Eye Drops 0.3% - 10ml	£0.80	Sandocal 1000 tablets - 10 tablets	£15.55
Hypromellose Eye Drops 0.5% - 10ml	£1.85	Senna Syrup 7.5mg/5ml - 150ml	£7.90
Ibuprofen Syrup 100mg/5ml - 100ml	£1.45	Senna Tablets 7.5mg - 60 tablets	£18.00
Ibuprofen Gel 5% - 50gm	£2.15	Senna Tablets 7.5mg - 20 tablets	£2.25
Ibuprofen Tablets 200mg - 84 tablets	£1.80	Scholl Flight Socks - all sizes - 1 pair	£20.40
Ibuprofen Tablets 400mg - 84 tablets	£1.85	Simple Eye Ointment - 4gm	£2.95
Ibuprofen Tablets 400mg - 24 tablets	£0.90	Simple Linctus BP - 200ml	£1.80
Infacol Liquid 40mg/ml - 50ml	£5.55	Simple Paediatric Linctus BP - 200ml	£2.50
Instillagel Gel (1ml syringe) - 1 syringe	£3.60	Sinurise Nasal irrigation kit - 1 kit x 50 sachets	£9.65
Ispaghula Husk Sachet 3.5g/Orange - 30 sachets	£4.95	Sodium Bicarbonate Ear Drops - 10ml	£2.25
Ispaghula Husk Sachet 3.5g/Orange - 60 sachets	£9.90		
Jungle Formula Maximum Pump Spray deet 50% - 1 spray	£10.05		
Jungle Formula Sensitive Skin from 12 months - 1	£10.35		

Sodium Chloride Nasal Drops 0.9% - 10ml	£2.25
Sodium Cromoglycate Aqueous Eye Drops 2% - 13.5ml	£3.50
Sodium Cromoglycate Nasal Spray 4% - 22ml	£38.45
Sprilon Spray - 11.5gm	£20.05
Sugar and Salt Spoon - 1 spoon	£0.45
Sunsense Ultra Lotion - SPF 50+ - 125ml	£18.35
Sunsense Toddler Milk - SPF 50+ - 125ml	£18.35
Terbinafine Hydrochloride Cream 1% - 15gm	£3.35
Thermometer - digital - 1 thermometer	£4.15
Thermometer - forehead - 1 thermometer	£5.65
Transvasin Cream - 40gm	£3.50
Uvistat Factor 50 Lipscreen - 5gm	£7.95
Vitamin B Compound Strong Tablets - 28 tablets	£3.70
Xylometazoline Hydrochloride Nasal Spray 0.1% - 1 spray	£4.35
Xylometazoline Hydrochloride Paediatric Nose Drops 0.05% - 10ml	£3.25

No. 48

25 June 2014

Application for Permanent Residence

Notice is hereby given that:-

Mhari Ashworth
Monica Jocelyn Bravos Rojas
Daniel Omar Carcamo Carcoma
Veronica Del Carmen Contreras Gutierrez
Mark David Lewis
Maria Fernanda Tapia Tapia

have 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 July 2014.

Dated 25 June 2014

J. E. SMITH,
Immigration Officer.

No. 49

25 June 2014

Application for Naturalisation

Notice is hereby given that **Leonardo Javier Alvarez Benavides** 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 July 2014.

Dated 25 June 2014

J. E. SMITH,
Immigration Officer.

Published by the Attorney General's Chambers, Stanley, Falkland Islands.

Price: Two pound and seventy-five pence

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NOTICES

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21 July 2014

Environmental Impact Statement Noble Energy Falklands Limited

An Environmental Impact Statement has been submitted to the Falkland Islands Government by Noble Energy Falklands Limited for offshore drilling proposals in the South and East Falkland Basins. A Non-Technical summary is printed below this notice. Electronic copies of the document in its entirety can be obtained from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email tinay@mineralresources.gov.fk).

Written representations in relation to the Environmental Impact Statement must be received by 4:30pm on 1 September 2014 to the Department of Mineral Resources, Ross Road, Stanley (or by email to SLuxton@mineralresources.gov.fk).

Dated 21 July 2014

S. C. LUXTON,
Director of Mineral Resources.

**Environmental Impact Statement
Noble Energy Falklands Limited
Non-Technical Summary**

The Project

Noble Energy Falklands Limited, a subsidiary of Noble Energy, Inc.; (hereafter referred to as 'Noble') is proposing to conduct exploration drilling activities offshore the Falkland Islands within its Production License (PL) areas. The planned drilling programme consists of two exploration wells and one optional exploration/appraisal well (a potential total of three wells), all to be located within the southern area licenses. To date, four potential well locations have been identified (Figure 1.0). The exploration drilling activities are planned to commence early to mid-2015. It is currently estimated that it will take between 75 and 90 days to drill and construct each well.

The exploration drilling campaign will use the *Eirik Raude* drilling rig. The drilling rig will be supported by three Offshore Supply Vessels (OSVs). One of these OSVs will remain within the vicinity of the drilling unit at all times and assume the role of Safety Stand-by Vessel (SSV).

The onshore support location for the exploration drilling activities will be Stanley. The OSVs will travel to/from the drilling rig from the planned Noble Temporary Dock Facility (TDF) under construction in Stanley Harbour (which is the subject of a former planning submission). The vessels will transport the materials and supplies needed for the drilling operations to/from the drilling unit on an ongoing basis. Noble will also have a shore base located on Boxer Bridge Road which will be used to store drilling equipment, associated tools and chemicals. These items will be transferred between the shore base and TDF by road.

The Environment

The Noble License areas lie to the south and east of East Falkland Island. There are three areas of potential drilling interest to Noble.

The Falkland Islands Southern Phase A area (referred to as 'FISA12') is located approximately 100 kilometres from the nearest landfall at Cape Pembroke on the East Falkland mainland. FISA12 was subject to 3D seismic survey between December 2012 and May 2013.

The Falkland Islands Southern Tilted Fault Block area (referred to as 'FIST13') is located approximately 62 kilometres from the nearest landfall at Beauchene Island and approximately 125 kilometres from the East Falkland mainland at Bull Point. FIST13 was subject to 3D seismic survey between May and June 2013.

The Falkland Islands Northern Area (referred to as 'FINA13') is located approximately 206 kilometres from the nearest landfall at Mengeary Point on the East Falkland mainland. FINA13 covers an area of 5,380km² and was subject to seismic survey between November 2013 and February 2014.

For this round of exploration drilling, drilling in both the FISA12 and FIST13 areas is proposed. Although less likely, drilling in FINA13 is also a possibility. Any such drilling operations within FINA13 will be the subject of future Well Management Plan submissions, in agreement with FIG.

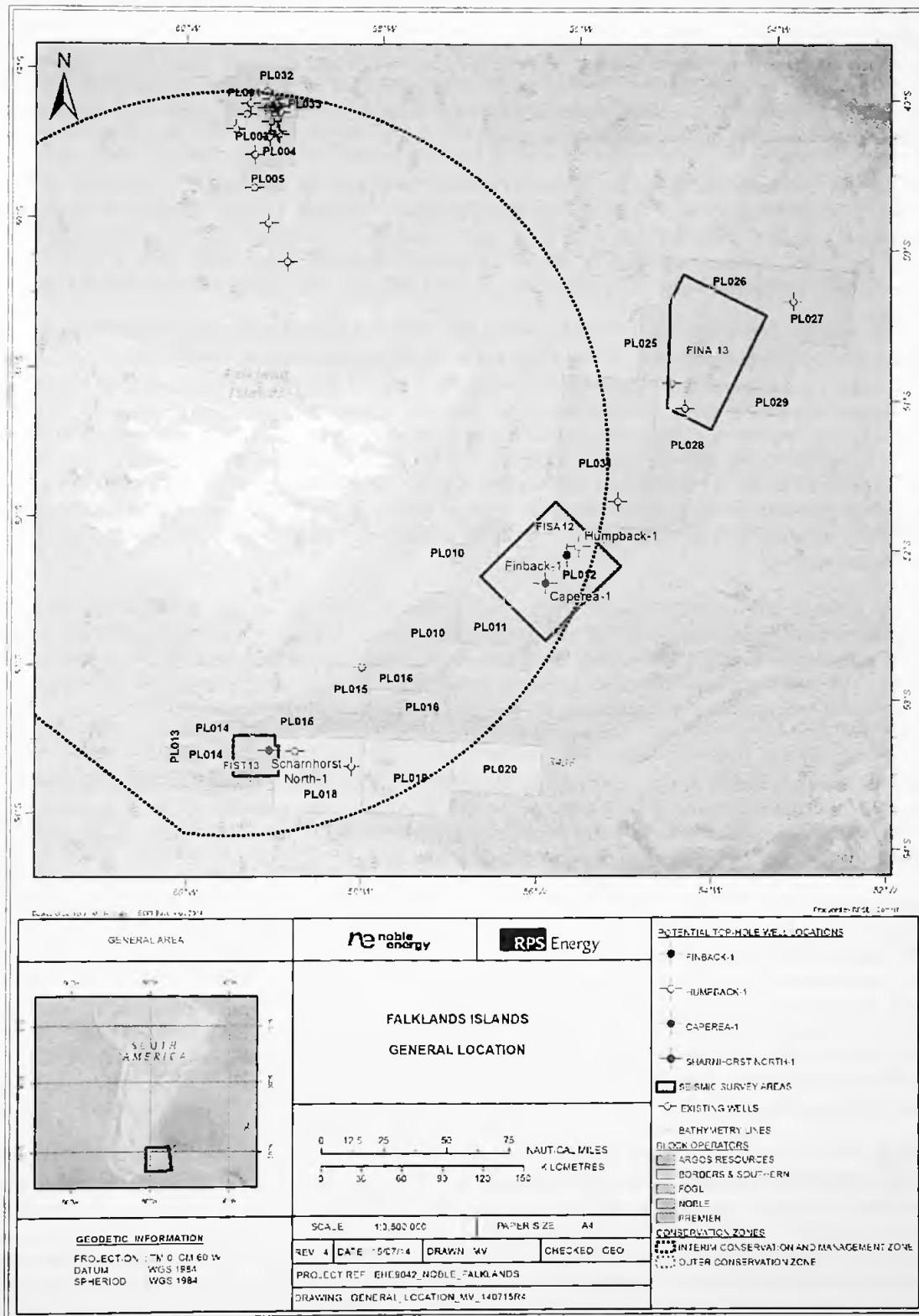
Bathymetry

In the southernmost of the Noble licenses, bathymetry ranges from approximately 700 metres in the far south near to the Burdwood Bank, to approximately 1,900 metres further to the north near the Falklands Trough. Across the more central and northern license areas, bathymetry ranges from approximately 1,000 to 1,600 metres.

Seabed Sediments

Towards the southernmost of the Noble licenses, sediments are expected to range from clay, sandy silt and silty sand. In the central area of the Noble licenses, fine clays are expected to be the dominant sediment type in the more southern areas, and stretching northwards, fine to coarse sand and gravels are expected to dominate.

Figure 1.0: Noble license areas offshore the Falkland Islands and potential well top-hole locations



Plankton

Plankton numbers offshore rise sharply during austral spring and summer months, peaking in January and February.

Benthos

Environmental surveys have taken place over the FISA12, FIST13 and FINA13 areas. The results of these environmental surveys are not currently available, and will be reported in the Well Management Plan to this ESHIA prior to drilling operations commencing. Reference has been made to existing environmental surveys conducted by previous operators in the vicinity of the Noble licenses.

Across the FISA12 area (southern area licenses), epifauna observed by previous site surveys have included Crustacea, Cnidaria, Porifera and Echnodermata (sea urchins). Polychaete worm tubes have been observed, although not in reef form and some cold water coral species have also been observed. The most dominant infaunal taxa were polychaete species. Comparable results are expected from the Noble environmental survey results in FISA12 at similar depths and with similar sediments. Polychaete species are expected to dominate the macrofaunal assemblage.

Across the FIST13 area (southernmost license area), evidence from previous site surveys has shown that polychaete species dominate the infaunal taxa. Epifauna observed previously has included Cnidaria and Crustacea. Evidence of bioturbation in the form of burrows has also been observed. The madreporan coral *Lophelia pertusa* has also been confirmed to be present. Comparable benthic results are expected from the Noble environmental survey results in FIST13 at similar depths and with similar sediments. A degree of variation between sampling sites is expected due to the marked variety of depths and sediments across the area. Even in light of the variable depths and sediments, the macrofaunal analysis is expected to comprise mainly of polychaete species, as previous results have shown that the variation in sediments in this area had only a small effect on the apparent distribution and abundance of macrofaunal species.

Across the FINA13 area (northern license area), previous surveys have shown that the most abundant colonial epifauna encountered were Cnidaria, which included at least two species of gorgonian (soft corals) and at least one species of scleractinian (hard or stony coral). The most abundant macrofauna were polychaete species, followed by Crustacea. Given the similarity of results observed between the existing surveys in the FINA13 region so far, similar epifaunal and macrofaunal observations are expected at similar depths and sediments.

Fish

Fish species known to spawn in the vicinity of the Noble license areas include Patagonian toothfish (*Dissostichus eleginoides*) (peaks in occurrence in May and July through to August), and grenadier (peaks in occurrence during March-April) in more northerly areas. Other species occurring regularly across the Noble license areas include skates and rays (*Rajidae*), and rock cod (*Patagonotothen ramsayi*).

Marine Mammals

The results of the marine mammal observations during the FISA12 and FIST13 surveys (RPS, 2013) correlate well with the Joint Nature Conservation Committee (JNCC) survey results (White *et al.*, 2002). Both data sets suggest that the species most frequently encountered across the Noble license areas include: Sei whale (*Balaenoptera borealis*), fin whale (*Balaenoptera physalus*), Antarctic minke whale (*Balaenoptera bonaerensis*), sperm whale (*Physeter macrocephalus*), southern bottlenose whale (*Hyperoodon planifrons*), long finned pilot whale (*Globicephala melas*), southern right whale (*Eubalaena australis*), killer whale (*Orcinus orca*), Commerson's dolphin (*Cephalorhynchus commersonii*), Peale's dolphin (*Lagenorhynchus australis*) and hourglass dolphin (*Lagenorhynchus cruciger*).

Pinnipeds

Pinnipeds of the wider Falkland Islands region include the South American sea lion (*Otaria flavescens*), southern elephant seal (*Mirounga leonina*), South American fur seal (*Arctocephalus australis*) and the rare leopard seal (*Hydrurga leptonyx*). With the exception of the leopard seal, these species spend some time during the summer months ashore on the Falkland Islands to breed. Of these, the South American fur seal has been sighted within the vicinity of the Noble license areas. Sightings of other species are unlikely, but may be possible in the event of long foraging trips that the animals sometimes make.

Sea Birds

Of the penguin species recorded offshore the Falkland Islands, king penguin (*Aptenodytes patagonicus*), rockhopper penguin (*Eudyptes chrysolophus*), magellanic penguin (*Spheniscus magellanicus*), macaroni penguin (*Eudyptes chrysolophus*) and chinstrap penguin (*P. Antarctica*) may be present across the Noble license areas. Penguins can forage far offshore, but predominantly stay closer to the shore.

The following species of albatross are likely to be present in the vicinity of Noble licenses throughout the year: black-browed albatross (*Thalassarche melanophris*), grey-headed albatross (*Thalassarche chrysostoma*), northern and southern royal albatross (*Diomedea sanfordi* and *Diomedea epomophora*), light -mantled sooty albatross (*Phoebastria palpebrata*), wandering albatross (*Diomedea exulans*) and shy albatross (*Thalassarche cauta*).

Petrels known to be present in the vicinity of the Noble license areas include: southern giant petrel (*Macronectes giganteus*), northern giant petrel (*Macronectes halli*), Antarctic petrel (*Thalassoica Antarctica*), cape petrel (*Daption capense*), blue petrel (*Halobaena caerulea*), kerguelen petrel (*Pterodroma brevirostris*), soft-plumaged petrel (*Pterodroma mollis*), Atlantic petrel (*Pterodroma incerta*), grey petrel (*Procellaria cinerea*), white chinned petrel (*Procellaria aequinoctialis*), Wilson's storm petrel (*Oceanites oceanicus*), grey-backed storm petrel (*Garrodia nereis*), black and white bellied storm petrel (*Fregetta tropica* and *F. grallaria*), magellanic diving petrel (*Pelecanoides magellani*), common diving petrel (*Pelecanoides urinatrix*), great shearwater (*Puffins gravis*) and sooty shearwater (*Puffins griseus*). The great shearwater and cape petrel were the most frequently observed species during recent Noble commissioned seismic surveys.

Other seabird species that may be present across the Noble license areas include: various prion species; skua species including *Catharacta* skuas, long-tailed skua (*Stercorarius longicaudus*); gull species including kelp gull (*Larus dominicanus*); and tern species including Arctic tern (*Sterna paradisea*).

Protected Areas

Numerous sensitive areas exist on the Falkland Islands coastline related to seabirds and seal colonies. The closest of these to the Noble license areas are Beauchêne Island (approximately 62 kilometres from the FIST13 area), Cape Pembroke (approximately 100 kilometres from the FISA12 area), Sea Lion Islands group (approximately 110 kilometres from the FIST13 area) and Bull Point on the East Falkland mainland (approximately 125 kilometres from the FIST13 area).

Socio-economic Activities

The Gross Domestic Product (GDP) of the Falkland Islands is approximately £100 million a year. Stanley is the main town and capital in the Falkland Islands and has a population of 2,120, as recorded during the most recent 2012 Census (FIG, 2013).

The economy of the Falkland Islands has traditionally been limited by its small population and remote location. Since the conflict with Argentina ended in 1982 the economy has grown rapidly, initially as a result of UK aid but more recently from the development of the fishing industry.

A workforce of over 2,000 exists in the Falkland Islands, with FIG being the largest employer, employing around 600 people. The three largest industries are commercial fisheries, agriculture and tourism, while the construction and retail industry are currently experiencing periods of growth.

Waste Management Facilities

Waste disposal options on the Islands are extremely limited. There is currently no option for the use of the Eliza Cove landfill, and there is no capability for the disposal of hazardous waste.

Commercial Fisheries

Commercial fisheries are currently the largest source of income for the Falkland Islands. All fishing within 200 nautical miles of the Falkland Islands is subject to licensing by FIG. Fisheries typically generate £15 to £20 million per annum in license fees, roughly half of the government annual revenue.

Commercial fisheries are active across all of the Noble license areas, with the key species being Patagonian toothfish. Catches of rock cod, grenadiers, skates and rays, and other by-catch species are also made across the license areas.

Commercial Shipping

The commercial shipping traffic within the Noble license areas reflects the commercial fishing activities. There are some commercial shipping routes that traverse the Noble license areas; however, shipping activity in general is very low.

Cultural Heritage

Two shipwrecks, designated as 'war graves', are positioned within the FISA12 area; *SMS Scharnhorst* and *SMS Gneisenau*. These two wrecks are uncharted and there is a degree of uncertainty about their exact location on the seabed, due to the way in which the vessels sank. Attempts were made during the environmental baseline surveys to positively locate these wrecks; however, they were not identified with the survey equipment. The shipwreck of *SS Atlantic Conveyor* is also located within FISA13, and was identified during the surveys. An additional charted

wreck, the wreck of the *RFA Sir Galahad*, is located within license PL011 approximately 12 kilometres from the FISA12 area.

Tourism

Over the last 5 years, the tourism industry has grown rapidly, with large numbers of passengers arriving in Stanley each year from cruise ships. The main attractions are the Falkland Islands' unique environment and wildlife such as the magellanic penguins, which are only found around the Falkland Islands and South America. Up to 2,500 passengers can arrive on a single ship.

The Environmental, Social & Health Impact Assessment

Noble has prepared an Environmental, Social and Health Impact Assessment (ESHIA) meeting the requirements of the *Offshore Minerals Ordinance 1994*. The ESHIA will be submitted to the FIG Department of Mineral Resources (DMR) for review and approval.

The ESHIA process has systematically identified and assessed all potential environmental, socio-economic and health impacts associated with the project. The main aspects and their residual impacts following the implementation of mitigation measures are shown in Table A, Table B and Table C below. Table A presents a summary of the potential impacts for routine hazards, Table B presents a summary of the potential positive impacts and Table C presents a summary of the hazards, effects and mitigation measures for non-routine hazards.

Table A: Summary of hazards, effects and mitigation measures for routine hazards

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
Physical Presence	<p>Removal of small area of seabed for well construction</p> <p>The impacts include the permanent removal of a small area of seabed, sediment and any macrofauna associated with that sediment. There is also the potential for disturbance of sensitive species that may be present.</p>	<ul style="list-style-type: none"> As this impact is an inevitable consequence of well construction, there are no mitigation measures that can be used to reduce the impact. However, the mitigation measures described below under 'Discharges to Sea' in relation to pre-drilling, during drilling and post-drilling environmental surveys will allow general monitoring of the benthic environment. 	Low
	<p>Interference with other users of the sea and collision risk</p> <p>During the drilling programme, a safety exclusion zone will be in place to prevent the entry of third-party vessels from travelling in close proximity to the drilling rig, which could potentially be a threat to both the safety of the drilling unit and the safety of passing vessels. The safety exclusion zone will comprise a radial area of 500 metres around the perimeter of the drilling unit.</p> <p>This temporary restriction of access to the sea to third-parties has the potential to disrupt regional marine activities such as commercial shipping and fishing, from the restriction in access to the sea and the financial cost from the extra time (and fuel) required to deviate around the exclusion zone.</p> <p>The physical presence of the drilling rig also represents a physical obstruction in the sea and an associated increased risk of collision with a third-party vessel.</p> <p>There is also a small risk of collision from icebergs that may be in the area, although this risk is very low.</p>	<ul style="list-style-type: none"> A 500 metre radial vessel safety exclusion zone will be implemented around the drilling unit whilst on location, to reduce the potential for collision. The 500 metre safety exclusion zone will be patrolled and enforced by the Safety Stand-by Vessel (SSV), which will be in attendance in the vicinity of the drilling unit at all times. Up to 3 Offshore Supply Vessels (OSVs) will be used throughout the drilling programme. At all times, the role of SSVs will be undertaken by one of these OSVs. All OSVs will be equipped with modern radar and radio equipment. A set of procedures will be established so that vessel Masters who need to deviate from their planned route based on their current sea passage trajectory, will be asked by the SSV via VHF radio to confirm that they intend to follow the requirements of the Automatic Identification System (AIS) warnings. The SSV will maintain close contact with the third-party vessel until they have changed their course away from entering the exclusion zone. Potential disturbance from OSV sea passages will be minimised through efficient planning of OSV voyages wherever possible throughout drilling operations. Due regard will also be given to fellow sea users at all times, in line with the International Regulations for Preventing Collisions at Sea (COLREGs). Any fishing vessel encountered by the OSVs in transit to/from the drilling unit shall be given a wide berth in full cooperation with any flags, symbols or other instructions that the fishing vessel may be displaying or may issue via VHF. The onboard emergency response plans and procedures of the drilling unit and OSVs will be verified by Noble for adequacy to respond to a potential collision threat. This shall include the threat of collision from icebergs. The Falkland Islands Fishing Companies Association (FIFCA) and FIG will be notified, in writing, a minimum of 30 calendar days before the start of drilling activities, so that fishing vessels can plot the drilling location on marine charts, avoid the vessel exclusion zone and plan their sea passage to/from any favoured fishing grounds accordingly. Noble will liaise with the Fisheries Department with regard to the issue of navigation warnings advertising the presence of the drilling rig through the existing Fisheries Department Daily Shipping Forecast system. The information 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
		<p>provided will include details on the current position of the drilling rig, presence of the OSVs, description of the 500 metre radial safety exclusion zone and the need for vessels to stay outside of this zone at all times.</p> <ul style="list-style-type: none"> A message will be attached to the drilling unit's AIS to provide an identical set of information to the Daily Shipping Forecast described above. The drilling rig will be fitted with navigational lighting and a radar transponder to show its position to third-party vessels visually, and also through the use of radar equipment. The duration of drilling at each well will be limited as far possible, which will reduce the duration of the impact. Noble agrees to place a 10 kilometre avoidance area around both Beauchêne and Sea Lion Islands to avoid disturbance to sensitive species that may present within the vicinity of these islands. This will also reduce any potential collision risk (however small) with marine mammals within shallower areas. Any complaints associated with the temporary loss of access to the sea will be recorded and monitored, in accordance with the Noble Energy Community Feedback Mechanism. Noble will comply with FIG regulatory requirements on the removal of wellhead and near seabed casing to three metres below the seabed. Details of the as built well locations will be provided to FIG and to hydrographic organisations to enable the location of the wells to be plotted onto navigational charts. 	
	<p>Interference with Wrecks and Archaeological Remains</p> <p>The drilling of an exploration well in close proximity to a wreck has the potential to disturb it, either by direct contact with the wreck itself by drilling equipment, or by discharges associated with the drilling project, such as the discharge of drill cuttings.</p>	<ul style="list-style-type: none"> Well locations will be chosen so that existing wreck locations are avoided. Subsequent changes to top-hole well locations will also actively avoid areas of existing wreck sites. Changes to the top-hole locations will be reported within the Well Management Plan to this ESHIA, and the impacts with respect to existing wrecks will be reassessed if necessary. No accurate positions of the vessel losses within FISA12 are known. It is likely that the positions reported by <i>Wrecksite.eu</i> are inaccurate by 10 kilometres or more. The environmental survey of the FISA12 area put considerable effort into attempting to positively identify the un-charted wrecks during the survey; however, the wrecks were not identified with the survey equipment. Noble will therefore avoid drilling within the immediate vicinity of the reported wreck locations by placing a 10km exclusion zone around the current reported <i>Wrecksite.eu</i> locations. The absence of wrecks in the vicinity of the well locations will also be confirmed through pre-drilling site specific environmental seabed surveys with a remotely 	Medium

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>Potential for conflict between workers requiring temporary accommodation in Stanley and local residents</p> <p>There is a risk that incoming workers could cause conflict with local residents in Stanley from anti-social behaviour, problems arising from alcohol abuse, or public disorder/violence incidents.</p>	<p>operated vehicle (ROV).</p> <ul style="list-style-type: none"> A reporting protocol will be instigated for the accidental discovery of archaeological material. Noble will adhere to the Falkland Islands Petroleum Licensees Association (FIPLA) "Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands". Noble continues to work with FIG on the progress of this code of practice, which will minimise the need for contractors to bring in workers from outside the Falkland Islands into Stanley, where possible. The Drilling Contractor will monitor individuals that are part of their work force and ensure they are made fully aware of the standards of behaviour expected, examples as to what constitutes a breach of their own Behavioural Code of Conduct, a description of the disciplinary and appeal process, and procedures to be followed for alleged misconduct. The Drilling Contractor will ensure that these aspects are clearly outlined in the worker's contracts so that any termination of employment due to a breach is legally enforceable. In addition, the Drilling Contractor and Noble will limit the amount of time contractors spend in Stanley where possible during crew change periods. All complaints associated with the behaviour of workers will be recorded and monitored, in accordance with the Noble Energy Community Feedback Mechanism. 	Low
<u>Atmospheric Emissions and Air Quality</u>	<p>Atmospheric emissions from Power generation by rig, OSVs and helicopter(s)</p> <p>Atmospheric emissions have the potential to contribute to the pool of greenhouse gasses in the atmosphere (CH₄, CO₂) and increase the risk of acid effects (SO_x, NO_x) potentially causing a short term localised impact on air quality.</p>	<ul style="list-style-type: none"> Noble will undertake extensive pre-project planning in order to ensure that the project operations are conducted efficiently, to minimise the duration of project activities as far as possible. This will also assist in optimising the number of trips for OSVs and helicopters between the rig and onshore. Emissions generated from the proposed drilling programme will be controlled through the use of modern and well maintained power generation equipment. The equipment shall be well maintained in accordance with the written procedures based on manufacturer's guidelines, applicable industry code, or engineering standard to ensure efficient and reliable operation. Low sulphur fuel will be used where available. Contracted vessels will be required to control fuel use, efficiently manage energy, and plan voyages efficiently, wherever possible. 	Low
	<p>Fugitive emissions (e.g. volatile organic compounds - VOCs) associated with (for example), leaks, vents and fuel bunkering</p> <p>Atmospheric emissions have the potential to contribute to the pool of greenhouse gasses in the atmosphere (CH₄, CO₂)</p>	<ul style="list-style-type: none"> To control fugitive emissions, operational and maintenance procedures will be implemented, which include all environmentally critical valves, flanges, fittings and seals in use on the drilling rig, to eliminate or reduce as far as possible the capacity for gas leaks and fugitive emissions. A gas/leak detection system and repair program will be in operation on the rig 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	and increase the risk of acid effects (SO _x , NO _x) potentially causing a short term localised impact on air quality.	(requirement of rig Safety Case).	
Discharges to Sea	<p>Discharge of drill cuttings, drilling mud and associated chemicals</p> <p>Discharges of drill cuttings have the potential to cause smothering of the seabed in the vicinity of the well by drill cuttings; increased localised turbidity; potential depletion of oxygen in surface sediments; and potential loss of seafloor habitat. There is also the potential for cumulative impacts with other wells drilled in the area.</p>	<ul style="list-style-type: none"> It is proposed that high performance water based mud (WBM) is used for drilling all sections of the exploration wells. The design of the drilling programme, to use dedicated water based mud systems, negates the use of oil based mud (OBM), which, even after the required thermal cuttings cleaning treatment to FIG PON10 standards, would have a higher toxicity upon discharge to the marine environment than WBM. Chemical use and discharge will be closely monitored throughout the drilling program and minimised by the drill crew and mud engineers where practicable, without compromising well safety. All chemical use and discharge will be controlled through the Discharge Management Programme (DMPO). Batch discharges of drilling mud will be minimised as far as possible. All drilling mud will be recycled and used on other well sections as much as possible, without compromising well safety. All drilling mud discharge will be controlled through the DMPO. All drilling mud components will be selected on the basis of environmental performance as much as possible within the mud programme, so as to reduce any potential environmental impacts upon the release of the drilling mud. Seabed features and habitats at the well sites will be confirmed through site specific environmental seabed surveys, which will include pre-drilling, during drilling and post-drilling elements as follows: <ul style="list-style-type: none"> The pre-drilling survey will include a 100 metre radius (centred on the well location) remotely operated vehicle (ROV) inspection of the seabed, using an environmental specialist to interpret for habitats and species. Additional features showing important species (e.g. rocks with epifaunal communities or the presence of corals) will be marked and re-visited after drilling is completed. Seabed sampling will be carried out upstream and downstream of the prevailing currents at 50, 100 and 200 metre offset locations, using a specialist environmental ROV corer (89mm outside diameter). At each station, 2 x physico-chemical samples will be taken from the top 10 cm of sediment, and 5 x biological samples will be taken from the top 20 cm of sediment, and processed through a 500 µm mesh sieve. During drilling, specially designed sediment traps will be deployed at each of the above environmental stations for the purposes of logging the settlement of any cuttings material deposited on the seabed. The post-drilling survey will include a 100 metre radius (centred on the well location) ROV inspection of the seabed, using an environmental 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
		<p>specialist to interpret for habitats and species. Any additional features showing important species marked during the pre-drilling survey will be re-visited. Seabed sampling will again be carried out at the same offset locations as the pre-drilling survey (i.e. at 50, 100 and 200 metre offset locations upstream and downstream of the prevailing currents), using a specialist environmental ROV corer (89mm OD). At each station, 2 x physico-chemical samples will be taken from the top 10 cm of sediment, and 5 x biological samples will be taken from the top 20 cm of sediment, and processed through a 500 µm mesh sieve. In addition, a 1.5 metre ROV corer will be used to assess the vertical profile of the sediments in the thickest part of the cuttings pile, expected to be approximately 10 metres from the wellhead. This will record the settlement regime of discharged material over the duration of the drilling, with discrete layers identified, measured and analysed for their physico-chemical properties.</p> <ul style="list-style-type: none"> The results of the surveys and analyses will be reported to FIG at the end of the drilling programme once the results become available. A DMPO will be in place for the drilling operations, which will include provisions for the discharge of drilling mud and cuttings. 	
	<p>Potential discharge of cement and associated chemicals (including potentially large volumes of cement in the unlikely event of mixing and/or mechanical problems) The discharge of cement has the potential to cause smothering of the seabed in the vicinity of the well; increased localised turbidity; potential depletion of oxygen in surface sediments; potential loss of seafloor habitat. There is also the potential for cumulative impacts with other wells drilled in the area.</p>	<ul style="list-style-type: none"> Cement volumes used will be minimised where practicable to limit any possible discharge of cement and associated chemicals, without compromise to well safety and integrity. Chemical use and discharge will be closely monitored throughout the drilling program and minimised by the drill crew and cement engineers where practicable, without compromising well safety. All chemical use and discharge will be controlled through the DMPO. Batch discharges of cement will be minimised as far as possible. Great care will be taken when mixing cement on board the rig for use during cementing operations, ensuring that the potential need to discharge batches of cement due to technical and/or mixing problems is minimised. All cement discharge will be controlled through the DMPO. All cement components will be selected on the basis of environmental performance as much as possible within the cementing programme, so as to reduce any potential environmental impacts upon the potential release of the cement. The mitigation measures described above in relation to pre-drilling, during drilling, and post-drilling environmental surveys, will serve to assess any effect that the discharge of cement will have on the benthic environment. The results of the surveys and analyses will be reported to FIG at the end of the drilling programme once the results become available. 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>Discharges of domestic wastewater and food waste</p> <p>Discharges of domestic wastewater and food waste from the drilling rig and OSVs have the potential to cause a localised effect on water quality. The increased biological oxygen demand (BOD) in the water column could potentially disrupt biodiversity in the region, potentially giving rise to a temporary boom in opportunistic species.</p>	<ul style="list-style-type: none"> On board the drilling rig and OSVs, good domestic wastewater and food waste housekeeping standards will be maintained. Black (sewage) and grey water will be collected on board the rig and OSVs and treated in accordance with the requirements of the International Convention for the Prevention of Pollution from Ships (MARPOL) prior to being discharged to sea. Food waste will also be collected and treated (macerated) in accordance with the requirements of the MARPOL Convention. A DMPO will be in place for the drilling operations and will include provisions for the discharge of domestic wastewater and food. 	Low
	<p>Discharge of deck drainage water</p> <p>Water quality has the potential to be reduced if chemicals and/or hydrocarbons contaminate drainage water from the rig and OSVs. Fish may avoid any contaminated areas, which could potentially reduce their foraging areas. Contaminated effluents could potentially cause discomfort and/or disturbance to fish and benthic dwelling species.</p>	<ul style="list-style-type: none"> Good housekeeping standards will be maintained on the rig and OSVs to eliminate or minimise the potential for hydrocarbons or chemicals in the drainage water. Deck areas will be kept clean of debris and any hydrocarbon materials. Any unintentional releases on decks will be thoroughly cleaned up as soon as they occur before they have the chance to be washed overboard. Waste materials (absorbent pads, etc.) will be segregated. Hazardous waste will be disposed of according to established waste oil/chemical disposal procedures. The drilling rig and OSVs will be fitted with closed drainage containment and monitoring systems in all environmentally critical areas as part of their specification, an oily water bilge system in accordance with MARPOL regulations, and an oily water separator (OWS) in accordance with International Maritime Organisation (IMO) Marine Environment Protection Committee (MEPC) 107(49) (<i>Guidelines and Specifications for Pollution Prevention Equipment for Machinery Space Bilges of Ships</i>). Procedures for drainage water will be addressed within both the Drilling Contractor's and OSV Contractor's documentation. Oily water treatment systems on board the drilling rig and OSVs must have oil discharge monitoring and control equipment installed to ensure an oil concentration in water exiting the treatment systems of less than 15 parts per million (ppm) as required under MARPOL regulations and in accordance with IMO MEPC 107(49). Records of the oil content of water discharged and calibration of equipment must be maintained in accordance with the MARPOL Convention, in the form of an Oil Record Book. On the drilling rig, no direct overboard discharge of deck drainage water from environmentally critical areas (e.g. the drill floor) is to take place. All direct deck drainage on the drilling rig (for example, walkway gratings) shall be used in clean, non-environmentally critical areas only. Spill kits will be readily available on deck for mopping up any minor unintentional releases. Personnel will be trained in the use of spill kits. Rainwater runoff from the drilling rig will be routinely monitored for any residual 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
		<p>hydrocarbon content.</p> <ul style="list-style-type: none"> In addition, a Discharge Management Programme (DMPO) will be in place for the drilling operations and will include provisions for the discharge of drainage water. 	
Bio-security	<p>Discharge of ballast water</p> <p>The discharge of ballast water has the potential for the introduction of invasive species leading to a potential change in the local ecosystem and possibly the wider ecosystem</p>	<ul style="list-style-type: none"> All vessels associated with the drilling operations (including the drilling rig itself), will undertake ballast exchange operations well clear of the Falkland Islands in offshore waters outside of the 12 nautical mile limit. The drilling rig and OSVs will all have procedures in place for ballast water management as part of both the Drilling Contractor's and OSV Contractor's specification. These procedures will be subject to audit/assessment by Noble. 	Low
Noise & Vibration	<p>Noise from drilling operations (rig and OSVs on site)</p> <p>Noise from the drilling operations on site at the well locations has the potential for disturbance of marine mammals, fish and seabirds. This could cause potential behavioural changes in fish and marine mammals due to the increase in background marine noise levels.</p>	<ul style="list-style-type: none"> Drilling operations inevitably give rise to noise. The drilling rig will be on location for the minimum period of time required to conduct the drilling operations, thus minimising the duration of potential noise impacts as far as possible. The operational and maintenance procedures on the drilling rig will also aim to optimise the efficiency of the equipment and the schedule of operations. 	Low
	<p>Noise from OSVs on sea passage</p> <p>Noise from the OSVs travelling to and from Stanley and the drilling rig has the potential for disturbance of marine mammals, fish and seabirds. This could cause potential behavioural changes in fish and marine mammals due to the increase in background marine noise levels.</p>	<ul style="list-style-type: none"> Potential disturbance from the sea passage of the OSVs will be minimised through efficient planning of vessel voyages and through making efficient use of vessel loads throughout drilling operations, without compromising the safety and quality of the wells. Vessel movements will also avoid coastal areas (with the exception of the approaches to Port William and Stanley Harbour) where sensitive species, such as penguin colonies, may be present. Whilst transiting near beach areas (i.e. within the vicinity of the approaches to Port William, and whilst within Port William and Stanley Harbour), vessel speed should be reduced in order to minimise the chance of vessel strike with any species that may be present. Such a reduced speed would also limit noise impact from the vessels. All other applicable vessel speed limits shall also be observed when within the approaches to Port William and whilst within Port William and Stanley Harbour. Noble agrees to place a 10 kilometre avoidance area around both Beauchêne and Sea Lion Islands to avoid disturbance to sensitive species present within the vicinity of these islands. 	Low
	<p>Noise from helicopters in transit</p> <p>Noise from the helicopter flights on the helicopter route between Stanley Airport and the rig has the potential to disturb marine mammals, fish, seabirds, and coastal populations. This has the potential to cause behavioural</p>	<ul style="list-style-type: none"> Potential disturbance from helicopter flights will be minimised through efficient planning of helicopter flights wherever possible throughout drilling operations, without compromising the safety and quality of the wells. The Aviation Contractor will be prohibited from circling or hovering over marine mammals or sites identified as sensitive for seabird colonies unless essential for 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>changes in marine mammals, fish, and offshore and coastal seabirds due to the increase in background noise levels.</p>	<p>safety or operational purposes.</p> <ul style="list-style-type: none"> • Routing over built up areas will be avoided where possible, unless in an emergency and/or on the grounds of safety. • Noble agrees to place a 10 kilometre avoidance area around both Beauchêne and Sea Lion Islands to avoid disturbance to sensitive species present within the vicinity of these islands. • Helicopter flight planning will be undertaken in coordination with the appropriate Falkland Island authorities (Civil Aviation Department). Under normal operations, Helicopter flights will only occur during daylight hours, in order to minimise potential disturbance to the local population. 	
	<p>Noise from Vertical Seismic Profiling (VSP) operations</p> <p>Noise from VSP operations (a seismic operation performed after drilling of a well) has the potential to cause disturbance to marine mammals and fish, and potential physical damage to immobile plankton, fish eggs and larvae in immediate proximity to the VSP energy source.</p> <p>The VSP operations also have the potential to cause behavioural changes in marine mammals and fish due to the sharp temporal increase in background marine noise levels.</p>	<ul style="list-style-type: none"> • The duration of VSP operations, if they do go ahead, will be limited to the minimum requirement as far as possible, as part of the well logging programme. • VSP operations will be strictly controlled in line with the JNCC <i>Guidelines for minimising the risk of injury and disturbance to marine mammals from seismic surveys</i> (2010). • A qualified Marine Mammal Observer (MMO) will be on site during VSP operations. The MMO will monitor the 500 metre exclusion zone for 30 minutes prior to commencement of VSP operations to ensure that no marine mammals are present within the area. • Soft-start ramp up of the seismic source during VSP operations, of no less than 20 minutes and no more than 40 minutes, will then be undertaken in line with the JNCC guidelines. This enables fish, marine mammals and squid in the area disturbed by the sound levels, to move away from the noise source before being subject to the full force of the seismic array, thus minimising the potential for adverse impacts on these species. • If marine mammals are observed within the 500 metre zone after the VSP has started, then they are deemed to be unaffected by the noise. A record of the sighting should be kept but no further action needs be taken. • VSP operations will be started during daylight hours only. 	Low
Waste Management	<p>Treatment and disposal of waste generated from drilling operations</p> <p>Waste generated by the exploration drilling programme has the potential for negative environmental impacts. The effects of disposal of wastes associated with onshore disposal are dependent on the nature of the site or process. Waste produced by the drilling programme disposed of in the Falkland Islands has the potential to produce limitations on</p>	<ul style="list-style-type: none"> • A Waste Management Plan (WMPA) for the proposed drilling programme that encompasses the drilling rig, OSVs and onshore support will be developed. The WMP will cover the storage, transport and treatment of waste generated as part of the drilling programme. The WMPA will cover both offshore and onshore aspects of the exploration drilling operations (i.e. will cover both offshore and onshore elements of the waste streams). The WMPA will identify measures to reduce waste generated during drilling and how waste will be handled and disposed of safely and responsibly. 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>future land use and the potential to cause small scale land and air contamination.</p> <p>There are also potential trans-boundary impacts due to the trans-boundary movement of hazardous waste.</p>	<ul style="list-style-type: none"> Noble is aware that the onshore disposal options are limited and that use of the Eliza Cove landfill will not be permitted (as per the previous drilling campaign). Noble will work closely with FIG prior to drilling operations to determine acceptable options for onshore non-hazardous waste disposal. Noble will confirm all waste management and disposal routes in the WMPA to be approved by FIG prior to drilling operations commencing. All Contractors will be required to adhere to the requirements within the WMPA. Special arrangements will be in place for hazardous wastes and will be detailed within the WMPA. As no suitable onshore facilities exist in the Falkland Islands for the treatment and disposal of hazardous waste, the waste will be exported in accordance with the Basel Convention. Noble will ensure that a dedicated waste specialist is appointed to: <ul style="list-style-type: none"> Receive and handle waste (including hazardous waste) at the TDF; Arrange for local recycling or disposal of non-hazardous waste; Safely store any hazardous waste; Arrange appropriate export of hazardous waste in accordance with the Basel Convention; Ensure confirmation from the disposer that the wastes moved have been disposed of as planned and in an environmentally sound manner in accordance with the Basel Convention. Noble will conduct an audit/assessment of any selected waste specialists and processing facilities to ensure their compliance with local and international best practice and the WMPA. Incineration of waste permitted under MARPOL (Annex V) will be conducted on board the drilling rig (plastic, cardboard, wood, oily rags, etc.). No prohibited material will be burnt (material containing more than traces of heavy metal, refined petroleum products containing halogen compounds, contaminated packaging materials and polychlorinated biphenyls (PCBs), etc.). 	
Light	<p>Use of artificial lighting on board the drilling rig and OSVs</p> <p>The use of artificial lighting on board the drilling rig and OSVs has the potential to disturb offshore seabirds during hours of darkness.</p>	<ul style="list-style-type: none"> Drilling operations inevitably give rise to the use of artificial lighting on the rig and OSVs. Heli-deck landing lights (skyward facing lights that have the greatest potential for the disturbance of seabirds) will be switched off when not in use (if not required to be left on for safety reasons). OSV and SSV deck lighting will be switched off when not in use (if not required to be left on for safety reasons). 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
<u>Seascape</u> <u>Landscape & Visual</u>	<p>Physical presence of the drilling rig, OSVs, helicopter flights and shore base</p> <p>The various elements of the drilling project have the potential to cause a temporary change in seascape, landscape and visual setting due to the presence of the drilling rig, OSVs, helicopter flights and shore base.</p>	<ul style="list-style-type: none"> The duration of OSVs at the TDF and within Stanley Harbour will be minimised to the extent possible through careful project planning. The number of helicopter flights and the time spent in the air near Stanley Airport will be minimised to the extent possible through careful planning. Any land-based equipment and materials not in active use will be stored at Noble's shore base. All onshore working areas will be maintained in a tidy condition with the aim of minimising the potential visual impact. 	Low
<u>Utilities, Transport Networks, Communications & Local Resources</u>	<p>Presence of drilling operations workers during peak tourist season</p> <p>The presence of drilling workers in Stanley has the potential to place additional demand on local guest houses and hotel accommodation during the drilling programme, especially during the tourist season</p>	<ul style="list-style-type: none"> Noble will, where possible, adhere to the Falkland Islands Petroleum Licencees Association (FIPLA) "Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands" which is currently under development (available as a draft only and not yet approved). This Code aims to maximise the use of businesses registered on the Falklands Islands by the oil and gas industry and minimise the need for contractors to bring in workers who will subsequently require temporary accommodation. Noble continues to work with FIG on the progress of this code of practice. Disturbance to local accommodation facilities will be minimised as far as possible through advanced consultation with the local hotels being used for overnight accommodation. Noble intends to have a permanent arrangement for housing and leasing rooms in local hotels in place in advance of drilling operations commencing and well in advance of the rooms being required. Noble will minimise, where possible, the number of their own management staff in the Falkland Islands needed to manage the exploration drilling programme (without compromising safety and quality). The Emergency Response Plan (ERP) developed by Noble will include arrangements for the provision of emergency accommodation in Stanley/MPA that can be used in the event of an emergency rig evacuation. It is noted that the Falkland Islands Defence Force (FIDF) based at Mount Pleasant Airfield (MPA) could accommodate up to 200 persons in the event of an emergency. However, the use of this facility for emergency situations will be discussed in advance with the Ministry of Defence (MoD) prior to inclusion in the ERP. 	Low
	<p>Use of potable water from the municipal water supply in Stanley</p> <p>The drilling programme will require large volumes of potable water from the municipal water supply in Stanley. The water will be used to supply the drilling unit (via the OSVs) and for the mixing of drilling mud onshore at the Noble shore base located on Boxer Bridge Road in Stanley. The use of water</p>	<ul style="list-style-type: none"> One of the services that the TDF will provide is a potable water supply to the OSVs. The TDF will be connected to the local public water supply in Stanley. The TDF Barge will have integral potable water tanks installed, with a total capacity of 1,000,000 litres. These tanks will be trickle fed from the public water supply over time. The use of these potable water storage tanks on board the TDF will remove the potential for sudden, high-volume 'shock' demands being placed on the local potable water supply network and also enables Noble to have an uninterrupted water supply 	Low

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>has the potential to place pressure on the available water resources within Stanley.</p>	<p>available for the OSVs and when required, to support the exploration drilling programme.</p> <ul style="list-style-type: none"> The integral water tanks on board the TDF Barge will also be used to supply water for the mixing of drilling mud in the mud tanks at the shore base located on Boxer Bridge Road. These transfers of water from the TDF to the shore base will be made by road tanker. This will remove the potential for sudden, high-volume 'shock' demands being placed on the local potable water supply network from the mixing of drilling mud onshore, and also enables Noble to have an uninterrupted water supply available for the purpose of mixing drilling fluids. During the exploration drilling programme, Noble will provide written notification to the FIG Public Works Department (PWD) a minimum of 10 calendar days before the use of potable water for drilling is required. The written communiqué shall confirm the expected quantity of water to be taken from the regional supply network, the expected date and start/end time and the telephone contact details of the relevant Noble supervisor. All water taken from the local water supply network will be recorded and monitored. This data can be provided to the FIG PWD by Noble upon request. 	
	<p>Use of local road network to transport rig workers to/from Stanley, Stanley Airport and MPA during drilling</p> <p>During the exploration drilling period, there will be a need to use the local road network to transport workers associated with the drilling operations and also to transport drilling crew to/from the respective airports for their helicopter flights to the drilling unit offshore, or to MPA for their international flights.</p> <p>The increased traffic has the potential to impact existing road users on the Islands through temporary disruption from increased traffic congestion, and from the contribution to general wear and tear of the local road network used. An increase in traffic on the local road network also has the potential to result in an increased risk to community health and safety.</p>	<ul style="list-style-type: none"> Noble will adhere to the Falkland Islands Petroleum Licensees Association (FIPLA) "Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands" (currently under development). This Code aims to maximise the use of businesses registered on the Falklands Islands by the oil and gas industry. Noble continues to work with FIG on the progress of this code of practice. Where possible, local transport companies will be used for all road transfers of personnel. This will also reduce health and safety risks, as local drivers will be familiar with local roads. All local transportation laws will be followed. Noble will work closely with FIG on any transportation issues. 	Low
<u>Occupational Health and Safety</u>	<p>Presence of the offshore workforce on board the drilling unit and OSVs</p> <p>The drilling project introduces significant health and safety risks to the workers involved. There is a risk that the exploration drilling programme has the potential to impact the health of workers through excessive exposure to environmental conditions, such as noise and vibration, and the potential for physical harm, drowning, and/or injury from potential fire or explosion. There is also a risk of injury</p>	<ul style="list-style-type: none"> The Drilling Contractor and other companies providing specialist support services (including the provision of OSVs and helicopter services) used by Noble have a good international reputation for undertaking oil and gas drilling programmes in a safe and healthy manner. The offshore Drilling Contractor and companies providing the OSVs and helicopters will have an established and fully implemented Health & Safety Plan. Noble will assess the health and safety documentation of all contractors involved in the exploration drilling programme and complete their own independent safety 	Medium

POTENTIAL NEGATIVE ROUTINE IMPACT			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>and/or fatalities to occur from the use of helicopter movements transporting rig workers.</p> <p>Injures could result in long-term health impacts, a loss of earnings from an inability to work, combined with potential psychological and mental health problems.</p>	<p>audits/assessments on the drilling rig, vessels and helicopters used. These audits/assessments will include a review of past reportable incidents, maintenance records, and a review of the skill, experience and competency records of all personnel with safety-critical responsibilities.</p> <ul style="list-style-type: none"> • There will be at least one OSV positioned close to the drilling rig at all times taking the role of Safety Stand-by Vessel (SSV), to provide support in the event of an emergency incident or evacuation. A standby helicopter will be present at Stanley Airport for use by Noble during the drilling programme. • All EHS incidents will be carefully recorded and monitored in accordance with both Noble's and the Drilling Contractor's EHS Management Systems, all applicable Noble EHS policies and commitments and in accordance with PON9 reporting requirements. Corrective actions will be identified and immediately implemented when necessary. • Additional precautions will be taken by all personnel during periods of poor weather when risk of accidents and exposure from environmental conditions are at their greatest. 	

Table B: Summary of potential positive impacts

POTENTIAL POSITIVE ROUTINE IMPACTS			
Area of Concern	Aspects and Potential Impacts	Enhancement measures	Residual Impact
<u>Businesses and Macro-economic Revenues</u>	<p>The procurement of goods and services from businesses registered in the Falkland Islands</p> <p>During the exploration drilling programme, Noble will procure as much as possible, using companies based in Stanley, personnel support services (such as accommodation and local transport), food and equipment.</p> <p>The procurement of goods and services has the potential to result in a rapid, temporary increase in indirect economic capital flows in Stanley. In response, business owners of small to medium enterprises used may decide to increase their employed workforce and/or extend existing employment contracts. The capital spend is expected to have a positive impact on the households of employed workers, business owners and contribute towards the ongoing socio-economic development of Stanley.</p>	<p>Noble will adhere to the Falkland Islands Petroleum Licencees Association (FIPLA) "Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands" which is currently under development. This Code aims to maximise the use of businesses registered on the Falkland Islands by the oil and gas industry. Noble continues to work with FIG on the progress of this code of practice.</p> <p>Noble has held a week-long supply chain and local vendor's workshop in the Falkland Islands, facilitated by the Noble Supply Chain Department, in order to foster discussions for opportunities to work with local vendors.</p>	Positive
	<p>Taxation revenue to the Falkland Islands Government (FIG)</p> <p>The drilling programme has the potential to raise significant taxation revenues to FIG associated with the financial spend. This additional government revenue has the potential to support FIG in providing essential infrastructure and services to the national population for areas that include, but are not limited to, Public Works, Health Care & Social Services, Education, and Training.</p>	<p>Noble will adhere to the Falkland Islands Petroleum Licencees Association (FIPLA) "Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands" which is currently under development. This Code aims to maximise the use of businesses registered on the Falkland Islands by the oil and gas industry. Noble continues to work with FIG on the progress of this code of practice.</p>	Positive

	<p>Increased specialisation in the oil and gas sector</p> <p>Completion of the proposed exploration drilling programme will provide local companies with direct experience with working in the oil and gas industry and contribute to the rising profile of the industry in the Falkland Islands. If drilling is successful, this may subsequently result in further investment in exploring the potential for hydrocarbons by Noble in other license blocks.</p>	<p>Noble will adhere to the Falkland Islands Petroleum Licensees Association (FIPLA) <i>"Procurement Code of Practice by Oil and Gas Companies and their Subcontractors Operating in the Falkland Islands"</i> which is currently under development. This Code aims to maximise the use of businesses registered on the Falkland Islands by the oil and gas industry. Noble continues to work with FIG on the progress of this code of practice.</p>	<p>Positive</p>
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Table C: Summary of hazards, effects and mitigation measures for non-routine hazards

NON-ROUTINE HAZARDS			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
Accidental Events	<p>Potential uncontrolled gas release during drilling</p> <p>Atmospheric emissions have the potential to contribute to the pool of greenhouse gasses in the atmosphere (CH₄, CO₂) and increase the risk of acid effects (SO_x, NO_x), potentially causing a short term localised impact on air quality. If flammable gasses are involved, there will be a potential risk of fire and explosion.</p>	<ul style="list-style-type: none"> Well control mitigations to be implemented as described below under 'Uncontrolled release of reservoir hydrocarbons'. To control fugitive emissions, operational and maintenance procedures will be implemented, which include all environmentally critical valves, flanges, fittings and seals in use on the drilling rig, to eliminate or reduce as far as possible the capacity for gas leaks and fugitive emissions. A gas/leak detection system and repair program will be in operation on the rig (requirement of rig Safety Case) 	Low
	<p>Potential unintentional releases of fuel or other fluids (e.g. diesel, drilling mud, hydraulic oil or lubricants) during day-to-day operations (including re-fuelling)</p> <p>During general operations associated with the drilling programme, there is the potential for unintentional releases. These releases have the potential to cause localised toxic effects on marine fauna and flora and localised pollution, which may impact local marine wildlife and rafting seabirds on the sea surface.</p>	<ul style="list-style-type: none"> The drilling rig will be fitted with closed drainage containment, treatment and monitoring systems in all environmentally critical areas as part of the rig specification. Procedures for drainage water management will be addressed within the Drilling Contractor's documentation and the Noble Discharge Management Programme (DMPO). Noble will ensure that the Drilling and OSV Contractors have procedures for fuel bunkering in place. These procedures will be subject to audit/assessment prior to drilling operations commencing. Offshore bulk materials and fluid transfers will be minimised where possible, making efficient use of OSV loads and voyages. Where practicable, re-fuelling and transfer of bulk fluids will be undertaken during daylight hours only. Fluid transfer and crane operations will take place only in suitable weather conditions. Transfer operations will be supervised at all times both from the OSVs and drilling rig. Non-return valves will be installed on bulk fluid transfer hoses. Hoses will be tested and inspected as a part of the Drilling Contractor's Planned Maintenance System. Spill kits will be readily available on deck for mopping up any minor unintentional releases. Personnel will be trained in unintentional release prevention and the use of spill kits. Regular drills will be held to contain and clean up deck spills. To prevent losses of drilling mud, the marine riser system will be operated and maintained in good order as per Noble and Drilling Contractor policies, including: <ul style="list-style-type: none"> Lower Marine Riser Package (LMRP) to have integrated Remotely Operated Vehicle (ROV) remote interfaces for emergency use; Use of low pressure alarms in the riser system; Rig Emergency Disconnect System (EDS) locked-out in normal operation; 	Medium

NON-ROUTINE HAZARDS			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
		<ul style="list-style-type: none"> Regular LMRP inspection with rig ROV; Regular riser-tensioner system inspection; Regular pressure-testing of riser boost lines. <ul style="list-style-type: none"> All contracted vessels will have onboard a Ship-board Oil Pollution Emergency Plan (SOPEP) in place to define their response procedures in the event of a pollution incident. Drilling chemicals will be selected on the basis of environmental performance as much as possible within the mud programme, so as to reduce any potential environmental impacts. The Drilling Contractor will have spill control procedures in place for the drilling rig. These procedures will outline the measures to be taken to prevent unintentional releases to the environment. An Oil Spill Response Plan (OSRP) will be produced. The plan will define roles and responsibilities, and the response procedures to be followed in the event of a hydrocarbon release. The OSRP will align with the existing Falkland Islands National Oil Spill Contingency Plan (NOSCP) in place for the Falkland Islands as required. The OSRP will be approved by the FIG Department of Mineral Resources prior to drilling operations commencing. All instances of unintentional release will be handled in accordance with Falkland Islands Government Petroleum Operations Notice 8, May 2012 Revision (hereafter referred to as PON 8). In particular, the use of dispersants will be coordinated with Incident Command as defined in the National Oil Spill Contingency Plan (NOSCP) as noted in Section 3 of PON 8 for approval and usage conditions. 	
	<p>An emergency incident (e.g. vessel collision), leading to potential unintentional releases</p> <p>An emergency incident, such as a collision or catastrophic failure of equipment, could potentially cause a total loss of containment of entire inventories of diesel, utility fuels and chemicals from either the drilling rig or OSVs. This has the potential to cause significant hydrocarbon and/or chemical pollution, which will have detrimental impacts on water quality and marine wildlife in the affected area.</p>	<ul style="list-style-type: none"> All mitigation measures as defined above in Physical Presence (Table A) for the management of collision risk. Pre-mobilisation audits/assessments will be undertaken on all vessels. Vessels will be selected which comply with IMO codes for pollution prevention. All contracted vessels will have a SOPEP in place to enable fast and effective response to any potential pollution incident. An Emergency Response Plan (ERP) and Oil Spill Response Plan (OSRP) will be developed and implemented prior to drilling operations commencing. All instances of unintentional release will be handled in accordance with Falkland Islands Government Petroleum Operations Notice 8, May 2012 Revision (hereafter referred to as PON 8). In particular, the use of dispersants will be coordinated with Incident Command as defined in the National Oil Spill 	Medium

NON-ROUTINE HAZARDS			
Area of Concern	Aspects and Potential Impacts	Mitigation measures	Residual Impact
	<p>Uncontrolled release of reservoir hydrocarbons (blow-out)</p> <p>In the event of a serious well control incident, there is the potential for a significant unintentional release of hydrocarbons due to uncontrolled well flow.</p> <p>A significant release of hydrocarbons has the potential to cause physical oiling and toxicity impacts to marine wildlife, and potential contamination of coastal habitats.</p> <p>Indirect impacts could potentially include: habitat loss, impact on tourism and fisheries, issues associated with waste disposal, trans-boundary issues, accumulation of oil and chemicals in ecosystem food chains and in sediments, loss of biodiversity and loss of revenue to local businesses and fisheries.</p>	<p>Contingency Plan (NOSCP) as noted in Section 3 of PON 8 for approval and usage conditions.</p> <ul style="list-style-type: none"> The drilling operations will follow established drilling safety standards to minimise the risk of loss of well control. Well control systems and procedures will be in place as per all Noble and Drilling Contractor well control guidelines. The drilling crews will be adequately experienced, trained in well control techniques and supervised at all times. Emergency drills will be held regularly. Well designs will be reviewed by an independent well examiner. A Blow-out Preventer (BOP) will be in place and will be subject to regular maintenance and testing. BOP equipment/controls and emergency/contingency controls will be tested both prior to and immediately after deployment onto the wellhead. Regular pressure testing of boost, choke and kill lines will take place routinely throughout operations. The BOP will be subject to a third party verification and audit prior to drilling operations commencing. The BOP specification will include one (1) shear ram, one (1) casing shear ram and a ROV remote interface to key BOP functions for emergency use. All key offshore personnel will have International Well Control Forum (IWCF) well control certification. Noble is a FULL member of Oil Spill Response Limited (OSRL), providing an enhanced Tier 2/3 oil spill response capability. Noble is a member of the Global Dispersant Stockpile provided by OSRL for the purpose of responding to unintentional releases. An ERP and OSRP will be developed and implemented prior to drilling operations commencing. All instances of unintentional release will be handled in accordance with Falkland Islands Government Petroleum Operations Notice 8, May 2012 Revision (hereafter referred to as PON 8). In particular, the use of dispersants will be coordinated with Incident Command as defined in the National Oil Spill Contingency Plan (NOSCP) as noted in Section 3 of PON 8 for approval and usage conditions. 	Medium

Conclusion

Noble will ensure that all operations throughout the exploration drilling programme will follow all applicable laws, regulations and standards as well as environmental, socio-economic, health and safety best practices, such as effective waste management, staff awareness of environmental issues and training in pollution prevention procedures and emergency response. Following the implementation of control and mitigation measures, the majority of residual impacts are considered to be low.

Potential disturbance to the two existing shipwrecks lying within the southern region of FISA12 is expected to be low; however, due to the uncertainty regarding the position of the wrecks, the residual impact has been assessed to be medium. The mitigation measures proposed by Noble, including placing an exclusion zone around the best known reported wreck locations, and choosing well locations so that the existing wrecks are avoided, should ensure that the wrecks are not affected by the proposed exploration drilling operations.

Potential health and safety impacts to the offshore workforce are shown to be medium, and will require control measures to reduce the potential impact as much as possible. These control measures will include using contractors that have a good health and safety track record, all contractors having an established and fully implemented Health & Safety Plan assessed and approved by Noble, the presence of a Safety Stand-by Vessel (SSV) in the vicinity of the drilling rig at all times, full reporting and corrective actions for all reportable health and safety incidents, and additional precautions taken by all offshore personnel during periods of poor weather when the risk of accidents and exposure from environmental conditions are at their greatest.

Accidental events involving potential unintentional releases of hydrocarbons or chemicals are shown to be of potential medium impact, and will require control measures to reduce the potential impacts as much as possible, including stringent well control procedures, oil spill response procedures including the membership of a reputable international oil spill response organisation and the production of an Oil Spill Response Plan (OSRP), and emergency response procedures including the production of an Emergency Response Plan (ERP).

Positive impacts have also been shown, in regards to the increased revenue to local businesses, the associated generation of taxation revenue and the direct experience for local businesses of working within the oil and gas industry, raising the profile of the industry in the Falkland Islands.



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No. 9

Appointment

Megan Tierney, Marine Ecologist (High Predators), South Atlantic Environmental Research Institute, 02.06.14.

Lauren Joyce McKay, Trainee Internal Auditor, Treasury, 20.06.14.

Denise Herrerra, Scientific Fisheries Observer, Natural Resources, 26.06.14.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Central Services Department, 30.06.14.

Anna-Marie Connolly, Trainee Human Resources Adviser, Human Resources Department, 30.06.14.

Richard James Bonner, Tutor/Assessor, Training Centre, Education Department, 01.07.14.

Emily Clare Hancox, PhD Intern, South Atlantic Environmental Research Institute, 01.07.14.

Rosa Acosta Ortiz, General Assistant, Health and Social Services Department, 01.07.14.

Amélie Adèle Rolande Augé, Marine Ecologist (Marine Spatial Planning), South Atlantic Environmental Research Institute, 05.07.14.

Resignation

Huw Thomas Murphy, Flight Information Service Officer, Falkland Islands Government Air Service, Central Services Department, 11.07.14.

Clare Louise Howles, Learning Support Assistant, Falkland Islands Community School, Education Department, 18.07.14.

Sian Yvonne Nightingale, Policy Assistant, Policy Unit, 31.07.14.

NOTICES

No. 51

30 April 2014

Judicial Appointments

1. I appoint **Clare Faulds** to be —

Senior Magistrate under section 88(4) of the Constitution (SI 2008/2846) and section 26 of the Administration of Justice Ordinance (Title 22.1);

Notary Public under section 47 of the Administration of Justice Ordinance (Title 22.1);

Chairman of the Disputes Commission under section 98 of the Fisheries (Conservation and Management) Ordinance 2005 (No 14 of 2005); and

Commissioner for Workmen's Compensation under section 22 of the Workmen's Compensation Ordinance (Title 32.6).

2. These appointments have effect from 1 May 2014 until the expiry of the contract of employment of Clare Faulds with the Falkland Islands Government, unless terminated sooner.

Dated 30 April 2014

C. ROBERTS C.V.O.,
Governor.

No. 52

30 April 2014

Falkland Islands Constitution Order (SI 2008/2846)
section 89

Appointment of Acting Judge of the Supreme Court

1. I make the following appointment in accordance with section 89 of the Constitution, on the basis that:

(a) it appears to me that the state of business in the Supreme Court requires it; and

(b) I am satisfied that **Clare Faulds** possesses such legal qualifications and experience as are appropriate for her to be appointed.

2. I, Colin Roberts C.V.O., Governor, appoint **Clare Faulds**:

(a) to sit as Acting Judge of the Supreme Court; and

(b) to discharge the functions in the Falkland Islands of the Chief Justice as maybe necessary if the office of the Chief Justice is vacant, or if the holder of that office is for any reason unable to perform the functions of that office.

3. The appointment at paragraph 2(a) only has effect when the Chief Justice has not indicated that he wishes to exercise his powers in respect of any relevant matters.

4. Nothing in this appointment operates to prevent the Chief Justice adjudicating in any matters or from exercising any of his functions.

5. This appointment is effective from 1 May 2014 until the expiry of the contract of employment of **Clare Faulds** with the Falkland Islands Government, unless terminated sooner.

Dated 30 April 2014

C. ROBERTS C.V.O.,
Governor.

No. 53

7 July 2014

SNF Limited
Company number: 15113

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 2014

E. J. DENT,
Registrar of Companies.

No. 54

11 July 2014

Appointment of Acting Registrar General

1. In exercise of my powers under the Registration Ordinance and the Falkland Islands Constitution Order 2008 (SI 2008/2846), I Colin Roberts C.V.O., Governor of the Falkland Islands hereby appoint **Charles Peter Judge** to be Acting Registrar General to discharge the functions and duties of the post of Registrar General whenever the substantive holder of the post of Registrar General Elizabeth Jayne Dent is unavailable to discharge the same through absence from the Falkland Islands or inability to perform the functions and duties of the post.

2. This appointment has effect from the date given below, and continues in effect whilst Charles Peter Judge holds office as Attorney General for the Falkland Islands, unless terminated sooner.

Dated 11 July 2014

C. ROBERTS C.V.O.,
Governor.

No. 55

17 July 2014

No 1 Electrical (Falklands) Limited
Company number: 10932

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 17 July 2014

E. J. DENT,
Registrar of Companies.

No. 56

21 July 2014

Index of Retail Prices

The Index for the quarter ended 30 June 2014 has now been completed.

The Index increased during the quarter to 101.47; this equates to a 0.2% increase as shown below:

Date	Index	Annual % Increase/(Decrease)	Quarter % Increase/(Decrease)
31.03.14	101.22	1.6	0.3
30.06.14	101.47	0.7	0.2

Dated 21 July 2014

L. LYSE,
for Financial Secretary.

No. 57

28 July 2014

Police Ordinance 2000

section 10(2)

Appointment of Member of Police Committee

1. Section 10(2) of the Police Ordinance 2000 provides that the Governor shall appoint as members of the Police Committee two justices of the peace elected by justices of the peace from among their number.

2. Derek Simon Clarke JP has been elected to be a member of the Police Committee by the justices of the peace from among their number.

3. In exercise of my powers under section 10(2), I appoint Derek Simon Clarke JP to be a member of the Police Committee.

4. This appointment has effect from 11 August 2014 for a period of 3 years, unless terminated sooner.

Dated 28 July 2014

C. ROBERTS C.V.O.,
Governor.

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No.10

Appointment

Glyndwr Huw Valler, Plant Operator/Handyperson, Property and Municipal Section, Public Works Department, 14.07.14.

Teslyn Siobhan Barkman, Public Relations and Media Assistant, Policy Unit, 21.07.14.

Michael David Brough, Oil and Gas Programme Manager, Policy Unit, 29.07.14.

Sean Daem Minto, Electrician, Power and Electrical Section, Public Works Department, 01.08.14.

Kenneth John Aldridge, Mechanical Supervisor, Power and Electrical Section, Public Works Department, 04.08.14.

Rodolfo Fernando Borquez Rogel, Plant Operator/Handyperson, Highways Section, Public Works Department, 09.08.14.

Wendy Jennifer Luxton, Accounting Assistant, Treasury, 11.08.14.

George Toolan, Trainee Carpenter, Property and Municipal Section, Public Works Department, 18.08.14.

Paul Smith, Plant Operator/Handyperson, Materials Section, Public Works Department, 25.08.14.

Kerys Elizabeth Victoria Montgomerie, Part Time Pensions Assistant, Treasury, 26.08.14.

Completion of contract

Lorraine Janetta Ambrose, Travelling Teacher, Education Department, 31.08.14.

Richard Edwin John Fogerty, Teacher, Education Department, 31.08.14.

Jean Harlow, Settlement Teacher, Education Department, 31.08.14.

Sandra Joy Knoll, Travelling Teacher, Education Department, 31.08.14.

Clare Louise Ryan, Travelling Teacher, Education Department, 31.08.14.

Neil Richard Ward, Design and Technology Teacher, Education Department, 31.08.14.

James Woodward, Teacher, Education Department, 31.08.14.

Carly Yeomans, Maths and PE Teacher, Education Department, 31.08.14.

Resignation

Daryl Raymond Harada, Police Constable, Royal Falkland Islands Police, Emergency Services Department, 07.07.14.

Susan Hillary Rowland, Director, Health and Social Services Department, 29.08.14.

Sarah Jayne Shepherd, Health Care Support Worker, Health and Social Services Department, 29.08.14.

Redundancy

Moirá Cameron Eccles, Postmaster, Central Services Department, 31.07.14.

Caroline Ann Middleton, Part Time Clerk, Central Services Department, 31.07.14.

NOTICES

No. 58

21 July 2014

Falkland Islands Constitution Order (SI 2008/2846)

section 84

Post Office Ordinance (Title 58)

section 2

Appointment of Superintendent Posts and Telecommunications

1. Section 84 of the Falkland Islands Constitution Order 2008 confers power on the Governor to make appointment to any public office; but the Chief Executive shall exercise that power, and may delegate the exercise of that power to other public officers.

2. The Chief Executive delegated the power of appointment of the Superintendent Posts and Telecommunications to the Financial Secretary by email of 8 July 2014.

3. In exercise of the powers under section 84 of the Falkland Islands Constitution Order, I appoint **Daniel Robert Heath** to be Superintendent Posts and Telecommunications.

4. This appointment has effect from 1 August 2014, and continues in effect whilst Daniel Robert Heath holds office as Management Accountant, unless terminated sooner.

Dated 21 July 2014

N. J. GRANGER,
Financial Secretary.

No. 59

06 August 2014

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 person to be a temporary Customs Officer:-

Cpl Nigel Lisowski – 30056305 from 30 June to 29 December 2014.

Dated 06 August 2014

R. J. KING,
Collector of Customs.

No. 60

15 August 2014

Commissioners for Oaths Ordinance *section 2(2)*

Appointment of Commissioner for Oaths

1. Section 2(2) of the Commissioners for Oaths Ordinance 1969 (Title 22.3) provides that the Governor may appoint commissioners for oaths.

2. In exercise of my powers under section 2(2), I appoint **Ronald John MacLennan Baird** to be a commissioner for oaths.

3. This appointment has effect from the date below, and continues in effect whilst Ronald John MacLennan Baird continues to practice law in the Falkland Islands, unless terminated sooner.

Dated 15 August 2014

C. ROBERTS C.V.O.,
Governor.

No. 61

15 August 2014

Commissioners for Oaths Ordinance *section 2(2)*

Appointment of Commissioner for Oaths

1. Section 2(2) of the Commissioners for Oaths Ordinance 1969 (Title 22.3) provides that the Governor may appoint commissioners for oaths.

2. In exercise of my powers under section 2(2), I appoint **Mark William Neves** to be a commissioner for oaths.

3. This appointment has effect from the date below, and continues in effect whilst Mark William Neves continues to practice law in the Falkland Islands, unless terminated sooner.

Dated 15 August 2014

C. ROBERTS C.V.O.,
Governor.

No. 62

22 August 2014

Application for Falkland Islands Status

Notice is hereby given that:

**Jill Christine Roberts; and
Robert Keith Legg**

have applied through the Principal Immigration Officer for Falkland Islands Status to be granted by His Excellency the Governor. Any person who knows of any reason why such 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 by 21 September 2014.

Dated 22 August 2014

J. E. SMITH,
Immigration Officer.

No. 63

22 August 2014

Application for Naturalisation

Notice is hereby given that:

**Juan Mamerto Campos Bustos; and
Rodrigo Cordeiro Garcia**

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 September 2014.

Dated 22 August 2014

J. E. SMITH,
Immigration Officer.

No. 64

28 August 2014

Currency Ordinance 1987
section 5

Appointment of Commissioner of Currency

His Excellency the Governor has been pleased to appoint Jody May Aldridge as a Commissioner of Currency in accordance with section 5 of the Currency Ordinance 1987 effective 1 September 2014.

Dated 28 August 2014

N. J. GRANGER,
Financial Secretary.

Erratum

Volume 123, Gazette No 9 dated 31 July 2014, Appointment relating to Lauren Joyce McKay should read as follows:

Lauren Joyce McKay, Trainee Internal Auditor, Treasury, 26.06.14.

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

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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 123

30 September 2014

No. 11

Appointment

Jacqueline Elizabeth Bagley, Warden, Health and Social Services Department, 18.08.14.

Alison Margaret Webb, Advanced Practitioner (Adults), Health and Social Services Department, 25.08.14.

Susan Rachel Louise Costello, Teacher, Education Department, 01.09.14.

Alison Evans, Teacher, Education Department, 01.09.14.

Tracey Jane Forrester, Teacher, Education Department, 01.09.14.

Claudia Glatzmeier, Veterinary Officer, Natural Resources Department, 01.09.14.

Mark James Harrington, Teacher, Education Department, 01.09.14.

Kirsty Johnston, Teacher, Education Department, 01.09.14.

Mervyn Gordon Lowe, Teacher, Education Department, 01.09.14.

Sean Moffatt, Teacher, Education Department, 01.09.14.

Tamson Jane Roberts, Higher Teaching Assistant, Education Department, 01.09.14.

Sazzanne Marie Walsh, Teacher, Education Department, 01.09.14.

Kieran Louise Watt, Learning Support Assistant, Education Department, 01.09.14.

Zoran Mario Zuvic Bulic, Teacher, Education Department, 01.09.14.

Tanya Jaffray, Storesperson, Plant and Vehicle Section, Public Works Department, 02.09.14.

Fiona Didlick, Part-time Tutor Assessor, Education Department, 08.09.14.

Coral Betts, Plant Operator/Handyperson, Highways Section, Public Works Department, 15.09.14.

Zena Butler, Station Enquiry Officer, Emergency Services Department, 15.09.14.

Mark Jackson, Labourer, Highways Section, Public Works Department, 15.09.14.

Morag Maillie, Theatre Nurse, Health and Social Services Department, 22.09.14.

Completion of contract

Louise MacLean, Theatre Sister, Health and Social Services Department, 22.08.14.

Promotion

Natalia Sytchova, from Staff Nurse to Senior Staff Nurse, Health and Social Services Department, 01.08.14.

Resignation

Chanelle Berntsen, Childcare Apprentice, Education Department, 12.08.14.

Richard Bonner, Tutor Assessor, Education Department, 29.08.14.

Tamara McCormick, Learning Support Assistant, Education Department, 19.09.14.

Elena Boucher, Fisheries Scientist (Toothfish), Natural Resources Department, 26.09.14.

Transfer

Peter Crowie, from Plant Operator/Handyperson, Water Section to Plant Operator/Handyperson, Materials Section, Public Works Department, 04.08.14.

Bonnie Curtis, from Housing Officer, Public Works Department to Policy Assistant, Policy Unit, 16.09.14.

NOTICES

No. 65 15 September 2014

Ronoke Enterprises Limited Company number: 10853

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 15 September 2014

E. J. DENT,
Registrar of Companies.

No. 66 15 September 2014

The Wirebird Limited Company number: 14876

Take notice that in accordance with the provisions of section 353(3) of the Companies Act 1948, the requirements of the said section having been complied with, upon the expiry of three months from the publication of this notice, the above named company will be removed from the Register of Companies and dissolved unless good cause do be shown why such action should not be taken.

Dated 15 September 2014

E. J. DENT,
Registrar of Companies.

No. 67 17 September 2014

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

Take notice that **Mary Ann Margaret Carey** of 18 Ross Road West, Stanley, Falkland Islands, died on 20 August 2014.

Whereas **Terence James Carey** 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 17 September 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 68 23 September 2014

Application for Naturalisation

Notice is hereby given that **Ricardo Alexis Carreno Santis** 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 October 2014.

Dated 23 September 2014

J. E. SMITH,
Immigration Officer.

No. 69 23 September 2014

Application for Permanent Residence

Notice is hereby given that:-

**Maribel Andrea Campos Guala
Paul Darren Green
Francis Kevin O'Sullivan**

have 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 2014.

Dated 23 September 2014

J. E. SMITH,
Immigration Officer.

No. 70 24 September 2014

Currency Notes Rules (Title 25.1.1)

In exercise of the powers conferred by rule 3 of the Currency Notes Rules, His Excellency the Governor has approved the following changes to the list of Currency Officers with effect from 22 September 2014:

Appointments

Aldridge, Jody May
Kizito, Henry Buzibwa
Luxton, Wendy Jennifer
Shute, Jacqueline
Smith, Felicity Marie

Cancellation of Appointments

Eccles, Moira Cameron
Mitchell, Claire
Poole, Jody May
Clarke, Felicity Marie

The following is a full list of Currency Officers with effect from 22 September 2014:

Aldridge, Jody May
Butler, Margaret Orlanda
Smith, Felicity Marie
Finlay, Shiralee
Granger, Nicola Jane
Heath, Daniel Robert
Kizito, Henry Buzibwa
Law, Claire Elizabeth
Luxton, Wendy Jennifer
Lyse, Linda Margaret
Morrison, Lydia
Shute, Jacqueline
Sinclair, Veronica Joyce

Dated 24 September 2014

J. M. ALDRIDGE; N. J. GRANGER; and L. M. LYSE.
Commissioners of Currency.

No. 71 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015

Total Allowable Effort: 12.2 (Vessel Units)

Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No. 72 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015

Total Allowable Effort: 22.30 (Vessel Units)

Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No. 73 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015

Total Allowable Effort: 27.97 (Vessel Units)

Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No. 74 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015

Total Allowable Effort: 20.0 (Vessel Units)

Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No. 75 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 (*Doryteuthis gahi*)

Species: *Doryteuthis gahi*
Period: 24 February – 21 April 2015
Total Allowable Effort: 26.99 (Vessel Units)
Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No.76 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015
Total Allowable Catch: 2000 metric tonnes
Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources

No. 77 26 September 2014

Fisheries (Conservation and Management) Ordinance 2005
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 2015
Total Allowable Catch: 1040 metric tonnes
Dated 26 September 2014

A. J. BARTON,
Director of Natural Resources.

No. 78 30 September 2014

**Environmental Impact Statement
Premier Oil Exploration & Production Limited**

An Environmental Impact Statement has been submitted to the Falkland Islands Government by Premier Oil Exploration & Production Ltd for offshore drilling proposals in the North Falkland Basin. A Non-Technical summary is printed below this notice. Electronic copies of the document in its entirety can be obtained from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email rcordeiro@mineralresources.gov.fk).

Written representations in relation to the Environmental Impact Statement must be made by 11 November 2014 to the Department of Mineral Resources, Ross Road, Stanley (or by email to SLuxton@mineralresources.gov.fk).

Dated 30 September 2014

S. C. LUXTON,
Director of Mineral Resources.

Non-technical Summary

Introduction

This Environmental Impact Statement (EIS) presents the findings of the Environmental Impact Assessment (EIA) conducted by Premier Oil Exploration and Production Limited (Premier Oil) for the 2015 exploration drilling campaign in the North Falkland Basin (NFB).

Project description

Premier Oil is planning to drill four exploration wells within Licence Blocks PL032, PL004a, b & c, see Figure 1. There is the option to drill further wells but this is dependent on the results of the initial four wells. The purpose of the drilling campaign is to evaluate exploration targets in the North Falklands Basin that were identified during seismic processing. The four well locations named Zebedee, Isobel Deep, Jayne East and Chatham will be drilled during a 2015 Exploration Drilling Campaign (currently anticipated to be between March and November).

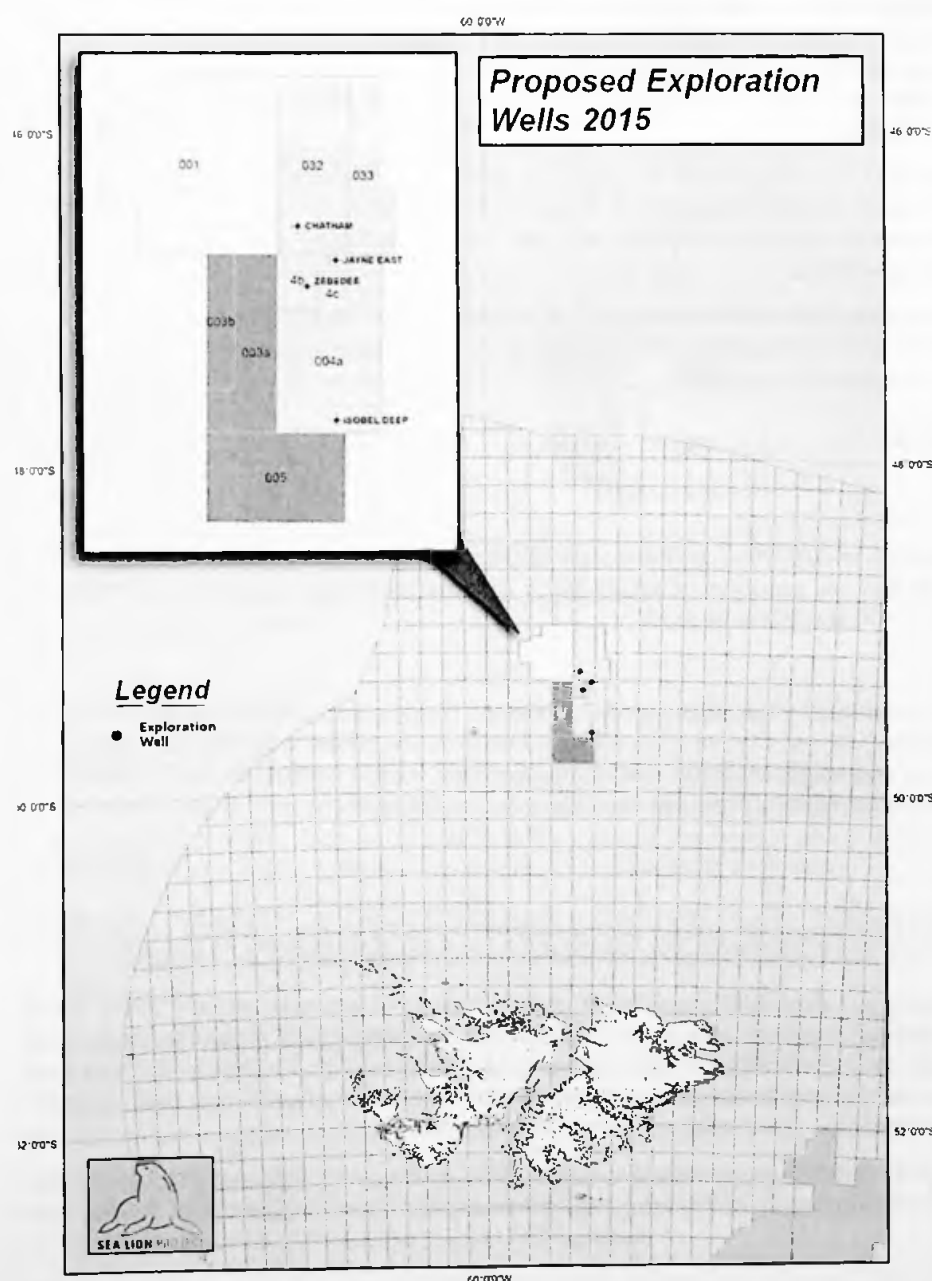


Figure 1: Licence Block Location and Four Exploration Well Locations

The exploration wells will be drilled from the *Eirik Raude* drilling rig, which will be transported from West Africa to Falkland Islands waters to conduct a joint 240 day drilling campaign shared by Premier Oil and Noble Energy.

The *Eirik Raude* is a semi-submersible rig, which will be supported by two rig supply vessels operating from a shore base in Stanley. The recently constructed Temporary Dock Facility (TDF) will be used for all cargo transfers but refuelling will be undertaken at Falklands Interim Port and Storage System (FIPASS). A 500 m exclusion zone will be established around the rig whilst on location at each well site, which will be continually monitored by a standby vessel.

Each well will be drilled in three sections to a specified total depth using water based muds, with drill cuttings and muds from the top two well sections being discharged to the seabed and the third section discharged at the sea surface. If any hydrocarbons are encountered they may be tested, therefore it is possible that flaring may occur. The decision on whether or not to flare the wells will be dependent on the results of the drilling. A Vertical Seismic Profile (VSP) of each well will validate the geology at each site. On completion, each well will be plugged and abandoned.

Environmental Management

Premier Oil will conduct the exploration drilling campaign in a manner that is consistent with their Corporate Health Safety and Environment Policy. The policy acknowledges Premier Oil's HSE responsibilities in relation to its business activities and includes commitments to continual improvement of performance, to assess and manage risks, meet or surpass regulatory requirements, plan and prepare for any emergencies, to provide appropriate resources, and to encourage open and honest communication.

Premier Oil's Falkland Islands Business Unit implements the corporate HSE policy through a specific business unit Health, Safety, Environment and Security (HSES) Management System (MS). The business unit management system interfaces with the Premier Oil's corporate management system, and with relevant contractor management systems via development of contractor bridging documents.

The monitoring and mitigation measures identified during this EIA process will be incorporated with any licence conditions issued by FIG post-consent and, in conjunction with the drilling rig contractor and other key contractors, into a project specific Environmental Management Plan (EMP).

Environmental Baseline Description

Physical Environment

The drilling campaign area is located in the NFB, approximately 220 km north of the Falkland Islands, 770 km northeast of Cape Horn and 480 km from the nearest point on the South American mainland (Figure 2). The well sites are located in waters ranging between 350 and 450 m in depth.

Oceanography

The oceanography of the region is dominated by the influence of the Falkland Current, a northward flowing offshoot of the Antarctic Circumpolar Current. The Falkland Current splits into two branches, one passes to the east and the other to the west of the Islands. A number of oceanographic fronts exist on the Falkland Islands continental shelf, primarily in areas to the south and east of the Falkland Islands. Few have been identified on the northern shelf in the vicinity of the campaign area.

Previous survey data

In 2012, an area wide environmental baseline survey was conducted to determine the physical, chemical and biological character of the NFB environment. The survey consisted of 54 stations spaced at approximately 2 km intervals.

Premier Oil and their partner, Rockhopper Exploration, conducted an area wide environmental baseline survey of the Sea Lion Field component of the drilling campaign area in the NFB in 2012 to determine the physical, chemical and biological character of the environment in support of future development of the area. In addition to the area wide survey, specific well site surveys comprising 6-8 stations each were conducted for five historic well sites drilled in Quadrant 14 of the Sea Lion Field component of the area.

Several other environmental surveys have been conducted in the vicinity of the drilling campaign area and further afield on the Falklands continental shelf, which provide background and contextual data for comparison with the Sea Lion area.

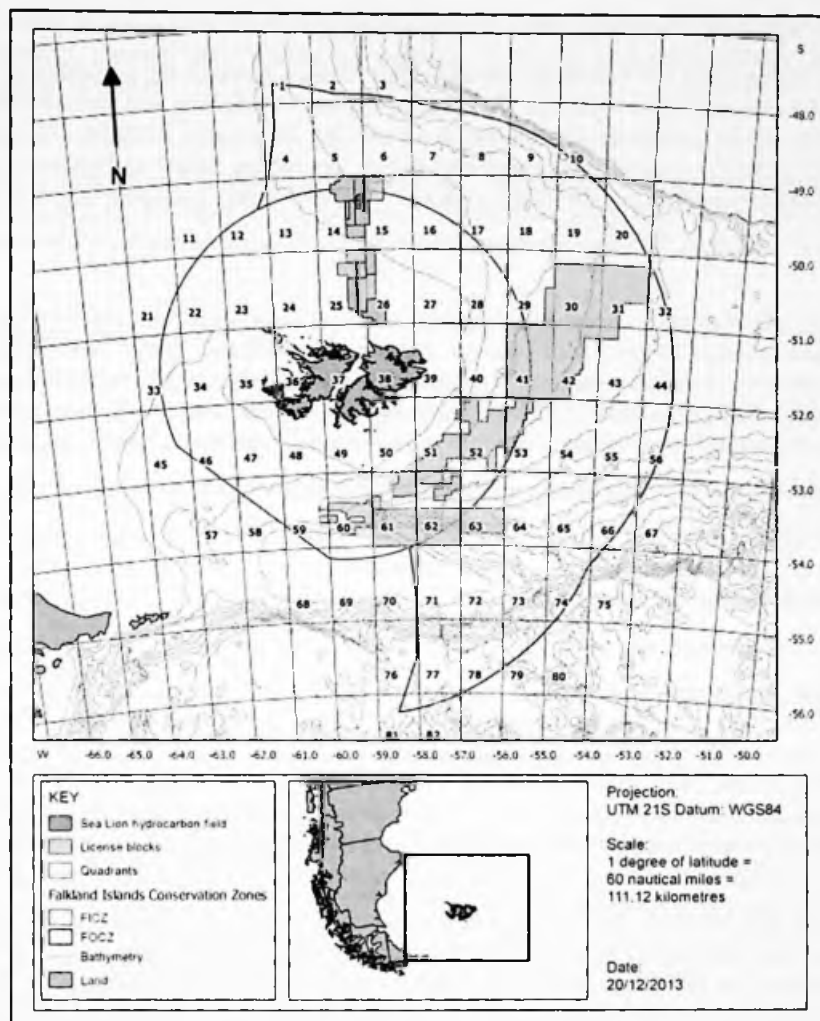


Figure 2: The location of the License Blocks in relation to the Falkland Islands, fisheries conservation zones and the South American mainland

Biological Environment

Plankton

The strong Falkland Current brings nutrient rich waters to the southern Patagonian Shelf, which creates an area of very high zooplankton productivity immediately to the north of the Islands and as such supports complex communities of zooplankton, which in turn support complex pelagic and demersal ecosystems.

The waters to the north of the Falkland Islands are characterized by seasonally high diatom abundance and zooplankton that is dominated by the amphipod *Themisto gaudichaudii* and gelatinous salps and comb jellies.

Benthic ecology

Drilling activity has a direct effect on the benthic ecology through physical and chemical disturbance of cuttings discharge. A number of pre- and post-drilling surveys have been undertaken in association with this and previous campaigns. Overall, the general taxonomic assemblage found across all these surveys is very similar, with polychaetes and crustaceans being the two most abundant groups present, followed by molluscs.

The community throughout the survey area, both pre- and post- drilling, is that of a typical silt/mud benthic environment, and also appears to be undisturbed and unpolluted. To date, drilling activities appear to have had no effect on the benthic community within the historic drilling areas.

The southernmost well site (Isobel Deep) is slightly different in character due to the influence of ancient iceberg groundings, from the Pleistocene or older. Some hard corals were present in the soft sediment and isolated octocorals were found in association with glacial erratic rocks on the seabed.

Fish and squid

The productive waters surrounding the Falklands are important feeding grounds for a number of species of fish and squid, some of which are commercially exploited. The area of exploratory drilling lies between the productive finfish trawl fishery on the edge of the Falklands Continental Shelf and the Patagonian toothfish (*Dissostichus eleginoides*) longline fishing grounds in deeper water of the Continental Slope. The largest fishery in Falkland Islands waters targets Argentine shortfin squid (*Illex argentinus*), which are seasonally present within Falklands waters between February and June.

Marine mammals

Marine mammals comprise cetaceans (whales and dolphins) and pinnipeds (seals and sea lions). Confirmed sightings and stranding records indicate that 25 species of cetacean occur within Falkland Islands waters. Many of these species are rare and inconspicuous, some are only known from stranded animals. Of the 25 species listed as occurring in the southwest Atlantic, two species are listed as Endangered on the IUCN Red List, fin (*Balaenoptera physalus*) and sei whales (*B. borealis*), and one species, the sperm whale (*Physeter macrocephalus*), is listed as Vulnerable.

Three species of pinniped breed on the Islands and a number of other species have been recorded as visitors or vagrants.

A number of visual and acoustic surveys have been conducted in Falkland waters in recent years, which provide a brief glimpse into the lives of these animals. However, like elsewhere in the world, the distribution of marine mammals within Falklands' waters is poorly understood.

Seabirds

Internationally important populations of seabirds breed on the Falkland Islands and feed in the productive waters that surround the Islands. Over 70% of the global population of black-browed albatross (*Thalassarche melanophris*) breed on the Islands with a significant proportion of the global populations of gentoo (*Pygoscelis papua*) and rockhopper penguins (*Eudyptes chrysocome*) also breeding on the Islands, 33 and 36% respectively. Of the species of seabird recorded in the campaign area the Atlantic petrel (*Pterodroma incerta*), grey-headed albatross (*Thalassarche chrysostoma*) and northern royal albatross (*Diomedea sanfordi*) are listed as Endangered on the IUCN Red List, and the white-chinned petrel (*Procellaria aequinoctialis*), southern royal albatross (*Diomedea epomophora*) and the wandering albatross (*D. exulans*) are listed as Vulnerable.

Numerous studies have been conducted over the past 20 years, which give an indication of the seasonal distribution patterns of seabirds around the Falklands. However, much is still to be learnt and studies into seabird ecology are ongoing.

Protected areas

There are no designated marine protected areas in Falkland Islands waters. Several candidate marine Important Bird Areas (IBA) have been proposed but not accepted at present. On land, a number of IBAs have been designated on account of the breeding seabird populations that they support. Additionally, a network of National Nature Reserves and Important Plant Areas protect many of the most important seabird breeding sites and areas supporting native flora.

Socio-economic environment

The Falkland Islands is one of 14 British Overseas Territories. Supreme authority is vested in HM The Queen and exercised by the Falkland Islands Governor on her behalf, with advice and assistance of the Executive Council and Legislative Assembly.

The Falkland Islands were first inhabited in 1764, and the current permanent population of the Islands stands at 2,931. The majority of the Falkland Islands population (74.7%) live in the capital Stanley, which is the only town on the Islands and is based on East Falkland. Outside Stanley, in what is referred to as Camp, there are a number of smaller settlements. According to the 2012 Falkland Census, the total population of Camp represents about 12% of the total resident population of the Falkland Islands. The remainder are civilians working at the military base at Mount Pleasant Complex (MPC).

Prior to the mid-1980s, the Falkland Islands' economy was almost completely based on agriculture, mainly sheep farming and the export of wool for income. Following the establishment of the Falklands Interim Conservation Zone in 1986 for fishery purposes, and creation of a 200 nautical mile Exclusive Economic Zone (EEZ) in 1990, the bulk economic activity shifted to the sale of fishing licenses to foreign fleets operating within Falklands' waters. The income from these license fees fluctuates, but currently makes between 50-60% of the Government's revenue.

Falkland Islands fisheries

The two most important fisheries within the Falklands EEZ are the jig fishery for Argentine shortfin squid and the trawl fishery for Patagonian long-finned squid (*Doryteuthis gahi*), which accounted for 54% and 15% of the 2013 catch by

weight respectively. There is also a fleet of trawlers that operate over the Falklands continental shelf that target a range of finfish species. Currently, the only other fishery in the Falklands EEZ is the longline fishery for Patagonian toothfish, which operates in the deeper waters.

Marine archaeology

The UK Hydrographic Office Wrecksite database indicates that there are 177 wrecks recorded within Falkland Islands waters, with records dating from the 1800's to present day. There are six recorded wrecks within 100 nautical miles of the proposed drilling sites; the closest of these wrecks is located approximately 50 nautical miles from the nearest well site.

Scoping Consultation Summary

Premier Oil conducted an EIA scoping exercise in July 2014 to raise awareness of the 2015 exploration drilling campaign and to invite comment on the proposed programme and associated activities. Initial consultation meetings were held with the Department of Mineral Resources (DMR), statutory consultees and other interested parties.

This phase of consultation provided stakeholders with an opportunity to enter into a discussion about the proposed project so that any issues and concerns could be identified at an early stage and be considered within the scope of the EIA.

Areas of concern raised during the consultation meetings can be broadly summarised in the following categories:

- Generation of artificial light to attract seabirds resulting in potential collision risk or mortality if in relation to flaring;
- Appropriate assessment required for drilling mud and drill cuttings discharges;
- Supply vessels associated with the campaign could cause over crowding in Stanley Harbour;
- Noise generated from helicopter transits between Stanley and the rig could disturb sensitive seabird colonies underneath the flight path;
- Potential for vessels from outside the Falkland Islands to carry marine invasive species;
- The drilling campaign will increase demand for local accommodation and could lead to shortages in availability for visitors;
- Waste management is required as there is limited capacity for waste disposal in the Falkland Islands;
- Potential opportunities for the charter flight to benefit Falkland Islanders through additional passenger and cargo spaces.

Impact Assessment Methodology

The EIA process provides a framework for assessing the environmental consequences of a project during the planning stages, such that favourable alternatives may be considered, and mitigation measures may be proposed to adjust impacts to acceptable levels prior to the decision for project sanction.

Premier Oil conducted this environmental impact assessment in accordance with Falkland Islands Government's DMR *Field Developments Environmental Impact Statements Guidance Notes (2012)* and Premier Oil's Health, Safety and Environmental Policy.

The EIA follows a structured methodology outlined in Figure 3 to systematically identify and assess the nature and significance of environmental impacts arising from project activities and risks arising from unplanned or accidental events. Where impacts and risks were assessed to be of a moderate or high significance, mitigation measures have been developed to reduce the severity or likelihood of the impact or risk. Where confidence in the assessment is compromised by data gaps and uncertainties, monitoring measures have been identified, where feasible, to provide an early indication of whether impacts have exceeded acceptable levels.

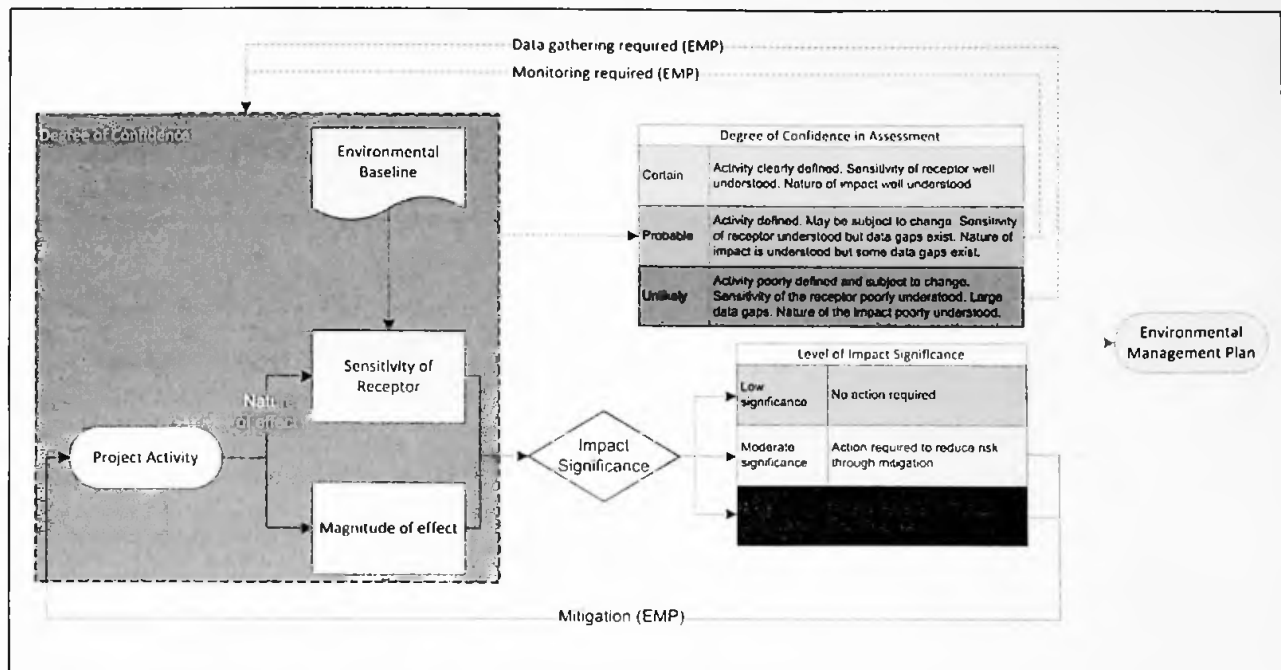


Figure 3: Overview of the Environmental Impact Assessment Process

The project activities that were identified through the environmental impact and risk assessment process as requiring further consideration in the EIA are listed below:

- Generation of underwater noise;
- Generation of atmospheric emissions;
- Generation of light offshore, attracting seabirds and marine life;
- Onshore and inshore impacts;
- Waste management;
- Discharge of drilling mud and cuttings; and
- Accidental events;
 - Significant loss of containment from an uncontrolled release or from rig failure to maintain location on DP;
 - Loss of rig or vessel resulting from collision.

Underwater Noise Assessment

The properties of sound in water are used by many marine animals to communicate, find food and navigate. Anthropogenic sounds have the potential to interfere with these processes and, in extreme cases, have the potential to cause temporary or permanent hearing loss and physical injury.

Activity during the drilling campaign involving vessels and rig movements will generate underwater sound. The intensity of the sound produced varies between vessels according to engine/thruster size and activity. The loudest continuous sounds will be produced by the Dynamic Positioning (DP) thrusters used to maintain the position of the rig and supply vessels.

Other sources of sound include drilling operations and Vertical Seismic Profiling (VSP). A VSP uses an airgun to create a sound impulse that is used to verify the geology of the well and is the most intense sound source associated with the drilling campaign. A VSP will be conducted on each well and will last for 12-15 hours.

Some species of fish, squid and planktonic organisms are sensitive to intense sound, however, the impact on these species is regarded as insignificant and the assessment focused on the impact on marine mammals, which are generally considered to be of greatest conservation concern in relation to underwater noise.

There is still much to learn regarding the seasonal distribution of marine mammals within Falklands waters and 'new' species to the area are still being discovered (for example false killer whale was recorded for the first time in 2013). Visual and acoustic surveys indicate that a number of species of marine mammal; including baleen whales such as the Endangered sei and fin whales, are present in the NFB throughout the year. However, the number of animals present is

generally highest during the summer months. The hearing range of baleen whales is most sensitive to low frequencies (<1 kHz), which overlaps with the sound generated by vessels and airguns. Therefore, due to their conservation status and hearing range baleen whales were assessed to be the most sensitive environmental receptor to anthropogenic sound.

Sound levels for the various anthropogenic sound sources were obtained from the literature and the sound attenuation was calculated to indicate sound levels at increasing distances from the source. These values were compared with the hearing sensitivity of marine mammals to assess whether impacts; such as disturbance, avoidance or potential trauma; would be experienced by the animal exposed to sound at this level.

Due to a lack of data for baleen whales, the hearing sensitivity used was generic and represented a worst-case scenario (based on the minimum hearing sensitivities of a range of marine species). The only sound source with the potential to cause trauma (temporary or permanent hearing loss) was the VSP airgun. It is assessed that animals within 100 m of the airgun could suffer trauma. All other vessel sources of sound were assessed to elicit a range of responses, from strong avoidance at close range to disturbance at moderate range (within 1,000 m for large vessels).

The conservation status of the receptors makes the sensitivity of the worst-case scenario cetaceans '**High**' and the severity of noise from VSP airguns '**Moderate**', which equates to '**Moderate**' significance. Marine mammals are known to react to approaching vessels, which causes avoidance behaviour and disturbance, therefore the severity of the impact from vessels was assessed as '**Minor**'. Overall, the significance of vessel traffic for the most sensitive receptors was assessed as '**Moderate**'. With the available data, the level of confidence in the impact predictions (in terms of the nature of the impact and its level of significance) is considered to be '**Probable**' and the data gaps are not considered to have the potential to significantly change the outcome of the assessment.

The major difference between these sources of sound is the duration of the output. Engine noise is constant and will increase, or decrease, gradually, which enables marine mammals to move away from excessively loud sounds. However, VSP airguns are pulsed sounds and therefore a marine mammal could be exposed to a sudden intense sound that has the potential to result in hearing loss.

In an attempt to reduce the potential impact on marine mammals, a dedicated marine mammal observer will be deployed during VSP operations. Observations will be conducted for 60 minutes prior to the start of airgun discharges to ensure the area within a 500 m radius of the rig is clear of marine mammals. Soft-start procedures (a slow increase in sound intensity) will commence once the area is confirmed clear of marine mammals.

Atmospheric Emissions

Activities associated with the exploration drilling campaign will generate atmospheric emissions as a result of power generation, transportation of crew and cargo and potentially flaring during well testing.

The main sources of emissions are summarised below:

- Drilling rig transit to the Falkland Islands and between well locations, and maintaining position during drilling operations, and transit back to West Africa;
- Drilling operations;
- Supply vessel transporting materials and equipment to and from the field;
- Standby vessel providing support to the drilling rig in the field throughout the campaign;
- Coaster vessels delivering cargo to and from the UK;
- Potential flaring of hydrocarbons during the well test operations;
- Transportation associated with crew change, including fortnightly charter flights to and from the UK, minibus transfer from MPC to Stanley, helicopter flights between Stanley and the rig; and
- Operation of the onshore supply base.

All of these emissions result from the burning of hydrocarbon fuels. The products of combustion of each fuel type are known and therefore it is possible to calculate the total campaign emissions. The quantities of fuel used in each phase of

the drilling campaign were estimated from projected activity and known fuel consumption rates. Conversion factors were used to calculate the quantities of each gas produced.

Atmospheric emissions contribute to several global issues that give rise to global warming, ozone depletion and ocean acidification. The impact on regional air quality is also considered.

Global warming

Gases that cause global warming are referred to as greenhouse gases because they absorb and effectively trap heat within the Earth's atmosphere. The six main greenhouse gases are Carbon Dioxide (CO₂), Methane (CH₄), Nitrous Oxide (N₂O), Sulphur Hexafluoride (SF₆), Hydrofluorocarbons (HFCs) and Perfluorocarbons (PFCs). To account for the varying efficiency of different greenhouse gases in warming the Earth, the Global Warming Potential (GWP) is also applied to the atmospheric emissions to calculate the CO₂ equivalent.

In order to put the emissions from the drilling campaign into context, the emissions were compared with those of the UK. Although overall emission figures are available for the Falklands, the lack of major industries in the Islands makes the comparison inappropriate. In this context, the total emissions generated from the 2015 drilling campaign would represent 0.03% of total UK emissions. The quantity of greenhouse gases resulting from the campaign is relatively low in comparison to similar exploration and oil and gas activity in the rest of the world; the campaign is of a moderate to short duration (<1 year) and the emissions in isolation would have a barely detectable effect.

Ozone depletion

Another global issue related to atmospheric emissions is ozone depletion. Ozone in the upper atmosphere (stratosphere – 15-25 miles above the Earth's surface) intercepts much of the harmful ultraviolet (UV) light produced by the sun. Ozone depleting substances (ODS) contribute to the breakdown of ozone into oxygen in the upper atmosphere, and consequently allow these harmful rays to pass through the Earth's atmosphere. It is suspected that a variety of biological consequences such as increases in skin cancer, cataracts, damage to plants, and reduction of plankton populations in the oceans' photic zone may result from the increased UV exposure due to ozone depletion.

Common examples of ODS potentially used in oil and gas exploration and production activities include refrigerants, solvents, foam blowing agents and fire fighting fluids, such as the fluorinated gases chlorofluorocarbons, hydrochlorofluorocarbons and Halon. Premier Oil will audit the *Eirik Raude* prior to accepting the rig on hire to ensure that all of the appropriate certificates are in place and that international standards are being met.

No ozone depleting substances will be used except hermetically sealed domestic-type appliances (e.g. refrigerators) with an inventory <3 kg.

Ocean acidification

Along with the impact of CO₂ as a greenhouse gas, it is also responsible for ocean acidification. As CO₂ is absorbed from the atmosphere by direct air-sea exchange it dissolves in the oceans to form carbonic acid (H₂CO₃), which leads to ocean acidification. One well-known effect of ocean acidification is the lowering of calcium carbonate saturation states, which impacts shell-forming marine organisms from plankton to benthic molluscs, echinoderms, and corals (Doney et al, 2009).

The principal combustion product of the proposed 2015 drilling campaign activities is CO₂, which is directly related to the rate of ocean acidification. The amount of CO₂ generated as a result of the proposed drilling campaign is finite and very low in relation to overall UK emissions and would therefore have a negligible effect on the oceans' pH.

Regional air quality

At the local, regional and transboundary levels, gaseous emissions may impact air quality. Key issues include the formation of acid rain from oxides of sulphur (SO_x) and nitrogen (NO_x), direct impacts on human health from particulate matter (formed by chemical reactions involving pre-cursor gases NO_x, SO_x, and volatile organic compounds (VOCs)) (EEA, 2012).

The primary contributors to atmospheric emissions come from rig and vessel movement and operation, and return charter flights to the UK. These activities will either take place in the offshore environment over 200 km from the nearest land, or along the flight path from the UK to the Falkland Islands. Any impacts to the local air quality from offshore operations are considered to be minimal, and would only have a very low level and short-term effect on local air and marine life with no expected effects on the population of the Falkland Islands.

The quantity of emissions generated during the 2015 exploration campaign is expected to have a '**Slight**' effect to the environmental receptors, which in the context of global emissions have a '**low**' sensitivity. Consequently the overall significance has been assessed as '**Low**'. These activities will contribute a very small incremental effect to global atmospheric emissions. The activity has been well defined, the sensitivity of the receptor and nature of the impacts are well understood and hence the impact predictions are considered to be of '**Certain**' degree of confidence.

Generation of Artificial Light Offshore

Artificial light can affect the natural behaviour of animals leading to attraction and disorientation of animals when exposed to man-made light sources. This behaviour can be exploited to catch squid, as seen in the large fleet of jiggers that operate in Falklands waters. Seabirds have evolved in what is essentially a dark night-time environment. However, they do use naturally occurring sources of light, such as the moon and stars and bioluminescence to navigate and find food. It has long been known that seabirds are attracted to artificial lights at-sea, which can lead to birds colliding with vessels. When large numbers of birds are involved, this is known as a bird strike. Birds can suffer injury or die directly from a collision. If they survive, a bird's feathers frequently come into contact with oil or grease on the deck, which results in a loss of waterproofing and a risk of hypothermia.

Offshore operations associated with the campaign will introduce several sources of artificial light into the offshore waters of the NFB, including supply vessels, the standby vessel and the drilling rig. Drilling, and other rig activities, will operate for 24 hours a day and to do this safely, all working areas will have to be well illuminated. Sources of light on the vessels will include navigational lights, illuminated living spaces within the ships and rig, floodlighting to provide a safe working environment on the decks of ships and rig and any gas or oil brought to the surface will be flared (burnt) off.

Recorded bird strike events indicate that the most vulnerable species are small nocturnally active petrels and shearwaters. The abundance of these birds within the NFB varies seasonally, with highest numbers encountered during the summer months. Plankton, fish and squid may also be attracted to artificial light but there is no apparent negative impact on these animals.

Bird strikes occur sporadically and are linked to; light use, seabird abundance and weather conditions on any given night. Although birds can become disorientated at any time, large bird strikes tend to be associated with the use of bright lights in areas containing high densities of birds on nights when visibility is poor (due to fog or snow).

It is not possible to quantify the number of birds at risk from bird strikes, caused by artificial lighting, during the 2015 campaign. However, from experience gained on vessels that operate in Falkland Islands waters and on oil and gas platforms elsewhere, it is considered likely that some birds will collide with vessels at-sea or the rig. Although the species concerned have large population sizes, a collision with a vessel, the rig or flare is likely to result in injury and/or death of the individual. However, it is considered that the impact would be barely detectable on the size of any species' population, as the impact is localised and short-term. The proportion of the local populations that are at risk is considered to be small, as most of the vulnerable species migrate away from Falklands waters in the winter. Overall, the significance of the impact of artificial light on seabirds has been assessed as 'Low'. The duration of the campaign and light sources have been confirmed, though flaring activities have, as yet, not been confirmed. The nature of the impact on the environmental receptor is understood, however, the scale of the potential impact is difficult to predict due to its episodic nature. As such, the level of confidence in the impact predictions is considered to be 'Probable'.

Despite the apparently Low impact, some simple measures can be taken to reduce the horizontal spread of light, which would further reduce the risk to seabirds. Floodlights can be directed downwards and inboard whenever possible and practical, and accommodation should be blacked-out. If flaring occurs, a seabird observer will be deployed to attempt to quantify the scale of the impact.

Inshore and Onshore Impacts

Introduction

Stanley will be the hub through which all cargo and personnel will pass before onward transport to the drilling rig. Inshore and onshore impacts cover a range of activities associated with the operation of vessels, on the TDF and at the laydown yard. These include:

- Interference to other sea users due to increased vessel traffic in Stanley Harbour;
- Collisions between support or supply vessels and marine mammals;
- Introduction of marine invasive species by support or supply vessels;
- Disturbance to wildlife and the human population onshore from helicopter noise;
- Introduction of terrestrial invasive species with cargo;
- Disturbance to Stanley residents and wildlife from inshore and onshore light and noise sources; and
- Demands for accommodation in Stanley.

Impacts associated with each of these aspects and activities are described below:

Interference to other sea users due to increased vessel traffic in Stanley Harbour

Stanley is a working harbour used by fishing vessels, cruise ships and cargo vessels. Space for vessel manoeuvres in Stanley Harbour and through the passage into Port William (The Narrows) can be tight and there is a history of vessel collisions and groundings within these areas. The 2015 drilling campaign will increase the amount of shipping traffic in the Harbour, which has the potential to interfere with other sea users.

A number of different vessels associated with the 2015 drilling campaign will be using Stanley Harbour. These include;

- Coaster cargo vessels will travel between Aberdeen (Scotland) and Stanley to deliver all the equipment required for the drilling campaign. On average, a coaster will arrive in Stanley Harbour every 10 to 14 days over a period of 5-6 months. On arrival, coasters will moor alongside the TDF to facilitate the transfer of cargo.
- The two rig supply vessels will travel between the drilling rig and Stanley on a five to seven day rotation throughout the drilling campaign. On arrival in Stanley Harbour, these vessels will moor alongside the TDF to facilitate the transfer of cargo.
- The rig standby/guard vessel will spend the majority of the time offshore, close to the position of the rig, however, it will return to Stanley occasionally (on a four-six week basis) to refuel and change crew.

Any disruption to third-party vessels has the potential to impact fishing and cargo operations, which could result in a loss of business revenue, due to the additional time and fuel needed to complete their activities. The key area restricting shipping activity in Stanley Harbour is the lack of berth space at the Falklands Interim Port and Storage System (FIPASS). At times, demand outstrips available space and vessels may have to leave FIPASS and anchor to create space for other vessels, or wait for a berth to become available. Due to the necessity to transfer cargo to and from lay-down yards onshore, the oil and gas industry have been heavy users of FIPASS in previous campaigns.

The number of visits to FIPASS by regular users (fishing and cargo vessels etc.) was reasonably consistent between 2008 and 2013, however, supply vessel visits varied considerably, reflecting oil and gas exploration activity. Exploration drilling campaigns were on-going throughout most of 2010, 2011 and into 2012. The necessity to move cargo through FIPASS resulted in a considerable increase in demand for this facility. For instance; during 2011, supply vessels accounted for over 39% of all vessel visits to FIPASS.

Although the construction of the TDF will take much of the pressure from the oil and gas industry away from FIPASS, the TDF has no capacity to refuel vessels. Therefore, there will be a degree of interference while refuelling takes place.

The TDF is situated in an area that is not usually used as an anchorage so the disruption to other users of Stanley Harbour, who wish to anchor, will be minimal. On the basis of the localised and short-term nature of the impact, the severity of disruption to other user of Stanley Harbour is assessed as 'Minor'. With the TDF in place, there is moderate capacity to absorb the added pressure from the oil and gas industry without significant alterations to present working practices. There will however be some disruption to other users of Stanley Harbour, which may have economic implications. Therefore the sensitivity of the receptors involved has been assessed as 'Moderate'. The overall significance is assessed as 'Moderate' and measures are proposed to reduce the impact on other users of Stanley Harbour, including;

- The appointment of a Marine Superintendent who will liaise with the Harbour Master, FIPASS management, Stanley Services and other users, and who will help to keep everyone well informed and promote good working relationships;
- Notes to Mariners will be issued to inform all masters of vessels of the presence of a new shoreline facility;
- A navigational risk assessment will be completed to inform the preparation of a Stanley Harbour Management Plan. This Plan will be prepared in close collaboration with the Harbour Master and cover the following as a minimum: pre-notification protocols associated with the entry of vessels in Stanley Harbour; pre-defined passage routes within Stanley Harbour; procedures associated with vessel collision and emergency response;
- Marine night-time lighting will be required and procedures will be put in place for periods of poor weather.

Collisions between support or supply vessels and marine mammals

Elsewhere in the world, collisions between cetaceans and vessels are having a negative impact on the populations of Endangered species.

As discussed, the 2015 drilling campaign will increase the amount of shipping traffic over inshore waters close to Stanley. At certain times of the year, large numbers of sei whales can be encountered within these waters of the Falkland Islands. As a hub for vessel traffic and sei whale activity there is a risk of collisions between vessels and these animals in inshore waters close to Stanley.

The sei whale is by far the most numerous species of large whale in the coastal waters near Stanley but they are also found throughout the inshore waters of the entire archipelago. Anecdotally, there is evidence that the number of sei whales within Falklands waters, has been increasing over the past 15 years. However, sufficient survey data to determine a population estimate is currently unavailable.

Sei whales appear to respond to approaching vessels and are relatively fast swimmers, and they tend to swim just below the surface leaving a clear trail of 'fluke prints' in their wake. There are many records from around the world of collisions between sei whales and vessels, collated by the International Whaling Commission.

The probability of a collision between a cetacean and a vessel is related to the density of shipping traffic and cetacean density in the same area. The outcome of the collision is related to the size and speed of the vessel. The supply vessels used in previous campaigns have been approximately 80 m in length and travel at about 12 knots. The available data suggests that a cetacean would have in the region of a 50% chance of surviving a collision with such a vessel.

As shipping traffic increases and whale populations begin to recover from the impact of commercial whaling, the likelihood of collisions between cetaceans and shipping increases. Currently, this is a very much understudied area and research efforts have been focused on protecting Endangered species.

The conservation status and life history of large cetaceans mean that any collision that could result in mortality would have a moderate short-term impact on the species. For these reasons the severity of collisions between ships and cetaceans has been assessed as '**Moderate**'.

Although the drilling campaign will increase shipping by about 25%, the total number of vessel visits to Berkeley Sound and Port William is relatively low (about 1,500 per year). Collisions between cetaceans and shipping are often unreported or unobserved. However, the lack of recorded incidents and relatively low density of shipping suggest that this is not currently a major issue in the waters around the Falklands. The likelihood of a collision has been assessed as '**Remote**'.

The overall significance of collisions between vessels and cetaceans has been assessed as '**Moderate**' and measures will be put in place to reduce the risk. Data gaps exist regarding the inter-annual variation in density of marine mammals in the Falklands, and it is clear that not all incidents of collisions between marine mammals and vessels are reported or even evident to the crew of the vessel. For these reasons, confidence in the assessment is '**Probable**'.

A number of common sense precautions should be taken to reduce the likelihood of collisions with cetaceans;

- Mariners should be made aware of the issue and how it relates to the Falkland Islands (see IFAW (2013) leaflet); and
- Along with the usual duties of a watch keeper, additional vigilance is required to detect cetaceans in inshore waters.

Introduction of marine invasive species by support or supply vessels

The International Union for the Conservation of Nature (IUCN) has identified the introduction of non-native species as one of the major threats to native biological diversity. Island ecosystems are particularly vulnerable to the introduction of non-native species, as animals and plants may have evolved in the absence of competitors, predators or disease. If non-native species are introduced, and go on to survive, reproduce and thrive, they often have a major impact on native biodiversity but can also have a socio-economic impact. At this stage, the introduced species becomes invasive.

The nature of the impact of an invasive species depends on the species concerned and how it interacts with the local environment and species.

The nature of the marine environment makes it difficult to detect the introduction of non-native species before they have become established. Once established, marine invasive species are virtually impossible to remove. There are many examples from around the world where invasive species are having a dramatic impact. Recent dive surveys in Stanley Harbour have identified several invasive species but their impact appears to be minor at present.

The past history of a vessel and the similarity between the home and destination ports, in terms of water temperature and salinity, influence the likelihood of introducing non-native species. For instance, vessels that are tied up in port will

accumulate more biofouling organisms than a vessel that is active offshore. The identity of the vessels involved in the drilling campaign is currently unknown but they are likely to come from either Aberdeen, Scotland or West Africa.

In the marine environment, there are two main routes for non-native species introduction;

- Ballast water – ballast, in the form of seawater, is used to trim a vessel to improve stability. Ballast water will contain planktonic organisms; including larval stages and eggs. When ballast water is discharged, these organisms can be introduced to a ‘new’ environment.
- Biofouling – is the growth of marine organisms on the subsea surface of a vessel. In particular, semi-enclosed areas (such as sea chests) can harbour a diverse assemblage of encrusting organisms.

In recognition of this threat, there are International conventions and International Maritime Organisation (IMO) guidelines to prevent the spread of marine invasive species.

If invasive species were introduced during the drilling campaign the impact on the benthic ecology of the Islands may not be evident for a number of years. However, the long-term implications for the Islands ecology could be severe and irreversible. The severity of the impact will be species specific but following the precautionary principle (worst-case scenario) the severity has been assessed as ‘**Major**’.

There are International conventions regarding ballast water and biofouling management. Although the Falklands are currently not signatories, the vessels used during the drilling campaign will follow the IMO’s best practice guidelines. The IMO’s guidelines on exchanging ballast water and managing biofouling organisms, will greatly reduce the likelihood of introducing non-native species. Introduction of invasive species has happened in the Falklands, and by the industry elsewhere, and therefore the likelihood of invasive species becoming established as a result of the Drilling campaign has been assessed as ‘**Remote**’.

The overall significance of the introduction of invasive species has been assessed as ‘**Moderate**’ and measures will be put in place to reduce the significance, including;

- The rig, *Eirik Raude*, will be carrying some ballast water while on passage to the Falklands, however, they will be following the IMO guidelines on ballast water exchange;
- The *Eirik Raude* has recently been cleaned and surveyed by divers. Prior to departing for the Falklands a second survey will be completed;
- All vessels entering Falklands waters will conduct ballast water exchange in line with IMO guidelines; and
- Checks will be made to ensure that the Biofouling Management Plans of all vessels involved in the campaign are up to date.

Disturbance to wildlife, livestock and the human population onshore from helicopter noise

Helicopters will be used throughout the drilling campaign to transport personnel between Stanley (and Mount Pleasant Airport) and the drilling rig. There is concern that overflying helicopters could cause disturbance to wildlife, the local community and livestock.

Three Sikorsky S92 helicopters will be used throughout the campaign. Flights will occur on a daily basis but multiple flights (five) will occur every two weeks to facilitate crew changes. If the same flight path is used, this has the potential to cause disturbance to wildlife, livestock and the human population of the Falklands.

Penguins appear to be particularly vulnerable to this type of disturbance, particularly when breeding or moulting. Disturbance of breeding birds could result in the loss of eggs or chicks to predators or being crushed by panicked adults. When moulting, penguins are unable to enter the water to feed for about a month, this is energetically extremely demanding and any disturbance would place an additional burden on the animal’s reserves. The most vulnerable species are king penguins, which breed year-round at Volunteer Point. Other species of penguin will be moulting in the early weeks of the campaign.

The helicopters will be based at Stanley Airport, which is approximately 3.5 km from the nearest residents of Stanley. There are numerous Camp settlements that are potentially on the flight path between Stanley and the rig.

The positions of all vulnerable seabird colonies, National Nature Reserves, IBAs and Camp settlements are known and flight plans can be routed to avoid overflying these areas. When it is not possible to avoid an area completely minimum flight heights will be specified.

Due to the potential for chronic effects in small areas over the course of the campaign (scheduled March-November), the severity of helicopter over-flights on wildlife has been assessed as ‘**Moderate**’.

There are areas that are designated as NNRs close to the direct flight paths between the rig and Stanley or MPC; Kidney and Cochon Islands, Volunteer Point and Cow Bay, Cape Dolphin and Moss Side. Additionally, the north coast of East Falkland, known as Seal Bay, and Bertha's Beach, near MPC, are designated IBAs for their colonies of penguins. The national importance of these areas means that the sensitivity of the receptors is assessed as **'High'**. The overall significance of the potential disturbance caused by helicopters to local wildlife is **'Moderate'**. To mitigate this, specific flight paths will be planned to avoid sensitive areas. Where this is not possible a minimum flight height of 3,000 ft (900 m) will be required.

The impact of helicopter noise will be localised and short-term resulting in a barely detectable impact on the local population. The severity of the impact on Falklands' residents is **'Minor'**.

The use of aircraft to transport passengers is an everyday occurrence in the Falklands so there is a degree of tolerance. Direct flight lines between the heliports and the drilling rig locations do not pass directly over settlements. The sensitivity of the local population to helicopter disturbance is assessed as **'Low'**. The overall significance of helicopter noise on the human population is **'Low'**. However, flight paths will be planned and reviewed to ensure minimal disturbance to the human population, along with wildlife and livestock.

The project activities are clearly defined and avoiding sensitive areas should be easily achievable. As such, confidence in the assessment is **'Certain'**.

Introduction of terrestrial invasive species with cargo imports

In the past, there have been numerous introductions of non-native terrestrial species into the Falkland Islands. In recent years, there has been a concerted effort by the Falkland Islands Government (FIG) to reduce the risk of visitors to the Islands unintentionally introducing more non-native species and biosecurity procedures have been improved. There are numerous examples in the Islands where invasive species have had socio-economic impacts and almost certainly impact on the biodiversity of the Islands. For example, the invasion by the European earwig (*Forficula auricularia*) of Stanley is a timely reminder of the risks posed by non-native species.

Any cargo arriving from outside the Islands during the 2015 exploratory campaign poses a risk of unintentionally introducing non-native species. In this regard, the highest risks are invertebrates, seeds and soil (containing micro-organisms) that can adhere to the outside of containers or be hidden within cargo. During the previous round of exploratory drilling in 2011, fresh fruit and vegetables were imported into the Falkland Islands on the campaign charter flight. Whilst this was welcomed by local residents, it also represents one of the greatest risks of introducing non-native species; within the produce, in adhering soil or packaging.

It is clear that many species have been introduced in the past; however, quantifying the risk is not straight forward. It is likely that many cargos arriving in the Falklands are harbouring some non-native species, whether these are able to survive, and breed to become invasive depends on the species concerned and whether they find a niche to exploit in the Falklands. Therefore, the impact of any introduction should be assessed on a case-by-case basis.

The long-term implications for the Islands could be severe and difficult to reverse. In the terrestrial environment the possibility of detecting potential invasive species and eradication, thereby reversing the effect, is easier than in the marine environment, on this basis the severity has been assessed as **'Moderate'**.

The transportation of invasive species to the Falklands has happened in recent years. Additionally, the introduction of invasive species has happened in the industry elsewhere in the world and therefore the likelihood of invasive species becoming established as a result of the drilling campaign has been assessed as **'Possible'**. The overall significance of the impact is assessed as **'Moderate'** and measures will be taken to reduce the potential impact. Confidence in the assessment is assessed as **'Probable'**.

The best means of reducing the likelihood of introducing non-native species is to ensure that all materials are clean when packed or loaded in the port of origin, particularly items of fresh fruit and vegetables.

- All PMO personnel should be briefed on the significance of non-native species and instructed to capture/kill any invertebrates that are found while unloading/unpacking cargo.
- Cargo should be clean when packed and sealed in invertebrate proof packaging, where appropriate.
- Falkland Islands Biosecurity Guidelines will be adhered to for any freight imported via the charter flight or via vessels docked at the TDF.

On arrival in the Falkland Islands, cargo will be inspected for biosecurity breaches. Any breaches should be reported to the FIG Biosecurity Officer.

Disturbance to Stanley Residents and Wildlife from Inshore and Onshore Light and Noise Sources

Prior to the start of construction, an EIA was completed to cover the construction, operation and decommissioning of the TDF (Noble Energy/RPS, 2013). The findings of that assessment are discussed and updated in line with activities specific to the 2015 exploratory campaign.

The main environmental impacts are associated with production of artificial light and noise. It is anticipated that at times the TDF, and laydown yards will be floodlit to enable safe working of cargo. Activity on the TDF could occur 24 hours a day, seven days a week, therefore, there could be a visual impact during night time hours. The most significant noise generating sources and activities during operations are considered to be:

- Vessel arrival / departure during drilling programme Supply Vessels, typically 5,000 to 10,000 BHP; and
- Vessel loading / unloading using a 250-tonne crane, a 30-tonne crane; and a 15-tonne forklift.

The potential receptors to light and noise disturbance are;

- The residents of Stanley;
- FIG Air Service (FIGAS) pilots; and
- Local wildlife.

Light and Stanley Residents

Light spillage towards Stanley will be minimised, given the orientation of the lights and attenuation with distance. In addition, the lighting is unlikely to add significantly to the light emitted by FIPASS and will be of a similar nature to that already employed there. The impact will be localised and short-term and therefore the severity is assessed as 'Minor'. The sensitivity of Stanley residents is assessed as 'Low' as they are already subjected to artificial light from FIPASS and from within the town. Overall the significance of the laydown yard lighting on the residents of Stanley is assessed as 'Low' and no mitigation measures are proposed.

Light and FIGAS Pilots

The main deck lights of vessels alongside the TDF will face east, towards Stanley airport. Although lights are downwards facing this has the potential to temporarily interfere with the night vision of pilots and the severity is assessed as 'Moderate'. The potential for disruption to night flights from Stanley Airport is clearly of concern to stakeholders. Therefore, without mitigation, the sensitivity of FIGAS pilots is assessed as 'Moderate'. The overall significance of laydown yard lighting on FIGAS pilots is assessed as 'Moderate' and mitigation measures are proposed to reduce the impact, including;

- All lamp units, save those required for safety and navigation aids, will be pointed in-board towards the causeway and barge, to reduce potential light pollution to local residents in Stanley;
- The TDF and laydown yard permanent lighting will be designed and implemented in accordance with the Health and Safety in Ports (SIP009) Guidance on Lighting. This is a document jointly prepared by Port Skills and Safety with assistance from the UK Health & Safety Executive (HSE). This will ensure that the artificial lighting used does not generate light spill or reflection that could be a possible nuisance to local residents or attract wildlife; and
- Premier Oil will continue consultation with FIGAS to ensure that the lighting design minimises any potential issues related to the operations of flights in and out of Stanley Airport.

Light and Local Wildlife

The impact resulting from the drilling campaign will be localised and short-term and in the context of current ambient light levels will have a negligible impact on the species concerned, therefore the severity of the impact has been assessed as 'Slight'.

The nearest breeding colonies of such species are not in direct line of sight of the TDF and laydown yard. However, given the National significance of the local sooty shearwater population the sensitivity of receptors has been assessed as 'Moderate'. The significance of the impact of laydown yard lighting on local wildlife is assessed as 'Low' and no mitigation measures are proposed.

Noise and Environmental Receptors

The magnitude of noise impact during loading and unloading at the TDF and laydown yard during a calm and dry night for which there is a light easterly wind (worst-case scenario) is considered to be negligible and unlikely to cause any potential impact to local residents (Noble Energy/RPS, 2013). The predominant wind direction is westerly so these conditions occur for a minority of the time. The severity of the impact is assessed as 'Slight' and the sensitivity of receptors is 'Very Low'.

The significance of noise has been assessed as 'Low', however, the following measures will further reduce the impact on Stanley residents and local wildlife.

- Vessel movements will be reduced where possible through optimised planning, making efficient use of vessel loads;
- All vessel engines shall be switched off whilst not in use and not left to idle, where possible; and
- Loading or unloading operations at night shall not normally occur and if necessary will be minimised where practicable.

This assessment relies largely on the EIA, and associated modelling, that was presented prior to the construction of the TDF (Noble Energy/RPS, 2013). The TDF and laydown yard adds to existing sources of light and noise in the industrialised area to the east of Stanley and therefore the nature of the impact is well understood. However, a degree of monitoring is required to ensure that artificial lights do not interfere with FIGAS flights or local wildlife. Therefore the confidence in the assessment is 'Probable'.

Demands for accommodation in Stanley.

Throughout the drilling campaign, it is anticipated that approximately 85 additional personnel (representing Premier Oil, Noble Energy, third parties and stand-by crew) will be based in Stanley. The majority of personnel will be based offshore but will pass through Stanley during crew changes. During previous exploration campaigns, personnel have been accommodated in local hotels, guesthouses or rental property. However, there is a limit to the number of available beds and properties in Stanley and therefore a strategy to accommodate the majority of these personnel in a purpose built temporary accommodation unit during the 2015 campaign is being explored. If developed, the temporary accommodation unit would also be sufficient to house up to 160 workers, which would be the case in the event that all workers were evacuated from the rig, i.e. it was 'down-manned'.

A small number of additional shore based personnel (five individuals) will be working in Stanley during the 2015 campaign. These personnel will be based in local rented accommodation, and will consequently add some pressure to the local housing market.

At the time of writing, the location and footprint of the temporary accommodation unit are not known. These are clearly critical factors in determining the environmental impact of a building of this type. Once plans have been finalised, the unit will go through the planning process and a dedicated EIA will be prepared.

Waste Management

Any industrial process will produce waste products, some waste is inherently hazardous to the environment but only if it is improperly managed. Modern disposal and recycling techniques can be employed to minimise the impact on the environment, however, appropriate waste management facilities are not available in the Falkland Islands. International legislation (notably MARPOL) and the 'Duty of Care' principle outlined in the UK's Environmental Protection Act 1990 guide much of the Premier Oil's waste management strategy.

Premier Oil's waste management strategy for the drilling campaign will have waste that can be discharged at-sea under MARPOL regulations (blackwater (sewage), grey water (water from domestic use) and galley food waste) being treated accordingly and disposed to sea. All other waste will be separated into streams, stored securely and transported to Stanley for onward processing. The majority of waste will be shipped back to the UK for recycling, treatment or disposal, but there is the option for certain waste streams to be disposed of in the Falklands, though this will not include landfilling waste at Eliza Cove.

Tenders are currently being sought for the disposal of certain small quantities of waste in the Falklands. Other than that, all waste will be returned to Stanley to be consolidated before shipment to waste processors in the UK.

The only other discharges that are permissible at-sea are rainwater and bilge water that has passed through the deck drainage system, which is fitted with an oil separator to remove any contaminants that may have been picked-up from the deck or bilge.

Solid waste (sewage and food) will be macerated before being discharged, to achieve no floating solids and no discolouration of surrounding water as per MARPOL requirements. The discharge point is 12.5 m below the surface of the water. The discharge of blackwater, grey water and sewage may lead to localised nutrient enrichment, however, the dynamic nature of the offshore environment will rapidly disperse the additional nutrients with little impact on water quality. Additionally, the activity of bacteria and other marine organisms will rapidly break down organic waste. The assessment indicates that there is no significant impact on the marine environment from the planned discharges at-sea.

The quantities of other waste products produced during the drilling campaign have been estimated from the amount of waste generated in previous exploratory drilling campaigns. Waste will be handled, transported and processed in accordance with a Project Waste Management Plan. Each stream will be stored separately in containers that are appropriate for preventing the loss of waste while in transit or storage. The provision of hard-standing and bunding within waste storage areas will contain hazardous materials in the event of an accidental release and enable a rapid on site clean-up resulting in a barely detectable impact on the environment or human health. With the appropriate waste handling and storage protocols in place the risk of the accidental release of hazardous waste into the environment is not anticipated to be an issue.

Tenders are currently being sought for the disposal of certain small quantities of waste in the Falklands. Other than that, all waste will be returned to Stanley to be consolidated before shipment to waste processors in the UK.

Discharge of Drilling Mud and Cuttings

A combination of seawater and water base muds (WBM) (an aqueous suspension of clay or other viscosifiers such as bentonite) will be used during the drilling operations to lubricate the drill bit and to return the rock cuttings from the wellbore bore back to the surface. The mud and cuttings will eventually be discharged to sea at each well site. The majority of WBM chemicals planned for use are considered to Pose Little or No Risk, known as PLONOR chemicals.

During drilling of the top two sections of the well, drill cuttings will be discharged directly onto the seabed, whilst drilling the following sections of the well, the mud and cuttings will be returned to the rig through a riser pipe and will be discharged near the sea surface.

Discharges of WBM and drill cuttings result in the suspension of particulates in the water column which may affect the local water quality and the plankton and fish species living within it, from increased turbidity reducing light levels to particulates causing physical damage to gill structures. Deposition of the material on the seabed, affects the sediment quality through change in particle size, which also leads to habitat modification for animals living on the seabed. Where deposition thickness exceeds 6.5mm this may lead to smothering of sessile organisms and particle overloading of suspension feeders.

The predicted impact for the discharge of mud and cuttings was estimated using the DREAM/ParTrack model, developed by SINTEF (Stiftelsen for industriell og teknisk forskning – The Foundation for Scientific and Industrial Research) in Norway, which calculates the dispersion and deposition of drilling muds and cuttings on the seabed and the dispersion of chemicals and particles in the water column (Genesis, 2014b). The ParTrack model predicted environmental risk to the sediment due to cuttings deposition persisting for approximately five years post drilling, with effect remaining relatively localised within 50 m of each well. Effects relating to changes in sediment grain size were predicted to account for the majority of environmental risk to the sediment, with effects persisting for at least ten years and affecting an area of 0.015 km². Risk to the water column was primarily due to dissolved components and was predicted to extend further than risks to the seabed, affecting a volume of approximately 0.025 km³. However, the effects will be very short-term with risk falling to acceptable levels within several hours of each discharge as particles are dispersed by the currents. The impacts to each receptor are discussed below:

- Seabed Sediment - The severity of the impact to sediment quality is assessed as '**Moderate**' having an effect over a relatively small area, but that will persist for at least ten years. The sensitivity is assessed as '**Very Low**' as the habitat is undesignated and widespread. The overall significance is '**Low**'.
- Water Quality - The increase in turbidity will reduce water quality in a small volume of water in surface waters and near the seabed. The operations would be of short duration with recovery occurring within hours. Hence the severity of impact to the water column was assessed as '**Minor**', and the sensitivity as '**Very Low**' given the area of affected water column is not very productive in the austral winter. The overall significance is '**Low**'.
- Phytoplankton and Zooplankton - The increase in turbidity will affect a very small volume in the upper water column and is predicted to recover within hours, consequently the severity to plankton is assessed as '**Minor**', and the receptor of '**Low**' sensitivity as species are widely distributed throughout the water column. The overall significance is '**Low**'.

- Benthic Fauna - Some organisms close to the well will be buried with re-colonisation commencing within 1-2 years of the end of cuttings discharge. Modification of sediment grain size will account for the greatest percentage of environmental risk and could affect the community structure for at least ten years. Consequently the severity of the impact to the benthic fauna is assessed to be '**Moderate**' and the sensitivity to be '**Very Low**' as no vulnerable species were identified in surveys and the community structure is widespread and typical of the area. The overall significance is '**Low**'.
- Fish and fisheries – Based on the absence of spawning commercial fish species on the Northern Slope, which are the most sensitive life stage; the relatively localised area of effect; short-term impact and reversibility of the effect the severity is assessed as '**Minor**'. The sensitivity of fish and fisheries is assessed as '**Low**', due to the mobile nature and very small proportion of any species population that would be affected. The overall significance is '**Low**'.

The pre-mitigation significance of cuttings discharge is assessed as '**Low**', however good practice measures will be followed during drilling operation to minimise the risk where possible.

Accidental Events

The following accidental events were identified during the Environmental Impact and Risk Identification (ENVID) process:

- Emergency situation leading to a significant loss of containment or an uncontrolled release;
- Accidental loss of containment during operations leading to small diesel or chemical spills;
- Major rig incident resulting in loss of rig;
- Major vessel incident resulting in a collision with rig or another vessel;
- Loss of containment of drilling mud from riser due to rig failing to maintain station.

Emergency situation leading to a significant loss of containment or an uncontrolled release

There are two main control measures that prevent the uncontrolled release of hydrocarbons during drilling, primary (maintaining hydrostatic pressure in the wellbore) and secondary (a blow-out-preventer (BOP) installed on the wellhead). In the unlikely event that both primary and secondary well controls fail, an uncontrolled release can occur.

A large scale uncontrolled release would have far reaching impacts on the marine, and potentially terrestrial, environment. To investigate the potential impact, an oil spill scenario in which 2,000 barrels (280.7 tonnes) per day for 78 days from the Isobel Deep well site was modelled by Genesis (2014a). Modelling was conducted using the Oil Spill Contingency and Response (OSCAR) model developed by SINTEF. The oil properties adopted for the uncontrolled release modelling are taken from the Sea Lion Field, which is a waxy crude. The scenario chosen in this assessment represents the worst-case conditions and the maximum spill possible for the Isobel Deep well, which is closer to the Falkland Islands than the other proposed well sites. The likelihood of an uncontrolled release occurring has been assessed as '**Remote**', it has happened in the industry but on extremely rare occasions.

The environmental impact would affect a wide range of receptors. The severity of impact to each environmental receptor will be different and dependent on the environmental conditions, and subsequent dispersion of oil, experienced in the weeks following any spill. The severity of the impact on each receptor is discussed below;

- Plankton - The results of the model predict that the oil will spread as waxy droplets under the influence of wind and currents, primarily in the surface layers of water. This zone is occupied by planktonic organisms and therefore the severity of the impact on plankton was assessed as '**Moderate**'.
- Benthic fauna - The wax will settle to the seabed about 80 days after the start of the uncontrolled release. At this stage the wax will continue to slowly degrade but with unknown long-term consequences for benthic fauna. Therefore the severity of the impact has been assessed as '**Major**'.
- Seabirds – Due to the spatial extent of the slick (potentially covering important seabird foraging areas) and the potential for chronic impacts on reproductive biology in long lived late reproducing species, the severity of the impact on seabirds is assessed as '**Major**'.
- Marine Mammals - The severity of the impact on marine mammals was assessed as '**Moderate**' because the waxy nature of the oil will mean a lower exposure to volatile and toxic components of the crude.
- Fish and fisheries - The model predicts that the slick will overlap with major fishing grounds, affecting different fisheries depending on the time of the year. An uncontrolled release might result in the closure of the

fishing grounds due to potential tainting and contamination. For fish and fisheries the severity of the impact is assessed as **'Major'**.

- Northern coastline - The model predicts that there would be a 40% chance of wax reaching the north coast of the Falklands. By the time the wax reaches the coast, it will be much dispersed and in the form of small waxy droplets. As there is still some uncertainty over the longer term chronic impacts on this environment, the severity of the impact on the coastal environment is assessed as **'Moderate'**.
- Tourism - It is likely that a major loss of containment and the media attention that such an event would generate would have long lasting negative impacts on tourism due to the perceived environmental degradation. The severity of this impact is assessed as **'Major'**.

Taking all of the potential receptors into account, the overall impact severity of a major loss of containment on the NFB ecosystem would have been **'Major'**. However, there are many unknowns in the model and the impact on environmental receptors. Although the impact may have serious multi-year consequences for the ecosystem of the NFB, this impact would be reversible. The likelihood of the impact occurring is remote, and hence the overall significance of the impact is **'Moderate'**.

There is a discernible risk to the environment; however, a number of measures to manage the risk are built into standard operating procedures (such as the use of a BOP). Nonetheless, Premier Oil are currently preparing a project specific Oil Spill Response Plan. If a spill occurred, tiered responses would be initiated, proportional to the spill. Key aspects of the response would be;

- Well intervention – these are means of stopping the flow of oil and could include the drilling of a relief well or the use of a subsea capping device;
- Surveillance - it is vital to track the progress of any spill with the aid of aerial surveys and tracking buoys;
- Dispersants - it is unlikely that dispersants would be effective on oil with a high wax content, like Sea Lion crude, and they are unlikely to be used, although they will be available in field in case hydrocarbons encountered are not as anticipated;
- Containment and recovery – under suitable weather conditions, booms and skimming devices can be used to recover oil at-sea. The supply vessels will be appropriately equipped to undertake this;
- Shoreline clean-up – an assessment of the sensitivity has been undertaken to prioritise sites in the event oil approaches the coastline (Premier Oil, 2014);
- Wildlife rescue and rehabilitation – specific response equipment to support wildlife rescue and rehabilitation will be available for the campaign.

With the measures outlined above in place, it is not possible to further reduce the likelihood of an uncontrolled release; however, an oil spill response will reduce the severity of the impact on the marine environment, in the unlikely event that a spill does occur.

Despite best working practices, it is not possible to completely eliminate the risk of accidental events. In recognition of this, compensatory mitigation may be appropriate. In the case of oil spills, this could be achieved by funding a wildlife recovery facility.

Accidental loss of containment during operations leading to diesel or chemical spills

Diesel fuel will be used to power the rig and all vessels involved in the drilling campaign. Large quantities have to be transferred and stored and accidental events could result in diesel spills. To investigate the likely behaviour of spilt diesel, two scenarios covering worst-case conditions were modelled;

- Scenario 1: Loss of containment during fuel/chemical transfer resulting in 30 tonnes of spilt diesel; and
- Scenario 2: Major loss of containment leading to the loss of the entire rig inventory of diesel (over 4,000 tonnes).

The OSCAR model that was used to describe the behaviour of crude oil following an uncontrolled release was also used to characterise the behaviour of offshore diesel spills, using the same environmental parameters.

Modelling results indicated that diesel fuel is rapidly dispersed but its volatile nature makes it more toxic than heavier crude oils. The areas of significant impact would occur over a relatively small area close to the spill site and within the surface layers of the sea. Potential receptors are plankton, fish and squid, seabirds and marine mammals.

The size of the spill does not necessarily relate directly to the magnitude of the impact, the impact is determined by how many receptors are exposed to the pollutant. Seasonal variations in the distribution of receptors may influence the scale

of the impact as much as the size of the spill, although smaller spills will disperse more rapidly. However, it is likely that the presence of the rig will act as a focal point for marine animals and therefore the greatest impact is likely to be close to the rig.

- Plankton – In both scenarios the diesel remains on or close to the surface of the water throughout the course of the model. Planktonic organisms will be contaminated over a small area for a short period of time and the severity is therefore considered to be **‘Minor’**.
- Fish, Squid and fisheries – As both scenarios are short lived and localised also only small concentrations will enter the water column, the severity is assessed as **‘Minor’**.
- Seabirds, Scenario 1 – As diesel will only be on the surface for a matter of hours the impact is short-lived and localised. However, the presence of the rig is likely to attract birds and it is these animals that are at greatest risk of suffering from the chronic impact of small scale leaks and spills and loss of containment events. The severity of scenario 1 to seabirds is assessed as **‘Moderate’**.

Scenario 2 – A far larger diesel spill, indicates that diesel will be on the surface for longer and will spread over a larger area. The potential impact increases in proportion to the size of the spill. Nonetheless, the area covered by the spill is still relatively small (on the scale of the NFB), the slick will be short-lived and any species of seabird impacted would recover relatively rapidly, hence the severity of the impact is assessed as **‘Moderate’**.

- Marine Mammals – Scenario 1 – There is no indication that the presence of a rig attracts associating marine mammals, although they could be attracted by potential prey species that may shelter near the rig. As cetaceans are more vulnerable to inhaling toxic vapour than by contact with skin and the short duration of the spill in surface water the severity is **‘Minor’**.

Scenario 2 – The potential impact from a larger spill increases. However, large diesel spills are short-lived and localised and likelihood of marine mammals being exposed and suffering serious adverse effects is low, therefore the severity is **‘Minor’**.

- Coastal Impact – In both scenarios the diesel evaporates quickly biodegrades or is dispersed in the water column, none of the diesel is transported to the coast, therefore the severity is assessed as **‘Slight’**.

In order to assess the significance of these events, the likelihood of each scenario occurring has to be considered. Minor spills do occur in the oil and gas industry, however, the quantities involved are usually far smaller (< one tonne) than that modelled in Scenario 1. The likelihood of small spills is assessed as **‘Rare’**. Scenario 2 would be far less likely and the likelihood is assessed as **‘Remote’**. Although on the scale used in this EIA the significance of Scenario 1 is **‘Moderate’** for all receptors, except the coast, and **‘Moderate’** in Scenario 2 for seabirds and **‘Low’** for all other receptors. Therefore, the greater likelihood of a smaller spill indicates that these are more significant events.

Measures will be in place to minimise the risk of all accidental events, those specific to reducing the risk or severity of small diesel spills are;

- Operating equipment within specified safe limits;
- Conducting maintenance and inspection routines on time and diligently;
- Investigating all leaks to determine root causes and take action to prevent reoccurrence;
- Ensuring that all pipe-work is isolated, drained and purged as required by the permit to work before breaking containment; and
- Where possible, all hoses used to transfer diesel oil will be fitted with dry-break couplings, which will seal the end of the hose in the event of the hose becoming accidentally disconnected and limit the amount discharged.

In Scenario 2, the most likely cause of a complete loss of diesel inventory is a collision with another vessel. The following measures will be in place to minimise the risk of vessel collisions:

- A 500 m radius exclusion zone will be established around the rig;
- A guard ship will be on permanent standby to ensure the exclusion zone is maintained, and assist in the event of accidental events;
- AIS and radar will monitor vessel traffic in the area; and
- Security radio broadcasts will warn all sea users of the rig’s position.

Additionally, in the event that a spill occurs, support vessels will be equipped with oil spill response equipment to respond appropriately to all credible scenarios.

There is little more that can be done to mitigate the risk of these events occurring and therefore an Oil Spill Response Plan is required to reduce the severity of the impact on the marine environment.

The volatile nature of diesel fuel means that any spill will rapidly evaporate, disperse and biodegrade, the impact will be localised and short-lived. The impact will depend on the density of environmental receptors in the immediate vicinity of the rig, which is not possible to predict. The rig itself will influence the distribution of seabirds and may also influence the distribution of marine mammals and their prey. The confidence in the impact assessment of diesel spills on the marine environment is therefore **'Probable'**.

Loss of containment of drilling mud from riser due to rig failing to maintain station.

Damage to the riser (the tube connecting the rig to the wellhead) during drilling operations could result in a loss of the drilling mud and cuttings within the riser, this can happen in the event that the drilling rig loses station in an emergency situation. Reasons for loss of station include; failure of position references, operator error, thruster failure and DP computer failure. The environment could also be a factor here especially in extreme weather conditions.

The loss of drilling mud would impact the water column and the seabed, potential receptors are;

- Seabed sediment – discharge direct to the seabed and settlement of particles through the water column will impact sediment chemistry and particle size over the affected area;
- Water quality – suspension of mud and cuttings in the water column as well as discharge to surface waters will impact water chemistry and turbidity;
- Phytoplankton and Zooplankton – organisms with limited mobility will be impacted by changes in local water quality;
- Benthic organisms – discharge of drill cuttings and mud affects benthic organisms through direct burial, habitat change and sediment suspension at the seabed; and
- Fish – mobile species such as fish may be affected if drilling coincides with certain life history stages such as spawning periods and juvenile stages when they inhabit particular spawning or nursery grounds, or if it coincides with productive feeding season and feeding grounds.

The mud used during the drilling campaign will be Water Based Mud (WBM). The impact of the loss of WBM contained within the riser was modelled using the same DREAM/ParTrack model, used to assess the impact of discharging drill cuttings and mud during drilling operations (Genesis, 2014a). The scenario for the release of WBM following a ruptured riser is based on release quantity of 100 m³ over one minute and the simulated duration was over one day.

WBM contains a number of chemicals most of which Pose Little Or No Risk (PLONOR) to the environment. In addition to the chemicals the muds contain Barite which due to the angular nature of the particles can damage the gills of marine organisms.

Any impact from the WBM released would be extremely localised and short-term. There is no significant effect on grain size, deposition thickness averages 0.005 mm and particles settle to the seabed within five minutes. The severity of the impact on plankton, fish, water quality, sediments and benthic organisms is assessed as **'Minor'**. The likelihood of a loss of mud containment due to a loss of station is assessed as **'Remote'** and the overall significance of the event would be is **'Low'**.

However, the loss of station is clearly undesirable and a number of practices and procedures will be in place to reduce the risk of loss of station and thus ultimately loss of containment of the riser;

- Redundancy is designed to ensure that DP related equipment are always available;
- DP trials on the rig will be undertaken when the rig reaches location and before operations commence;
- An exclusion zone of 500 m, guard vessel, radar, AIS and radio broadcasts to reduce the probability of vessel collision;
- Iceberg collision. Work to date shows that the risk of significant icebergs in the exploration drilling area is low. However, Premier Oil will have an ice management plan in place for the duration of the drilling campaign; and
- Continual monitoring of long-range and short-range weather forecasts, so that if storm conditions are predicted to exceed the safe weather conditions for the rig, a controlled containment and release from the wellhead could be performed if required.

Environmental Management

Through a systematic evaluation of the proposed exploration drilling campaign project related activities and their interactions with the environment, a variety of potential sources of impact were identified. The majority of activities were of limited extent and duration and deemed minor.

Those activities that were identified as being of potentially greater concern were assessed further in the main risk assessment chapters. A number of environmental management actions were highlighted for consideration during final project planning and execution. Premier Oil will manage these actions in the framework of their project specific environmental management plan (EMP).

Conclusion

The overall conclusion of the Environmental Impact Assessment is that with the implementation of the proposed mitigation and risk reduction measures, the proposed exploration campaign will not result in any significant adverse effects on the environment or those who may be affected by potential project environmental impacts.

Figure 4: Summary of Risk Assessment Process and Outcomes

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
All Aspects	Generation of atmospheric emissions from vessel movements, drilling, potential flaring	Combustion of fuel contributing to greenhouse gases (direct CO ₂ , CH ₄ , N ₂ O, indirect NO _x , SO ₂ , CO, VOCs); local air quality (via photochemical pollution formation (NO _x , SO ₂ , VOCs)); and ocean acidification (CO ₂)	Total greenhouse gases generated from the campaign would be ~0.02% of total UK emissions and campaign flaring emissions would be ~0.7% of UK flaring. The offshore conditions in the North Falkland Basin would rapidly dissipate any effects on air quality, which would be temporary and localised. CO ₂ generated during the campaign would have a negligible effect on the oceans pH.			All vessels used during the campaign will comply with MARPOL and the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008, which controls the levels of pollutants entering the atmosphere. Vessel will be audited. Well schedules will be optimised to minimise time drilling.	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Rig and Vessel operations	Underwater noise from rig and vessel movements, drilling and VSP	Vessel activities produce predominantly low frequency (<1,000 Hz) continuous sounds that are less than 190 dB re.1μPa at source. VSP airguns produce high intensity (230-240 dB re.1μPa), low frequency (10-150 Hz) pulsed sounds.	Marine mammals are considered to be of the greatest conservation concern in relation to underwater noise pollution, they are protected species that are known to use sound to communicate over large distances, navigate and detect potential prey or predators. Marine animals within 100 m of the airgun could experience hearing loss, which in terms of the North Falkland Basin is a very localised area.			JNCC guidance will be followed, marine mammal observers will be deployed to search for marine mammals within a safety zone (500 m radius) for a period of 60 minutes prior to firing of airguns, soft-start procedures will be followed and VSP activity will commence during daylight hours.	Low
			Severity	Sensitivity	Significance		
			Moderate	High	MODERATE		
Rig and Vessel operations	Placement of rig clump weight on the seabed	A clump weight is a relatively small (465 kg) weight that sits on the seabed and is connected to the rig by a tension wire. This system is used to automatically maintain the rig's position.	The deployment of a clump weight will cause a degree of disturbance to the seabed. This represents such a small area it was regarded as insignificant.			A Longbase Line (LBL) system will be used, which relies on the accurate positioning of transponders. This also minimises disturbance on the sea bed.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Rig and Vessel operations	Physical presence of rig	The presence of the rig and its 500 m radius exclusion zone could potentially interfere with commercial fishing or shipping.	All vessels will be excluded from a 500 m radius of the rig. This will cause virtually no impact as the well locations are not on busy shipping lanes or fishing grounds.			All vessels in the area will be informed of the rig's position and intentions by radio broadcast and AIS, which will allow vessels to reroute with minimal disruption.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Rig and Vessel operations. Drilling operations	Generation of artificial light on rig and support vessels	Attraction of marine life, e.g. plankton, fish, squid and seabirds to artificial light offshore. Subsequent collision risk for seabirds with the rig or vessels.	Impact on zooplankton, fish and squid very small and localised - minor severity. Impact on seabirds localised and short-term, less than 1% of the local population at risk			The use of blackout blinds/curtains would eliminate light from living spaces. The majority of lights on the rig will be directed inwards to allow safe working conditions however, outward facing lights are necessary for navigation and safety, so cannot be reduced.	Low
			Severity	Sensitivity	Significance		
			Minor	Low	LOW		
Rig and Vessel operations	Discharges of vessel drainage, firewater, sewage and galley waste from rig and vessels	Release of contaminants leading to deterioration in seawater quality and localised increase in Biological Oxygen Demand (BOD) around the discharge point	Impact on water quality, plankton, fish and squid will be very small, localised and temporary.			Sewage will be treated prior to disposal at sea. Vessels will be audited to ensure compliance. Food waste will be macerated as required by MARPOL and The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Rig and Vessel operations	Discharge of closed drains following separation, and firewater foam to sea during system test	Release of contaminants leading to deterioration in seawater quality and localised increase in BOD around the discharge point	Impact on water quality, plankton, fish and squid will be very small, localised and temporary.			Main deck, helideck, machinery spaces drainage routes to the closed drains. Drainage water is treated to remove oil content down to 15 mg/l of oil concentration prior to discharge in accordance with MARPOL 73/78 Annex I requirements.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Drilling operations	Discharge of drill cuttings, WBM, cement and chemicals, to marine environment	Increased turbidity in the water column, sedimentation leading to smothering of benthic organisms, modification of sediment particle size and habitat.	Discharges would impact small areas of seabed and small volume of water relative to the available habitat on the Northern Slope. Impacts would be short term, with potential for rapid recovery. Modification of sediments would persist for over 10 years in a very small area.			Drilling fluids will be recirculated and cuttings separated from the mud for re-use of the mud to minimise discharges. The majority of WBM chemicals will Pose Little Or NO Risk (PLONOR) to the environment, where safety or operational criteria dictates non-PLONOR chemicals use will be monitored and minimised.	Low
			Severity	Sensitivity	Significance		
			Low	Minor	LOW		
Drilling operations	Generation of non-hazardous and hazardous waste for disposal in UK/FI	Use of landfill resource in the UK.	The majority of waste generated during the campaign will be transported back to the UK in the returning coaster vessels for landfill in the UK.			Small quantities of waste may be disposed of in the Falkland Islands, in line with Premier Oil's WMP, and will not include direct disposal of waste to Eliza Cove.	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Drilling operations	Intake of seawater	Potential organism uptake in seawater intakes	Plankton and possibly fish eggs or larvae could be removed from the ecosystem. This is on such a small scale that it is insignificant, more an issue in terms of the potential for machinery to over heat due to blocked filters.			Guards and filters are used to reduce the number of marine organisms that enter with seawater.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Drilling operations	Discharge of heated seawater from heating /cooling medium or Reverse Osmosis unit	Warm water or increase saline water discharges have the potential to impact seawater quality and marine organisms.	Discharges to surface waters will dilute and disperse rapidly in the offshore environment. Plankton may experience small, short-term, localised effects. Fish are highly mobile species and are expected to avoid temperatures outside their tolerance range.			Discharges will be in line with all previous drilling rigs in the Falklands and rig's water maker will reduce use of in-country water resources.	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Shore based operations	Physical presence of laydown yard	The use of land resources and the impact on native flora and fauna.	Disturbance of native flora within a National Nature Reserve (Stanley Common). A short length of track will has been laid to join the existing road with the TDF.			The majority of the infrastructure was in place prior to the start of the campaign.	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Shore based operations	Waste	Generation of domestic waste from operations at the laydown yard	The majority of waste generated during the campaign will be transported back to the UK in the returning coaster vessels for landfill in the UK.			The majority of waste from the laydown yard will be shipped to the UK with the waste generated offshore. Small quantities of waste may be disposed of in the Falkland Islands, in line with Premier Oil's WMP, and will not include direct disposal of waste to Eliza Cove.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Shore based operations. Drilling operations	Use of electrical and freshwater resources	Domestic electrical and freshwater use in support of laydown yard activity. Use of local water supply for preparation of drilling mud.	Emissions from electricity generation, added burden on the freshwater supply. The scale of the electricity and water use is considered insignificant			The TDF has freshwater storage tanks which will be constantly trickle-fed with water from the Moody Brook reservoir. This will disconnect any peak in campaign demands from the supply to Stanley.	Negligible
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Shore based operations	Generation of light during 24hr operations in relation to local population and wildlife	Artificial light can attract and disorientate seabirds. Stakeholder raised concerns that the potential for east-facing lighting from the TDF and bright lighting on vessels facing into the prevailing westerly winds may affect night-time flying at Stanley Airport.	The laydown yard will be located on the outskirts of Stanley, artificial light from the base is not expected to significantly add to light emitted by FIPASS. Potential for disruption by night flights causes concern for local residents.			Permanent lighting will be designed and implemented in accordance with the Health and Safety in Ports (SIP009) Guidance on Lighting, prepared by Port Skills and Safety and UK HSE. Consultation with FIGAS to minimise impacts through lighting design.	Low
			Severity	Sensitivity	Significance		
			Minor	Moderate	MODERATE		
Shore based operations	Generation of noise during 24hr operations in relation to local population and wildlife	Noise arising from vessel engines moored alongside the TDF, vessel loading/unloading activities and operation of forklift trucks at the laydown yard, may be a nuisance to local residents.	Noise modelling undertaken for the TDF indicated operations at the laydown yard and TDF on a calm dry night would have negligible impacts to Stanley residents, approximately one kilometre away.			Vessel movements will be reduced where possible through optimised planning, making efficient use of vessel loads. All vessel engines shall be switched off whilst not in use and not left to idle, where possible. Loading or unloading operations at night shall not normally occur and if necessary will be minimised where practicable	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Shore based operations	Demands for temporary accommodation in Stanley	During the campaign approximately 85 additional personnel will be based in Stanley, which will place pressure on the limited number of available beds in Stanley for visitors.	Options are currently being reviewed and the possibility of building a temporary accommodation unit in Stanley is being considered. Although it is likely that a minority of individuals will be accommodated in local hotels and guest houses.			Plans are still being developed and the location or footprint of a temporary accommodation unit are unknown. Once plans have been finalised an accommodation specific EIA will be prepared to support planning application.	N/A
Inshore operations	Physical presence of vessels interfering with other users of Stanley Harbour	Vessels associated with the campaign will increase traffic in Stanley Harbour. Space for manoeuvring in the harbour is limited and the additional traffic could disrupt existing fishing and cargo use of the harbour.	During the campaign an estimated 53 vessel refueling visits will be required at FIPASS, lasting approximately 6-20 hrs each. Consequently the disruption to other users is considered to be moderate given the limited space at FIPASS.			Premier Oil will appoint a Marine Superintendent to liaise with the Harbour Master, FIPASS management, Stanley Services and other users to keep everyone well informed. A navigational risk assessment will be completed to inform the preparation of a Stanley Harbour Management Plan.	Low
			Severity	Sensitivity	Significance		
			Minor	Moderate	MODERATE		
Accidental event	Introduction of marine invasive species	Non-native species may be transported and introduced through ballast water and biofouling on the hull of vessels.	Marine invasive species typically impact inshore benthic communities of native species. Invasive species may not be evident for a number of years, but their long-term impacts could be severe and irreversible. Vessel will be required to follow IMO guidelines for ballast water and biofouling			The Eirik Raude and support vessels will comply with IMO Guidelines. However, there remains a residual risk largely due to uncertainties in the assessment. Monitoring will be required to keep a check on the potential presence of marine invasive species, settlement plates will be attached to the TDF to provide an early warning.	Moderate
			Severity	Likelihood	Significance		
			Major	Remote	MODERATE		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Crew Transport	Generation of noise, flight path over sensitive seabird colonies and local communities	Low flying helicopters over sensitive breeding colonies of penguins can invoke strong responses leading to trampling of adults, chicks and eggs. Helicopters may also be a nuisance to local settlements and disturb livestock on farms.	The impact of a single helicopter is likely to be short-term and rapidly reversible. However the combined impact of numerous daily flights could have serious implications for the survival of moulting birds and young livestock. The severity to local residents is considered to be low and as direct flight lines do not pass over settlements, sensitivity is low. The risk assessment below pertains to seabirds and livestock.			Premier Oil will use the flight avoidance map as the basis for flight planning, follow the FI Low Flying Handbook Guidance, and brief helicopter pilots in flight avoidance protocols.	Low
			Severity	Sensitivity	Significance		
			Moderate	High	MODERATE		
General presence of industry	Presence of oil industry could have adverse effect on tourism	The presence of oil and gas activities in the Falkland Islands could have an adverse effect on the image as a wildlife destination.	The drilling operation is currently planned to occur over the Falkland Islands winter, within the main drilling activity occurring offshore to the north of the Islands out of view of visiting tourists.			The campaign is currently scheduled for the winter – spring months which is outwith the prime tourist season.	Low
			Severity	Sensitivity	Significance		
			Slight	Moderate	LOW		
Accidental event	Dropped object	Large items that are accidentally dropped overboard during drilling operations could pose a hazard to trawl fishing in the area.	Oil and gas industry historical data indicate that the risk of an incident is relatively low at about 1 incident in 60 drilling campaigns. Annual fishing statistics show that there is very little fishing in the area.			Premier Oil Golden Rules for preventing serious events will be followed during the campaign and include; secure all tools, material and equipment; take measures to prevent dropped objects when working over grating; remove tools on completion of the job; erect barriers around drop zones; inspect structures and equipment at risk of falling.	Low
			Severity	Likelihood	Significance		
			Minor	Possible	MODERATE		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Accidental event	Accidental minor spill of diesel, oil, chemical during loading operations	Release of contaminants leading to deterioration in seawater quality and toxic impacts on marine life.	Diesel spill would only remain in surface waters for a short time, but releases toxic substances that will have small a localised impact on water quality, plankton, fish and squid. The presence of the rig may attract birds that are more vulnerable to toxic surface pollution and several species in the area are classified as Endangered.			All diesel transfer hoses will be fitted with dry-break seals, where possible, which will limit the amount discharged in the event a hose is accidentally disconnected. Additionally Premier Oil will provide working procedures which outline control and preventative measures. Premier Oil will also develop a computer based environmental awareness training package that will taken by all of the work force during their induction.	Low
			Severity	Likelihood	Significance		
			Moderate	Remote	MODERATE		
Accidental event	Storm water overwhelming rig deck drains resulting in discharge of contaminated water Unplanned discharge from rig open or closed drain system	Release of contaminants leading to deterioration in seawater quality and toxic impacts on marine life.	Drainage management will be in place on the rig via processes and procedures to minimise overloading of the oily water separator during storms and heavy rain.			Premier Oil provide working procedures which outline controls and preventative measures. Premier Oil will also develop a computer based environmental awareness training package that will taken by all of the work force during their induction.	Low
			Severity	Likelihood	Significance		
			Minor	Remote	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Accidental event	Collision between support or supply vessel with marine mammals	An increase in general shipping traffic throughout the campaign could lead to an increase in the risk of vessel collisions with marine mammals.	Large numbers of marine mammals are present in inshore waters coinciding with the period of the campaign. Of these whales, sei whales are Endangered. The campaign will increase shipping near Stanley by 25%, however lack of historically reported incidents suggests that few collisions occur around the Falkland Islands.			Mariners should be made aware of the issue and how it relates to the Falkland Islands (see IFAW (2013) leaflet). Along with the usual duties of a watch keeper, additional vigilance is required to detect cetaceans in inshore waters.	Low
			Severity	Likelihood	Significance		
			Moderate	Remote	MODERATE		
Accidental event	Introduction of terrestrial alien species at laydown yard via equipment import from UK	Risk of introducing invertebrates, seeds and soil (containing micro-organisms) that can adhere to the outside of containers or be hidden in cargo. Species that may be transported in cargo from the UK are very likely to survive.	If invasive species were introduced the impact through parasites, disease, competitors or predators may not be immediately evident. Long-term implications could be severe and difficult to reverse. Vessels will be arriving throughout the campaign and a large amount of cargo will be brought onshore. The introduction of invasive species has happened in industry elsewhere.			All materials are clean when packed or loaded in the port of origin, particularly items of fresh fruit and vegetables. Personnel will be briefed on the significance of non-native species. Falkland Islands Biosecurity Guidelines will be adhered to. Cargo will be inspected on arrival for biosecurity breaches.	Low
			Severity	Likelihood	Significance		
			Moderate	Possible	MODERATE		
Emergency situation	Vessel collision in Stanley Harbour, potential for small leaks or tanks to overflow during re-fueling leading to loss of diesel	Whilst Stanley Harbour is not recognised as a habitat of great conservation value, it is home to steamer ducks and other coastal species, as well as Commerson's dolphin, and is used recreationally by Stanley residents.	Collision with a fully re-fueled vessel could lead to a total inventory loss of 800 tonnes diesel. This would be spread between various segregated tanks and would be very unlikely that all or any would be lost. However as a worst-case this could represent a sizeable spill in sheltered coastal waters.			The same precautionary measures that apply to all vessels bunkering at FIPASS will apply to the rig supply vessels. A Harbour management plan will be in place. The support vessels will be fully equipped to deal with spills offshore and the same equipment would be used to deal with small spills inshore. Oil spill response equipment will also be available at the TDF.	Low
			Severity	Likelihood	Significance		
			Minor	Remote	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Emergency situation	Major loss of containment of hydrocarbon	Prolonged release of crude oil to the water column which could impact water quality, plankton, benthic organisms, seabirds, marine mammals, fish and fisheries, coastal fauna and tourism.	<p>The predicted oil is very waxy and has a high viscosity and is expected to form waxy droplets on the surface following release. However, a lighter oil could be encountered. Impacts to plankton are considered to be short-term and recoverable. Impacts to benthic filter feeders are unknown. Seabirds and marine mammals are not considered significantly at risk due to the semi-solid nature of the wax droplets, although this may differ if a different hydrocarbon is encountered. The direction of the prevailing conditions is likely to spread the spill over fishing areas and could result in short-term closed areas. The coastline of East Falkland is at greatest risk of beaching. The impact to tourism is considered to be major.</p>			<p>The well design will be peer reviewed by Premier Oil's well examiner and the Health and Safety Executive to ensure that the risk of an uncontrolled release is minimised. The well will be fitted with a blow-out preventer that will seal the well in the event of a major incident. Premier Oil are preparing an Oil Spill Response Plan that would initiate a tiered response in the event of a spill.</p>	Moderate
			Severity	Likelihood	Significance		
			Major	Remote	MODERATE		
Emergency situation	Loss of containment of WBM from the riser	Increased turbidity in the water column, sedimentation leading to smothering of benthic organisms, modification of sediment particle size and habitat.	<p>Discharges would impact small areas of seabed and a small volume of water relative to the available habitat on the Northern Slope. Impacts would be short term, with potential for rapid recovery. Modification of sediments would persist for over 10 years in a very small area.</p>			<p>Redundancy is designed in to ensure DP related equipment are always available. DP trials will be undertaken when the rig reaches location. An exclusion zone of 500m will be maintained. Mariners will be advised of the rig location to avoid collision, Meteorological analysis of extreme weather events will be assessed. Continual monitoring of long-range and short-range weather forecasts.</p>	Low
			Severity	Likelihood	Significance		
			Minor	Remote	LOW		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Emergency situation	Loss of containment	Waste management during clean-up	<p>If a major spill occurred, the clean-up operation would generate a large volume of hazardous waste (oil, contaminated materials, PPE etc.), which would have to be disposed of responsibly. This would potentially have a serious environmental impact in its own right but under the circumstances of a major incident, the impact would be relatively insignificant.</p>			Contaminated waste from a spill clean-up would be managed in line with Premier Oil's Waste Standard, and a specific Waste Management Plan will be in place in the event of a spill. It is expected that waste of this kind will be exported to the UK	Low
			Severity	Sensitivity	Significance		
			Slight	Very Low	LOW		
Emergency situation	Loss of containment	Air Quality would be affected by light oils, such as diesel, which evaporate quickly and release noxious compounds into the atmosphere. Heavier crude oil takes longer to breakdown and therefore releases gases slowly over a period of weeks or months.	<p>Following an oil spill, Volatile Organic Compounds, Polycyclic Aromatic Hydrocarbons, Hydrogen Sulphide and other noxious compounds are released, which all impact on air quality. In the offshore environment, atmospheric pollution is rapidly dispersed.</p>			The impacts of a blow-out would be far reaching but air quality was not deemed to be of great significance.	Low
			Severity	Likelihood	Significance		
			Minor	Low	LOW		
Emergency situation	Major incident such as collision with another vessel resulting in loss of rig inventory	Loss of the total diesel fuel inventory, 4,631m ³ . Resulting in release of contaminants and subsequent deterioration in seawater quality and toxic impacts on marine life.	<p>Diesel spill would only remain in surface waters for a short time, but releases toxic substances that will have small a localised impact on water quality, plankton, fish and marine mammals. The presence of the rig may attract birds that are more vulnerable to toxic surface pollution and several species in the area are classified as Endangered. The risk to the coastline is slight as diesel quickly evaporates and disperses from surface waters therefore is unlikely to reach the coastline.</p>			An exclusion zone of 500m will be maintained. Mariners will be advised of the rig location to avoid collision. All vessels in the area will be informed of the rig's position and intentions by radio broadcast and AIS. The ERRV will patrol the 500m exclusion zone and ensure other vessels do not approach.	Low
			Severity	Likelihood	Significance		
			Moderate	Remote	MODERATE		

Aspect	Source	Activity Description	Potential Effects and Significance			Legislation/PMO policy/Mitigation	Residual Impact / Concern
Emergency situation	Major incident resulting in loss of rig	Disruption to shipping in the area	There is very little vessel traffic in the area.			Mariners and FIGFD will be advised of the rig location to avoid collision. Meteorological analysis of extreme weather events will be assessed.	Negligible
			Severity	Likelihood	Significance		
			Slight	Very Low	LOW		

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NOTICES

No. 79

3 October 2014

Environmental Impact Statement Noble Energy Falklands Limited

An Environmental Impact Statement has been submitted to the Falkland Islands Government by Noble Energy Falklands Limited for offshore drilling proposals in the South and East Falkland Basins. Paper and electronic copies of the Non-Technical summary, and electronic copies of the document in its entirety, can be obtained from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email Rcordeiro@mineralresources.gov.fk)

Written representations in relation to the Environmental Impact Statement must be received by 4:30pm on 14 November 2014 to the Department of Mineral Resources, Ross Road, Stanley (or by email to SLuxton@mineralresources.gov.fk).

Dated 3 October 2014

S.C. LUXTON
Director of Mineral Resources.

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13 October 2014

No. 13

NOTICES

No. 80

3 October 2014

Children Ordinance 2014
section 2
Commencement Notice

1. Section 2 of the Children Ordinance 2014 (No 7 of 2014) provides that the Ordinance comes into force on a day appointed by the Governor by notice published in the *Gazette*.
2. I give notice that the Ordinance will come into force on 31 October 2014.

Dated 3rd October 2014

C. ROBERTS C.V. O.,
Governor.

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29 October 2014

No. 14

NOTICES

No. 81

29 October 2014

Children Ordinance 2014
section 2
Commencement Notice

1. Section 2 of the Children Ordinance 2014 (No 7 of 2014) provides that the Ordinance comes into force on a day appointed by the Governor by notice published in the *Gazette* (and that the Governor may appoint different dates for different provisions to come into force).

2. I give notice that —

(a) section 7(1)(a) will come into force on 1 November 2015; and

(b) the rest of the Ordinance will come into force on 31 October 2014.

3. Notice No 80 published in Extraordinary Gazette Number 13 (Volume 123) dated 13 October 2014 is revoked.

Dated 29 October 2014

C. ROBERTS C.V.O.,
Governor.

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31 October 2014

No.15

Appointment

Lee Anthony Martin, Police Constable, Royal Falkland Islands Police, Emergency Services Department, 27.09.14.

Scott James Peter Betts, Pharmacy Assistant, Health and Social Services Department, 01.10.14.

Graham Sidney John Harris, Teacher, Education Department, 01.10.14.

Sharon Joyce Peters, Learning Support Assistant, Education Department, 01.10.14.

Terence Phillips, Skilled Handyperson, Property and Municipal Section, Public Works Department, 01.10.14.

Martin Pole-Evans, Mechanical Foreman, Power and Electrical Section, Public Works Department, 03.10.14.

Andrew Michael Broughton, Building Advisor, Environmental Planning, Policy Unit, 05.10.14.

Patricia Carol Ann Pratlett, Assistant Taxation Officer, Tax Office, Treasury, 07.10.14.

Ross Brent James, Biosecurity Officer, Natural Resources Department, 10.10.14.

Charlotte Simpson, Learning Support Assistant/Carer, Health and Social Services Department, 13.10.14.

Nigel Keith Dodd, Health Records Clerk, Health and Social Services Department, 20.10.14.

Completion of contract

Jacqueline Susan Bailey, Senior Staff Nurse/Practice Nurse, Health and Social Services Department, 26.09.14.

Ross Brent James, Scientific Fisheries Observer, Natural Resources Department, 10.10.14.

Simon Frances James Fletcher, Director, Central Services, 30.10.14.

Resignation

Mark Henry Jones, Fox Bay Village Agent, Central Services, 01.10.14.

Heidi Monica Clifton, Laboratory/Veterinary Assistant, Natural Resources Department, 03.10.14.

John Summers Jaffray, Plant Operator/Handyperson, Highways Section, Public Works Department, 03.10.14.

Neil Russel Judd, Senior Agricultural Advisor, Natural Resources Department, 17.10.14.

Serena Samantha Sinclair, Clerk, Environmental Planning, Policy Unit, 28.10.14.

Tiphonie May, Projects Officer, Mineral Resources Department, 31.10.14.

Transfer

Daniella Dawn Curtis, from Sports Attendant to Duty Supervisor, Leisure Centre, Central Services, 01.10.14.

Daniel Martin Fowler, from Biosecurity Officer, Natural Resources Department to Trainee Pilot, Falkland Islands Government Air Service, Central Services, 06.10.14.

NOTICES

No. 82

26 September 2014

Taxes Ordinance 1997 section 202 Authorisation for Disclosure of Information

Pursuant to the power given to me by section 202(2)(a) of the Taxes Ordinance 1997, and on the advice of Executive Council, I hereby authorise the Commissioner of Taxation and Deputy Commissioner of Taxation (applicable to the current officers and successive holders of these offices) to communicate ('disclosure') any information relating to the income or items of income of any person, or anything contained in any document, return, list, or copy relating to such information, to anyone in the public service so long as:

1. The Commissioner of Taxation or the Deputy Commissioner of Taxation is satisfied that disclosure is required for the purposes of:

(a) the prevention or detection of crime; or

(b) producing general statistical information about income, taxation or pension related matters (whether or not anticipating publication); and

2. The disclosure has been approved by the Attorney General.

This authorisation supersedes authority given to the Taxation Officer and Deputy Taxation Officer dated 12 March 2009 and will remain in force until it is revoked by further notice.

Dated 26 September 2014

J. S. TYLER-HAYWOOD,
Acting Governor.

No. 83

29 September 2014

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

Take notice that **Mary Ellen Fullerton** of 1 Yates Place, Stanley, Falkland Islands, died on 13 February 2012.

Whereas **Rex Browning** 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 29 September 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 84

7 October 2014

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

Take notice that **Frederick Browning** of 35 Davis Street, Stanley, Falkland Islands, died on 18 April 1975.

Whereas **Rex Browning** 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 7 October 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 85

13 October 2014

Re-appointment of Chairperson Public Accounts Committee

The Governor has been pleased to confirm the extension of the appointment of **Andrea Patricia Clausen** as chairperson of the Public Accounts Committee.

This appointment runs from 20 April 2014 for two years, expiring on 19 April 2016, unless terminated sooner.

Dated 13 October 2014

C. ROBERTS C.V.O.,
Governor.

No. 86

21 October 2014

Gojo's Limited Company number: 14579

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 on 31 August 2014.

Dated 21 October 2014

E. J. DENT,
Registrar of Companies.

No. 87

21 October 2014

Warrah Design Limited
Company number: 11821

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, 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 21 October 2014

E. J. DENT,
Registrar of Companies.

No. 88

29 October 2014

Application for Naturalisation

Notice is hereby given that **Ginalyn Sandueta Hawksworth** is applying to His Excellency the Governor for naturalisation as a British Overseas Territories Citizen. 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 November 2014.

Dated 29 October 2014

J. E. SMITH,
Immigration Officer.

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NOTICES

No. 89

6 November 2014

Children (Transitional Provisions) Order *paragraph 2*

Commencement Notice

1. Paragraph 2 of the Children (Transitional Provisions) Order 2014 (SR&O No 12 of 2014) provides that the order comes into force on a date appointed by the Governor by notice published in the *Gazette*.
2. I give notice that the Children (Transitional Provisions) Order comes into force on the date of publication of this notice in the *Gazette*.

Dated 6 November 2014

C. ROBERTS C.V.O.,
Governor.

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NOTICES

No. 90

27 November 2014

LEGISLATIVE ASSEMBLY OF THE FALKLAND ISLANDS

Stanley Common Ordinance

Stanley Common (Erection of Memorials) Regulations 2014

RESOLUTION OF THE LEGISLATIVE ASSEMBLY

No: 2 of 2014

RESOLVED by the Legislative Assembly on 27 November 2014, pursuant to section 10 of the Stanley Common Ordinance (Title 34.5), that the making of the Stanley Common (Erection of Memorials) Regulations 2014 is approved.

Dated 27 November 2014

C. Y. CLIFFORD,
Deputy Clerk to the Assembly.

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30 November 2014

No. 18

Appointment

Andrew Finlay, Fox Bay Village Agent, Central Services Department, 27.10.14.

Sara Newcombe, Pharmacy Technician, Health and Social Services Department, 03.11.14.

Ian Sargent, Prison Manager, Emergency Services Department, 07.11.14.

Travis Allington, Agricultural Adviser, Natural Resources Department, 08.11.14.

Rhiannon Elinore Didlick-Smith, Nursery Liaison Officer, Education Department, 11.11.14.

Sylvia Ann Watt, Flight Information Service/Operations Officer, Central Services Department, 12.11.14.

Felicity Marie Smith, Senior Finance Assistant, Treasury, 17.11.14.

Christopher Paul Reynolds, Filtration Plant Operator, Public Works Department, 21.11.14.

Jason Neville Alazia, Plant Operator/Handyperson, Water Section, Public Works Department, 24.11.14.

Amy Elizabeth Jonson, Environmental Planning Clerk, Policy Unit, 24.11.14.

Shiralee Finlay, Fox Bay Village Agent, Central Services Department, 25.11.14.

Completion of contract

Daniel Heath, Management Accountant, Treasury, 13.11.14.

Marine Quintin, Scientific Fisheries Observer, Natural Resources Department, 17.11.14.

Renewal of contract

Daniel Heath, Management Accountant, Treasury, 14.11.14.

Resignation

Ryan Poole, Apprentice Aircraft Fitter, Falkland Islands Government Air Service, Central Services Department, 15.10.14.

Martin Peirega, Maintenance Technician, Education Department, 24.10.14.

Asa Cairns, Police Constable, Royal Falkland Islands Police, Emergency Services Department, 07.11.14.

Andrew Gowdie, Technical Assistant, Regulatory Services, Attorney General's Directorate, 28.11.14.

Retirement

Vladimir Sytchov, Computer Technician, Central Services Department, 28.11.14.

Transfer

Emily Clare Hancox from PhD Intern, South Atlantic Environmental Research Institute to Projects Officer, Mineral Resources Department, 11.11.14.

NOTICES

No. 91

3 November 2014

Judicial Appointments

1. I appoint Clare Faulds to be —

Senior Magistrate under section 88(4) of the Constitution (SI 2008/2846) and section 26 of the Administration of Justice Ordinance (Title 22.1);

Notary Public under section 47 of the Administration of Justice Ordinance (Title 22.1);

Chairman of the Disputes Commission under section 98 of the Fisheries (Conservation and Management) Ordinance 2005 (No 14 of 2005); and

Commissioner for Workmen's Compensation under section 22 of the Workmen's Compensation Ordinance (Title 32.6).

2. These appointments have effect from 3 November 2014 until the expiry of the contract of employment of Clare Faulds with the Falkland Islands Government, unless terminated sooner.

Dated 3 November 2014

C. ROBERTS C.V.O.,
Governor.

No. 92

3 November 2014

Falkland Islands Constitution Order (SI 2008/2846)
section 89

Appointment of Acting Judge of the Supreme Court

1. I make the following appointment in accordance with section 89 of the Constitution, on the basis that:

(a) it appears to me that the state of business in the Supreme Court requires it; and

(b) I am satisfied that **Clare Faulds** possesses such legal qualifications and experience as are appropriate for her to be appointed.

2. I, Colin Roberts C.V.O., Governor, appoint **Clare Faulds**:

(a) to sit as Acting Judge of the Supreme Court; and

(b) to discharge the functions in the Falkland Islands of the Chief Justice as maybe necessary if the office of the Chief Justice is vacant, or if the holder of that office is for any reason unable to perform the functions of that office.

3. The appointment at paragraph 2(a) only has effect when the Chief Justice has not indicated that he wishes to exercise his powers in respect of any relevant matters.

4. Nothing in this appointment operates to prevent the Chief Justice adjudicating in any matters or from exercising any of his functions.

5. This appointment is effective from 3 November 2014 until the expiry of the contract of employment of **Clare Faulds** with the Falkland Islands Government, unless terminated sooner.

Dated 3 November 2014

C. ROBERTS C.V.O.,
Governor.

No. 93

6 November 2014

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

2

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 Administrator 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 **Charles Peter Judge** to be 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 Attorney General, unless this appointment is terminated sooner.

Dated 6 November 2014

C. ROBERTS C.V.O.,
Governor.

No. 94

6 November 2014

Falkland Islands Development Corporation Ordinance
section 9(1) and section 10(1)

Appointment of General Manager and Financial Controller

1. Section 9(1) of the Falkland Islands Development Corporation Ordinance (Title 28.1) provides that the Governor shall appoint a General Manager of the Falkland Islands Development Corporation and 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 9(1) I appoint **Martin Richard Slater** General Manager of the Falkland Islands Development Corporation with effect from 1 July 2014, to continue in effect for the duration of the relevant contract of employment.

3. In exercise of my powers under section 10(1) I appoint **Robin David Granger** Financial Controller of the Falkland Islands Development Corporation with effect from 7 October 2014, to continue in effect for the duration of the relevant contract of employment.

4. These appointments have effect and continue in effect as indicated above, unless terminated sooner.

Dated 6 November 2014

C. ROBERTS C.V.O.,
Governor.

No. 95

6 November 2014

Falkland Islands Development Corporation Ordinance
section 7(1)

**Appointment of Rural Business Association
nominated member to**

Falkland Islands Development Corporation Board

1. Section 7(1)(d) of the Falkland Islands Development Corporation Ordinance (Title 28.1) provides that the Governor may appoint a member to the Falkland Islands Development Corporation Board nominated by the Rural Business Association.

2. In exercise of my powers under section 7(1)(d) I appoint **Anthony Thomas Blake**, as nominated by the Rural Business Association, with effect from 13 April 2014 for two years terminating on 13 April 2016.

3. This appointment has effect and continues in effect as indicated in article 2, unless terminated sooner.

Dated 6 November 2014

C. ROBERTS C.V.O.,
Governor.

No. 96

13 November 2014

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 person to be a temporary Customs Officer:-

FS Ian Smith – F8199642 from 3 November 2014 to 3 May 2015.

Dated 13 November 2014

R. J. KING,
Collector of Customs.

No. 97

20 November 2014

No 1 Electrical (Falklands) Limited
Company number: 10932

Take notice that further to the application made by the above named company to be struck off the Register of Companies, notice of such application having been published in Gazette No 9 on 31 July 2014, a notice in the prescribed form has been received by the Registrar of Companies withdrawing the said application.

Dated 20 November 2014

C. P JUDGE,
Acting Registrar of Companies.

No. 98

24 November 2014

SNF Limited
Company number: 15113

Notice is hereby given that the above named company was struck-off the Register of Companies pursuant to section 652A of the Companies Act 1985 with effect from 24 November 2014.

Dated 24 November 2014

E. J. DENT,
Registrar of Companies.

No. 99

25 November 2014

Application for Falkland Islands Status

Notice is hereby given that:

Donna Marce Marwick;
Nathan Mark Gemmill;
Robin David Granger;
Nicola Jane Granger;
Vanessa Elisa Ramirez Mardones;
Alan Theodore Yon;
Donna Marie Yon;
Derek William Henry, and
Tracey Dawn Henry

have applied through the Principal Immigration Officer for Falkland Islands Status to be granted by His Excellency the Governor. Any person who knows of any reason why such 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 by 21 December 2014.

Dated 25 November 2014

J. E. SMITH,
Immigration Officer.

No. 100

25 November 2014

Application for Naturalisation

Notice is hereby given that:

Maria Yhovana Vilchez Valverde, and
Rochell Anthony Boybanting Regalado
are applying to His Excellency the Governor for naturalisation as British Overseas Territories Citizens. 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 December 2014.

Dated 25 November 2014

J. E. SMITH,
Immigration Officer.

Index of Retail Prices

The Index for the quarter ended 30 September 2014 has now been completed.

The Index increased during the quarter to 102.32; this equates to a 0.8% increase as shown below:

Date	Index	Annual % Increase/(Decrease)	Quarter % Increase/(Decrease)
31.12.13	100.91	0.6	0.03
31.03.14	101.22	1.6	0.3
30.06.14	101.47	0.7	0.2
30.09.14	102.32	1.4	0.8

Dated 27 November 2014

L. LYSE.
for Financial Secretary.

Register of Members' Interests

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

The information is current to 30 November 2014.

Information to be provided

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

1. Remunerated directorships, 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 Assembly 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 Assembly 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 or partner 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 shareholdings 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 Assembly and the Attorney General notified the following interests.

Janet Lynda Cheek

1. Director Consolidated Fisheries Ltd incorporated in the Falkland Islands
Unicorn Adventure Ltd (unremunerated)
Director Kelper Stores Ltd (unremunerated)
2. Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Property and Land 35 Ross Road East
Johnsons Harbour Farm (licenced to tenants)
Shared ownership of land on San Carlos River
Millar Place, Edinburgh, Scotland
9. Kelper Stores Ltd
Consolidated Fisheries Ltd
Unicorn Adventure Ltd (Volunteer Point Tourism)
10. Director/Trustee Falklands Conservation (UK charitable company)
Trustee South Georgia Heritage Trust
Trustee Falkland Islands Museum and National Trust
Share in Falkland Farmer.

Roger Anthony Edwards

1. Nil
2. Member of Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Royal Navy Pension, HM Paymaster General
8. Lake Sullivan House, Fox Bay
8 Sullivan Street
9. Share in Falkland Farmers Ltd
10. Nil.

Barry Elsbey

1. Nil
2. Member of the Legislative Assembly
3. Nil
4. Nil

5. Clock from Cameroon Parliament
Book from Columbian Parliament
6. Nil
7. Clock from Cameroon Parliament
Book from Columbian Parliament
8. House and land in the Falkland Islands owned jointly with my wife
9. I retain 800 shares in Argos Ltd and 550 in Borders and Southern for my children
Shares in Falkland Farmers
10. My wife runs her own medical company, Medica South. I have no interest or directorship in this. I have never worked for this company.

Ian Hansen

1. Nil
2. Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil.

Michael James Poole

1. Nil
2. Member of the Legislative Assembly
3. Was employed as Executive Secretary to the Falkland Islands Fishing Companies Association until 31 January 2014. No longer have any financial ties to the organisation
4. Chairman of the Falkland Islands Football Club – received £5,000 of subvention from FIG in 2014/15
5. Occasional dinners and receptions hosted by private sector companies
6. Nil
7. Nil
8. 19 Davis Street – co-owned with Mr T Poole (main place of residence)
31 Fitzroy Road (shop only) rental income of £150 per month
West Tyssen Island – owned, but no income derived from it
9. Nil
10. Poole's Skips business owned and operated by my parents.

Phyllis Mary Rendell

1. Nil
2. Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 8 Ross Road West co-owned with M Rendell
Bleaker Island co-owned with M Rendell
9. 121,000 Seafish shares M Rendell
10. Trustee YMCA
Trustee New Island Conservation Trust
Trustee Susan Whitley Trust
Justice of the Peace.

Gavin Phillip Short

1. Nil
2. Member of the Legislative Assembly

- Falkland Islands Security Services – Security Officer
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Director SAAS
Member of General Employees Union
Tenant of Falkland Islands Government Housing.

Michael Victor Summers OBE

1. Quark Fishing Ltd
Pioneer Seafood Ltd
Concordia Ltd
2. Managing Director – Pioneer Seafoods Ltd
Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 11 Pioneer Row
12 Pioneer Row
Mount Maria House, Port Howard
9. Quark Fishing Ltd 25.1%
Pioneer Seafood Ltd 50%
Concordia Ltd 50%
10. Trustee, FI YMCA
Trustee, Stanley Golf Club
Chairman, Falkland Islands Overseas Games Association
Director Port Howard Farm.

Keith Padgett

1. Nil
2. Chief Executive, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Apartment in UK jointly owned with spouse
9. Nil
10. Nil.

Nicola Granger

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

Charles Peter Judge MBE

1. Nil
2. Attorney General, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil

8. My wife owns a flat in the UK. I own a 50% interest in a house in the UK
9. I hold various listed securities in the UK (all listed on the UK stock market). My wife and I jointly hold 100% of the shares in two UK private companies: (1) peace ladder Limited; and (2) Judge Consulting Limited
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
Pensioner – UK State Pension Scheme
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
Director (Trustee) Falklands Conservation (a UK Limited Company and Registered Charity)
Share Holdings:

Minority shareholding: Energise Group Ltd,
Minority shareholding: Falkland Islands Holdings Ltd (a quoted UK Limited Company)
Pecuniary Interest:
Décor Services Ltd.

Anton Livermore CPM JP FCMI

1. Nil
2. Administration Officer, Government House, Foreign and Commonwealth Office, Stanley
Deputy Speaker of the Falkland Islands Legislative Assembly
Justice of the Peace (unremunerated)
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil

Dated 30 November 2014

C. Y CLIFFORD,
Deputy Clerk of the Legislative Assembly.



FALKLAND ISLANDS GAZETTE

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31 December 2014

No.19

Appointment

Andrew James Scott Furniss, Learning Support Assistant, Falkland Islands Community School, Education Department, 20.10.14.

Jennifer Louise Thomas, Learning Support Assistant, Falkland Islands Community School, Education Department, 12.11.14.

Jason Neville John Alazia, Plant Operator/Handyperson, Water Section, Public Works Department, 24.11.14.

Faron Harvey Greentree, Plant Operator/Handyperson, Quarry Section, Public Works Department, 24.11.14.

Clare Louise Howes, Training and Development Co-ordinator, Training Centre, Education Department, 28.11.14.

Brenda Diann Joanna Berntsen, Prison Officer, Royal Falkland Islands Police Force, Emergency Services Department, 01.12.14.

Michaela Sara Monica Clifford, Childcare Apprentice, Education Department, 01.12.14.

Ryan Martin Elstow, Live-In Houseparent, Stanley House, Education Department, 01.12.14.

Brendon Lee, Fisheries Scientist (Toothfish), Fisheries, Natural Resources Department, 02.12.14.

Yan Lung Leon Wong, Head of Tax Policy, Taxation, Treasury, 04.12.14.

Matthew Grahame Aston, Senior Police Constable, Royal Falkland Islands Police Force, Emergency Services Department, 08.12.14.

Merrill Steve Leo, Skilled Handyperson, Property and Municipal Section, Public Works Department, 09.12.14.

James Nathaniel Henry, General Handyperson, Property and Municipal Section, Public Works Department, 15.12.14.

Caris Kirsten Stevens, Housing Officer, Property and Municipal Section, Public Works Department, 22.12.14.

Completion of contract

Brendon Lee, Scientific Fisheries Observer, Fisheries, Natural Resources Department, 01.12.14.

Jessica Briony Jones, Scientific Fisheries Observer, Fisheries, Natural Resources Department, 01.12.14.

Jane Mary Lorimer, Senior Police Constable, Royal Falkland Islands Police Force, Emergency Services Department, 14.12.14.

Timothy Wilson, Senior Police Constable, Royal Falkland Islands Police Force, Emergency Services Department, 15.12.14.

Caroline Ann Makris, Staff Nurse, Health and Social Services, 29.12.14.

Renewal of contract

Jessica Briony Jones, Scientific Fisheries Observer, Fisheries, Natural Resources Department, 02.12.14.

Jane Mary Lorimer, Senior Police Constable, Royal Falkland Islands Police Force, Emergency Services Department, 15.12.14.

Timothy Wilson, Senior Police Constable, Royal Falkland Islands Police Force, Emergency Services Department, 16.12.14.

Caroline Ann Makris, Staff Nurse, Health and Social Services, 30.12.14.

Resignation

Paul Christopher Jonas, Plant Operator/Handyperson, Highways Section, Public Works Department, 12.12.14.

Kate Louise Gowdie, Agricultural Advisor, Agriculture, Natural Resources Department, 12.12.14.

Caroline Michelle Drew, Examinations Officer, Falkland Islands Community School, Education Department, 23.12.14.

Jessica Elise Harte, Learning Support Assistant, Infant and Junior School, Education Department, 28.12.14.

Emma Louise Harte, Learning Support Assistant, Falkland Islands Community School, Education Department, 28.12.14.

Tobi Adeoye, Sports Attendant, Stanley Leisure Centre, Central Services Department, 31.12.14.

Clare Elizabeth Law, Chief Clerk, Treasury, 31.12.14.

Retirement

Hector Ricardo Villalon, Driver/Handyperson, Health and Social Services Department, 30.11.14.

June McMullen, School Secretary, Infant and Junior School, Education Department, 31.12.14.

Eileen Wynne Davies, Training and Development Manager, Training Centre, Education Department, 31.12.14.

Redundancy

Alexander Luke Howe, Junior Technical Assistant, Public Works Department, 12.12.14.

Death in service

Kathryn McGeachie, Special Education Needs Teacher, Falkland Islands Community School, Education Department, 24.10.14.

NOTICES

No. 103

2 December 2014

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 Andrew Carrington Jones – Q8443762 from 23 October 2014 to 23 April 2015;

Cpl Andrew Craig Moan – 30000026 from 27 October 2014 to 27 April 2015; and

Cpl Nicholas Peter Clark – 30059745 from 20 November 2014 to 19 May 2015.

Dated 2 December 2014

R. J. KING,
Collector of Customs.

No. 104

3 December 2014

Customs Ordinance 2003

section 7(3)

Appointment of Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Ross Brent James** to be a Customs Officer. 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 unless otherwise revoked.

Dated 3 December 2014

R. J. KING,
Collector of Customs.

No. 105

18 December 2014

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 the following person to be a temporary Customs Officer:-

Sgt Andrew John Cunningham – G8439676 from 10 November 2014 to 10 May 2015.

Dated 18 December 2014

R. J. KING,
Collector of Customs.

No. 106

16 December 2014

Application for Permanent Residence

Notice is hereby given that:-

Andreas Gustav Winter
Henry Nolberto Cisterna Terucan
Victor Manuel Salvador Guala Romero

have 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 January 2015.

Dated 16 December 2014

J. E. SMITH,
Immigration Officer.

No. 107

18 December 2014

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

Take notice that **Joan Janet Benjamin** of Flat 4, Church House, Stanley, Falkland Islands, died on 13 December 2014.

Whereas **David George Benjamin** 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 2014

A. MEADOWS,
Registrar, Supreme Court.

No. 108

19 December 2014

**Falkland Islands Tourist Board Ordinance
section 2**

Commencement Notice

1. Section 2 of the Falkland Islands Tourist Board Ordinance 2014 (No 10 of 2014) provides that the Ordinance comes into force on a day appointed by the Governor by notice published in the Gazette.

2. I give notice that the Ordinance will come into force on 1 January 2015.

Dated 19 December 2014

C. ROBERTS C.V.O.,
Governor.

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

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

14 February 2014

No. 1

The following is published in this Supplement –

Protection from Harassment Bill 2014.

Protection from Harassment Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Interpretation
4. Prohibition of harassment
5. Offence of harassment
6. Civil remedy
7. Putting people in fear of violence
8. Restraining orders
9. Meaning of “racially or religiously aggravated”
10. Racially or religiously aggravated harassment etc.
11. Limitation
12. National security, etc.

PROTECTION FROM HARASSMENT BILL 2014

(No: of 2014)

(assented to: 2014)
(commencement: on publication)
(published: 2014)

A BILL

for

AN ORDINANCE

To provide for the offence of harassment, racially or religiously aggravated harassment and other similar or related conduct.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Protection from Harassment Ordinance 2014.

2. Commencement

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

3. Interpretation

- (1) References to harassing a person include alarming the person or causing the person distress.

- (2) A “course of conduct” must involve conduct on at least two occasions.

- (3) A person's conduct on any occasion is taken, if aided, abetted, counselled or procured by another —

- (a) to be conduct on that occasion of the other (*as well as conduct of the person whose conduct it is*); and

- (b) to be conduct in relation to which the other's knowledge and purpose, and what the person ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.

- (4) “Conduct” includes speech.

4. Prohibition of harassment

- (1) A person must not pursue a course of conduct —

- (a) which amounts to harassment of another, and

- (b) which the person knows or ought to know amounts to harassment of the other.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

(3) Subsection (1) does not apply to a course of conduct if the person who pursued it shows —

(a) that it was pursued for the purpose of preventing or detecting crime,

(b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

5. Offence of harassment

(1) A person who pursues a course of conduct in breach of section 4 is guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

6. Civil remedy

(1) An actual or apprehended breach of section 4 may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

(2) On such a claim, damages may be awarded for (*among other things*) any anxiety caused by the harassment and any financial loss resulting from the harassment.

(3) The plaintiff may apply for the issue of a warrant for the arrest of the defendant where —

(a) in such proceedings the Supreme Court or a Magistrate's Court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and

(b) the plaintiff considers that the defendant has done anything which the defendant is prohibited from doing by the injunction.

(4) An application under subsection (3) may be made —

(a) where the injunction was granted by the Supreme Court, to the Chief Justice or judge of that court, and

(b) where the injunction was granted by the Magistrate's Court, to the Senior Magistrate.

(5) The judge or magistrate to whom an application under subsection (3) is made may only issue a warrant if —

(a) the application is substantiated on oath, and

(b) the judge or magistrate has reasonable grounds for believing that the defendant has done anything which is prohibited by the injunction.

(6) The defendant is guilty of an offence where —

(a) the Supreme Court or Magistrate's Court grants an injunction for the purpose mentioned in subsection (3)(a), and

(b) without reasonable excuse the defendant does anything which is prohibited by the injunction.

(7) Where a person is convicted of an offence under subsection (6) in respect of any conduct, that conduct is not punishable as a contempt of court.

(8) A person cannot be convicted of an offence under subsection (6) in respect of any conduct which has been punished as a contempt of court.

(9) A person guilty of an offence under subsection (6) is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

7. Putting people in fear of violence

(1) A person whose course of conduct causes another person to fear, on at least two occasions, that violence will be used against the other person is guilty of an offence if the person knows or ought to know that the course of conduct will cause the other so to fear on each of those occasions.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against the person on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.

(3) It is a defence for a person charged with an offence under this section to show that —

(a) the course of conduct was pursued for the purpose of preventing or detecting crime,

(b) the course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) the pursuit of the course of conduct was reasonable for the person's or another's protection or for the protection of the person's or another's property.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

(5) If on the trial of a person charged with an offence under this section the court finds the person not guilty of the offence charged, it may find the person guilty of an offence under section 5.

8. Restraining orders

(1) A court sentencing or otherwise dealing with a person ("the defendant") convicted of an offence under section 5 or 7 may (as well as sentencing the person or dealing with the person in any other way) make an order under this section.

(2) The order may, for the purpose of protecting the victim of the offence, or any other person mentioned in the order, from further conduct which —

(a) amounts to harassment, or

(b) will cause a fear of violence,

prohibit the defendant from doing anything described in the order.

(3) The order may have effect for a specified period or until further order.

(4) The prosecutor, the defendant or any other person mentioned in the order may apply to the court which made the order for it to be varied or discharged by a further order.

(5) The defendant is guilty of an offence if, without reasonable excuse, the defendant does anything which is prohibited by an order under this section,

(6) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

9. Meaning of “racially or religiously aggravated”

(1) An offence is racially or religiously aggravated for the purposes of section 10 if —

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or

(b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

(2) In subsection (1)(a) —

“membership”, in relation to a racial or religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(4) In this section “racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

(5) In this section “religious group” means a group of persons defined by reference to religious belief or lack of religious belief.

10. Racially or religiously aggravated harassment etc.

(1) A person is guilty of an offence under this section if the person commits —

(a) an offence under section 5, or

(b) an offence under section 7,

which is racially or religiously aggravated for the purposes of this section.

(2) A person guilty of an offence falling within subsection (1)(a) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) A person guilty of an offence falling within subsection (1)(b) is liable on conviction to imprisonment for a term not exceeding seven years, or to a fine, or to both.

(4) If, on the trial of a person charged with an offence falling within subsection (1)(a), the court finds the person not guilty of the offence charged, it may find the person guilty of an offence under section 5.

(5) If, on the trial of a person charged with an offence falling within subsection (1)(b), the court finds the person not guilty of the offence charged, it may find the person guilty of an offence falling within subsection (1)(a).

(6) Section 8 has effect in relation to a person convicted of an offence under this section as if the reference in section 8(1) to an offence under section 5 or 7 includes a reference to an offence under this section.

11. Limitation

In section 11 of the Limitation Act 1980 (special time limit for actions in respect of personal injuries), after subsection (1) there is inserted —

“(1A) This section does not apply to any action brought for damages under section 6 of the Protection from Harassment Ordinance.”

12. National security, etc.

(1) If the Governor certifies that in the Governor’s opinion anything done by a specified person on a specified occasion related to —

(a) national security,

(b) the economic well-being of the Falkland Islands, or

(c) the prevention or detection of serious crime,

and was done on behalf of the Crown, the certificate is conclusive evidence that this Ordinance does not apply to any conduct of that person on that occasion.

(2) In subsection (1), “specified” means specified in the certificate in question.

(3) A document purporting to be a certificate under subsection (1) is to be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

OBJECTS AND REASONS

This Bill provides for the offence of harassment and other similar or related conduct.

Clauses 1 to 3 provide for introductory matters and covers for the title, commencement and the interpretation. Clause 2 defines a number of words and phrases used in the Bill;

Clause 4 provides for the prohibition of harassment and specifies conduct which will amount to harassment;

Clause 5 provides for the offence of harassment and specifies the penalty for committing the offence;

Clause 6 provides for a victim of harassment to bring civil proceedings where there has been harassment and provides for the court to award damages to the victim for anxiety or any financial loss resulting from the harassment. It also provides for the court to grant an injunction to restrain the defendant from pursuing any conduct which will amount to harassment;

Clause 7 provides for the prohibition against conduct which puts other people in fear (of violence) and makes it an offence for any person to pursue such conduct. Sub-clause (3) outlines different defences that a person accused of the offence may bring. The clause also specifies the penalties applicable for this offence;

Clause 8 provides for the courts to make a restraint order against the defendant so as to stop the defendant from continuing with conduct which amounts to harassment or causes fear (of violence). The court may impose different time limits on the order or prohibit the defendant from doing certain acts as may be outlined in the order. The clause makes it an offence for the defendant to do anything that is contrary to the terms specified in the order and the clause specifies the penalties for contravening this clause;

Clauses 9 and 10 provide for the meaning of “racially or religiously aggravated” and create aggravated versions of the offences of harassment and putting people in fear of violence;

Clause 11 provides for an amendment to the Limitation Act 1980 (which applies to the Falkland Islands) so that section 11 dealing with special time limits for actions in respect of personal injuries does not apply to civil proceedings brought under this Ordinance; and

Clause 12 provides for the non-application of this Bill where the Governor can certify that any conduct (*taken to be harassment*) in question related to national security, the economic well-being of the Falkland Islands or for the prevention and detection of serious crime.



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**Explanatory Memorandum to the Children Bill 2014; and
Children Bill 2014.**

The Children Bill 2014 was presented to Legislative Assembly on 27 February 2014 under a Certificate of Urgency. This route was taken to prevent delay in the progress of the Bill through the Assembly. The Legislative Assembly remitted the Bill to Select Committee, which meets on 3 March 2014, with a view to the Bill returning to the Legislative Assembly on 27 March 2014.

EXPLANATORY MEMORANDUM TO THE CHILDREN BILL 2014

The Children Bill would replace the existing Children Ordinance (No 28 of 1994) which was passed in 1994 and came into force on 1 January 1995.

This Explanatory Memorandum is intended to assist readers of the Bill by providing a detailed explanation of its provisions and the key changes between the existing legislation and the proposed new legislation.

The Bill has 101 clauses and 6 Schedules.

The Bill is divided into 11 Parts, as follows:

- Part 1 (Introduction), which contains:
 - the standard opening provisions about the title of the Bill, commencement and interpretation (definitions of key terms used elsewhere in the Bill);
 - the fundamental principle that the welfare of the child must be paramount; and
 - provisions about parental responsibility, guardianship and welfare reports.
- Part 2 (Orders with respect to Children in family proceedings), which deals with residence and custody and orders for financial support of children.
- Part 3 (Support from Crown for children and families), which is new and which deals with the provision of support (including accommodation and funding) by the Crown for:
 - children in need and their families;
 - children in the care of the Crown; and
 - young adults who have been in the care of the Crown as children.
- Part 4 (Care and supervision), which deals with proceedings about children being taken into care or brought under supervision.
- Part 5 (Protection of children), which deals with child assessments and emergency protection of children.
- Part 6 (Fostering), which is new and which would introduce limited regulation of fostering.
- Part 7 (Safeguarding Children Board), which is new and which would provide a statutory basis for the Safeguarding Children Board (which currently operates on a non-statutory basis).
- Part 8 (Miscellaneous and general), which deals with various matters:

- continuing modifications to UK law that applies in relation to criminal care and supervision orders;
 - the effect and duration of orders;
 - jurisdiction of the courts;
 - appeals;
 - rules of court;
 - evidence by or about children;
 - privacy for children;
 - self-incrimination;
 - police powers in certain cases;
 - offences by bodies corporate;
 - consent by over 16s to medical and surgical treatment;
 - when a person reaches a particular age; and
 - use of the word “child” instead of “infant” or “minor” for under 18s.
- Part 9 (Subsidiary legislation), which deals with the position until subsidiary legislation is made under powers contained in the Ordinance and would give the Governor (who would normally have to act on the advice of Executive Council) the power to make consequential amendments to other legislation and transitional and saving provisions by order.
 - Part 10 (Modifications of UK legislation (as it applies in Falkland Islands)), which introduces Schedule 6, which (in turn) makes modifications to the way in which certain pieces of UK legislation applies in the Falkland Islands.
 - Part 11 (Repeal), which would repeal the existing Children Ordinance when it is replaced by the new Ordinance.

The Schedules to the Bill are as follows:

- Schedule 1 (Financial relief for children), which deals with orders that can be made in family proceedings.
- Schedule 2 (Crown support for families and children), which is new and which would make further provision in relation to Part 2 (Support from Crown for families and children).

- Schedule 3 (Supervision orders), which makes further provision about supervision orders.
- Schedule 4 (Further provision about arrests for breach of exclusion requirement), which is new and which would make further provision in relation to arrests under the proposed new powers under *clauses 57 and 65*.
- Schedule 5 (Fostering), which is new and which would make further provision in relation to Part 6 (Fostering).
- Schedule 6 (Modifications of UK legislation), which would repeat 4 existing modifications to UK legislation (as it applies in the Falkland Islands).

To a large extent, the provisions of the Bill are based on (or adapted from) corresponding provisions in the UK's Children Act 1989, which is already the case to some extent for the existing Children Ordinance. The provisions in Part 7 are adapted from corresponding provisions in the UK's Children Act 2004 and the provisions of Schedule 4 are based on (or adapted from) provisions in the UK's Family Law Act 1996.

Because the Bill follows the UK legislation so closely, clause headings contain references to the corresponding provision from the UK legislation:

- In most cases, these are given in the form “(CA, Pt 1)”, “(CA, s1)” or “(CA, Sch 1)” or “(CA, Sch 1, para 1)”, which shows that the provision is based on (or adapted from) the corresponding Part, section, Schedule or paragraph in the UK's Children Act 1989.
- In Part 7, the references are given in the form “(CA 2004, s13)”, which shows that the provision is adapted from the corresponding section in the UK's Children Act 2004.
- In Schedule 4, the references are given in the form “(Family Law Act 1996, s47(7))” or “(Family Law Act 1996, Sch 5, para 2)”, which shows that the provision is based on (or adapted from) the corresponding subsection of paragraph in the UK's Family Law Act 1996.

Key changes from the existing Children Ordinance

The four key changes that the Bill would make from the existing Children Ordinance are as follows:

- Unmarried birth fathers would acquire parental responsibility automatically if their name is registered on the child's birth certificate – at present, an unmarried birth father must make an application to the court for parental responsibility, even if the child's birth mother agrees.
- The Falkland Islands Government would assume a new set of statutory duties to provide support (including accommodation and funding) for: children in need and their families; children in the care of the Crown; and young adults who have been in the care of the Crown.

- For the first time, private fostering arrangements would be regulated and a “usual fostering limit” on the number of children who can be fostered by the same person would be introduced.
- The Falkland Islands Safeguarding Children Board (FISCB) currently operates on a non-statutory basis and would be given a statutory framework within which to operate.

The Bill would also make a number of technical changes throughout to the existing Children Ordinance. To some extent, this reflects changes that have been made in the UK to the Children Act since the existing Children Ordinance was passed in 1994.

However, some of the provisions in the UK’s legislation about children are still not included in the Bill. The most important of these are as follows:

- In the UK, provision has been made for special guardians to be appointed for some children. It is not proposed to introduce corresponding provisions in the Falkland Islands at this time.
- In the UK, the Adoption Act 1976 (which currently applies in the Falkland Islands in a modified form) has been replaced by the Children and Adoption Act 2004. It is not proposed to make changes to adoption law in the Falkland Islands at this time and the Adoption Act 1976 will continue to apply in its modified form.
- Provisions dealing with the regulation of children’s homes, child minding and day care are not being introduced in the Falkland Islands at this time.
- There is also no requirement for separate supervisory function, as there is no separation between central and local government in the Falkland Islands.

Part 1 – Introduction

Under *clause 2*, the Ordinance would not come into force immediately, even if the Bill is passed. It would not come into force until a notice (or series of notices) is published in the *Gazette* to bring it into force (either all at once or in stages).

Clause 3 defines a number of words and phrases that are used elsewhere in the Bill. It also contains indexing references to other provisions in which words or phrases are defined.

Clause 4 restates the fundamental principle that the welfare of the child is the most important thing to be taken into account by a court when it makes a decision about the upbringing of that child or a decision about a child’s property.

Clause 4 also sets out the factors that have to be taken into account by a court when it is considering whether or not to make an order under the Children Ordinance. These are the same in the Bill as they are in the existing Children Ordinance.

Clause 5 deals with who has parental responsibility for a child.

Clause 5(1) and 5(2) deal with the basic position:

- If a child's birth father and birth mother are married to one another when the child is born, both of them have parental responsibility for the child.
- If the child's birth father and birth mother are not married to one another, only the mother has parental responsibility for the child automatically.
- However, if a child's birth father and birth mother marry subsequently, the effect of the Family Law Reform Ordinance (No 15 of 2004) is that the birth father will acquire parental responsibility.

There is a provision in the existing Children Ordinance that abolished the old rule that a father was the natural guardian of his child. That provision is not carried over into the Bill but that does not revive the old rule.

The rest of *clause 5* deals with how parental responsibility can be exercised.

Clause 6 deals with what is meant by "parental responsibility" and the consequences of having (or not having) parental responsibility for a child.

Clause 7 deals with the ways in which a birth father can acquire parental responsibility for his child, even if he was not married to the child's birth mother when the child was born and he has not married her afterwards:

- Under the existing Children Ordinance, a birth father does not have parental responsibility for his child even if he is named as the father on the child's birth certificate. However, *clause 7(1)(a)* would change this and a person named as a child's father on a child's birth certificate would automatically acquire parental responsibility for the child.
- As before, it would still be possible for a birth father to acquire parental responsibility for a child by entering into a parental responsibility agreement with the child's birth mother and having that agreement approved by the court.
- Also as before, it would also still be possible for a birth father to apply to the court for a parental responsibility order.

Clauses 7(4) and 7(5) deal with the circumstances in which a parental responsibility order or parental responsibility agreement can be brought to an end.

Clause 8 deals with the ways in which a step-parent can acquire parental responsibility for a step-child:

- As before, it would still be possible for a step-parent to acquire parental responsibility for a child by entering into a parental responsibility agreement with the child's birth parents and having that agreement approved by the court.
- Also as before, it would also still be possible for a step-parent to apply to the court for a parental responsibility order.

Clauses 8(3) and 8(4) deal with the circumstances in which a parental responsibility order or parental responsibility agreement can be brought to an end.

Clause 9 deals with the appointment of guardians to children: this can be done by written appointment, by will or by court order. It also deals with the circumstances in which a guardian can acquire parental responsibility for a child.

Clause 10 deals with the ways in which a person who has appointed a guardian can revoke that appointment or in which a person who has been appointed as a guardian can disclaim that appointment. It also provides that an appointment would be normally revoked automatically if the person appointed is the spouse of the person and a divorce or annulment takes place.

Clause 11 provides that a court may ask the Crown to arrange for welfare reports to be produced when it is dealing with issues relating to a child.

Part 2 – Orders with respect to children in family proceedings

Clause 12 lists the orders that can be made in family proceedings:

- contact orders
- prohibited steps orders
- residence orders
- specific issue orders

These are referred to throughout the Ordinance as “section 12 orders”.

Clause 12 also defines “family proceedings” and these include:

- proceedings under the Children Ordinance
- matrimonial proceedings; and
- adoption proceedings

Clause 13 imposes various restrictions on the circumstances in which certain section 12 orders can be made.

Clause 14 deals with the circumstances in which the court can make section 12 orders.

Clause 15 sets out general principles about how section 12 orders must be dealt with, when they can be made, what they may contain and how they come to an end.

Clause 16 deals with the interaction between residence orders and parental responsibility. If a residence order is made in favour of someone who does not have responsibility, the court must also make a parental responsibility order in favour of that person, but there are limitations on parental responsibility acquired in this way.

Clause 17 imposes restrictions on the circumstances in which the name of a child who is the subject of a residence order can be changed or in which a child who is the subject of residence order can be taken out of the Falkland Islands.

Clause 18 provides for how a residence order can be enforced if it is not being complied with.

Clause 19 introduces *Schedule 1*, which deals with financial relief for children in family proceedings:

Paragraph 1 of Schedule 1 deals with the orders for financial relief that a court can make for the benefit of children.

Paragraph 2 of Schedule 1 deals with the orders for financial relief that a court can make for the benefit of persons who have reached the age of 18 – these orders can be made if the applicant is (or will be) undertaking education or training or if there are other special circumstances.

Paragraph 3 of Schedule 1 deals with the term for which orders for financial relief can be made and circumstances in which orders come to an end automatically.

Paragraph 4 of Schedule 1 sets out the criteria that a court must take into account when deciding whether to make an order for financial relief and, if so, what order to make.

Paragraph 5 of Schedule 1 makes further provision about the power that a court has to order lump sum payments.

Paragraph 6 of Schedule 1 deals with the powers that a court has to vary or discharge orders for periodical payments.

Paragraph 7 of Schedule 1 makes specific provision about the power of the Summary Court to vary orders for periodical payments.

Paragraph 8 of Schedule 1 deals with the variation or discharge of orders for secured periodical payments after the death of a parent.

Paragraph 9 of Schedule 1 deals with a situation in which an order has been made under other legislation and requires contributions to be made to the maintenance of a child and then a residence order is made in relation to that child.

Paragraph 10 of Schedule 1 allows a court to make interim orders.

Paragraph 11 of Schedule 1 would allow a court to vary or revoke a maintenance agreement in certain circumstances.

Paragraph 12 of Schedule 1 deals with alterations of a maintenance agreement following the death of one of the parties to it.

Paragraph 13 of Schedule 1 provides for the enforcement of orders made under *Schedule 1*.

Paragraph 14 of Schedule 1 deals with the situation in which one of a child's parents lives in the Falkland Islands and the other lives outside the Falkland Islands and provides that a court can make an order against the parent living in the Falkland Islands.

Paragraph 15 of Schedule 1 is new and would give the Crown a discretionary power to make contributions to the maintenance of a child who is living away from the child's parents.

Paragraph 16 of Schedule 1 deals with the interpretation of *Schedule 1*.

Clause 20 deals with family assistance orders and provides that, in certain circumstances, a court may order the Crown to arrange for suitable persons to advise, assist and befriend those involved in family proceedings. It also provides that the court can direct the person appointed to provide advice and assistance to improve and maintain contact under a contact order.

Clause 21 is new and provides that a person who has been appointed under a family assistance order must carry a risk assessment and provide it to the court, if the person who has been appointed has cause to believe that there is a risk of harm to a child.

Part 3 – Support from Crown for children and families

Part 3 is new and corresponds to Part 3 of the UK's Children Act 1989 – that was not implemented in the existing Children Ordinance.

Clause 3 deals with the provision of services for children in need, their families and others:

- *Clause 22(1)* imposes a general duty on the Crown to safeguard the welfare of children in need and, subject to that, to promote the upbringing of children in need by their own families.
- Definitions about this can be found in *clauses 22(11) and (12)*.
- *Clause 22(2)* introduces *Part 1 of Schedule 2*, which sets out specific duties and powers that the Crown has in order to further that general duty (and *clause 22(4)* would allow the Governor – normally, acting on the advice of Executive Council – to amend *Part 1 of Schedule 2*):

Paragraph 1 of Schedule 2 would place the Crown under positive duties to identify the extent to which children are in need, to publish information about the services it would be providing under *Part 3* and to take steps to ensure that those who might benefit from these services receive information about them.

Paragraph 2 of Schedule 2 would require the Crown to open and maintain a register of disabled children.

Paragraph 3 of Schedule 2 would allow for assessments to be combined.

Paragraph 4 of Schedule 2 would require the Crown to take reasonable steps to use the provision of services under *Part 3* to prevent children from suffering ill-treatment or neglect.

Paragraph 5 of Schedule 2 would give the Crown a discretionary power to assist with the provision of alternative accommodation for someone who is moving out of the child's home for the protection of that child – however, repayments could be recovered in certain circumstances under *clauses 22(8) to 22(10)*.

Paragraph 6 of Schedule 2 would place the Crown under a positive duty to provide services for disabled children.

Paragraph 7 of Schedule 2 would require the Crown to take reasonable steps to reduce the need for child protection measure to be taken and to encourage children not to commit criminal offences.

Paragraph 8 of Schedule 2 would require the Crown to provide a range of services for children in need.

Paragraph 9 of Schedule 2 would require the Crown to take steps to enable children in need to live with their families or have contact with them.

Paragraph 10 of Schedule 2 would require the Crown to have regard to the racial balance of the Falkland Islands when recruiting foster parents to look after children on behalf of the Crown.

- *Clause 22(3)* provides that services can be provided to a child's family or to individual members of a child's family in order to safeguard or promote the welfare of the child.
- *Clause 22(5)* provides for the wishes and feelings of the child to be ascertained and given due consideration.
- *Clause 22(6)* provides for the involvement of others (including voluntary organisations) in the provision of services.
- *Clause 22(7)* allows for the provision of accommodation, assistance in kind and (in exceptional circumstances) cash assistance.
- *Clauses 22(8) to 22(10)* provide that repayments can be recovered in certain circumstances and that the means of the family must be taken into account in relation to both the provision of assistance and the recovery of repayments.

Clause 23 deals with the provision of accommodation by the Crown to children and young adults in certain situations:

- *Clauses 23(1) and (2)* would impose a duty on the Crown to provide accommodation for children in certain situations.
- *Clauses 23(3) and (4)* would give the Crown a discretion to provide accommodation for children and young adults in certain situations.
- *Clause 23(5)* provide for the wishes and feelings of the child to be taken into account and given due consideration.

- *Clauses 23(6) to (10)* deal with restrictions on the duties and discretions in *clauses 23(1) to 23(4)*.

Clause 24 would impose a duty on the Crown to provide accommodation for children who have been removed from home or kept away from home under the provisions in *Part 5*, which deals with the protection of children. It would also impose a duty on the Crown to provide accommodation to those who have been detained following charge.

Clause 25 would impose general duties on the Crown in relation to every child who is in its care or who is being looked after by it for more than 24 hours in the course of social services functions:

Clauses 25(3) and (4) provide that these duties are to safeguard and promote the child's welfare (including its educational achievement) and to make use of the same range of services that would be available if the child were living in its own family.

Clauses 25(5) and (6) provide for the wishes and feelings of the child and others to be ascertained and given due consideration and also for the child's background to be given due consideration.

However, *clause 25(7)* allows the safety of the public to be taken into consideration as well.

Clauses 26 and 27 would impose specific duties on the Crown to provide every child it is looking after with accommodation and to maintain every child it is looking after in all other ways.

Clause 28 would require the Crown to make arrangements for a child it is looking after to live with someone and it sets out the criteria to be used when identifying with whom the child is to live. It would also allow the Crown to enter into the necessary arrangements.

Clause 29 provides for there to be a review to take place in most cases before a child is given accommodation with someone who is not closely connected with the child or with someone who is not an approved foster parent.

Clause 30 introduces *Part 2 of Schedule 2*, which contains further provisions about children being looked after by the Crown:

Paragraphs 11 to 16 of Schedule 2 deals with the requirements that could be imposed on the Crown in regulations made under *clause 30*. (Until regulations are made, *clause 97* allows corresponding regulations that apply in England to be used as guidance in the Falkland Islands – the same applies in other cases in which there is power to make regulations they have not yet been made.)

Paragraph 17 of Schedule 2 would require the Crown to promote contact between a child being looked after by the Crown and the people close to the child. It would also require information to be provided to and by a child's parents when the child is being looked after by the Crown. Failure to provide the information would be an offence, with a maximum penalty of a level 2 fine (currently, £500).

Paragraph 18 of Schedule 2 would give the Crown a discretionary power to make payments in certain circumstances towards the costs of visits to or by a child being looked after by the Crown.

Paragraph 19 of Schedule 2 would require the Crown in some circumstances to appoint someone to visit a child being looked after by the Crown.

Paragraph 20 of Schedule 2 would give the Crown the power to guarantee deeds of apprenticeship and articles of clerkship.

Under *paragraph 21 of Schedule 2*, the Crown would only be able to arrange for a child in its care to live outside the Falkland Islands with the approval of the court, which could only be given in certain circumstances. However, *paragraph 21(2) of Schedule 2* would allow the Crown to arrange for a child being looked after by the Crown with the approval of every person who has parental responsibility for the child.

Paragraph 22 of Schedule 2 would require the Crown to advise, assist and befriend the children it is looking after with a view to promoting their welfare when it no longer is looking them.

Paragraphs 23 and 24 of Schedule 2 applies in relation children aged 16 or 17 who have been looked after by the Crown. It requires the Crown to assess their needs, to prepare pathway plans for each of them, to keep those plans under regular review and to appoint a personal adviser for each of them.

Paragraph 25 of Schedule 2 deals with the situation in which a child dies while being looked after by the Crown.

Clause 31 would impose a general duty on the Crown to ensure that there is enough accommodation for the children it is required to accommodate and to have regard to the need for a range of accommodation covering different needs.

Clause 32 would impose a duty on the Crown to ensure that children who are being looked after the Crown (or, in certain circumstances, who were being looked after the Crown) are visited by a person with the necessary skills and experience and provided, if they want it, with appropriate advice, support and assistance.

Clause 33 would impose a duty on the Crown to appoint an independent person as a child's visitor if it would be in the child's interests to do that. It also makes provision for how arrangements of this sort are to be put in place and the circumstances in which they come to an end.

Clauses 34 and 35 would impose various duties on the Crown in relation to children aged 16 or 17 who have been looked after the Crown – although this category could be changed by order:

- These duties (which would apply until the child's 18th birthday) would be as follows:
 - to take reasonable steps to keep in touch with the child (and to re-establish contact, if it is lost);

- to appoint a personal adviser to the child;
 - unless a pathway plan under *clause 39* is already in place for the child, to carry out an assessment and prepare a pathway plan;
 - to keep the pathway plan under regular review;
 - unless the child does not need it, to provide maintenance, accommodation and other support for the child (which could be in cash).
- Under *clause 35(12)*, repayments can be recovered for these services in the same way as they can for services provided to children and families in need.
 - Under *clause 35(13)*, the child's wishes and feelings must be ascertained and given due consideration.

Clause 36 would impose continuing duties on the Crown in relation to young adults who were looked after by the Crown as children:

- These duties (which would apply until the young adult's 21st birthday, or longer if the young adult is on a programme of education or training under a pathway plan) would be as follows:
 - to take reasonable steps to keep in touch with the young adult (and to re-establish contact, if it is lost);
 - to continue the appointment of a personal adviser to the young adult;
 - to keep the young adult's pathway plan under regular review;
 - if the young adult needs it, to contribute towards living expenses incurred when working, studying or training and to provide other assistance in kind (or, in exceptional circumstances, in cash);
 - to pay towards the young adult's higher education, if that forms part of the pathway plan;
 - to assist with accommodation during vacations while undertaking education or training.
- Under *clause 36(13)*, repayments can be recovered for these services in the same way as they can for services provided to children and families in need.

Clause 37 would impose additional duties on the Crown in relation to young adults who were looked after by the Crown as children and remain in education or training:

- These duties (which would apply until the young adult's 24th birthday and throughout a programme of education or training) would be as follows:

- to appoint a personal adviser if the Crown is informed that the young adult is pursuing or intending to pursue a programme of education or training;
 - to carry out an assessment of the young adult's needs;
 - if the young adult needs it, to contribute towards living expenses incurred in relation when studying or training and towards expenses connected with the education or training.
- Under *clause 37(8)*, repayments can be recovered for these services in the same way as they can for services provided to children and families in need.

Clause 38 would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations requiring the Crown to appoint personal advisers to children and young adults entitled to other forms of assistance under *Part 3 or Schedule 2*.

Clause 39 deals with pathway plans, which are plans setting out the advice, assistance and support to be provided by the Crown under *Part 3 or Schedule 2*.

Clauses 40, 41 and 42 would impose various duties on the Crown and give the Crown various discretionary powers in relation to children aged 16 or 17 and young adults who (in either case) had been looked after by the Crown after reaching the age of 16:

- The duties (which would apply until the young adult's 21st birthday) would be as follows:
 - to take appropriate steps to contact the child or young adult at appropriate intervals;
 - if the child or young adult needs it, to advise and befriend the child or young adult;
- The discretionary powers would be as follows:
 - to contribute towards living expenses incurred when working, studying or training – this would apply until the young adult's 21st birthday;
 - to contribute towards living expenses incurred in relation when studying or training and towards expenses connected with the education or training and to make a grant towards expenses connected with education or training – this would apply until the young adult's 24th birthday;
 - to assist with accommodation during vacations while undertaking education or training – this would apply until the young adult's 24th birthday.
- Under *clause 41(5)*, repayments can be recovered for these services in the same way as they can for services provided to children and families in need.

Clause 43 would require the Crown to establish a procedure for considering representations and complaints from children and young adults about the discharge of its functions in relation to children and young adults.

Clauses 44(1) to (4) would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations requiring the case of every child being looked after by the Crown to be reviewed. (Again and as in other cases, until regulations are made, *clause 97* allows corresponding regulations that apply in England to be used as guidance in the Falkland Islands.)

Clauses 44(5) to (13) would require the Crown to establish a procedure (in which an independent person must be involved) for reviewing representations about the discharge of its functions in relation to children in need and to give appropriate publicity about the existence of the procedure. Whenever representations are dealt with under this procedure, the Crown must have due regard to the findings and notify the affected parties.

Clause 45 would require the Crown to make arrangements to provide advocacy services for those wishing to make representations and to give appropriate publicity about the availability of this assistance.

Clause 46 would allow the Crown to recover charges for some of the services it provides in relation to children and families in need.

Clause 46 also introduces *Part 3 of Schedule 2*, which provides for the recovery of contributions towards the maintenance of children who are being looked after by the Crown:

Under *paragraph 26 of Schedule 2*, the Crown would have in certain cases to consider whether or not it is reasonable to recover contributions towards the maintenance of a child it is looking after and deals with who is liable and in what circumstances.

Paragraphs 27 and 28 of Schedule 2 would provide a mechanism for contributions to be agreed and for the court to make contribution orders in cases when agreement cannot be reached.

Paragraph 29 of Schedule 2 deals with the enforcement of contribution orders.

Paragraph 30 of Schedule 2 would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations about contributions.

Clause 47(1) provides that the duties on the Crown that would be imposed by *Part 3* are in addition to any other duties it has under other legislation,

Clause 47(2) would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations about the circumstances in which a child's parents are to be treated as if they do or do not have sufficient resources.

Part 4 – Care and supervision

Clause 48 deals with care orders (under which a child is placed in the care of the Crown) and supervision orders (under which a child is placed under the supervision of the Crown):

- It provides for the circumstances in which a care or supervision order could be made. It also provides that a supervision order can be made on an application for a care order (and vice versa).
- There would be a change from the existing Children Ordinance in that it would become a requirement for a care plan to be produced before a care order could be made.

Clause 49 is new and deals with the requirement for the Crown to produce a plan for the future care of a child whenever a court might make a care order for that child.

Clause 50 deals with the timetable for dealing with an application for a care or supervision order.

Clause 51 deals with the effect of a care order when it is made:

- The Crown comes under a duty to receive the child into its care and keep the child in its care.
- The Crown takes over parental responsibility for the child (but may decide to allow some or all of those who had parental responsibility before to exercise it).
- It also imposes limits on the ways in which the Crown may exercise parental responsibility.

Clause 52 provides that the Crown is under a positive duty to allow the child to have reasonable contact with the child's parents and (subject to court order) with others.

Clause 53 deals with the effect of a supervision order when it is made, which includes the duty of the supervisor to advise, assist and befriend the child and to take steps to give effect to the order.

Clause 53 also introduces *Parts 1 and 2 of Schedule 3*, which make further provision about supervision orders:

Paragraph 1 of Schedule 3 defines "responsible person" as those who have parental responsibility for a supervised child and anyone else with whom a supervised child is living

Paragraph 2 of Schedule 3 deals with the powers of a supervisor to give directions to a child who is being supervised.

Paragraph 3 of Schedule 3 imposes obligations on responsible persons.

Paragraphs 4 and 5 of Schedule 3 deal with psychiatric and medical examinations and treatment. These provisions have been changed from the corresponding provisions in the existing Children Ordinance:

- The changes are intended to bring these provisions into line with section 8 of the Constitution (which deals with freedom of movement) and, subject to that, to allow for the possibility of examinations and/or treatment that cannot be provided in the Falkland

Islands being provided somewhere other than the United Kingdom (eg in Chile) in appropriate cases.

- The provisions would distinguish between: on the one hand, children who belong to the Falkland Islands (ie who have Falkland Islands Status (FIS)) or who have a permanent right to remain in the Falkland Islands (PRR); and, on the other, children who do not have FIS or PRR.
 - Everyone who has FIS or PRR has fundamental rights under section 8 of the Constitution that include specific rights to enter, remain in and leave the Islands, as well as the right to reside in the Islands. With one exception (see below), a child who has FIS or PRR could only be sent away from the Islands for examination and/or treatment under a supervision order if the court is satisfied that the child has consented to that and that they have sufficient understanding to give that consent.
 - Those who do not have FIS or PRR have more limited rights under section 8 of the Constitution, which include the right to reside in the Falkland Islands while they are legally present there but do not include the specific rights to enter, remain in and leave the Islands. A child in this category could be sent away from the Islands for examination and/or treatment even if the child has not consented, provided that the court is satisfied that the child's more limited rights under section 8 are not infringed.
 - There is an exception under section 8(3)(h) of the Constitution that applies in all cases (whether or not a person has FIS or PRR) and allows a person who has a mental disorder to be removed from the Islands for treatment if it cannot be provided in the Islands and it is necessary in the person's interests or to protect the public. That would allow the court to send a child away for psychiatric treatment (whether or not the child has FIS or PRR), but only if the treatment is necessary and cannot be provided in the Islands.
 - The child's rights under section 8 belong to the child and not to the child's parents. However, since a requirement for examination and/or treatment outside the Islands would be imposed as part of a supervision order, the parents would be able to make representations to the court before the order is made.
 - These provisions only relate to supervision orders. Other procedures (such as a care order or wardship) may be relevant in cases where a child does not have sufficient understanding to give or withhold consent.

Paragraph 6 of Schedule 3 limits the period for which supervision orders can be made to 1 year at a time and no more than 3 years in total.

Paragraph 7 of Schedule 3 deals with the information that supervised children and responsible persons can be required to give to supervisors.

Paragraph 8 of Schedule 3 provides that a supervision order supersedes existing care and supervision orders relating to the same child.

Clause 54 is new and would introduce education supervision orders to deal with situations in which a child of compulsory school age is not being properly educated.

Clause 54 also introduces *Part 3 of Schedule 3*, which is also new and makes further provision about education supervision orders.

Paragraph 9 of Schedule 3 would provide for the effect of an education supervision order, the principle purpose of which would be to ensure that the supervised child is properly educated. When giving directions to achieve that, the supervisor would have to ascertain the wishes and feelings of the child and the child's parents and give due consideration to those wishes and feelings.

Paragraph 10 of Schedule 3 would provide for the education supervision order to override the duty under the Education Ordinance and to supersede any existing school attendance order.

Paragraph 11 of Schedule 3 would deal with the situation in which a child is subject to a supervision order and an education supervision order and provides that, in this case, the supervision order would take precedence.

Paragraph 12 of Schedule 3 would limit the period for which education supervision orders can be made to 1 year at a time and no more than 3 years in total and also provides that an education supervision order would come to an end when the child reaches school leaving age or when a care order is made.

Paragraph 13 of Schedule 3 deals with the information that supervised children and responsible persons could be required to give to supervisors.

Paragraph 14 of Schedule 3 would give the court a power to discharge an education supervision order but, when doing so, to direct the Crown to investigate the child's circumstances.

Paragraph 15 of Schedule 3 would make it an offence for the parent of a child persistently to fail to comply with directions given under an education supervision order, subject to various defences. The maximum penalty for this offence would be a level 3 fine (currently, £1,000).

Paragraph 16 of Schedule 3 defines "parent" for the purposes of the provisions about education supervision orders.

Clause 55 deals with the powers of the court in certain family proceedings (which are defined in *clause 12* as proceedings under the Children Ordinance, matrimonial proceedings or adoption proceedings):

- If a question about the welfare of a child arises in family proceedings, the court may order the Crown to undertake an investigation and, when undertaking that

investigation, the Crown must consider whether it needs to take other steps (which may include applying for a care or supervision order).

- If the Crown decides not to apply for a care or supervision order, it must inform the court why not and what it has done instead. It must also consider whether or not to keep the situation under review.

Clause 56 deals with interim orders and would allow the court (as at present) to make an interim order or series of interim orders if need be, for up to 8 weeks initially and for up to 4 weeks at a time after that.

Clause 56 also provides for the court to be able to give directions in relation to an interim order about whether or not medical or psychiatric examinations are to be carried out.

Clauses 57 and 58 are both new and would introduce a power for the court to include an exclusion requirement in an interim care order or to accept an exclusion undertaking instead of a requirement:

- These would exclude a person from a family home and/or the area around it in order to protect a child from a risk of significant harm in circumstances when there is someone else in the family home who can look after the child and who consents to the exclusion taking place.
- In the case of a requirement (but not in the case of an undertaking), the court can attach a power of arrest, allowing the excluded person to be arrested without warrant in the case of a breach.
- *Clause 57(9)* introduces *Schedule 4*, which is also new and makes further provision about the power of arrest:

Paragraph 1 of Schedule 4 would require a person arrested under this power to be brought before a court within 24 hours and would allow the court to remand the person if the matter cannot be dealt with at the time.

Paragraph 2 of Schedule 4 would give the court the power to remand the person in custody or on bail for up to 8 days at a time.

Paragraph 3 of Schedule 4 would allow remand hearings to take place in the absence of the person in certain circumstances.

Paragraph 4 of Schedule 4 deals with the postponement of recognisances.

Paragraph 5 of Schedule 4 would allow the court to impose bail conditions to prevent interference with witnesses or obstruction of the course of justice.

Paragraph 6 of Schedule 4 would allow the court to remand the person for a longer period for a medical examination and report to be made. It would also allow the court to remand the person to hospital for a report on the person's mental condition.

Clause 59 deals with the circumstances in which a care or supervision order could be discharged or varied. It also deals with the circumstances in which an exclusion requirement or undertaking could be discharged or varied (which is a new provision following on from *clauses 57 and 58*).

Clause 60 deals with orders pending appeals and would allow the court to make interim orders to apply during the period within which an appeal could be brought and while appeal proceedings are being conducted.

Clause 61 deals with the appointment of children's guardians to represent children in court proceedings of various types (listed in *clause 61(6)*) and also deals with the appointment of legal practitioners instead in certain circumstances. There would be a change from the existing Children Ordinance in that guardians ad litem would become children's guardians.

Clause 62 is new and would allow a children's guardian to have automatic access to Crown records that relate to the child.

Part 5 – Protection of children

Clause 63 deals with child assessment orders (under which the state of a child's welfare, development or treatment can be assessed if there is reasonable cause to suspect that the child is suffering harm or is likely to suffer harm):

- It provides for the circumstances in which a child assessment order can be made. It also provides that an emergency protection order under *clause 64* can be made on an application for a child assessment order.
- A child can be kept away from home under a child assessment order in certain circumstances.

Clause 64 deals with emergency protection orders (under which a child can be removed from home while enquiries are made under *clause 69* if the enquiries are being frustrated and the child is at risk of likely to suffer significant harm if not removed):

- It provides for the circumstances in which an emergency protection order can be made and the other consequences of the order, which include the applicant taking over limited parental responsibility.
- It also provides for the circumstances in which a child would have to be returned home.
- Obstructing the carrying out of an emergency protection order would be a criminal offence, with a maximum penalty of a level 3 fine (currently, £1,000).

Clauses 65 and 66 are both new and would introduce a power for the court to include an exclusion requirement in an emergency protection order or to accept an exclusion undertaking instead of a requirement:

- These would exclude a person from a family home and/or the area around it in order to protect a child from a risk of significant harm in circumstances when there is

someone else in the family home who can look after the child and who consents to the exclusion taking place.

- In the case of a requirement (but not in the case of an undertaking), the court can attach a power of arrest, allowing the excluded person to be arrested without warrant in the case of a breach. *Clause 65(9)* introduces *Schedule 4*, which is also new and makes further provision about the power of arrest:

Paragraph 1 of Schedule 4 would require a person arrested under this power to be brought before a court within 24 hours and would allow the court to remand the person if the matter cannot be dealt with at the time.

Paragraph 2 of Schedule 4 would give the court the power to remand the person in custody or on bail for up to 8 days at a time.

Paragraph 3 of Schedule 4 would allow remand hearings to take place in the absence of the person in certain circumstances.

Paragraph 4 of Schedule 4 deals with the postponement of recognisances.

Paragraph 5 of Schedule 4 would allow the court to impose bail conditions to prevent interference with witnesses or obstruction of the course of justice.

Paragraph 6 of Schedule 4 would allow the court to remand the person for a longer period for a medical examination and report to be made. It would also allow the court to remand the person to hospital for a report on the person's mental condition.

Clause 67 limits the length of time for which an emergency protection order can stay in force and contains other supplementary provisions about emergency protection orders

- It provides that an emergency protection order cannot last for more than 8 days in the first instance (or until the next working day after, if it would end on a Sunday or public holiday).
- It also provides that, if an emergency protection order is made after a child is taken into police protection under *clause 68*, the 8 days runs from the day on which the child was taken into police protection.
- An emergency protection order can be renewed for a further 7 days but it can only be renewed once.
- It provides that there is no appeal from a decision that a court makes about an emergency protection order, but it also sets out the circumstances in which an emergency protection order can be varied or discharged.

Clause 68 deals with the circumstances in which a child can be taken into police protection and the steps that have to be taken when a child is taken into police protection:

- A child cannot be kept in police protection for more than 72 hours and the effect of *clause 67(3)* is that time spent in police protection counts towards the time limit for which an emergency protection order can be made.
- When a child is taken into police protection, the Attorney General and various other parties must be notified.
- When a child is taken into police protection, inquiries must be conducted by the Chief Police Officer or another police officer with the rank of inspector or above.

Clause 69 is new and would impose a duty on the Crown to make enquiries whenever an emergency protection order is made, a child is taken into police protection or the Crown has reasonable cause to suspect that a child is suffering significant harm or likely to suffer it:

- If the Crown is granted an emergency protection order, it would have to make enquiries about whether further steps need to be taken and, if so, what steps need to be taken.
- While these enquiries are being made, the Crown would have to take steps to obtain access to the child to carry them out, unless it already has enough information.
- The Crown would be under a duty to ascertain the child's wishes and feelings and to give them due consideration.
- If the enquiry is obstructed, the Crown would normally be expected to apply for the necessary further order.
- After the enquiries are concluded, the Crown would either have to take the necessary action or consider whether and, if so, the situation needs to be reviewed.

Clause 70 is also new and would allow a court to include additional provisions in an emergency protection order requiring the disclosure of information about a child's whereabouts and allowing the entry and search of premises for other children:

- Self-incrimination would not be an excuse for not complying with a provision requiring disclosure but statements and admissions made when complying would not be admissible against the person who made them.
- *Clause 70(5)* would allow for the emergency protection order to be extended to cover other children found on the same premises in certain circumstances.
- Obstructing the exercise of the power of entry and search would be a criminal offence, with a maximum penalty of a level 3 fine (currently, £1,000).
- It would also allow the court to issue a warrant for the police to assist an entry and search.

Under *clause 71*, it would be a specific offence to abduct a child who is in care, subject to an emergency protection order or in police protection. The maximum penalty would be a level 5 fine (currently, £4,000).

Clause 72 would allow a court to make a recovery order in relation to a child who is in care, subject to an emergency protection order or in police protection if the child has been abducted, has run away or is missing:

- A recovery order allows various steps to be taken including: requiring the production of the child; authorising the removal of the child; a requirement for persons to disclose information about the whereabouts of the child, and giving a police officer a power of entry and search.
- Self-incrimination would not be an excuse for not complying with a provision requiring disclosure but statements and admissions made when complying would not be admissible against the person who made them.
- Obstructing the removal of a child would be a criminal offence, with a maximum penalty of a level 3 fine (currently, £1,000).

Clause 73 deals with rules of court and *clause 73(3)* provides that until rules of court are made in the Falkland Islands, the rules of court that apply in England continue to apply with the necessary modifications.

Part 6 – Fostering

Part 6 is new and would introduce regulation of arrangements in which children under 16 are fostered privately and a “usual fostering limit” on the number of children who can be fostered by the same person.

Clause 74 would define the scope of the provisions:

- A child under 16 (or a disabled child under 18) would be regarded as being privately fostered if the child is being looked after in their own home by someone who is not a parent or relative and who does not have parental responsibility for the child in some other way.
- However, a child would not be regarded as being privately fostered if the child is not being looked after for more than 28 days or if one of the other exceptions in Schedule 4.
- The Governor (who would, normally, have to act on the advice of Executive Council) would be able to make regulations defining when a person is (or is not) to be treated as providing accommodation in the person’s own home.

Clause 74 also introduces *Schedule 5* which would make additional provisions about fostering.

Paragraph 1 of Schedule 5 defines fostering for the purposes of Schedule 5.

Paragraph 2 of Schedule 5 would establish a “usual fostering limit”, under which no more than 3 children can be fostered by the same person.

Paragraph 3 of Schedule 5 would create an exception to this if all of the children are siblings of one another.

Paragraph 4 of Schedule 5 would allow the Crown to grant an exemption from the usual fostering limit. It sets out the criteria to be taken into account in relation to exemptions and would allow for conditions to be imposed on exemptions.

Paragraph 5 of Schedule 5 would require the Crown to establish a procedure for considering representations and complaints about decisions in relation to exemptions.

Paragraphs 6 to 10 of Schedule 5 would provide for exceptions to the scope of the private fostering provisions – these would include:

- children being looked after by the Crown;
- children being looked after in the same premises as other family members
- children being looked after in a school, hospital or other institution;
- children subject to the Mental Health Ordinance; and
- children in the care of prospective adopters.

Paragraph 11 of Schedule 5 would allow the Crown to impose requirements in relation to private fostering arrangements.

Paragraph 12 of Schedule 5 would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations requiring notifications to be given about private fostering.

Paragraph 13 of Schedule 5 would require the Crown to promote public awareness about these requirements.

Paragraph 14 of Schedule 5 would provide for appeals against various decisions taken by the Crown in relation to fostering.

Paragraph 15 of Schedule 5 would regulate advertisements about private fostering.

Paragraph 16 of Schedule 5 would void life insurance taken out by a fosterer on the life of a fostered child.

Clause 75 imposes a general duty on the Crown to ensure that the welfare of privately fostered children is being or will be adequately safeguarded and promoted and that the necessary advice is given to those concerned with privately fostered children.

Clauses 75(4) and 75(5) would allow a person authorised by the Crown to inspect premises where privately fostered children are (or are going to be) accommodated and *clause 75(6)* would

require steps to be taken if the Crown is not satisfied about the welfare of a privately fostered child.

Clauses 75(2), 75(3) and 75(7) would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations about:

- visits by public officers to children who are being privately fostered,
- the steps to be taken by the Crown when it is notified that a child is to be fostered privately; and
- the monitoring by the Crown of how its functions under *Part 6* are being carried out.

Clause 76 would allow the Governor to make regulations disqualifying certain categories of persons from privately fostering children without prior notice and consent and also preventing a person from privately fostering a child in the same household in which someone who has been disqualified lives or works.

Clause 77 would give the Crown power to prohibit a person who is not suitable from privately fostering children or to prevent a person from privately fostering children or a particular child in unsuitable premises. *Paragraph 14 of Schedule 5* provides for a right of appeal against prohibitions.

Clause 78 deals with a number of offences in relation to private fostering:

- It would be an offence not to give notice or provide information when required to do so by or under *Part 6* – the maximum penalty for this offence would a level 5 fine (currently, £4,000).
- It would be an offence not to allow a privately fostered child to be visited by an authorised public officer or to obstruct an inspection of premises where a child is being privately fostered – the maximum penalty for this offence would a level 3 fine (currently, £1,000).
- It would be an offence to foster a child privately without prior consent when disqualified or in a household in which someone who is disqualified lives or works – the maximum penalty for this offence would be 6 months in prison and/or a level 5 fine (currently, £4,000).
- It would be an offence not to comply with a requirement imposed in relation to premises on which a child is privately fostered – the maximum penalty for this offence would be a level 4 fine (currently, £2,000).
- It would be an offence to foster a child privately in breach of a prohibition– the maximum penalty for this offence would be 6 months in prison and/or a level 5 fine (currently, £4,000).

- It would be an offence knowingly to publish an advertisement offering to foster children privately or offering to arrange for children to be fostered privately. – the maximum penalty for this offence would be a level 3 fine (currently, £1,000).

Clauses 78(7) and 78(8) would provide that, instead of the time limit that would otherwise apply under the Administration of Justice Ordinance (Title 22.1), a prosecution for failing to give notice under *Part 6* could be brought at any time within 6 months of the offence coming to the knowledge of the Crown.

Part 7 – Safeguarding Children Board

Part 7 is new and would provide a statutory basis for the Falkland Islands Safeguarding Children Board (FISCB), which currently operates on a non-statutory basis.

The FISCB currently comprises the following (or their representatives):

- Members of the Legislative Assembly – portfolio holders for Health and Social Services and Education
- Head of Governor’s Office (as an observer)
- Director of Health and Social Services
- Director of Education
- Chief Medical Officer
- Nursing representative
- Team Manager, Social Services
- Probation Officer
- Senior Police Officer(s)
- Representative from the Ministry of Defence
- Representative from SSAFA (formerly known as the Soldiers’, Seamen’s and Airmen’s Families Association)
- Lawyer from Attorney General’s Chambers (as an adviser)

Clause 79(1) would provide for the Crown to be under a duty to ensure that the Safeguarding Children Board continues in existence.

Clauses 79(2) to 79(6) would provide for the membership of the Board:

- The Board would have to include representatives from the Legislative Assembly; health, social services and education; the medical and nursing staff; social services and probation services; Government House, Attorney General's Chambers; and Mount Pleasant.
- These provisions are inclusive and would not prevent other members or observers from being co-opted as required.

Clause 80 deals with the objectives, functions and procedure of the Safeguarding Children Board:

- Under *clause 80(1)*, the Board's objective would be to co-ordinate the Crown's various functions for safeguarding and promoting the welfare of children in the Falkland Islands and to ensure the effectiveness of what is done by the Crown for those purposes.
- *Clauses 80(2) and 80(3)* would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations about the functions of the Board and the procedure to be followed by it.

Clause 81 would require the Safeguarding Children Board to prepare and publish an annual report and to submit copies of it to the Governor and the Legislative Assembly.

Clause 82 would allow the Safeguarding Children Board to make mandatory requests for information in certain circumstances.

Part 8 – Miscellaneous and General

Clause 83 deals with the effect and duration of orders and agreements made under the Children Ordinance.

Clause 84 deals with the jurisdiction of courts.

Clauses 85(1) to 85(4) would give the Chief Justice specific power to make rules of court relating to proceedings under the Children Ordinance, in addition to the Chief Justice's other powers to make rules of court.

Clause 85(5) provides that until the Chief Justice makes rules of court, the rules of court that apply in England would continue to apply in the Falkland Islands with necessary amendments and modifications.

Clause 86(1) provides that an appeal lies to the Supreme Court against decisions made by the Magistrate's Court or the Summary Court.

However, *clauses 86(2) and 86(3)* provide that there is no appeal against a decision of the Summary Court to decline jurisdiction in favour of the Magistrate's Court or the Supreme Court.

Clauses 86(4) to (9) deal with the orders that the Supreme Court would be able to make when dealing with an appeal.

Clauses 87(1) and (2) would allow a court to order a child concerned in proceedings to attend some or all of the proceedings.

Clauses 87(3) to (6) deal with the powers of the court to ensure the attendance of a child.

Clause 88 deals with evidence given by or about children:

Clauses 88(1) and 88(2) would continue to allow a court to hear evidence from a child even if the child does not understand the nature of an oath.

Clauses 89(3) to (5) would continue to allow the Governor (with the agreement of the Chief Justice) to make order dealing with the admissibility of hearsay evidence in certain proceedings. The Children (Admissibility of Hearsay Evidence) Order (No 14 of 2012) was made under the corresponding provision in the existing Children Ordinance and this would continue to apply.

Clauses 89(1), 89(2) and 89(7) would continue to allow a court to sit in private in certain circumstances in proceedings under the Children Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands).

Clauses 89(3) to 89(6) would continue to make it an offence – with a maximum penalty of a level 4 fine (currently, £2,000) to publish material intended or likely to identify a child involved in proceedings under the Children Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands), unless an order has been made by the court of the Governor to allow publication. However, the new provisions would extend the definitions of “publish” and “material” to deal with developments in media in the Falkland Islands.

Clause 90 would continue to provide that the privilege against self-crimination does not apply in proceedings under *Parts 4 and 5*, but that statements or admissions made in those proceedings would only be admissible in evidence in a prosecution for perjury.

Clause 91 would continue to restrict the availability of the Supreme Court’s inherent jurisdiction in relation to children to cases in which the court has given leave, which it can only give where there is no other way of achieving the desired result and the child would otherwise be likely to suffer significant harm.

Clause 92 is new and would allow a court to issue a warrant for a police officer to enter and search premises in relation to the exercise of certain powers relating to privately fostered children and children covered by supervision orders.

Clause 93 would continue to provide for directors and other officers to be prosecuted in certain circumstances for offences committed by bodies corporate.

Clause 94 would continue to provide for children over the age of 16 to be able to consent to surgical, medical and dental treatment.

Clause 95 would continue to provide that a person attains a particular age at the start of the day on the anniversary of the person’s birth (but only in relation to birthdays on or after 1 January 1995). The corresponding provision in the existing Children Ordinance also abolished an old

rule about this – that provision is not carried over into the Bill but that would not revive the old rule.

Clause 96 would continue to allow for those who have not yet reached the age of 18 to be referred to as “children” rather than as “infants” or “minors”.

Part 9 – Subsidiary legislation

Clause 97 is new and would deal with the situations in which something has not yet prescribed for the purposes of the Ordinance or subsidiary legislation about something has not yet been made. This clause has been adapted from existing provisions about rules of court and is needed because some of the new provisions needs to be supported by subsidiary legislation that it will not be feasible to put into place immediately.

The effect of *clauses 97(1) and 97(2)* would be that, if the way for something to be done were not yet prescribed, then it could be done in any reasonable way.

The effect of *clauses 97(3) and 97(4)* would be that, if subsidiary legislation were not yet prescribed, then the corresponding legislation for England can be used as a starting point instead.

Clauses 98 and 99 would allow the Governor to make consequential, transitional and saving provisions.

Part 10 – Modifications of UK legislation (as it applies in Falkland Islands)

Clause 100 and Schedule 6 would make 4 modifications to the UK legislation that applies in the Falkland Islands: two of these modifications are repeated from Part 4 of Schedule 3 to the existing Children Ordinance and the two are updated from it.

Sections 34(1) and 34(2) of the existing Children Ordinance abolished other powers under the Children and Young Persons Act 1976 (as it formerly applied in the Falkland Islands). The effect of section 26 of the Interpretation and General Clauses Ordinance (Title 65.2) is these provisions are not carried over into the Bill but that does not revive the provisions that had been abolished.

The same applies to the provisions in Part 3 of Schedule 3 to the existing Children Ordinance, which provided for a number of English Acts to cease to apply: these would be not revived either.

Part 11 – Repeal

Clause 101 would repeal the existing Children Ordinance.

The effect of sections 25 and 26 of the Interpretation and General Clauses Ordinance is that the repeal does not revive the provisions of Falkland Islands legislation repealed by Part 1 of Schedule 3 to the existing Children Ordinance or undo the amendments made by Part 2 of Schedule 3 to the existing Children Ordinance.

Schedules

An explanation about each of the Schedules has been given in the context of the provisions to which it relates.

Children Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – INTRODUCTORY (including CA, Pt 1 and s 105)

1. Title
2. Commencement
3. Interpretation (CA, s 105)

Welfare of the child

4. Welfare of the child (CA, s1)

Parental responsibility

5. Parental responsibility for children (CA, s2)
6. Meaning of “parental responsibility” (CA, s3)
7. Acquisition of parental responsibility by father (CA, s4)
8. Acquisition of parental responsibility by step-parent (CA, s4A)
9. Appointment of guardians (CA, s5)
10. Guardians: revocation and disclaimer (CA, s6)

Welfare reports

11. Welfare reports (CA, s7)

PART 2 – ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS (CA, Pt 2)

General

12. Residence, contact and other orders with respect to children (CA, s8)
13. Restrictions on making section 12 orders (CA, s9)
14. Power of court to make section 12 orders (CA, s10)
15. General principles and supplementary provisions (CA, s11)
16. Residence orders and parental responsibility (CA, s12)
17. Change of child’s name or removal from jurisdiction (CA, s13)
18. Enforcement of residence orders (CA, s14)

Financial relief

19. Orders for financial relief with respect to children (CA, s15)

Family assistance orders

20. Family assistance orders (CA, s16)
21. Risk assessments (CA, s16A)

PART 3 – SUPPORT FROM CROWN FOR CHILDREN AND FAMILIES (CA, Pt 3)

Provision of services for children and their families

22. Provision of services for children in need, their families and others (CA, s17)

Provision of accommodation for children

23. Provision of accommodation for children: general (CA, s20)
24. Provision of accommodation for children in police protection or detention or on remand, etc (CA, s21)

Duties of Crown in relation to children looked after by it

25. General duty of Crown in relation to children looked after by it (CA, s22)
26. Provision of accommodation for children in care (CA, s 22A)
27. Maintenance of looked after children (CA, s 22B)
28. Ways in which looked after children are to be accommodated and maintained (CA, s22C)
29. Review of child's case before making alternative arrangements for accommodation (CA, s 22D)
30. Regulations as to children looked after by Crown (CA, s22F)
31. General duty of Crown to secure sufficient accommodation for looked after children (CA, s 22G)

Visiting

32. Duty of Crown to ensure visits to, and contact with, looked after children and others (CA, s23ZA)
33. Independent visitors for children looked after by Crown (CA, s23ZB)

Advice and assistance for certain children and young persons

34. Relevant children (CA, s23A)
35. Additional functions of Crown in respect of relevant children (CA, s23B)
36. Continuing functions in respect of former relevant children (CA, s 23C)
37. Further assistance to pursue education or training (CA, s23CA)

Personal advisers and pathway plans

38. Personal advisers (CA, s23D)
39. Pathway plans (CA, s23E)
40. Persons qualifying for advice and assistance (CA, s24)
41. Advice and assistance (CA, s24A)
42. Employment, education and training (CA, s24B)
43. Representations: sections 34 to 42 (CA, s24D)

Review etc

44. Review of cases and inquiries into representations (CA, s26)
45. Advocacy services (CA, s26A)

Charges for services

46. Recoupment of cost of providing services etc (CA, s29)

Miscellaneous

47. Miscellaneous (CA, s30)

PART 4 – CARE AND SUPERVISION (CA, Pt 4)

General

- 48. Care and supervision (CA, s31)
- 49. Care orders: care plans (CA, s31A)
- 50. Period within which application for order under this Part must be disposed of (CA, s32)

Care orders

- 51. Effect of care order (CA, s33)
- 52. Parental contact etc with children in care (CA, s34)

Supervision orders

- 53. Supervision orders (CA, s35)
- 54. Education supervision orders (CA, s36)

Powers of court

- 55. Powers of court in certain family proceedings (CA, s37)
- 56. Interim orders (CA, s38)
- 57. Power to include exclusion requirement in interim care order (CA, s38A)
- 58. Undertakings relating to interim care orders (CA, s38B)
- 59. Discharge and variation etc. of care orders and supervision orders (CA, s39)
- 60. Orders pending appeals in cases about care or supervision orders (CA, s40)

Children's guardians (formerly known as guardians ad litem)

- 61. Representation of child (CA, s41)
- 62. Right of children's guardian to have access to Crown records (CA, s42)

PART 5 – PROTECTION OF CHILDREN (CA, Pt 5)

- 63. Child assessment orders (CA, s43)
- 64. Orders for emergency protection of children (CA, s44)
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CHILDREN BILL 2014

(No: of 2014)

(assented to: 2014)

(commencement: see section 2)

(published: 2014)

A BILL

for

AN ORDINANCE

To repeal and replace the Children Ordinance 1994 (No 28 of 1994)

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1

INTRODUCTORY (including CA, Pt1 and s105)

1. Title

This Ordinance is the Children Ordinance 2014.

2. Commencement

(1) This Ordinance comes into force on a day appointed by the Governor by notice published in the *Gazette*.

(2) The Governor may appoint different days for different provisions or purposes (or both).

3. Interpretation (CA, s105)

(1) In this Ordinance —

"care order" means an order under section 48(1)(a) and any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Ordinance and (except where express provision to the contrary is made) includes an interim care order made under section 56(1);

"child" means, subject to paragraph 15(1) of Schedule 1, a person under the age of 18;

"child assessment order" has the meaning given by section 63;

"child in the care of the Crown" means a child who is in the care of the Crown by virtue of a care order;

"child of the family", in relation to the parties of a marriage, means —

(a) a child of both of those parties;

(b) any other child, not being a child who is placed with those parties as foster parents by the Crown, who has been treated by both of those parties as a child of their family;

"contact order" has the meaning given by section 12(1);

"court", in so far as is consistent with the context, means —

(a) the Supreme Court;

(b) the Magistrate's Court; and

(c) subject to section 84 and any order having effect under it, the Summary Court;

"court of summary jurisdiction" means the Magistrate's Court and the Summary Court;

"a family assistance order" means an order under section 20;

"education supervision order" has the meaning given by section 54(1);

"emergency protection order" means an order under section 64;

"family proceedings" has the meaning given by section 12(3);

"functions" includes powers and duties;

"guardian" means a guardian appointed under section 9;

"parental responsibility" has the meaning given by section 6;

"pathway plan" has the meaning given by section 39(1);

"prohibited steps order" has the meaning given by section 12(1);

"relative", in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage);

"residence order" has the meaning given by section 12(1);

"section 12 order" has the meaning given by section 12(2);

"section 49 plan" has the meaning given by section 49(5);

"service", in relation to any provision made under Part 3, includes any facility;

"specific issue order" has the meaning given by section 12(1);

"supervised child" and "supervisor", in relation to a supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision the child is (or is to be) by virtue of the order;

"supervision order" means an order under section 48(1)(b) of this Ordinance and (except in relation to a provision of this Ordinance as to which express provision to the contrary is made) includes an interim supervision order under section 56(1);

"upbringing", in relation to any child, includes the care of the child but not the child's maintenance; and

"voluntary organisation" means a body (other than the Crown or a public body) whose activities are not carried on for profit.

(2) References in this Ordinance to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of the child's birth must be read with section 2 of the Family Law Reform Ordinance (No 15 of 2004), which extends the meaning of such references.

(3) References in this Ordinance to —

(a) a person with whom a child lives, or is to live, as the result of a residence order; or

(b) a person in whose favour a residence order is in force,

are to be construed as references to the person named in the order as the person with whom the child is to live.

(4) References in this Ordinance to a child being looked after by the Crown have the same meaning as they have (by virtue of section 25) in Part 3.

(5) References in this Ordinance to children who are in need are to be construed in accordance with section 22(11).

(6) Any notice or other document required under this Ordinance to be served on any person may be served on that person by —

(a) being delivered personally to the person; or

(b) being sent by post to the person in a registered letter at the person's proper address.

(7) Any such notice or other document required to be served on a body corporate or a firm is duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(8) For the purposes of subsection (6) of this section, the proper address of a person —

(a) in the case of a secretary or clerk of a body corporate, is that of the registered or principal office of that body;

(b) in the case of a partner of a firm, is that of the principal office of the firm; and

(c) in any other case, is the last known address of the person to be served.

Welfare of the child

4. Welfare of the child (CA, s1)

(1) When a court determines any question with respect to —

(a) the upbringing of a child; or

(b) the administration of a child's property or the application of any income arising from it,

the child's welfare must be the court's paramount consideration.

(2) In any proceedings in which any question with respect to the upbringing of a child arises, the court must have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

(3) In the circumstances mentioned in subsection (4), a court must have regard in particular to —

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of the child's age and understanding);

(b) the child's physical, emotional and educational needs;

(c) the likely effect on the child of any change in the child's circumstances;

(d) the child's age, sex, background and any characteristics of the child's which the court considers relevant;

(e) any harm which the child has suffered or is at risk of suffering;

(f) how capable each of the child's parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs;

(g) the range of powers available to the court under this Ordinance in the proceedings in question.

(4) The circumstances are that —

(a) the court is considering whether to make, vary or discharge a section 12 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or

(b) the court is considering whether to make, vary or discharge an order under Part 4.

(5) Where a court is considering whether or not to make one or more orders under this Ordinance with respect to a child, it must not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

Parental responsibility

5. Parental responsibility for children (CA, s2)

(1) Where a child's father and mother were married to each other at the time of the child's birth, they each have parental responsibility for the child.

(2) Where a child's father and mother were not married to each other at the time of the child's birth (which must, in accordance with section 3(2) be read with section 2 of the Family Law Reform Ordinance) —

(a) the mother has parental responsibility for the child;

(b) the father will have parental responsibility for the child if he has acquired it (and has not ceased to have it) in accordance with the provisions of this Ordinance.

(3) More than one person may have parental responsibility for the same child at the same time.

(4) A person who has parental responsibility for a child at any time does not cease to have that responsibility solely because some other person subsequently acquires parental responsibility for the child.

(5) Where more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility; but nothing in this Part affects the operation of any enactment which requires the consent of more than one person in a matter affecting the child.

(6) The fact that a person has parental responsibility for a child does not entitle that person to act in any way which would be incompatible with any order made with respect to the child under this Ordinance.

(7) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on behalf of the person with parental responsibility.

(8) The person with whom any such arrangement is made may be a person who already has parental responsibility for the child concerned.

(9) The making of any such arrangement does not affect any liability of the person making it which may arise from any failure to meet any part of that person's parental responsibility for the child concerned.

6. Meaning of "parental responsibility" (CA, s3)

(1) In this Ordinance, "parental responsibility" means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.

(2) It also includes the rights, powers and duties which a guardian of the child's estate (appointed to act generally before the Children Ordinance 1994 came into force on 1 January 1995) would have had in relation to the child and the child's property.

(3) The rights referred to in subsection (2) include, in particular, the right of the guardian to receive or recover in the guardian's own name, for the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover.

(4) The fact that a person has, or does not have, parental responsibility for a child does not affect —

(a) any obligation which that person may have in relation to the child (such as a statutory duty to maintain the child); or

(b) any rights which, in the event of the child's death, that person (or any other person) may have in relation to the child's property.

(5) A person who —

(a) does not have parental responsibility for a particular child; but

(b) has care of the child,

may (subject to the provisions of this Ordinance) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

7. Acquisition of parental responsibility by father (CA, s4)

(1) Where a child's father and mother were not married to each other at the time of the child's birth (which must, in accordance with section 3(2) be read with section 2 of the Family Law Reform Ordinance), the father will acquire parental responsibility for the child if —

(a) he becomes registered as the child's father under section 6 of the Registration Ordinance (Title 62.2);

(b) he and the child's mother make an agreement (a "parental responsibility agreement") providing for him to have parental responsibility for the child; or

(c) the court, on his application, orders that he is to have parental responsibility for the child.

(2) A parental responsibility agreement will be of no effect until it has been approved by an order of a court made under this subsection on the application of either the father or the mother.

(3) The approval by a court of a parental responsibility agreement may be subject to such amendments to the agreement as are specified in the order of the court and the parental responsibility agreement will have effect subject to any amendments so specified.

(4) An order under subsection (1)(c) or a parental responsibility agreement may only be brought to an end by an order of the court made on the application —

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child.

(5) The court may only grant leave under subsection (4)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

8. Acquisition of parental responsibility by step-parent (CA, s4A)

(1) Where a child's parent ("parent A") who has parental responsibility for the child is married to a person who is not the child's parent ("the step-parent") —

(a) parent A or, if the other parent of the child also has parental responsibility for the child, both parents may by agreement with the step-parent provide for the step-parent to have parental responsibility for the child; or

(b) the court may, on the application of the step-parent, order that the step-parent is to have parental responsibility for the child.

(2) An agreement under subsection (1)(a) is also a "parental responsibility agreement", and section 7(2) and 7(3) apply in relation to such agreements as they do in relation to parental responsibility agreements under section 7.

(3) A parental responsibility agreement under subsection (1)(a), or an order under subsection (1)(b), may only be brought to an end by an order of the court made on the application —

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child.

(4) The court may only grant leave under subsection (3)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

9. Appointment of guardians (CA, s5)

(1) Where an application with respect to a child is made to the court by any individual, the court may by order appoint that individual to be the child's guardian if —

(a) the child has no parent with parental responsibility for the child; or

(b) a residence order has been made with respect to the child in favour of a parent or guardian of the child who has died while the order was in force.

(2) The power conferred by subsection (1) may also be exercised in any family proceedings if the court considers that the order should be made even though no application has been made for it.

(3) A parent who has parental responsibility for a child may appoint another individual to be the child's guardian in the event of the parent's death.

(4) A guardian of a child ("the original guardian") may appoint another individual to take the original guardian's place as the child's guardian in the event of the original guardian's death.

(5) An appointment under subsection (3) or (4) will not have effect unless it is made in writing, is dated and is signed by the person making the appointment or —

(a) in the case of an appointment made by a will which is not signed by the testator, is signed at the direction of the testator in accordance with the requirements of section 9 of the Wills Act 1837 (as it applies in the Falkland Islands); or

(b) in any other case, is signed at the direction of the person making the appointment, in that person's presence and in the presence of two witnesses who each attest the signature.

(6) A person appointed as a child's guardian under this section will have parental responsibility for the child concerned.

(7) Where —

(a) on the death of any person making an appointment under subsection (3) or (4), the child concerned has no parent with parental responsibility for the child; or

(b) immediately before the death of any person making such an appointment, a residence order in that person's favour was in force with respect to the child,

the appointment will take effect on the death of that person.

(8) Where, on the death of any person making an appointment under subsection (3) or (4) —

(a) the child concerned has a parent with parental responsibility for the child; and

(b) subsection (7)(b) does not apply,

the appointment will take effect when the child no longer has a parent who has parental responsibility for the child.

(9) Subsections (1) and (7) do not apply if the residence order referred to in paragraph (b) of those subsections was also made in favour of a surviving parent of the child.

(10) Nothing in this section prevents an appointment under subsection (3) or (4) being made by two or more persons acting jointly.

(11) Subject to any provision made by rules of court, a court must not exercise the Supreme Court's inherent jurisdiction to appoint a guardian of the estate of any child.

(12) Where rules of court are made under subsection (11) they may prescribe the circumstances in which, and conditions subject to which, an appointment of such a guardian may be made.

(13) A guardian of a child may only be appointed in accordance with the provisions of this section.

10. Guardians: revocation and disclaimer (CA, s6)

(1) An appointment under section 9(3) or (4) revokes an earlier appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as the result of an express provision in the later appointment or by any

necessary implication) that the purpose of the later appointment is to appoint an additional guardian.

(2) An appointment under section 9(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person who made the appointment revokes it by a written and dated instrument which is signed —

(a) by the person making the appointment; or

(b) at the direction of the person making the appointment, in the presence of that person and in the presence of two witnesses who each attest the signature.

(3) An appointment under section 9(3) or (4) (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it —

(a) destroys the instrument by which it was made; or

(b) has some other person destroy that instrument in the presence of the person who made it.

(4) An appointment under section 9(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person appointed is the spouse of the person who made the appointment and either —

(a) a decree of a court in the Falkland Islands dissolves or annuls the marriage, or

(b) the marriage is dissolved or annulled and the divorce or annulment is entitled to recognition in the Falkland Islands by virtue of Part 5 of the Matrimonial Causes Ordinance (Title 38(2).5),

unless a contrary intention appears by the appointment.

(5) For the avoidance of doubt, an appointment under section 9(3) or (4) made in a will or codicil is revoked if the will or codicil is revoked.

(6) A person who is appointed as a guardian under section 9(3) or (4) may disclaim the appointment by an instrument in writing signed by that person and made within a reasonable time of that person first knowing that the appointment has taken effect.

(7) Where regulations are made by the Governor prescribing the manner in which such disclaimers must be recorded, no such disclaimer will have effect unless it is recorded in the prescribed manner.

(8) Any appointment of a guardian under section 9 may be brought to an end at any time by order of the court —

(a) on the application of any person who has parental responsibility for the child;

(b) on the application of the child concerned, with leave of the court; or

- (c) in any family proceedings, if the court considers that it should be brought to an end even though no application has been made.

Welfare reports

11. Welfare reports (CA, s7)

(1) A court considering any question with respect to a child under this Ordinance may ask the Crown to arrange for —

- (a) a public officer; or
- (b) such other person as the Crown considers appropriate,

to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

(2) The Chief Justice may make regulations specifying matters which, unless the court orders otherwise, must be dealt with in any report under this section.

(3) The report may be made in writing, or orally, as the court requires.

(4) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of —

- (a) any statement contained in the report; and
- (b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.

(5) It is the duty of the Crown to comply with any request for a report under this section.

PART 2

ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS (CA, Pt 2)

General

12. Residence, contact and other orders with respect to children (CA, s8)

(1) In this Ordinance —

“a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

“a prohibited steps order” means an order that no step which could be taken by a parent in meeting the parent’s parental responsibility for a child, and which is of a kind specified in the order, may be taken by any person without the consent of the court;

“a residence order” means an order settling the arrangements to be made as to the person with whom a child is to live; and

“a specific issue order” means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Ordinance “a section 12 order” means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

(3) In this Ordinance “family proceedings” means any proceedings —

(a) in the inherent jurisdiction of the Supreme Court in relation to children;

(b) under any of the following enactments —

(i) Parts 1, 2 and 4 of this Ordinance;

(ii) the Matrimonial Causes Ordinance (Title 38(2).5);

(iii) the Matrimonial Proceedings (Summary Jurisdiction) Ordinance (Title 38(2).6);

(iv) the Matrimonial Proceedings (Domestic Violence) Ordinance (No 7 of 1994);

(v) the Adoption Act 1976 (as it applies in the Falkland Islands);

(vi) any other enactment specified by Ordinance for the purposes of this definition (or the corresponding definition in the Children Ordinance 1994)

13. Restrictions on making section 12 orders (CA, s9)

(1) A court must not make a section 12 order, other than a residence order, with respect to a child who is in the care of the Crown.

(2) The Crown must not make an application for a residence order or a contact order and a court must not make such an order in favour of the Crown.

(3) A person who is, or was at any time within the last six months, a foster parent who was looking after a child on behalf of the Crown may not apply for leave to apply for a section 12 order with respect to that child unless —

(a) that person has the consent of the Crown;

(b) that person is a relative of the child; or

(c) the child has lived with that person for at least 1 year preceding the application.

(4) A court must not exercise its powers to make a specific issue order or prohibited steps order —

(a) with a view to achieving a result which could be achieved by making a residence or contact order; or

(b) in any way which is denied to the Supreme Court (by section 91) in the exercise of its inherent jurisdiction with respect to children.

(5) A court must not make a specific issue order, contact order or prohibited steps order that will end after the child has reached the age of 16 unless it is satisfied that the circumstances of the case are exceptional.

(6) A court must not make any section 12 order, other than one varying or discharging such an order, with respect to a child who has reached the age of 16 unless it is satisfied that the circumstances of the case are exceptional.

14. Power of court to make section 12 orders (CA, s10)

(1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 12 order with respect to the child if —

(a) an application for the order has been made by a person who —

(i) is entitled to apply for a section 12 order with respect to the child; or

(ii) has obtained the leave of the court to make the application; or

(b) the court considers that the order should be made even though no such application has been made.

(2) The court may also make a section 12 order with respect to any child on the application of a person who —

(a) is entitled to apply for a section 12 order with respect to the child; or

(b) has obtained the leave of the court to make the application.

(3) This section is subject to the restrictions imposed by section 13.

(4) The following persons are entitled to apply to the court for any section 12 order with respect to a child —

(a) any parent or guardian of the child;

(b) any person who has parental responsibility for the child by virtue of section 8;

(c) any person in whose favour a residence order is in force with respect to the child.

(5) The following persons are entitled to apply for a residence order or a contact order with respect to a child —

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
 - (b) any person with whom the child has lived for a period of at least 3 years;
 - (c) any person who —
 - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
 - (ii) in any case where the child is in the care of the Crown, has the consent of the Crown; or
 - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.
- (6) A foster parent who is, or has been, looking after a child on behalf of the Crown is entitled to apply for a residence order with respect to a child if the child has lived with that foster parent for a period of at least 1 year immediately preceding the application.
- (7) A relative of a child is entitled to apply for a residence order with respect to the child if the child has lived with the relative for a period of at least 1 year immediately preceding the application.
- (8) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 12 order is entitled to do so if —
- (a) the order was made on that person's application; or
 - (b) in the case of a contact order, that person is named in the order.
- (9) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 12 order as may be prescribed in relation to that category of person.
- (10) Where the person applying for leave to make an application for a section 12 order is the child concerned, the court may only grant leave if it is satisfied that the child has sufficient understanding to make the proposed application for the section 12 order.
- (11) Where the person applying for leave to make an application for a section 12 order is not the child concerned, the court must, in deciding whether or not to grant leave, have particular regard to —
- (a) the nature of the proposed application for the section 12 order;
 - (b) the applicant's connection with the child;
 - (c) any risk there might be of that proposed application disrupting the child's life to such an extent that the child would be harmed by it; and

(d) where the child is being looked after by the Crown —

(i) the Crown's plans for the child's future; and

(ii) the wishes and feelings of the child's parents.

(12) The period of 3 years mentioned in subsection (5)(b) need not be continuous but must not have begun more than 5 years before, or ended more than 3 months before, the making of the application.

15. General principles and supplementary provisions (CA, s11)

(1) In proceedings in which any question of making a section 12 order, or any other question with respect to such an order, arises, the court must (in the light of any rules made by virtue of subsection (2)) —

(a) draw up a timetable with a view to determining the question without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may —

(a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.

(3) Where a court has power to make a section 12 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.

(4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.

(5) Where —

(a) a residence order has been made with respect to a child; and

(b) as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for the child,

the residence order will cease to have effect if the parents live together for a continuous period of more than 6 months.

(6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, the child's other parent will cease to have effect if the parents live together for a continuous period of more than 6 months.

(7) A section 12 order may —

- (a) contain directions about how it is to be carried into effect;
- (b) impose conditions which must be complied with by any person —
 - (i) in whose favour the order is made;
 - (ii) who is a parent of the child concerned;
 - (iii) who is not a parent of the child but who has parental responsibility for the child; or
 - (iv) with whom the child is living,

and to whom the conditions are expressed to apply;

(c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;

(d) make such incidental, supplemental or consequential provision as the court thinks fit.

16. Residence orders and parental responsibility (CA, s12)

(1) Where the court makes a residence order in favour of the father of a child it must, if the father would not otherwise have parental responsibility for the child, also make an order under section 7(1)(c) giving him that responsibility.

(2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person has parental responsibility for the child while the residence order remains in force.

(3) Where a person has parental responsibility for a child as a result of subsection (2), that person does not have the right —

(a) to consent, or refuse to consent, to the making of an application with respect to the child under section 18 of the Adoption Act 1976 (as it applies in the Falkland Islands);

(b) to agree, or refuse to agree, to the making of an adoption order, or an order under section 55 of the Adoption Act 1976 (as it applies in the Falkland Islands), with respect to the child; or

(c) to appoint a guardian for the child.

(4) Where subsection (1) requires the court to make an order under section 7(1)(c) in respect of the father of a child, the court must not bring that order to an end at any time while the residence order concerned remains in force.

17. Change of child's name or removal from jurisdiction (CA, s13)

(1) Where a residence order is in force with respect to a child, no person may —

(a) cause the child to be known by a new surname; or

(b) remove the child from the Falkland Islands;

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than 2 months, by the person in whose favour the residence order is made.

(3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

18. Enforcement of residence orders (CA, s14)

(1) Where —

(a) a residence order is in force with respect to a child in favour of any person; and

(b) any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,

the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands) as if it were an order requiring the other person to produce the child to the person enforcing the order.

(2) The requirement is that a copy of the residence order has been served on the other person.

(3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

Financial relief

19. Orders for financial relief with respect to children (CA, s15)

(1) Schedule 1 makes provision in relation to financial relief for children.

(2) The powers of a magistrates' court under section 60 of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands) to revoke, revive or vary an order for the periodical payment of money and the power of the clerk of a magistrates' court to vary such an order do not apply in relation to an order made under Schedule 1.

Family assistance orders

20. Family assistance orders (CA, s16)

(1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring the Crown to make a suitable person (who need not be a public officer) available to advise, assist and (where appropriate) befriend any person named in the order.

(2) The persons who may be named in an order under this section (“a family assistance order”) are —

- (a) any parent or guardian of the child;
- (b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child;
- (c) the child.

(3) A court must not make a family assistance order unless it has obtained the consent of every person to be named in the order other than the child.

(4) A family assistance order may direct —

- (a) the person named in the order; or
- (b) such of the persons named in the order as may be specified in the order,

to take such steps as may be so specified with a view to enabling the person made available by the Crown to be kept informed of the address of any person named in the order and to be allowed to visit any such person.

(5) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact order made with respect to the child, the family assistance order may direct the person made available by the Crown to give advice and assistance as regards establishing, improving and maintaining contact (to such) of the persons named in the order as may be specified in the order.

(6) Unless it specifies a shorter period, a family assistance order will have effect for a period of 12 months beginning with the day on which it is made.

(7) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a section 12 order made with respect to the child, the family assistance order may direct the person made available by the Crown to report to the court on such matters relating to the section 12 order as the court may require (including the question whether the section 12 order ought to be varied or discharged).

21. Risk assessments (CA, s16A)

(1) This section applies to the following functions of public officers or persons made available by the Crown —

- (a) any function in connection with family proceedings in which the court has power to make an order under this Part with respect to a child or in which a question with respect to such an order arises;
- (b) any function in connection with an order made by the court in such proceedings.

(2) If, in carrying out any function to which this section applies, a public officer or a person made available by the Crown is given cause to suspect that the child concerned is at risk of harm, the officer or person must —

(a) make a risk assessment in relation to the child, and

(b) provide the risk assessment to the court.

(3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child.

PART 3

SUPPORT FROM CROWN FOR CHILDREN AND FAMILIES (CA, Pt 3)

Provision of services for children and their families

22. Provision of services for children in need, their families and others (CA, s17)

(1) It is the general duty of the Crown (in addition to the other duties imposed on it by this Part) —

(a) to safeguard and promote the welfare of children in the Falkland Islands who are in need; and

(b) so far as is consistent with that duty, to promote the upbringing of such children by their families,

by providing a range and level of services appropriate to those children's needs.

(2) For the purpose principally of facilitating the discharge of their general duty under this section, the Crown has the specific duties and powers set out in Part 1 of Schedule 2.

(3) Any service provided by the Crown in the exercise of functions conferred on it by this section may be provided for the family of a particular child in need or for any member of the child's family, if it is provided with a view to safeguarding or promoting the child's welfare.

(4) The Governor may by order amend any provision of Part 1 of Schedule 2 or add any further duty or power to those for the time being mentioned there.

(5) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on it by this section, the Crown must, so far as is reasonably practicable and consistent with the child's welfare —

(a) ascertain the child's wishes and feelings regarding the provision of those services; and

(b) give due consideration (having regard to the child's age and understanding) to such wishes and feelings of the child as it has been able to ascertain.

(6) The Crown —

(a) must facilitate the provision by others (including in particular voluntary organisations) of services which the Crown has power to provide by virtue of this section, or section 23, 41 or 42; and

(b) may make such arrangements as it sees fit for any person to act on its behalf in the provision of any such service.

(7) The services provided by the Crown in the exercise of functions conferred on it by this section may include providing accommodation and giving assistance in kind or, in exceptional circumstances, in cash.

(8) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).

(9) Before giving any assistance or imposing any conditions, the Crown must have regard to the means of the child concerned and of each of the child's parents.

(10) A person is not liable to make any repayment of assistance or of its value at any time when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(11) For the purposes of this Part a child will be taken to be in need if —

(a) the child is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for the child of services by the Crown under this Part;

(b) the child's health or development is likely to be significantly impaired, or further impaired, without the provision for the child of such services; or

(c) the child is disabled,

and "family", in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom the child has been living.

(12) For the purposes of this Part, a child is disabled if the child is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part —

"development" means physical, intellectual, emotional, social or behavioural development; and

"health" means physical or mental health.

Provision of accommodation for children

23. Provision of accommodation for children: general (CA, s20)

(1) The Crown must provide accommodation for any child in need within the Falkland Islands who appears to it to require accommodation as a result of —

- (a) there being no person who has parental responsibility for the child;
 - (b) the child being lost or having been abandoned; or
 - (c) the person who has been caring for the child being prevented (whether or not permanently, and for whatever reason) from providing the child with suitable accommodation or care.
- (2) The Crown must provide accommodation for any child in need within the Falkland Islands who has reached the age of 16 and whose welfare it considers is likely to be seriously prejudiced if it does not provide the child with accommodation.
- (3) The Crown may provide accommodation for any child within the Falkland Islands (even though a person who has parental responsibility for the child is able to provide the child with accommodation) if it considers that to do so would safeguard or promote the child's welfare.
- (4) The Crown may provide accommodation for any person who has reached the age of 16 but is under 21 if it considers that to do so would safeguard or promote the person's welfare.
- (5) Before providing accommodation under this section, the Crown must, so far as is reasonably practicable and consistent with the child's welfare —
- (a) ascertain the child's wishes and feelings regarding the provision of accommodation; and
 - (b) give due consideration (having regard to the child's age and understanding) to such wishes and feelings of the child as it has been able to ascertain.
- (6) The Crown may not provide accommodation under this section for any child if any person who —
- (a) has parental responsibility for the child; and
 - (b) is willing and able to —
 - (i) provide accommodation for the child; or
 - (ii) arrange for accommodation to be provided for the child,
- objects.
- (7) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the Crown under this section.
- (8) Subsections (6) and (7) do not apply while any person —
- (a) in whose favour a residence order is in force with respect to the child; or
 - (b) who has care of the child by virtue of an order made in the exercise of the Supreme Court's inherent jurisdiction with respect to children,

agrees to the child being looked after in accommodation provided by or on behalf of the Crown.

(9) Where there is more than one such person as is mentioned in subsection (8), all of them must agree.

(10) Subsections (6) and (7) do not apply where a child who has reached the age of 16 agrees to being provided with accommodation under this section.

24. Provision of accommodation for children in police protection or detention or on remand, etc (CA, s21)

The Crown must make provision for the reception and accommodation of children who are —

- (a) removed or kept away from home under Part 5; or
- (b) detained under section 153 of the Criminal Justice Ordinance (Title 24.1).

Duties of Crown in relation to children looked after by it

25. General duty of Crown in relation to children looked after by it (CA, s22)

(1) In this Ordinance, any reference to a child who is looked after by the Crown is a reference to a child who is —

- (a) in its care; or
- (b) provided with accommodation by the Crown in the exercise of any functions (in particular those under this Ordinance) which are social services functions, apart from functions under sections 22, 35 and 42.

(2) In subsection (1) “accommodation” means accommodation which is provided for a continuous period of more than 24 hours.

(3) It is the duty of the Crown looking after any child —

- (a) to safeguard and promote the child’s welfare; and
- (b) to make such use of services available for children cared for by their own parents as appears to the Crown reasonable in the child’s case.

(4) The duty of the Crown under subsection (3)(a) to safeguard and promote the welfare of a child looked after by it includes in particular a duty to promote the child’s educational achievement.

(5) Before making any decision with respect to a child whom it is looking after, or proposing to look after, the Crown must, so far as is reasonably practicable, ascertain the wishes and feelings of—

- (a) the child;
- (b) the child’s parents;

(c) any person who is not a parent of the child but who has parental responsibility for the child; and

(d) any other person whose wishes and feelings the Crown considers to be relevant,

regarding the matter to be decided.

(6) In making any such decision the Crown must give due consideration —

(a) having regard to the child's age and understanding, to such wishes and feelings of the child as it has been able to ascertain;

(b) to such wishes and feelings of any person mentioned in subsection (5)(b) to (d) as it has been able to ascertain; and

(c) to the child's religious persuasion, racial origin and cultural and linguistic background.

(7) If it appears to the Crown that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise its powers with respect to a child whom it is looking after in a manner which may not be consistent with its duties under this section, it may do so.

26. Provision of accommodation for children in care (CA, s 22A)

When a child is in the care of the Crown, it is the Crown's duty to provide the child with accommodation.

27. Maintenance of looked after children (CA, s 22B)

It is the duty of the Crown to maintain a child it is looking after in other respects apart from the provision of accommodation.

28. Ways in which looked after children are to be accommodated and maintained (CA, s22C)

(1) This section applies where the Crown is looking after a child.

(2) The Crown must make arrangements for the child to live with a person who falls within subsection (3) (but subject to subsection (4)).

(3) A person falls within this subsection if —

(a) that person is a parent of the child;

(b) that person is not a parent of the child but has parental responsibility for the child; or

(c) in a case where the child is in the care of the Crown and there was a residence order in force with respect to the child immediately before the care order was made, that person was a person in whose favour the residence order was made.

(4) Subsection (2) does not require the Crown to make arrangements of the kind mentioned in that subsection if doing so —

- (a) would not be consistent with the child's welfare; or
 - (b) would not be reasonably practicable.
- (5) If the Crown is unable to make arrangements under subsection (2), it must place the child in the placement which is, in its opinion, the most appropriate placement available.
- (6) In subsection (5) "placement" means —
- (a) placement with an individual who is a relative, friend or other person connected with the child and who is approved as a foster parent by the Crown;
 - (b) placement with a foster parent approved by the Crown who is not a relative, friend or other person connected with the child;
 - (c) subject to section 29, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.
- (7) In determining the most appropriate placement for a child, the Crown must, subject to the other provisions of this Part (in particular, to its duties under section 25) —
- (a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection; and
 - (b) comply, so far as is reasonably practicable in all the circumstances of the child's case, with the requirements of subsection (8).
- (8) The Crown must ensure that the placement is such that —
- (a) it allows the child to live near the child's home;
 - (b) it does not disrupt the child's education or training;
 - (c) if the child has a sibling for whom the Crown is also providing accommodation, it enables the child and the sibling to live together;
 - (d) if the child is disabled, the accommodation provided is suitable to the child's particular needs.
- (9) The Crown may determine —
- (a) the terms of any arrangements it makes under subsection (2) in relation to the child (including terms as to payment); and
 - (b) the terms on which it places the child with a foster parent (including terms as to payment).
- (10) The Governor may make regulations for, and in connection with, the purposes of this section.

29. Review of child's case before making alternative arrangements for accommodation (CA, s 22D)

(1) Where the Crown is providing accommodation for a child other than by arrangements under section 28(6)(c), it must not make such arrangements for the child unless it has decided to do so in consequence of a review of the child's case carried out in accordance with regulations made under section 44.

(2) Subsection (1) does not prevent the Crown making arrangements for a child under section 28(6)(c) if it is satisfied that in order to safeguard the child's welfare it is necessary —

(a) to make such arrangements; and

(b) to do so as a matter of urgency.

30. Regulations as to children looked after by Crown (CA, s22F)

Part 2 of Schedule 2 has effect for the purposes of making further provision as to children looked after by the Crown and in particular as to the regulations which may be made under section 28(10).

31. General duty of Crown to secure sufficient accommodation for looked after children (CA, s 22G)

(1) It is the general duty of the Crown to take steps that secure, so far as reasonably practicable, the outcome that the Crown is able to provide the children mentioned in subsection (2) with accommodation that meets the needs of those children.

(2) The children referred to in subsection (1) are those —

(a) that the Crown is looking after, and

(b) in respect of whom the Crown is unable to make arrangements under section 28(2).

(3) In taking steps to secure the outcome in subsection (1), the Crown must have regard to the benefit of a range of accommodation capable of meeting different needs that is, in its opinion, sufficient to secure that outcome.

Visiting

32. Duty of Crown to ensure visits to, and contact with, looked after children and others (CA, s23ZA)

(1) This section applies to —

(a) a child looked after by the Crown;

(b) a child who was looked after by the Crown but who has ceased to be looked after by the Crown as a result of prescribed circumstances.

(2) It is the duty of the Crown —

(a) to ensure that a person to whom this section applies is visited by a representative of the Crown ("a representative");

(b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from the Crown.

(3) The duties imposed by subsection (2) —

(a) are to be discharged in accordance with any regulations made for the purposes of this section by the Governor;

(b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.

(4) Regulations under this section for the purposes of subsection (3)(a) may make provision about —

(a) the frequency of visits;

(b) circumstances in which a person to whom this section applies must be visited by a representative; and

(c) the functions of a representative.

(5) In choosing a representative the Crown must satisfy itself that the person chosen has the necessary skills and experience to perform the functions of a representative.

33. Independent visitors for children looked after by Crown (CA, s23ZB)

(1) Where the Crown is looking after a child it must appoint an independent person to be the child's visitor if —

(a) the child falls within a description prescribed in regulations made by the Governor; or

(b) in any other case, it appears to the Crown that it would be in the child's interests to do so.

(2) A person appointed under this section must visit, befriend and advise the child.

(3) A person appointed under this section is entitled to recover from the Crown any reasonable expenses incurred by that person for the purposes of that person's functions under this section.

(4) A person's appointment as a visitor in pursuance of this section comes to an end if —

(a) the child ceases to be looked after by the Crown;

(b) the person resigns the appointment by giving notice in writing to the Crown; or

(c) the Crown gives the person notice in writing that it has terminated the appointment.

(5) The ending of such an appointment does not affect any duty under this section to make a further appointment.

(6) Where the Crown proposes to appoint a visitor for a child under this section, the appointment must not be made if —

(a) the child objects to it; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(7) Where a visitor has been appointed for a child under this section, the Crown must terminate the appointment if —

(a) the child objects to its continuing; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(8) If the Crown gives effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the Crown does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.

(9) The Governor may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the Crown.

Advice and assistance for certain children and young persons

34. Relevant children (CA, s23A)

(1) The Crown has the functions set out in section 35 in respect of a relevant child.

(2) In subsection (1) "relevant child" means (subject to subsection (3)) a child who —

(a) is not being looked after by the Crown;

(b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 23 of Schedule 2; and

(c) is aged 16 or 17.

(3) The Governor may prescribe by order —

(a) additional categories of relevant children; and

(b) categories of children who are not to be relevant children despite falling within subsection (2).

35. Additional functions of Crown in respect of relevant children (CA, s23B)

(1) It is the duty of the Crown to take reasonable steps to keep in touch with a relevant child.

(2) It is the duty of the Crown to appoint a personal adviser for each relevant child (if it has not already done so under paragraph 24 of Schedule 2).

(3) It is the duty of the Crown, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 23 of Schedule 2 —

(a) to carry out an assessment of the relevant child's needs with a view to determining what advice, assistance and support it would be appropriate for the Crown to provide the relevant child under this Part; and

(b) to prepare a pathway plan for the relevant child.

(4) The Crown may carry out such an assessment at the same time as any assessment of the relevant child's needs is made under any other enactment.

(5) The Governor may by regulations make provision as to assessments for the purposes of subsection (3).

(6) The regulations may in particular make provision about —

(a) who is to be consulted in relation to an assessment;

(b) the way in which an assessment is to be carried out, by whom and when;

(c) the recording of the results of an assessment;

(d) the considerations to which the Crown is to have regard in carrying out an assessment.

(7) The Crown must keep the pathway plan under regular review.

(8) The Crown must safeguard and promote the relevant child's welfare and, unless the Crown is satisfied that the relevant child's welfare does not require it, support the relevant child by —

(a) maintaining the relevant child;

(b) providing the relevant child with or maintaining the relevant child in suitable accommodation; and

(c) providing support of such other descriptions as may be prescribed.

(9) Support under subsection (8) may be in cash.

(10) The Governor may by regulations make provision about the meaning of "suitable accommodation" and in particular about the suitability of landlords or other providers of accommodation.

(11) If the Crown has lost touch with a relevant child, despite taking reasonable steps to keep in touch, it must without delay —

(a) consider how to re-establish contact; and

(b) take reasonable steps to do so,

and while the child is still a relevant child must continue to take such steps until it succeeds.

(12) Subsections (8) to (10) of section 22 apply in relation to support given under this section as they apply in relation to assistance given under that section.

(13) Subsections (5) and (6) of section 25 apply in relation to any decision by the Crown for the purposes of this section as they apply in relation to the decisions referred to in that section.

36. Continuing functions in respect of former relevant children (CA, s 23C)

(1) The Crown has the duties provided for in this section towards —

(a) a person who has been a relevant child for the purposes of section 34 (and would be one if the person were under 18); and

(b) a person who was being looked after by the Crown when the person attained the age of 18, and immediately before ceasing to be looked after was an eligible child,

and in this section such a person is referred to as a “former relevant child”.

(2) It is the duty of the Crown to take reasonable steps —

(a) to keep in touch with a former relevant child; and

(b) if it loses touch with a former relevant child, to re-establish contact.

(3) It is the duty of the Crown —

(a) to continue the appointment of a personal adviser for a former relevant child; and

(b) to continue to keep the former relevant child’s pathway plan under regular review.

(4) It is the duty of the Crown to give a former relevant child —

(a) assistance of the kind referred to in section 42(1), to the extent that the former relevant child’s welfare requires it;

(b) assistance of the kind referred to in section 42(2), to the extent that the former relevant child’s welfare and educational or training needs require it;

(c) other assistance, to the extent that the former relevant child’s welfare requires it.

(5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.

(6) It is the duty of the Crown to pay the relevant amount to a former relevant child who pursues higher education in accordance with a pathway plan prepared for that person.

(7) The Governor may by regulations —

- (a) prescribe the relevant amount for the purposes of subsection (6);
- (b) prescribe the meaning of “higher education” for those purposes;
- (c) make provision as to the payment of the relevant amount;
- (d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by the Crown from a former relevant child to whom a payment has been made.

(8) The duty set out in subsection (6) is without prejudice to that set out in subsection (4)(b).

(9) Subject to subsection (10), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of 21.

(10) If the former relevant child’s pathway plan sets out a programme of education or training which extends beyond the former relevant child’s 21st birthday —

- (a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
- (b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.

(11) For the purposes of subsection (10)(a) any interruption in a former relevant child’s pursuance of a programme of education or training must be disregarded if the Crown is satisfied that the former relevant child will resume it as soon as is reasonably practicable.

(12) Section 42(5) applies in relation to a person being given assistance under subsection (4)(b) or who is in receipt of a payment under subsection (6) as it applies in relation to a person to whom section 42(3)(b) applies.

(13) Subsections (8) to (10) of section 22 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.

37. Further assistance to pursue education or training (CA, s23CA)

(1) This section applies to a person if —

- (a) the person is under the age of 25 or of such lesser age as the Governor may prescribe by order;
- (b) the person is a former relevant child (within the meaning of section 36) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and

- (c) the person has informed the Crown that the person is pursuing, or wishes to pursue, a programme of education or training.
- (2) It is the duty of the Crown to appoint a personal adviser for a person to whom this section applies.
- (3) It is the duty of the Crown —
- (a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to the person under this section; and
 - (b) to prepare a pathway plan for the person.
- (4) It is the duty of the Crown to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that the child's educational or training needs require it.
- (5) The kinds of assistance are —
- (a) contributing to expenses incurred by the person in living near the place where the person is, or will be, receiving education or training; or
 - (b) making a grant to enable the person to meet expenses connected with the person's education and training.
- (6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for the person, the duties of the Crown under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as the person continues to pursue that programme.
- (7) For the purposes of subsection (6), the Crown may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that the person will resume it as soon as is reasonably practicable.
- (8) Subsections (8) to (10) of section 22 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (9) of the words "and of each of the child's parents".
- (9) Subsection (5) of section 42 applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.
- (10) Nothing in this section affects the duty imposed by subsection (6) of section 36 to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3)(a).

Personal advisers and pathway plans

38. Personal advisers (CA, s23D)

(1) The Governor may by regulations require the Crown to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of 16 but not the age of 25 who are not —

- (a) children who are relevant children for the purposes of section 34;
- (b) the young persons referred to in section 36; or
- (c) the children referred to in paragraph 24 of Schedule 2; or
- (d) persons to whom section 37 applies.

(2) Personal advisers appointed under or by virtue of this Part have (in addition to any other functions) such functions as the Governor may by subsidiary legislation prescribe.

39. Pathway plans (CA, s23E)

(1) In this Part, a reference to a “pathway plan” is to a plan setting out —

- (a) in the case of a plan prepared under paragraph 23 of Schedule 2 —
 - (i) the advice, assistance and support which the Crown intends to provide a child under this Part, both while it is looking after the child and later; and
 - (ii) when it might cease to look after the child; and
- (b) in the case of a plan prepared under section 35, the advice, assistance and support which the Crown intends to provide under this Part,

and dealing with such other matters (if any) as may be prescribed by Governor in subsidiary legislation.

(2) The Crown may carry out an assessment under section 35(3) or 37(3) of a person's needs at the same time as any other assessment of the person's needs is made.

(3) The Governor may by regulations make provision as to assessments for the purposes of section 35(3) or 37.

(4) Regulations under subsection (3) may in particular make provision about —

- (a) who is to be consulted in relation to an assessment;
- (b) the way in which an assessment is to be carried out, by whom and when;
- (c) the recording of the results of an assessment;
- (d) the considerations to which the Crown is to have regard in carrying out an assessment.

- (5) The Crown must keep each pathway plan prepared by it under section 35 or 37 under review.
- (6) The Governor may by regulations make provision about pathway plans and their review.

40. Persons qualifying for advice and assistance (CA, s24)

(1) In this Part “a person qualifying for advice and assistance” means a person who —

(a) is under 21; and

(b) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered by the Crown.

(2) In the case of a person qualifying for advice and assistance by virtue of subsection (1), it is the duty of the Crown to take such steps as it thinks appropriate to contact the person at such times as it thinks appropriate with a view to discharging their functions under sections 41 and 42.

41. Advice and assistance (CA, s24A)

(1) The Crown must consider whether a person qualifying for advice and assistance by virtue of section 40 needs help of a kind which it can give under this section or section 42

(2) If a person qualifying for advice and assistance does need help of such a kind, the Crown must advise and befriend the person.

(3) Where as a result of this section the Crown is under a duty to advise and befriend a person, it may also give the person assistance.

(4) The assistance may be in kind and, in exceptional circumstances, assistance may be given —

(a) by providing accommodation, if in the circumstances assistance may not be given in respect of the accommodation under section 42, or

(b) in cash.

(5) Subsections (8) to (10) of section 22 apply in relation to assistance given under this section or section 42 as they apply in relation to assistance given under that section.

42. Employment, education and training (CA, s24B)

(1) The Crown may give assistance to any person who qualifies for advice and assistance by virtue of section 40 by contributing to expenses incurred by the person in living near the place where the person is, or will be, employed or seeking employment.

(2) The Crown may give assistance to a person to whom subsection (3) applies by —

(a) contributing to expenses incurred by the person in question in living near the place where the person is, or will be, receiving education or training; or

(b) making a grant to enable the person to meet expenses connected with the person's education or training.

(3) This subsection applies to any person who —

(a) is under 24; and

(b) qualifies for advice and assistance by virtue of section 40, or would have done so if the person were under 21.

(4) Where the Crown is assisting a person under subsection (2) it may disregard any interruption in the person's attendance on the course if the person resumes it as soon as is reasonably practicable.

(5) Where the Crown is satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because the person's term-time accommodation is not available to the person then, it must give the person assistance by —

(a) providing the person with suitable accommodation during the vacation; or

(b) paying the person enough to enable the person to secure such accommodation personally.

(6) The Governor may by regulations prescribe the meaning of "full-time", "further education", "higher education" and "vacation" for the purposes of subsection (5).

43. Representations: sections 34 to 42 (CA, s24D)

(1) The Crown must establish a procedure for considering representations (including complaints) made to it by —

(a) a relevant child for the purposes of section 34 or a young person falling within section 36;

(b) a person qualifying for advice and assistance by virtue of section 40; or

(c) a person falling within section 42(1),

about the discharge of their functions under this Part in relation to that person.

(2) Regulations may be made by the Governor imposing time limits on the making of representations under subsection (1).

(3) In considering representations under subsection (1), the Crown must comply with regulations (if any) made by the Governor for the purposes of this subsection.

Review, etc

44. Review of cases and inquiries into representations (CA, s26)

(1) The Governor may make regulations requiring the case of each child who is being looked after by the Crown to be reviewed in accordance with the provisions of the regulations.

(2) The regulations may, in particular, make provision —

- (a) as to the manner in which each case is to be reviewed;
- (b) as to the considerations to which the Crown is to have regard in reviewing each case;
- (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
- (d) requiring the Crown, before conducting any review, to seek the views of —
 - (i) the child;
 - (ii) the child's parents;
 - (iii) any person who is not a parent of the child but who has parental responsibility for the child; and
 - (iv) any other person whose views the Crown considers to be relevant,
 including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;
- (e) requiring the Crown, in the case of a child who is in its care —
 - (i) to keep the section 49 plan for the child under review and, if they are of the opinion that some change is required, to revise the plan, or make a new plan, accordingly,
 - (ii) to consider, whether an application should be made to discharge the care order;
- (f) requiring the Crown, in the case of a child in accommodation provided by the Crown —
 - (i) if there is no plan for the future care of the child, to prepare one,
 - (ii) if there is such a plan for the child, to keep it under review and, if the Crown is of the opinion that some change is required, to revise the plan or make a new plan, accordingly,
 - (iii) to consider, whether the accommodation accords with the requirements of this Part;
- (g) requiring the Crown to inform the child, so far as is reasonably practicable, of any steps the child may take under this Ordinance;
- (h) requiring the Crown to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which it proposes to make in the course, or as a result, of the review;
- (i) requiring the Crown to notify details of the result of the review and of any decision taken by it in consequence of the review to —
 - (i) the child;

- (ii) the child's parents;
 - (iii) any person who is not a parent of the child but who has parental responsibility for the child; and
 - (iv) any other person whom they consider ought to be notified;
- (j) requiring the Crown to monitor the arrangements which it has made with a view to ensuring that it complies with the regulations;
- (k) for the Crown to appoint a person in respect of each case to carry out in the prescribed manner the functions mentioned in subsection (3) and any prescribed function.
- (3) The functions referred to in subsection (2)(k) are —
- (a) participating in the review of the case in question,
 - (b) monitoring the performance of the Crown's functions in respect of the review.
- (4) The Crown must establish a procedure for considering any representations (including any complaint) made to it by —
- (a) any child who is being looked after by the Crown or who is not being looked after by the Crown but is in need;
 - (b) a parent of the child;
 - (c) any person who is not a parent of the child but who has parental responsibility for the child;
 - (d) a foster parent looking after a child on behalf of the Crown;
 - (e) such other person as the Crown considers has a sufficient interest in the child's welfare to warrant the person's representations being considered by it,
- about the discharge by the Crown of any of its qualifying functions in relation to the child.
- (5) The following are qualifying functions for the purposes of subsection (4) —
- (a) functions under this Part,
 - (b) such functions under Part 4 or 5 as are specified by the Governor in regulations.
- (6) The procedure must provide that at least one person who is not an elected Member of the Legislative Assembly or a public officer takes part in —
- (a) the consideration; and

(b) any discussions which are held by the Crown about the action (if any) to be taken in relation to the child in the light of the consideration,

but this subsection is subject to subsection (9).

(7) Regulations may be made by the Governor imposing time limits on the making of representations under this section.

(8) In carrying out any consideration of representations under this section the Crown must comply with any regulations made by the Governor for the purpose of regulating the procedure to be followed.

(9) Regulations under subsection (8) may provide that subsection (6) does not apply in relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.

(10) The Governor may make regulations requiring the Crown to monitor the arrangements that it has made with a view to ensuring that it complies with any regulations made for the purposes of subsection (8).

(11) Where any representation has been considered under the procedure established by the Crown under this section, the Crown must —

(a) have due regard to the findings of those considering the representation; and

(b) take such steps as are reasonably practicable to notify (in writing) —

(i) the person making the representation;

(ii) the child (if the Crown consider that the child has sufficient understanding); and

(iii) such other persons (if any) as appear to the Crown to be likely to be affected,

of the Crown's decision in the matter and its reasons for taking that decision and of any action which it has taken, or proposes to take.

(12) The Crown must give such publicity to its procedure for considering representations under this section as it considers appropriate.

45. Advocacy services (CA, s26A)

(1) The Crown must make arrangements for the provision of assistance to —

(a) persons who make or intend to make representations under section 43; and

(b) children who make or intend to make representations under section 44.

(2) The assistance provided under the arrangements is to include assistance by way of representation.

(3) The arrangements —

(a) must secure that a person may not provide assistance if the person is one who is prevented from doing so by regulations made by the Governor; and

(b) must comply with any other provision made by the regulations in relation to the arrangements.

(4) The Governor may make regulations requiring the Crown to monitor the steps that it has taken with a view to ensuring that it complies with regulations made for the purposes of subsection (3).

(5) The Crown must give such publicity to its arrangements for the provision of assistance under this section as it considers appropriate.

Charges for services

46. Recoupment of cost of providing services etc (CA, s29)

(1) Where the Crown provides any service under section 22, other than advice, guidance or counselling, it may recover from a person specified in subsection (4) such charge for the service as it considers reasonable.

(2) Where the Crown is satisfied that that person's means are insufficient for it to be reasonably practicable for that person to pay the charge, it may not require the person to pay more than the person can reasonably be expected to pay.

(3) A person is not liable to pay any charge under subsection (1) for a service provided under section 22 at any time when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(4) The persons are —

(a) where the service is provided for a child under 16, each of the child's parents;

(b) where it is provided for a child who has reached the age of 16, the child personally; and

(c) where it is provided for a member of the child's family, that member.

(5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Part 3 of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by the Crown.

Miscellaneous

47. Miscellaneous (CA, s30)

(1) Nothing in this Part affects any duty imposed on the Crown by or under any other enactment.

(2) The Governor may make regulations for determining, as respects any functions specified in the regulations, whether a child who is being looked after by the Crown is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

PART 4 **CARE AND SUPERVISION (CA Pt 4)**

General

48. Care and supervision (CA, s31)

(1) On the application of the Crown, the court may make an order —

(a) placing the child with respect to whom the application is made in the care of the Crown;
or

(b) putting the child under the supervision of the Crown.

(2) A court may only make a care order or supervision order if it is satisfied —

(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to —

(i) the care given to the child or likely to be given to the child if the order were not made not being what it would be reasonable to expect a parent to give to the child; or

(ii) the child's being beyond parental control.

(3) A care order or supervision order must not be made with respect to a child who has reached the age of 17 (or 16, in the case of a child who is married).

(4) A care order must not be made with respect to a child until the court has considered a section 49 plan.

(5) An application under this section may be made on its own or in any other family proceedings.

(6) The court may —

(a) on an application for a care order, make a supervision order;

(b) on an application for a supervision order, make a care order.

(7) An application may only be made under this section by or with the consent of the Attorney General.

(8) In this section—

“harm” means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another;

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health; and

“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical.

(9) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, the child’s health or development is to be compared with that which could reasonably be expected of a similar child.

(10) In this Ordinance —

“care order” —

(a) means (subject to section 3(1)) an order under subsection (1)(a); and

(b) except where express provision to the contrary is made, includes an interim care order made under section 56; and

“supervision order” —

(a) means an order under subsection (1)(b); and

(b) except where express provision to the contrary is made, includes an interim supervision order made under section 56.

49. Care orders: care plans (CA, s31A)

(1) Where an application is made on which a care order might be made with respect to a child, the Crown must, within such time as the court may direct, prepare a plan (“a care plan”) for the future care of the child.

(2) While the application is pending, the Crown —

(a) must keep any care plan prepared by it under review; and

(b) if it is of the opinion some change is required, revise the plan, or make a new plan, accordingly.

(3) A care plan must give any prescribed information and do so in the prescribed manner.

(4) In section 48(4) and this section, references to a care order do not include an interim care order.

(5) A plan prepared (or treated as prepared) under this section is referred to in this Ordinance as a “section 49 plan”.

50. Period within which application for order under this Part must be disposed of (CA, s32)

(1) A court hearing an application for an order under this Part must (in the light of any rules made by virtue of subsection (2)) —

- (a) draw up a timetable with a view to disposing of the application without delay; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may —

- (a) specify periods within which specified steps must be taken in relation to such proceedings; and
- (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that they are disposed of without delay.

Care orders

51. Effect of care order (CA, s33)

(1) Where a care order is made with respect to a child it is the duty of the Crown to receive the child into its care and to keep the child in its care while the order remains in force.

(2) While a care order is in force with respect to a child, the Crown —

- (a) has parental responsibility for the child; and
- (b) has the power (subject to the following provisions of this section) to determine the extent to which —
 - (i) a parent or guardian of the child; or
 - (ii) a person who by virtue of section 8 has parental responsibility for the child,

may meet the parental responsibility for the child.

(3) The Crown may not exercise the power in subsection (2)(b) unless it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare.

(4) Nothing in subsection (2)(b) prevents a person mentioned in that provision who has care of the child from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

(5) While a care order is in force with respect to a child, the Crown —

- (a) must not cause the child to be brought up in any religious persuasion other than that in which the child would have been brought up if the order had not been made;

(b) does not have the right —

(i) to agree or refuse to agree to the making of an adoption order, or an order under section 55 of the Adoption Act 1976 (as it applies in the Falkland Islands), with respect to the child;

(ii) to appoint a guardian for the child.

(6) While a care order is in force with respect to a child, no person may —

(a) cause the child to be known by a new surname; or

(b) remove the child from the Falkland Islands,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(7) Subsection (6)(b) does not —

(a) prevent the removal of such a child by the Crown, for a period of less than 3 months;

(b) apply to arrangements for such a child to live outside the Falkland Islands (which are governed by paragraph 21 of Schedule 2).

(8) The power in subsection (2)(b) is subject (in addition to being subject to the provisions of this section) to any right, duty, power, responsibility or authority which a person mentioned in that provision has in relation to the child and the child's property by virtue of any other enactment.

52. Parental contact etc with children in care (CA, s34)

(1) Where a child is in the care of the Crown, the Crown must (subject to the provisions of this section) allow the child reasonable contact with —

(a) the child's parents;

(b) any guardian of the child;

(c) any person who by virtue of section 8 has parental responsibility for the child;

(d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made; and

(e) where, immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the Supreme Court's inherent jurisdiction with respect to children, that person.

(2) On an application made by the Crown or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and any named person.

(3) On an application made by —

- (a) any person mentioned in paragraphs (a) to (e) of subsection (1); or
- (b) any person who has obtained the leave of the court to make the application,

the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

(4) On an application made by the Crown or the child, the court may make an order authorising the Crown to refuse to allow contact between the child and any person who is mentioned in paragraphs (a) to (e) of subsection (1) and named in the order.

(5) When making a care order with respect to a child, or in any family proceedings in connection with a child who is in the care of the Crown, the court may make an order under this section, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.

(6) The Crown may refuse to allow the contact that would otherwise be required by virtue of subsection (1) or an order under this section if —

- (a) the Crown is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and

- (b) the refusal —

- (i) is decided upon as a matter of urgency; and

- (ii) does not last for more than 7 days.

(7) An order under this section may impose such conditions as the court considers appropriate.

(8) The Governor may by regulations make provision as to —

- (a) the steps to be taken by the Crown if it exercises its powers under subsection (6);

- (b) the circumstances in which, and conditions subject to which, the terms of any order under this section may be departed from by agreement between the Crown and the person in relation to whom the order is made;

- (c) notification by the Crown of any variation or suspension of arrangements made (otherwise than under an order under this section) with a view to affording any person contact with a child to whom this section applies.

(9) The court may vary or discharge any order made under this section on the application of the Crown, the child concerned or the person named in the order.

(10) An order under this section may be made either at the same time as the care order itself or later.

(11) Before making a care order with respect to any child the court must —

(a) consider the arrangements which the Crown has made, or propose to make, for affording any person contact with a child to whom this section applies; and

(b) invite the parties to the proceedings to comment on those arrangements.

Supervision orders

53. Supervision orders (CA, s35)

(1) While a supervision order is in force it is the duty of the supervisor —

(a) to advise, assist and befriend the supervised child;

(b) to take such steps as are reasonably necessary to give effect to the order; and

(c) where —

(i) the order is not wholly complied with; or

(ii) the supervisor considers that the order may no longer be necessary,

to consider whether or not to apply to the court for its variation or discharge.

(2) Parts 1 and 2 of Schedule 3 make further provision with respect to supervision orders.

54. Education supervision orders (CA, s36)

(1) On the application of the Crown, the court may make an order putting the child with respect to whom the application is made under the supervision of the Crown.

(2) In this Ordinance, “an education supervision order” means an order under subsection (1).

(3) A court may only make an education supervision order if it is satisfied that the child concerned is of compulsory school age and is not being properly educated.

(4) For the purposes of this section, a child is being properly educated only if the child is receiving efficient education suitable to —

(a) the child’s age, ability and aptitude; and

(b) any special educational needs the child may have.

(5) Where a child is —

(a) the subject of a school attendance order which is in force under section 25 of the Education Ordinance (Title 29.1) and which has not been complied with;

(b) not attending regularly within the meaning of section 26 of the Education Ordinance, a school at which the child is a registered pupil, or

- (c) not diligently pursuing within the meaning of section 28 of the Education Ordinance a course of education provided in respect of that child by the Camp Education Service;

then, unless it is proved that the child is being properly educated, it is to be assumed that the child is not.

(6) An education supervision order may not be made with respect to a child who is in the care of the Crown.

(7) Part 3 of Schedule 3 makes further provision with respect to education supervision orders.

Powers of court

55. Powers of court in certain family proceedings (CA, s37)

(1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to the child, the court may direct the Crown to undertake an investigation of the child's circumstances.

(2) Where the court gives a direction under this section the Crown must, when undertaking the investigation, consider whether it should —

- (a) apply for a care order or for a supervision order with respect to the child;
- (b) provide services or assistance for the child or the child's family; or
- (c) take any other action with respect to the child.

(3) Where the Crown undertakes an investigation under this section, and decides not to apply for a care order or supervision order with respect to the child concerned, it must inform the court of —

- (a) its reasons for so deciding;
- (b) any service or assistance which the Crown has provided, or intends to provide, for the child and the child's family; and
- (c) any other action which the Crown has taken, or proposes to take, with respect to the child.

(4) The information must be given to the court before the end of the period of 8 weeks beginning with the date of the direction, unless the court otherwise directs.

(5) If, on the conclusion of any investigation or review under this section, the Crown decide not to apply for a care order or supervision order with respect to the child —

- (a) it must consider whether it would be appropriate to review the case at a later date; and
- (b) if it decides that it would be, it must determine the date on which that review is to begin.

56. Interim orders (CA, s38)

(1) Where —

(a) in any proceedings on an application for a care order or supervision order, the proceedings are adjourned; or

(b) the court gives a direction under section 55(1),

the court may make an interim care order or an interim supervision order with respect to the child concerned.

(2) A court must not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 48(2).

(3) Where, in any proceedings on an application for a care order or supervision order, a court makes a residence order with respect to the child concerned, it must also make an interim supervision order with respect to the child unless satisfied that the child's welfare will be satisfactorily safeguarded without an interim order being made.

(4) An interim order made under or by virtue of this section will have effect for such period as may be specified in the order, but will in any event cease to have effect on whichever of the following events first occurs —

(a) the expiry of the period of 8 weeks beginning with the date on which the order is made;

(b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the relevant period;

(c) in a case which falls within subsection (1)(a), the disposal of the application;

(d) in a case which falls within subsection (1)(b), the disposal of an application for a care order or supervision order made by the Crown with respect to the child;

(e) in a case which falls within subsection (1)(b) and in which —

(i) the court has given a direction under section 55(4), but

(ii) no application for a care order or supervision order has been made with respect to the child,

the expiry of the period fixed by that direction.

(5) In subsection (4)(b), “the relevant period” means —

(a) the period of 4 weeks beginning with the date on which the order in question is made; or

(b) the period of 8 weeks beginning with the date on which the first order was made if that period ends later than the period mentioned in paragraph (a).

(6) Where the court makes an interim care order, or interim supervision order, it may give such directions (if any) as it considers appropriate with regard to the medical or psychiatric examination or other assessment of the child; but if the child is of sufficient understanding to make an informed decision, the child may refuse to submit to the examination or other assessment.

(7) A direction under subsection (6) may be to the effect that there is to be —

(a) no such examination or assessment; or

(b) no such examination or assessment unless the court directs otherwise.

(8) A direction under subsection (6) may be —

(a) given when the interim order is made or at any time while it is in force; and

(b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.

(9) Paragraphs 4 and 5 of Schedule 3 do not apply in relation to an interim supervision order.

(10) Where a court makes an order under or by virtue of this section it must, in determining the period for which the order is to be in force, consider whether any party who was, or might have been, opposed to the making of the order was in a position to argue that party's case against the order in full.

57. Power to include exclusion requirement in interim care order (CA, s38A)

(1) Where —

(a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in section 48(2)(a) and (b)(i), the court makes an interim care order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the interim care order.

(2) The conditions are —

(a) that there is reasonable cause to believe that, if a person ("the relevant person") is excluded from a dwelling-house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person) —

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following —

(a) a provision requiring the relevant person to leave a dwelling-house in which the relevant person is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.

(5) Where the court makes an interim care order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an interim care order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.

(8) Where a power of arrest is attached to an exclusion requirement of an interim care order by virtue of subsection (5), a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.

(9) Schedule 4 has effect in relation to a person arrested under subsection (8) of this section.

(10) If, while an interim care order containing an exclusion requirement is in force, the Crown has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order will cease to have effect in so far as it imposes the exclusion requirement.

58. Undertakings relating to interim care orders (CA, s38B)

(1) In any case where the court has power to include an exclusion requirement in an interim care order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1) —

(a) will be enforceable as if it were an order of the court, and

(b) will cease to have effect if, while it is in force, the Crown has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers that a court has apart from this section.

(5) In this section, “exclusion requirement” and “relevant person” have the same meaning as in section 57.

59. Discharge and variation etc. of care orders and supervision orders (CA, s39)

(1) A care order may be discharged by the court on the application of —

(a) any person who has parental responsibility for the child;

(b) the child; or

(c) the Crown.

(2) A supervision order may be varied or discharged by the court on the application of —

(a) any person who has parental responsibility for the child;

(b) the child; or

(c) the supervisor.

(3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, a supervision order may be varied by the court in so far as it imposes a requirement which affects that person.

(4) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an interim care order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(5) Where a power of arrest has been attached to an exclusion requirement of an interim care order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(6) Where a care order is in force with respect to a child the court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.

(7) When a court is considering whether to substitute one order for another under subsection (6) any provision of this Ordinance which would otherwise require section 48(2) to be satisfied at the time when the proposed order is substituted or made must be disregarded.

60. Orders pending appeals in cases about care or supervision orders (CA, s40)

(1) Where —

- (a) a court dismisses an application for a care order; and
- (b) at the time when the court dismisses the application, the child concerned is the subject of an interim care order,

the court may make a care order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(2) Where —

- (a) a court dismisses an application for a care order, or an application for a supervision order; and
- (b) at the time when the court dismisses the application, the child concerned is the subject of an interim supervision order,

the court may make a supervision order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(3) Where a court grants an application to discharge a care order or supervision order, it may order that —

- (a) its decision is not to have effect; or
- (b) the care order, or supervision order, is to continue to have effect but subject to such directions as the court sees fit to include in the order.

(4) An order made under this section will only have effect for such period, not exceeding the appeal period, as may be specified in the order.

(5) Where —

- (a) an appeal is made against any decision of a court under this section; or
- (b) any application is made to the appellate court in connection with a proposed appeal against that decision,

the appellate court may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.

(6) In this section “the appeal period” means —

- (a) where an appeal is made against the decision in question, the period between the making of that decision and the determination of the appeal; and
- (b) otherwise, the period during which an appeal may be made against the decision.

Children's guardians (formerly known as guardians ad litem)

61. Representation of child (CA, s41)

(1) For the purpose of any specified proceedings, the court must appoint a suitable person to be children's guardian for the child concerned unless satisfied that it is not necessary to do so in order to safeguard the child's interests.

(2) The children's guardian —

(a) must be appointed in accordance with any rules of court that have been made; and

(b) will be under a duty to safeguard the interests of the child in the manner prescribed by such rules.

(3) Where —

(a) the child concerned is not represented by a legal practitioner; and

(b) any of the conditions mentioned in subsection (4) is satisfied,

the court may appoint a legal practitioner to represent the child.

(4) The conditions are that —

(a) no children's guardian has been appointed for the child;

(b) the child has sufficient understanding to instruct a legal practitioner and wishes to do so;

(c) it appears to the court that it would be in the child's best interests for the child to be represented by a legal practitioner.

(5) Any legal practitioner appointed under or by virtue of this section must be appointed, and must represent the child, in accordance with any rules of court that have been made.

(6) In this section "specified proceedings" means any proceedings —

(a) on an application for a care order or supervision order;

(b) in which the court has given a direction under section 55(1) and has made, or is considering whether to make, an interim care order;

(c) on an application for the discharge of a care order or the variation or discharge of a supervision order;

(d) on an application under section 59(6);

(e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;

- (f) with respect to contact between a child who is the subject of a care order and any other person;
 - (g) under Part 5;
 - (h) on an appeal against —
 - (i) the making of, or refusal to make, a care order, supervision order or any order under section 52;
 - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order;
 - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii);
 - (iv) the refusal of an application under section 59(6); or
 - (v) the making of, or refusal to make, an order under Part 5;
 - (i) on an application for the making or an order declaring the child free for adoption (within the meaning of section 18 of the Adoption Act 1976 (as it applies in the Falkland Islands)); or
 - (j) which are specified for the time being, for the purposes of this section, by rules of court.
- (7) The proceedings which may be specified under subsection (6)(j) include (for example) proceedings for the making, varying or discharging of a section 12 order.
- (8) Rules of court may make provision as to —
- (a) the assistance which any children's guardian may be required by the court to give to it;
 - (b) the consideration to be given by any children's guardian, where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order;
 - (c) the participation of children's guardians in reviews, of a kind specified in the rules, which are conducted by the court.
- (9) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of —
- (a) any statement contained in a report made by a children's guardian who is appointed under this section for the purpose of the proceedings in question; and
 - (b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.

62. Right of children's guardian to have access to Crown records (CA, s42)

(1) Where a children's guardian has been appointed under section 61, the children's guardian has the right at all reasonable times to examine and take copies of —

(a) any records of, or held by, the Crown which were compiled in connection with the making, or proposed making, by any person of any application under this Ordinance with respect to the child concerned; and

(b) any records of, or held by, the Crown which were compiled in connection with any functions which are social services functions, so far as those records relate to that child.

(2) Where a children's guardian takes a copy of any record which the children's guardian is entitled to examine under this section, that copy or any part of it is admissible as evidence of any matter referred to in any —

(a) report which the children's guardian makes to the court in the proceedings in question; or

(b) evidence which the children's guardian gives in those proceedings.

(3) Subsection (2) has effect regardless of any enactment or rule of law which would otherwise prevent the record in question being admissible in evidence.

PART 5
PROTECTION OF CHILDREN (CA, Pt 5)

63. Child assessment orders (CA, s43)

(1) An application under this section may only be made by or with the consent of the Attorney General.

(2) On an application for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that —

(a) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;

(b) an assessment of the state of the child's health or development, or of the way in which the child has been treated, is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm; and

(c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an order under this section.

(3) In this Ordinance "a child assessment order" means an order under this section.

(4) A court may treat an application under this section as an application for an emergency protection order.

(5) A court must not make a child assessment order if it is satisfied —

(a) that there are grounds for making an emergency protection order with respect to the child; and

(b) that it ought to make such an order rather than a child assessment order.

(6) A child assessment order must —

(a) specify the date by which the assessment is to begin; and

(b) have effect for such period, not exceeding 7 days beginning with that date, as may be specified in the order.

(7) Where a child assessment order is in force with respect to a child it is the duty of any person who is in a position to produce the child —

(a) to produce the child to such person as may be named in the order; and

(b) to comply with such directions relating to the assessment of the child as the court thinks fit to specify in the order.

(8) A child assessment order authorises any person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.

(9) Regardless of subsection (8), if the child is of sufficient understanding to make an informed decision, the child may refuse to submit to a medical or psychiatric examination or other assessment.

(10) The child may only be kept away from home —

(a) in accordance with directions specified in the order;

(b) if it is necessary for the purposes of the assessment; and

(c) for such period or periods as may be specified in the order.

(11) Where the child is to be kept away from home, the order must contain such directions as the court thinks fit with regard to the contact that the child must be allowed to have with other persons while away from home.

(12) Any person making an application for a child assessment order must take such steps as are reasonably practicable to ensure that notice of the application is given to —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

- (c) any other person caring for the child;
- (d) any person in whose favour a contact order is in force with respect to the child;
- (e) any person who is allowed to have contact with the child by virtue of an order under section 52; and
- (f) the child,

before the hearing of the application.

(13) Rules of court may make provision as to the circumstances in which —

- (a) any of the persons mentioned in subsection (12); or
- (b) such other person as may be specified in the rules,

may apply to the court for a child assessment order to be varied or discharged.

64. Orders for emergency protection of children (CA, s44)

(1) An application under this section may only be made by a public officer authorised in that behalf by the Attorney General to make it.

(2) Where a person authorised to make an application under this section applies to the court for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that —

- (a) there is reasonable cause to believe that the child is likely to suffer significant harm if —
 - (i) the child is not removed to accommodation provided by or on behalf of the Crown; or
 - (ii) the child does not remain in the place in which the child is then being accommodated; or
- (b) both of the following conditions are met —
 - (i) enquiries are being made with respect to the child under section 69(1)(b); and
 - (ii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.

(3) In this section, “a person authorised to seek access” means a person authorised by the Crown to act on its behalf in connection with the enquiries.

(4) Any person —

- (a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (2)(b); and

- (b) purporting to be a person authorised to do so,
- must, on being asked to do so, produce some duly authenticated document as evidence that the person is a person authorised to seek access.
- (5) While an order under this section (“an emergency protection order”) is in force it —
- (a) operates as a direction to any person who is in a position to do so to comply with any request to produce the child to the applicant;
- (b) authorises —
- (i) the removal of the child at any time to accommodation provided by or on behalf of the applicant and the child being kept there; or
- (ii) the prevention of the child’s removal from any hospital, or other place, in which the child was being accommodated immediately before the making of the order; and
- (c) gives the applicant parental responsibility for the child.
- (6) Where an emergency protection order is in force with respect to a child, the applicant —
- (a) may only exercise the power given by virtue of subsection (5)(b) in order to safeguard the welfare of the child;
- (b) must take, and must only take, such action in meeting the applicant’s parental responsibility for the child as is reasonably required to safeguard or promote the welfare of the child (having regard in particular to the duration of the order); and
- (c) must comply with the requirements of any regulations made by the Governor for the purposes of this subsection as well as, and in so far as they are not inconsistent with, any directions given by the court under subsection (7) of this section.
- (7) Where the court makes an emergency protection order, it may give such directions (if any) as it considers appropriate with respect to —
- (a) the contact which is, or is not, to be allowed between the child and any named person;
- (b) the medical or psychiatric examination or other assessment of the child.
- (8) Where any direction is given under subsection (7)(b), the child may, if the child is of sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.
- (9) A direction under subsection (7)(a) may impose conditions and one under subsection (7)(b) may be to the effect that there is to be —
- (a) no such examination or assessment; or

(b) no such examination or assessment unless the court directs otherwise.

(10) A direction under subsection (7) may be —

(a) given when the emergency protection order is made or at any time while it is in force; and

(b) varied at any time on the application of the applicant, the Attorney General or any public officer authorised by the Attorney General or on the application of any person mentioned in subsection (13) of this section.

(11) Where an emergency protection order is in force with respect to a child and —

(a) the applicant has exercised the power given by subsection (5)(b)(i) but it appears to the applicant that it is safe for the child to be returned; or

(b) the applicant has exercised the power given by subsection (5)(b)(ii) but it appears to the applicant that it is safe for the child to be allowed to be removed from the place in question,

the applicant must return the child or (as the case may be) allow the child to be removed.

(12) Where the applicant is required by subsection (11) to return the child the applicant must —

(a) return the child to the care of the person from whose care the child was removed; or

(b) if that is not reasonably practicable, return the child to the care of —

(i) a parent of the child;

(ii) any person who is not a parent of the child but who has parental responsibility for the child; or

(iii) such other person as the applicant (with the agreement of the court) considers appropriate.

(13) Where the applicant has been required by subsection (11) to return the child, or to allow the child to be removed, the applicant may again exercise the applicant's powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to the applicant that a change in the circumstances of the case makes it necessary for the applicant to do so.

(14) Where an emergency protection order has been made with respect to a child, the applicant must, subject to any direction given under subsection (7), allow the child reasonable contact with —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

- (c) any person with whom the child was living immediately before the making of the order;
- (d) any person in whose favour a contact order is in force with respect to the child;
- (e) any person who is allowed to have contact with the child by virtue of an order under section 52; and
- (f) any person acting on behalf of any of those persons.

(15) Wherever it is reasonably practicable to do so, an emergency protection order must name the child; and where it does not name the child it must describe the child as clearly as possible.

(16) A person is guilty of an offence if that person intentionally obstructs any person exercising the power under subsection (5)(b) to remove, or prevent the removal of, a child.

(17) A person guilty of an offence under subsection (16) is liable on conviction to a fine not exceeding level 3 on the standard scale.

65. Power to include exclusion requirement in emergency protection order (CA, s44A)

(1) Where —

(a) on being satisfied as mentioned in section 64(2)(a) or (b), the court makes an emergency protection order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the emergency protection order.

(2) The conditions are —

(a) that there is reasonable cause to believe that, if a person (“the relevant person”) is excluded from a dwelling-house in which the child lives, then —

(i) in the case of an order made on the ground mentioned in section 64(2)(a), the child will not be likely to suffer significant harm, even though the child is not removed as mentioned in section 64(2)(a)(i) or does not remain as mentioned in section 64(2)(a)(ii), or

(ii) in the case of an order made on the ground mentioned in paragraph (b) of section 64(2), the enquiries referred to in that paragraph will cease to be frustrated, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person) —

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following —

(a) a provision requiring the relevant person to leave a dwelling-house in which the relevant person is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.

(5) Where the court makes an emergency protection order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an emergency protection order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the emergency protection order.

(8) Where a power of arrest is attached to an exclusion requirement of an emergency protection order by virtue of subsection (5), a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.

(9) Schedule 4 has effect in relation to a person arrested under subsection (8) of this section.

(10) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the order will cease to have effect in so far as it imposes the exclusion requirement.

66. Undertakings relating to emergency protection orders (CA, s 44B)

(1) In any case where the court has power to include an exclusion requirement in an emergency protection order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1) —

(a) is enforceable as if it were an order of the court, and

(b) will cease to have effect if, while it is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers that a court has apart from this section.

(5) In this section “exclusion requirement” and “relevant person” have the same meaning as in section 65.

67. Duration of emergency protection orders and other supplemental provisions (CA, s45)

(1) An emergency protection order will have effect for such period, not exceeding 8 days, as may be specified in the order.

(2) Where —

(a) the court making an emergency protection order would, but for this subsection, specify a period of 8 days as the period for which the order is to have effect; but

(b) the last of those 8 days is a Sunday or a public holiday,

the court may specify a period which ends at noon on the first later day which is not a Sunday or public holiday.

(3) Where an emergency protection order is made on an application under section 68(7), the period of 8 days mentioned in subsection (1) will begin with the first day on which the child was taken into police protection under section 68.

(4) Any person who —

(a) has parental responsibility for a child as the result of an emergency protection order; and

(b) is entitled to apply for a care order with respect to the child,

may apply to the court for the period during which the emergency protection order is to have effect to be extended.

(5) On an application under subsection (4) the court may extend the period during which the order is to have effect by such period, not exceeding 7 days, as it thinks fit, but may do so only if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.

(6) An emergency protection order may only be extended once.

(7) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to, an emergency protection order may take account of —

(a) any statement contained in any report made to the court in the course of, or in connection with, the hearing; or

(b) any evidence given during the hearing,

which is, in the opinion of the court, relevant to the application.

(8) Any of the following may apply to the court for an emergency protection order to be discharged —

(a) the child;

(b) a parent of the child;

(c) any person who is not a parent of the child but who has parental responsibility for the child; or

(d) any person with whom the child was living immediately before the making of the order.

(9) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(10) Where a power of arrest has been attached to an exclusion requirement of an emergency protection order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(11) No appeal may be made against —

(a) the making of, or refusal to make, an emergency protection order;

(b) the extension of, or refusal to extend, the period during which such an order is to have effect;

(c) the discharge of, or refusal to discharge, such an order; or

(d) the giving of, or refusal to give, any direction in connection with such an order.

(12) Subsection (8) does not apply —

(a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged —

(i) was given notice (in accordance with rules of court) of the hearing at which the order was made; and

(ii) was present at that hearing; or

(b) to any emergency protection order the effective period of which has been extended under subsection (5).

(13) A court making an emergency protection order may direct that the applicant may, in exercising any powers which the applicant has by virtue of the order, be accompanied by a medical practitioner, nurse or health visitor, if the applicant so chooses.

68. Removal and accommodation of children by police in cases of emergency (CA, s46)

(1) Where a police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, the officer may —

(a) remove the child to suitable accommodation and keep the child there; or

(b) take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which the child is then being accommodated is prevented.

(2) For the purposes of this Ordinance, a child with respect to whom a police officer has exercised the officer's powers under this section is referred to as having been taken into police protection.

(3) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned must —

(a) inform the Attorney General of the steps that have been, and are proposed to be, taken with respect to the child under this section and the reasons for taking them;

(b) give details to Attorney General of the place at which the child is being accommodated;

(c) inform the child (if the child appears capable of understanding) —

(i) of the steps that have been taken with respect to the child under this section and of the reasons for taking them; and

(ii) of the further steps that may be taken with respect to the child under this section;

(d) take such steps as are reasonably practicable to discover the wishes and feelings of the child; and

(e) secure that the case is inquired into by the Chief Police Officer or another police officer not below the rank of inspector.

(4) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned must take such steps as are reasonably practicable to inform —

(a) the child's parents;

(b) every person who is not a parent of the child but who has parental responsibility for the child; and

(c) any other person with whom the child was living immediately before being taken into police protection,

of the steps that the officer has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to the child under this section.

(5) On completing any inquiry under subsection (3)(e), the officer conducting it must release the child from police protection unless that officer considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.

(6) No child may be kept in police protection for more than 72 hours.

(7) While a child is being kept in police protection, the Attorney General or any other public officer with the consent of the Attorney General may apply on behalf of the Crown for an emergency protection order to be made under section 64 with respect to the child.

(8) While a child is being kept in police protection —

(a) no police officer has parental responsibility for the child; but

(b) the officer conducting the enquiry under subsection (3)(e) must do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be so protected).

(9) Where a child has been taken into police protection, the officer conducting the enquiry under subsection (3)(e) must allow —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any person with whom the child was living immediately before the child was taken into police protection;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under section 52; and

(f) any person acting on behalf of any of those persons,

to have such contact (if any) with the child as, in the opinion of the officer, is both reasonable and in the child's best interests.

69. Crown's duty to investigate (CA, s47)

(1) Where the Crown —

(a) is informed that a child —

(i) is the subject of an emergency protection order; or

(ii) is in police protection;

(b) has reasonable cause to suspect that a child who lives, or is found, in the Falkland Islands is suffering, or is likely to suffer, significant harm,

the Crown must make, or cause to be made, such enquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the child's welfare.

(2) Where the Crown has obtained an emergency protection order with respect to a child, it must make, or cause to be made, such enquiries as it considers necessary to enable it to decide what action it should take to safeguard or promote the child's welfare.

(3) The enquiries must, in particular, be directed towards establishing —

(a) whether the Crown should make any application to the court, or exercise any of its other powers under this Ordinance;

(b) whether, in the case of a child —

(i) with respect to whom an emergency protection order has been made; and

(ii) who is not in accommodation provided by or on behalf of the Crown,

it would be in the child's best interests (while an emergency protection order remains in force) for the child to be in such accommodation; and

(c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for an application to be made under section 64.

(4) Where enquiries are being made under subsection (1) with respect to a child, the Crown must (with a view to enabling it to determine what action, if any, to take with respect to the child) take such steps as are reasonably practicable —

(a) to obtain access to the child; or

(b) to ensure that access to the child is obtained, on its behalf, by a person authorised by it for the purpose,

unless it is satisfied that it already has sufficient information with respect to the child.

(5) For the purposes of making a determination under this section as to the action to be taken with respect to a child, the Crown must, so far as is reasonably practicable and consistent with the child's welfare —

- (a) ascertain the child's wishes and feelings regarding the action to be taken with respect to the child; and
- (b) give due consideration (having regard to the child's age and understanding) to such wishes and feelings of the child as it has been able to ascertain.

(6) Where, in the course of enquiries made under this section —

- (a) any public officer; or
- (b) any person authorised by the Crown to act on its behalf in connection with those enquiries —
 - (i) is refused access to the child concerned; or
 - (ii) is denied information as to the child's whereabouts,

the Crown must apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child unless it is satisfied that the child's welfare can be satisfactorily safeguarded without the Crown doing so.

(7) If, on the conclusion of any enquiries or review made under this section, the Crown decides not to apply for an emergency protection order, a child assessment order, a care order or a supervision order it must —

- (a) consider whether it would be appropriate to review the case at a later date; and
- (b) if it decides that it would be, determine the date on which that review is to begin.

(8) Where, as a result of complying with this section, the Crown concludes that it should take action to safeguard or promote the child's welfare it must take that action (so far as it is both within its power and reasonably practicable for it to do so).

70. Powers to assist in discovery of children who may be in need of emergency protection (CA, s 48)

(1) Where it appears to a court making an emergency protection order that adequate information as to the child's whereabouts —

- (a) is not available to the applicant for the order; but
- (b) is available to another person,

it may include in the order a provision requiring that other person to disclose, if asked to do so by the applicant, any information that the other person may have as to the child's whereabouts.

(2) A person is not excused from complying with such a requirement on the ground that complying might incriminate that person or that person's spouse of an offence; but a statement or admission made in complying will not be admissible in evidence against either of them in proceedings for any offence other than perjury.

(3) An emergency protection order may authorise the applicant to enter premises specified by the order and search for the child with respect to whom the order is made.

(4) Where the court is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, it may make an order authorising the applicant to search for that other child on those premises.

(5) Where —

(a) an order has been made under subsection (4);

(b) the child concerned has been found on the premises; and

(c) the applicant is satisfied that the grounds for making an emergency protection order exist with respect to that child,

the order will have effect as if it were an emergency protection order.

(6) Where an order has been made under subsection (4), the applicant must notify the court of its effect.

(7) A person is guilty of an offence if that person intentionally obstructs any person exercising the power of entry and search under subsection (3) or (4).

(8) A person guilty of an offence under subsection (7) is liable on conviction to a fine not exceeding level 3 on the standard scale.

(9) Where, on an application made by any person for a warrant under this section, it appears to the court —

(a) that a person attempting to exercise powers under an emergency protection order has been prevented from doing so by being refused entry to the premises concerned or access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any police officer to assist the person mentioned in paragraph (a) or (b) in the exercise of those powers using reasonable force if necessary.

(10) Every warrant issued under this section must be addressed to, and executed by, a police officer who may be accompanied by the person applying for the warrant if —

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(11) A court granting an application for a warrant under this section may direct that the police officer concerned may, in executing the warrant, be accompanied by a medical practitioner, nurse or health visitor, if the officer so chooses.

(12) An application for a warrant under this section must be made in the manner and form prescribed by rules of court.

(13) Wherever it is reasonably practicable to do so, an order under subsection (4), an application for a warrant under this section and any such warrant must name the child; and where it does not name the child it must describe the child as clearly as possible.

71. Abduction of children in care etc (CA, s49)

(1) A person is guilty of an offence if, knowingly and without lawful authority or reasonable excuse, that person —

(a) takes a child to whom this section applies away from the responsible person;

(b) keeps such a child away from the responsible person; or

(c) induces, assists or incites such a child to run away or stay away from the responsible person.

(2) This section applies in relation to a child who is —

(a) in care;

(b) the subject of an emergency protection order; or

(c) in police protection,

and in this section “the responsible person” means any person who for the time being has care of the child by virtue of the care order, the emergency protection order, or section 68 as the case may be.

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

72. Recovery of abducted children etc (CA, s50)

(1) Where it appears to the court that there is reason to believe that a child to whom this section applies —

(a) has been unlawfully taken away or is being unlawfully kept away from the responsible person;

(b) has run away or is staying away from the responsible person; or

(c) is missing,

the court may make an order under this section (“a recovery order”).

(2) This section applies to the same children to whom section 71 applies and in this section “the responsible person” has the same meaning as in section 71.

(3) A recovery order —

(a) operates as a direction to any person who is in a position to do so to produce the child on request to any authorised person;

(b) authorises the removal of the child by any authorised person;

(c) requires any person who has information as to the child’s whereabouts to disclose that information, if asked to do so, to a police officer or an officer of the court;

(d) authorises a police officer to enter any premises specified in the order and search for the child using reasonable force if necessary.

(4) The court may make a recovery order only on the application of —

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the officer conducting enquiries under section 68(3)(e).

(5) A recovery order must name the child and —

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the officer conducting enquiries under section 68(3)(e).

(6) Premises may only be specified under subsection (3)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.

(7) In this section, “an authorised person” means —

(a) any person specified by the court;

(b) any police officer;

(c) any person who is authorised —

(i) after the recovery order is made; and

(ii) by a person who has parental responsibility for the child by virtue of a care order or an emergency protection order,

to exercise any power under a recovery order; and

(8) Where a person is authorised as mentioned in subsection (7)(c) —

(a) the authorisation must identify the recovery order; and

(b) any person claiming to be so authorised must, if asked to do so, produce some duly authenticated document showing that the person is so authorised.

(9) A person is guilty of an offence if that person intentionally obstructs an authorised person exercising the power under subsection (3)(b) to remove a child.

(10) A person guilty of an offence under this section is liable on conviction to a fine not exceeding level 3 on the standard scale.

(11) A person is not excused from complying with any request made under subsection (3)(c) on the ground that complying with it might incriminate that person or that person's spouse of an offence; but a statement or admission made in complying will not be admissible in evidence against either of them in proceedings for an offence other than perjury.

(12) Where a child is made the subject of a recovery order whilst being looked after by the Crown, any reasonable expenses incurred by an authorised person in giving effect to the order are recoverable from the Crown.

73. Rules of court (CA, s52)

(1) Without prejudice to section 85 or any other power to make such rules, rules of court may be made with respect to the procedure to be followed in connection with proceedings under this Part.

(2) The rules may, in particular make provision —

(a) as to the form in which any application is to be made or direction is to be given;

(b) prescribing the persons who are to be notified of —

(i) the making, or extension, of an emergency protection order; or

(ii) the making of an application under section 67(4) or (8) or 68(7); and

(c) as to the content of any such notification and the manner in which, and person by whom, it is to be given.

(3) Until such time as rules of court to which subsection (1) of this section relates are first made, the rules of court for the time being in force in England to which section 52(1) of the Children Act 1989 relates ("the corresponding rules of court") have effect as if they had been made under subsection (1) of this section, but subject to such modifications as may be necessary to substitute

references to courts and authorities in the Falkland Islands for references to courts and authorities in England.

(4) The power to make rules of court for the purposes mentioned in subsection (1) of this section includes power by such rules to adopt, subject to such modifications and adaptations as may be specified in those rules, the corresponding rules of court.

PART 6

FOSTERING (CA, Pt 9)

74. Privately fostered children (CA, s66)

(1) In this Part —

(a) “a privately fostered child” means a child who is under the age of 16 and who is cared for, and provided with accommodation in their own home by, someone other than —

(i) a parent of the child;

(ii) a person who is not a parent of the child but who has parental responsibility for the child; or

(iii) a relative of the child; and

(b) “to foster a child privately” means to look after the child in circumstances in which the child is a privately fostered child as defined by this section.

(2) A child is not privately fostered child if the person caring for and accommodating the child —

(a) has done so for a period a period of less than 28 days; and

(b) does not intend to do so for any longer period.

(3) Subsection (1) is subject to the exceptions made by paragraphs 6 to 10 of Schedule 5

(4) In the case of a child who is disabled, subsection (1)(a) has effect as if for “16” there were substituted “18”.

(5) The Governor may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing the child with accommodation in the person’s own home.

(6) Schedule 5 has effect for the purposes of supplementing the provision made by this Part.

75. Welfare of privately fostered children (CA, s67)

(1) It is the duty of the Crown to satisfy itself that the welfare of children who are or are proposed to be privately fostered within the Falkland Islands is being or will be satisfactorily safeguarded and promoted and to secure that such advice is given to those concerned with them as appears to the Crown to be needed.

(2) The Governor may make regulations —

(a) requiring every child who is privately fostered within the Falkland Islands to be visited by a public officer —

(i) in prescribed circumstances; and

(ii) on specified occasions or within specified periods; and

(b) imposing requirements which are to be met by the Crown, or public officer, in carrying out functions under this section.

(3) Regulations under subsection (2)(b) may impose requirements as to the action to be taken by the Crown for the purposes of discharging its duty under subsection (1) where it has received notification of a proposal that a child be privately fostered.

(4) Where any person who is authorised by the Crown to visit for the purpose has reasonable cause to believe that —

(a) any privately fostered child is being accommodated in premises within the Falkland Island; or

(b) it is proposed to accommodate any such child in any such premises,

that person may at any reasonable time inspect those premises and any children there.

(5) Any person exercising the power under subsection (4) must, if so required, produce some duly authenticated document showing the person's authority to do so.

(6) Where the Crown is not satisfied that the welfare of any child who is or is proposed to be privately fostered within the Falkland Islands is being or will be satisfactorily safeguarded or promoted it must —

(a) unless it considers that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by —

(i) a parent of the child;

(ii) any person who is not a parent of the child but who has parental responsibility for the child ; or

(iii) a relative of the child; and

(b) consider the extent to which (if at all) it should exercise any of its functions under this Ordinance with respect to the child.

(7) The Governor may make regulations requiring the Crown to monitor the way in which it discharges its functions under this Part (and the regulations may in particular require the Crown to appoint an officer for that purpose).

76. Persons disqualified from being private foster parents (CA, s68)

(1) If a person is disqualified from doing so by regulations made by the Governor for the purposes of this section, that person must not foster a child privately unless the person has disclosed the fact to the Crown and obtained its written consent.

(2) The regulations may, in particular, provide for a person to be so disqualified where —

- (a) an order of a kind specified in the regulations has been made at any time with respect to the person;
- (b) an order of a kind so specified has been made at any time with respect to any child who has been in the person's care;
- (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
- (d) the person has been convicted of any offence of a kind so specified, or discharged absolutely or conditionally for any such offence;
- (e) a prohibition has been imposed on the person at any time under section 77 or under any other specified enactment;
- (f) the person's rights and powers with respect to a child have at any time been vested in the Crown under a specified enactment.

(3) A conviction in respect of which a probation order was made but which would not otherwise be treated as a conviction is to be treated as a conviction for the purposes of subsection (2)(d).

(4) Unless the person has disclosed the fact to the Crown and obtained its written consent, a person must not foster a child privately if —

- (a) the person lives in the same household as a person who is prevented from fostering a child by subsection (1); or
- (b) the person lives in a household at which any such person is employed.

(5) Where the Crown refuses to give its consent under this section, it must inform the applicant by a written notice which states —

- (a) the reason for the refusal;
- (b) the applicant's right under paragraph 14 of Schedule 5 to appeal against the refusal; and
- (c) the time within which the applicant may do so.

(6) In this section, “enactment” also includes legislation having effect, at any time, in any part of the United Kingdom.

77. Power to prohibit private fostering (CA, s69)

(1) This section applies where a person —

- (a) proposes to foster a child privately; or
- (b) is fostering a child privately.

(2) Where the Crown is of the opinion that —

- (a) the person is not a suitable person to foster a child;
- (b) the premises in which the child will be, or is being, accommodated are not suitable; or
- (c) it would be prejudicial to the welfare of the child for the child to be, or continue to be accommodated by that person in those premises,

the Crown may impose a prohibition on the person under subsection (3).

(3) A prohibition imposed on any person under this subsection may prohibit that person from fostering privately —

- (a) any child in any premises within the Falkland Islands;
- (b) any child in premises specified in the prohibition; or
- (c) a child identified in the prohibition, in premises specified in the prohibition.

(4) If the Crown has imposed a prohibition on any person under subsection (3), it may, if it thinks fit, cancel the prohibition —

- (a) of its own motion; or
- (b) on an application made by that person,

if it is satisfied that the prohibition is no longer justified.

(5) Where the Crown imposes a requirement on any person under paragraph 11 of Schedule 5, it may also impose a prohibition on the person under subsection (3).

(6) Any prohibition imposed by virtue of subsection (5) will not have effect unless —

- (a) the time specified for compliance with the requirement has expired; and
- (b) the requirement has not been complied with.

(7) A prohibition imposed under this section must be imposed by notice in writing addressed to the person on whom it is imposed and informing the person of —

- (a) the reason for imposing the prohibition;
- (b) the person's right under paragraph 14 of Schedule 5 to appeal against the prohibition; and
- (c) the time within which the person may do so.

78. Offences (CA, s70)

(1) A person is guilty of an offence if —

- (a) being required, under any provision made by or under this Part, to give any notice or information —
 - (i) the person fails without reasonable excuse to give the notice within the time specified in that provision;
 - (ii) the person fails without reasonable excuse to give the information within a reasonable time; or
 - (iii) the person makes, or causes or procures another person to make, any statement in the notice or information which the person knows to be false or misleading in a material particular;
- (b) the person refuses to allow a privately fostered child to be visited by a duly authorised public officer;
- (c) the person intentionally obstructs another in the exercise of the power conferred by section 75(4);
- (d) the person contravenes section 76;
- (e) the person fails without reasonable excuse to comply with any requirement imposed by the Crown under this Part;
- (f) the person accommodates a privately fostered child in any premises in contravention of a prohibition imposed by the Crown under this Part;
- (g) the person knowingly causes to be published, or publishes, an advertisement which the person knows contravenes paragraph 15 of Schedule 5.

(2) Where a person contravenes section 76(4), the person is not be guilty of an offence under this section if the person proves that the person did not know, and had no reasonable ground for believing, that any person to whom section 76(1) applied was living or employed in the premises in question.

- (3) A person guilty of an offence under subsection (1)(a) is liable on conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under subsection (1)(b), (c) or (g) is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (5) A person guilty of an offence under subsection (1)(d) or (f) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (6) A person guilty of an offence under subsection (1)(e) is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the Crown.
- (8) Subsection (7) is not affected by anything in section 51 (Time for commencement of criminal proceedings) of the Administration of Justice Ordinance (Title 22.1).

PART 7

SAFEGUARDING CHILDREN BOARD (CA 2004, ss 13 to 14B)

79. Safeguarding Children Board (CA 2004, s13)

- (1) The Crown is under a duty to ensure that there continues to be a Safeguarding Children Board for the Falkland Islands.
- (2) The Board must include the following or their representatives —
- (a) the elected members of the Legislative Assembly with portfolio responsibility for health, social services and education matters;
 - (b) the senior officers in the Falkland Islands Government with responsibility for health, social services and education;
 - (c) the Chief Medical Officer; and
 - (d) the Chief Police Officer.
- (3) The Board must also include representatives from the departments within the Falkland Islands Government that deal with —
- (a) nursing;
 - (b) social services; and
 - (c) probation services.

(4) The Board must include (as an observer) the Governor (acting with discretion) or a representative of the Governor (acting with discretion).

(5) The Board must include (as an adviser) the Attorney General or a representative of the Attorney General.

(6) The Board may also include representatives (as members or observers) from —

(a) the Ministry of Defence;

(b) one or more organisations with a role relating to the welfare of families of those serving in the armed forces;

(c) one or more other organisations with a role relating to the welfare of children or families.

80. Functions and procedure of Safeguarding Children Board (CA 2004, s14)

(1) The objective of the Safeguarding Children Board is —

(a) to co-ordinate what is done by (and on behalf of) the Crown under its various functions (both statutory and non-statutory) for the purposes of safeguarding and promoting the welfare of children in Falkland Islands; and

(b) to ensure the effectiveness of what is done by (or on behalf of) the Crown for those purposes.

(2) The Board is to have such functions in relation to its objective as the Governor may by regulations prescribe (which may in particular include functions of review or investigation).

(3) The Governor may by regulations make provision as to the procedures to be followed by the Board.

81. Safeguarding Children Board: annual reports (CA 2004, s14A)

(1) At least once in every 12 month period, the Safeguarding Children Board must prepare and publish a report about safeguarding and promoting the welfare of children in the Falkland Islands.

(2) The Board must submit copies of the report to the Governor and the Legislative Assembly.

82. Supply of information requested by Safeguarding Children Board (CA 2004, s14B)

(1) If the Safeguarding Children Board requests a person or body to supply information specified in the request to —

(a) the Board, or

(b) another person or body specified in the request,

the request must be complied with if the first and second conditions are met and either the third or the fourth condition is met.

(2) The first condition is that the request is made for the purpose of enabling or assisting the Board to perform its functions.

(3) The second condition is that the request is made to a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function by the Board.

(4) The third condition is that the information relates to —

(a) the person or body to whom the request is made,

(b) a function or activity of that person or body, or

(c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that person or body.

(5) The fourth condition is that the information —

(a) is information requested by the Board from a person or body to whom information was supplied in compliance with another request under this section, and

(b) is the same as, or is derived from, information so supplied.

(6) The information may be used by the Board, or other person or body to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the Board to perform its functions.

PART 8

MISCELLANEOUS AND GENERAL (including CA, Pt 12)

Effect and duration of orders etc

83. Effect and duration of orders etc (CA, s91)

(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

(2) The making of a care order with respect to a child who is the subject of any section 12 order discharges that order.

(3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.

(4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.

(5) The making of a care order with respect to a child who is the subject of a school attendance order made under section 25 of the Education Ordinance discharges the school attendance order.

(6) Where an emergency protection order is made with respect to a child who is in care, the care order has effect subject to the emergency protection order.

(7) Any order made under section 7(1)(c), 8(1)(b) or 9(1) continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(8) Any —

(a) agreement under section 7(1)(b) or 8(1)(a); or

(b) appointment under section 9(3) or (4),

continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(9) An order under Schedule 1 has effect as specified in that Schedule.

(10) A section 12 order other than a residence order, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 16, unless it is to have effect beyond that age by virtue of section 13(5).

(11) Where a section 12 order has effect with respect to a child who has reached the age of 16, if it would otherwise still be in force, it ceases to have effect when the child reaches the age of 18.

(12) Any care order, other than an interim care order, continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(13) Any order made under any other provision of this Ordinance in relation to a child, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 18.

(14) On disposing of any application for an order under this Ordinance, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Ordinance of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(15) Where an application (“the previous application”) has been made for —

(a) the discharge of a care order;

(b) the discharge of a supervision order;

(c) the discharge of an education supervision order;

(d) the substitution of a supervision order for a care order; or

(e) a child assessment order,

no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds 6 months.

(16) Subsection (15) does not apply to applications made in relation to interim orders.

(17) Where —

- (a) a person has made an application for an order under section 52;
- (b) the application has been refused; and
- (c) a period of less than 6 months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless that person has obtained the leave of the court.

Jurisdiction and procedure etc

84. Jurisdiction of courts (CA, s92)

(1) The name “family proceedings court” will continue to be used to describe a court of summary jurisdiction when it is hearing (or otherwise dealing with) family proceedings.

(2) Proceedings under this Ordinance are to be treated as family proceedings in relation to the Summary Court.

(3) Subsection (2) is subject to the provisions of section 65(1) and (2) (proceedings which may be treated as not being family proceedings) of the Magistrates’ Courts Act 1980 (as it applies in the Falkland Islands), as modified by this Ordinance.

(4) The Summary Court is not competent to entertain any application, or make any order, involving the administration or application of —

- (a) any property belonging to or held in trust for a child; or
- (b) the income of any such property.

(5) The powers of the Summary Court under section 63(2) of the Magistrates’ Court Act 1980 (as it applies in the Falkland Islands) to suspend or rescind orders do not apply in relation to any order made under this Ordinance.

(6) The Chief Justice has and may exercise powers in relation to the Falkland Islands that are equivalent to those that the Lord Chancellor has in relation to England under Part 1 of Schedule 11 to the Children Act 1989.

85. Rules of court (CA, s93)

(1) The Chief Justice may make rules of court to make such provision for giving effect to —

- (a) this Ordinance;
- (b) subsidiary legislation made under this Ordinance; or
- (c) any amendment or modification made by this Ordinance to any other enactment,

as appears to the Chief Justice to be necessary or expedient.

(2) The rules may, in particular, make provision —

- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);
- (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
- (c) for children to be separately represented in relevant proceedings;
- (d) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
- (e) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a court of summary jurisdiction to relevant proceedings in such a court brought otherwise than on a complaint;
- (f) with respect to preliminary hearings;
- (g) for the service outside the Falkland Islands, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a court of summary jurisdiction;
- (h) for the exercise by courts of summary jurisdiction, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is or resides outside the Falkland Islands);
- (i) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;
- (j) authorising a single justice to discharge the functions of the Summary Court with respect to such relevant proceedings as may be prescribed;
- (k) authorising the Summary Court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.

(3) In subsection (2) —

“notice of proceedings” means a summons or such other notice of proceedings as is required; and
“given”, in relation to a summons, means “served”;

“prescribed” means prescribed by the rules; and

“relevant proceedings” means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.

(4) This section and any other power in this Ordinance to make rules of court are not to be taken as in any way limiting any other power of the Chief Justice to make rules of court.

(5) Until such time as the Chief Justice first makes rules of court under the powers conferred by the foregoing provisions of this section, and to the extent that the Chief Justice does not make inconsistent provision by any such rules of court, the rules of court made under section 93 of the Children Act 1989 and for the time being in force in England have effect as if they had been made by the Chief Justice under the foregoing provisions of this section and so that the provisions of those rules which apply to or have effect in relation to proceedings —

(a) at first instance in the High Court or the Family Division of that Court, apply to and in relation to corresponding proceedings in the Supreme Court under this Ordinance;

(b) in a county court, apply to or in relation to corresponding proceedings in the Magistrate's Court;

(c) in a magistrates' court, apply to or in relation to corresponding proceedings in the Summary Court;

and in each case, with such amendments and modifications only as are necessary in the circumstances.

86. Appeals (CA, s94)

(1) An appeal lies to the Supreme Court against —

(a) the making by the Magistrate's Court or by the Summary Court of any order under this Ordinance; or

(b) any refusal by the Magistrate's Court or by the Summary Court to make such an order.

(2) Where, in relation to any proceedings under this Ordinance, the Summary Court declines jurisdiction because it considers that the case can more conveniently be dealt with by the Magistrate's Court or by the Supreme Court, no appeal lies against that decision of the Summary Court.

(3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.

(4) On an appeal under this section, the Supreme Court may make such order as may be necessary to give effect to its determination of the appeal.

(5) Where an order is made under subsection (4), the Supreme Court may also make such incidental or consequential order as appears to it to be just.

(6) Where an appeal under this section relates to an order for the making of periodical payments, the Supreme Court may order that its determination of the appeal is to have effect from such date as it thinks fit to specify in the order.

(7) The date so specified must not be earlier than the earliest date on which the court from which the appeal is brought could have ordered the periodical payments to commence.

(8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the Supreme Court reduces the amount of those payments or discharges the order —

(a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the Supreme Court thinks fit; and

(b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.

(9) Any order of the Supreme Court made on an appeal under this section (other than one directing that an application be re-heard by the court from which appeal was brought) is to, for the purposes —

(a) of the enforcement of the order; and

(b) of any power to vary, revive or discharge orders,

be treated as if it were an order of the court from which the appeal was brought and not an order of the Supreme Court.

87. Attendance of child at hearing under Part 4 or 5 (CA, s95)

(1) In any proceedings in which a court is hearing an application for an order under Part 4 or 5, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.

(2) The power conferred by subsection (1) is to be exercised in accordance with rules of court.

(3) Subsections (4) to (6) apply where —

(a) an order under subsection (1) has not been complied with; or

(b) the court has reasonable cause to believe that it will not be complied with.

(4) The court may make an order authorising a police officer, or such person as may be specified in the order —

(a) to take charge of the child and to bring the child to the court; and

(b) to enter and search any premises specified in the order if the police officer or the person specified in the order has reasonable cause to believe that the child may be found on the premises.

(5) The court may order any person who is in a position to do so to bring the child to the court.

(6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order that person to disclose the information to the court.

88. Evidence given by, or with respect to, children (CA, s96)

(1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.

(2) The child's evidence may be heard by the court if, in its opinion —

(a) the child understands that it is the child's duty to speak the truth; and

(b) the child has sufficient understanding to justify the child's evidence being heard.

(3) The Governor may, with the concurrence of the Chief Justice, by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.

(4) An order under subsection (3) may only be made with respect to —

(a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and

(b) evidence in connection with the upbringing, maintenance or welfare of a child.

(5) An order under subsection (3) —

(a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;

(b) may make different provision for different purposes and in relation to different descriptions of court; and

(c) may make such modifications, amendments and repeals in any enactment relating to evidence (other than in this Ordinance) as the Governor considers necessary or expedient in consequence of the provision made by the order.

(6) In this section —

“civil proceedings” means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law or by agreement of the parties, and references to “the court” are to be construed accordingly;

“prescribed” means prescribed by an order under subsection (3).

89. Privacy for children involved in certain proceedings (CA, s97)

(1) Subsection (2) applies if rules of court that apply in England provide for a magistrate's court in England to sit in private in proceedings in which any powers under the Children Act 1989 or the Adoption and Children Act 2002 may be exercised by the court with respect to any child.

(2) If this subsection applies, the rules of court also apply in the Falkland Islands as if they provide for the Magistrate's Court or the Summary Court to sit in private in corresponding or equivalent proceedings in which any powers under this Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands) may be exercised by the court with respect to any child.

(3) No person may publish to the public at large or any section of the public any material which is intended, or likely, to identify —

(a) any child as being involved in any proceedings before a court which any power under this Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands) may be exercised by the court with respect to that or any other child; or

(b) an address as being that of a child involved in any such proceedings.

(4) In any proceedings for an offence under this section it is a defence for the accused to prove that the accused did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.

(5) The court or the Governor may, if satisfied that the welfare of the child requires it, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.

(6) For the purposes of this section

“publish” includes —

(a) broadcast by radio, television or cable television;

(b) distribute or circulate; and

(c) cause to be published; and

“material” includes —

(a) any picture or representation;

(b) an audio, video or audio-visual recording.

(7) Any person who contravenes this section is guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the standard scale.

(8) Subsection (2) is without prejudice to any other power of a court of summary jurisdiction to sit in private.

90. Self-incrimination (CA, s98)

(1) In any proceedings in which a court is hearing an application for an order under Part 4 or 5, a person is not excused from —

(a) giving evidence on any matter; or

(b) answering any question put to that person in the course of that person giving evidence, on the ground that doing so might incriminate that person or that person's spouse of an offence.

(2) A statement or admission made in such proceedings is not admissible in evidence against the person making it or that person's spouse in proceedings for an offence other than perjury.

91. Restrictions on use of wardship jurisdiction (CA, s100)

(1) A court does not have and must not exercise the Supreme Court's inherent jurisdiction with respect to children or any other power (other than any power conferred on it by this Ordinance) —

(a) so as to place a ward of court in the care of the Crown (as distinct from the court) or under the supervision of the Crown (as distinct from the court) or of a public officer in that capacity;

(b) so as to require a child to be accommodated by or on behalf of the Crown;

(c) so as to make a child who is the subject of a care order a ward of court;

(d) for the purpose of conferring upon the Crown power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) An application for any exercise of the Supreme Court's inherent jurisdiction with respect to children must not be made by the Crown unless the Crown has obtained the leave of the court.

(3) The court may only grant leave if it is satisfied that —

(a) the result which the Crown wishes to achieve could not be achieved through the making of any order of a kind to which subsection (4) applies; and

(b) there is reasonable cause to believe that if the court's inherent jurisdiction is not exercised with respect to the child the child is likely to suffer significant harm.

(4) This subsection applies to any order —

(a) made otherwise than in the exercise of the court's inherent jurisdiction; and

(b) which the Crown is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

Search warrants

92. Power of police officer to assist in exercise of certain powers to search for children or inspect premises (CA, s102)

(1) Where, on an application made by any person for a warrant under this section, it appears to the court —

(a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any police officer to assist that person in the exercise of those powers, using reasonable force if necessary.

(2) Every warrant issued under this section must be addressed to, and executed by, a police officer who may be accompanied by the person applying for the warrant if —

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(3) A court granting an application for a warrant under this section may direct that the police officer concerned may, in executing the warrant, be accompanied by a medical practitioner, nurse or health visitor, if the officer so chooses.

(4) An application for a warrant under this section must be made in the manner and form prescribed by rules of court.

(5) Where —

(a) an application for a warrant under this section relates to a particular child; and

(b) it is reasonably practicable to do so,

the application and any warrant granted on the application must name the child; and where it does not name the child it must describe the child as clearly as possible.

(6) The enactments are —

(a) section 75; and

(b) paragraph 7(1)(b) and (2)(b) of Schedule 3.

General

93. Offences by bodies corporate (CA, s103)

(1) This section applies where any offence against this Ordinance is committed by a body corporate.

(2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person (as well as the body corporate) has committed the offence and is liable to be proceeded against and punished accordingly.

94. Consent by persons over 16 to surgical, medical and dental treatment

(1) The consent of a child who has attained the age of 16 years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to the child's person, is as effective as it would be if the child were of full age.

(2) Where a child has by virtue of this section given an effective consent to any treatment it is not necessary to obtain any consent for it from the child's parent or guardian or any other person who has parental responsibility for the child.

(3) In this section "surgical, medical or dental treatment" includes any procedure undertaken for the purpose of diagnosis, and this section applies to any procedure (including in particular, the administration of an anaesthetic) which is ancillary to any treatment as it applies to that treatment.

(4) Nothing in this section is to be construed as making ineffective any consent which would have been effective if this section or section 45 of the 1994 Ordinance had not been enacted.

(5) Without prejudice to the foregoing, this section states the law of the Falkland Islands as it is to be treated as having been at all times since 1st January 1970.

95. Time at which a person attains a particular age

(1) The time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of that person's birth.

(2) This section applies only when the relevant anniversary falls on a date after 1 January 1995 and, in relation to any enactment, deed, will or other instrument, has effect subject to any provision in it.

96. Persons under full age may be described as children instead of as infants or minors

(1) A person who is not of full age may be described in any instrument or enactment as a child instead of being described as an infant or as a minor.

(2) In every instrument made in every enactment passed after 1 January 1995, the expression "child", refers to a person who is not of full age (that is to say a person who has not attained the age of 18 years).

(3) Subsection (2) does not apply if, in the context in which the expression "child" appears —

(a) it describes a relationship between two persons; or

(b) the contrary intention appears in some other way.

**PART 9
SUBSIDIARY LEGISLATION**

97. Prescribed matters and subsidiary legislation

(1) Subsection (2) applies where something is to be done under a provision of this Ordinance in a prescribed way but the way in which it is to be done has not been prescribed.

(2) Where this subsection applies, that thing will be treated as having been done in the prescribed way if it is done in a way that is reasonable in all of the circumstances.

(3) Subsection (4) applies to the extent that —

- (a) a provision of this Ordinance gives a power for subsidiary legislation to be made;
- (b) subsidiary legislation has not yet been made under that power; and
- (c) there is no inconsistent provision (in this Ordinance or elsewhere).

(4) To the extent this subsection applies —

- (a) statutory instruments made under corresponding provisions in the Children Act 1989 and for the time being in force in England may, subject to such amendments and modifications as are necessary in the circumstances, be used as guidance; and
- (b) due regard must be had to them for that purpose.

98. Power for Governor to make consequential amendments by order

(1) The Governor may by order make provision consequential on this Ordinance (or one or more of its provisions).

(2) An order made under subsection (1) may do one or more of the following things —

- (a) amend or repeal written laws of the Falkland Islands;
- (b) provide for United Kingdom legislation to apply in the Falkland Islands (with or without modifications);
- (c) modify the application in the Falkland Islands of United Kingdom legislation that already applies in the Falkland Islands;
- (d) provide that specific provisions of United Kingdom legislation no longer apply in the Falkland Islands.

99. Power for Governor to make transitional and saving provision by order

The Governor may by order make transitional or saving provision (or both) in connection with this Ordinance (or one or more of its provisions).

PART 10

MODIFICATIONS OF UK LEGISLATION (AS IT APPLIES IN FALKLAND ISLANDS)

100. Modifications of UK legislation

Schedule 6 contains modifications to UK legislation that applies in the Falkland Islands.

PART 11
REPEAL

101. Repeal

The Children Ordinance 1994 (No 28 of 1994) is repealed.

SCHEDULE 1
FINANCIAL PROVISION FOR CHILDREN (CA. Sch 1)

1. Orders for financial relief against parents (CA, Sch 1, para 1)

(1) On an application made by a parent or guardian of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may —

(a) in the case of an application to the Supreme Court or to the Magistrate's Court, make one or more of the orders mentioned in sub-paragraph (2);

(b) in the case of an application to the Summary Court, make one or both of the orders mentioned in paragraphs (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are —

(a) an order requiring either or both parents of a child —

(i) to make to the applicant for the benefit of the child; or

(ii) to make to the child,

such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both parents of a child —

(i) to secure to the applicant for the benefit of the child; or

(ii) to secure to the child,

such periodical payments, for such term, as may be so specified;

(c) an order requiring either or both parents of a child —

(i) to pay to the applicant for the benefit of the child; or

(ii) to pay to the child,

such lump sum as may be so specified;

(d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property —

(i) to which either parent is entitled (either in possession or reversion); and

(ii) which is specified in the order;

(e) an order requiring either or both parents of a child —

(i) to transfer to the applicant for the benefit of the child; or

(ii) to transfer to the child,

such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.

(3) The powers conferred by this paragraph may be exercised at any time.

(4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(5) Where a court makes an order under this paragraph —

(i) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child if the child has not attained the age of 18;

(ii) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.

(6) On making, varying or discharging a residence order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.

2. Orders for financial relief for persons over 18 (CA, Sch 1, para 2)

(1) If, on an application by a person who has reached the age of 18, it appears to the court —

(a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order under this paragraph,

the court may make one or more of the orders mentioned in sub-paragraph (2).

(2) The orders are —

(a) an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both of the applicant's parents to pay to the applicant such lump sum as may be so specified.

(3) An application may not be made under this paragraph by any person if, immediately before the person he reached the age of 16, a periodical payments order was in force with respect to that person.

(4) An order must not be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.

(5) An order under sub-paragraph (2)(a) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(6) In sub-paragraph (3) "periodical payments order" means an order under —

(a) this Schedule;

(b) section 26 or 30 of the Matrimonial Causes Ordinance (Title 38(2).5);

(c) section 4(l)(g) of the Matrimonial Proceedings (Summary Jurisdiction) Ordinance (Title 38(2).6),

for the making or securing of periodical payments.

(7) The powers conferred by this paragraph may be exercised at any time.

(8) Where the court makes an order under this paragraph it may from time to time while that order remains in force make a further such order.

3. Duration of orders for financial relief (CA, Sch 1, para 3)

(1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application in question or any later date but —

(a) must not in the first instance extend beyond the child's 17th birthday unless the court thinks it right in the circumstances of the case to specify a later date; and

(b) must not in any event extend beyond the child's 18th birthday.

(2) Paragraph (b) of sub-paragraph (1) does not apply in the case of a child if it appears to the court that —

(a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order without complying with that paragraph.

(3) An order for periodical payments made under paragraph 1(2)(a) or (b) requiring periodical payments will, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) Where an order is made under paragraph 1(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order will cease to have effect if —

(a) any parent making or securing the payment; and

(b) any parent to whom the payments are made or secured,

live together for a period of more than six months.

4. Matters to which the court is to have regard in making orders for financial relief (CA, Sch 1, para 4)

(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court must have regard to all the circumstances, including —

(a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;

(c) the financial needs of the child;

(d) the income, earning capacity (if any), property and other financial resources of the child;

(e) any physical or mental disability of the child;

(f) the manner in which the child was being, or was expected to be, educated or trained.

(2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother or father of the child, and if so in what manner, the court must in addition have regard to —

(a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which that person assumed that responsibility and the period during which that person met that responsibility;

(b) whether that person did so knowing that the child was not that person's child;

(c) the liability of any other person to maintain the child.

(3) Where the court makes an order under paragraph 1 against a person who is not the father of the child, it must record in the order that the order is made on the basis that the person against whom the order is made is not the child's father.

(4) The persons mentioned in sub-paragraph (1) are —

- (a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;
- (b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;
- (c) the applicant for the order;
- (d) any other person in whose favour the court proposes to make the order.

5. Provisions relating to lump sums (CA, Sch 1, para 5)

(1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liability or expenses —

- (a) incurred in connection with the birth of the child or in maintaining the child; and
- (b) reasonably incurred before the making of the order,

to be met.

(2) The amount of any sum required to be paid by an order made by the Summary Court under paragraph 1 or 2 must not exceed £1,000 or such larger amount as the Governor may from time to time fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent also includes power to make an order under that provision for the payment of a lump sum by that parent.

(4) The amount of a lump sum which a parent may be required to pay by virtue of sub-paragraph (3) must not, in the case of an order made by the Summary Court, exceed the maximum amount that may at the time of the order be required to be paid under sub-paragraph (2), but the Summary Court may make an order for the payment of a lump sum not exceeding that amount even though the parent was required to pay a lump sum by a previous order under this Ordinance.

(5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.

(6) Where the order provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, has power to vary that order by varying —

- (a) the number of instalments payable;
- (b) the amount of any instalment;
- (c) the date on which any instalment becomes payable.

6. Variation etc of orders for periodical payments (CA, Sch 1, para 6)

(1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court must have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 1 or 2 for the making or securing of periodical payments includes power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) Where on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under the order, the court may provide that the payments so varied are to be made from such date as the court may specify, not being earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 1 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of sixteen, be made by the child.

(5) Where an order for the making or securing of periodical payments made under paragraph 1 ceases to have effect on the date on which the child attains the age of 16, or at any time after that date but before the date on which the child reaches the age of 18, the child may apply to the court which made the order for an order for its revival.

(6) If on such an application it appears to the court that —

(a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order under this sub-paragraph,

the court has power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(7) An order which is revived by an order under sub-paragraph (5) may be varied or discharged under that provision, on the application of any person by whom or to whom payments are required to be made under the revived order.

(8) An order for the making or securing of periodical payments made under paragraph 1 may be varied or discharged, after the death of either parent, on the application of a guardian of the child concerned.

7. Variations of orders for periodical payments etc made by the Summary Court (CA, Sch 1, para 6A)

(1) Subject to sub-paragraphs (7) and (8), the power of the Summary Court —

(a) under paragraph 1 or 2 to vary an order for the making of periodical payments, or

(b) under paragraph 5(6) to vary an order for the payment of a lump sum by instalments, includes power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

(2) In any case where —

(a) the Summary Court has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments;

(b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands)

any person entitled to make application under this Schedule for the variation of the order (in this paragraph referred to as "the applicant") may apply to the clerk to the Summary Court for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after giving written notice (by post or otherwise) of the application to any interested party and allowing that party, within the period of 21 days beginning with the date of the giving of the notice, an opportunity to make written representations, may vary the order to provide that payments under the order are to be made to the clerk.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if the clerk considers it inappropriate to exercise the power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

(6) Subsection (4) of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands) applies for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that section.

(7) Before varying the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands), the court must have regard to any representations made by the parties to the application.

(8) If the court does not propose to exercise its power under paragraph (c) of (d) of subsection (3) of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands), the court must, unless on representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

(9) None of the powers of the court, or of the clerk to the Summary Court, conferred by this paragraph may be exercised in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands)).

(10) In sub-paragraphs (3) and (4) "interested party", in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.

8. Variation of orders for secured periodical payments after death of parent (CA, Sch 1, para 7)

(1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation of a discharge of the order include the personal representatives of the deceased parent.

(2) An application for the variation of an order must not, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

(3) The personal representatives of a deceased person against whom a secured periodical payments order was made will not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.

(4) Sub-paragraph (3) does not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.

(5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 6(1) include the changed circumstances resulting from death of the parent.

(6) In considering for the purposes of sub-paragraph (2) the question when representation was first taken out, a grant limited to settled land or to trust property is to be left out of account and a grant limited to real estate or to personal estate is to be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(7) In this paragraph "secured periodical payments order" means an order for secured periodical payments under paragraph 1(2)(b).

9. Financial relief under other enactments (CA, Sch 1, para 8)

This paragraph applies where a residence order is made with respect to a child at a time when there is in force an order ("the financial relief order") made under any enactment other than this Ordinance and requiring a person to contribute to the child's maintenance.

(2) Where this paragraph applies, the court may, on the application of —

(a) any person required by the financial relief order to contribute to the child's maintenance;
or

(b) any person in whose favour a residence order with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is payable under that order.

10. Interim Orders (CA, Sch 1, para 9)

(1) Where an application is made under paragraph 1 or 2 the court may, at any time before it disposes of the application, make an interim order —

(a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit;

(b) giving any direction that the court thinks fit.

(2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify, not being earlier than the date of the making of the application under paragraph 1 or 2.

(3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified or the purposes of this paragraph in the interim order.

(4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

11. Alteration of maintenance agreements (CA, Sch 1, para 10)

(1) In this paragraph and in paragraph 12 "maintenance agreement" means any agreement in writing made with respect to a child, whether before or after the commencement of this Ordinance, which —

(a) is or was made between the father and mother of the child;

(b) contains provision with respect to the making or securing of payments, or the disposition of use of any property, for the maintenance or education of the child,

and any such provisions are in this paragraph, and paragraph 12, referred to as "financial arrangements".

(2) Where a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in the Falkland Islands, then, either party may apply to the court for an order under this paragraph.

(3) If the court to which the application is made is satisfied either —

(a) that by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or

(b) that the agreement does not contain proper financial arrangements with respect to the child,

then the court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to it to be just having regard to all the circumstances.

(4) If the maintenance agreement is altered by an order under this paragraph, the agreement will have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

(5) Where a court decides to make an order under this paragraph altering the maintenance agreement —

(a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or

(b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court must apply the provisions of the sub-paragraphs (1) and (2) of paragraph 3 as if the order were an order under paragraph 1(2)(a) or (b).

(6) The Summary Court must not entertain an application under sub-paragraph (2) unless both parties are resident in the Falkland Islands, and does not have power to make any order on such an application except —

(a) in a case where the agreement contains no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of the child;

(b) in a case where the agreement contains provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

(7) Nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

12. Alteration of maintenance agreements following death of party (CA, Sch 1, para 11)

(1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in the Falkland Islands, the surviving party or the personal representatives of the deceased party may apply to the Supreme Court or to the Magistrate's Court for an order under paragraph 11.

(2) If a maintenance agreement is altered by a court on an application under this paragraph the agreement will have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.

(3) An application under this paragraph must not, except with the leave of the Supreme Court or the Magistrate's Court be made after the end of the period of six months beginning with the day on which representation in regard to the estate of the deceased is first taken out.

(4) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out, a grant limited to settled land or to trust property is to be left out of account and a grant limited to real estate or to personal estate is to be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) The Magistrate's Court has the same jurisdiction as the Supreme Court to entertain an application under this paragraph or an application for leave to make an application under this paragraph.

(6) The provisions of this paragraph will not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the possibility that a court might grant leave for an application by virtue of this paragraph to be made by a surviving party after that period.

(7) Sub-paragraph (6) does not prejudice any power to recover any part of the estate so distributed by virtue of the making of an order in pursuance of this paragraph.

13. Enforcement of orders for maintenance (CA, Sch 1, para 12)

An order for the payment of money made by the Magistrate's Court or the Summary Court under this Ordinance shall be enforceable as (or as if it were) a magistrates' court maintenance order within the meaning of section 150(1) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

14. Financial provision for child resident in country outside the Falkland Islands (CA, Sch 1, para 14)

(1) Where one parent of a child lives in the Falkland Islands and the child lives outside the Falkland Islands with —

- (a) another parent of the child;
- (b) a guardian of the child; or
- (c) a person in whose favour a residence order is in force with respect to the child,

the court has power, on an application by any of the persons mentioned in paragraphs (a) to (c) to make one or both of the orders mentioned in paragraph 1(2)(a) and (b) against the parent living in the Falkland Islands.

(2) Any reference in this Ordinance to the powers of the court under paragraph 1(2) or to an order made under paragraph 1(2) includes a reference to the powers which the court has by virtue of sub-paragraph (1) or as the case may be to an order made by virtue of sub-paragraph (1).

15. Contribution by Crown to child's maintenance (CA, Sch 1, para 15)

(1) Where a child lives, or is to live, with a person as the result of a residence order, the Crown may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife of a parent of the child.

15. Interpretation (CA, Sch 1, para 16)

(1) In this Schedule "child" includes, in any case where an application is made under paragraph 2 or 6 in relation to a person who has attained the age of 18, that person.

(2) In this Schedule, except in paragraph 2, "parent" includes any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family; and for this purpose any reference to either parent or to both parents is to be construed as references to any parent of the child and to all of the child's parents.

SCHEDULE 2
CROWN SUPPORT FOR CHILDREN AND FAMILIES (CA, Sch 2)

Part 1
Provision of services for families (CA, Sch 2, Pt 1)

1. Identification of children in need and provision of information (CA, Sch 2, para 1)

(1) The Crown must take reasonable steps to identify the extent to which there are children in need within the Falkland Islands.

(2) The Crown must —

(a) publish information —

(i) about services provided by it under sections 22, 23, 35, 37 and 42; and

(ii) where it considers it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which it has power to provide under those sections; and

(b) take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

2. Maintenance of a register of disabled children (CA, Sch 2, para 2)

(1) The Crown must open and maintain a register of disabled children within the Falkland Islands.

(2) The register may be kept by means of a computer.

3. Assessment of children's needs (CA, Sch 2, para 3)

Where it appears to the Crown that a child within the Falkland Islands is in need, it may assess the child's needs for the purposes of this Ordinance at the same time as any assessment of the child's needs is made under any other enactment.

4. Prevention of neglect and abuse (CA, Sch 2, para 4)

The Crown must take reasonable steps, through the provision of services under Part 3 of this Ordinance, to prevent children within the Falkland Islands suffering ill-treatment or neglect.

5. Provision of accommodation in order to protect child (CA, Sch 2, para 5)

(1) Where —

(a) it appears to the Crown that a child who is living on particular premises is suffering, or is likely to suffer, ill treatment at the hands of another person who is living on those premises; and

(b) that other person proposes to move from the premises,

the Crown may assist that other person to obtain alternative accommodation.

(2) Assistance given under this paragraph may be in cash.

(3) Subsections (8) to (10) of section 22 apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that section.

6. Provision for disabled children (CA, Sch 2, para 6)

(1) The Crown must provide services designed —

(a) to minimise the effect on disabled children within the Falkland Islands of their disabilities;

(b) to give such children the opportunity to lead lives which are as normal as possible; and

(c) to assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring.

(2) The duty imposed by sub-paragraph (1)(c) is to be performed in accordance with regulations made by the Governor.

7. Provision to reduce need for care proceedings etc (CA, Sch 2, para 7)

The Crown must take reasonable steps designed —

(a) to reduce the need to bring —

- (i) proceedings for care or supervision orders with respect to children within the Falkland Islands;
- (ii) criminal proceedings against such children;
- (iii) any family or other proceedings with respect to such children which might lead to them being placed in the care of the Crown; or
- (iv) proceedings under the inherent jurisdiction of the Supreme Court with respect to children; and

(b) to encourage children within the Falkland Islands not to commit criminal offences.

8. Provision for children living with their families (CA, Sch 2, para 8)

The Crown must make such provision as it considers appropriate for the following services to be available with respect to children in need within the Falkland Islands while they are living with their families —

- (a) advice, guidance and counselling;
- (b) occupational, social, cultural or recreational activities;
- (c) home help (which may include laundry facilities);
- (d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Ordinance or of any similar service;
- (e) assistance to enable the child concerned and his family to have a holiday.

9. Maintenance of the family home (CA, Sch 2, para 10)

The Crown must take such steps as are reasonably practicable, where any child within the Falkland Islands who is in need and whom it is not looking after is living apart from the child's family —

- (a) to enable the child to live with the child's family; or
- (b) to promote contact between the child and the child's family,

if, in its opinion, it is necessary to do so in order to safeguard or promote the child's welfare.

10. Duty to consider racial groups to which children in need belong (CA, Sch 2, para 11)

The Crown must, in making any arrangements designed to encourage persons to act as foster parents on behalf of the Crown, have regard to the different racial groups to which children within the Falkland Islands who are in need belong.

Part 2
Children looked after by the Crown (CA, Sch 2, Pt 2)

11. Regulations as to conditions under which child in care is allowed to live with parent, etc (CA, Sch 2, para 12A)

Regulations under section 28 may, in particular, impose requirements on the Crown as to —

- (a) the making of any decision by the Crown to allow a child in its care to live with any person falling within section 28(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);
- (b) the supervision or medical examination of the child concerned;
- (c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;
- (d) the records to be kept by the Crown.

12. Regulations as to placements of a kind specified in section 28(6)(c) (CA, Sch 2, para 12B)

Regulations under section 28 as to placements of the kind specified in section 28(6)(c) may, in particular, make provision as to —

- (a) the persons to be notified of any proposed arrangements;
- (b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;
- (c) the persons to be notified of any proposed changes in arrangements;
- (d) the records to be kept by the Crown;
- (e) the supervision by the Crown of any arrangements made.

13. Avoidance of disruption in education (CA, Sch 2, para 12D)

(1) Regulations under section 28 may, in particular, impose requirements which the Crown must comply with before making any decision concerning a child's placement if the child is in the fourth key stage.

(2) A child is “in the fourth key stage” during the period beginning at the same time as the academic year in which the majority of pupils in the child's class attain the age of 15 and ending at the same time as the academic year in which the majority of pupils in the child's class cease to be of compulsory education age.

(3) “Academic year” and “compulsory education age” have the same meaning in subsection (2) as they do in the Education Ordinance (see sections 17 and 57 of that Ordinance).

14. Regulations as to placing of children with foster parents (CA, Sch 2, para 12E)

Regulations under section 28 may, in particular, make provision —

- (a) with regard to the welfare of children placed with foster parents looking after children on behalf of the Crown;
- (b) as to the arrangements to be made by the Crown in connection with the health and education of such children;
- (c) as to the records to be kept by the Crown;
- (d) for securing that where possible the foster parent with whom a child is to be placed is —
 - (i) of the same religious persuasion as the child; or
 - (ii) gives an undertaking that the child will be brought up in that religious persuasion;
- (e) for securing the children placed with foster parents, and the premises in which they are accommodated, will be supervised and inspected by the Crown and that the children will be removed from those premises if their welfare appears to require it.

15. Regulations as to placing of children with foster parents: review procedure (CA, Sch 2, para 12F)

(1) Regulations under section 28 may, in particular, also make provision —

- (a) for securing that a child is not placed with a foster parent unless that person is for the time being approved as a foster parent by the Crown;
- (b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply for a review of that determination by a panel.

(2) A determination is a qualifying determination if —

- (a) it relates to the issue of whether a person should be approved, or should continue to be approved, by the Crown as a foster parent; and
- (b) it is of a prescribed description.

(3) Regulations made by virtue of sub-paragraph (1)(b) may include provision as to —

- (a) the duties and powers of a panel;
- (b) the administration and procedures of a panel;
- (c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);
- (d) the payment of fees to members of a panel;

(e) the duties of any person in connection with a review conducted under the regulations;

(f) the monitoring of any such reviews.

(4) The Crown may make an arrangement with an organisation under which independent review functions are performed by the organisation on the Crown's behalf.

(5) If the Crown makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by the Crown.

(6) The arrangement may include provision for payments to be made to the organisation by the Crown.

"independent review function" means a function conferred or imposed on a national authority by regulations made by virtue of sub-paragraph (1)(b);

"organisation" includes a public body and a private or voluntary organisation.

16. Regulations as to placing of children with foster parents: discharge of functions on behalf of Crown (CA, Sch 2, para 12G)

Regulations under section 28 may, in particular, also make provision as to the circumstances in which the Crown may make arrangements for duties imposed on it by the regulations to be discharged on its behalf.

17. Promotion and maintenance of contact between child and family (CA, Sch 2, para 15)

(1) Where a child is being looked after by the Crown, the Crown must, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child; and

(c) any relative, friend or other person connected with the child.

(2) Where a child is being looked after by the Crown —

(a) the Crown must take such steps as are reasonably practicable to secure that —

(i) the child's parents; and

(ii) any person who is not a parent of the child but who has parental responsibility for the child,

are kept informed of where the child is being accommodated; and

(b) every such person must secure that the Crown kept informed of the person's address.

(3) Nothing in this paragraph requires the Crown to inform any person of the whereabouts of a child if —

(a) the child is in the care of the Crown; and

(b) the Crown has reasonable cause to believe that informing the person would prejudice the child's welfare.

(4) Any person who fails (without reasonable excuse) to comply with sub-paragraph (2)(b) is guilty of an offence and liable on conviction to a fine not exceeding level 2 on the standard scale.

(5) It is a defence in any proceedings under sub-paragraph (4) to prove that the defendant was residing at the same address as another person who was the child's parent or had parental responsibility for the child and had reasonable cause to believe that the other person had informed the Crown that both of them were residing at that address.

18. Visits to or by children: expenses (CA, Sch 2, para 16)

(1) This paragraph applies where —

(a) a child is being looked after by the Crown; and

(b) the conditions mentioned in sub-paragraph (3) are satisfied.

(2) The Crown may —

(a) make payments to —

(i) a parent of the child;

(ii) any person who is not a parent of the child's but who has parental responsibility for the child; or

(iii) any relative, friend or other person connected with the child,

in respect of travelling, subsistence or other expenses incurred by that person in visiting the child; or

(b) make payments to the child, or to any person on the child's behalf, in respect of travelling, subsistence or other expenses incurred by or on behalf of the child in the child visiting —

(i) a parent of the child;

(ii) any person who is not a parent of the child but who has parental responsibility for the child; or

(iii) any relative, friend or other person connected with the child.

(3) The conditions are that —

(a) it appears to the Crown that the visit in question could not otherwise be made without undue financial hardship; and

(b) the circumstances warrant the making of the payments.

19. Appointment of visitor for child who is not being visited (CA, Sch 2, para 17)

(1) Where it appears to the Crown in relation to any child that it is looking after that —

(a) communication between the child and —

(i) a parent of the child, or

(ii) any person who is not a parent of the child but who has parental responsibility for the child,

has been infrequent; or

(b) the child has not visited or been visited by (or lived with) any such person during the preceding twelve months,

and that it would be in the child's best interests for an independent person to be appointed to be the child's visitor for the purposes of this paragraph, the Crown must appoint such a visitor.

(2) A person so appointed —

(a) has the duty of visiting, advising and befriending the child; and

(b) is entitled to recover from the Crown any reasonable expenses incurred by the person for the purposes of the person's functions under this paragraph.

(3) A person's appointment as a visitor in pursuance of this paragraph will be determined if —

(a) the person gives notice in writing to the Crown that the person resigns the appointment;
or

(b) the Crown gives the person notice in writing that it has terminated the appointment.

(4) The determination of such an appointment does not prejudice any duty under this paragraph to make a further appointment.

(5) Where the Crown proposes to appoint a visitor for a child under this paragraph, the appointment must not be made if —

(a) the child objects to it; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(6) Where a visitor has been appointed for a child under this paragraph, the Crown must determine the appointment if —

(a) the child objects to its continuing; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(7) The Governor may make regulations as to the circumstances in which a person appointed as a visitor under this paragraph is to be regarded as independent of the Crown.

20. Power to guarantee apprenticeship deeds etc (CA, Sch 2, para 18)

(1) While a child is being looked after by the Crown, or is a person qualifying for advice and assistance, the Crown may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship which the child or person enters into.

(2) Where the Crown has undertaken any such obligation under any deed or articles it may at any time (whether or not it are still looking after the person concerned) undertake the like obligation under any supplemental deed or articles.

21. Arrangements to assist children to live abroad (CA, Sch 2, para 19)

(1) The Crown may only arrange for, or assist in arranging for, any child in its care to live outside the Falkland Islands with the approval of the court.

(2) The Crown may, with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any other child looked after by it to live outside the Falkland Islands.

(3) The court must not give its approval under sub-paragraph (1) unless it is satisfied that —

(a) living outside the Falkland Islands would be in the child's best interests;

(b) suitable arrangements have been, or will be, made for the child's reception and welfare in the country in which the child will live;

(c) the child has consented to living in that country; and

(d) every person who has parental responsibility for the child has consented to the child living in that country.

(4) Where the court is satisfied that the child does not have sufficient understanding to give or withhold consent, it may disregard sub-paragraph (3)(c) and give its approval if the child is to live in the country concerned with a parent, guardian or other suitable person.

(5) Where a person whose consent is required by sub-paragraph (3)(d) fails to give consent, the court may disregard that provision and give its approval if it is satisfied that that person —

(a) cannot be found;

(b) is incapable of consenting; or

(c) is withholding consent unreasonably.

(6) Section 56 of the Adoption Act 1976 (as it applies in the Falkland Islands) does not apply in the case of any child who is to live outside the Falkland Islands with the approval of the court given under this paragraph.

(7) Where a court decides to give its approval under this paragraph it may order that its decision is not to have effect during the appeal period.

(8) In sub-paragraph (7) “the appeal period” means —

(a) where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

(9) This paragraph does not apply to the Crown placing a child for adoption with prospective adopters.

22. Preparation for ceasing to be looked after (CA, Sch 2, para 19A)

It is the duty of the Crown when looking after a child to advise, assist and befriend the child with a view to promoting child’s welfare when it has ceased to look after the child.

23. Preparation for ceasing to be looked after: additional functions in relation to eligible children (CA, Sch 2, para 19B)

(1) The Crown has the following additional functions in relation to an eligible child whom it is looking after.

(2) In sub-paragraph (1) “eligible child” means, subject to sub-paragraph (3), a child who —

(a) is aged 16 or 17; and

(b) has been looked after by the Crown for a period of at least 13 weeks, or periods amounting in all to a period of at least 13 weeks, which began after the child reached the age of 14 and ended after the child reached the age of 16.

(3) The Governor may prescribe —

(a) additional categories of eligible children; and

(b) categories of children who are not to be eligible children despite falling within sub-paragraph (2).

(4) For each eligible child, the Crown must carry out an assessment of the eligible child’s needs with a view to determining what advice, assistance and support it would be appropriate for the Crown to provide the eligible child under this Ordinance —

(a) while it is still looking after the eligible child; and

(b) after it ceases to look after the eligible child,

and must then prepare a pathway plan for the eligible child.

(5) The Crown must keep the pathway plan under regular review.

(6) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of section 44.

(7) The Governor may by regulations make provision as to assessments for the purposes of sub-paragraph (4).

(8) The regulations may in particular provide for the matters set out in section 35(6).

24. Preparation for ceasing to be looked after: appointment of personal advisers for eligible children (CA, Sch 2, para 19C)

The Crown must arrange for each child whom it is looking after who is an eligible child for the purposes of paragraph 23 to have a personal adviser.

25. Death of children being looked after by Crown (CA, Sch 2, para 20)

(1) If a child who is being looked after by the Crown dies, the Crown —

(a) must, so far as is reasonably practicable, notify the child's parents and every person who is not a parent of the child but who has parental responsibility for the child;

(b) may, with the consent (so far as it is reasonably practicable to obtain it) of every person who has parental responsibility for the child, arrange for the child's body to be buried or cremated; and

(c) may, if the conditions mentioned in sub-paragraph (2) are satisfied, make payments to any person who has parental responsibility for the child, or any relative, friend or other person connected with the child, in respect of travelling, subsistence or other expenses incurred by that person in attending the child's funeral.

(2) The conditions are that —

(a) it appears to the Crown that the person concerned could not otherwise attend the child's funeral without undue financial hardship; and

(b) that the circumstances warrant the making of the payments.

(3) Sub-paragraph (1) does not authorise cremation where it does not accord with the practice of the child's religious persuasion.

(4) Where the Crown has exercised its power under sub-paragraph (1)(b) with respect to a child who was under 16 when the child died, it may recover from any parent of the child any expenses incurred by it.

(5) Any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable summarily as a civil debt.

(6) Nothing in this paragraph affects any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

Part 3

Contributions towards maintenance of children looked after by Crown (CA, Sch 2, Pt 3)

26. Liability to contribute (CA, Sch 2, para 21)

(1) Where the Crown is looking after a child (other than in the cases mentioned in sub-paragraph (7)) it must consider whether it should recover contributions towards the child's maintenance from any person liable to contribute ("a contributor").

(2) The Crown may only recover contributions from a contributor if it considers it reasonable to do so.

(3) The persons liable to contribute are —

(a) where the child is under 16, each of the child's parents;

(b) where the child has reached the age of 16, the child.

(4) A parent is not liable to contribute during any period when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(5) A person is not liable to contribute towards the maintenance of a child in the care of the Crown in respect of any period during which the child is allowed by the Crown to live with a parent of the child.

(6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.

(7) The cases are where the child is looked after by the Crown under —

(a) section 24;

(b) an interim care order;

(c) section 39 of the Criminal Justice Ordinance (Title 24.1).

27. Agreed contributions (CA, Sch 2, para 22)

(1) Contributions towards a child's maintenance may only be recovered if the Crown has served a notice ("a contribution notice") on the contributor specifying —

(a) the weekly sum which it considers that the contributor should contribute; and

(b) arrangements for payment.

- (2) The contribution notice must be in writing and dated.
- (3) Arrangements for payment must, in particular, include —
- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);
 - (b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the Crown); and
 - (c) the date on which the first payment is to be made.
- (4) The Crown may specify in a contribution notice a weekly sum which is a standard contribution determined by it for all children looked after by the Crown.
- (5) The Crown may not specify in a contribution notice a weekly sum greater than that which it considers —
- (a) it would normally be prepared to pay if it had placed a similar child with foster parents approved by the Crown; and
 - (b) it is reasonably practicable for the contributor to pay (having regard to the contributor's means).
- (6) The Crown may at any time withdraw a contribution notice (without prejudice to its power to serve another).
- (7) Where the Crown and the contributor agree —
- (a) the sum which the contributor is to contribute; and
 - (b) arrangements for payment,
- (whether as specified in the contribution notice or otherwise) and the contributor notifies the Crown in writing that the contributor so agrees, the Crown may recover summarily as a civil debt any contribution which is overdue and unpaid.
- (8) A contributor may, by serving a notice in writing on the Crown, withdraw agreement in relation to any period of liability falling after the date of service of the notice.
- (9) Sub-paragraph (7) is without prejudice to any other method of recovery.

28. Contribution orders (CA, Sch 2, para 23)

- (1) Where a contributor has been served with a contribution notice and has —
- (a) failed to reach any agreement with the Crown as mentioned in paragraph 27(7) within the period of one month beginning with the day on which the contribution notice was served; or
 - (b) served a notice under paragraph 27(8) withdrawing his agreement,

the Crown may apply to the court for an order under this paragraph.

(2) On such an application the court may make an order ("a contribution order") requiring the contributor to contribute a weekly sum towards the child's maintenance in accordance with arrangements for payment specified by the court.

(3) A contribution order —

- (a) must not specify a weekly sum greater than that specified in the contribution notice; and
- (b) must be made with due regard to the contributor's means.

(4) A contribution order will not —

- (a) take effect before the date specified in the contribution notice; or
- (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 26); or
- (c) remain in force after the child has ceased to be looked after by the Crown.

(5) The Crown may not apply to the court under sub-paragraph (1) in relation to a contribution notice which it has withdrawn.

(6) Where —

- (a) a contribution order is in force;
- (b) the Crown serves another contribution notice; and
- (c) the contributor and the Crown reach an agreement under paragraph 27(7) in respect of that other contribution notice,

the effect of the agreement will be to discharge the order from the date on which it is agreed that the agreement is to take effect.

(7) Where an agreement is reached under sub-paragraph (6) the Crown must notify the court —

- (a) of the agreement; and
- (b) of the date on which it took effect.

(8) A contribution order may be varied or revoked on the application of the contributor or the Crown.

(9) In proceedings for the variation of a contribution order, the Crown must specify —

- (a) the weekly sum which, having regard to paragraph 28, it proposes that the contributor should contribute under the order as varied; and

(b) the proposed arrangements for payment.

(10) Where a contribution order is varied, the order —

(a) must not specify a weekly sum greater than that specified by the Crown in the proceedings for variation; and

(b) must be made with due regard to the contributor's means.

(11) An appeal lies in accordance with rules of court from any order made under this paragraph.

29. Enforcement of contribution orders etc (CA, Sch 2, para 24)

(1) A contribution order made by a court is enforceable in the same way as a maintenance order under the Maintenance Orders Ordinance (Title 38(2).1).

(2) In any proceedings under this paragraph, a document which purports to be —

(a) a copy of an order made by a court under or by virtue of paragraph 28; and

(b) certified as a true copy by an officer of the court,

is evidence of the order.

(3) In any proceedings under this paragraph, a certificate which —

(a) purports to be signed by a public officer; and

(b) states that any sum due to the Crown under the order is overdue and unpaid,

is evidence that the sum is overdue and unpaid.

30. Regulations (CA, Sch 2, para 25)

The Governor may make regulations —

(a) as to the considerations which the Crown must take into account in deciding —

(i) whether it is reasonable to recover contributions; and

(ii) what the arrangements for payment should be;

(b) as to the procedures the Crown must follow in reaching agreements with contributors (under paragraphs 27 and 28).

SCHEDULE 3
SUPERVISION ORDERS (CA. Sch 3)

Part 1
General (CA, Sch 3, Pt 1)

1. Meaning of "responsible person" (CA, Sch 3, para 1)

In this Schedule, "the responsible person", in relation to a supervised child, means —

- (a) any person who has parental responsibility for the child; and
- (b) any other person with whom the child is living.

2. Power of supervisor to give directions to supervised child (CA, Sch 3, para 2)

(1) A supervision order may require the supervised child to comply with any directions given from time to time by the supervisor which require the child to do all or any of the following things —

- (a) to live at a place or places specified in the directions for a period or periods so specified;
- (b) to present to a person or persons specified in the directions at a place or places and on a day or days so specified;
- (c) to participate in activities specified in the directions on a day or days so specified.

(2) It is for the supervisor to decide whether, and to what extent, the supervisor exercises the power to give directions and to decide the form of any directions which the supervisor gives.

(3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

3. Imposition of obligations on responsible persons (CA, Sch 3, para 3)

(1) With the consent of any responsible person, a supervision order may include a requirement —

- (a) that the responsible person must take all reasonable steps to ensure that the supervised child complies with any directions given by the supervisor under paragraph 2;
- (b) that the responsible person takes all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;
- (c) that the responsible person complies with any directions given by the supervisor requiring the responsible person to attend at a place specified in the directions for the purpose of taking part in activities so specified.

(2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is to attend with the responsible person.

(3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of that person's address, if it differs from the child's.

4. Psychiatric and medical examinations (CA, Sch 3, para 4)

(1) A supervision order may require the supervised child —

- (a) to submit to a medical or psychiatric examination; or
- (b) to submit to any such examination from time to time as directed by the supervisor.

(2) Any such examination is required to be conducted —

- (a) by, or under the direction of such medical practitioner as may be specified in the order;
- (b) as a non-resident patient, at a place specified in the order (which, subject to sub-paragraph (4), may be outside the Falkland Islands); or
- (c) as a resident patient, at —
 - (i) a hospital or other medical centre —
 - (aa) in the Falkland Islands; or
 - (bb) subject to sub-paragraph (4), outside the Falkland Islands; or
 - (ii) in the case of a psychiatric examination —
 - (aa) a hospital in the Falkland Islands;
 - (bb) any place in the Falkland Islands designated as an approved medical centre for the purposes of the Mental Health Ordinance (No 7 of 2010); or
 - (cc) subject to sub-paragraph (4), a hospital or mental health facility outside the Falkland Islands,

(3) A requirement of the kind mentioned in sub-paragraph (2)(c) must not be included unless the court is satisfied, on the evidence of a medical practitioner, that —

- (a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and
- (b) a period as a resident patient is necessary if the examination is to be carried out properly.

(4) A requirement for an examination outside the Falkland Islands must not be included in a supervision order unless —

- (a) the court is satisfied that the requisite examination is not ordinarily and sufficiently available in the Falkland Islands;

(b) either —

(i) in the case of a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands, the circumstances set out in sub-paragraph (5) apply; or

(ii) in the case of a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands, the circumstances set out in sub-paragraph (6) apply.

(5) The circumstances that must apply in relation to a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands are that the court is satisfied that both of the following conditions are met —

(a) the child consents to going outside the Falkland Islands for examination; and

(b) the child has sufficient understanding to give that consent;

(6) The circumstances that must apply in relation to a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands are either or both of the following —

(a) the court is satisfied both of the following conditions are met —

(i) the child consents to going outside the Falkland Islands for examination; and

(ii) the child has sufficient understanding to give that consent; or

(b) the court is satisfied that the requirement will not affect the child's rights under section 8 of the Constitution.

5. Psychiatric and medical treatment (CA, Sch 3, para 5)

(1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a Government medical officer or some other medical practitioner approved by the Governor for the purpose (provided that a person who is approved for the purposes of section 12 of the Mental Health Act 1983 in the United Kingdom is to be deemed to have been approved by the Governor for the purpose), that the mental condition of the supervised child —

(a) is such as requires, and may be susceptible to, treatment, but

(b) is not such as to warrant the child's detention in pursuance of a hospital treatment order under Part 3 of the Mental Health Ordinance,

the court may include in the order a requirement that the supervised child must, for the period specified in the order, submit to such treatment as is specified in the order.

(2) The treatment specified in accordance with sub-paragraph (1) must be —

(a) by, or under the direction of, such medical practitioner as may be specified in the order;

(b) as a non-resident patient, at such place as may be so specified order (which, subject to sub-paragraph (6), may be outside the Falkland Islands); or

(c) as a resident patient —

(i) a hospital in the Falkland Islands;

(ii) any place in the Falkland Islands designated as an approved medical centre for the purposes of the Mental Health Ordinance; or

(iii) subject to sub-paragraph (6), a hospital or mental health facility outside the Falkland Islands.

(3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child must, for the period specified in the order, submit to such treatment as is specified in the order.

(4) The treatment specified in accordance with sub-paragraph (3) must be —

(a) by, or under the direction of, such medical practitioner as may be specified in the order;

(b) as a non-resident patient, at such place as may be specified in the order (which, subject to sub-paragraph (6), may be outside the Falkland Islands), or

(c) as a resident patient, at a hospital or other medical centre —

(i) in the Falkland Islands; or

(ii) subject to sub-paragraph (6), outside the Falkland Islands.

(5) A court must not include a requirement under this paragraph in a supervision order unless it is satisfied —

(a) where the child has sufficient understanding to make an informed decision, that the child consents to its inclusion;

(b) that satisfactory arrangements have been, or can be, made for the treatment.

(6) A requirement for treatment to be given outside the Falkland Islands must not be included in a supervision order unless the court is satisfied —

(a) the court is satisfied that the requisite examination is not ordinarily and sufficiently available in the Falkland Islands;

(b) either —

(i) in the case of a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands, the circumstances set out in sub-paragraph (7) apply; or

(ii) in the case of a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands, the circumstances set out in sub-paragraph (8) apply.

(7) The circumstances that must apply in relation to a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands are either or both of the following —

(a) the court is satisfied that both of the following conditions are met —

(i) the child consents to going outside the Falkland Islands for examination; and

(ii) the child has sufficient understanding to give that consent; or

(b) in the case of psychiatric treatment, the court is satisfied that it is necessary either —

(i) in the interests of the child; or

(ii) to protect the public.

(8) The circumstances that must apply in relation to a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands are one or more of the following —

(a) the court is satisfied both of the following conditions are met —

(i) the child consents to going outside the Falkland Islands for examination; and

(ii) the child has sufficient understanding to give that consent;

(b) in the case of psychiatric treatment, the court is satisfied that it is necessary either —

(i) in the interests of the child; or

(ii) to protect the public; or

(c) the court is satisfied that the requirement will not affect the child's rights under section 8 of the Constitution.

(9) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement contained in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that —

(a) the treatment should be continued beyond the period specified in the order;

- (b) the supervised child needs different treatment;
- (c) that the child is not susceptible to treatment; or
- (d) that the child does not require further treatment,

the practitioner must make a report in writing to the supervisor.

(10) On receiving a report under this paragraph the supervisor must refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

Part 2

Miscellaneous (CA, Sch 3, Pt 2)

6. Life of supervision order (CA, Sch 3, para 6)

- (1) Subject to sub-paragraph (2) and section 83, a supervision order will cease to have effect at the end of the period of one year beginning with the date on which it was made.
- (2) Where a supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as the court may specify.
- (3) A supervision order must not be extended so as to run beyond the end of the period of three years beginning with the date on which the order was made.

7. Information to be given to supervisor etc (CA, Sch 3, para 8)

- (1) A supervision order may require the supervised child —
 - (a) to keep the supervisor informed of any change in the child's address; and
 - (b) to allow the supervisor to visit the child at the place where the child is living.
- (2) The responsible person in relation to any child with respect to whom a supervision order is made must —
 - (a) if asked by the supervisor, inform the supervisor of the child's address (if it is known to the responsible person); and
 - (b) if the responsible person is living with the child, allow the supervisor reasonable contact with the child.

8. Effect of supervision order on earlier orders (CA, Sch 3, para 10)

The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which —

- (a) was made with respect to the child; and
- (b) would otherwise continue in force.

Part 3
Education supervision orders (CA, Sch 3, Pt 3)

9. Effect of orders (CA, Sch 3, para 12)

(1) Where an education supervision order is in force with respect to a child, it is the duty of the supervisor —

(a) to advise, assist and befriend, and give directions to —

(i) the supervised child; and

(ii) the child's parents,

in such a way as will, in the opinion of the supervisor, secure that the child is properly educated;

(b) where any such directions given to —

(i) the supervised child; or

(ii) a parent of the child,

have not been complied with, to consider what further steps to take in the exercise of the supervisor's powers under this Ordinance.

(2) Before giving any directions under sub-paragraph (1) the supervisor must, so far as is reasonably practicable, ascertain the wishes and feelings of —

(a) the child; and

(b) the child's parents,

including, in particular, their wishes as to the place at which the child should be educated.

(3) When settling the terms of any such directions, the supervisor must give due consideration —

(a) having regard to the child's age and understanding, to such wishes and feelings of the child's as the supervisor has been able to ascertain; and

(b) to such wishes and feelings of the child's parents as the supervisor has been able to ascertain.

(4) Directions may be given under this paragraph at any time while the education supervision order is in force.

10. Effect of orders: further provisions (CA, Sch 3, para 13)

(1) Where an education supervision order is in force with respect to a child, the duties of the child's parents under section 19 and section 26 or 28 of the Education Ordinance (Title 29.1)

(duties to secure sufficient education of children and to secure regular attendance of registered pupils or to ensure diligent pursuit of a course of education provided by the Camp Education Service) shall be superseded by their duty to comply with any directions in force under the education supervision order.

(2) Where an education supervision order is made with respect to a child —

(a) any school attendance order —

(i) made under section 25 of the Education Ordinance with respect to the child; and

(ii) in force immediately before the making of the education supervision order,

ceases to have effect; and

(b) while the education supervision order remains in force, section 25 of that Ordinance (school attendance orders) does not apply with respect to the child.

11. Effect where child also subject to supervision order (CA, Sch 3, para 14)

(1) This paragraph applies where an education supervision order and a supervision order are in force at the same time with respect to the same child.

(2) Any failure to comply with a direction given by the supervisor under the education supervision order is to be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction or instruction given under the other order.

12. Duration of orders (CA, Sch 3, para 15)

(1) An education supervision order will have effect for a period of one year, beginning with the date on which it is made.

(2) An education supervision order will not expire if, before it would otherwise have expired, the court has (on the application of the authority in whose favour the order was made) extended the period during which it is in force.

(3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.

(4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.

(5) No one extension may be for a period of more than three years.

(6) An education supervision order will cease to have effect on —

(a) the child's ceasing to be of compulsory school age; or

(b) the making of a care order with respect to the child;

and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

13. Information to be given to supervisor etc (CA, Sch 3, para 16)

(1) An education supervision order may require the child —

- (a) to keep the supervisor informed of any change in the child's address; and
- (b) to allow the supervisor to visit the child at the place where the child is living.

(2) A person who is the parent of a child with respect to whom an education supervision order has been made must —

- (a) if asked by the supervisor, inform the supervisor of the child's address (if it is known to the parent); and
- (b) if the parent is living with the child, allow the supervisor reasonable contact with the child.

14. Discharge of orders (CA, Sch 3, para 17)

(1) The court may discharge any education supervision order on the application of —

- (a) the child concerned;
- (b) a parent of the child; or
- (c) the Crown.

(2) On discharging an education supervision order, the court may direct the Crown to investigate the circumstances of the child.

15. Offences (CA, Sch 3, para 18)

(1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order, the parent is guilty of an offence.

(2) It is a defence for any person charged with such an offence to prove that —

- (a) the person took all reasonable steps to ensure that the direction was complied with;
- (b) the direction was unreasonable; or
- (c) the person had complied with —
 - (i) a requirement included in a supervision order made with respect to the child; or
 - (ii) directions given under such a requirement,

and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.

(3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

16. Interpretation (CA, Sch 3, para 21)

In this Part of this Schedule “parent” has the same meaning as in the Education Ordinance.

SCHEDULE 4

**ADDITIONAL PROVISIONS ABOUT POWERS OF ARREST ATTACHED TO
EXCLUSION REQUIREMENTS (Family Law Act 1996, ss47(7) and (12) and 48 and Sch
5)**

1. Requirement to bring person before court (Family Law Act 1996, s47(7))

(1) If a power of arrest is attached to an exclusion requirement imposed under section 57 or 65 and the person on whom the requirement was imposed is arrested under that power —

(a) that person must be brought before a court within the period of 24 hours beginning at the time of the person’s arrest; and

(b) if the matter is not then disposed of forthwith, the court before whom the person is brought may remand the person.

(2) In reckoning for the purposes of sub-paragraph (1) any period of 24 hours, no account is to be taken of Christmas Day, Good Friday or any Sunday.

2. Remand in custody or on bail (Family Law Act 1996, Sch 5, para 2)

(1) Where a court has power to remand a person under paragraph 1(1)(b), the court may —

(a) remand the person in custody, that is to say, commit the person to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or

(b) remand the person on bail —

(i) by taking from the person a recognisance (with or without sureties) conditioned as provided in sub-paragraph (3), or

(ii) by fixing the amount of the recognisances with a view to their being taken subsequently in accordance with paragraph 4 and in the meantime committing the person to custody in accordance with paragraph (a).

(2) Where a person is brought before the court after remand, the court may further remand that person.

(3) Where a person is remanded on bail under sub-paragraph (1), the court may direct that the person’s recognisance be conditioned for the person’s appearance —

(a) before that court at the end of the period of remand, or

(b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.

(4) Where a recognisance is conditioned for a person's appearance in accordance with sub-paragraph (1)(b), the fixing of any time for the person next to appear is deemed to be a remand; but nothing in this sub-paragraph or sub-paragraph (3) deprives the court of power at any subsequent hearing to remand the person afresh.

(5) Subject to paragraph 3, the court must not remand a person under this paragraph for a period exceeding 8 clear days, except that —

(a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent, and

(b) if the court adjourns a case under paragraph 6, the court may remand him for the period of the adjournment.

(6) Where the court has power under this paragraph to remand a person in custody it may, if the remand is for a period not exceeding 3 clear days, commit the person to the custody of a police officer.

3. Further remand (Family Law Act 1996, Sch 5, para 3)

(1) If the court is satisfied that any person who has been remanded under paragraph 2 is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which the person was remanded, the court may, in the person's absence, remand the person for a further time; and paragraph 2(5) will not apply.

(2) Notwithstanding anything in paragraph 2(1), the power of the court under sub-paragraph (1) to remand a person on bail for a further time may be exercised by enlarging the person's recognisance and those of any sureties for the person to a later time.

(3) Where a person remanded on bail under paragraph 2 is bound to appear before the court at any time and the court has no power to remand that person under sub-paragraph (1), the court may in the person's absence enlarge the person's recognisance and those of any sureties for the person to a later time; and the enlargement of the person's recognizance will be deemed to be a further remand.

4. Postponement of taking of recognisance (Family Law Act 1996, Sch 5, para 4)

Where under paragraph 2(1)(b)(ii) the court fixes the amount in which the principal and the principal's sureties, if any, are to be bound, the recognisance may thereafter be taken by such person as may be prescribed by rules of court, and the same consequences shall follow as if it had been entered into before the court.

5. Bail subject to conditions (Family Law Act 1996, s47(12))

If a person remanded under this section is granted bail, the person may be required by the court to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

6. Remand for medical examination and report (Family Law Act 1996, s48)

(1) If the court has reason to consider that a medical report will be required, any power to remand a person under paragraph 1(1)(b) may be exercised for the purpose of enabling a medical examination and report to be made.

(2) If such a power is so exercised, the adjournment must not be for more than 4 weeks at a time unless the court remands the accused in custody.

(3) If the court so remands the accused, the adjournment must not be for more than 3 weeks at a time.

(4) If there is reason to suspect that a person who has been arrested under a power of arrest attached to an exclusion requirement imposed under section 57 or 65 is suffering from mental disorder within the meaning of the Mental Health Ordinance (No 7 of 2010), the court has the same power to make an order under section 48 of that Ordinance (remand to hospital for report on accused's mental condition) as it does under that section in the case of an accused person within the meaning of that section.

**SCHEDULE 5
FOSTERING (CA, Schs 7 & 8)**

Part 1

Foster Parents: Limits on Number of Foster Children (CA, Sch 7)

1. Fostering (CA, Sch 7, para 1)

For the purposes of this Schedule, a person fosters a child if —

- (a) the person fosters the child on behalf of the Crown;
- (b) the person fosters the child privately.

2. The usual fostering limit (CA, Sch 7, para 2)

Subject to what follows, a person may not foster more than three children ("the usual fostering limit").

3. Siblings (CA, Sch 7, para 3)

A person may exceed the usual fostering limit if the children concerned are all siblings with respect to each other.

4. Exemption by Crown (CA, Sch 7, para 4)

(1) A person may exceed the usual fostering limit if the person is exempted from it by the Crown.

(2) In considering whether to exempt a person, the Crown must have regard, in particular, to —

- (a) the number of children whom the person proposes to foster;

(b) the arrangements which the person proposes for the care and accommodation of the fostered children;

(c) the intended and likely relationship between the person and the fostered children;

(d) the period of time for which he proposes to foster the children; and

(e) whether the welfare of the fostered children (and of any other children who are or will be living in the accommodation) will be safeguarded and promoted.

(3) Where the Crown exempts a person, it must inform the person by notice in writing —

(a) that the person is so exempted;

(b) of the children, described by name, whom the person may foster; and

(c) of any condition to which the exemption is subject.

(4) The Crown may at any time by notice in writing —

(a) vary or cancel an exemption; or

(b) impose, vary or cancel a condition to which the exemption is subject,

and, in considering whether to do so, it must have regard in particular to the considerations mentioned in sub-paragraph (2).

(5) The Governor may make regulations amplifying or modifying the provisions of this paragraph in order to provide for cases where children need to be placed with foster parents as a matter of urgency.

5. Complaints etc (CA, Sch 7, para 6)

(1) The Crown must establish a procedure for considering any representations (including any complaint) made to it about the discharge of its functions under paragraph 4 by a person exempted or seeking to be exempted under that paragraph.

(2) In carrying out any consideration of representations under sub-paragraph (1), the Crown must comply with any regulations made by the Governor for the purposes of this paragraph.

Part 2

Privately Fostered Children (CA, Sch 8)

6. Exceptions: children looked after by Crown (CA, Sch 8, para 1)

A child is not a privately fostered child while the child is being looked after by the Crown.

7. Exceptions: children looked after in same premises as other family members (CA, Sch 8, para 2(1)(a))

A child is not a privately fostered child while the child is in the care of any person in premises in which any —

- (a) parent of the child;
- (b) person who is not a parent of the child but who has parental responsibility for the child;
- (c) person who is a relative of the child and who has assumed responsibility for the child's care,

is for the time being living.

8. Exceptions: children looked after in school, hospital or other institution (CA, Sch 8, para 2(1)(d) to (g))

(1) A child is not a privately fostered child while he is in the care of any person —

- (a) in any school in which the child is receiving full-time education;
- (b) in a hospital;
- (c) in any home or institution not specified in this paragraph but provided, equipped or maintained by (or on behalf of) the Crown.

(2) Sub-paragraphs (1) does not apply where the person caring for the child is doing so in a personal capacity and not in the course of carrying out the person's duties in relation to the establishment mentioned in the paragraph in question.

9. Exceptions: children subject to Mental Health Ordinance (CA, Sch 8, para 4)

A child is not a privately fostered child while the child is liable to be detained, or subject to guardianship, under the Mental Health Ordinance (No 7 of 2010).

10. Exceptions: children in care of prospective adopter (CA, Sch 8, para 5)

A child is not a privately fostered child while the child is placed in the care of a person who proposes to adopt the child under the Adoption Act 1976 (as it applies in the Falkland Islands).

11. Power of Crown to impose requirements (CA, Sch 8, para 6)

(1) Where a person is fostering any child privately, or proposes to foster any child privately, the Crown may impose on that person requirements as to —

- (a) the number, age and sex of the children who may be privately fostered by that person;
- (b) the standard of the accommodation and equipment to be provided for them;
- (c) the arrangements to be made with respect to their health and safety; and
- (d) particular arrangements which must be made with respect to the provision of care for them,

and it is the person's duty to comply with any such requirement before the end of such period as the Crown may specify unless, in the case of a proposal, the proposal is not carried out.

(2) A requirement may be limited to a particular child, or class of child.

(3) A requirement (other than one imposed under sub-paragraph (1)(a)) may be limited by the Crown so as to apply only when the number of children fostered by the person exceeds a specified number.

(4) A requirement is to be imposed by notice in writing addressed to the person on whom it is imposed and informing that person of —

- (a) the reason for imposing the requirement;
- (b) the person's right under paragraph 14 to appeal against it; and
- (c) the time within which the person may do so.

(5) The Crown may at any time vary any requirement, impose any additional requirement or remove any requirement.

(6) In this Schedule, "requirement", in relation to any person, means a requirement imposed on that person under this paragraph.

12. Regulations requiring notification of fostering etc (CA, Sch 8, para 7)

(1) The Governor may by regulations make provision as to —

- (a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be fostered privately; and
- (b) the manner and form in which such notification is to be given.

(2) The regulations may, in particular —

(a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately to notify the Crown;

(b) require any person who is —

- (i) a parent of a child; or
- (ii) a person who is not a parent of a child but who has parental responsibility for the child,

and who knows that it is proposed that the child should be fostered privately, to notify the appropriate authority;

(c) require any parent of a privately fostered child, or person who is not a parent of such a child but who has parental responsibility for the child, to notify the appropriate authority of any change in that person's address;

(d) require any person who proposes to foster a child privately, to notify the appropriate authority of the person's proposal;

(e) require any person who is fostering a child privately, or proposes to do so, to notify the appropriate authority of —

(i) any offence of which the person has been convicted;

(ii) any disqualification imposed on the person under section 76; or

(iii) any prohibition imposed on the person under section 77;

(f) require any person who is fostering a child privately, to notify the appropriate authority of any change in the person's address;

(g) require any person who is fostering a child privately to notify the appropriate authority in writing of any person who begins, or ceases, to be part of the person's household;

(h) require any person who has been fostering a child privately, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

13. Notification of fostering etc: requirement for publicity (CA, Sch 8, para 7A)

The Crown must promote public awareness in the Falkland Islands of requirements as to notification for which provision is made under paragraph 12.

14. Appeals (CA, Sch 8, para 8)

(1) A person aggrieved by —

(a) a requirement imposed under paragraph 11;

(b) a refusal of consent under section 76;

(c) a prohibition imposed under section 77;

(d) a refusal to cancel such a prohibition;

(e) a refusal to make an exemption under paragraph 4;

(f) a condition imposed in such an exemption; or

(g) a variation or cancellation of such an exemption,

may appeal to the court.

(2) The appeal must be made within 14 days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.

(3) Where the appeal is against —

(a) a requirement imposed under paragraph 11;

(b) a condition of an exemption imposed under paragraph 4; or

(c) a variation or cancellation of such an exemption,

the requirement, condition, variation or cancellation does not have effect while the appeal is pending.

(4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition —

(a) vary the requirement, or allow more time for compliance with it; or

(b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the Crown had power to impose under paragraph 11 are complied with.

(5) Any requirement or prohibition specified or substituted by a court under this paragraph is to be deemed for the purposes of Part 6 and this Schedule (other than this paragraph) to have been imposed by the Crown under paragraph 11 or (as the case may be) section 77.

(6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption, the court may —

(a) make an exemption;

(b) impose a condition; or

(c) vary the exemption.

(7) Any exemption made or varied under sub-paragraph (6), or any condition imposed under that sub-paragraph, is to be deemed for the purposes of Part 1 of this Schedule (but not for the purposes of this paragraph) to have been made, varied or imposed under paragraph 4.

15. Prohibition of advertisements relating to fostering (CA. Sch 8, para 10)

No advertisement indicating that a person will undertake, or will arrange for, a child to be privately fostered may be published, unless it states that person's name and address.

16. Avoidance of insurances on lives of privately fostered children (CA, Sch 8, para 11)

A person who fosters a child privately and for reward is to be deemed for the purposes of the Life Assurance Act 1774 (as it applies to the Falkland Islands) to have no interest in the life of the child.

SCHEDULE 6

MODIFICATIONS TO UK LEGISLATION (AS IT APPLIES IN FALKLAND ISLANDS)

1. The modifications set out in the right hand column of this Schedule continue to apply to the UK legislation (as it applies in the Falkland Islands) listed in the left hand column —

The Wills Act 1837

In the definition of "will" in section 1 (interpretation), "and also to a disposition

by will and testament or devise of the custody and tuition of any child” is replaced with “and also to an appointment by will of a guardian of a child”.

The Children and Young Persons Act 1933 In section 1(2)(a) (cruelty to persons under sixteen), “, or the legal guardian of a child or young person,” is inserted after “young person”.

2. The modifications set out in the right hand column of this Schedule apply to the UK legislation (as it applies in the Falkland Islands) listed in the left hand column (instead of the modifications to that legislation made by the Children Ordinance 1994 (No 28 of 1994) —

The Children and Young Persons Act 1969 In section 5(2) (restrictions on criminal proceedings for offences by young persons) “section 1 of this Act” is replaced with “Part 5 of the Children Ordinance (No XX of 2014)”.

The Magistrates' Courts Act 1980 In subsection (2) of section 59 (in its application to the Falkland Islands, periodical payment through the Clerk to the Summary Court), “the Guardianship of Minors Acts 1971 and 1973” is replaced “(or having effect as if made under) Schedule 1 to the Children Ordinance (No XX of 2014)”.

OBJECTS AND REASONS

This Bill would repeal the existing Children Ordinance (No 28 of 1994) and replace it with new legislation about children and their well-being.

A detailed explanation of the provisions of the Bill is set out in the Explanatory Memorandum which is published in this *Gazette*.

Published by the Attorney General's Chambers, Stanley, Falkland Islands
Price: Nineteen pound and sixty pence.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

19 March 2014

No. 3

The following are published in this Supplement –

Protection from Harassment Ordinance 2014 (No 1 of 2014);

Coins Order 2014 (SR&O No 1 of 2014); and

Stanley Common (Megabid Spoil Tip) Regulations 2014 (SR&O No 2 of 2014).

ELIZABETH II



FALKLAND ISLANDS

JOHN DUNCAN O.B.E.,
Acting Governor.

Protection from Harassment Ordinance 2014

(No: 1 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Interpretation
4. Prohibition of harassment
5. Offence of harassment
6. Civil remedy
7. Putting people in fear of violence
8. Restraining orders
9. Meaning of “racially or religiously aggravated”
10. Racially or religiously aggravated harassment etc.
11. Limitation
12. National security, etc.

ELIZABETH II



FALKLAND ISLANDS

JOHN DUNCAN O.B.E.,
Acting Governor.

PROTECTION FROM HARASSMENT ORDINANCE 2014

(No: 1 of 2014)

(assented to: 4 March 2014)
(commencement: on publication)
(published: 19 March 2014)

AN ORDINANCE

To provide for the offence of harassment, racially or religiously aggravated harassment and other similar or related conduct.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Protection from Harassment Ordinance 2014.

2. Commencement

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

3. Interpretation

(1) References to harassing a person include alarming the person or causing the person distress.

(2) A “course of conduct” must involve conduct on at least two occasions.

(3) A person’s conduct on any occasion is taken, if aided, abetted, counselled or procured by another —

(a) to be conduct on that occasion of the other (*as well as conduct of the person whose conduct it is*); and

(b) to be conduct in relation to which the other's knowledge and purpose, and what the person ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.

(4) "Conduct" includes speech.

4. Prohibition of harassment

(1) A person must not pursue a course of conduct —

(a) which amounts to harassment of another, and

(b) which the person knows or ought to know amounts to harassment of the other.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

(3) Subsection (1) does not apply to a course of conduct if the person who pursued it shows —

(a) that it was pursued for the purpose of preventing or detecting crime,

(b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

5. Offence of harassment

(1) A person who pursues a course of conduct in breach of section 4 is guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

6. Civil remedy

(1) An actual or apprehended breach of section 4 may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

(2) On such a claim, damages may be awarded for (*among other things*) any anxiety caused by the harassment and any financial loss resulting from the harassment.

(3) The plaintiff may apply for the issue of a warrant for the arrest of the defendant where —

(a) in such proceedings the Supreme Court or a Magistrate's Court grants an injunction for the purpose of restraining the defendant from pursuing any conduct which amounts to harassment, and

(b) the plaintiff considers that the defendant has done anything which the defendant is prohibited from doing by the injunction.

(4) An application under subsection (3) may be made —

- (a) where the injunction was granted by the Supreme Court, to the Chief Justice or judge of that court, and
 - (b) where the injunction was granted by the Magistrate's Court, to the Senior Magistrate.
- (5) The judge or magistrate to whom an application under subsection (3) is made may only issue a warrant if —
- (a) the application is substantiated on oath, and
 - (b) the judge or magistrate has reasonable grounds for believing that the defendant has done anything which is prohibited by the injunction.
- (6) The defendant is guilty of an offence where —
- (a) the Supreme Court or Magistrate's Court grants an injunction for the purpose mentioned in subsection (3)(a), and
 - (b) without reasonable excuse the defendant does anything which is prohibited by the injunction.
- (7) Where a person is convicted of an offence under subsection (6) in respect of any conduct, that conduct is not punishable as a contempt of court.
- (8) A person cannot be convicted of an offence under subsection (6) in respect of any conduct which has been punished as a contempt of court.
- (9) A person guilty of an offence under subsection (6) is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

7. Putting people in fear of violence

- (1) A person whose course of conduct causes another person to fear, on at least two occasions, that violence will be used against the other person is guilty of an offence if the person knows or ought to know that the course of conduct will cause the other so to fear on each of those occasions.
- (2) For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against the person on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion.
- (3) It is a defence for a person charged with an offence under this section to show that —
- (a) the course of conduct was pursued for the purpose of preventing or detecting crime,
 - (b) the course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) the pursuit of the course of conduct was reasonable for the person's or another's protection or for the protection of the person's or another's property.

(4) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

(5) If on the trial of a person charged with an offence under this section the court finds the person not guilty of the offence charged, it may find the person guilty of an offence under section 5.

8. Restraining orders

(1) A court sentencing or otherwise dealing with a person ("the defendant") convicted of an offence under section 5 or 7 may (as well as sentencing the person or dealing with the person in any other way) make an order under this section.

(2) The order may, for the purpose of protecting the victim of the offence, or any other person mentioned in the order, from further conduct which —

(a) amounts to harassment, or

(b) will cause a fear of violence,

prohibit the defendant from doing anything described in the order.

(3) The order may have effect for a specified period or until further order.

(4) The prosecutor, the defendant or any other person mentioned in the order may apply to the court which made the order for it to be varied or discharged by a further order.

(5) The defendant is guilty of an offence if, without reasonable excuse, the defendant does anything which is prohibited by an order under this section,.

(6) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding five years, or a fine, or both.

9. Meaning of "racially or religiously aggravated"

(1) An offence is racially or religiously aggravated for the purposes of section 10 if —

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or

(b) the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.

(2) In subsection (1)(a) —

"membership", in relation to a racial or religious group, includes association with members of that group;

“presumed” means presumed by the offender.

(3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that paragraph.

(4) In this section “racial group” means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

(5) In this section “religious group” means a group of persons defined by reference to religious belief or lack of religious belief.

10. Racially or religiously aggravated harassment etc.

(1) A person is guilty of an offence under this section if the person commits —

(a) an offence under section 5, or

(b) an offence under section 7,

which is racially or religiously aggravated for the purposes of this section.

(2) A person guilty of an offence falling within subsection (1)(a) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

(3) A person guilty of an offence falling within subsection (1)(b) is liable on conviction to imprisonment for a term not exceeding seven years, or to a fine, or to both.

(4) If, on the trial of a person charged with an offence falling within subsection (1)(a), the court finds the person not guilty of the offence charged, it may find the person guilty of an offence under section 5.

(5) If, on the trial of a person charged with an offence falling within subsection (1)(b), the court finds the person not guilty of the offence charged, it may find the person guilty of an offence falling within subsection (1)(a).

(6) Section 8 has effect in relation to a person convicted of an offence under this section as if the reference in section 8(1) to an offence under section 5 or 7 includes a reference to an offence under this section.

11. Limitation

In section 11 of the Limitation Act 1980 (special time limit for actions in respect of personal injuries), after subsection (1) there is inserted —

“(1A) This section does not apply to any action brought for damages under section 6 of the Protection from Harassment Ordinance.”

12. National security, etc.

(1) If the Governor certifies that in the Governor’s opinion anything done by a specified person on a specified occasion related to —

(a) national security,

(b) the economic well-being of the Falkland Islands, or

(c) the prevention or detection of serious crime,

and was done on behalf of the Crown, the certificate is conclusive evidence that this Ordinance does not apply to any conduct of that person on that occasion.

(2) In subsection (1), “specified” means specified in the certificate in question.

(3) A document purporting to be a certificate under subsection (1) is to be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

Passed by the Legislature of the Falkland Islands on 27 February 2014.

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

CURRENCY

Coins Order 2014

S. R. & O. No: 1 of 2014

Made: 4 March 2014

Published: 19 March 2014

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 2014.

2. Commencement

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

3. New coins

(1) The minting and issue of the circulation coin 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 the circulation coins authorised by this order will be of £2.00 denomination and will be legal tender in the Falkland Islands.

Made 4 March 2014

J. Duncan O.B.E.,
Acting Governor.

SCHEDULE

Legal tender £2.00 circulation coins of the Falkland Islands marking the Centenary of the Battle of the Falkland Islands

Type	Bi-metal
<i>Denomination</i>	£2.00
<i>Weight (grams)</i>	12.00
<i>Diameter (millimetres)</i>	28.40
<i>Metal</i>	Outer Ring Copper 76% Zinc 20% Nickel 4% Inner Ring Copper 75% Nickel 25%
<i>Quality</i>	Circulation
<i>Shape</i>	Round
<i>Edge</i>	Milled
<i>Edition</i>	Unlimited
<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>	I.R.B. Effigy of Her Majesty Queen Elizabeth II.
<i>Reverse design</i>	The design depicts HMG Glasgow in battle. The wording "BATTLE OF THE FALKLAND ISLANDS" appears in the surround with the denomination at the base. The date, 1914, appears in the sea.

SUBSIDIARY LEGISLATION

ENVIRONMENTAL PROTECTION

Stanley Common (Megabid Spoil Tip) Regulations 2014

S. R. & O. No. 2 of 2014

Made: 18 March 2014

Published: 19 March 2014

Coming into force: see regulation 2

I make the following regulations under section 10(b)(ii) of the Stanley Common Ordinance (No. 9 of 1999).

1. Title

These regulations are the Stanley Common (Megabid Spoil Tip) Regulations 2014.

2. Commencement

These regulations come into force on publication in the *Gazette* of the notification of the approval of them by resolution of the Legislative Assembly.

3. Interpretation

In these regulations —

“authority to deposit” means an authority to deposit issued under regulation 6;

“spoil tip” means the area (lying in a natural valley) south of Megabid measuring 8.9 acres, the boundaries of which are indicated on the map appearing in the Schedule to these Regulations; and

“the area south of Megabid” means the land within the Common situated between Stanley Airport Road and Rookery Bay Rifle Range.

4. Designation as spoil tip

The spoil tip is designated as an area where —

(a) refuse may be deposited; and

(b) associated developments may be carried out to facilitate the preparation, use and remediation of the area as a spoil tip as long as those developments are necessary for the better establishment and management of the area.

5. Restrictions on depositing refuse

(1) A person must not deposit any refuse on the spoil tip unless —

- (a) the person is authorised by the Director of Public Works to do so under regulation 6; and
 - (b) it is excavated material from land developments, soil, peat, vegetation, clay, rocky material or marine material.
- (2) It is an offence to contravene the provisions of sub-regulation (1).
- (3) A person guilty of an offence under this regulation is liable on conviction to imprisonment for a term not exceeding three months, or a fine not exceeding level 2 on the standard scale, or both.
- (4) A person who deposits any material other than that specified under sub-regulation (1) must pay for the reasonable costs of removing that material or pay for any remediation costs.

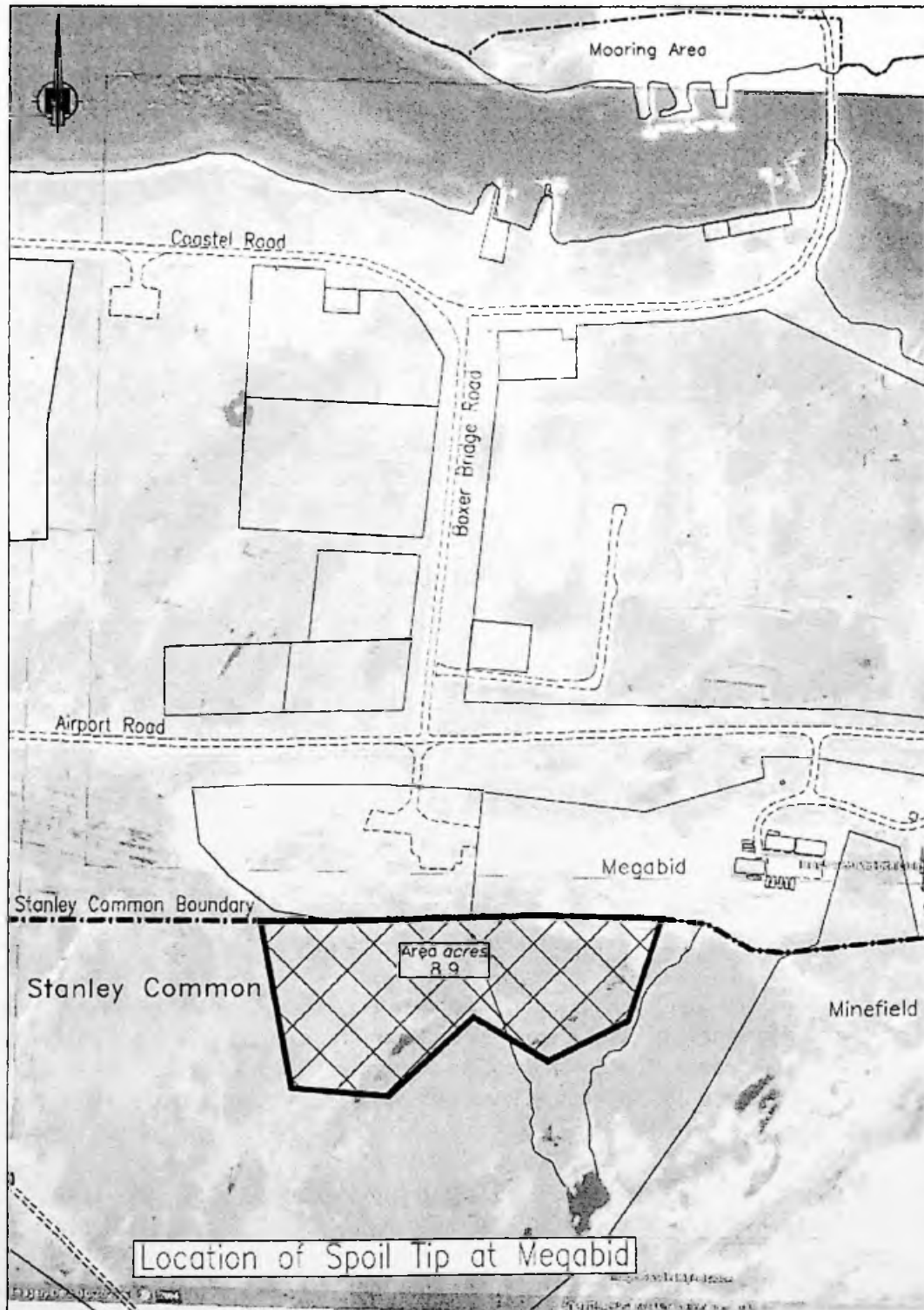
6. Authority to deposit refuse

- (1) Any person who wishes to deposit any of the materials specified under regulation 5(1)(b) must apply to the Director of Public Works in writing setting out the type and volume of material to be deposited on the spoil tip.
- (2) The Director of Public Works may issue an authority to deposit setting out —
- (a) the type and volume of material to be deposited;
 - (b) the specific area within the spoil tip where the material is to be deposited;
 - (c) the manner in which the material to be deposited is to be placed; and
 - (d) any other conditions as may be necessary.
- (3) The Director of Public Works may —
- (a) refuse to give approval for material to be deposited on the spoil tip; or
 - (b) alter the type of material or the volume to be deposited.
- (4) Authority to deposit any additional or different material must be sought from the Director of Public Works.
- (5) Written reasons must be provided to the applicant whenever the Director of Public Works makes any of the decisions under sub-regulation (3).

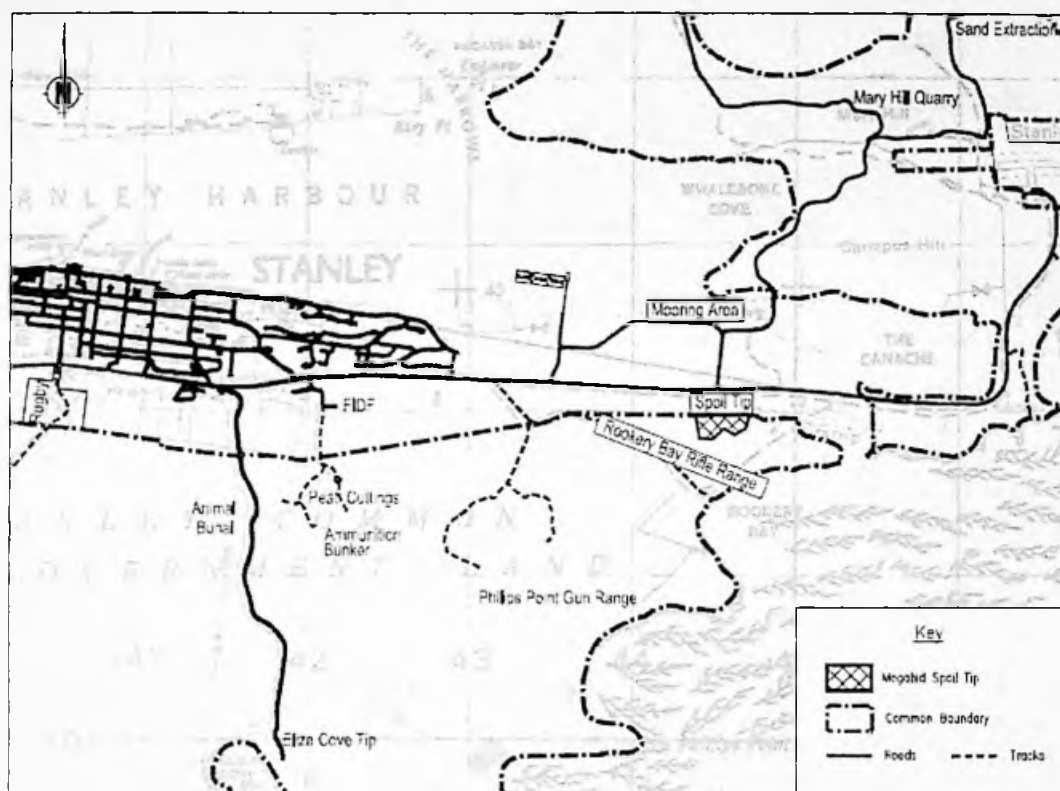
7. Overall management

- (1) The Director of Public Works has overall management and control of the spoil tip.
- (2) The Director of Public Works may limit, control or prevent the depositing of material on the spoil tip (as necessary) to ensure effective use of the spoil tip.

SCHEDULE
MEGABID SPOIL TIP
(regulation 3)



MAP OF THE COMMON SHOWING THE MEGABID SPOIL TIP
(*regulation 3*)



Made 18 March 2014

J. Duncan O.B.E.,
Governor.

EXPLANATORY NOTE
(*not part of the regulations*)

Section 10(b)(ii) of the Stanley Common Ordinance (No. 14 of 2010) allows the Governor to make regulations designating specific areas of the Common as areas where refuse, waste water or sewerage may be deposited, treated or carried and within which associated development may be carried out (where that development is necessary or desirable for the better establishment and management of any such area).

These Regulations provide for an area south of Megabid to be designated as a spoil tip where certain materials can be deposited.

Section 10 further provides that the regulations shall not have any effect until they have been approved by a resolution of the Legislative Assembly so *regulation 2* provides that the

regulations will come into force on publication in the *Gazette* of the notification of their approval by resolution of the Legislative Assembly.

Regulation 3 deals with interpretation.

Regulation 4 provides for the designation of the area as a spoil tip.

Regulation 5 provides for materials which may be deposited on the spoil tip and further provides for authority to be sought from the Director of Public Works before any material can be deposited on the spoil tip.

Regulation 6 provides for the Director of Public Works to give authority and impose different conditions on the manner of depositing the material. The Department has the power to refuse for materials to be deposited and to alter the volume and type of material that can be deposited, etc.

Regulation 7 gives the Department overall control and management of the spoil tip.

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FALKLAND ISLANDS GAZETTE

Supplement

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31 March 2014

No. 4

The following are published in this Supplement –

Fishery Products (Amendment) Bill 2014; and

Coins Order 2014 (Correction) Order 2014 (SR&O No 3 of 2014).

Fishery Products (Amendment) Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Fishery Products Ordinance
4. General amendment: “relevant Community legislation” replaced with “relevant EU legislation”
5. Section 2 amended – Interpretation
6. Section 27 replaced – Export to Community of aquaculture animals and aquaculture products
7. Section 35 replaced – Designation of vessels, establishments etc

Fishery Products (Amendment) Bill 2014

(No: of 2014)

(assented to: 2014)

(commencement: on publication)

(published: 2014)

A BILL

for

AN ORDINANCE

To amend the Fishery Products Ordinance (No 21 of 2006).

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Fishery Products (Amendment) Ordinance 2014.

2. Commencement

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

3. Amendment of Fishery Products Ordinance

This Ordinance amends the Fishery Products Ordinance.

4. General amendment: “relevant Community legislation” replaced with “relevant EU legislation”

The Ordinance is amended by replacing “relevant Community legislation” wherever it appears in the Ordinance with “relevant EU legislation”.

5. Section 2 amended – Interpretation

Section 2 is amended by replacing the definition of “fishery products” with the following definition —

““fishery products” —

(a) means all seawater or freshwater animals (whether wild or farmed), except —

(i) live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods;
and

(ii) mammals, reptiles and frogs; and

(b) also includes all edible forms, parts and products of such animals;”

6. Section 27 replaced – Export to Community of aquaculture animals and aquaculture products

Section 27 is repealed and replaced with the following section —

“27. Export to European Union of aquaculture animals and aquaculture products

Regulations may make provision for securing that aquaculture animals or aquaculture products are not exported from the Falkland Islands to any part of the European Union, unless —

- (a) it meets the requirements of the relevant EU legislation;
- (b) it is despatched in accordance with those requirements; and
- (c) it is accompanied by the documents required by the relevant EU legislation.”

7. Section 35 replaced – Designation of vessels, establishments etc

Section 35 is repealed and replaced with the following section —

“35. Designation of vessels, establishments and installations

(1) The Governor may by order designate (for the purposes of relevant EU legislation and regulations made under section 36) vessels, establishments and installations of prescribed descriptions.

(2) The Governor may not designate a vessel, establishment or installation unless it has been approved for the purpose by the food authority in accordance with regulations made under section 36.”

OBJECTS AND REASONS

This Bill would make four changes to the Fishery Products Ordinance (No 21 of 2006).

“Relevant EU legislation” (and exports to the European Union)

Clause 4 would make a general amendment updating all of the references in the Ordinance to “relevant Community legislation” to refer instead to “relevant EU legislation”.

The reason why this is necessary is that, although the definition of “relevant Community legislation” was replaced in 2012 with a new definition of “relevant EU legislation”, the actual references to “relevant Community legislation” were not updated at the same time. *Clause 4* would correct that.

Clause 6 would also replace section 27 of the Ordinance which currently refers to exports to the European Community, instead of the European Union.

Assuming the Bill is passed, this change will come into force as soon as the Ordinance is published in the *Gazette*.

Definition of “fishery products”

Clause 5 would amend section 2 to bring the definition of “fishery product” into line with the definition currently used in EU legislation.

Again, assuming the Bill is passed, this change will come into force as soon as the Ordinance is published in the *Gazette*.

Designation of vessels, establishments and installations

Clause 7 would repeal and replace section 35, which deals with the designation of vessels, establishments and installations for the purposes of EU legislation and Falkland Islands regulations implementing EU legislation.

Currently, section 35 specifies dispatch centres, factory vessels, fishery products establishments and purification centres as defined categories of vessels, establishments and installations that can be designated.

However, there is currently no provision for the definitions to be updated in line with changes to EU legislation and some of the definitions are already out of date.

Section 35 also includes a “catch-all” provision allowing designation of vessels, establishments and installations in prescribed categories. (Section 37(1)(a) of the Ordinance contains a power for regulations to be made prescribing things that need to be prescribed.)

The replacement version of section 35 would rely solely on that approach.

Regulations prescribing some (but not all) of the existing categories (but with updated definitions) will be made under section 37(1)(a), as well as under the new section 35(1). The process for approving vessels, establishments and installations will be provide for through regulations made under section 36.

Assuming the Bill is passed, *clause 7* will come into force as soon as the Ordinance is published in the *Gazette*.

SUBSIDIARY LEGISLATION

CURRENCY

Coins Order 2014 (Correction) Order 2014

S. R. & O. No: 3 of 2014

Made: 27 March 2014

Published: 31 March 2014

Coming into force: see article 2

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 Coins Order 2014 (Correction) Order 2014.

2. Commencement

This order is deemed to have come into force on 19 March 2014.

3. Correction of Coins Order 2014

(1) This article amends the Coins Order 2014 (No 1 of 2014).

(2) The description of the *Reverse design* in the Schedule is amended by replacing “HMG” with “HMS”.

Made 27 March 2014

C. P. Judge M.B.E.,
Attorney General.

EXPLANATORY NOTE

(not forming part of the above order)

This order corrects a typographical error.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

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No. 5

The following are published in this Supplement –

Mental Health (Approved Practitioners) Order 2014 (SR&O No 4 of 2014); and
Mental Health (Approved Medical Centre) Order 2014 (SR&O No 5 of 2014).

SUBSIDIARY LEGISLATION

MENTAL HEALTH

Mental Health (Approved Practitioners) Order 2014

S. R. & O. No. 4 of 2014

Made: 31 March 2014

Published: 1 April 2014

Coming into force: see article 2

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); but

(b) without consulting Executive Council because, in my judgement, the urgency of the matter requires me to act before I can consult Executive Council.

1. Title

This order is the Mental Health (Approved Practitioners) Order 2014.

2. Commencement

This order is deemed to have come into force on 9 April 2013.

3. Approved doctors

The person named in the Schedule is a medical practitioner who is an approved doctor for the purposes of the Ordinance.

SCHEDULE ADDITIONAL APPROVED DOCTOR

Dr Angela Mary Rowlands

Made 31 March 2014

J. Duncan O.B.E.,
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. A number of medical practitioners were approved by order in 2010 (No 21 of 2010). An additional medical practitioner approved by the Governor for the purposes of section 91(1) is named in the schedule to this order.

An approved doctor is also an approved practitioner under section 3.

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 the relevant class of professionals for initial inclusion on the list.

SUBSIDIARY LEGISLATION

MENTAL HEALTH

Mental Health (Approved Medical Centre) Order 2014

S. R. & O. No. 5 of 2014

Made: 31 March 2014

Published: 1 April 2014

Coming into force: see article 2

I make this order under section 92 of the Mental Health Ordinance (No. 7 of 2010) —

- (a) after consulting the Chief Medical Officer; but
- (b) without consulting Executive Council because, in my judgement, the urgency of the matter requires me to act before I can consult Executive Council.

1. Title

This order is the Mental Health (Approved Medical Centre) Order 2014.

2. Commencement

This order is deemed to have come into force on 31 March 2014.

3. Approved Medical Centre

- (1) The police detention cell at Stanley Police Station which is known as “Cell 1” is designated as an approved medical centre for the purposes of the Mental Health Ordinance.
- (2) The designation is for a period of 72 hours from the date of commencement of this order.

Made 31 March 2014

J. Duncan O.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Under section 92(1) of the Mental Health Ordinance (No. 7 of 2010), the Governor may, by order, designate any place as an approved medical centre for the purposes of the Ordinance.

The effect of designation is that a person suffering or appearing to suffer from a mental disorder may be detained at the approved medical centre, by order of an approved doctor, for up to 72 hours for the purposes of assessment.

The designation is being made for a limited period of 72 hours.

As required by section 92(4), before designating the place as an approved medical centre, the Governor consulted the Chief Medical Officer.

The Governor did not consult Executive Council before making the order because, in his judgement the urgency of the matter required him to act before he could consult Executive Council and, in such circumstances, the Governor is not obliged to do so (reference section 66(2) of the Constitution).

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Supplement

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The following is published in this Supplement –

Criminal Justice (Police Codes of Practice) Order 2014 (SR&O No 6 of 2014).

SUBSIDIARY LEGISLATION

CRIMINAL PROCEDURE

Criminal Justice (Police Codes of Practice) Order 2014

S. R. & O. No. 6 of 2014

Made: 23 April 2014
Published: 29 April 2014
Coming into force: on publication

I make this order under section 206 of the Criminal Justice Ordinance (Title 24.1) on the advice of Executive Council.

1. Title

This order is the Criminal Justice (Police Codes of Practice) Order 2014.

2. Commencement

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

3. Police Codes of Practice

The Police Codes of Practice contained in the Schedule came into operation on 29 October 1989 and are deemed to have had effect since that date.

SCHEDULE

(article 3)

CODES OF PRACTICE
ISSUED UNDER s.206
CRIMINAL JUSTICE ORDINANCE (Revised Laws Title 24.1)

CODES OF PRACTICE ISSUED UNDER
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CRIMINAL JUSTICE ORDINANCE (Title 24.1)

CODE OF PRACTICE A

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THE EXERCISE BY POLICE OFFICERS
OF STATUTORY POWERS OF STOP AND SEARCH

CODE OF PRACTICE A

THE EXERCISE BY POLICE OFFICERS OF STATUTORY POWERS OF STOP AND SEARCH

1. General.

1.1 This code of practice must be readily available at all police stations for consultation by police officers, detained persons and members of the public.

1.2 The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to the code are provisions of this code.

1.3 This code governs the exercise by police officers of statutory powers to search a person without first arresting him or to search a vehicle without making an arrest. The main stop and search powers in existence at the time when this code was prepared are set out in Annex A, but that list should not be regarded as definitive.

1.4 Reserved.

1.5 The exercise of the powers to which this code applies requires reasonable grounds for suspicion that articles of a particular kind are being carried. Annex B provides guidance about this.

1.6 Nothing in this code affects the ability of an officer to speak to or question a person in the course of his duties without detaining him or exercising any element of compulsion.

Note for Guidance.

1A It is important to ensure that powers of stop and search are used responsibly and sparingly and only where reasonable grounds for suspicion genuinely exist. Over use of the powers is as likely to be harmful to police effort in the long term as misuse; both can lead to mistrust of the police among sections of the community. It is also particularly important to ensure that any person searched is treated courteously and considerately if police action is not to be resented.

2. Action before a search is carried out.

2.1 Where an officer has the reasonable grounds for suspicion necessary to exercise a power of stop and search he may detain the person concerned for the purposes of and with a view to searching him. There is no power to stop or detain a person against his will in order to find grounds for a search.

2.2 Before carrying out a search the officer may question the person about his behaviour or his presence in circumstances which gave rise to the suspicion, since he may have a satisfactory explanation which will make a search unnecessary. If, as a result of any questioning preparatory to a search, or other circumstances which come to the attention of the officer, there cease to be reasonable grounds for suspecting that an article is being carried of a kind for which there is a power of stop and search, no search may take place.

2.3 The reasonable grounds for suspicion which are necessary for the exercise of the initial power to detain may be confirmed or eliminated as a result of the questioning of a person detained for the purposes of a search (or such questioning may reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected); but the reasonable grounds for suspicion without which any search or detention for the purposes of a search is unlawful cannot be retrospectively provided by such questioning during his detention or by his refusal to answer any question put to him.

2.4 Before any search of a detained person or attended vehicle takes place the officer must give the person to be searched or in charge of the vehicle the following information:

- (i) his name;
- (ii) the object of the search; and
- (iii) his grounds for undertaking it.

2.5 If the officer is not in uniform he must show his warrant card.

2.6 Unless it appears to the officer that it will not be practicable to make a record of the search, he must also inform the person to be searched (or the owner or person in charge of a vehicle that is to be searched, as the case may be) that he is entitled to a copy of the record of the search if he asks for it within a year. If the person wishes to have a copy and is not given one on the spot, he should be advised to which police station he should apply.

2.7 If the person to be searched, or in charge of a vehicle to be searched, does not understand what is being said, the officer must take reasonable steps to bring the information in paragraphs 2.4 to 2.6 to his attention. If the person has someone with him then the officer must establish whether that person can interpret.

Note for Guidance.

2A In some circumstances preparatory questioning may be unnecessary, but in general a brief conversation or exchange will be desirable as a means of avoiding unsuccessful searches. Where a person is lawfully detained for the purpose of a search, but no search in the event takes place, the detention will not thereby have been rendered unlawful.

3. Conduct of the search.

3.1 Every reasonable effort must be made to reduce to the minimum the embarrassment that a person being searched may experience.

3.2 Although force may only be used as a last resort, reasonable force may be used if necessary to conduct a search or to detain a person or vehicle for the purposes of a search. A compulsory search may be made only if it has been established that the person is unwilling to co-operate (eg by opening a bag).

3.3 The length of time for which a person or vehicle may be detained will depend on the circumstances, but must in all circumstances be reasonable and not extend beyond the time taken for the search. The thoroughness and extent of a search must depend on what is suspected of being carried, and by whom. If the suspicion relates to a particular article, for example an

offensive weapon, which is seen to be slipped into a person's pocket then, in the absence of other grounds for suspicion or an opportunity for the article to be moved elsewhere, the search must be confined to that pocket. In the case of a small article which can readily be concealed, such as a drug, and which might be concealed anywhere on the person, a more extensive search may be necessary. [See note 3B]

3.4 The search must be conducted at the place where the person or vehicle was first detained or nearby.

3.5 Searches in public must be restricted to superficial examination of outer clothing. There is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves. Where on reasonable grounds it is considered necessary to conduct a more thorough search (eg by requiring someone to take off a T-shirt or headgear), this should be done out of public view (eg in a police van or a nearby police station if there is one). Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex. [See note 3A]

Notes for Guidance.

3A A search in the street itself should be regarded as being in public for the purposes of paragraph 3.5 above, even though it may be empty at the time a search begins. Although there is no power to require a person to do so, there is nothing to prevent an officer from asking a person voluntarily to remove more than an outer coat, jacket or gloves in public.

3B As a search of a person in public should be a superficial examination of outer clothing, such searches should normally be capable of completion within one minute or so.

4. Action after a search is carried out.

General.

4.1 An officer who has carried out a search must make a written record. In some cases this may not be possible such as in situations involving public disorder occurring in seaside areas during Bank Holiday weekends or the search of football supporters entering or leaving a ground. [See note 4A]

4.2 The record must be completed as soon as practicable - on the spot unless circumstances (e.g. other immediate duties or very inclement weather) make this impracticable.

4.3 The record must be made on the form provided for this purpose (the national search record).

4.4 In order to complete the search record the officer should normally seek the name, address, and date of birth of the person searched but under the search procedures there is no obligation on a person to provide these details and no power to detain him if he is unwilling to do so.

4.5 The following information can always, and must, be included in the record of a search even if the person does not wish to identify himself or give his date of birth:

- (i) the name of the person searched, or (if he withholds it) a description of him;

- (ii) where the person searched is white, Afro-Caribbean or Asian, a note to that effect;
- (iii) when a vehicle is searched, a description of it;
- (iv) the object of the search;
- (v) the grounds for making it;
- (vi) the date and time it was made;
- (vii) the place where it was made;
- (viii) its result;
- (ix) a note of any injury or damage to property resulting from it;
- (x) the identity of the officer making it. [See Note 4B]

4.6 A record is required for each person and each vehicle searched. If, for example, a person is in a vehicle and both are searched, two records must be completed.

4.7 The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, whether by reference to his behaviour or other circumstances.

Unattended vehicles.

4.8 After searching an unattended vehicle, or anything in or on it, an officer must leave a notice in it (or on it, if things in or on it have been searched without opening it) recording the fact that it has been searched.

4.9 The notice should include the name of the police station to which the officer concerned is attached and state where a copy of the record of the search may be obtained and where any application for compensation should be directed.

4.10 The vehicle must if practicable be left secure.

Notes for Guidance.

4A Nothing in this code affects the routine searching of persons entering sports grounds or other premises with their consent, or as a condition of entry.

4B Where a search is conducted by more than one officer the identity of all officers engaged in the search must be recorded on the search record.

ANNEX A
TO CODE OF PRACTICE A

SUMMARY OF STATUTORY POWERS TO STOP AND SEARCH

Statute	Object of Search	Extent of Search	Location
Firearms & Ammunition Ordinance (Title 23.2) s.30	Firearms and ammunition	Persons	Public place
Misuse of Drugs Ordinance (Title 49.3) s.21	Controlled drugs or other evidence of drug abuse	Persons, vehicles and vessels	Anywhere
Customs Ordinance (Title 26.1) ss.151 & 154	Improperly imported goods	Premises, vehicles, vessels or aircraft	Anywhere
Criminal Justice Ordinance (Title 24.1) s.168	(a) offensive weapons; (b) bladed articles; (c) crossbows and crossbow missiles	Persons and vehicles	Where there is public access
Prevention of Poaching Act 1862 s.2	Game or poaching equipment	Persons and vehicles	Public place
Dangerous Goods Ordinance (Title 36.1) s.13	Dangerous goods	Persons	Public place
Immigration Ordinance (Title 52.1) Schedule 2	Illegal immigrants	Vehicles and vessels (incl aircraft)	Anywhere

REASONABLE GROUNDS FOR SUSPICION - [1.5]

1. Reasonable suspicion does not require certainty that an unlawful article is being carried; nor does the officer concerned have to be satisfied of this beyond reasonable doubt. Reasonable suspicion, in contrast to mere suspicion must be founded on fact. There must be some concrete basis for the officer's suspicion, related to the individual person concerned, which can be considered and evaluated by an objective third person. Mere suspicion, in contrast, is a hunch or instinct which cannot be explained or justified to an objective observer. An officer who has such a hunch or instinct may well be justified in continuing to keep the person under observation or speak to him, but additional grounds which bring up mere suspicion to the level of reasonable suspicion are needed before he may exercise the powers dealt with in this code.

2. Reasonable suspicion may arise from the nature of the property observed or being carried or suspected of being carried coupled with other factors including the time, the place of the suspicious behaviour of the person concerned or those with him. The decision to search must be based on all the facts which, to a careful officer, bear on the likelihood that an article of a certain kind will be found, and not only on what can be seen at the time. So an officer with prior knowledge of the behaviour of someone he sees in a certain situation, or acting on information received (such as a description of a suspected offender) may have reasonable grounds for searching him although another officer would not.

3. Reasonable suspicion cannot be supported on the basis simply of a higher than average chance that the person has committed or is committing an offence, for example because he belongs to a group within which offenders of a certain kind are relatively common, or because of a combination of factors such as these. For example, a person's colour of itself can never be a reasonable ground for suspicion. The mere fact alone that a person is carrying a particular kind of property or is dressed in a certain way or has a certain hairstyle is likewise not of itself sufficient. Nor is the fact that a person is known to have a previous conviction for unlawful possession of an article.

4. The degree or level of suspicion required to establish the reasonable grounds justifying the exercise of powers of stop and search is no less than the degree or level of suspicion required to effect an arrest without warrant for any of the suspected offences to which these powers relate. The powers of stop and search provide an opportunity to establish the commission or otherwise of certain kinds of offences without arrest and may therefore render arrest unnecessary.

5. Paragraph 4 above is subject to the principle that where a police officer has reasonable grounds to suspect that a person is in innocent possession of a stolen or prohibited article, the power of stop and search exists notwithstanding that there would be no power of arrest. However every effort should be made to secure the voluntary production of the article before the power is resorted to.

CRIMINAL JUSTICE ORDINANCE (Title 24.1)

CODE OF PRACTICE B

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THE SEARCHING OF PREMISES BY POLICE OFFICERS
AND THE SEIZURE OF PROPERTY
FOUND BY POLICE OFFICERS ON PERSONS OR PREMISES

CODE OF PRACTICE B

THE SEARCHING OF PREMISES BY POLICE OFFICERS AND THE SEIZURE OF PROPERTY FOUND BY POLICE OFFICERS ON PERSONS OR PREMISES

1. General.

1.1 This code of practice must be readily available at all police stations for consultation by police officers, detained persons and members of the public.

1.2 The notes for guidance are not provisions of this code, but are guidance to police officers and others about its application and interpretation.

1.3 This code applies to the following searches of premises:

(a) searches of premises undertaken for the purposes of an investigation into an alleged offence, with the occupier's consent, other than routine scenes of crime searches and searches following the activation of burglar or fire alarms or bomb threat calls;

(b) searches of premises under the powers conferred by section 188, 189 and 205 of the Criminal Justice Ordinance (Title 24.1);

(c) searches of premises undertaken in pursuance of a search warrant issued in accordance with section 186 of that Ordinance.

'Premises' is a wide term which may include vessels and, in certain circumstances, vehicles.

2. Search warrants and production orders.

Action to be taken before an application is made.

2.1 Where information is received which appears to justify an application, the officer concerned must take reasonable steps to check that the information is accurate, recent and has not been provided maliciously or irresponsibly. An application may not be made on the basis of information from an anonymous source where corroboration has not been sought.

2.2 The officer shall ascertain as specifically as is possible in the circumstances the natures of the articles concerned and their location.

2.3 The officer shall also make enquiries to establish what, if anything, is known about the likely occupier of the premises and the nature of the premises themselves; and whether they have been previously searched and if so how recently; and to obtain any other information relevant to the application.

2.4 No application for a search warrant may be made without the authority of an officer of at least the rank of inspector (or, in a case of urgency where no officer of this rank is readily available, the senior officer on duty). No application for a production order or warrant under Schedule 5 to the Criminal Justice Ordinance (Title 24.1) may be made without the authority of the Chief Police Officer.

2.5 Except in a case of urgency, if there is reason to believe that a search might have an adverse effect on relations between the police and the community then the Chief Police Officer shall be consulted before it takes place.

Making an application.

2.6 An application for a search warrant must be supported by an information in writing, stating:

- (i) the enactment under which the application is made;
- (ii) as specifically as is reasonably practicable the premises to be searched and the object of the search; and
- (iii) the grounds on which the application is made (including, where the purpose of the proposed search is to find evidence of an alleged offence, an indication of how the evidence relates to the investigation).

2.7 An application for a search warrant under paragraph 12(a) of Schedule 5 to the Criminal Justice Ordinance (Title 24.1) shall also, where appropriate, indicate why it is believed that service of notice of an application for a production order may seriously prejudice the investigation.

2.8 If an application is refused, no further application may be made for a warrant to search those premises unless supported by additional grounds.

Note for Guidance.

2A. The identity of an informant need not be disclosed when making an application, but the officer concerned should be prepared to deal with any questions the magistrate or judge may have about the accuracy of previous information provided by that source or other related matters.

3. Entry without warrant.

Making an arrest etc.

3.1 The conditions under which an officer may enter and search premises without warrant are as set out in section 188 of the Criminal Justice Ordinance (Title 24.1).

Search after arrest of premises in which arrest takes place.

3.2 The powers of an officer to search premises in which he has arrested a person are as set out in section 205 of the Criminal Justice Ordinance (Title 24.1).

Search after arrest of premises of arrested person.

3.3 The powers of an officer to search premises occupied or controlled by a person who has been arrested for an arrestable offence are as set out in Section 189 of the Criminal Justice Ordinance (Title 24.1). The record of the search required by section 189(7) of the Ordinance shall be made in the custody record, where there is one.

4. Search with consent.

4.1 Subject to paragraph 4.3 below, if it is proposed to search premises with the consent of a person entitled to grant entry to the premises the consent must be given in writing. [See note 4B]

4.2 Before seeking consent the officer in charge of the search shall state the purpose of the proposed search and inform the person concerned that he is not obliged to consent and that anything seized may be produced in evidence. If at the time the person is not suspected of an offence, the officer shall tell him so when stating the purpose of the search.

4.3 It is unnecessary to seek consent under paragraphs 4.1 and 4.2 above where in the circumstances this would cause disproportionate inconvenience to the person concerned. [See Note 4C]

Notes for Guidance.

4A. In the case of a lodging house or similar accommodation a search should not be made on the basis solely of the landlord's consent unless the tenant is unavailable and the matter is urgent.

4B. Where it is intended to search premises under authority of a warrant or a power of entry and search without warrant, and cooperation of the occupier of the premises is obtained in accordance with paragraph 5.4 below, there is no additional requirement to obtain written consent as at paragraph 4.1 above.

4C. Paragraph 4.3 is intended in particular to apply, for example to circumstances where police have arrested someone in the night after a pursuit and it is necessary to make a brief check of gardens along the route of the pursuit to see whether stolen or incriminating articles have been discarded.

5. Searching of premises:- general considerations.

Time of searches.

5.1 Searches made under warrant must be made within one month from the date of issue of the warrant.

5.2 Searches must be made at a reasonable hour unless this might frustrate the purpose of the search. [See note 5A]

5.3 A warrant authorises an entry on one occasion only.

Entry other than with consent.

5.4 The officer in charge shall first attempt to communicate with the occupier or any other person entitled to grant access to the premises by explaining the authority under which he seeks entry to the premises and ask the occupier to allow him to do so, unless :

- (i) the premises to be searched are known to be unoccupied;

(ii) the occupier and any other person entitled to grant access are known to be absent; or

(iii) there are reasonable grounds for believing that to alert the occupier or any other person entitled to grant access by attempting to communicate with him would frustrate the object of the search or endanger the officers concerned or other persons.

5.5 Where the premises are occupied the officer shall identify himself and, if not in uniform, show his warrant card; and state the purpose of the search and the grounds for undertaking it, before a search begins.

5.6 Reasonable force may be used if necessary to enter premises if the officer in charge is satisfied that the premises are those specified in any warrant or other written authority and where:

(i) the occupier or any other person entitled to grant access has refused a request to allow entry to his premises;

(ii) it is impossible to communicate with the occupier or any other person entitled to grant access; or

(iii) any of the provisions of sub-paragraphs 5.4(i) to (iii) apply.

5.7 Where the search is to be made under warrant the occupier shall, if present, be given a copy of it. If he is not present the copy shall be left in a prominent place on the premises. The warrant itself shall be endorsed to show that this has been done.

Conduct of searches.

5.8 Premises may be searched only to the extent necessary to achieve the object of the search, having regard to the size and nature of whatever is sought. A search under warrant may not continue under the authority of that warrant once all the things specified in it have been found, or the officer in charge of the search is satisfied that they are not on the premises.

5.9 Searches must be conducted with due consideration for the property and privacy of the occupier of the premises searched, and with no more disturbance than necessary. Reasonable force may be used only where this is necessary because the co-operation of the occupier cannot be obtained or is insufficient for the purpose.

5.10 If the occupier wishes to ask a friend, neighbour or other person to witness the search then he must be allowed to do so, unless the officer in charge has reasonable grounds for believing that this would seriously hinder the investigation. A search need not be delayed for this purpose unreasonably.

Leaving premises.

5.11 If premises have been entered by force the officer in charge shall, before leaving them, satisfy himself that they are secure either by arranging for the occupier or his agent to be present or by any other appropriate means.

Search under Schedule 5 to the Criminal Justice Ordinance (Title 24.1).

5.12 An officer nominated by the Chief Police Officer shall take charge of and be present at any search under a warrant issued under this Schedule. He is responsible for ensuring that the search is conducted with discretion and in such a manner as to cause the least possible disruption to any business or other activities carried on in the premises.

5.13 After satisfying himself that material may not be taken from the premises without his knowledge, the officer in charge of the search shall ask for the documents or other records concerned to be produced. He may also, if he considers it to be necessary, ask to see the index to files held on the premises if there is one; and the officers conducting the search may inspect any files which, according to the index, appear to contain any of the material sought. A more extensive search of the premises may be made only if the person responsible for them refuses to produce the material sought, or to allow access to the index; if it appears that the index is inaccurate or incomplete; or if for any other reason the officer in charge has reasonable grounds for believing that such a search is necessary in order to find the material sought. [See Note 5B]

Notes for Guidance.

5A. In determining at what time to make a search, the officer in charge should have regard, among other considerations, to the times of day at which the occupier of the premises is likely to be present, and should not search at a time when he, or any other person on the premises, is likely to be asleep unless not doing so is likely to frustrate the purpose of the search.

5B. In asking for documents to be produced in accordance with paragraph 5.13 above, officers should direct the request to a person in authority and with responsibility for the documents.

5C. If the wrong premises are searched by mistake, everything possible should be done at the earliest opportunity to allay any sense of grievance. In appropriate cases assistance should be given to obtain compensation.

6. Seizure and retention of property.

Seizure.

6.1 Subject to paragraph 6.2 below, an officer who is searching any premises under any statutory power or with the consent of the occupier may seize:

(a) anything covered by a warrant; and

(b) anything which he has reasonable grounds for believing is evidence of an offence or has been obtained in consequence of the commission of an offence.

Items under (b) may only be seized where this is necessary to prevent their concealment, alteration, loss, damage or destruction.

6.2 No item may be seized which is subject to legal privilege (as defined in section 181 of the Criminal Justice Ordinance (Title 24.1)).

6.3 An officer who decides that it is not appropriate to seize property because of an explanation given by the person holding it, but who has reasonable grounds for believing that it has been obtained in consequence of the commission of an offence by some person, shall inform the holder of his suspicions and shall explain that, if he disposes of the property, he may be liable to civil or criminal proceedings.

6.4 An officer may photograph or copy, or have photographed or copied, any document or other article which he has power to seize in accordance with paragraph 6.1 above.

6.5 Where an officer considers that a computer may contain information that could be used in evidence, he may require the information to be produced in a form that can be taken away and in which it is visible and legible.

Retention.

6.6 Subject to paragraph 6.7 below anything which has been seized in accordance with the above provisions may be retained only for as long as is necessary in the circumstances. It may be retained, among other purposes:

- (i) for use as evidence at a trial for an offence;
- (ii) for forensic examination or for other investigation in connection with an offence; or
- (iii) where there are reasonable grounds for believing that it has been stolen or obtained by the commission of an offence, in order to establish its lawful owner.

6.7 Property shall not be retained in accordance with subparagraphs 6.6(i) and (ii) (i.e. for use as evidence or for the purposes of investigation) if a photograph or copy would suffice for those purposes.

Rights of owners etc.

6.8 If property is retained the person who had custody or control of it immediately prior to its seizure must on request, be provided with a list or description of the property within a reasonable time.

6.9 He or his representative must be allowed supervised access to the property to examine it or have it photographed or copied, or must be provided with a photograph or copy, in either case within a reasonable time of any request and at his own expense, unless the officer in charge of an investigation has reasonable grounds for believing that this would prejudice the investigation of an offence or any criminal proceedings. In this case a record of the grounds must be made.

Note for Guidance.

6A. Any person claiming property seized by the police may apply to a magistrates' court under the Police Ordinance (No 6 of 2000) for its possession, and should, where appropriate, be advised of this procedure.

7. Action to be taken after searches.

7.1 Where premises have been searched in circumstances to which this code applies, other than in the circumstance covered by paragraph 4.3 above, the officer in charge of the search shall, on arrival at a police station, make or have made a record of the search. The record shall include:

- (i) the address of the premises searched;
- (ii) the date, time and duration of the search;
- (iii) the authority under which the search was made. Where the search was made in the exercise of a statutory power to search premises without warrant, the record shall include the power under which the search was made; and where the search was made under warrant, or with written consent, a copy of the warrant or consent shall be appended to the record or kept in a place identified in the record;
- (iv) the names of the officers who conducted the search;
- (v) the names of any persons on the premises if they are known;
- (vi) either a list of any articles seized or a note of where such a list is kept and, if not covered by a warrant, the reason for their seizure;
- (vii) whether force was used and, if so, the reason why it was used;
- (viii) details of any damage caused during the search, and the circumstances in which it was caused.

7.2 Where premises have been searched under warrant, the warrant shall be endorsed to show:

- (i) whether any articles specified in the warrant were found;
- (ii) whether any other articles were seized;
- (iii) the date and time at which it was executed;
- (iv) the names of the officers who executed it; and
- (v) whether a copy was handed to the occupier or left on the premises and if so where on them.

7.3 Any warrant which has been executed or which has not been executed within one month of its issue shall be returned to the clerk to the justices.

8. Search registers.

8.1 A search register shall be maintained at police headquarters. All records which are required to be made by this code shall be made, copied or referred to in the register.

CRIMINAL JUSTICE ORDINANCE (Title 24.1)

CODE OF PRACTICE C

-0-

THE DETENTION, TREATMENT AND QUESTIONING BY POLICE OFFICERS
OF PERSONS SUSPECTED OF CRIME

CODE OF PRACTICE C

THE DETENTION, TREATMENT AND QUESTIONING BY POLICE OFFICERS OF PERSONS SUSPECTED OF CRIME

1. General.

1.1 All persons in custody must be dealt with expeditiously, and released as soon as the need for detention has ceased to apply.

1.2 This code of practice must be readily available at all police stations for consultation by police officers, detained persons and members of the public.

1.3 The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to this code are provisions of this code.

1.4 If an officer has any suspicion, or is told in good faith, that a person of any age may be mentally ill or mentally handicapped, or mentally incapable of understanding the significance of questions put to him or his replies, then that person shall be treated as a mentally ill or mentally handicapped person for purposes of this code.

1.5 If anyone appears to be under the age of 17 then he shall be treated as a juvenile for the purposes of this code in the absence of clear evidence to show that he is older.

1.6 If a person appears to be blind or seriously visually handicapped, deaf, unable to read or unable to communicate orally with the officer dealing with him at the time, he should be treated as such for the purposes of this code in the absence of clear evidence to the contrary.

1.7 In this code 'the appropriate adult' means:

(a) in the case of a juvenile:

(i) his parent or guardian (or, if he is in care, the care authority or organisation);

(ii) a social worker; or

(iii) failing either of the above, another responsible adult who is not a police officer or employed by the police.

(b) in the case of a person who is mentally ill or mentally handicapped:

(i) a relative, guardian or other person responsible for his care or custody;

(ii) someone who has experience of dealing with mentally ill or mentally handicapped persons but is not a police officer or employed by the police; or

(iii) failing either of the above, some other responsible adult who is not a police officer or employed by the police. [See Note 1C]

1.8 Whenever this code requires a person to be given certain information he does not have to be given it if he is incapable at the time of understanding what is said to him or is violent or likely to become violent or is in urgent need of medical attention, but he must be given it as soon as practicable.

1.9 Any reference to a responsible officer in this code includes an officer who is performing the functions of a responsible officer.

1.10 In its application to persons who are in custody at police stations, this code applies whether or not they have been arrested for an offence, except section 16 which applies solely to persons in police detention.

Notes for Guidance.

1A. Although certain sections of this code (e.g. section 9 - treatment of detained persons) apply specifically to persons in custody at police stations, those there voluntarily to assist with an investigation should be treated with no less consideration (e.g. offered refreshments at appropriate times) and enjoy an absolute right to obtain legal advice or communicate with anyone outside the police station.

1B. This code does not affect the principle that all citizens have a duty to help police officers to prevent crime and discover offenders. This is a civic rather than a legal duty; but when a police officer is trying to discover whether, or by whom, an offence has been committed, he is entitled to question any person from whom he thinks useful information can be obtained, subject to the restrictions imposed by this code. A person's declaration that he is unwilling to reply does not alter this entitlement.

1C. In the case of persons who are mentally ill or mentally, handicapped, it may in certain circumstances be more satisfactory for all concerned if the appropriate adult is someone who has experience or training in their care rather than a relative lacking such qualifications. But if the person himself prefers a relative to a better qualified stranger his wishes should if practicable be respected.

2. Custody records.

2.1 A separate custody record must be opened as soon as practicable for each person who is brought to a police station under arrest or is arrested at the police station having attended there voluntarily. All information which has to be recorded under this code must be recorded as soon as practicable, in the custody record unless otherwise specified.

2.2 In the case of any action requiring the authority of an officer of a specified rank, his name and rank must be noted in the custody record.

2.3 The responsible officer is responsible for the accuracy and completeness of the custody record and for ensuring that the record or a copy of the record accompanies a detained person if he is transferred to another police station. The record shall show the time of and reason for transfer and the time a person is released from detention.

2.4 When a person leaves police detention he or his legal representative shall be supplied on request with a copy of the custody record as soon as practicable. This entitlement lasts for twelve months after his release. [See Note 2A]

2.5 All entries in custody and written interview records must be timed and signed by the maker.

2.6 Any refusal by a person to sign either a custody or an interview record when asked to do so in accordance with the provisions of this code must itself be recorded.

Note for Guidance.

2A. The person who has been detained, the appropriate adult, or legal representative who gives reasonable notice of a request to inspect the original custody record after the person has left police detention, should be allowed to do so.

3. Initial action.

Detained persons:- normal procedure.

3.1 When a person is brought to a police station under arrest or is arrested at the police station having attended there voluntarily, the responsible officer must inform him of the following rights and of the fact that they need not be exercised immediately:

- (i) the right to have someone informed of his arrest in accordance with section 5 below;
- (ii) the right to consult a solicitor in accordance with section 6 below; and
- (iii) the right to consult this and the other codes of practice.

[See Note 3D]

3.2 The responsible officer must also give the person a written notice setting out the above three rights, the right to a copy of the custody record in accordance with paragraph 2.4 above and the caution in the terms prescribed in section 10 below. The custody officer shall ask the person to sign the custody record to acknowledge receipt of this notice.

[See Note 3E]

3.3 If the responsible officer authorises a person's detention he must inform him of the grounds as soon as practicable and in any case before that person is then questioned about any offence.

3.4 The person shall be asked to sign on the custody record to signify whether or not he wants legal advice at this point.

Detained persons:- special groups.

3.5 If the person does not understand English or appears to be deaf and the responsible officer cannot communicate with him then the responsible officer must as soon as practicable call an interpreter, and ask him to provide the information required above.

3.6 If the person is a juvenile, is mentally handicapped or is suffering from mental illness then the responsible officer must as soon as practicable inform the appropriate adult of the grounds for his detention and his whereabouts, and ask the adult to come to the police station to see the person. If the appropriate adult is already at the police station when information is given to the person as required in paragraphs 3.1 to 3.3 above then the information must be given to the detained person in his presence. If the appropriate adult is not at the police station when the information is given then the information must be given to the detained person again in the presence of the appropriate adult once that person arrives.

3.7 If the person is blind or seriously visually handicapped or is unable to read, the responsible officer should ensure that his solicitor, relative, the appropriate adult or some other person likely to take an interest in him is available to help in checking any documentation. Where this code requires written consent or signification, then the person who is assisting may be asked to sign instead if the detained person so wishes. [See Note 3F]

3.8 In the case of a juvenile who is known to be subject to a supervision order, reasonable steps must also be taken to notify the person supervising him.

Persons attending a police station voluntarily.

3.9 Any person attending a police station voluntarily for the purpose of assisting with an investigation may leave at will unless placed under arrest. If it is decided that he would not be allowed to do so then he must be informed at once that he is under arrest and brought before the responsible officer. If he is not placed under arrest but is cautioned in accordance with section 10 below, the officer who gives the caution must at the same time inform him that he is not under arrest, that he is not obliged to remain at the police station but that if he remains at the police station he may obtain legal advice if he wishes.

[See Note 3G]

Documentation.

3.10 The grounds for a person's detention shall be recorded, in his presence if practicable.

3.11 Action taken under paragraphs 3.5 to 3.8 shall be recorded.

Notes for Guidance.

3A. If the juvenile is in the care of a local authority or voluntary organisation but is living with his parents or other adults responsible for his welfare then, although there is no legal obligation on the police to inform them, they as well as the authority or organisation should normally be contacted unless suspected of involvement in the offence concerned. Even if a juvenile in care is not living with his parents, consideration should be given to informing them as well.

3B. Section 7 of this code contains special additional provisions for Commonwealth citizens and foreign nationals.

3C. Most local authority Social Services Departments can supply a list of interpreters who have necessary skills and experience to interpret for the deaf at police interviews.

3D. The right to consult the codes of practice under paragraph 3.1 above does not entitle the person concerned to delay unreasonably, necessary investigative or administrative action while he does so.

3E. When the responsible officer gives the person a copy of the notice referred to in paragraph 3.2, he should also give him a copy of a notice explaining the arrangements for obtaining legal advice.

3F. Blind or seriously visually handicapped persons may be unwilling to sign police documents. The alternative of their representative signing on their behalf seeks to protect the interests of both police and suspects.

3G. If a person who is attending a police station voluntarily (in accordance with paragraph 3.9) asks about his entitlement to legal advice, he should be given a copy of a notice explaining the arrangements for obtaining legal advice.

4. Detained persons' property.

Action.

4.1 The responsible officer is responsible for:

(a) ascertaining:

(i) what property a detained person has with him when he comes to the police station (whether on arrest, re-detention on answering to bail, commitment to prison custody on the order or sentence of a court, on lodgement at the police station with a view to his production in court from such custody, or on arrival at a police station on transfer from detention at another station or from hospital);

(ii) what property he might have acquired for an unlawful or harmful purpose while in custody.

(b) the safekeeping of any property which is taken from him and which remains at the police station.

To these ends the responsible officer may search him or authorise his being searched to the extent that he considers necessary (provided that a search of intimate parts of the body or involving the removal of more than outer clothing may only be made in accordance with Annex A to this code). A search may only be carried out by an officer of the same sex as the person searched.

[See Note 4A]

4.2 A detained person may retain clothing and personal effects at his own risk unless the responsible officer considers that he may use them to cause harm to himself or others, interfere with evidence, damage property or effect an escape or they are needed as evidence. In this event the responsible officer can withhold such articles as he considers necessary. If he does so he must tell the person why.

4.3 Personal effects are those items which a person may lawfully need to use or refer to while in detention but do not include cash and other items of value.

Documentation.

4.4 The responsible officer is responsible for recording all property brought to the police station that a detained person had with him, or had taken from him on arrest. The detained person shall be allowed to check and sign the record of property as correct.

4.5 If a detained person is not allowed to keep any article of clothing or personal effects the reason must be recorded.

Notes for Guidance.

4A. Paragraph 4.1 is not to be taken as requiring each detained person to be searched. Where for example a person is to be detained for only a short period and is not to be placed in a cell, the responsible officer may at his discretion decide not to search the person. In such a case the custody record will be endorsed "not searched", paragraph 4.4 will not apply, and the person will be invited to sign the entry. Where the person detained refuses to sign, the responsible officer will be obliged to ascertain what property he has on him in accordance with paragraph 4.1.

4B. Paragraph 4.4 does not require the responsible officer to record on the custody record, property in the possession of the person on arrest, if by virtue of its nature, quantity or size, it is not practicable to remove it to the police station.

4C. Paragraph 4.1 above is not to be taken as requiring that items of clothing worn by the person be recorded unless withheld by the custody officer in accordance with paragraph 4.2.

5. Right not to be held incommunicado.

Action.

5.1 Any person to whom paragraphs 2.1 and 3.9 apply may on request have one person known to him or who is likely to take an interest in his welfare informed at public expense as soon as practicable of his whereabouts. If the person cannot be contacted the responsible officer has discretion to allow further attempts until the information has been conveyed. [See Notes 5C and 5D]

5.2 The exercise of the above right in respect of each of the persons nominated may be delayed only in accordance with Annex B to this code.

5.3 The above right may be exercised on each occasion that a person is taken to another police station.

5.4 The person may receive visits at the responsible officer's discretion. [See Note 5B]

5.5 Where an enquiry as to the whereabouts of the person is made by a friend, relative person with an interest in his welfare, this information shall be given, if he agrees and if Annex B does not apply. [See Note 5D]

5.6 The person shall be supplied on request with writing materials. Any letter or other message shall be sent as soon as practicable unless Annex B applies.

5.7 He may also speak on the telephone for a reasonable time to one person unless Annex B applies. [See Note 5E]

5.8 Before any letter or message is sent, or telephone call made, the person shall be informed that what he says in any letter, call or message (other than in the case of a communication to a solicitor) may be read or listened to as appropriate and may be given in evidence. A telephone call may be terminated if it is being abused. The costs can be at public expense at the discretion of the responsible officer.

Documentation.

5.9 A record must be kept of:

- (a) any request made under this section and the action taken on it;
- (b) any letters or messages sent, calls made or visits received; and
- (c) any refusal on the part of a person to have information about himself or his whereabouts given to an outside enquirer.

Notes for Guidance.

5A. An interpreter may make a telephone call or write a letter on a person's behalf.

5B. In the exercise of his discretion the responsible officer should allow visits where possible in the light of the availability of sufficient manpower to supervise a visit and any possible hindrance to the investigation.

5C. If the person does not know of anyone to contact for advice or support or cannot contact a friend or relative, the responsible officer should bear in mind any local voluntary bodies or other organisations who might be able to offer help in such cases. But if it is specifically legal advice that is wanted, then paragraph 6.1 below will apply.

5D. In some circumstances it may not be appropriate to use the telephone to disclose information under paragraphs 5.1 and 5.5 above.

5E. The telephone call at paragraph 5.7 is in addition to any communication under paragraphs 5.1 and 6.1.

6. Right to legal advice.

Action.

6.1 Subject to paragraph 6.2, any person may at any time consult and communicate privately, whether in person, in writing or on the telephone with a solicitor. [See Note 6B]

6.2 The exercise of the above right may be delayed only in accordance with Annex B to this code.

6.3 A person who asks for legal advice may not be interviewed or continue to be interviewed until he has received it unless:

(a) Annex B applies; or

(b) an officer of the rank of inspector or above has reasonable grounds for believing that:

(i) delay will involve an immediate risk of harm to persons or serious loss of, or damage to property; or

(ii) where a solicitor has been contacted and has agreed to attend, awaiting his arrival would cause unreasonable delay to the processes of investigation; or

(c) the solicitor nominated by the person, or selected by him from a list:

(i) cannot be contacted;

(ii) has previously indicated that he does not wish to be contacted; or

(iii) having been contacted, has declined to attend;

and the person has declined to ask for an alternative solicitor; or

(d) the person has given his agreement in writing or on tape that the interview may be started at once.

[See Notes 6A and 6B]

6.4 Where sub-paragraph 6.3(b)(i) applies, once sufficient information to avert the risk has been obtained, questioning must cease until the person has received legal advice or subparagraphs 6.3(a), (b)(ii), (c) or (d) apply.

6.5 Where a person has been permitted to consult a solicitor and the solicitor is available at the time the interview begins or is in progress, he must be allowed to have his solicitor present while he is interviewed.

6.6 The solicitor may only be required to leave the interview if his conduct is such that the investigation officer is unable properly to put questions to the suspect. [See Note 6D]

6.7 If the investigating officer considers that a solicitor is acting in such a way, he will stop the interview and consult an officer not below the rank of inspector who is not connected with the investigation. After speaking to the solicitor, the officer who has been consulted will decide whether or not the interview should continue in the presence of that solicitor. If he decides that it should not, the suspect will be given the opportunity to consult another solicitor before the interview continues and that solicitor will be given an opportunity to be present at the interview.

6.8 The removal of a solicitor from an interview is a serious step and if it occurs, the officer of inspector rank or above who took the decision will consider whether the incident should be reported to The Law Society. If the decision to remove the solicitor has been taken by an officer below the rank of superintendent, the facts must be reported to an officer of superintendent rank or above who will similarly consider whether a report to The Law Society would be appropriate.

6.9 In this code 'solicitor' means a solicitor qualified to practise in accordance with Solicitors Act 1974. If a solicitor wishes to send a clerk or legal executive to provide advice on his behalf, then the clerk or legal executive shall be admitted to the police station for this purpose unless an officer of the rank of inspector or above considers that such a visit will hinder the investigation of crime and directs otherwise. Once admitted to the police station, the provisions of paragraphs 6.3 to 6.7 apply.

6.10 If the inspector refuses access to a clerk or legal executive or a decision is taken that such a person should not be permitted to remain at an interview, he must forthwith notify a solicitor on whose behalf the clerk or legal executive was to have acted or was acting, and given him an opportunity of making alternative arrangements.

Documentation.

6.11 Any request for legal advice and the action taken on it shall be recorded.

6.12 If a person has asked for legal advice and an interview is commenced in the absence of a solicitor or his representative (or the solicitor or his representative has been required to leave an interview) a record shall be made in the interview record.

Notes for Guidance.

6A. In considering whether sub-paragraphs 6.3(b)(i) and (ii) apply, the officer should where practicable ask the solicitor for an estimate of the time that he is likely to take in coming to the station, and relate this information to the time for which detention is permitted, the time of day (i.e. whether the period of rest required by paragraph 12.2 is imminent) and the requirements of other investigations in progress. If it appears that it will be necessary to begin an interview before the solicitor's arrival he should be given an indication of how long police would be able to wait before sub-paragraphs 6.3(b)(i) and (ii) apply so that he has an opportunity to make arrangements for legal advice to be provided by someone else.

6B. A person who asks for legal advice should be given an opportunity to consult a specific solicitor (for example, his own solicitor or one known to him). If advice is not available by these means, the person should be given an opportunity to choose a solicitor from a list of those willing to provide legal advice.

6C. Procedures undertaken under section 23 of the Road Traffic Ordinance (Title 63.1) do not constitute interviewing for the purposes of this code.

6D. In considering whether paragraph 6.6 applies, a solicitor is not guilty of misconduct if he seeks to challenge an improper question to his client or the manner in which it is put or he wishes to give his client further legal advice, and should not be required to leave an interview unless his interference with its conduct clearly goes beyond this.

6E. In a case where an officer takes the decision to exclude a solicitor, he must be in a position to satisfy the court that the decision was properly made. In order to do this he may need to witness what is happening himself.

7. Citizens of independent Commonwealth countries or foreign nationals.

Action.

7.1 A citizen of an independent Commonwealth country or a national of a foreign country (including the Republic of Ireland) may communicate at any time with his High Commission, Embassy or Consulate.

7.2 If a citizen of an independent Commonwealth country has been detained for more than 24 hours he must be asked if he wishes the police to inform his High Commission of his whereabouts and the grounds for his detention. If so, the responsible officer is responsible for ensuring that the High Commission is informed by telephone.

7.3 If a national of a foreign country with which a consular convention is in force is detained, the appropriate Consulate shall be informed as soon as practicable, subject to paragraph 7.6 below.

7.4 Any other foreign national who is detained must be informed as soon as practicable of his right to communicate with his consul if he so wishes. He must also be informed that the police will notify his consul of his arrest if he wishes.

7.5 Consular officers may visit one of their nationals who is in police detention to talk to him and, if required, to arrange for legal advice. Such visits shall take place out of the hearing of a police officer.

7.6 Notwithstanding the provisions of consular conventions, where the person is a political refugee (whether for reasons of race, nationality, political opinion or religion) or is seeking political asylum, a consular officer shall not be informed of the arrest of one of his nationals or given access to or information about him except at the person's express request.

Documentation.

7.7 A record shall be made when a person is informed of his rights under this section and of any communications with a High Commission, Embassy or Consulate.

Notes for Guidance.

7A. The exercise of the rights in this section may not be interfered with even though Annex B applies.

7B. A list of countries with which a consular convention is in force is set out in the Home Office Consolidated Circular to the Police on Crime and Kindred Matters.

7C. In the absence of High Commissions, Consulates or Embassies in the Falkland Islands, in those cases where a foreign national requests that his national authorities be advised of his circumstances, the matter is to be referred to Government House.

8. Conditions of detention.

Action.

8.1 So far as is practicable, not more than one person shall be detained in each cell.

8.2 Cells in use must be adequately heated, cleaned and ventilated. They must be adequately lit, subject to such dimming as is compatible with safety and security to allow persons detained overnight to sleep. No additional restraints should be used within a locked cell unless absolutely necessary, and then only approved handcuffs.

8.3 Blankets, mattresses, pillows and other bedding supplied should be of a reasonable standard and in a clean and sanitary condition. [See Note 8B]

8.4 Access to toilet and washing facilities must be provided.

8.5 If it is necessary to remove a person's clothes for the purposes of investigation, for hygiene or health reasons or for cleaning, replacement clothing of a reasonable standard of comfort and cleanliness shall be provided. A person may not be interviewed unless adequate clothing has been offered to him.

8.6 At least two light meals and one main meal shall be offered in any period of 24 hours. Whenever necessary, advice shall be sought from the duty doctor on medical or dietary matters. As far as practicable, meals provided shall offer a varied diet and meet any special dietary needs or religious beliefs that the person may have; he may also have meals supplied by his family or friends at his or their own expense. [See Note 8B]

8.7 Brief outdoor exercise shall be offered daily if practicable.

8.8 A juvenile shall not be placed in a police cell unless no other secure accommodation is available and the responsible officer considers that it is not practicable to supervise him if he is not placed in a cell. He may not be placed in a cell with a detained adult.

8.9 Reasonable force may be used if necessary for the following purposes:

- (i) to secure compliance with reasonable instructions, including instructions given in pursuance of the provisions of a code of practice; or
- (ii) to prevent escape, injury, damage to property or the destruction of evidence.

8.10 Persons detained should be visited every hour, and those who are drunk, every half hour. [See Note 8A]

Documentation.

8.11 A record must be kept of replacement clothing and meals offered.

8.12 If a juvenile is placed in a cell, the reason must be recorded.

Notes for Guidance.

8A. Whenever possible juveniles and other persons at risk should be visited more regularly.

8B. Reserved.

9. Treatment of detained persons.

General.

9.1 If a complaint is made by or on behalf of a detained person about his treatment since his arrest, or it comes to the notice of any officer that he may have been treated improperly, a report must be made as soon as practicable to an officer of the rank of inspector or above who is not connected with the investigation. If the matter concerns a possible assault or the possibility of the unnecessary or unreasonable use of force then the duty doctor must also be called as soon as practicable.

Medical treatment.

9.2 The responsible officer must immediately call the duty doctor (or, in urgent cases, send the person to hospital) if a person brought to a police station or already detained there:

- (a) appears to be suffering from physical or mental illness; or
- (b) is injured; or
- (c) does not show signs of sensibility and awareness or fails to respond normally to questions or conversation (other than through drunkenness alone); or
- (d) otherwise appears to need medical attention.

This applies even if the person makes no request for medical attention and whether or not he has recently had medical treatment elsewhere (unless brought to the police station direct from hospital). [See Note 9A]

9.3 If it appears to the responsible officer, or he is told, that a person brought to the police station under arrest may be suffering from an infectious disease of any significance he must take steps to isolate the person and his property until he has obtained medical directions as to where the person should be taken, whether fumigation should take place and what precautions should be taken by officers who have been or will be in contact with him.

9.4 If a detained person requests a medical examination the duty doctor must be called as soon as practicable. He may in addition be examined by a medical practitioner of his own choice at his own expense.

9.5 If a person is required to take or apply any medication in compliance with medical directions, the responsible officer is responsible for its safe keeping and for ensuring that he is given the opportunity to take or apply it at the appropriate times. No police officer may administer

controlled drugs subject to the Misuse of Drugs Ordinance (Title 49.3) for this purpose. A person may administer such drugs to himself only under the personal supervision of the duty doctor.

9.6 If a detained person has in his possession or claims to need medication relating to a heart condition, diabetes, epilepsy or a condition of comparable potential seriousness then, even though paragraph 9.2 may not apply, the advice of the duty doctor must be obtained.

Documentation.

9.7 A record must be made of any arrangements made for an examination by the duty doctor under paragraph 9.1 above and of any complaint reported under that paragraph together with any relevant remarks by the responsible officer.

9.8 A record must be kept of any request for a medical examination under paragraph 9.4, of the arrangements for any examination made, and of any medical directions to the police.

9.9 Subject to the requirements of section 4 above the custody record shall include not only a record of all medication that a detained person has in his possession on arrival at the police station but also a note of any such medication he claims he needs but does not have with him.

Notes for Guidance.

9A. The need to call the duty doctor need not apply to minor ailments.

9B. It is important to remember that a person who appears to be drunk or behaving abnormally may be suffering from illness or the effect of drugs or may have sustained injury (particularly head injury) which is not apparent, and that someone needing or addicted to certain drugs may experience harmful effects within a short time of being deprived of their supply. Police should therefore always call the duty doctor when in any doubt, and act with all due speed.

9C. If a medical practitioner does not record his clinical findings in the custody record, the record must show where they are recorded.

9D. All officers dealing with detained persons are of course under a duty to observe not only the above provisions but also those set out in the Police Discipline Code.

10. Cautions.

When a caution must be given.

10.1 A person whom there are grounds to suspect of an offence must be cautioned before any questions about it (or further questions if it is his answers to previous questions that provide grounds for suspicion) are put to him for the purpose of obtaining evidence which may be given to a court in a prosecution. He therefore need not be cautioned if questions are put for other purposes, for example, to establish his identity, his ownership of, or responsibility for, any vehicle or the need to search him in the exercise of powers of stop and search.

10.2 When a person who is not under arrest is initially cautioned before or during an interview at a police station or other premises he must at the same time be told that he is not under arrest, is not obliged to remain with the officer but that if he does, he may obtain legal advice if he wishes.

10.3 A person must be cautioned upon arrest for an offence unless:

- (a) it is impracticable to do so by reason of his condition or behaviour at the time; or
- (b) he has already been cautioned immediately prior to arrest in accordance with paragraph 10.1 above.

Action:- general.

10.4 The caution shall be in the following terms:

"You do not have to say anything unless you wish to do so, but what you say may be given in evidence."

Minor deviations do not constitute a breach of this requirement provided that the sense of the caution is preserved. [See Notes 10C and 10D]

10.5 When there is a break in questioning under caution the interviewing officer must ensure that the person being questioned is aware that he remains under caution. If there is any doubt the caution should be given again in full when the interview resumes. [See Note 10A]

Documentation.

10.6 A record shall be made when a caution is given under this section, either in the officer's pocket book or in the interview record as appropriate.

Notes for Guidance.

10A. In considering whether or not to caution again after a break, the officer should bear in mind that he may have to satisfy a court that the person understood that he was still under caution when the interview resumed.

10B. It is not necessary to give or repeat a caution when informing a person who is not under arrest that he may be prosecuted for an offence.

10C. If it appears that a person does not understand what the caution means, the officer who has given it should go on to explain it in his own words.

10D. In case anyone who is given a caution is unclear about its significance the officer concerned should explain that the caution is given in pursuance of the general principle of English law that a person need not answer any questions or provide any information which might tend to incriminate him and that no adverse inferences from this silence may be drawn at any trial that takes place. The person should not, however, be left with a false impression that non-cooperation will have no effect on his immediate treatment as, for example, his refusal to provide his name and address when charged with an offence may render him liable to detention.

11. Interview: - general.

Action.

11.1 No police officer may try to obtain answers to questions or to elicit a statement by the use of oppression, or shall indicate, except in answer to a direct question, what action will be taken on the part of the police. If the person being interviewed answers questions, makes a statement or refuses to do either. If the person asks the officer directly what action will be taken in the event of his answering questions, making a statement or refusing to do either, then the officer may inform the person what action the police propose to take in that event provided that that action is itself proper and warranted.

11.2 As soon as a police officer who is making enquiries of any person about an offence believes that a prosecution should be brought against him and that there is sufficient evidence for it to succeed, he shall without delay cease to question him.

Interview records.

11.3 (a) An accurate record must be made of each interview with a person suspected of an offence, whether or not the interview takes place at a police station.

(b) If the interview takes place in the police station or other premises:

(i) the record must state the place of the interview, the time it begins and ends, the time the record is made (if different), any breaks in the interview and the names of all those present; and must be made on the forms provided for this purpose or in the officer's pocket book or in accordance with the code of practice for the tape recording of police interviews with suspects;

(ii) the record must be made during the course of the interview, unless in the investigating officer's view this would not be practicable or would interfere with the conduct of the interview, and must constitute either a verbatim record of what has been said or, failing this, an account of the interview which adequately and accurately summarises it.

11.4 If an interview record is not made during the course of the interview it must be made as soon as practicable after its completion.

11.5 Written interview records must be timed and signed by the maker.

11.6 If an interview record is not completed in the course of the interview the reason must be recorded in the officer's pocket book.

11.7 Any refusal by a person to sign an interview record when asked to do so in accordance with the provisions of this code must itself be recorded.

12. Interviews in police stations.

Action.

12.1 If a police officer wishes to interview, or conduct enquiries which require the presence of, a detained person the responsible officer is responsible for deciding whether to deliver him into his custody.

12.2 In any period of 24 hours a detained person must be allowed a continuous period of at least 8 hours for rest, free from questioning, travel or any interruption arising out of the investigation concerned. This period should normally be at night. The period of rest may not be interrupted or delayed unless there are reasonable grounds for believing that it would:

- (i) involve a risk of harm to persons or serious loss of, or damage to, property;
- (ii) delay unnecessarily the person's release from custody; or
- (iii) otherwise prejudice the outcome of the investigation.

If a person is arrested at a police station after going there voluntarily, the period of 24 hours runs from the time of his arrest. (CJO s.156)

12.3 A detained person may not be supplied with intoxicating liquor except on medical directions. No person who is unfit through drink or drugs to the extent that he is unable to appreciate the significance of questions put to him and his answers may be questioned about an alleged offence in that condition except in accordance with Annex C. [See Note 12C]

12.4 As far as practicable interviews shall take place in interview rooms which must be adequately heated, lit and ventilated.

12.5 Persons being questioned or making statements shall not be required to stand.

12.6 Before the commencement of an interview each interviewing officer shall identify himself and any other officers present by name and rank to the person being interviewed.

12.7 Breaks from interviewing shall be made at recognised meal times. Short breaks for refreshment shall also be provided at intervals of approximately two hours, subject to the interviewing officer's discretion to delay a break if there are reasonable grounds for believing that it would:

- (i) involve a risk of harm to persons or serious loss of, or damage to, property;
- (ii) delay unnecessarily the person's release from custody; or
- (iii) otherwise prejudice the outcome of the investigation.

12.8 If in the course of the interview a complaint is made by the person being questioned or on his behalf, concerning the provisions of this code then the interviewing officer shall:

(i) record it in the interview record; and

(ii) inform the responsible officer, who is then responsible for dealing with it in accordance with section 9 of this code.

Documentation.

12.9 A record must be made of the times at which a detained person is not in the custody of the responsible officer, and why; and of the reasons for any refusal to deliver him out of that custody.

12.10 A record must be made of any intoxicating liquor supplied to a detained person, in accordance with paragraph 12.3 above.

12.11 Any decision to delay a break in an interview must be recorded, with grounds, in the interview record.

12.12 Where the person interviewed is in the police station at the time that a written record of the interview is made, he shall be given the opportunity to read it and to sign it as correct or to indicate the respect in this sole purpose. If the interview is tape recorded the arrangements set out in the relevant code of practice apply. [See Note 12B]

12.13 All written statements made at police stations under caution shall be written on the forms provided for this purpose.

12.14 All written statements made under caution shall be taken in accordance with Annex D to this code.

12.15 Where the appropriate adult or another third party is present at an interview and is still in the police station at the time that a written record of the interview is made, he shall be asked to read it (or any written statement taken down by a police officer) and sign it as correct or to indicate the respects in which he considers it inaccurate. If the person refuses to read or sign the record as accurate or to indicate the respect in which he considers it inaccurate, the senior officer present shall record on the record itself, in the presence of the person concerned, what has happened. If the interview is tape recorded the arrangements set out in the relevant code of practice apply.

Notes for Guidance.

12A. The purpose of any interview is to obtain from the person concerned his explanation of the facts, and not necessarily to obtain an admission.

12B. If the interview has been contemporaneously recorded and the record signed by the person interviewed in accordance with paragraph 12.12 above, or has been tape recorded, it is normally unnecessary to ask for a written statement. Statements under caution should normally be taken in these circumstances only at the person's express wish. An officer may, however, ask him whether or not he wants to make such a statement.

12C. The duty doctor can give advice about whether or not a person is fit to be interviewed in accordance with paragraph 12.3 above.

13. Persons at risk:- juveniles, and those who are mentally ill or mentally handicapped.

13.1 A juvenile or a person who is mentally ill or mentally handicapped, whether suspected or not, must not be interviewed or asked to provide or sign a written statement in the absence of the appropriate adult unless Annex C applies. If he is cautioned in accordance with section 10 above in the absence of the appropriate adult, the caution must be repeated in the adult's presence (unless the interview has by then already finished).

13.2 If, having been informed of the right to legal advice under paragraph 3.6 above, the appropriate adult considers that legal advice should be taken, then the provisions of section 6 of this code apply.

13.3 Juveniles may only be interviewed at their places of education in exceptional circumstances and then only where the principal or his nominee agrees and is present.

Notes for Guidance.

13A. Where the parents or guardians of a person at risk are themselves suspected of involvement in the offence concerned, or are the victims of it, it may be desirable for the appropriate adult to be some other person.

13B. It is important to bear in mind that, although juveniles or persons who are mentally ill or mentally handicapped are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self-incriminating. Special care should therefore always be exercised in questioning such a person, and the appropriate adult involved, if there is any doubt about a person's age, mental state or capacity. Because of the risk of unreliable evidence it is also important to obtain corroboration of any facts admitted whenever possible.

13C. The appropriate adult should be informed that he is not expected to act simply as an observer. The purposes of his presence are, first, to advise the person being questioned and to observe whether or not the interview is being conducted properly and fairly; and, secondly, to facilitate communication with the person being interviewed.

13D. A juvenile should not be arrested at his place of education unless this is unavoidable. In this case the principal or his nominee must be informed.

14. Interpreters.

Foreign languages.

14.1 Unless Annex C applies, a person must not be interviewed in the absence of a person capable of acting as interpreter if:

- (a) he has difficulty in understanding English;

(b) the interviewing officer cannot himself speak the person's own language; and

(c) the person wishes an interpreter to be present.

14.2 The interviewing officer shall ensure that the interpreter makes a note of the interview at the time in the language of the person being interviewed for use in the event of his being called to give evidence, and certifies its accuracy. The person shall be given an opportunity to read it or have it read to him and sign it as correct or to indicate the respects in which he considers it inaccurate. If the interview is tape recorded the arrangements set out in the relevant code of practice apply.

14.3 In the case of a person making a statement in a language other than English:

(a) the interpreter shall take down the statement in the language in which it is made;

(b) the person making the statement shall be invited to sign it; and

(c) an official English translation shall be made in due course.

The deaf.

14.4 If a person is deaf or there is doubt about his hearing ability, he must not be interviewed in the absence of an interpreter unless he agrees in writing to be interviewed without one or Annex C applies. (Information on obtaining the services of a suitably qualified interpreter for the deaf is given in Note for Guidance 3C.)

14.5 The interviewing officer shall ensure that the interpreter makes a note of the interview at the time for use in the event of his being called to give evidence and certifies its accuracy. The person shall be given an opportunity to read it and sign it as correct or to indicate the respects in which he considers it inaccurate.

Additional rules for detained persons.

14.6 All reasonable attempts should be made to make clear to the detained person that interpreters will be provided at public expense.

14.7 Where paragraph 6.1 applies and the person concerned cannot communicate with the solicitor, whether because of language or hearing difficulties, an interpreter must be called. The interpreter may not be a police officer when interpretation is needed for the purposes of obtaining legal advice. In all other cases a police officer may only interpret if he first obtains the detained person's (or the appropriate adult's) agreement in writing or if the interview is tape recorded in accordance with the relevant code of practice.

14.8 When a person who has difficulty in understanding English is charged with an offence, and the custody officer cannot himself speak the person's language, arrangements must also be made for an interpreter to explain as soon as practicable the offence concerned and any other information given by the responsible officer.

Documentation.

14.9 Action taken to call an interpreter under this section and any agreement to be interviewed in the absence of an interpreter must be recorded.

Note for Guidance.

14A. If the interpreter is needed as a prosecution witness at the person's trial, a second interpreter must act as the court interpreter.

15. Questioning:- special restrictions.

15.1 Reserved.

15.2 If a person is in police detention at a hospital he may not be questioned without the agreement of a responsible doctor. [See Note 15A]

Note for Guidance.

15A. If questioning takes place at a hospital under paragraph 15.2 (or on the way to or from a hospital) the period concerned counts towards the total period of detention permitted.

16. Reviews and extensions of detention.

Action.

16.1 The review officer is responsible under section 155 of the Criminal Justice Ordinance (Title 24.1) for determining whether or not a person's detention continues to be necessary. In reaching a decision he shall provide an opportunity to the detained person himself to make representations (unless he is unfit to do so because of his condition or behaviour) and to his solicitor or the appropriate adult if available at the time. Other persons having an interest in the person's welfare may make representations at the review officer's discretion.

16.2 The same persons may make representations to the officer determining whether further detention should be authorised under section 157 of the Ordinance.

Documentation.

16.3 The grounds for and extent of any delay in conducting a review shall be recorded.

16.4 Any written representations shall be retained.

16.5 A record shall be made as soon as practicable of the outcome of each review and application for a warrant of further detention or its extension.

Notes for Guidance.

16A. An application for a warrant of further detention or its extension should be made between 10 am and 9 pm and if possible during normal court hours. It will not be practicable to arrange

for a court to sit specially outside the hours of 10 am to 9 pm. If it appears possible that a special sitting may be needed (either at a weekend, Bank/Public Holiday or on a weekday outside normal court hours but between 10 am and 9 pm) then the clerk to the justices should be given notice and informed of this possibility, while the court is sitting if possible.

16B. If in the circumstances the only practicable way of conducting a review is over the telephone then this is permissible, provided that the requirements of section 155 of the Criminal Justice Ordinance (Title 24.1) are observed.

17. Charging of detained persons.

Action.

17.1 When an officer considers that there is sufficient evidence to prosecute a detained person he should without delay bring him before the responsible officer who shall then be responsible for considering whether or not he should be charged. Any resulting action should be taken in the presence of the appropriate adult if the person is a juvenile or mentally ill or mentally handicapped.

17.2 When a detained person is charged with or informed that he may be prosecuted for an offence he shall be cautioned in the terms of paragraph 10.4 above.

17.3 At the time a person is charged he shall be given a written notice (charge sheet) showing particulars of the offence with which he is charged. So far as possible the particulars of the charge shall be stated in simple terms, but they shall also show the precise offence in law with which he is charged. The notice shall begin with the following words:

"You are charged with the offence(s) shown below. You do not have to say anything unless you wish to do so, but what you say may be given in evidence."

If the person is a juvenile or is mentally ill or mentally handicapped the notice shall be given to the appropriate adult.

17.4 If at any time after a person has been charged with or informed he may be prosecuted for an offence a police officer wishes to bring to the notice of that person any written statement made by another person or the content of an interview with another person, he shall hand to that person a true copy of any such written statement or bring to his attention the content of the interview record, but shall say or do nothing to invite any reply or comment save to caution him in the terms of paragraph 10.4 above. If the person cannot read then the officer may read it to him. If the person is a juvenile or mentally ill or mentally handicapped the copy shall be given to, or the interview record brought to the attention of, the appropriate adult.

17.5 Questions relating to an offence may not be put to a person after he has been charged with that offence, or informed that he may be prosecuted for it, unless they are necessary for the purpose of preventing or minimising harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement, or where it is in the interests of justice that the person should have put to him and have an opportunity to comment on information concerning the offence which has come to light since he was charged or informed

that he might be prosecuted. Before any such questions are put he shall be cautioned in the terms of paragraph 10.4 above.

17.6 Reserved.

Documentation.

17.7 A record shall be made of anything a detained person says when charged.

17.8 Any questions put after charge and answers given relating to the offence shall be contemporaneously recorded in full on the forms provided and the record signed by that person or, if he refuses, by the interviewing officer and any third parties present. if the questions are tape recorded the arrangements set out in the relevant code of practice apply.

17.9 Reserved.

Note for Guidance.

17A. Reserved.

INTIMATE AND STRIP SEARCHES [4.1]

Action.

1. Body orifices may be searched only if an officer of the rank of inspector or above has reasonable grounds for believing:

(a) that an article which could cause physical injury to a detained person or others at the police station has been concealed; or

(b) that the person has concealed a Class A drug which he intended to supply to another or to export; and

(c) that in either case an intimate search is the only practicable means of removing it.

The reasons why an intimate search is considered necessary shall be explained to the person before the search takes place.

2. An intimate search may only be carried out by a registered medical practitioner, State Registered Nurse, or State Enrolled Nurse, unless an officer of at least the rank of inspector considers that this is not practicable and the search is to take place under sub-paragraph 1(a) above.

3. An intimate search under subparagraph 1(a) above may take place only at a hospital, surgery, other medical premises or police station. A search under sub-paragraph 1(b) may take place only at a hospital, surgery or other medical premises.

4. An intimate search at a police station of a juvenile or a mentally ill or mentally handicapped person may take place only in the presence of the appropriate adult of the same sex. In the case of a juvenile, the search may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that he prefers the search to be done in his absence and the appropriate adult agrees.

5. A strip search (that is a search involving the removal of more than outer clothing) may take place only if the responsible officer considers it to be necessary to remove an article which the detained person would not be allowed to keep.

6. Where an intimate search under sub-paragraph 1(a) above or a strip search is carried out by a police officer, the officer must be of the same sex as the person searched. no person of the opposite sex who is not a medical practitioner or nurse shall be present, nor shall anyone whose presence is unnecessary.

Documentation.

7. In the case of an intimate search the responsible officer shall as soon as practicable record which parts of the person's body were searched, who carried out the search, who was present, the reasons for the search and its result.

8. In the case of a strip search he shall record the reasons for the search and its result.

9. If an intimate search is carried out by a police officer, the reason why it is impracticable for a suitably qualified person to conduct it must be recorded.

DELAY IN NOTIFYING ARREST OR ALLOWING ACCESS TO LEGAL ADVICE

Action.

1. The rights set out in sections 5 or 6 of the code (or both) may be delayed if the person is in police detention in connection with a serious arrestable offence, has not yet been charged with an offence, and an officer of the rank of inspector or above has reasonable grounds for believing that the exercise of each right:

- (i) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical harm to other persons;
- (ii) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
- (iii) will hinder the recovery of property obtained in consequence of the commission of such an offence. [See Note B3]

2. Access to a solicitor may not be delayed on the grounds that he might advise the person not to answer any questions or that the solicitor was initially asked to attend the police station by someone else, provided that the person himself then wishes to see the solicitor.

3. These rights may only be delayed for so long as is necessary, and, in no case, beyond 36 hours after the relevant time as defined in section 156 of the Criminal Justice Ordinance (Title 24.1). If the above grounds cease to apply within this time, the person must as soon as is practicable be asked if he wishes to exercise either right and action must be taken in accordance with the relevant section of the code.

4. A detained person must be permitted to consult a solicitor for a reasonable time before any court hearing.

Documentation.

5. The grounds for action under this Annex shall be recorded and the person informed of them as soon as is practicable.

Notes for Guidance.

B1. Even if Annex B applies in the case of a juvenile, or a person who is mentally ill or mentally handicapped, action to inform the appropriate adult must nevertheless be taken in accordance with paragraph 3.6 of the code.

B2. In the case of Commonwealth citizens and foreign nationals, see Note 7A.

B3. Reserved.

URGENT INTERVIEWS

1. If, and only if, an officer of the rank of inspector or above considers that delay will involve an immediate risk of harm to persons or serious loss of or serious damage to property:

(a) a person heavily under the influence of drink or drugs may be interviewed in that state; or

(b) an arrested juvenile or a person who is mentally ill or mentally handicapped may be interviewed in the absence of the appropriate adult; or

(c) person who has difficulty in understanding English or who has a hearing disability may be interviewed in the absence of an interpreter.

2. Questioning in these circumstances may not continue once sufficient information to avert the immediate risk has been obtained.

3. A record shall be made of the grounds for any decision to interview a person under paragraph 1 above.

Note for Guidance.

C1. The special groups referred to in Annex C are all particularly vulnerable. The provisions of the Annex, which override safeguards designed to protect them and to minimise the risk of interviews producing unreliable evidence, should be applied only in exceptional cases of need.

WRITTEN STATEMENTS UNDER CAUTION [12.14]

Written by a person under caution.

1. A person shall always be invited to write down himself what he wants to say.
2. Where the person wishes to write it himself, he shall be asked to write out and sign before writing what he wants to say, the following:

"I make this statement of my own free will. I, understand that I need not say anything unless I wish to do so and that what I say may be given in evidence."

3. Any person writing his own statement shall be allowed to do so without any prompting except that a police officer may indicate to him which matters are material or question any ambiguity in the statement.

Written by a police officer.

4. If a person says that he would like someone to write it for him, a police officer shall write the statement, but, before starting, he must ask him to sign, or make his mark, to the following:

"I, wish to make a statement. I want someone to write down what I say. I understand that I need not say anything unless I wish to do so and that what I say may be given in evidence."

5. Where a police officer writes the statement, he must take down the exact words spoken by the person making it and he must not edit or paraphrase it. Any questions that are necessary (e.g. to make it more intelligible) and the answers given must be recorded contemporaneously on the statement form.

6. When the writing of a statement by a police officer is finished the person making it shall be asked to read it and to make any corrections, alterations or additions he wishes. When he has finished reading it he shall be asked to write and sign or make his mark on the following certificate at the end of the statement:

"I have read the above statement, and I have been able to correct, alter or add anything I wish. This statement is true. I have made it of my own free will."

7. If the person making the statement cannot read, or refuses to read it, or to write the above mentioned certificate at the end of it or to sign it, the senior police officer present shall read it over to him and ask him whether he would like to correct, alter or add anything and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what has occurred.

SUMMARY OF PROVISIONS RELATING TO MENTALLY ILL AND MENTALLY HANDICAPPED PERSONS

1. If an officer has any suspicion or is told in good faith that a person of any age, whether or not in custody, may be mentally ill or mentally handicapped, or cannot understand the significance of questions put to him or his replies, then he shall be treated as a mentally ill or mentally handicapped person. [1.4]
2. In the case of a person who is mentally ill or mentally handicapped, 'the appropriate adult' means:
 - (a) a relative, guardian or some other person responsible for his care of custody;
 - (b) someone who has experience of dealing with mentally ill or mentally handicapped persons but is not a police officer or employed by the police; or
 - (c) failing either of the above, some other responsible adult who is not a police officer or employed by the police.
3. If the responsible officer authorises the detention of a person who is mentally handicapped or is suffering from mental illness he must as soon as practicable inform the appropriate adult of the grounds for the person's detention and his whereabouts, and ask the adult to come to the police station to see the person. If the appropriate adult is already at the police station when information is given as required in paragraphs 3.1 to 3.3 the information must be given to the detained person in his presence. If the appropriate adult is not at the police station when the information is given then the information must be given to the detained person again in the presence of the appropriate adult once that person arrives. [3-6]
4. If a person brought to a police station appears to be suffering from mental illness, or is incoherent other than through drunkenness alone, or if a detained person subsequently appears to be mentally ill, the responsible officer must immediately call the duty doctor or, in urgent cases, send the person to hospital. [9.2]
5. A mentally ill or mentally handicapped person must not be interviewed or asked to provide or sign a written statement in the absence of the appropriate adult unless an officer of the rank of inspector or above considers that delay will involve an immediate risk of harm to persons or serious loss of or serious damage to property. Questioning in these circumstances may not continue in the absence of the appropriate adult once sufficient information to avert the risk has been obtained. A record shall be made of the grounds for any decision to begin an interview in these circumstances. [13.1 and Annex C]
6. If the appropriate adult, having been informed of the right to legal advice, considers that legal advice should be taken, the provisions of section 6 of the code apply as if the mentally ill or mentally handicapped person had requested access to legal advice. [13.2]

7. If the detention of a mentally ill or mentally handicapped person is reviewed by a review officer, the appropriate adult must, if available at the time, be given an opportunity to make representations to the officer about the need for continuing detention. [16.1 to 16.2]

8. If the responsible officer charges a mentally ill or mentally handicapped person with an offence or takes such other action as is appropriate when there is sufficient evidence for a prosecution this must be done in the presence of the appropriate adult. The written notice embodying any charge must be given to the appropriate adult. [17.1 to 17.31]

9. An intimate search of a mentally ill or mentally handicapped person may take place only in the presence of the appropriate adult of the same sex. [Annex A, paragraph 4]

Notes for Guidance.

E1. It is important to bear in mind that although persons who are mentally ill or mentally handicapped are often capable of providing reliable evidence, they may, without knowing or wishing to do so, be particularly prone in certain circumstances to provide information which is unreliable, misleading or self-incriminating. Special care should therefore always be exercised in questioning such a person, and the appropriate adult involved, if there is any doubt about a person's mental state or capacity. Because of the risk of unreliable evidence, it is important to obtain corroboration of any facts admitted whenever possible. [Note 13B]

E2. Because of the risks referred to in Note E1, which the presence of the appropriate adult is intended to minimise, officers of inspector rank or above should exercise their discretion to authorise the commencement of an interview in the adult's absence only in exceptional cases, where it is necessary to avert an immediate risk of serious harm. [Annex C, subparagraph 1 (b) and Note C1]

E3. The appropriate adult should be informed that he is not expected to act simply as an observer. The purposes of his presence are, first, to advise the person being interviewed and to observe whether or not the interview is being conducted properly and fairly: and, secondly, to facilitate communication with the person being interviewed. [Note 13C]

E4. In the case of persons who are mentally ill or mentally handicapped, it may in certain circumstances be more satisfactory for all concerned if the appropriate adult is someone who has experience or training in their care rather than a relative lacking such qualifications. But if the person himself prefers a relative to a better qualified stranger his wishes should if practicable be respected. [Note 1C]

CRIMINAL JUSTICE ORDINANCE (Title 24.1)

CODE OF PRACTICE D

-0-

THE IDENTIFICATION OF PERSONS
BY POLICE OFFICERS

CODE OF PRACTICE D

THE IDENTIFICATION OF PERSONS BY POLICE OFFICERS

1. General.

1.1 This code of practice must be readily available at all police stations for consultation by police officers, detained persons and member of the public.

1.2 The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to the code are provisions of this code.

1.3 If an officer has any suspicion, or is told in good faith, C that person of any age may be mentally ill or mentally handicapped, or mentally incapable of understanding the significance of questions put to him or his replies, then that person shall be treated as a mentally ill or mentally handicapped person for the purposes of this code.

1.4 If anyone appears to be under the age of 17 then he shall be treated as a juvenile for the purposes of this code in the absence of clear evidence to show that he is older.

1.5 In this code 'the appropriate adult' means:

(a) in the case of a juvenile:

- (i) his parent or guardian (or, if he is in care, the care authority or organisation);
- (ii) a social worker; or
- (iii) failing either of the above, another responsible adult who is not a police officer or employed by the police.

(b) in the case of a person who is mentally ill or mentally handicapped:

- (i) a relative, guardian or some other person responsible for his care or custody;
- (ii) someone who has experience of dealing with mentally ill or mentally handicapped persons but is not a police officer or employed by the police; or
- (iii) failing either of the above, some other responsible adult who is not a police officer or employed by the police.

1.6 Any reference to a responsible officer in this code includes an officer who is performing the functions of a responsible officer. Any reference to a solicitor in this code includes a clerk or legal executive except in annex C, paragraph 7.

1.7 Where a record is made under this code of any action requiring the authority of an officer of specified rank, his name and rank must be included in the record.

1.8 All records must be timed and signed by the maker.

1.9 In the case of a detained person records are to be made in his custody record unless otherwise specified.

1.10 In the case of any procedure requiring a suspect's consent, the consent of a person who is mentally ill or mentally handicapped is only valid if given in the presence of the appropriate adult; and in the case of a juvenile the consent of his parent or guardian is required as well as his own (unless he is under 14, in which case the consent of his parent or guardian is sufficient in its own right). [See Note 1A]

1.11 In the case of any procedure requiring information to be given to a suspect, it must be given in the presence of the appropriate adult if the suspect is mentally ill, mentally handicapped or a juvenile. If the suspect is deaf or there is doubt about his hearing ability or ability to understand English, and the officer cannot himself speak the person's language, the information must be given through an interpreter.

1.12 Any procedure involving the participation of a person (whether as a suspect or witness) who is mentally ill, mentally handicapped or a juvenile must take place in the presence of the appropriate adult; but the adult must not be allowed to prompt any identification of a suspect by a witness.

1.13 Nothing in this code affects any procedure under sections 19, 21, 23 and 28 of the Road Traffic Ordinance (Title 63.1) as amended.

1.14 In this code references to photographs include optical disc computer printouts.

Note for Guidance.

For the purposes of paragraph 1.10 above consent may be given, in the case of a juvenile in the care of a local authority or voluntary organisation, by that authority or organisation.

Identification by witnesses.

Suspect at the police station:- the decision as to the method of identification.

2.1 In a case which involves disputed identification evidence a parade must be held if the suspect asks for one and it is practicable to hold one. A parade may also be held if the officer in charge of the investigation considers that it would be useful.

2.2 Arrangements for the parade and its conduct shall be the responsibility of an officer in uniform not below the rank of sergeant who is not involved with the investigation ('the identification officer'). No officer involved with the investigation of the case against the suspect may take any part in the arrangements for, or the conduct of, the parade.

2.3 A parade need not be held if the identification officer considers that, whether by reason of the unusual appearance of the suspect or for some other reason, it would not be practicable to assemble sufficient people who resembled him to make a parade fair.

2.4 If a suspect refuses or, having agreed, fails to attend an identification parade or the holding of a parade is impracticable, arrangements must if practicable be made to allow the witness an opportunity of seeing him in a group of people. Such a group identification may also be arranged if the officer in charge of the investigation considers, whether because of fear on the part of the witness or for some other reason, that it is, in the circumstances, more satisfactory than a parade.

2.5 If neither a parade nor a group identification procedure is arranged, the suspect may be confronted by the witness. Such a confrontation does not require the suspect's consent, but may not take place unless neither a parade nor a group identification is practicable, whether because the suspect has withheld his consent to them or his co-operation, or for some other reason.

2.6 A witness must not be shown photographs or photofit, identikit or similar pictures for identification purposes if there is a suspect already available to be asked to stand on a parade or participate in a group identification.

Notice to suspect.

2.7 Before (a) a parade takes place or (b) a group identification is arranged, the identification officer shall explain to the suspect:

- (i) the purpose of the parade or group identification;
- (ii) the procedures for holding it (including his right to have solicitor or friend present);
- (iii) where appropriate the special arrangements for juveniles;
- (iv) where appropriate the special arrangements for mentally ill and mentally handicapped persons;
- (v) the fact that he does not have to take part in either procedure and, if it is proposed to hold a group identification, his entitlement to a parade if this can practicably be arranged; and
- (vi) the fact that, if he does not consent to take part in a parade or other group identification, he may be confronted by a witness and his refusal may be given in evidence in any subsequent trial, where a witness might be given an opportunity of identifying him in court.

2.8 This information must also be contained in a written notice which must be handed to the suspect. The identification officer shall give the suspect a reasonable opportunity to read the notice, after which he shall be asked to sign a second copy of the notice to indicate whether or not he is willing to attend the parade or participate in the group identification. The signed copy shall be retained by the identification officer.

Conduct of a parade or other group identification.

2.9 Any parade or other group identification must be carried out in accordance with Annex A.

Confrontation by a witness.

2.10 Any confrontation must be carried out in accordance with Annex B.

Street identification.

2.11 A police officer may take a witness to a particular neighbourhood or place to observe the persons there to see whether he can identify the person whom he said he saw on the relevant occasion. Care should be taken however not to direct the witness's attention to any individual. Where the suspect is at a police station, the provisions of paragraphs 2.1 to 2.10 must apply.

Showing of photographs etc.

2.12 If photographs or photofit, identikit or similar pictures are shown to a witness for identification purposes this must be done in accordance with Annex C.

Documentation.

2.13 The identification officer will make a record of the parade or group identification on the forms provided.

2.14 If the identification officer considers that it is not practicable to hold a parade he shall tell the suspect why and record the reason.

2.15 A record shall be made of a person's refusal to take part in a parade or other group identification.

3. Identification by fingerprints.

Action.

3.1 A person's fingerprints may be taken only with his consent or if paragraph 3.2 applies. If he is at a police station consent must be in writing. In either case the person must be informed of the reason before they are taken and that they will be destroyed if paragraph 3.4 applies. He must be told that he may witness their destruction if he asks to do so within one month of being cleared or informed that he will not be prosecuted.

3.2 Powers to take fingerprints without consent from any person over the age of ten years are provided by section 173 of the Criminal Justice Ordinance (Title 24.1). Reasonable force may be used if necessary.

3.3 Reserved.

3.4 The fingerprints of a person and all copies of them taken in that case must be destroyed if:

- (a) he is prosecuted for the offence concerned and cleared; or
- (b) he is not prosecuted (unless he admits the offence and is cautioned for it).

An opportunity of witnessing the destruction must be given to him if he wishes and if, in accordance with paragraph 3.1, he applies within one month of being cleared or informed that he will not be prosecuted.

3.5 References to fingerprints include palm prints.

Documentation.

3.6 a record must be made as soon as possible of the reason for taking a person's fingerprints without consent and of their destruction. If force is used a record shall be made of the circumstances and those present.

Note for Guidance.

3A. Reserved

Identification by photographs.

Action.

4.1 The photograph of a person who has been arrested may be taken at a police station only with his written consent or if paragraph 4.2 applies. In either case he must be informed of the reason for taking it and that the photograph will be destroyed if paragraph 4.4 applies. He must be told that he may witness the destruction of the photograph if he asks to do so within one month of being cleared or informed that he will not be prosecuted.

4.2 The photograph of a person who has been arrested may be taken without consent if:

- (i) he is arrested at the same time as other persons, or at a time when it is likely that other persons will be arrested, and a photograph is necessary to establish who was arrested, at what time and at what place;
- (ii) he has been charged with or reported for a recordable offence and has not yet been released or brought before a court [See Note 3A]; or
- (iii) he is convicted of such an offence and his photograph is not already on record as a result of (i) or (ii). There is no power of arrest to take a photograph in pursuance of this provision which applies only where the person is in custody as a result of the exercise of another power.

4.3 Force may not be used to take a photograph.

4.4 Where a person's photograph has been taken in accordance with this section, the photograph, negatives and all copies taken in that particular case must be destroyed if:

- (a) he is prosecuted for the offence and cleared; or
- (b) he is not prosecuted (unless he admits the offence and is cautioned for it).

An opportunity of witnessing the destruction must be given to him if he so requests provided, in accordance with paragraph 4.1, he applies within one month of being cleared or informed that he will not be prosecuted.

Documentation.

4.5 A record must be made as soon as possible of the reason for taking a person's photograph under this section without consent and of the destruction of any photographs.

5. Identification by body samples, swabs and impressions.

Action.

5.1 Dental impressions and intimate samples may be taken from a person in police detention only:

- (i) with his written consent;
- (ii) if an officer of the rank of inspector or above considers that the offence concerned is a serious arrestable offence; and
- (iii) there are reasonable grounds for suspecting that such an impression, sample or swab, will tend to confirm or disprove the suspect's involvement in it.

Before the impression, sample or swab is taken, the person must be informed of the grounds on which the required authority has been given, including the nature of the suspected offence.

5.2 Before a person is asked to provide an intimate sample or swab he must be warned that a refusal may be treated, in any proceedings against him, as corroborating relevant prosecution evidence. [See Note 5A]

5.3 Except for samples of urine or saliva, the above samples and swabs may be taken only by a registered medical or dental practitioner as appropriate.

5.4 A non-intimate sample, as defined in paragraph 5.11 or a body impression other than fingerprints, may be taken from a detained suspect only with his written consent or if paragraph 5.5 below applies. Even if he consents, an officer of the rank of inspector or above must have reasonable grounds for believing that such a sample or impression will tend to confirm or disprove the suspect's involvement in a particular offence.

5.5 A non-intimate sample or a body impression may be taken without consent if the offence in connection with which the suspect is detained is a serious arrestable offence and an officer of the rank of inspector or above has reasonable grounds for believing that the sample or impression will tend to confirm or disprove his involvement in it.

5.6 The suspect must be informed, before the sample or impression is taken, of the grounds on which the relevant authority has been given, including the nature of the suspected offence, and that the sample or impression will be destroyed if paragraph 5.8 applies.

5.7 Where paragraph 5.5 applies, reasonable force may be used if necessary to take non-intimate samples and body impressions.

5.8 Where a sample or impression has been taken in accordance with this section, it and all copies of it taken in that particular case must be destroyed:

- (a) if he is prosecuted for the offence concerned and cleared; or
- (b) if he is not prosecuted (unless he admits the offence and is cautioned for it).

Documentation.

5.9 A record must be made as soon as practicable of the reason for taking a sample or impression and of its destruction. If force is used a record shall be made of the circumstances and those present. Consent to the taking of a sample or impression must be recorded in writing.

5.10 A record must be made of the giving of a warning required by paragraph 5.2 above.

General.

5.11 The following terms are defined in section 177 of the Criminal Justice Ordinance (Title 24.1) as follows:

(a) 'intimate sample' means a sample of blood, semen or any other tissue fluid, urine, saliva or pubic hair, or a swab taken from a person's body orifice;

(b) 'non-intimate sample' means:

(i) a sample of hair other than pubic hair;

(ii) a sample taken from a nail or from under a nail;

(iii) a swab taken from any part of a person's body other than a body orifice;

(iv) a footprint or a similar impression of any part of a person's body other than a part of his hand.

5.12 Where clothing needs to be removed in circumstances likely to cause embarrassment to the person, no person of the opposite sex, who is not a medical practitioner or nurse, shall be present, nor shall anyone whose presence is unnecessary.

Note for Guidance.

5A In warning a person who refuses to provide an intimate sample or swab in accordance with paragraph 5.2, the following form of words may be helpful:

"You do not have to [provide this sample] [allow this swab to be taken], but I must warn you that if you do not do so, a court may treat such a refusal as supporting any relevant evidence against you."

IDENTIFICATION PARADES AND GROUP IDENTIFICATIONS [2.9]

General.

1. A suspect must be given a reasonable opportunity to have a solicitor or friend present, and the identification officer shall ask him to indicate on a second copy of the notice to suspect whether or not he so wishes.
2. A parade may take place either in a normal room or in one equipped with a screen permitting witnesses to see members of the parade without being seen. The procedures for the composition and conduct of the parade are the same in both cases, subject to paragraph 7 below (except that a parade involving a screen may take place only when the suspect's solicitor, friend or appropriate adult is present or the parade is recorded on video).

Parades involving prison inmates.

3. If an inmate is required for identification, and there are no security problems about his leaving the establishment, he may be asked to participate in a parade. (Group identification, however, may not be arranged other than in the establishment or inside a police station.)
4. Reserved.

Conduct of a parade.

5. Immediately before the parade, the identification officer must remind the suspect of the procedures governing its conduct and caution him in the terms of paragraph 10.4 of the code of practice for the detention, treatment and questioning of persons by police officers.
6. All unauthorised persons must be strictly excluded from the place where the parade is held.
7. Once the parade has been formed, everything afterwards in respect of it shall take place in the presence and hearing of the suspect and of any interpreter, solicitor, friend or appropriate adult who is present (unless the parade involves a screen, in which case everything said to or by any witness at the place where the parade is held must be said in the hearing and presence of the suspect's solicitor, friend or appropriate adult or be recorded on video).
8. The parade shall consist of at least eight persons (in addition to the suspect) who so far as possible resemble the suspect in age, height, general appearance and position in life. One suspect only shall be included in a parade unless there are two suspects of roughly similar appearance in which case they may be paraded together with at least twelve other persons. In no circumstances shall more than two suspects be included in one parade and where there are separate parades they shall be made up of different persons.
9. Where all members of a similar group are possible suspects, separate parades shall be held for each member of the group unless there are two suspects of similar appearance when they may

appear on the same parade with at least twelve other members of the group who are not suspects. Where police officers in uniform form an identification parade, any numerals or other identifying badge shall be concealed.

10. When the suspect is brought to the place where the parade is to be held, he shall be asked by the identification officer whether he has any objection to the arrangements for the parade or to any of the other participants in it. The suspect may obtain advice from his solicitor or friend, if present, before the parade proceeds. Where practicable, steps shall be taken to remove the grounds for objection. Where it is not practicable to do so, the officer shall explain to the suspect why his objections cannot be met.

11. The suspect may select his own position in the line. Where there is more than one witness, the identification officer must tell the suspect, after each witness has left the room, that he can if he wishes change position in the line. Each position in the line must be clearly numbered, whether by means of a numeral laid on the floor in front of each parade member or by other means.

12. The identification officer is responsible for ensuring that, before they attend the parade, witnesses are not able to:

- (i) communicate with each other about the case or overhear a witness who has already seen the parade;
- (ii) see any member of the parade;
- (iii) on that occasion see or be reminded of any photograph or description of the suspect or be given any other indication of his identity; or
- (iv) see the suspect either before or after the parade.

13. The officer conducting a witness to a parade must not discuss with him the composition of the parade, and in particular he must not disclose whether a previous witness has made any identification.

14. Witnesses shall be brought in one at a time. Immediately before the witness inspects the parade, the identification officer shall tell him that the person he saw may or may not be on the parade and if he cannot make a positive identification he should say so. The officer shall then ask him to walk along the parade at least twice, taking as much care and time as he wishes. When he has done so the officer shall ask him whether the person he saw in person on an earlier relevant occasion is on the parade.

15. The witness should make an identification by indicating the number of the person concerned.

16. If the witness makes an identification after the parade has ended the suspect and, if present, his solicitor, interpreter, or friend shall be informed. When this occurs, consideration should be given to allowing the witness a second opportunity to identify the suspect.

17. If a witness wishes to hear any parade member speak, adopt any specified posture or see him move, the identification officer shall first ask whether he can identify any persons on the parade

on the basis of appearance only. When the request is to hear member of the parade speak, the witness shall be reminded that the participants in the parade have been chosen on the basis of physical appearance only. Members of the parade may then be asked to comply with the witness's request to hear them speak, to see them move or to adopt any specified posture.

18. When the last witness has left, the suspect shall be asked by the identification officer whether he wishes to make any comments on the conduct of the parade.

Conduct of a group identification.

19. The arrangements for a group identification are the sole responsibility of the identification officer and must as far as practicable satisfy the requirements of sections 5 - 18 above.

Documentation.

20. If a parade is held without a solicitor or a friend of the suspect being present, a colour photograph of the parade shall be taken unless any of the parade members objects. A copy of the photograph shall be supplied on request to the suspect or his solicitor within a reasonable time.

21. Where a photograph is taken in accordance with paragraph 20, at the conclusion of the proceedings the negative will be destroyed.

22. If the identification officer asks any person to leave a parade because he is interfering with its conduct the circumstances shall be recorded.

23. A record must be made of all those present at a parade or group identification whose names are known to the police.

24. If prison inmates make up a parade the circumstances must be recorded.

25. A record of the conduct of any parade or group identification must be made on the forms provided.

CONFRONTATION BY A WITNESS [2.5 and 2.10]

1. The identification officer is responsible for the conduct of any confrontation of a suspect by a witness.
2. The suspect shall be confronted independently by each witness, who shall be asked "Is this the person?". Confrontation must take place in the presence of the suspect's solicitor, interpreter or friend, where he has one, unless this would cause unreasonable delay.
3. Confrontation may take place either in a normal room or one equipped with a screen permitting a witness to see the suspect without being seen. In both cases the procedures are the same except that a room equipped with a screen may be used only when the suspect's solicitor, friend or appropriate adult is present or the confrontation is recorded on video.

SHOWING OF PHOTOGRAPHS

Action.

1. An officer of the rank of sergeant or above shall be responsible for supervising and directing the showing of photographs. The actual showing may be done by a constable.
2. Only one witness shall be shown photographs at any one time. He shall be given as much privacy as practicable and shall not be allowed to communicate with or overhear any other witness in the case.
3. The witness shall be shown not less than twelve photographs at a time. These photographs shall either be in an album or loose photographs mounted in a frame and shall, as far as possible, all be of a similar type. If the photographs include that of a person suspected by the police of the offence concerned, the other photographs shall resemble the suspect as closely as possible.
4. When the witness is shown the photographs, he shall be told that the photograph of the person he saw may or may not be amongst them. He shall not be prompted or guided in any way but shall be left to make any selection without help.
5. If a witness makes a positive identification from photographs, then, unless the person identified is otherwise eliminated from enquiries, other witnesses shall not be shown photographs. But both they and the witness who has made the identification shall be asked to attend an identification parade or group identification if practicable unless there is no dispute about the identification of the suspect.
6. Where the use of a photofit, identikit or similar picture has led to there being a suspect available who can be asked to appear on a parade, or participate in a group identification the picture shall not be shown to other potential witnesses.
7. Where a witness attending an identification parade has previously been shown photographs or photofit, identikit or similar pictures then the suspect and his solicitor must be informed of this fact before any committal proceedings or summary trial.
8. Any photographs used shall be retained for production in court if necessary, whether or not an identification is made.

Documentation.

9. Whether or not an identification is made, a record shall be kept of the showing of photographs and of any comment made by the witness.

CRIMINAL JUSTICE ORDINANCE (Title 24.1)

CODE OF PRACTICE E

-0-

THE TAPE RECORDING OF INTERVIEWS

CODE OF PRACTICE E

THE TAPE RECORDING OF INTERVIEWS

1. General.

1.1 This code of practice must be readily available for consultation by police officers, detained persons and members of the public at every police station.

1.2 The notes for guidance included are not provisions of this code. They form guidance to police officers and others about its application and interpretation.

1.3 Nothing in this code shall be taken as detracting in any way from the requirements of the Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (Code C). [See Notes 1A and 1B]

Notes for Guidance.

1A. Reserved

1B. As in Code C, references to responsible officers include those carrying out the functions of a responsible officer.

2. Recording and the sealing of master tapes.

2.1 Tape recording of interviews shall be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview. [See Note 2A]

2.2 One tape, referred to in this code as the master tape, will be sealed before it leaves the presence of the suspect. A second tape will be used as a working copy. The master tape is either one of the two tapes used in a twin deck machine or the only tape used in a single deck machine. The working copy is either the second tape used in a twin deck machine or a copy of the master tape made by a single deck machine. [See Notes 2B and 2C]

Notes for Guidance.

2A. Police Officers will wish to arrange that, as far as possible, tape recording arrangements are unobtrusive. It must be clear to the suspect, however, that there is no opportunity to interfere with the tape recording equipment or the tapes.

2B. The purpose of sealing the master tape before it leaves the presence of the suspect is to establish his confidence that the integrity of the tape is preserved. Where a single deck machine is used the working copy of the master tape must be made in the presence of the suspect and without the master tape having left his sight. The working copy shall be used for making further copies where the need arises. The recorder will normally be capable of recording voices and have a time coding or other security device.

2C. Throughout this code any reference to "tapes" shall be construed as "tape", as appropriate, where a single deck machine is used.

3. Reserved.

4. The interview.

Commencement of interviews.

4.1 When the suspect is brought into the interview room the police officer shall without delay, but in the sight of the suspect, load the tape recorder with previously unused tapes and set it to record. The tapes must be unwrapped or otherwise opened in the presence of the suspect. [See Note 4A]

4.2 the police officer shall then tell the suspect formally about the tape recording. He shall say:

- a. that the interview is being tape recorded;
- b. his name and rank and the name and rank of any other police officer present;
- c. the name of the suspect and any other party present (eg a solicitor);
- d. the date, time of commencement and place of the interview; and
- e. that the suspect will be given a notice about what will happen to the tapes.

[See Note 4B]

4.3 The police officer shall then caution the suspect in the following terms:

"You do not have to say anything unless you wish to do so, but what you say may be given in evidence."

Minor deviations do not constitute a breach of this requirement provided that the sense of the caution is preserved. [See Notes 4C and 4D]

Interviews with the deaf.

4.4 If the suspect is deaf or there is doubt about his hearing ability, the police officer shall take a contemporaneous note of the interview in accordance with the requirements of Code C, as well as tape record it in accordance with the provisions of this code. [See Notes 4E and 4F]

Objections and complaints by the suspect.

4.5 If the suspect raises objections to the interview being tape recorded either at the outset or during the interview or during a break in the interview, the police officer shall explain the fact that the interview is being tape recorded and that the provisions of this code require that the suspect's objections should be recorded on tape. When any objections have been recorded on tape or the suspect has refused to have his objections recorded, the police officer may turn off the recorder. In this eventuality he shall say that he is turning off the recorder and give his reasons for doing so and then turn it off. The police officer shall then make a written record of the interview in accordance with section 11 of Code C. If, however, the police officer reasonably

considers that he may proceed to put questions to the suspect with the tape recorder still on, he may do so. [See Note 4G]

4.6 If in the course of an interview a complaint is made by the person being questioned, or on his behalf, concerning the provisions of this code or of Code C, then the officer shall act in accordance with paragraph 12.8 of Code C. [See Notes 4H and 4J]

4.7 If the suspect indicates that he wishes to tell the police officer about matters not directly connected with the offence of which he is suspected and that he is unwilling for these matters to be recorded on tape, he shall be given the opportunity to tell the police officer about these matters after the conclusion of the formal interview.

Changing tapes.

4.8 When the recorder indicates that the tape has only a short time left to run, the police officer shall tell the suspect that the tapes are coming to an end and round off that part of the interview. If the police officer wishes to continue the interview but does not already have a second set of tapes, he shall obtain a set. The suspect shall not be left unattended in the interview room. The police officer will remove the tapes from the tape recorder and insert the new tapes which shall be unwrapped or otherwise opened in the suspect's presence. The tape recorder shall then be set to record on the new tapes. Care must be taken, particularly when a number of sets of tapes have been used, to ensure that there is no confusion between the tapes. This may be done by marking the tapes with an identification number immediately they are removed from the tape recorder.

Taking a break during the interview.

4.9 When a break is to be taken during the course of an interview and the interview room is to be vacated by the suspect, the fact that a break is to be taken, the reason for it and the time shall be recorded on tape. The tapes shall then be removed from the tape recorder and the procedures for the conclusion of an interview set out in paragraph 4.15 below followed.

4.10 When a break is to be short one and both the suspect and a police officer are to remain in the interview room the fact that a break is to be taken, the reasons for it and the time shall be recorded on tape. The tape recorder may be turned off; there is, however, no need to remove the tapes and when the interview is recommenced the tape recording shall be continued on the same tapes. The time at which the interview recommences shall be recorded on tape.

4.11 When there is a break in questioning under caution the interviewing officer must ensure that the person being questioned is aware that he remains under caution. If there is any doubt the caution must be given again in full when the interview resumes. [See Notes 4K and 4L]

Failure of recording equipment.

4.12 If there is a failure of equipment which can be rectified quickly, for example by inserting new tapes, the appropriate procedures set out in paragraph 4.8 shall be followed, and when the recording is resumed the officer shall explain what has happened and record the time the interview recommences. If, however, it will not be possible to continue recording on that particular tape recorder and no replacement recorder or recorder in another interview room is readily available, the interview may continue without being tape recorded. In such circumstances

the procedures in paragraph 3.3 above for seeking the authority of the custody officer will be followed. [See note 4M]

Removing tapes from the recorder.

4.13 Where tapes are removed from the recorder in the course of an interview, they shall be retained and the procedures set out in paragraph 4.15 below followed.

Conclusion of interview.

4.14 At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he has said and to add anything he may wish.

4.15 At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the tape recorder switched off. The master tape shall be sealed with a master tape label and treated as an exhibit in accordance with the force standing orders. The police officer shall sign the label and ask the suspect and any third party present to sign it also. If the suspect or third party refuses to sign the label, an officer of at least the rank of sergeant, or if one is not available the responsible officer, shall be called in to the interview room and asked to sign it.

4.16 The suspect shall be handed a notice which explains the use which will be made of the tape recording and the arrangements for access to it.

Notes for Guidance.

4A. The police officer should attempt to estimate the likely length of the interview and ensure that the appropriate number of unused tapes and labels with which to seal the master copies are available in the interview room.

4B. It will be helpful for the purpose of voice identification if the officer asks the suspect and any other persons present to identify themselves.

4C. If it appears that a person does not understand what the caution means, the officer who has given it should go on to explain it in his own words.

4D. In case anyone who is given a caution is unclear about its significance, the officer concerned should explain that the caution is given in pursuance of the general principle of English law that a person need not answer any question or provide any information which might tend to incriminate him, and that no adverse inferences from this silence may be drawn at any trial that takes place. The person should not, however, be left with a false impression that non co-operation will have no effect on his immediate treatment as, for example, his refusal to provide his name and address may render him liable to detention.

4E. This provision is intended to give the deaf equivalent rights of first hand access to the full interview record as other suspects.

4F. The provisions of paragraphs 14.1, 14.4 and 14.7 of code C on interpreters for the deaf or for interviews with suspects who have difficulty in understanding English continue to apply. In a

tape recorded interview there is no requirement on the interviewing officer to ensure that the interpreter makes a separate note of interview as prescribed in section 14 of Code C.

4G. The officer should bear in mind that a decision to continue recording against the wishes of the suspect may be the subject of comment in court.

4H. Where the responsible officer is called immediately to deal with the complaint, wherever possible the tape recorder should be left to run until he has entered the interview room and spoken to the person being interviewed. Continuation or termination of the interview should be at the discretion of the interviewing officer pending action by an inspector under paragraph 9.1 of Code C.

4J. Where the complaint is about a matter not connected with this code of practice or Code C, the decision to continue with the interview is at the discretion of the interviewing officer. Where the interviewing officer decides to continue with the interview the person being interviewed shall be told that the complaint will be brought to the attention of the responsible officer at the conclusion of the interview. When the interview is concluded the interviewing officer must, as soon as practicable, inform the responsible officer of the existence and nature of the complaint made.

4K. In considering whether to caution again after a break, the officer should bear in mind that the may have to satisfy a court that the person understood that he was still under caution when the interview resumed.

4L. The officer should bear in mind that it may be necessary to show to the court that nothing occurred during a break in an interview or between interviews which influenced the suspect's recorded evidence. The officer should consider, therefore, after a break in an interview or at the beginning of subsequent interview summarising on tape the reason for the break and confirming this with the suspect.

4M. If one of the tapes breaks during the interview it should be sealed as a master tape in the presence of the suspect and the interview resumed where it left off. The unbroken tape should be copied and the original sealed as a master tape in the suspect's presence, if necessary after the interview. If equipment for copying the unbroken tape is not readily available, both tapes should be sealed in the suspect's presence and the interview begun again. If the tape breaks when a single deck machine is being used and the machine is one where a broken tape cannot be copied on available equipment, the tape should be sealed as a master tape in the suspect's presence and the interview begun again.

5. After the interview.

5.1 The police officer shall make a note in his notebook of the fact that the interview has taken place and has been recorded on tape, its time, duration and date and the identification number of the master tape.

5.2 Where no proceedings following respect of the person whose interview was recorded the tapes must nevertheless be kept securely in accordance with paragraph 6.1 and Note 6.4.

5.3 Where such proceedings do follow the officer shall prepare a written record of the interview which will be signed by the officer. The interview record shall be exhibited to any written statement prepared by the officer. [See Notes 5A and 5B]

5.4 Where the police officer's evidence of the interview is accepted by the defence the evidence shall refer to the fact that the interview was tape recorded and may be presented to the court in the form of the interview record. Where the police officer's evidence of the interview is not accepted by the defence the police officer shall refer to the fact that the interview was tape recorded and shall produce the master tape as an exhibit. The officer shall inform the court of any transcription which has been made of which he is aware. [See Note 5C]

Notes for Guidance.

5A. Prior to preparing the record of the interview, the officer may refresh his memory by listening to the working copy of, the tape. The purpose of using the tape will be to act as a check on the accuracy of the interview record.

5B. The interview record shall be prepared on the basis that it shall be used first to enable the prosecutor to make informed decisions about the case on the basis of what was said at the interview; secondly, to be exhibited to the officer's witness statement and used pursuant to section 9 the Criminal Justice Act 1967 and section 102 of The Magistrates Courts Act 1980; thirdly, to enable the prosecutor to comply with the rules of advance disclosure; and fourthly, where the record is accepted by the defence, to be used for the conduct of the case by the prosecution, the defence, and the court. The record shall, therefore comprise a balanced account of the interview including points in mitigation and/or defence made by the suspect. Where an admission is made the question as well as the answer containing the admission shall be recorded verbatim in the record. Care should be taken to bring to the attention of the prosecutor, by means of a covering report, any material on the tape which might be regarded by a court as prejudicial or inadmissible.

5C. Production of the tape as an exhibit will have the effect in court proceedings of producing the content of the whole interview (subject to any decision on editing carried out on the direction of the crown prosecutor).

6. Tape security.

6.1 The Chief Police Officer shall make arrangements for master tapes to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purposes, in accordance with force standing orders. [See Note 6A]

6.2 A police officer has no authority to break the seal on a master tape which is required for criminal proceedings. If it is necessary to gain access to the master tape, the police officer shall arrange for its seal to be broken in the presence of a representative of the Attorney General. The defendant or his legal adviser shall be informed and given a reasonable opportunity to be present. If the defendant or his legal representative is present he shall be invited to re-seal and sign the master tape. If either refuses or neither is present this shall be done by the representative of the Attorney General. [See Notes 6B and 6C]

6.3 Where no criminal proceedings result it is the responsibility of the Chief Police Officer to establish arrangements for the breaking of the seal on the master tape, where this becomes necessary.

Notes for Guidance.

6A. This section is concerned with the security of the master tape which will have been sealed at the conclusion of the interview. Care should, however, be taken of working copies of tapes since their loss or destruction may lead unnecessarily to the need to have access to master tapes.

6B. If the tape has been delivered to the court for their keeping after committal for trial the crown prosecutor will apply to the court for the release of the tape for unsealing by the crown prosecutor.

6C. Reserved.

Made 23 April 2014

J. S. Duncan O.B.E.,
Acting Governor.

EXPLANATORY NOTE
(not part of the order)

The Criminal Justice Ordinance (Title 24.1) came into force in two stages; on 29 October 1989 and 1 January 1990. The Royal Falkland Islands Police have operated under the Codes of Practice contained in the Schedule to this order in the exercise of their powers under that Ordinance since the first date of commencement. The Codes purported on the face of them to have been made under section 137 of the Ordinance (re-numbered in the Revised Laws of the Falkland Islands as section 206), but no formal order was previously made to that effect. This order seeks to formalise the position by confirming operation of the Codes since commencement of the Ordinance. Cross references to relevant legislation within the Code have been updated to reflect changes made to the law since 1989, but otherwise the Code remains substantively unchanged.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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No. 7

The following are published in this Supplement –

Electoral Registers (Publication Date) Regulations 2014 (SR&O No 7 of 2014);

Fishery Products (Amendment) Ordinance 2014 (No 2 of 2014);

Fishery Products (Hygiene)(Amendment) Regulations 2014 (SR&O No 8 of 2014);

Fishery Products (Vessels, Establishments and Installations) Regulations 2014 (SR&O No 9 of 2014); and

Fishery Products (Designations) Order 2014 (SR&O No 10 of 2014).

SUBSIDIARY LEGISLATION

ELECTIONS

Electoral Registers (Publication Date) Regulations 2014

S. R. & O. No: 7 of 2014

Made: 25 April 2014
Published: 30 April 2014
Coming into force: upon publication

I make these regulations under section 12(2)(b) of the Electoral Ordinance (Title 30.1) and on the advice of Executive Council —

1. Title

These Regulations are the Electoral Registers (Publication Date) Regulations 2014.

2. Commencement

These Regulations come into force upon publication in the *Gazette*.

1.3. Publication date

The date by which the revised versions of the Registers of Electors for each constituency must be published after the canvass for 2014 is 2 June 2014.

Made 25th April 2014

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE *(not part of the order)*

Under section 10 of the Electoral Ordinance (Title 30.1), the Electoral Registration Officer must carry out an annual canvass of electors for each constituency. Under section 12(2), revised versions of the Registers of Electors for each constituency must be published each year after the canvass and this must be done by 1 May, unless another date has been provided for in regulations. The effect of these regulations is to provide that, in 2014, the revised versions of the Registers need not be published by 1 May 2014 but must be published by 2 June 2014 instead.

ELIZABETH II



FALKLAND ISLANDS

JUNE SANDRA TYLER-HAYWOOD,
Acting Governor.

Fishery Products (Amendment) Ordinance 2014

(No: 2 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Fishery Products Ordinance
4. General amendment: “relevant Community legislation” replaced with “relevant EU legislation”
5. Section 2 amended – Interpretation
6. Section 27 replaced – Export to Community of aquaculture animals and aquaculture products
7. Section 35 replaced – Designation of vessels, establishments etc

ELIZABETH II



FALKLAND ISLANDS

JUNE SANDRA TYLER-HAYWOOD,
Acting Governor.

Fishery Products (Amendment) Ordinance 2014

(No: 2 of 2014)

(assented to: 25 April 2014)

(commencement: on publication)

(published: 30 April 2014)

AN ORDINANCE

To amend the Fishery Products Ordinance (No 21 of 2006).

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Fishery Products (Amendment) Ordinance 2014.

2. Commencement

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

3. Amendment of Fishery Products Ordinance

This Ordinance amends the Fishery Products Ordinance.

4. General amendment: “relevant Community legislation” replaced with “relevant EU legislation”

The Ordinance is amended by replacing “relevant Community legislation” wherever it appears in the Ordinance with “relevant EU legislation”.

5. Section 2 amended – Interpretation

Section 2 is amended by replacing the definition of “fishery products” with the following definition —

““fishery products” —

(a) means all seawater or freshwater animals (whether wild or farmed), except —

(i) live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods;
and

(ii) mammals, reptiles and frogs; and

(b) also includes all edible forms, parts and products of such animals;”

6. Section 27 replaced – Export to Community of aquaculture animals and aquaculture products

Section 27 is repealed and replaced with the following section —

“27. Export to European Union of aquaculture animals and aquaculture products

Regulations may make provision for securing that aquaculture animals or aquaculture products are not exported from the Falkland Islands to any part of the European Union, unless —

(a) it meets the requirements of the relevant EU legislation;

(b) it is despatched in accordance with those requirements; and

(c) it is accompanied by the documents required by the relevant EU legislation.”

7. Section 35 replaced – Designation of vessels, establishments etc

Section 35 is repealed and replaced with the following section —

“35. Designation of vessels, establishments and installations

(1) The Governor may by order designate (for the purposes of relevant EU legislation and regulations made under section 36) vessels, establishments and installations of prescribed descriptions.

(2) The Governor may not designate a vessel, establishment or installation unless it has been approved for the purpose by the food authority in accordance with regulations made under section 36.”

Passed by the Legislature of the Falkland Islands on 24 April 2014.

CLAUDETTE 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.

CLAUDETTE PRIOR M.B.E.,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Hygiene) (Amendment) Regulations 2014

S. R. & O. No. 8 of 2014

Made: 25 April 2014

Published: 30 April 2014

Coming into force: on publication

I make these regulations under section 36 of the Fishery Products Ordinance (No 21 of 2006) on the advice of Executive Council.

1. Title

These regulations are the Fishery Products (Hygiene) (Amendment) Regulations 2014.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Amendment of the Fishery Products (Hygiene) Regulations

These regulations amend the Fishery Products (Hygiene) Regulations (No 7 of 2012).

4. Regulation 3 amended – Interpretation

(1) This regulation amends regulation 3.

(2) The following definitions are inserted after the definition of “consignment” —

““establishment” includes installation;

“factory vessel” means a vessel on board which fishery products undergo —

(a) one or more of the following operations —

(i) filleting;

(ii) slicing;

(iii) skinning;

(iv) shelling;

(v) shucking;

(vi) mincing; or

- (vii) processing;
 - (b) followed by —
 - (i) wrapping or packaging; and
 - (ii) if necessary, chilling or freezing;”
- (3) The following definitions are inserted after the definition of “Falkland Islands fishing vessel”
 - ““Falkland Islands freezer vessel” means —
 - (a) a freezer vessel which is registered in the Falkland Islands; or
 - (b) a freezer vessel which is not registered in the Falkland Islands but which the Governor certifies as one that has a close economic connection with the Falkland Islands;
 - “fishery products establishment” means an establishment on land where fishery products intended for human consumption are prepared, processed, chilled, frozen, packaged or stored;
 - “freezer vessel” means a vessel on board which freezing of fishery products is carried out —
 - (a) where appropriate, after preparatory work such as bleeding, heading, gutting and removal of fins; and
 - (b) where necessary, followed by wrapping or packaging;”
- (4) The definition of “fishery products” is omitted.
- (5) The definition of “fresh fishery products” is replaced with the following definition —
 - “fresh fishery products” means unprocessed fishery products, whether whole or prepared, including products packaged under vacuum or in a modified atmosphere, that have not undergone any treatment to ensure preservation other than chilling;”
- (6) The following definitions are inserted after the definition of “frozen products” —
 - “‘hazard’ means a biological, chemical or physical agent in (or a condition of) a fishery product with the potential to cause an adverse health effect;
 - “hermetically sealed container” means a container that is designed and intended to be secure against the entry of hazards;
 - “hygiene” means the measures and conditions necessary to control hazards and to ensure fitness for human consumption of a foodstuff taking into account its intended use;

“mechanically separated fishery product” means a product obtained by removing flesh from fishery products using mechanical means resulting in the loss or modification of the flesh structure;”

(7) The following definition is inserted after the definition of “potable water” —

“prepared fishery products” means unprocessed fishery products that have undergone an operation affecting their anatomical wholeness (such as gutting, heading, slicing, filleting, and chopping).

(8) The following definition is inserted after the definition of “preservation” —

““processed fishery products” —

(a) means fishery products resulting from —

(i) the processing of unprocessed fishery products; or

(ii) the further processing of such processed products; and

(b) includes products containing ingredients that are necessary for their manufacture or to give them specific characteristics.”

(9) The definition of “unprocessed fishery products” is replaced with the following definition —

““unprocessed fishery products” —

(a) means fishery products that have not undergone processing; but

(b) includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed.”

5. Heading to Part 2 replaced

The heading to Part 2 is omitted and replaced with the following heading —

“PART 2 FACTORY VESSELS, FREEZER VESSELS AND FISHERY PRODUCT ESTABLISHMENTS”

6. Regulation 6 replaced – Requirement for designation of Falkland Islands factory vessels and fishery products establishments

Regulation 6 is revoked and replaced with the following regulation —

“6. Requirement for designation of Falkland Islands factory vessels, Falkland Islands freezer vessels and fishery products establishments

No-one may operate a Falkland Island factory vessel, a Falkland Islands freezer vessel or a fishery products establishment unless it has been designated by the Governor by order made under section 35(1) of the Ordinance.”

7. Cross-heading above regulation 7 omitted

The cross-heading above regulation 7 is omitted.

8. Regulations 7 to 9 revoked

Regulations 7 to 9 are revoked.

9. Regulation 10 replaced – Obligations of the operator of a factory vessel or a fishery products establishment

Regulation 10 is revoked and replaced with the following regulation —

“10. Obligations of the operators of vessels and establishments

(1) The operator of a vessel or establishment that is designated under section 35(1) of the Ordinance must ensure that the requirements of the approval of the vessel or establishment by the food authority are complied with.

(2) The operator of a vessel where fishery products intended for placing on the market for human consumption are handled on board must ensure that the applicable provisions of Parts 1 and 2 of Schedule 1 and those of Schedule 3 are complied with.

(3) The operator of an establishment where fishery products intended for placing on the market for human consumption are handled must ensure that the applicable provisions of Parts 3 and 4 of Schedule 1 and those of Schedule 3 are complied with.

(4) The operator of a vessel or establishment on board which or where fishery products intended for placing on the market for human consumption are handled must carry out checks of the vessel or the establishment based on the following principles —

(a) the identification of critical points to ensure the safe and hygienic production in the vessel or the establishment on the basis of the manufacturing processes used (a critical point is a point, step or procedure at which control can be applied and a food safety hazard can be prevented, eliminated or reduced to acceptable levels);

(b) the establishment and implementation of methods to monitor and check such critical points;

(c) the taking of samples for analysis in a laboratory recognised by the Governor to check —

(i) cleaning and disinfection methods, and

(ii) compliance with the standards imposed by this Part of these regulations.

(5) The operator must ensure that those involved in checks under paragraph (4) receive the training necessary to allow them to participate effectively in the implementation of the checks.

(6) If a check made under paragraph (4) reveals a serious health risk or suggests one might exist, the operator must inform the food authority, as soon as reasonably practicable.

(7) The operator must also ensure that —

(a) records are kept in an indelible form of the checks carried out to comply with paragraph (4) that —

(i) satisfy any applicable requirements of the relevant EU legislation (having regard to relevant recommendations made in or under relevant EU legislation);

(ii) include results of the checks carried out over a period going back at least 2 years; and

(b) the records are made available to the food authority on request.”

10. Regulation 11 replaced – Notice of arrival by masters of certain factory vessels

Regulation 11 is revoked and replaced with the following regulation —

“11. Notice of arrival by masters of certain vessels

The master of a factory vessel or a freezer vessel (other than a Falkland Islands factory vessel or a Falkland Islands freezer vessel) that intends to land fishery products on the Falkland Islands for placing on the market must give the food authority notice of the vessel's intended arrival at least 24 hours in advance.”

11. Regulation 13 amended – Hygiene conditions for fishing vessels

Regulation 13(2) is amended by inserting “and those of Schedule 3” after “Part 1 of Schedule 2”.

12. Regulation 14 amended – Gutting of fishery products

Regulation 14(2) is amended by inserting “, a freezer vessel” after “a factory vessel”.

13. Regulation 15 amended – Packaging of fishery products

Regulation 15(1) is amended by inserting “, a freezer vessel” after “a factory vessel”.

14. New regulation 18A

The following regulation is inserted after regulation 18 —

“18A. Health standards for fishery products

(1) In addition to ensuring compliance with microbiological criteria adopted in accordance with the requirements of relevant EU legislation, operators of vessels and establishments must ensure, depending on the nature of the product or the species, that fishery products placed on the market for human consumption meet the standards laid down in this regulation.

(2) Operators of vessels and establishments must carry out organoleptic examinations of fishery products (and, in particular, these examinations must ensure that fishery products comply with freshness criteria in relevant EU legislation).

(3) Operators of vessels and establishments must ensure that the limits in relevant EU legislation with regard to histamine are not exceeded.

(4) A person must not place unprocessed fishery products on the market if chemical tests reveal that the limits in relevant EU legislation with regard to total volatile nitrogen (and, in particular, TVB-N or TMA-N) have been exceeded in relation to those products.

(5) Operators of vessels and establishments must ensure that fishery products have been subjected to a visual examination for the purpose of detecting visible parasites before being placed on the market for human consumption.

(6) Operators of vessels and establishments must not place fishery products on the market for human consumption if they are obviously contaminated with parasites.”

15. New regulation 19A

The following regulation is inserted after regulation 19 —

“19A. Restriction on placing certain fishery products on the market

(1) This regulation applies in relation to fresh, prepared, frozen and processed fishery products belonging to the family *Gempylidae* (in particular *Ruvettus pretiosus* and *Lepidocybium flavobrunneum*).

(2) Products in relation to which this regulation applies —

(a) may only be placed on the market in wrapped or packaged form; and

(b) must be appropriately labelled —

(i) with both the scientific name and the common name of the products;

(ii) to provide information to the consumer on —

(aa) preparation/cooking methods; and

(bb) the risk related to the presence of substances with adverse gastrointestinal effects.”

16. Schedule 1 amended – Production and placing on the market conditions for fishery products

(1) This regulation amends Schedule 1.

(2) In Division 1 of Part 1 —

(a) the heading to Part 1 is amended by adding “and freezer vessels”;

(b) the following cross-heading is inserted above paragraph 1 —

“*Factory vessels*”; and

(c) the following is added —

“Freezer vessels

5. To the extent applicable to the operations carried out on board, the requirements (including, in all cases, those in paragraph 4 relating to freezing) in paragraphs 1 to 4 must also be met in relation to freezer vessels.”

(3) In Division 2 of Part 1, paragraph 1 is amended by inserting “or freezer vessel” after “the factory vessel”.

(4) Part 5 is revoked and replaced with the following Part —

“Part 5 Official Controls

The food authority must establish arrangements (known as “official controls”) in order to establish whether the requirements laid down in these regulations are complied with.

Division 1 Official controls of production and placing on the market

1. Official controls on the production and placing on the market of fishery products are to include, in particular —

- (a) regular checks on the hygiene conditions of landing and first sale;
- (b) inspections at regular intervals of vessels and establishments on land to check, in particular —
 - (i) where appropriate, whether the conditions for approval are still fulfilled;
 - (ii) whether the fishery products are handled correctly;
 - (iii) for compliance with hygiene and temperature requirements; and
 - (iv) the cleanliness of establishments, including vessels, and their facilities and equipment, and staff hygiene; and
- (c) checks on storage and transport conditions.

2. Official controls of vessels may be carried out —

- (a) during stays in port; and
- (b) wherever a vessel is registered.

Division 2
Official controls of fishery products

1. Official controls of fishery products are to include at least the elements set out in this Division.

Organoleptic examinations

2. Random organoleptic checks must be carried out at all stages of production, processing and distribution.

3. One aim of these checks is to verify compliance with the freshness criteria established in accordance with relevant EU legislation, which (in particular) includes verifying, at all stages of production, processing and distribution, that fishery products at least exceed the baselines of freshness criteria established in accordance with relevant EU legislation.

Freshness indicators

4. When the organoleptic examination reveals any doubt as to the freshness of the fishery products, samples may be taken and subjected to laboratory tests to determine the levels of total volatile basic nitrogen (TVB-N) and trimethylamine nitrogen (TMA-N).

5. The food authority is to use the criteria laid down under relevant EU legislation.

6. When the organoleptic examination gives cause to suspect the presence of other conditions which may affect human health, appropriate samples are to be taken for verification purposes.

Histamine

7. Random testing for histamine is to be carried out to verify compliance with the permitted levels laid down under relevant EU legislation.

Residues and contaminants

8. Monitoring arrangements are to be set up to control the levels of residues and contaminants in accordance with Community legislation.

Microbiological checks

9. Where necessary, microbiological checks are to be performed in accordance with the relevant rules and criteria laid down under relevant EU legislation.

Parasites

10. Random testing is to take place to verify compliance with relevant EU legislation on parasites.

Poisonous fishery products

11. Checks are to take place to ensure that —

(a) fishery products derived from poisonous fish of the following families are not placed on the market —

(i) *Tetraodontidae*;

(ii) *Molidae*;

(iii) *Diodontidae*;

(iv) *Canthigasteridae*;

(b) fresh, prepared, frozen and processed fishery products belonging to the family *Gempylidae* (in particular, *Ruvettus pretiosus* and *Lepidocybium flavobrunneum*) —

(i) may only be placed on the market in wrapped or packaged form;

(ii) must be appropriately labelled to provide information to the consumer on —

(aa) preparation and cooking methods; and

(bb) the risk related to the presence of substances with adverse gastrointestinal effects; and

(iii) the scientific names of the fishery products and the common names appear on the label.

(c) fishery products containing biotoxins such as ciguatera or other toxins dangerous to human health are not placed on the market.

Division 3 ***Decisions after controls***

Fishery products are to be declared unfit for human consumption if —

(a) organoleptic, chemical, physical or microbiological checks or checks for parasites have shown that they are not in compliance with the relevant EU legislation;

(b) they contain in their edible parts contaminants or residues —

(i) in excess of the limits laid down in relevant EU legislation; or

(ii) at levels where the calculated dietary intake would exceed the acceptable daily or weekly intake for humans;

(c) they derive from —

- (i) poisonous fish; or
- (ii) fishery products not complying with the requirement of paragraph 11(c) of Division 2 concerning biotoxins;
- (d) the food authority considers that the products —
 - (i) may constitute a risk to public or animal health; or
 - (ii) are for any other reason not suitable for human consumption.”

17. New Schedule 3 – Hazard analysis and critical control points (HACCP)

The following Schedule is added —

**“SCHEDULE 3
HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP)**

1. HACCP principles

(1) The HACCP principles consist of the following —

- (a) identifying hazards that must be prevented, eliminated or reduced to acceptable levels;
- (b) identifying the critical control points at the step or steps at which control is essential to prevent or eliminate a hazard or to reduce it to acceptable levels;
- (c) establishing critical limits at critical control points which separate acceptability from unacceptability for the prevention, elimination or reduction of identified hazards;
- (d) establishing and implementing effective monitoring procedures at critical control points;
- (e) establishing corrective actions when monitoring indicates that a critical control point is not under control;
- (f) establishing procedures, which shall be carried out regularly, to verify that the measures outlined in subparagraphs (a) to (e) are working effectively; and
- (g) establishing documents and records commensurate with the nature and size of the food business to demonstrate the effective application of the measures outlined in subparagraphs (a) to (f).

2. Duties on operators in relation to HACCP

- (1) Operators of vessels, establishments and installations must put in place, implement and maintain permanent procedures based on the HACCP principles.
- (2) When any modification is made in a product, process or step, operators must review the procedures and make the necessary changes to them.

(3) Operators must —

- (a) provide the food authority with evidence of their compliance with sub-sections (1) and (2) in the manner that the food authority requires, taking account of the nature and size of the vessel, establishment or installation and its operations;
- (b) ensure that any documents describing the procedures developed in accordance with paragraph are up-to-date at all times;
- (c) retain any other documents and records for an appropriate period.”

Made 25th April 2014

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE
(not part of the regulations)

These regulations amend the Fishery Products (Hygiene) Regulations (SR&O No 7 of 2012).

They are made under section 36 of the Fishery Products Ordinance (No 21 of 2006).

These regulations form part of a package of legislation about fishery products, along with: amendments to the Fishery Products Ordinance; new regulations about the approval and designation of vessels, establishments and installations; and a new set of designations under section 35 of the Fishery Products Ordinance (replacing existing designations under previous legislation).

Regulation 2 provides that the regulations will come into force on publication at the same time as the rest of the package of legislation.

Regulation 4 amends regulation 3 of the Hygiene Regulations, which deals with interpretation:

The definition of “fishery products” is omitted because a more up to date definition is now included in the new version of section 35 of the Fishery Products Ordinance – that definition continues to exclude bivalve molluscs, echinoderms, tunicates, marine gastropods, mammals, reptiles and frogs.

Other definitions are either:

- replaced so that they correspond more accurately to the definitions used in EU legislation; or

- inserted into regulation 3 for completeness (including definitions that replace ones that formerly appeared in section 35 of the Fishery Products Ordinance).

Regulations 5, 6, 10, 12 and 13 make consequential amendments to reflect the fact that freezer vessels can now be designated.

Regulations 7 and 8 revoke regulations 7 to 9 of the Hygiene Regulations and the cross-heading above regulation 7. These provisions are being replaced with corresponding provisions in the Fishery Products (Vessels, Establishments and Installations) Regulations (SR&O No 9 of 2014).

Regulation 9 replaces regulation 10 of the Hygiene Regulations to impose obligations about Hazard Analysis and Critical Control Points (HACCP) on operators of vessels, establishments and installations. The requirements are set out in a new Schedule 3 to the Hygiene Regulations, which is added by *regulation 17*. The new version of regulation 10 also contains consequential changes to reflect the fact that freezer vessels can now be designated.

Regulation 11 amends regulation 13 of the Hygiene Regulations to impose the same obligations about HACCP in relation to fishing vessels.

Regulation 14 inserts a new regulation 18A into the Hygiene Regulations to incorporate provisions about health standards for fishery products (corresponding to those in section 8, Chapter V of Annex III to EU Regulation 853/2004) that were omitted in error from the original version of the Hygiene Regulations.

Regulation 15 inserts a new regulation 19A into the Hygiene Regulations and provides for specific restrictions relating to certain fishery products.

Regulation 16 amends Schedule 1 to the Hygiene Regulations:

- It makes consequential amendments to Part 1 of Schedule 1 to reflect the fact that freezer vessels can now be designated.
- It also replaces Part 5 of Schedule 1 (which deals with official controls on fishery products and the production and placing on the market of fishery products) to bring it into line with Annex III to EU Regulation 854/2004.

Regulation 17 adds the new Schedule 3 to the Hygiene Regulations which contains the detailed requirements about HACCP and which is referred to in *regulations 10 and 13*. (New Schedule 3 is also referred to in the Fishery Products (Vessels, Establishments and Installations) Regulations.)

SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Vessels, Establishments and Installations) Regulations 2014

S. R. & O. No. 9 of 2014

Made: 25 April 2014

Published: 30 April 2014

Coming into force: on publication

I make these regulations under sections 35, 36 and 37 of the Fishery Products Ordinance (No 21 of 2006) on the advice of Executive Council.

PART 1 INTRODUCTION

1. Title

These regulations are the Fishery Products (Vessels, Establishments and Installations) Regulations 2014.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Interpretation: defined terms

In these regulations —

“cold store” means a wholesale establishment or installation used for the storage (under temperature controlled conditions) of fishery products that are intended for sale for human consumption;

“factory vessel” means a vessel on board which fishery products undergo —

(a) one or more of the following operations —

- (i) filleting;
- (ii) slicing;
- (iii) skinning;
- (iv) shelling;
- (v) shucking;

(vi) mincing; or

(vii) processing;

(b) followed by —

(i) wrapping or packaging; and

(ii) if necessary, chilling or freezing;

“fresh fishery products plant” means an establishment or installation in which fresh fishery products undergo —

(a) where appropriate, preparatory work such as bleeding, heading, gutting and removal of fins; and

(b) followed by —

(i) wrapping or packaging; and

(ii) if necessary, chilling or freezing;

“freezer vessel” means a vessel on board which freezing of fishery products is carried out —

(a) where appropriate, after preparatory work such as bleeding, heading, gutting and removal of fins; and

(b) where necessary, the preparatory work is followed by wrapping or packaging;

“mechanically separated fishery products plant” means an establishment or installation in which mechanically separated fishery products are produced;

“processing plant” means an establishment or installation in which fishery products undergo —

(a) one or more of the following operations —

(i) filleting;

(ii) slicing;

(iii) skinning;

(iv) shelling;

(v) shucking;

(vi) mincing; or

(vii) processing;

(b) followed by —

(i) wrapping or packaging; and

(ii) if necessary, chilling or freezing; and

“re-wrapping plant” means an establishment in which fishery products are —

(a) unwrapped from the initial wrapping or initial container (which is in direct contact with the product); and

(b) then re-wrapped.

4. Interpretation: other terms

(1) Sub-regulation (2) applies to a term if —

(a) it is used in both —

(i) these regulations; and

(ii) relevant EU legislation;

(b) it is not defined in —

(i) regulation 3; or

(ii) the Fishery Products Ordinance.

(2) Terms to which this sub-regulation applies have the same meaning in these regulations as they do in the relevant EU legislation.

PART 2 PRESCRIBED DESCRIPTIONS OF VESSELS, ESTABLISHMENTS AND INSTALLATIONS

5. Descriptions of vessels, establishments and installations that may be designated

The following descriptions of vessels, establishments and installations may be designated under section 35 of the Fishery Products Ordinance —

(a) cold store;

(b) factory vessel;

(c) fresh fishery products plant;

(d) freezer vessel;

(e) mechanically separated fishery products plant;

- (f) processing plant;
- (g) re-wrapping establishment.

PART 3

APPROVAL BY FOOD AUTHORITY

6. Approval of vessels, establishments and installations

(1) An application for the approval by the food authority under section 35(2) of a vessel, establishment or installation must —

- (a) be made to the food authority in writing; and
- (b) be accompanied by such supplementary information, documents, plans and diagrams as are necessary to enable the food authority to determine the application.

(2) The food authority must not approve a vessel unless the food authority is satisfied that, to the extent that the conditions set out in Parts 1 and 2 of Schedule 1 and those of Schedule 3 to the Fishery Products (Hygiene) Regulations (SR&O No 7 of 2012) apply to the vessel, the vessel complies with those conditions.

(3) The food authority must not approve an establishment or installation unless the food authority is satisfied that, to the extent that the conditions set out in Parts 3 and 4 of Schedule 1 and those of Schedule 3 to the Fishery Products (Hygiene) Regulations apply to the establishment or installation, the establishment or installation meets those conditions.

(4) The food authority may approve a vessel, establishment or installation subject to limitations on one or more of the following —

- (a) its particular activities;
- (b) its method of operation;
- (c) its intensity of use.

(5) The food authority must give written notification to a person who makes an application under sub-regulation (1) stating the result of the application and, in the case of a refusal, also stating the reason for the refusal.

(6) When the food authority approves a vessel, establishment or installation under this regulation, it must —

- (a) designate the vessel, establishment or installation with a unique approval number; and
- (b) notify the Governor of the approval and the approval number allocated.

7. Variation of limitation on approval

(1) The operator of a vessel, establishment or installation which is subject to a limitation on its approval may apply to the food authority for a variation of that limitation.

- (2) The food authority may vary the limitation following such an application.
- (3) The food authority may also vary such a limitation of its own motion —
 - (a) with the consent of the operator of the vessel, establishment or installation; or
 - (b) to comply with a legal requirement including, in particular, a requirement of relevant EU legislation.
- (4) If the food authority varies a limitation under sub-regulation (2) or (3), it must —
 - (a) inform the operator of the vessel, establishment or installation about the variation; and
 - (b) state when the variation will take effect.

8. Revocation of approvals

- (1) The food authority may revoke the approval of a vessel, establishment or installation if, after inspecting the vessel, establishment or installation or inquiring into the method of its operation, the food authority is satisfied that —
 - (a) there has been a serious and manifest breach of —
 - (i) one or more limitations subject to which the approval was granted; or
 - (ii) an applicable provision of the Fishery Products (Hygiene) Regulations;
 - (b) the operator of the vessel, establishment or installation is either unable or not prepared to ensure that the breach is remedied; and
 - (c) the food authority is satisfied that the breach poses a risk to public health.
- (2) If the food authority revokes the approval of a vessel, establishment or installation under sub-regulation (1), the food authority must —
 - (a) inform the operator of the vessel, establishment or installation about the revocation; and
 - (b) state when the revocation will take effect.

9. Right to request reconsideration of decision by food authority

- (1) This regulation applies to the following decisions that can be taken by the food authority —
 - (a) to refuse to grant approval for a vessel, establishment or installation following an application under regulation 6(1);
 - (b) to impose a limitation on the approval of a vessel, establishment or installation under regulation 6(4);
 - (c) to refuse to vary a limitation on the approval of a vessel, establishment or installation following an application under regulation 7(1);

- (d) to vary a limitation on the approval of a vessel, establishment or installation following an application under regulation 7(1) but in a different way;
 - (d) to vary a limitation on the approval of a vessel, establishment or installation on its own motion under regulation 7(3); or
 - (e) to revoke the approval of a vessel, establishment or installation under regulation 8(1).
- (2) If a decision to which this regulation applies is taken, the operator may request the food authority to reconsider the decision.
- (3) A request for the food authority to reconsider a decision must be made within 28 days from the date on which the food authority notifies the operator about the decision.
- (4) When notifying the operator of a vessel, establishment or installation about a decision to which sub-regulation (1) applies, the food authority must inform the operator —
- (a) that the operator has the right to request the food authority to reconsider the decision; but
 - (b) that a request can only be made within 28 days.
- (5) While the food authority is reconsidering a decision, the decision will continue to apply.

Made 25th April 2014

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE
(not part of the regulations)

Section 35 of the Fishery Products Ordinance (No 21 of 2006) is being amended by section 7 of the Fishery Products (Amendment) Ordinance (No 2 of 2014).

The new version of section 35 allows the Governor to designate vessels, establishments and installations of prescribed descriptions.

These designations apply for the purposes of —

- (a) relevant EU legislation, which is defined in the Schedule to the Ordinance; and

(b) regulations made under section 36 of the Ordinance – the current regulations are the Fishery Products (Hygiene) Regulations (SR&O No 7 of 2012), which are being amended by the Fishery Products (Hygiene) (Amendment) Regulations (SR&O No 8 of 2014).

Section 36(1) of the Ordinance provides for regulations to deal with various matters, including: applications for approval; the standards of hygiene which apply to such vessels, establishments and installations; and the powers of the food authority (which is defined in section 2 of the Ordinance to mean the Senior Veterinary Officer or another public officer appointed by the Governor to be a food authority for the purposes of this Ordinance).

Section 37(1) of the Ordinance allows the Governor to prescribe things that have to be prescribed for the purposes of the Ordinance.

Part 1 of these regulations deals with introductory matters.

Regulation 2 provides that the regulations will come into force on publication in the *Gazette* with the rest of the package of legislation.

Regulations 3 and 4 deal with definitions, which are based on EU legislation.

Part 2 of these regulations prescribe the categories of vessels, establishments and installations that can be designated under section 35.

Regulation 5 prescribes 7 categories (and these are defined in *regulation 3*):

- cold store;
- factory vessel;
- fresh fishery products plant;
- freezer vessel;
- mechanically separated fishery products plant;
- processing plant;
- re-wrapping establishment.

The EU recognises two other categories of approval (auction hall and wholesale market) but these are not currently envisaged in the Falkland Islands, so have not been included in these regulations.

Part 3 of these regulations deal with approvals of vessels, establishments and installations.

Regulations 6 to 8 are based on regulations 7 to 9 of the Fishery Products (Hygiene) Regulations and will replace those regulations as part of the new package of legislation:

- *Regulation 6* deals with applications for approval of vessels, establishments and installations and the power of the food authority to impose limitations on approvals.

- *Regulation 7* deals with variations to limitations, either following applications by approval holders or on the food authority's own motion.
- *Regulation 8* deals with the circumstances in which approvals can be revoked by the food authority.

Regulation 9 provides that there is a right for the operator of a vessel, establishment or installation to request the food authority to reconsider a decision affecting an approval, but the decision will continue to apply while the food authority is reconsidering it.

SUBSIDIARY LEGISLATION

FISHERIES

Fishery Products (Designations) Order 2014

S. R. & O. No. 10 of 2014

Made: 25 April 2014

Published: 30 April 2014

Coming into force: on publication

I make this order under section 35 of the Fishery Products Ordinance (No 21 of 2006) on the advice of Executive Council.

PART 1 INTRODUCTION

1. Title

This order is the Fishery Products (Designations) Order 2014.

2. Commencement

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

3. Designation of factory vessels

The vessels listed in Schedule 1 are designated as factory vessels.

4. Designation of cold store

The establishment listed in Schedule 2 is designated as a cold store.

5. Revocations

The orders listed in Schedule 3 are revoked.

SCHEDULE 1 FACTORY VESSELS

Vessel name	Approval number
Petrel	1001
Capricorn	1005
Beagle FI	1006
Argos Galicia	1007
Igueldo	1008
Golden Touza	1009
Golden Chicha	1010
Kestrel	1012
Sil	1014

(article 3)

Argos Pereira	1015
Venturer	1020
Castelo	1021
Argos Vigo	1022
Robin M Lee	1025
Paradanta Primero	1026
Kalatxori	1028
New Polar	1030
CFL Gambler	1032
Tronio	1037

SCHEDULE 2 COLD STORE

Establishment name	Approval number	<i>(article 4)</i>
Seaview Logistics Ltd Cold Store	2001	

SCHEDULE 3 LIST OF ORDERS REVOKED

(article 5)

Fishery Products (Hygiene) (Designation of Vessels) Order 1998 (SR&O No 55 of 1998)

Fishery Products (Hygiene) (Designation of Vessels) (No 2) Order 1998 (SR&O No 57 of 1998)

Fishery Products (Hygiene) (Designation of Vessels) Order 2000 (SR&O No 8 of 2000)

Fishery Products (Hygiene) (Designated Establishments) Order 1998 (SR&O No 25 of 2000)

Fishery Products (Hygiene) (Designation of Vessels) Order 2001 (SR&O No 3 of 2001)

Fishery Products (Hygiene) (Designation of Vessels) (No 2) Order 2001 (SR&O No 8 of 2001)

Fishery Products (Hygiene) (Designation of Vessels) Order 2003 (SR&O No 8 of 2003)

Fishery Products (Hygiene) (Designation of Vessels) (No 2) Order 2004 (SR&O No 35 of 2004)

Fishery Products (Hygiene) (Designation of Vessels) (No 2) Order 2005 (SR&O No 24 of 2005)

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

Fishery Products Designation (Amendment) Order 2012 (SR&O No 10 of 2012)

Fishery Products (Hygiene) Designation Order 2012 (SR&O No 16 of 2012)

Made 25th April 2014

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE
(not part of the regulations)

Section 35 of the Fishery Products Ordinance (No 21 of 2006) is being amended by section 7 of the Fishery Products (Amendment) Ordinance (No 2 of 2014).

The new version of section 35 allows the Governor to designate vessels, establishments and installations of prescribed descriptions. Seven defined categories are being prescribed by the Fishery Products (Vessels, Establishments and Installations) Regulations (SR&O No 9 of 2014):

- cold stores
- factory vessels
- fresh fishery products plant;
- freezer vessel;
- mechanically separated fishery products plant;
- processing plant;
- re-wrapping establishment

This order replaces the remaining designation orders under the old legislation:

With three exceptions, it re-designates all of the fishing vessels that remain approved under existing legislation in a consolidated list – the exceptions relate to a vessel that has sunk (the “Ferralemes”), a vessel that has been reflagged and is no longer a Falkland Islands vessel (the “Argos Marine”) and a vessel that has not been inspected for some length of time (the “Jacqueline”). It also re-designates the Seaview Logistics Ltd Cold Store (currently designated as a fishery products establishment) as a cold store.

These designations apply for the purposes of —

- (a) relevant EU legislation, which is defined in the Schedule to the Ordinance); and
- (b) regulations made under section 36 of the Ordinance – the current regulations are the Fishery Products (Hygiene) Regulations (SR&O No 7 of 2012), which are being amended by the Fishery Products (Hygiene) (Amendment) Regulations (SR&O No 8 of 2014).

It is envisaged that this order will be brought into force on publication in the Gazette with the rest of the package of legislation.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

12 June 2014

No. 8

The following are published in this Supplement –

Supplementary Appropriation (2013-2014) Ordinance 2014 (No 3 of 2014);
Appropriation Ordinance 2014 (No 4 of 2014);
Capital Appropriation Ordinance 2014 (No 5 of 2014); and
Finance Ordinance 2014 (No 6 of 2014).

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Supplementary Appropriation (2013-2014) Ordinance 2014

(No: 3 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum

Schedule

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (2013-2014) ORDINANCE 2014

(No: 3 of 2014)

(assented to: 9 June 2014)
(commencement: on publication)
(published: 12 June 2014)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £11,000,000.00 for the financial year ending 30 June 2014.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2013-2014) Ordinance 2014.

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 £11,000,000.00 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2014 in accordance with the Schedule.

SCHEDULE

Number	Head of Service	Amount £
	Operating Budget	
0990	Fund Transfers & Transfer Payments	11,000,000.00
	Total Operating Budget	<u>11,000,000.00</u>
	Total Schedule	<u>11,000,000.00</u>

Passed by the Legislature of the Falkland Islands on 4 June 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Appropriation Ordinance 2014

(No: 4 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

APPROPRIATION ORDINANCE 2014

(No: 4 of 2014)

(assented to: 9 June 2014)
(commencement: on publication)
(published: 12 June 2014)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of money for the financial year ending 30 June 2015.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Appropriation Ordinance 2014.

2. Commencement

This Ordinance comes into force on publication in the Gazette.

3. Appropriation

(1) The Financial Secretary may withdraw the sum of £59,680,970 from the Consolidated Fund.

(2) Any sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2015 for the purpose of supplying the votes set out in the Schedule.

SCHEDULE

DIRECTORATE	Total Operating Budget	Capital Charges	Departmental Expenditure	Less Internal Charges	Net Operating Budget
<i>OPERATING BUDGET</i>	£	£	£	£	£
110 Central Services	6,568,580	552,550	6,016,030	139,920	5,876,110
120 Human Resources	375,290	-	375,290	1,840	373,450
200 Health & Social Services	10,374,990	562,040	9,812,950	194,170	9,618,780
250 Education	6,079,140	433,700	5,645,440	96,400	5,549,040
350 Public Works	12,836,820	3,367,130	9,469,690	222,380	9,247,310
410 Natural Resources	6,815,310	104,620	6,710,690	327,380	6,383,310
451 AG's Chambers	1,450,440	18,400	1,432,040	24,640	1,407,400
550 Emergency Services	2,555,150	252,910	2,302,240	37,410	2,264,830
600 Executive Management	2,722,130	52,050	2,670,080	31,140	2,638,940
620 Mineral Resources	709,710	3,020	706,690	3,610	703,080
700 The Treasury	2,361,750	5,120	2,356,630	17,630	2,339,000
TOTAL DEPT BUDGET	52,949,310	5,351,340	47,597,770	1,096,520	46,501,250
999 Island Plan Investments	9,661,720	-	9,661,720	-	9,661,720
998 Social Investments	527,000	-	527,000	-	527,000
TOTAL MTFP EXPENDITURE	63,138,030	-	57,786,490	-	56,689,970
997 Oil	2,991,000	-	2,991,000	-	2,991,000
TOTAL LTFP EXPENDITURE	66,129,030	5,351,540	60,777,490	1,096,520	59,680,970

Passed by the Legislature of the Falkland Islands on 6 June 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Capital Appropriation Ordinance 2014

(No: 5 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

CAPITAL APPROPRIATION ORDINANCE 2014

(No: 5 of 2014)

(assented to: 9 June 2014)
(commencement: on publication)
(published: 12 June 2014)

AN ORDINANCE

To authorise the withdrawal from the Capital Equalisation Fund of money for capital projects.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Capital Appropriation Ordinance 2014.

2. Commencement

This Ordinance comes into force on publication in the Gazette.

3. Appropriation

(1) The Financial Secretary may make payments out of the Capital Equalisation Fund not exceeding, in total, £26,779,630 as are required to fund the amendments to the capital programme detailed in the Schedule.

(2) The authorisation given in subsection (1) authorises payments additional to those authorised by order made under section 11(2) of the Public Funds Ordinance (Title 19.7).

SCHEDULE

section 3

Capital Programme

	Financial Year	Financial Year	Total
	2013/14	2014/15	
	£	£	£
Economic Development	222,000	100,000	322,000
Population and Workforce	(500,000)	75,000	(425,000)
Transport & Communications	(365,350)	1,095,930	730,580
Education & Training	1,015,170	350,000	1,365,170
Health & Social Care	-	1,563,500	1,563,500
Maintenance	-	559,260	559,260
Infrastructure	6,934,340	13,751,850	20,686,190
Safety & Security	118,830	708,200	827,030
Protecting the Environment	-	255,000	255,000
Community & Culture	395,900	500,000	895,900
	<u>7,820,890</u>	<u>18,958,740</u>	<u>26,779,630</u>

Passed by the Legislature of the Falkland Islands on 6 June 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Finance Ordinance 2014

(No: 6 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Air Navigation (Fees) Regulations
4. Amendment of Banking Regulations Order
5. Amendment of Civil Cases (Fees) Rules
6. Amendment of Commissioners for Oaths Rules
7. Amendment of Companies and Private Partnership Ordinance and other companies legislation
8. Amendment of Court Fees (Family Proceedings) Rules
9. Amendment of Currency Ordinance
10. Amendment of Customs (Fees) Regulations
11. Amendment of Customs (Import Prohibitions)(Fees) Regulations
12. Amendment of Dogs Rules
13. Amendment of Falkland Islands Status (Application Fees) Regulations
14. Amendment of Family Allowances Ordinance
15. Amendment of Firearms and Ammunition (Fees) Regulations Order
16. Amendment of Fishery Products (Hygiene)(Fees) Regulations
17. Amendment of Harbours Regulations
18. Amendment of Immigration (Fees) Regulations
19. Amendment of Land Charges Fees Rules
20. Amendment of Land (Non-residents)(Fees) Regulations
21. Amendment of Land Ordinance
22. Amendment of Medical Services Tax Ordinance
23. Amendment of Merchant Shipping (Registration of Ships)(Fees) Regulations

24. Amendment of Notaries Public Rules
25. Amendment of Plant Importation Regulations
26. Amendment of Registration of Marriages Regulations
27. Amendment of Registration of United Kingdom Patents Ordinance
28. Amendment of Registration Regulations
29. Amendment of Retirement Pensions (Prescribed Rates) Regulations
30. Amendment of Road Traffic Ordinance
31. Amendment of Road Traffic (Provisional) Regulations Order
32. Amendment of Stanley Airport Regulations
33. Amendment of Vehicle Licence Labels Regulations

Schedule 1: New Schedule to Air Navigation (Fees) Regulations

Schedule 2: New Schedules 1 and 2 to the Civil Cases (Fees) Rules

Schedule 3: New Schedule A to Companies and Private Partnership Ordinance

Schedule 4: New Schedule to Court Fees (Family Proceedings) Rules

Schedule 5: New Schedule to Fisheries Products (Hygiene)(Fees) Regulations

Schedule 6: New Schedule 1 to Land Charges Fees Rules

Schedule 7: New Schedule 2 to Land Ordinance

Schedule 8: New Schedule to Notaries Public Rules

Schedule 9: New Schedule 2 to Registration Regulations

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

FINANCE ORDINANCE 2014

(No: 6 of 2014)

(assented to: 9 June 2014)
(commencement: in accordance with section 2)
(published: 12 June 2014)

AN ORDINANCE

To amend miscellaneous provisions of various enactments in force in the Falklands Islands so as to vary or abolish specified allowances, benefits, charges, contributions, fees, and penalties provided for in these enactments, to insert in various enactments provisions imposing new charges, and to amend the Currency Ordinance (Title 25.1) so as to remove the requirement for the Commissioners of Currency to meet at intervals not exceeding twelve months.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Finance Ordinance 2014.

2. Commencement

(1) Section 4 comes into force on 1 January 2015.

(2) Section 22 comes into force on 1 January 2015 and, as of that date, will apply retroactively and for all purposes be regarded and given full effect to as having come into force on 1 January 2014.

(3) The rest of this Ordinance comes into force on 1 July 2014.

3. Amendment of Air Navigation (Fees) Regulations

The Air Navigation (Fees) Regulations (SR&O No 9 of 2009) are amended by omitting the Schedule and replacing it with the contents of Schedule 1 to this Ordinance.

4. Amendment of Banking Regulations Order

Regulation 4 of the Banking Regulations Order (Title 10.1.1) is amended by omitting “£5,000.00” and replacing it with “£6,000.00”.

5. Amendment of Civil Cases (Fees) Rules

The Civil Cases (Fees) Rules are amended by omitting Schedules 1 and 2 and replacing each Schedule with the corresponding portion of the contents of Schedule 2 to this Ordinance.

6. Amendment of Commissioners for Oaths Rules

Rule 2(1) of the Commissioners for Oaths Rules (Title 22.1.1) is amended —

(a) in paragraph (a), by omitting “£7.20” and replacing it with “£7.40”; and

(b) in paragraph (b), by omitting “£3.60” and replacing it with “£3.70”.

7. Amendment of Companies and Private Partnership Ordinance and other companies legislation

(1) Schedule A to the Companies and Private Partnership Ordinance (Title 18.1) is repealed and replaced by the contents of Schedule 3 to this Ordinance.

(2) Section 242A(2) of the Companies Act, 1985 (as in force in England on 1st September, 2006) is amended in its application to the Falkland Islands by omitting the table and replacing it with the following —

“Length of period	Public company	Private company
Not more than 3 months	£500	£103
More than 3 months but not more than 6 months	£1,030.00	£260
More than 6 months but not more than 12 months	£2,060	£515
More than 12 months	£5,150	£1,030”.

8. Amendment of Court Fees (Family Proceedings) Rules

The Court Fees (Family Proceedings) Rules (Title 38(2) 3.1) are amended by repealing the Schedule and replacing it with the contents of Schedule 4 to this Ordinance.

9. Amendment of Currency Ordinance

Section 5(3) of the Currency Ordinance (Title 25.1) is amended by omitting the words “but a period greater than twelve months shall not elapse between meetings”.

10. Amendment of Customs (Fees) Regulations

The Customs (Fees) Regulations (SR&O No 10 of 2006) are amended as follows —

(a) in regulation 3 —

- (i) by omitting “£74.80” in each place where it appears and replacing it with “£76.40”;
- (ii) by omitting “£112.20” in each place where it appears and replacing it with “£114.60”;
- (iii) in paragraph (a)(ii), by omitting “£37.40” and replacing it with “£38.20”; and
- (iv) in paragraph (c)(ii), by omitting “£56.10” and replacing it with “£57.30”; and

(b) in regulation 4 —

- (i) by omitting “£51.50” in each place where it appears and replacing it with “£52.30”;
- (ii) by omitting “£255.45” in each place where it appears and replacing it with “£259.30”;
- (iii) in subregulation (3)(a), by omitting “£25.75” and replacing it with “£26.15”; and
- (iv) in subregulation (3)(b), by omitting “£127.75” and replacing it with “£129.70”.

11. Amendment of Customs (Import Prohibitions)(Fees) Regulations

Regulation 3 of the Customs (Import Prohibitions)(Fees) Regulations (SR&O No 12 of 2009) is amended by omitting —

(a) paragraph (a) and replacing it with the following —

“(a) Importation of Animals etc Proclamation 2000 (No 2 of 2000) —

- (i) licence for importation of animal – standard (per licence) £125.70
- (ii) licence for importation of animal – poultry/exotic pet (per licence) £32.00
- (iii) licence for importation of animal – poultry/exotic pet (annual) £63.90
- (iv) inspection and treatment on arrival £10.80 plus
the cost of
necessary
drug
treatment
- (v) clearance from port of arrival – (per importer) £113.10
- (vi) inspection following house quarantine (per animal) £10.80.”;

(b) paragraph (b) and replacing it with the following —

“(b) Importation of Food and Animal Products from South America Proclamation 2001 (No 3 of 2001) —

- | | |
|---|---------|
| (i) licence for the importation of animal/animal product
(commercial – single importation) | £15.10 |
| (ii) licence for the importation of animal/animal product
(commercial – annual) | £125.70 |
| (iii) licence for the importation of animal/animal product
(non commercial).”; and | £3.90 |

(c) paragraph (c) and replacing it with the following —

“(c) Proclamation Number 6 of 1985 —

Inspection of shearing equipment by the Government Veterinary Officer”.	£38.90
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12. Amendment of Dogs Rules

Rule 3 of the Dogs Rules (Title 5.2.1) is amended by omitting “£30.90” and replacing it with “£31.40”.

13. Amendment of Falkland Islands Status (Application Fees) Regulations

The Falkland Islands Status (Application Fees) Regulations (Title 52.3.2) are amended in regulation 2(1) by omitting “£212.00” and replacing it with “£215.00”.

14. Amendment of Family Allowances Ordinance

The Family Allowances Ordinance (Title 65.1) is amended —

(a) in section 2, by inserting immediately after the definition of “issue” the following terms and their definitions —

““relevant student” has the meaning assigned to it in section 4A;

“secondary level education” means education that —

- (a) is not provided or pursued by way of exclusive enrolment at the Training Centre;
- (b) is provided to a student who has completed primary education; and
- (c) either —
 - (i) culminates with the student sitting any number of General Certificate of Secondary Education examinations; or

(ii) conforms to a structured curriculum, be it academic, vocational, specifically geared towards persons with special needs of any kind, or of any other nature; but is not of a level any more advanced or demanding than General Certificate of Secondary Education examinations;”

(b) in section 3, by omitting —

(i) “£66.20” and replacing it with “£67.20”;

(ii) paragraph (c) of subsection (2) and replacing it with the following —

“(c) if —

(i) both persons who would be eligible under section 8 to receive payment of a family allowance in respect of a child; or

(ii) in either of the cases referred to in section 5(1)(b) or 5(1)(c), the man or the woman as applicable, is exempted from the liability to pay income tax by virtue of a law of the Falkland Islands or by extra-statutory concession from the Commissioner of Taxation;” and

(c) by repealing section 4 and replacing it with the following section —

“4. Meaning of “child”

(1) For the purposes of this Ordinance, “child” means a person who has not yet attained the age of 16 years.

(2) In this Ordinance, all references to “child” or “children” must respectively be construed as including references to a relevant student or to relevant students.”;

and

(d) by adding the following new section immediately after section 4 —

“4A. Meaning of “relevant student”

(1) A person is a relevant student if the person —

(a) is present in the Falkland Islands;

(b) is over the age of 16 years;

(c) is enrolled in an institution where the person (as a student) is receiving secondary level education; and

(d) meets all the requirements for qualification as a child of a family other than the requirement of being under the age of 16 years.

(2) A person's status as a relevant student is unaffected by the person not having been, when under the age of 16 years, a child of the same family in relation to which he or she is regarded as a relevant student.

(3) A person immediately ceases to be a relevant student when any of the following occurs —

(a) the person completes the course of study (whether or not the person attains a passing grade);

(b) the institution terminates the person's enrolment, whether by expulsion or any other means; or

(c) for any other reason the person ceases to be enrolled in an institution where the person (as a student) is receiving secondary level education.”.

15. Amendment of Firearms and Ammunition (Fees) Regulations Order

The Firearms and Ammunition (Fees) Regulations Order (Title 23.2.1) is amended —

(a) in regulation 2, by omitting “£18.50” and replacing it with “£18.75”; and

(b) in the schedule, by omitting —

(i) “£67.00” and replacing it with “£68.00”;

(ii) “£18.50” and replacing it with “£18.75”; and

(iii) “£36.75” and replacing it with “£37.25”.

16. Amendment of Fishery Products (Hygiene)(Fees) Regulations

The Fishery Products (Hygiene)(Fees) Regulations (SR&O No 41 of 1998) are amended by repealing the Schedule and replacing it with the contents of Schedule 5 to this Ordinance.

17. Amendment of the Harbours Regulations

Schedule 3 to the Harbours Regulations (Title 57.3.1) is amended by omitting paragraph 1 and replacing it with —

“1. Harbour Dues

(a) Private pleasure yacht (under 50 tons) £67.00

(b) Other vessels:

Under 15 tons	£67.00
15 tons or more but under 30 tons	£122.00
30 tons or more but under 50 tons	£221.00
50 tons or more but under 800 tons	£333.00
800 tons or more but under 1,000 tons	£433.00
1,000 tons or more but under 1,500 tons	£499.00

1,500 tons or more but under 2,000 tons	£599.00
2,000 tons or more but under 5,000 tons	£732.00
5,000 tons or more but under 7,000 tons	£888.00
7,000 tons or more but under 10,000 tons	£1,331.00
10,000 tons or more but under 15,000 tons	£1,664.00
15,000 tons or more but under 20,000 tons	£1,942.00
20,000 tons or more but under 25,000 tons	£2,219.00
25,000 tons or more but under 30,000 tons	£2,551.00
30,000 tons or more but under 35,000 tons	£2,884.00
35,000 tons or more but under 40,000 tons	£3,217.00
40,000 tons or more but under 50,000 tons	£3,771.00
50,000 tons or more but under 60,000 tons	£4,437.00
60,000 tons or more but under 70,000 tons	£4,880.00
70,000 tons or more but under 80,000 tons	£5,434.00
80,000 tons or more	£5,990.00".

18. Amendment of Immigration (Fees) Regulations

Regulation 3(1) of the Immigration (Fees) Regulations (SR&O No 7 of 2009) is amended —

(a) by omitting “£22.00” in each place where it appears and replacing it, in each case, with “£22.50”; and

(b) in subparagraph (c), by omitting “£212.00” and replacing it with “£215.20”.

19. Amendment of Land Charges Fees Rules

Schedule 1 to the Land Charges Fees Rules (SR&O No 3 of 1997) is repealed and replaced by the contents of Schedule 6 to this Ordinance.

20. Amendment of Land (Non-residents)(Fees) Regulations

The Schedule to the Land (Non-residents)(Fees) Regulations (SR&O No 13 of 2007) is amended by omitting —

(a) “£114.90” and replacing it with “£116.60”; and

(b) “£232.00” and replacing it with “£235.50”.

21. Amendment of Land Ordinance

Schedule 2 to the Land Ordinance (Title 45.2) is repealed and replaced by the contents of Schedule 7 to this Ordinance.

22. Amendment of Medical Services Tax Ordinance

The Medical Services Tax Ordinance (Title 69.4) is amended in section 37A by omitting “£15,000.00” in each place where it appears and replacing it, in each case, with “£60,000.00”.

23. Amendment of Merchant Shipping (Registration of Ships)(Fees) Regulations

The Schedule to the Merchant Shipping (Registration of Ships) (Fees) Regulations is amended under the heading ‘SMALL SHIPS REGISTERED UNDER PART III OF THE REGISTER’ by omitting “£20.00” appearing opposite the words “Registration of vessel (and of a vessel whose Registry has expired)” and replacing it with “£20.30”.

24. Amendment of Notaries Public Rules

The Schedule to the Notaries Public Rules (Title 22.1.2) is repealed and replaced by the contents of Schedule 8 to this Ordinance.

25. Amendment of Plant Importation Regulations

Regulation 7 of the Plant Importation Regulations (Title 4.4.1) is amended by omitting —

- (a) “£3.80” and replacing it with “£3.90”;
- (b) “£123.80” and replacing it with “£125.70”; and
- (c) “£14.90” and replacing it with “£15.10”.

26. Amendment of Registration of Marriages Regulations

Regulation 18 of the Registration of Marriages Regulations (SR&O No 17 of 1999) is amended by repealing subregulation (1) and replacing it with the following —

“(1) The following fees are prescribed for the purposes of the Ordinance and of these regulations and must respectively, in each case specified below, be paid to the Registrar General —

- | | |
|--|--|
| (a) on giving notice of marriage | £60.00 |
| (b) on grant of Registrar General’s licence | £60.00 |
| (c) for solemnisation of a marriage by a Registrar | £30.00 |
| (d) for attendance by the Registrar at the solemnisation of a marriage by a person who is not a minister of religion | £30.00 |
| (e) any absence exceeding one hour by a Registrar from the Registrar’s usual address for either of the purposes mentioned at (c) and (d) | £100.00 plus the reasonable cost of travel and any necessary overnight accommodation |
| (f) on application for a special licence | £200.00”. |

27. 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 “£590.00” and replacing it with “£130.00”;
- (b) in section 7, by omitting “£51.50” and replacing it with “£100.00”;
- (c) by inserting immediately after section 7 the following as section 7A —

“7A. Further renewal of patent

Any renewal subsequent to that referred to in section 7 shall not be effected unless a fee of £60.00 has been paid by or on behalf of the applicant.”; and

(d) by inserting immediately after the new section 7A the following as section 7B —

“7B. Record of change of name or address

Where the holder of a patent has changed his name or his address and wishes to have the change recorded in the Register, the holder must pay a fee of £100.00.”.

28. Amendment of Registration Regulations

Schedule 2 to the Registration Regulations (Title 62.2.1) is repealed and replaced by the contents of Schedule 9 to this Ordinance.

29. Amendment of Retirement Pensions (Prescribed Rates) Regulations

The Retirement Pensions (Prescribed Rates) Regulations (SR&O No 39 of 1996) are amended in—

(a) regulation 3, by omitting—

(i) “£134.00” and replacing it with “£141.00”; and

(ii) “£76.00” and replacing it with “£80.00”; and

(b) regulation 5, by omitting from paragraph (3)(b) “£43.00” and substituting “£47.00”.

30. Amendment of Road Traffic Ordinance

Section 6(15) of the Road Traffic Ordinance (Title 63.1) is amended by omitting “£11.25” and replacing it with “£11.50”.

31. 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 “£43.00” and replacing it with “£21.50”;

(b) in regulation 5(4), as follows —

(i) by omitting “£29.00” in each place where it appears and replacing it, in each case, with “£29.50”; and

(ii) in paragraph (c), by omitting “£14.00” and replacing it with “£14.25”; and

(c) in regulation 5A(2), by omitting “£11.25” and replacing it with “£11.50”.

32. Amendment of Stanley Airport Regulations

Schedule 2 to the Stanley Airport Regulations is amended as follows —

(a) under the heading “Landing Charges”, by omitting “£21.63” and replacing it with “£21.95”;

(b) under the heading “Parking Charges” —

(i) in paragraph (a), by omitting “£1.42” and replacing it with “£1.45”;

(ii) in paragraph (b), by omitting “£24.04” and replacing it with “£24.40”; and

(iii) in paragraph (c), by omitting “£24.04” and “£1.15” and replacing them, respectively, with “£24.40” and “£1.17”; and

(c) under the heading “Navigation Charges”, by omitting “£31.93” and replacing it with “£32.40”.

33. Amendment of Vehicle Licence Labels Regulations

Regulation 5(2) of the Vehicle Licence Labels Regulations (SR&O No 33 of 1998) is amended by omitting “£6.40” and replacing it with “£6.50”.

SCHEDULE 1

(section 3)

Schedule to Air Navigation (Fees) Regulations

Schedule

PART I

Licences for flight crew

Description	Fee (£)
1. Private pilot’s licence	
(a) issue	80.00
(b) renewal	46.00
2. Commercial pilot’s licence	
(a) issue	152.00
(b) renewal	82.00
3. Airline transport pilot’s licence	
(a) issue	152.00
(b) renewal	82.00
4. Flight navigator	
(a) issue	117.00

	(b) renewal	70.00
5.	Flight radiotelegraphy operator's general licence	
	(a) issue	49.00
	(b) renewal	49.00
6.	Flight radio telegraphy's restricted licence	
	(a) issue	49.00
	(b) renewal	49.00
7.	Flight radiotelegraphy operator's licence	
	(a) issue	49.00
	(b) renewal	49.00
8.	Certificate of validity of foreign licence	
	(a) issue	86.00
	(b) renewal	49.00
	(c) validation	49.00
9.	Appointment of authorised examiner for rating of aircraft type or instrument	
	(a) appointment	243.50
	(b) re-appointment	243.50

PART II
Airworthiness

Description	Fee (£)
1. Issue or renewal of certificate of airworthiness:	
(a) aircraft not exceeding 2,730kgs	757.00
(b) aircraft exceeding 2,730kgs but not exceeding 5,700kgs	1,586.00
(c) aircraft exceeding 5,700kgs but not exceeding 30,000kgs	1,586.00 Plus 115.00 per

	500 kgs (or part thereof) exceeding 5,700 kgs, up to a maximum of:	7,212.00
2.	Permit to fly an aircraft without a certificate of airworthiness	243.50
3.	Certificate of airworthiness: change of category	243.50
4.	Approval of modifications, major repairs to aircraft, engines and equipment	243.00
5.	Certificate of approval of aircraft radio installation	
	(a) issue	140.00
	(b) renewal	82.00
	(c) amendment	82.00
6.	Approval of maintenance organisation	
	(a) issue (for each site)	1,829.50
	(b) variation for aircraft not exceeding 2,730 kgs	609.00
	(c) variation for aircraft exceeding 2,730 kgs	732.00
7.	Aircraft maintenance engineer's licence (AMEL)	
	(a) issue	152.00
	(b) renewal	86.00
	(c) variation or inclusion of rating	86.00
8.	Certificate of validation or AMEL	
	(a) issue	82.00
	(b) renewal	49.00
	(c) variation	49.00
9.	Approval of aircraft maintenance schedules	
	(a) issue	243.50

(b) amendment or variation	122.50
10. Noise certificate	146.00

PART III
Flight operations

Description	Fee (£)
1. An 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 below –	
(a) 4 days, for aircraft not exceeding 2 tonnes;	
(b) 45 days, for aircraft exceeding 2 tonnes but not exceeding 15 tonnes; or	
(c) 60 days, for aircraft exceeding 15 tonnes.	
2. Issue of AOC:	
(a) aircraft not exceeding 2 tonnes	3,234.00
(b) aircraft exceeding 2 tonnes but not exceeding 15 tonnes	5,026.50
(c) aircraft exceeding 15 tonnes	7198.00
3. Regulation of AOC:	
If an application of 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 below—	
(a) a maximum of 4 days, for aircraft not exceeding 2 tonnes;	
(b) a maximum of 45 days, for aircraft exceeding 2 tonnes but not exceeding 15 tonnes; or	
(c) a maximum of 60 days, for aircraft exceeding 15 tonnes.	

4. Inclusion of additional aircraft types in the AOC:

(a) aircraft not exceeding 2 tonnes	1,891.00
(b) aircraft exceeding 2 tonnes but not exceeding 15 tonnes	2,879.00
(c) aircraft exceeding 15 tonnes	3,234.00

5. Annual charge for an AOC (for each aircraft type named on the certificate):

(a) aircraft not exceeding 2 tonnes	1,586.00
(b) aircraft exceeding 2 tonnes but not exceeding 15 tonnes	2,379.00
(c) a maximum of 60 days, for aircraft exceeding 15 tonnes	3,172.00

6. Variation of an AOC:

(a) variation in the operating region	793.50
(b) permission to operate on a specified route outside the operating region specified in the certificate	329.50
(c) change in the company or trading name where the legal entity is unchanged	86.00
(d) change to any of the post identified in an initial AOC application	86.00

7. 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 to the certificate, as follows—

- passenger aircraft in which the number of passenger seats in the aircraft exceeds 20 but does not exceed 100	0.06
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Nothing at item 6 above applies to aircraft—

- (a) fitted with 20 or less seats or
- (b) that do not exceed 10 tonnes; or
- (c) that are non-revenue flights.

For the purposes of item 6 above, a flight hour is calculated from the time the aircraft becomes airborne to the time the aircraft touches down, as recorded in the aircraft's technical log.

8.	Special operations	
	(a) category II low visibility operations (with or without autoland initial)	1,586.00
	(b) category III low visibility operations (with autoland initial)	3,172.00
	(c) extended range twin engine operations or extended range operations	
	(i) application	3,965.00
	(ii) each additional aircraft type	1,891.00
	(d) minimum navigation performance specifications airspace or reduced vertical separation minima	402.50
9.	Operations under an AOC exemption	1,586.00
10.	Route licensing	
	(a) application for route	402.50
	(b) vetting of business financial plans	1,463.50
11.	Approval of a scheme to avoid excessive flight crew fatigue	439.00

PART IV

Air traffic control and aerodromes

Description	Fee (£)
1. Aerodrome licence:	
(a) issue	1,097.50
(b) annual renewal (except government or military aerodromes)	732.00
2. Assessment of hazards to air navigation, obstructions, etc. (except government or military aerodromes):	439.00
3. Conversion of foreign air traffic control licences, ratings and aerodrome flight information service officer's licences	219.00

PART V
Fees not specified elsewhere

Description	Fee (£)
1. Certificate of registration of aircraft	293.00
2. Reservation of registration mark	73.00
3. Reservation of specific out of sequence registration mark	146.00
4. Aircraft dealer's certificate	2,195.50
5. Enquiry regarding entries in the register of aircraft	36.50
6. Provision of summary copy of register of aircraft	24.50
7. Issue of a copy of any document issued under the Air Navigation (Overseas Territories) Order 2007 (S.I. No. 2013/2870) (but does not exceed the cost of original document)	36.50
8. For approval of documents, inspections, investigations, tests, experiments and flight trials conducted in connection with any part of the Air Navigation (Overseas Territories) Order 2007 (S.I. No. 2013/2870), but not elsewhere specified (actual cost – minimum charge)	109.50
9. Any permission, approval, authorisation or exemption in respect of any part of the Order	178.50 (plus investigation costs)
10. Additional charge when services are performed abroad	Actual cost incurred
11. De-registration advice to foreign regulatory authority or removal from register upon export	73.00
12. Title search of the register in respect of an aircraft	109.50
13. Temporary transfer of an aircraft to the register, and issue of a certificate of airworthiness in respect of that aircraft	One half the amount specified in these Regulations for registration of an aircraft or for a certificate of airworthiness as the case may be

14. Investigation conducted in connection with any part of the Air Navigation (Overseas Territories) Order 2007 (S.I. No. 2007/3468) (by reference to each individual working investigation):	
(a) per day	867.00
(b) per hour	109.50
plus actual costs incurred, including but not limited to, transportation, accommodation and subsistence	
(c) travel days (per day)	439.00
(d) initial	67.00
(e) renewal	22.50
15. Cancellation of a certificate of registration	73.00
16. Flight permission	11.00
17. Annual flight permission	212.00

SCHEDULE 2
New Schedules 1 and 2 to the Civil Cases (Fees) Rules

(section 5)

SCHEDULE 1
FEEs PAYABLE IN SUPREME COURT

1. The following notes shall have effect in relation to the Table of Fees appearing below:

(a) "Originating process" includes a writ commencing an action, originating summons, petition in bankruptcy, petition for winding up a company or other body corporate and an application for leave to apply for judicial review;

(b) For the purposes of that Table an application of any kind is made when the document of any kind requesting the court to entertain that application is delivered to the court office, and not when the application is heard by the court and in relation to any other matter (such as, for example, a writ of execution or sale pursuant to such a writ) specified in Part II of the Table, the relevant fee is payable on the delivery to the court office of the document of any kind requesting the issue of the process is delivered to the court office and not when that process is issued.

Fee number	TABLE	Amount of fee
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PART I
COMMENCEMENT PROCEEDINGS

1. Issue of originating process	£112.00
2. Application for an injunction ancillary to any cause of action	£46.00
3. All other applications whether by notice or on summons ancillary to a cause of action, including applications for submitted or deemed service, which are not "excepted applications". For the purposes of this item, "excepted applications" are –	£25.50
(i) applications for directions or pre-trial review;	
(ii) applications for discovery or for leave to administer interrogatories;	
(iii) applications to abridge or extend time;	
(iv) applications to set down a cause of action for trial;	
(v) applications to endorse a penal notice;	
(vi) applications to discharge or vary an injunction obtained ex parte; and	
(vii) applications to make absolute an order nisi, and in respect of "excepted applications" no fee is payable."	

PART 2
ENFORCEMENT PROCEEDINGS

4. Application for oral examination	£20.50
5. Writ of execution or delivery	£70.00
6. Sale under a writ of execution—	
(a) removing or taking steps to remove goods to a place of deposit, advertising a sale and all steps preparatory to a sale	the reasonable cost of those steps including the cost of court officers' time
(b) for the sale of goods, including all necessary catalogues, commissions and other matters	15p for every £1 realised

7. Application for garnishee order	£25.50
8. Application for charging order	£25.50
9. Application for a judgment summons	£25.50
10. Application for an attachment of earnings order –	
(a) to enforce a judgment debt	£25.50
(b) to enforce a periodical payments order	£20.50

PART 3 MISCELLANEOUS

11. Service by the court of any summons or other document –	
(a) if served by post	£5.00
(b) if served personally –	
(i) East Falkland	£20.50 (plus mileage, plus £10.00 per hour of court officer time, plus any other travelling and incidental expenses incurred)
(ii) West Falkland and other islands	fee and reasonable expenses to be agreed
12. On any other application not otherwise provided for	£20.50
13. On filing notice of appeal from a decision or order of the Magistrate's Court, the Summary Court or the Coroner's Court or any tribunal from which an appeal lies to the Supreme Court	£51.00
14. Copy documents per A4 page (pro rata for any page larger than A4)	50p
15. Office copy documents per A4 page (pro rata for any page larger than A4)	£1.00
16. On taxation of costs	5p per £1.00 of profit costs and disbursement allowed
17. Affidavit or affirmation	£3.50 plus £1.00 for each exhibit

SCHEDULE 2
FEES PAYABLE IN THE MAGISTRATE'S COURT AND THE SUMMARY COURT

1. Except as provided in the Table below the fees prescribed in Schedule 1 shall apply to the equivalent steps or items in civil proceedings in the Magistrate's Court or in the Summary Court.
2. For the purposes of paragraph 1 the following table shall have effect:

TABLE

1. For recovery of a sum of money or delivery of goods where the sum of money or the value of the goods —	
(a) does not exceed £300	£20.50
(b) exceeds £300 but is less than £500	£51.00
(c) exceeds £500 but is less than £1,000	£71.00
(d) £1000 or more	£71.00 plus £10.00 for each £1,000.00 or part thereof
2. On the filing of a counterclaim, on the amount of counterclaim above the principal claim	As fee 1
3. For any other relief	£76.00

SCHEDULE 3
New Schedule A to Companies and Private Partnership Ordinance (section 7)

SCHEDULE A (section 4)
Description **Fee (£)**

1. Registration of a document by an overseas company	130.00
2. Registration of incorporation of a company	130.00
3. Registration of change of name of a company	60.00
4. Certificate of registration of a company (other than on incorporation)	60.00
5. Registration or cancellation of registration of mortgage, debenture or other charge	100.00

6.	Company file search (proportion of hourly rate to be paid for every part hour)	40.00
7.	Request for company documents (per company) (plus additional FIG photocopying fee)	10.00
8.	Certified copy of any document held on a company file (plus additional FIG photocopying fee)	30.00
9.	Filing an annual return; including companies which are not trading	60.00
10.	Penalty for the late filing of an annual return	
	(a) 3 months or less	103.00
	(b) more than 3 months but less than 6 months	260.00
	(c) more than 6 months but less than 12 months	515.00
	(d) 12 months or more	1,030.00
11.	Filing of company accounts	30.00
12.	Application for striking off a private company	100.00
13.	Registration of new memorandum or articles of association	30.00
14.	Registration of any other deed, documents or forms to be registered by a company (per name and/or form)	10.00
15.	Penalty for the late notification of a change of director, change of registered office, or change of secretary (more than 14 days)	60.00
16.	Photocopy of document where photocopying undertaken as part of registration	FIG photocopying fee

SCHEDULE 4
New Schedule to Court Fees (Family Proceedings) Rules

(section 8)

SCHEDULE
FEES PAYABLE IN FAMILY PROCEEDINGS

1. In the Table of Fees below, "Originating process" includes a petition, writ, originating summons or other process commencing proceedings.
2. The following Table of Fees shall have effect:

TABLE

PART 1 COMMENCEMENT OF PROCEEDINGS

Fee number	Amount of fee
1. Issue of originating process (including an application for an injunction or restraining order where that is sought other than as ancillary to other relief)	£102.00
2. Application for injunction ancillary to any cause	£51.00
3. All other applications ancillary to any cause, including applications for substituted or deemed service, orders for financial relief, custody of or access to children	£25.50
4. Applications for directions for pre-trial review, application to amend any pleading, abridge or extend time, endorse a penal notice or set down any cause for hearing or to make absolute any decree or other nisi, and on filing any affidavit	Nil

PART 2 ENFORCEMENT PROCEEDINGS

1. Application for oral examination	£20.50
2. Writ of execution or delivery	£61.00
3. Sale pursuant to a writ of execution—	
(a) for removing or taking steps to remove goods to a place of deposit, advertising a sale and all other steps preparatory to a sale	The reasonable expenses of those steps
(b) for the sale of goods including all necessary catalogues, commission and other matters	15p for each £1 (or part of) the value of the writ to a maximum of £50.00
4. Writ of possession of land	£51.00
5. Application for garnishee order	£25.50
6. Application for a charging order	£25.50
7. Application for a judgment summons	£25.50
8. Application for attachment of earnings order	£20.50

**PART 3
MISCELLANEOUS**

1. Any other application not otherwise provided for	£20.50
2. On filing notice of appeal	£51.00
3. Copy documents per page	50p
4. Office copy documents per page	£1.00
5. On taxation of costs	5p per £1.00 of profit costs and disbursements allowed

**SCHEDULE 5
New Schedule to Fisheries Products (Hygiene)(Fees) Regulations**

(section 16)

SCHEDULE

Description	Fee (£)
1. Application for approval of factory vessel or fishery establishment (approval under regulation 7)	622.40
2. Application for variation of approval (variation under regulation 8)	100.00
3. Annual inspection by authorised officer (division 1, paragraph 2(c), Part 5 of Schedule 1)	251.20
4. Inspection on transhipment of product (division 1, paragraph 2(e), Part 5 of Schedule 1)	166.50
5. Additional charges for inspections under paragraphs 3 or 4 where factory vessel is not in Stanley Harbour –	
(a) vessel in Port William	53.80
(b) vessel in Berkeley Sound	161.50
6. Surcharge for services provided outside normal office hours (for this purpose, normal office hours are 8am to 5pm Monday to Friday, excluding public holidays)	Additional 50% on all charges

SCHEDULE 6
New Schedule 1 to Land Charges Fees Rules

(section 19)

SCHEDULE 1

Description	(rule 3) Fee (£)
1. Registration, renewal, rectification or cancellation of entry in register (per name), including issue of certificate	60.00
2. Entry of priority notice (per name)	10.00
3. Inspection of entry (per entry)	10.00
4. Office search of index, including certificate of result	60.00
5. Bankruptcy search, including certificate of result (per name)	10.00

SCHEDULE 7
New Schedule 2 to Land Ordinance

(section 21)

SCHEDULE 2

Description	Fee (£)
PART I	
	(section 9(3))
1. Registration of order of the Court under section 9	30.00
2. Registration of any other deed, instrument or document to be registered against a title	100.00
3. Registration of Crown Grant or Crown Lease (including undertaking)	100.00
4. Application for vesting deed under section 11A	200.00
5. Certified copy deed, instrument or document (plus additional FIG photocopying fee)	30.00
6. Certification of registration deed, instrument or document	60.00
7. Photocopy of any deed, instrument or document, where undertaken as part of registration	FIG photocopy fee

PART II

(section 45)

8. Title search; hourly rate

40.00

Includes: Production of register or index for inspection (for each one) and comparing deed with registered deed (proportion of hourly rate to be paid for every part hour, plus additional FIG photocopying fee)

SCHEDULE 8

New Schedule to Notaries Public Rules

(section 24)

SCHEDULE

1. For every affidavit and exhibit to an affidavit
£7.40 for every affidavit and
£3.70 for every exhibit thereto
2. Preparing a Note of Protest or other document
(including any certificate thereon)
£100.40 for every hour engaged
therein and proportionately for
every part of an hour, with a
minimum fee of £31.40
3. Preparing and attesting any notarial act
(a) £36.60 if a notarial act in
public form;
(b) £20.90 otherwise (but no
fee where Fee 2 is
charged)
4. Extending a Protest
As per Fee 2
5. Examining any document with the original thereof
and certifying it as a true and correct copy
(a) if not copied by the notary
public, £14.60 plus £3.70
for every page;
(b) if copied by or under the
supervision of the notary
public, £14.60 plus 50
pence for every page.
6. Attending to Protest a Bill of Exchange
or Promissory Note
£100.50 and proportionately for
part of an hour thus engaged plus
reasonable travelling expenses
incurred (if applicable) with a
minimum fee of £29.90.
7. Any other notarial act done by a notary public
As per Fee 6

SCHEDULE 9
New Schedule 2 to Registration Regulations

(section 28)

SCHEDULE 2
Registrar General's and Registrar's Fees

Description	Fee (£)
1. Certified copy of birth, death or marriage certificate	10.00
3. Search of registers, including registers of births, deaths and marriages (proportion of hourly rate to be paid for every part hour plus additional photocopying fee)	40.00
6. Registration birth	10.00
7. Certified copy of instrument	30.00
8. Registration of a deed poll	60.00
9. Registration of a will	10.00
Photocopy of document per A4 page	00.28
Photocopy of document per A3 page	00.56

Passed by the Legislature of the Falkland Islands on 6 June 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

Published by the Attorney General's Chambers, Stanley, Falkland Islands
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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

1 August 2014

No. 9

The following is published in this Supplement –

Mental Health (Approved Practitioners)(No 2) Order 2014 (SR&O No 11 of 2014).

SUBSIDIARY LEGISLATION

MENTAL HEALTH

Mental Health (Approved Practitioners)(No 2) Order 2014

S. R. & O. No. 11 of 2014

Made: 11 July 2014

Published: 1 August 2014

Coming into force: on publication

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.

PART 1 INTRODUCTION

1. Title

This order is the Mental Health (Approved Practitioners)(No 2) Order 2014.

2. Commencement

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

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

Dr Narendra Pranolal Dave

Dr Mukhtar Ahmad Uqaili

Dr Bruce Chipps

Mr Ahmed Cheema

SCHEDULE 2
APPROVED PROFESSIONALS

Janice Vanessa Dent
Mandy Heathman
Karen Rimicans
Phillip Kelly
Glen Wesley Sturdee
Derek Henry
Rachel Williamson
Donna Marie Ryan
Nikki Murphy
Kareen Mhairi Brand
Janette Mary Vincent
Jacqueline Susan Bailey
Kristina Vincent

Made 11th July 2014

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 91(1) of the Mental Health Ordinance (No. 7 of 2010) provides that the Governor may, by Order, approve doctors as medical practitioner for the purposes of the Ordinance. Schedule 1 contains a list of medical practitioners approved as doctors. According to section 3, they are also approved practitioners.

Section 91(2) provides that the Governor may, by Order, approve a nurse, social worker or other professional as an approved professional for the purposes of the Ordinance. Schedule 2 contains a list of nurses, social workers and other professionals approved by the Governor as 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.

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FALKLAND ISLANDS GAZETTE

Due to the size of the files the following 2014 Gazettes are uploaded separately:

R114#63	The Falkland Islands Gazette 2014 Supplement - Vol 25 - No. 10	15 August 2014
R114#64	The Falkland Islands Gazette 2014 Supplement - Vol 25 - No. 11	15 August 2014



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

11 September 2014

No. 12

The following is published in this Supplement –

Children Ordinance 2014 (No 7 of 2014).

ELIZABETH II



FALKLAND ISLANDS

JUNE SANDRA TYLER-HAYWOOD,
Acting Governor.

Children Ordinance 2014

(No: 7 of 2014)

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ELIZABETH II



FALKLAND ISLANDS

JUNE SANDRA TYLER-HAYWOOD,
Acting Governor.

CHILDREN ORDINANCE 2014

(No: 7 of 2014)

(assented to: 9 September 2014)
(commencement: see section 2)
(published: 11 September 2014)

AN ORDINANCE

To repeal and replace the Children Ordinance 1994 (No 28 of 1994).

ENACTED by the Legislature of the Falkland Islands —

PART 1

INTRODUCTORY (including CA, Pt1 and s105)

1. Title

This Ordinance is the Children Ordinance 2014.

2. Commencement

(1) This Ordinance comes into force on a day appointed by the Governor by notice published in the *Gazette*.

(2) The Governor may appoint different days for different provisions or purposes (or both).

3. Interpretation (CA, s105)

(1) In this Ordinance —

“care order” means an order under section 48(1)(a) and any order which by or under any enactment has the effect of, or is deemed to be, a care order for the purposes of this Ordinance

and (except where express provision to the contrary is made) includes an interim care order made under section 56(1);

“child” means, subject to paragraph 15(1) of Schedule 1, a person under the age of 18;

“child assessment order” has the meaning given by section 63;

“child in the care of the Crown” means a child who is in the care of the Crown by virtue of a care order;

“child of the family”, in relation to the parties of a marriage, means —

(a) a child of both of those parties;

(b) any other child, not being a child who is placed with those parties as foster parents by the Crown, who has been treated by both of those parties as a child of their family;

“contact order” has the meaning given by section 12(1);

“court”, in so far as is consistent with the context, means —

(a) the Supreme Court;

(b) the Magistrate's Court; and

(c) subject to section 87 and any order having effect under it, the Summary Court;

“court of summary jurisdiction” means the Magistrate's Court and the Summary Court;

“a family assistance order” means an order under section 20;

“education supervision order” has the meaning given by section 54(1);

“emergency protection order” means an order under section 64;

“family proceedings” has the meaning given by section 12(3);

“functions” includes powers and duties;

“guardian” means a guardian appointed under section 9;

“parental responsibility” has the meaning given by section 6;

“pathway plan” has the meaning given by section 39(1);

“prohibited steps order” has the meaning given by section 12(1);

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage);

“residence order” has the meaning given by section 12(1);

“section 12 order” has the meaning given by section 12(2);

“section 49 plan” has the meaning given by section 49(5);

“service”, in relation to any provision made under Part 3, includes any facility;

“specific issue order” has the meaning given by section 12(1);

“supervised child” and “supervisor”, in relation to a supervision order, mean respectively the child who is (or is to be) under supervision and the person under whose supervision the child is (or is to be) by virtue of the order;

“supervision order” means an order under section 48(1)(b) of this Ordinance and (except in relation to a provision of this Ordinance as to which express provision to the contrary is made) includes an interim supervision order under section 56(1);

“upbringing”, in relation to any child, includes the care of the child but not the child’s maintenance; and

“voluntary organisation” means a body (other than the Crown or a public body) whose activities are not carried on for profit.

(2) References in this Ordinance to a child whose father and mother were, or (as the case may be) were not, married to each other at the time of the child’s birth must be read with section 2 of the Family Law Reform Ordinance (No 15 of 2004), which extends the meaning of such references.

(3) References in this Ordinance to —

(a) a person with whom a child lives, or is to live, as the result of a residence order; or

(b) a person in whose favour a residence order is in force,

are to be construed as references to the person named in the order as the person with whom the child is to live.

(4) References in this Ordinance to a child being looked after by the Crown have the same meaning as they have (by virtue of section 25) in Part 3.

(5) References in this Ordinance to children who are in need are to be construed in accordance with section 22(11).

(6) Any notice or other document required under this Ordinance to be served on any person may be served on that person by —

(a) being delivered personally to the person; or

- (b) being sent by post to the person in a registered letter at the person's proper address.
- (7) Any such notice or other document required to be served on a body corporate or a firm is duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (8) For the purposes of subsection (6) of this section, the proper address of a person —
 - (a) in the case of a secretary or clerk of a body corporate, is that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, is that of the principal office of the firm; and
 - (c) in any other case, is the last known address of the person to be served.

Welfare of the child

4. Welfare of the child (CA, s1)

- (1) When a court determines any question with respect to —
 - (a) the upbringing of a child; or
 - (b) the administration of a child's property or the application of any income arising from it,the child's welfare must be the court's paramount consideration.
- (2) In any proceedings in which any question with respect to the upbringing of a child arises, the court must have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.
- (3) In the circumstances mentioned in subsection (4), a court must have regard in particular to —
 - (a) the ascertainable wishes and feelings of the child concerned (considered in the light of the child's age and understanding);
 - (b) the child's physical, emotional and educational needs;
 - (c) the likely effect on the child of any change in the child's circumstances;
 - (d) the child's age, sex, background and any characteristics of the child's which the court considers relevant;
 - (e) any harm which the child has suffered or is at risk of suffering;
 - (f) how capable each of the child's parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs;
 - (g) the range of powers available to the court under this Ordinance in the proceedings in question.

(4) The circumstances are that —

(a) the court is considering whether to make, vary or discharge a section 12 order, and the making, variation or discharge of the order is opposed by any party to the proceedings; or

(b) the court is considering whether to make, vary or discharge an order under Part 4.

(5) Where a court is considering whether or not to make one or more orders under this Ordinance with respect to a child, it must not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

Parental responsibility

5. Parental responsibility for children (CA, s2)

(1) Where a child's father and mother were married to each other at the time of the child's birth, they each have parental responsibility for the child.

(2) Where a child's father and mother were not married to each other at the time of the child's birth (which must, in accordance with section 3(2) be read with section 2 of the Family Law Reform Ordinance) —

(a) the mother has parental responsibility for the child;

(b) the father will have parental responsibility for the child if he has acquired it (and has not ceased to have it) in accordance with the provisions of this Ordinance.

(3) More than one person may have parental responsibility for the same child at the same time.

(4) A person who has parental responsibility for a child at any time does not cease to have that responsibility solely because some other person subsequently acquires parental responsibility for the child.

(5) Where more than one person has parental responsibility for a child, each of them may act alone and without the other (or others) in meeting that responsibility; but nothing in this Part affects the operation of any enactment which requires the consent of more than one person in a matter affecting the child.

(6) The fact that a person has parental responsibility for a child does not entitle that person to act in any way which would be incompatible with any order made with respect to the child under this Ordinance.

(7) A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on behalf of the person with parental responsibility.

(8) The person with whom any such arrangement is made may be a person who already has parental responsibility for the child concerned.

(9) The making of any such arrangement does not affect any liability of the person making it which may arise from any failure to meet any part of that person's parental responsibility for the child concerned.

6. Meaning of "parental responsibility" (CA, s3)

(1) In this Ordinance, "parental responsibility" means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and the child's property.

(2) It also includes the rights, powers and duties which a guardian of the child's estate (appointed to act generally before the Children Ordinance 1994 came into force on 1 January 1995) would have had in relation to the child and the child's property.

(3) The rights referred to in subsection (2) include, in particular, the right of the guardian to receive or recover in the guardian's own name, for the benefit of the child, property of whatever description and wherever situated which the child is entitled to receive or recover.

(4) The fact that a person has, or does not have, parental responsibility for a child does not affect —

(a) any obligation which that person may have in relation to the child (such as a statutory duty to maintain the child); or

(b) any rights which, in the event of the child's death, that person (or any other person) may have in relation to the child's property.

(5) A person who —

(a) does not have parental responsibility for a particular child; but

(b) has care of the child,

may (subject to the provisions of this Ordinance) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

7. Acquisition of parental responsibility by father (CA, s4)

(1) Where a child's father and mother were not married to each other at the time of the child's birth (which must, in accordance with section 3(2) be read with section 2 of the Family Law Reform Ordinance), the father will acquire parental responsibility for the child if —

(a) he becomes registered as the child's father under section 6 of the Registration Ordinance (Title 62.2);

(b) he and the child's mother make an agreement (a "parental responsibility agreement") providing for him to have parental responsibility for the child; or

(c) the court, on his application, orders that he is to have parental responsibility for the child.

(2) A parental responsibility agreement will be of no effect until it has been approved by an order of a court made under this subsection on the application of either the father or the mother.

(3) The approval by a court of a parental responsibility agreement may be subject to such amendments to the agreement as are specified in the order of the court and the parental responsibility agreement will have effect subject to any amendments so specified.

(4) An order under subsection (1)(c) or a parental responsibility agreement may only be brought to an end by an order of the court made on the application —

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child.

(5) The court may only grant leave under subsection (4)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

8. Acquisition of parental responsibility by step-parent (CA, s4A)

(1) Where a child's parent ("parent A") who has parental responsibility for the child is married to a person who is not the child's parent ("the step-parent") —

(a) parent A or, if the other parent of the child also has parental responsibility for the child, both parents may by agreement with the step-parent provide for the step-parent to have parental responsibility for the child; or

(b) the court may, on the application of the step-parent, order that the step-parent is to have parental responsibility for the child.

(2) An agreement under subsection (1)(a) is also a "parental responsibility agreement", and section 7(2) and 7(3) apply in relation to such agreements as they do in relation to parental responsibility agreements under section 7.

(3) A parental responsibility agreement under subsection (1)(a), or an order under subsection (1)(b), may only be brought to an end by an order of the court made on the application —

(a) of any person who has parental responsibility for the child; or

(b) with the leave of the court, of the child.

(4) The court may only grant leave under subsection (3)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.

9. Appointment of guardians (CA, s5)

(1) Where an application with respect to a child is made to the court by any individual, the court may by order appoint that individual to be the child's guardian if —

(a) the child has no parent with parental responsibility for the child; or

(b) a residence order has been made with respect to the child in favour of a parent or guardian of the child who has died while the order was in force.

(2) The power conferred by subsection (1) may also be exercised in any family proceedings if the court considers that the order should be made even though no application has been made for it.

(3) A parent who has parental responsibility for a child may appoint another individual to be the child's guardian in the event of the parent's death.

(4) A guardian of a child ("the original guardian") may appoint another individual to take the original guardian's place as the child's guardian in the event of the original guardian's death.

(5) An appointment under subsection (3) or (4) will not have effect unless it is made in writing, is dated and is signed by the person making the appointment or —

(a) in the case of an appointment made by a will which is not signed by the testator, is signed at the direction of the testator in accordance with the requirements of section 9 of the Wills Act 1837 (as it applies in the Falkland Islands); or

(b) in any other case, is signed at the direction of the person making the appointment, in that person's presence and in the presence of two witnesses who each attest the signature.

(6) A person appointed as a child's guardian under this section will have parental responsibility for the child concerned.

(7) Where —

(a) on the death of any person making an appointment under subsection (3) or (4), the child concerned has no parent with parental responsibility for the child; or

(b) immediately before the death of any person making such an appointment, a residence order in that person's favour was in force with respect to the child,

the appointment will take effect on the death of that person.

(8) Where, on the death of any person making an appointment under subsection (3) or (4) —

(a) the child concerned has a parent with parental responsibility for the child; and

(b) subsection (7)(b) does not apply,

the appointment will take effect when the child no longer has a parent who has parental responsibility for the child.

(9) Subsections (1) and (7) do not apply if the residence order referred to in paragraph (b) of those subsections was also made in favour of a surviving parent of the child.

(10) Nothing in this section prevents an appointment under subsection (3) or (4) being made by two or more persons acting jointly.

(11) Subject to any provision made by rules of court, a court must not exercise the Supreme Court's inherent jurisdiction to appoint a guardian of the estate of any child.

(12) Where rules of court are made under subsection (11) they may prescribe the circumstances in which, and conditions subject to which, an appointment of such a guardian may be made.

(13) A guardian of a child may only be appointed in accordance with the provisions of this section.

10. Guardians: revocation and disclaimer (CA, s6)

(1) An appointment under section 9(3) or (4) revokes an earlier appointment (including one made in an unrevoked will or codicil) made by the same person in respect of the same child, unless it is clear (whether as the result of an express provision in the later appointment or by any necessary implication) that the purpose of the later appointment is to appoint an additional guardian.

(2) An appointment under section 9(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person who made the appointment revokes it by a written and dated instrument which is signed —

(a) by the person making the appointment; or

(b) at the direction of the person making the appointment, in the presence of that person and in the presence of two witnesses who each attest the signature.

(3) An appointment under section 9(3) or (4) (other than one made in a will or codicil) is revoked if, with the intention of revoking the appointment, the person who made it —

(a) destroys the instrument by which it was made; or

(b) has some other person destroy that instrument in the presence of the person who made it.

(4) An appointment under section 9(3) or (4) (including one made in an unrevoked will or codicil) is revoked if the person appointed is the spouse of the person who made the appointment and either —

(a) a decree of a court in the Falkland Islands dissolves or annuls the marriage, or

(b) the marriage is dissolved or annulled and the divorce or annulment is entitled to recognition in the Falkland Islands by virtue of Part 5 of the Matrimonial Causes Ordinance (Title 38(2).5),

unless a contrary intention appears by the appointment.

(5) For the avoidance of doubt, an appointment under section 9(3) or (4) made in a will or codicil is revoked if the will or codicil is revoked.

(6) A person who is appointed as a guardian under section 9(3) or (4) may disclaim the appointment by an instrument in writing signed by that person and made within a reasonable time of that person first knowing that the appointment has taken effect.

(7) Where regulations are made by the Governor prescribing the manner in which such disclaimers must be recorded, no such disclaimer will have effect unless it is recorded in the prescribed manner.

(8) Any appointment of a guardian under section 9 may be brought to an end at any time by order of the court —

- (a) on the application of any person who has parental responsibility for the child;
- (b) on the application of the child concerned, with leave of the court; or
- (c) in any family proceedings, if the court considers that it should be brought to an end even though no application has been made.

Welfare reports

11. Welfare reports (CA, s7)

(1) A court considering any question with respect to a child under this Ordinance may ask the Crown to arrange for —

- (a) a public officer; or
- (b) such other person as the Crown considers appropriate,

to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

(2) The Chief Justice may make rules specifying matters which, unless the court orders otherwise, must be dealt with in any report under this section.

(3) The report may be made in writing, or orally, as the court requires.

(4) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of —

- (a) any statement contained in the report; and
- (b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.

(5) It is the duty of the Crown to comply with any request for a report under this section.

PART 2
ORDERS WITH RESPECT TO CHILDREN IN FAMILY PROCEEDINGS (CA, Pt 2)

General

12. Residence, contact and other orders with respect to children (CA, s8)

(1) In this Ordinance —

“a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other;

“a prohibited steps order” means an order that no step which could be taken by a parent in meeting the parent’s parental responsibility for a child, and which is of a kind specified in the order, may be taken by any person without the consent of the court;

“a residence order” means an order settling the arrangements to be made as to the person with whom a child is to live; and

“a specific issue order” means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Ordinance “a section 12 order” means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

(3) In this Ordinance “family proceedings” means any proceedings —

(a) in the inherent jurisdiction of the Supreme Court in relation to children;

(b) under any of the following enactments —

(i) Parts 1, 2 and 4 of this Ordinance;

(ii) the Matrimonial Causes Ordinance (Title 38(2).5);

(iii) the Matrimonial Proceedings (Summary Jurisdiction) Ordinance (Title 38(2).6);

(iv) the Matrimonial Proceedings (Domestic Violence) Ordinance (No 7 of 1994);

(v) the Adoption Act 1976 (as it applies in the Falkland Islands);

(vi) any other enactment specified by Ordinance for the purposes of this definition (or the corresponding definition in the Children Ordinance 1994)

13. Restrictions on making section 12 orders (CA, s9)

(1) A court must not make a section 12 order, other than a residence order, with respect to a child who is in the care of the Crown.

(2) The Crown must not make an application for a residence order or a contact order and a court must not make such an order in favour of the Crown.

(3) A person who is, or was at any time within the last six months, a foster parent who was looking after a child on behalf of the Crown may not apply for leave to apply for a section 12 order with respect to that child unless —

(a) that person has the consent of the Crown;

(b) that person is a relative of the child; or

(c) the child has lived with that person for at least 1 year preceding the application.

(4) A court must not exercise its powers to make a specific issue order or prohibited steps order —

(a) with a view to achieving a result which could be achieved by making a residence or contact order; or

(b) in any way which is denied to the Supreme Court (by section 94) in the exercise of its inherent jurisdiction with respect to children.

(5) A court must not make a specific issue order, contact order or prohibited steps order that will end after the child has reached the age of 16 unless it is satisfied that the circumstances of the case are exceptional.

(6) A court must not make any section 12 order, other than one varying or discharging such an order, with respect to a child who has reached the age of 16 unless it is satisfied that the circumstances of the case are exceptional.

14. Power of court to make section 12 orders (CA, s10)

(1) In any family proceedings in which a question arises with respect to the welfare of any child, the court may make a section 12 order with respect to the child if —

(a) an application for the order has been made by a person who —

(i) is entitled to apply for a section 12 order with respect to the child; or

(ii) has obtained the leave of the court to make the application; or

(b) the court considers that the order should be made even though no such application has been made.

(2) The court may also make a section 12 order with respect to any child on the application of a person who —

(a) is entitled to apply for a section 12 order with respect to the child; or

(b) has obtained the leave of the court to make the application.

(3) This section is subject to the restrictions imposed by section 13.

(4) The following persons are entitled to apply to the court for any section 12 order with respect to a child —

- (a) any parent or guardian of the child;
- (b) any person who has parental responsibility for the child by virtue of section 8;
- (c) any person in whose favour a residence order is in force with respect to the child.

(5) The following persons are entitled to apply for a residence order or a contact order with respect to a child —

- (a) any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family;
- (b) any person with whom the child has lived for a period of at least 3 years;
- (c) any person who —
 - (i) in any case where a residence order is in force with respect to the child, has the consent of each of the persons in whose favour the order was made;
 - (ii) in any case where the child is in the care of the Crown, has the consent of the Crown; or
 - (iii) in any other case, has the consent of each of those (if any) who have parental responsibility for the child.

(6) A foster parent who is, or has been, looking after a child on behalf of the Crown is entitled to apply for a residence order with respect to a child if the child has lived with that foster parent for a period of at least 1 year immediately preceding the application.

(7) A relative of a child is entitled to apply for a residence order with respect to the child if the child has lived with the relative for a period of at least 1 year immediately preceding the application.

(8) A person who would not otherwise be entitled (under the previous provisions of this section) to apply for the variation or discharge of a section 12 order is entitled to do so if —

- (a) the order was made on that person's application; or
- (b) in the case of a contact order, that person is named in the order.

(9) Any person who falls within a category of person prescribed by rules of court is entitled to apply for any such section 12 order as may be prescribed in relation to that category of person.

(10) Where the person applying for leave to make an application for a section 12 order is the child concerned, the court may only grant leave if it is satisfied that the child has sufficient understanding to make the proposed application for the section 12 order.

(11) Where the person applying for leave to make an application for a section 12 order is not the child concerned, the court must, in deciding whether or not to grant leave, have particular regard to —

- (a) the nature of the proposed application for the section 12 order;
- (b) the applicant's connection with the child;
- (c) any risk there might be of that proposed application disrupting the child's life to such an extent that the child would be harmed by it; and
- (d) where the child is being looked after by the Crown —
 - (i) the Crown's plans for the child's future; and
 - (ii) the wishes and feelings of the child's parents.

(12) The period of 3 years mentioned in subsection (5)(b) need not be continuous but must not have begun more than 5 years before, or ended more than 3 months before, the making of the application.

15. General principles and supplementary provisions (CA, s11)

(1) In proceedings in which any question of making a section 12 order, or any other question with respect to such an order, arises, the court must (in the light of any rules made by virtue of subsection (2)) —

- (a) draw up a timetable with a view to determining the question without delay; and
- (b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may —

- (a) specify periods within which specified steps must be taken in relation to proceedings in which such questions arise; and
- (b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that such questions are determined without delay.

(3) Where a court has power to make a section 12 order, it may do so at any time during the course of the proceedings in question even though it is not in a position to dispose finally of those proceedings.

(4) Where a residence order is made in favour of two or more persons who do not themselves all live together, the order may specify the periods during which the child is to live in the different households concerned.

(5) Where —

(a) a residence order has been made with respect to a child; and

(b) as a result of the order the child lives, or is to live, with one of two parents who each have parental responsibility for the child,

the residence order will cease to have effect if the parents live together for a continuous period of more than 6 months.

(6) A contact order which requires the parent with whom a child lives to allow the child to visit, or otherwise have contact with, the child's other parent will cease to have effect if the parents live together for a continuous period of more than 6 months.

(7) A section 12 order may —

(a) contain directions about how it is to be carried into effect;

(b) impose conditions which must be complied with by any person —

(i) in whose favour the order is made;

(ii) who is a parent of the child concerned;

(iii) who is not a parent of the child but who has parental responsibility for the child; or

(iv) with whom the child is living,

and to whom the conditions are expressed to apply;

(c) be made to have effect for a specified period, or contain provisions which are to have effect for a specified period;

(d) make such incidental, supplemental or consequential provision as the court thinks fit.

16. Residence orders and parental responsibility (CA, s12)

(1) Where the court makes a residence order in favour of the father of a child it must, if the father would not otherwise have parental responsibility for the child, also make an order under section 7(1)(c) giving him that responsibility.

(2) Where the court makes a residence order in favour of any person who is not the parent or guardian of the child concerned that person has parental responsibility for the child while the residence order remains in force.

(3) Where a person has parental responsibility for a child as a result of subsection (2), that person does not have the right —

(a) to consent, or refuse to consent, to the making of an application with respect to the child under section 18 of the Adoption Act 1976 (as it applies in the Falkland Islands);

(b) to agree, or refuse to agree, to the making of an adoption order, or an order under section 55 of the Adoption Act 1976 (as it applies in the Falkland Islands), with respect to the child; or

(c) to appoint a guardian for the child.

(4) Where subsection (1) requires the court to make an order under section 7(1)(c) in respect of the father of a child, the court must not bring that order to an end at any time while the residence order concerned remains in force.

17. Change of child's name or removal from jurisdiction (CA, s13)

(1) Where a residence order is in force with respect to a child, no person may —

(a) cause the child to be known by a new surname; or

(b) remove the child from the Falkland Islands;

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(2) Subsection (1)(b) does not prevent the removal of a child, for a period of less than 2 months, by the person in whose favour the residence order is made.

(3) In making a residence order with respect to a child the court may grant the leave required by subsection (1)(b), either generally or for specified purposes.

18. Enforcement of residence orders (CA, s14)

(1) Where —

(a) a residence order is in force with respect to a child in favour of any person; and

(b) any other person (including one in whose favour the order is also in force) is in breach of the arrangements settled by that order,

the person mentioned in paragraph (a) may, as soon as the requirement in subsection (2) is complied with, enforce the order under section 63(3) of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands) as if it were an order requiring the other person to produce the child to the person enforcing the order.

(2) The requirement is that a copy of the residence order has been served on the other person.

(3) Subsection (1) is without prejudice to any other remedy open to the person in whose favour the residence order is in force.

Financial relief

19. Orders for financial relief with respect to children (CA, s15)

(1) Schedule 1 makes provision in relation to financial relief for children.

(2) The powers of a magistrates' court under section 60 of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands) to revoke, revive or vary an order for the periodical payment of money and the power of the clerk of a magistrates' court to vary such an order do not apply in relation to an order made under Schedule 1.

Family assistance orders

20. Family assistance orders (CA, s16)

(1) Where, in any family proceedings, the court has power to make an order under this Part with respect to any child, it may (whether or not it makes such an order) make an order requiring the Crown to make a suitable person (who need not be a public officer) available to advise, assist and (where appropriate) befriend any person named in the order.

(2) The persons who may be named in an order under this section ("a family assistance order") are —

(a) any parent or guardian of the child;

(b) any person with whom the child is living or in whose favour a contact order is in force with respect to the child;

(c) the child.

(3) A court must not make a family assistance order unless it has obtained the consent of every person to be named in the order other than the child.

(4) A family assistance order may direct —

(a) the person named in the order; or

(b) such of the persons named in the order as may be specified in the order,

to take such steps as may be so specified with a view to enabling the person made available by the Crown to be kept informed of the address of any person named in the order and to be allowed to visit any such person.

(5) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a contact order made with respect to the child, the family assistance order may direct the person made available by the Crown to give advice and assistance as regards establishing, improving and maintaining contact (to such) of the persons named in the order as may be specified in the order.

(6) Unless it specifies a shorter period, a family assistance order will have effect for a period of 12 months beginning with the day on which it is made.

(7) If the court makes a family assistance order with respect to a child and the order is to be in force at the same time as a section 12 order made with respect to the child, the family assistance order may direct the person made available by the Crown to report to the court on such matters relating to the section 12 order as the court may require (including the question whether the section 12 order ought to be varied or discharged).

21. Risk assessments (CA, s16A)

(1) This section applies to the following functions of public officers or persons made available by the Crown —

(a) any function in connection with family proceedings in which the court has power to make an order under this Part with respect to a child or in which a question with respect to such an order arises;

(b) any function in connection with an order made by the court in such proceedings.

(2) If, in carrying out any function to which this section applies, a public officer or a person made available by the Crown is given cause to suspect that the child concerned is at risk of harm, the officer or person must —

(a) make a risk assessment in relation to the child, and

(b) provide the risk assessment to the court.

(3) A risk assessment, in relation to a child who is at risk of suffering harm of a particular sort, is an assessment of the risk of that harm being suffered by the child.

PART 3

SUPPORT FROM CROWN FOR CHILDREN AND FAMILIES (CA, Pt 3)

Provision of services for children and their families

22. Provision of services for children in need, their families and others (CA, s17)

(1) It is the general duty of the Crown (in addition to the other duties imposed on it by this Part) —

(a) to safeguard and promote the welfare of children who are in need; and

(b) so far as is consistent with that duty, to promote the upbringing of such children by their families,

by providing a range and level of services appropriate to those children's needs.

(2) For the purpose principally of facilitating the discharge of their general duty under this section, the Crown has the specific duties and powers set out in Part 1 of Schedule 2.

(3) Any service provided by the Crown in the exercise of functions conferred on it by this section may be provided for the family of a particular child in need or for any member of the child's family, if it is provided with a view to safeguarding or promoting the child's welfare.

(4) The Governor may by order amend any provision of Part 1 of Schedule 2 or add any further duty or power to those for the time being mentioned there.

(5) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on it by this section, the Crown must, so far as is reasonably practicable and consistent with the child's welfare —

(a) ascertain the child's wishes and feelings regarding the provision of those services; and

(b) give due consideration (having regard to the child's age and understanding) to such wishes and feelings of the child as it has been able to ascertain.

(6) The Crown —

(a) must facilitate the provision by others (including in particular voluntary organisations) of services which the Crown has power to provide by virtue of this section, or section 23, 26 to 28, 35 to 38, 41 or 42; and

(b) may make such arrangements as it sees fit for any person to act on its behalf in the provision of any such service.

(7) The services provided by the Crown in the exercise of functions conferred on it by this section may include providing accommodation and giving assistance in kind or, in exceptional circumstances, in cash.

(8) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).

(9) Before giving any assistance or imposing any conditions, the Crown must have regard to the means of the child concerned and of each of the child's parents.

(10) A person is not liable to make any repayment of assistance or of its value at any time when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(11) For the purposes of this Part a child will be taken to be in need if —

(a) the child is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for the child of services by the Crown under this Part;

(b) the child's health or development is likely to be significantly impaired, or further impaired, without the provision for the child of such services; or

(c) the child has a disability,

and "family", in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom the child has been living.

(12) For the purposes of this Part, a child has a disability if the child is blind, deaf or mute or suffers from mental disorder of any kind or is substantially and permanently impaired by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part —

“development” means physical, intellectual, emotional, social or behavioural development; and

“health” means physical or mental health.

Provision of accommodation for children

23. Provision of accommodation for children: general (CA, s20)

(1) The Crown must provide accommodation for any child in need who appears to it to require accommodation as a result of —

(a) there being no person who has parental responsibility for the child;

(b) the child being lost or having been abandoned; or

(c) the person who has been caring for the child being prevented (whether or not permanently, and for whatever reason) from providing the child with suitable accommodation or care.

(2) The Crown must provide accommodation for any child in need who has reached the age of 16 and whose welfare it considers is likely to be seriously prejudiced if it does not provide the child with accommodation.

(3) The Crown may provide accommodation for any child (even though a person who has parental responsibility for the child is able to provide the child with accommodation) if it considers that to do so would safeguard or promote the child’s welfare.

(4) The Crown may provide accommodation for any person who has reached the age of 16 but is under 21 if it considers that to do so would safeguard or promote the person’s welfare.

(5) Before providing accommodation under this section, the Crown must, so far as is reasonably practicable and consistent with the child’s welfare —

(a) ascertain the child’s wishes and feelings regarding the provision of accommodation; and

(b) give due consideration (having regard to the child’s age and understanding) to such wishes and feelings of the child as it has been able to ascertain.

(6) The Crown may not provide accommodation under this section for any child if any person who —

(a) has parental responsibility for the child; and

(b) is willing and able to —

(i) provide accommodation for the child; or

(ii) arrange for accommodation to be provided for the child,
objects.

(7) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the Crown under this section.

(8) Subsections (6) and (7) do not apply while any person —

(a) in whose favour a residence order is in force with respect to the child; or

(b) who has care of the child by virtue of an order made in the exercise of the Supreme Court's inherent jurisdiction with respect to children,

agrees to the child being looked after in accommodation provided by or on behalf of the Crown.

(9) Where there is more than one such person as is mentioned in subsection (8), all of them must agree.

(10) Subsections (6) and (7) do not apply where a child who has reached the age of 16 agrees to being provided with accommodation under this section.

24. Provision of accommodation for children in police protection etc (CA, s21)

The Crown must make provision for the reception and accommodation of children who are removed or kept away from home under Part 5.

Duties of Crown in relation to children looked after by it

25. General duty of Crown in relation to children looked after by it (CA, s22)

(1) In this Ordinance, any reference to a child who is looked after by the Crown is a reference to a child who is —

(a) in its care; or

(b) provided with accommodation by the Crown in the exercise of any functions (in particular those under this Ordinance) which are social services functions, apart from functions under sections 22, 35 and 42.

(2) In subsection (1) "accommodation" means accommodation which is provided for a continuous period of more than 24 hours.

(3) It is the duty of the Crown looking after any child —

(a) to safeguard and promote the child's welfare; and

(b) to make such use of services available for children cared for by their own parents as appears to the Crown reasonable in the child's case.

(4) The duty of the Crown under subsection (3)(a) to safeguard and promote the welfare of a child looked after by it includes in particular a duty to promote the child's educational achievement.

(5) Before making any decision with respect to a child whom it is looking after, or proposing to look after, the Crown must, so far as is reasonably practicable, ascertain the wishes and feelings of —

(a) the child;

(b) the child's parents;

(c) any person who is not a parent of the child but who has parental responsibility for the child; and

(d) any other person whose wishes and feelings the Crown considers to be relevant,

regarding the matter to be decided.

(6) In making any such decision the Crown must give due consideration —

(a) having regard to the child's age and understanding, to such wishes and feelings of the child as it has been able to ascertain;

(b) to such wishes and feelings of any person mentioned in subsection (5)(b) to (d) as it has been able to ascertain; and

(c) to the child's religious persuasion, racial origin and cultural and linguistic background.

(7) If it appears to the Crown that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise its powers with respect to a child whom it is looking after in a manner which may not be consistent with its duties under this section, it may do so.

26. Provision of accommodation for children in care (CA, s 22A)

When a child is in the care of the Crown, it is the Crown's duty to provide the child with accommodation.

27. Maintenance of looked after children (CA, s 22B)

It is the duty of the Crown to maintain a child it is looking after in other respects apart from the provision of accommodation.

28. Ways in which looked after children are to be accommodated and maintained (CA, s22C)

(1) This section applies where the Crown is looking after a child.

(2) The Crown must make arrangements for the child to live with a person who falls within subsection (3) (but subject to subsection (4)).

(3) A person falls within this subsection if —

- (a) that person is a parent of the child;
 - (b) that person is not a parent of the child but has parental responsibility for the child; or
 - (c) in a case where the child is in the care of the Crown and there was a residence order in force with respect to the child immediately before the care order was made, that person was a person in whose favour the residence order was made.
- (4) Subsection (2) does not require the Crown to make arrangements of the kind mentioned in that subsection if doing so —
- (a) would not be consistent with the child's welfare; or
 - (b) would not be reasonably practicable.
- (5) If the Crown is unable to make arrangements under subsection (2), it must place the child in the placement which is, in its opinion, the most appropriate placement available.
- (6) In subsection (5) “placement” means —
- (a) placement with an individual who is a relative, friend or other person connected with the child and who is approved as a foster parent by the Crown;
 - (b) placement with a foster parent approved by the Crown who is not a relative, friend or other person connected with the child;
 - (c) subject to section 29, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.
- (7) In determining the most appropriate placement for a child, the Crown must, subject to the other provisions of this Part (in particular, to its duties under section 25) —
- (a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection; and
 - (b) comply, so far as is reasonably practicable in all the circumstances of the child's case, with the requirements of subsection (8).
- (8) The Crown must ensure that the placement (as far as reasonable practicable taking into account all factors) is such that —
- (a) it allows the child to live near the child's home;
 - (b) it does not disrupt the child's education or training;
 - (c) if the child has a sibling for whom the Crown is also providing accommodation, it enables the child and the sibling to live together;

(d) if the child has a disability, the accommodation provided is suitable to the child's particular needs.

(9) The Crown may determine —

(a) the terms of any arrangements it makes under subsection (2) in relation to the child (including terms as to payment); and

(b) the terms on which it places the child with a foster parent (including terms as to payment).

(10) The Governor may make regulations for, and in connection with, the purposes of this section.

29. Review of child's case before making alternative arrangements for accommodation (CA, s 22D)

(1) Where the Crown is providing accommodation for a child other than by arrangements under section 28(6)(c), it must not make such arrangements for the child unless it has decided to do so in consequence of a review of the child's case carried out in accordance with regulations made under section 44.

(2) Subsection (1) does not prevent the Crown making arrangements for a child under section 28(6)(c) if it is satisfied that in order to safeguard the child's welfare it is necessary —

(a) to make such arrangements; and

(b) to do so as a matter of urgency.

30. Regulations as to children looked after by Crown (CA, s22F)

Part 2 of Schedule 2 has effect for the purposes of making further provision as to children looked after by the Crown and in particular as to the regulations which may be made under section 28(10).

31. General duty of Crown to secure sufficient accommodation for looked after children (CA, s 22G)

(1) It is the general duty of the Crown to take steps that secure, so far as reasonably practicable, the outcome that the Crown is able to provide the children mentioned in subsection (2) with accommodation that meets the needs of those children.

(2) The children referred to in subsection (1) are those —

(a) that the Crown is looking after, and

(b) in respect of whom the Crown is unable to make arrangements under section 28(2).

(3) In taking steps to secure the outcome in subsection (1), the Crown must have regard to the benefit of a range of accommodation capable of meeting different needs that is, in its opinion, sufficient to secure that outcome.

Visiting

32. Duty of Crown to ensure visits to, and contact with, looked after children and others (CA, s23ZA)

(1) This section applies to —

- (a) a child looked after by the Crown;
- (b) a child who was looked after by the Crown but who has ceased to be looked after by the Crown as a result of prescribed circumstances.

(2) It is the duty of the Crown —

- (a) to ensure that a person to whom this section applies is visited by a representative of the Crown (“a representative”);
- (b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from the Crown.

(3) The duties imposed by subsection (2) —

- (a) are to be discharged in accordance with any regulations made for the purposes of this section by the Governor;
- (b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.

(4) Regulations under this section for the purposes of subsection (3)(a) may make provision about —

- (a) the frequency of visits;
- (b) circumstances in which a person to whom this section applies must be visited by a representative; and
- (c) the functions of a representative.

(5) In choosing a representative the Crown must satisfy itself that the person chosen has the necessary skills and experience to perform the functions of a representative.

33. Independent visitors for children looked after by Crown (CA, s23ZB)

(1) Where the Crown is looking after a child it must appoint an independent person to be the child's visitor if —

- (a) the child falls within a description prescribed in regulations made by the Governor; or
- (b) in any other case, it appears to the Crown that it would be in the child's interests to do so.

(2) A person appointed under this section must visit, befriend and advise the child.

(3) A person appointed under this section is entitled to recover from the Crown any reasonable expenses incurred by that person for the purposes of that person's functions under this section.

(4) A person's appointment as a visitor in pursuance of this section comes to an end if —

- (a) the child ceases to be looked after by the Crown;
- (b) the person resigns the appointment by giving notice in writing to the Crown; or
- (c) the Crown gives the person notice in writing that it has terminated the appointment.

(5) The ending of such an appointment does not affect any duty under this section to make a further appointment.

(6) Where the Crown proposes to appoint a visitor for a child under this section, the appointment must not be made if —

- (a) the child objects to it; and
- (b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(7) Where a visitor has been appointed for a child under this section, the Crown must terminate the appointment if —

- (a) the child objects to its continuing; and
- (b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(8) If the Crown gives effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the Crown does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.

(9) The Governor may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the Crown.

Advice and assistance for certain children and young persons

34. Relevant children (CA, s23A)

(1) The Crown has the functions set out in section 35 in respect of a relevant child.

(2) In subsection (1) "relevant child" means (subject to subsection (3)) a child who —

- (a) is not being looked after by the Crown;
- (b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 22 of Schedule 2; and

(c) is aged 16 or 17.

(3) The Governor may prescribe by order —

(a) additional categories of relevant children; and

(b) categories of children who are not to be relevant children despite falling within subsection (2).

35. Additional functions of Crown in respect of relevant children (CA, s23B)

(1) It is the duty of the Crown to take reasonable steps to keep in touch with a relevant child.

(2) It is the duty of the Crown to appoint a personal adviser for each relevant child (if it has not already done so under paragraph 23 of Schedule 2).

(3) It is the duty of the Crown, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 22 of Schedule 2 —

(a) to carry out an assessment of the relevant child's needs with a view to determining what advice, assistance and support it would be appropriate for the Crown to provide the relevant child under this Part; and

(b) to prepare a pathway plan for the relevant child.

(4) The Crown may carry out such an assessment at the same time as any assessment of the relevant child's needs is made under any other enactment.

(5) The Governor may by regulations make provision as to assessments for the purposes of subsection (3).

(6) The regulations may in particular make provision about —

(a) who is to be consulted in relation to an assessment;

(b) the way in which an assessment is to be carried out, by whom and when;

(c) the recording of the results of an assessment;

(d) the considerations to which the Crown is to have regard in carrying out an assessment.

(7) The Crown must keep the pathway plan under regular review.

(8) The Crown must safeguard and promote the relevant child's welfare and, unless the Crown is satisfied that the relevant child's welfare does not require it, support the relevant child by —

(a) maintaining the relevant child;

(b) providing the relevant child with or maintaining the relevant child in suitable accommodation; and

(c) providing support of such other descriptions as may be prescribed.

(9) Support under subsection (8) may be in cash.

(10) The Governor may by regulations make provision about the meaning of “suitable accommodation” and in particular about the suitability of landlords or other providers of accommodation.

(11) If the Crown has lost touch with a relevant child, despite taking reasonable steps to keep in touch, it must without delay —

(a) consider how to re-establish contact; and

(b) take reasonable steps to do so,

and while the child is still a relevant child must continue to take such steps until it succeeds.

(12) Subsections (8) to (10) of section 22 apply in relation to support given under this section as they apply in relation to assistance given under that section.

(13) Subsections (5) and (6) of section 25 apply in relation to any decision by the Crown for the purposes of this section as they apply in relation to the decisions referred to in that section.

36. Continuing functions in respect of former relevant children (CA, s 23C)

(1) The Crown has the duties provided for in this section towards —

(a) a person who has been a relevant child for the purposes of section 34 (and would be one if the person were under 18); and

(b) a person who was being looked after by the Crown when the person attained the age of 18, and immediately before ceasing to be looked after was an eligible child,

and in this section such a person is referred to as a “former relevant child”.

(2) It is the duty of the Crown to take reasonable steps —

(a) to keep in touch with a former relevant child; and

(b) if it loses touch with a former relevant child, to re-establish contact.

(3) It is the duty of the Crown —

(a) to continue the appointment of a personal adviser for a former relevant child; and

(b) to continue to keep the former relevant child’s pathway plan under regular review.

(4) It is the duty of the Crown to give a former relevant child —

- (a) assistance of the kind referred to in section 42(1), to the extent that the former relevant child's welfare requires it;
 - (b) assistance of the kind referred to in section 42(2), to the extent that the former relevant child's welfare and educational or training needs require it;
 - (c) other assistance, to the extent that the former relevant child's welfare requires it.
- (5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.
- (6) It is the duty of the Crown to pay the relevant amount to a former relevant child who pursues higher education in accordance with a pathway plan prepared for that person.
- (7) The Governor may by regulations —
- (a) prescribe the relevant amount for the purposes of subsection (6);
 - (b) prescribe the meaning of "higher education" for those purposes;
 - (c) make provision as to the payment of the relevant amount;
 - (d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by the Crown from a former relevant child to whom a payment has been made.
- (8) The duty set out in subsection (6) is without prejudice to that set out in subsection (4)(b).
- (9) Subject to subsection (10), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of 21.
- (10) If the former relevant child's pathway plan sets out a programme of education or training which extends beyond the former relevant child's 21st birthday —
- (a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
 - (b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.
- (11) For the purposes of subsection (10)(a) any interruption in a former relevant child's pursuance of a programme of education or training must be disregarded if the Crown is satisfied that the former relevant child will resume it as soon as is reasonably practicable.
- (12) Section 42(5) applies in relation to a person being given assistance under subsection (4)(b) or who is in receipt of a payment under subsection (6) as it applies in relation to a person to whom section 42(3)(b) applies.

(13) Subsections (8) to (10) of section 22 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.

(14) Any published education policy of the Falkland Islands Government must be taken into account in reviewing the pathway plan for a former relevant child in accordance with subsection (3)(b).

(15) The obligation on the Crown under this section does not exceed the provision which could reasonably be expected to be made by a parent caring for a child in the relevant circumstances.

37. Further assistance to pursue education or training (CA, s23CA)

(1) This section applies to a person if —

(a) the person is under the age of 25 or of such lesser age as the Governor may prescribe by order;

(b) the person is a former relevant child (within the meaning of section 36) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and

(c) the person has informed the Crown that the person is pursuing, or wishes to pursue, a programme of education or training.

(2) It is the duty of the Crown to appoint a personal adviser for a person to whom this section applies.

(3) It is the duty of the Crown —

(a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to the person under this section; and

(b) to prepare a pathway plan for the person.

(4) It is the duty of the Crown to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that the child's educational or training needs require it.

(5) The kinds of assistance are —

(a) contributing to expenses incurred by the person in living near the place where the person is, or will be, receiving education or training; or

(b) making a grant to enable the person to meet expenses connected with the person's education and training.

(6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for the person, the duties of the Crown under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as the person continues to pursue that programme.

(7) For the purposes of subsection (6), the Crown may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that the person will resume it as soon as is reasonably practicable.

(8) Subsections (8) to (10) of section 22 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (9) of the words "and of each of the child's parents".

(9) Subsection (5) of section 42 applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.

(10) Nothing in this section affects the duty imposed by subsection (6) of section 36 to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3)(a).

(11) Any published education policy of the Falkland Islands Government must be taken into account in formulating the pathway plan in accordance with subsection (3)(b).

(12) The obligation on the Crown under this section does not exceed the provision which could reasonably be expected to be made by a parent caring for a child in the relevant circumstances.

Personal advisers and pathway plans

38. Personal advisers (CA, s23D)

(1) The Governor may by regulations require the Crown to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of 16 but not the age of 25 who are not —

- (a) children who are relevant children for the purposes of section 34;
- (b) the young persons referred to in section 36; or
- (c) the children referred to in paragraph 23 of Schedule 2; or
- (d) persons to whom section 37 applies.

(2) Personal advisers appointed under or by virtue of this Part have (in addition to any other functions) such functions as the Governor may by subsidiary legislation prescribe.

39. Pathway plans (CA, s23E)

(1) In this Part, a reference to a "pathway plan" is to a plan setting out —

- (a) in the case of a plan prepared under paragraph 22 of Schedule 2 —
 - (i) the advice, assistance and support which the Crown intends to provide a child under this Part, both while it is looking after the child and later; and
 - (ii) when it might cease to look after the child; and

(b) in the case of a plan prepared under section 35 , the advice, assistance and support which the Crown intends to provide under this Part,

and dealing with such other matters (if any) as may be prescribed by Governor in subsidiary legislation.

(2) The Crown may carry out an assessment under section 35(3) or 37(3) of a person's needs at the same time as any other assessment of the person's needs is made.

(3) The Governor may by regulations make provision as to assessments for the purposes of section 35(3) or 37.

(4) Regulations under subsection (3) may in particular make provision about —

(a) who is to be consulted in relation to an assessment;

(b) the way in which an assessment is to be carried out, by whom and when;

(c) the recording of the results of an assessment;

(d) the considerations to which the Crown is to have regard in carrying out an assessment.

(5) The Crown must keep each pathway plan prepared by it under section 35 or 37 under review.

(6) The Governor may by regulations make provision about pathway plans and their review.

40. Persons qualifying for advice and assistance (CA, s24)

(1) In this Part “a person qualifying for advice and assistance” means a person who —

(a) is under 21; and

(b) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered by the Crown.

(2) In the case of a person qualifying for advice and assistance by virtue of subsection (1), it is the duty of the Crown to take such steps as it thinks appropriate to contact the person at such times as it thinks appropriate with a view to discharging their functions under sections 41 and 42.

41. Advice and assistance (CA, s24A)

(1) The Crown must consider whether a person qualifying for advice and assistance by virtue of section 40 needs help of a kind which it can give under this section or section 42.

(2) If a person qualifying for advice and assistance does need help of such a kind, the Crown must advise and befriend the person.

(3) Where as a result of this section the Crown is under a duty to advise and befriend a person, it may also give the person assistance.

(4) The assistance may be in kind and, in exceptional circumstances, assistance may be given —

(a) by providing accommodation, if in the circumstances assistance may not be given in respect of the accommodation under section 42, or

(b) in cash.

(5) Subsections (8) to (10) of section 22 apply in relation to assistance given under this section or section 42 as they apply in relation to assistance given under that section.

42. Employment, education and training (CA, s24B)

(1) The Crown may give assistance to any person who qualifies for advice and assistance by virtue of section 40 by contributing to expenses incurred by the person in living near the place where the person is, or will be, employed or seeking employment.

(2) The Crown may give assistance to a person to whom subsection (3) applies by —

(a) contributing to expenses incurred by the person in question in living near the place where the person is, or will be, receiving education or training; or

(b) making a grant to enable the person to meet expenses connected with the person's education or training.

(3) This subsection applies to any person who —

(a) is under 24; and

(b) qualifies for advice and assistance by virtue of section 40, or would have done so if the person were under 21.

(4) Where the Crown is assisting a person under subsection (2) it may disregard any interruption in the person's attendance on the course if the person resumes it as soon as is reasonably practicable.

(5) Where the Crown is satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because the person's term-time accommodation is not available to the person then, it must give the person assistance by —

(a) providing the person with suitable accommodation during the vacation; or

(b) paying the person enough to enable the person to secure such accommodation personally.

(6) The Governor may by regulations prescribe the meaning of "full-time", "further education", "higher education" and "vacation" for the purposes of subsection (5).

43. Representations: sections 34 to 42 (CA, s24D)

(1) The Crown must establish a procedure for considering representations (including complaints) made to it by —

- (a) a relevant child for the purposes of section 34 or a young person falling within section 36;
- (b) a person qualifying for advice and assistance by virtue of section 40; or
- (c) a person falling within section 42(1),

about the discharge of their functions under this Part in relation to that person.

(2) Regulations may be made by the Governor imposing time limits on the making of representations under subsection (1).

(3) In considering representations under subsection (1), the Crown must comply with regulations (if any) made by the Governor for the purposes of this subsection.

Review, etc

44. Review of cases and inquiries into representations (CA, s26)

(1) The Governor may make regulations requiring the case of each child who is being looked after by the Crown to be reviewed in accordance with the provisions of the regulations.

(2) The regulations may, in particular, make provision —

- (a) as to the manner in which each case is to be reviewed;
- (b) as to the considerations to which the Crown is to have regard in reviewing each case;
- (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
- (d) requiring the Crown, before conducting any review, to seek the views of —
 - (i) the child;
 - (ii) the child's parents;
 - (iii) any person who is not a parent of the child but who has parental responsibility for the child; and
 - (iv) any other person whose views the Crown considers to be relevant,

including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;

(e) requiring the Crown, in the case of a child who is in its care —

- (i) to keep the section 49 plan for the child under review and, if they are of the opinion that some change is required, to revise the plan, or make a new plan, accordingly,

- (ii) to consider, whether an application should be made to discharge the care order;
- (f) requiring the Crown, in the case of a child in accommodation provided by the Crown —
 - (i) if there is no plan for the future care of the child, to prepare one,
 - (ii) if there is such a plan for the child, to keep it under review and, if the Crown is of the opinion that some change is required, to revise the plan or make a new plan, accordingly,
 - (iii) to consider, whether the accommodation accords with the requirements of this Part;
- (g) requiring the Crown to inform the child, so far as is reasonably practicable, of any steps the child may take under this Ordinance;
- (h) requiring the Crown to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which it proposes to make in the course, or as a result, of the review;
- (i) requiring the Crown to notify details of the result of the review and of any decision taken by it in consequence of the review to —
 - (i) the child;
 - (ii) the child's parents;
 - (iii) any person who is not a parent of the child but who has parental responsibility for the child; and
 - (iv) any other person whom they consider ought to be notified;
- (j) requiring the Crown to monitor the arrangements which it has made with a view to ensuring that it complies with the regulations;
- (k) for the Crown to appoint a person in respect of each case to carry out in the prescribed manner the functions mentioned in subsection (3) and any prescribed function.
- (3) The functions referred to in subsection (2)(k) are —
 - (a) participating in the review of the case in question,
 - (b) monitoring the performance of the Crown's functions in respect of the review.
- (4) The Crown must establish a procedure for considering any representations (including any complaint) made to it by —
 - (a) any child who is being looked after by the Crown or who is not being looked after by the Crown but is in need;

(b) a parent of the child;

(c) any person who is not a parent of the child but who has parental responsibility for the child;

(d) a foster parent looking after a child on behalf of the Crown;

(e) such other person as the Crown considers has a sufficient interest in the child's welfare to warrant the person's representations being considered by it,

about the discharge by the Crown of any of its qualifying functions in relation to the child.

(5) The following are qualifying functions for the purposes of subsection (4) —

(a) functions under this Part,

(b) such functions under Part 4 or 5 as are specified by the Governor in regulations.

(6) The procedure must provide that at least one person who is not an elected Member of the Legislative Assembly or a public officer takes part in —

(a) the consideration; and

(b) any discussions which are held by the Crown about the action (if any) to be taken in relation to the child in the light of the consideration,

but this subsection is subject to subsection (9).

(7) Regulations may be made by the Governor imposing time limits on the making of representations under this section.

(8) In carrying out any consideration of representations under this section the Crown must comply with any regulations made by the Governor for the purpose of regulating the procedure to be followed.

(9) Regulations under subsection (8) may provide that subsection (6) does not apply in relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.

(10) The Governor may make regulations requiring the Crown to monitor the arrangements that it has made with a view to ensuring that it complies with any regulations made for the purposes of subsection (8).

(11) Where any representation has been considered under the procedure established by the Crown under this section, the Crown must —

(a) have due regard to the findings of those considering the representation; and

(b) take such steps as are reasonably practicable to notify (in writing) —

- (i) the person making the representation;
- (ii) the child (if the Crown consider that the child has sufficient understanding); and
- (iii) such other persons (if any) as appear to the Crown to be likely to be affected,

of the Crown's decision in the matter and its reasons for taking that decision and of any action which it has taken, or proposes to take.

(12) The Crown must give such publicity to its procedure for considering representations under this section as it considers appropriate.

45. Advocacy services (CA, s26A)

(1) The Crown must make arrangements for the provision of assistance to —

- (a) persons who make or intend to make representations under section 43; and
- (b) children who make or intend to make representations under section 44.

(2) The assistance provided under the arrangements is to include assistance by way of representation.

(3) The arrangements —

- (a) must secure that a person may not provide assistance if the person is one who is prevented from doing so by regulations made by the Governor; and
- (b) must comply with any other provision made by the regulations in relation to the arrangements.

(4) The Governor may make regulations requiring the Crown to monitor the steps that it has taken with a view to ensuring that it complies with regulations made for the purposes of subsection (3).

(5) The Crown must give such publicity to its arrangements for the provision of assistance under this section as it considers appropriate.

Charges for services

46. Recoupment of cost of providing services etc (CA, s29)

(1) Where the Crown provides any service under section 22, other than advice, guidance or counselling, it may recover from a person specified in subsection (4) such charge for the service as it considers reasonable.

(2) Where the Crown is satisfied that that person's means are insufficient for it to be reasonably practicable for that person to pay the charge, it may not require the person to pay more than the person can reasonably be expected to pay.

(3) A person is not liable to pay any charge under subsection (1) for a service provided under section 22 at any time when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(4) The persons are —

- (a) where the service is provided for a child under 16, each of the child's parents;
- (b) where it is provided for a child who has reached the age of 16, the child personally; and
- (c) where it is provided for a member of the child's family, that member.

(5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Part 3 of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by the Crown.

Miscellaneous

47. Miscellaneous (CA, s30)

(1) Nothing in this Part affects any duty imposed on the Crown by or under any other enactment.

(2) The Governor may make regulations for determining, as respects any functions specified in the regulations, whether a child who is being looked after by the Crown is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

PART 4 CARE AND SUPERVISION (CA Pt 4)

General

48. Care and supervision (CA, s31)

(1) On the application of the Crown, the court may make an order —

- (a) placing the child with respect to whom the application is made in the care of the Crown;
or
- (b) putting the child under the supervision of the Crown.

(2) A court may only make a care order or supervision order if it is satisfied —

- (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
- (b) that the harm, or likelihood of harm, is attributable to —
 - (i) the care given to the child or likely to be given to the child if the order were not made not being what it would be reasonable to expect a parent to give to the child; or

(ii) the child's being beyond parental control.

(3) A care order or supervision order must not be made with respect to a child who has reached the age of 17 (or 16, in the case of a child who is married).

(4) A care order must not be made with respect to a child until the court has considered a section 49 plan.

(5) An application under this section may be made on its own or in any other family proceedings.

(6) The court may —

(a) on an application for a care order, make a supervision order;

(b) on an application for a supervision order, make a care order.

(7) An application may only be made under this section by or with the consent of the Attorney General.

(8) In this section —

“harm” means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another;

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health; and

“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical.

(9) Where the question of whether harm suffered by a child is significant turns on the child's health or development, the child's health or development is to be compared with that which could reasonably be expected of a similar child.

(10) In this Ordinance —

“care order” —

(a) means (subject to section 3(1)) an order under subsection (1)(a); and

(b) except where express provision to the contrary is made, includes an interim care order made under section 56; and

“supervision order” —

(a) means an order under subsection (1)(b); and

(b) except where express provision to the contrary is made, includes an interim supervision order made under section 56.

49. Care orders: care plans (CA, s31A)

(1) Where an application is made on which a care order might be made with respect to a child, the Crown must, within such time as the court may direct, prepare a plan (“a care plan”) for the future care of the child.

(2) While the application is pending, the Crown —

(a) must keep any care plan prepared by it under review; and

(b) if it is of the opinion some change is required, revise the plan, or make a new plan, accordingly.

(3) A care plan must give any prescribed information and do so in the prescribed manner.

(4) In section 48(4) and this section, references to a care order do not include an interim care order.

(5) A plan prepared (or treated as prepared) under this section is referred to in this Ordinance as a “section 49 plan”.

50. Period within which application for order under this Part must be disposed of (CA, s32)

(1) A court hearing an application for an order under this Part must (in the light of any rules made by virtue of subsection (2)) —

(a) draw up a timetable with a view to disposing of the application without delay; and

(b) give such directions as it considers appropriate for the purpose of ensuring, so far as is reasonably practicable, that that timetable is adhered to.

(2) Rules of court may —

(a) specify periods within which specified steps must be taken in relation to such proceedings; and

(b) make other provision with respect to such proceedings for the purpose of ensuring, so far as is reasonably practicable, that they are disposed of without delay.

Care orders

51. Effect of care order (CA, s33)

(1) Where a care order is made with respect to a child it is the duty of the Crown to receive the child into its care and to keep the child in its care while the order remains in force.

(2) While a care order is in force with respect to a child, the Crown —

(a) has parental responsibility for the child; and

(b) has the power (subject to the following provisions of this section) to determine the extent to which —

(i) a parent or guardian of the child; or

(ii) a person who by virtue of section 8 has parental responsibility for the child,

may meet the parental responsibility for the child.

(3) The Crown may not exercise the power in subsection (2)(b) unless it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare.

(4) Nothing in subsection (2)(b) prevents a person mentioned in that provision who has care of the child from doing what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

(5) While a care order is in force with respect to a child, the Crown —

(a) must not cause the child to be brought up in any religious persuasion other than that in which the child would have been brought up if the order had not been made;

(b) does not have the right —

(i) to agree or refuse to agree to the making of an adoption order, or an order under section 55 of the Adoption Act 1976 (as it applies in the Falkland Islands), with respect to the child;

(ii) to appoint a guardian for the child.

(6) While a care order is in force with respect to a child, no person may —

(a) cause the child to be known by a new surname; or

(b) remove the child from the Falkland Islands,

without either the written consent of every person who has parental responsibility for the child or the leave of the court.

(7) Subsection (6)(b) does not —

(a) prevent the removal of such a child by the Crown, for a period of less than 3 months;

(b) apply to arrangements for such a child to live outside the Falkland Islands (which are governed by paragraph 21 of Schedule 2).

(8) The power in subsection (2)(b) is subject (in addition to being subject to the provisions of this section) to any right, duty, power, responsibility or authority which a person mentioned in

that provision has in relation to the child and the child's property by virtue of any other enactment.

52. Parental contact etc with children in care (CA, s34)

(1) Where a child is in the care of the Crown, the Crown must (subject to the provisions of this section) allow the child reasonable contact with —

- (a) the child's parents;
- (b) any guardian of the child;
- (c) any person who by virtue of section 8 has parental responsibility for the child;
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the order was made; and
- (e) where, immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the Supreme Court's inherent jurisdiction with respect to children, that person.

(2) On an application made by the Crown or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and any named person.

(3) On an application made by —

- (a) any person mentioned in paragraphs (a) to (e) of subsection (1); or
- (b) any person who has obtained the leave of the court to make the application,

the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

(4) On an application made by the Crown or the child, the court may make an order authorising the Crown to refuse to allow contact between the child and any person who is mentioned in paragraphs (a) to (e) of subsection (1) and named in the order.

(5) When making a care order with respect to a child, or in any family proceedings in connection with a child who is in the care of the Crown, the court may make an order under this section, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.

(6) The Crown may refuse to allow the contact that would otherwise be required by virtue of subsection (1) or an order under this section if —

- (a) the Crown is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare; and
- (b) the refusal —

- (i) is decided upon as a matter of urgency; and
 - (ii) does not last for more than 7 days.
- (7) An order under this section may impose such conditions as the court considers appropriate.
- (8) The Governor may by regulations make provision as to —
- (a) the steps to be taken by the Crown if it exercises its powers under subsection (6);
 - (b) the circumstances in which, and conditions subject to which, the terms of any order under this section may be departed from by agreement between the Crown and the person in relation to whom the order is made;
 - (c) notification by the Crown of any variation or suspension of arrangements made (otherwise than under an order under this section) with a view to affording any person contact with a child to whom this section applies.
- (9) The court may vary or discharge any order made under this section on the application of the Crown, the child concerned or the person named in the order.
- (10) An order under this section may be made either at the same time as the care order itself or later.
- (11) Before making a care order with respect to any child the court must —
- (a) consider the arrangements which the Crown has made, or propose to make, for affording any person contact with a child to whom this section applies; and
 - (b) invite the parties to the proceedings to comment on those arrangements.

Supervision orders

53. Supervision orders (CA, s35)

- (1) While a supervision order is in force it is the duty of the supervisor —
- (a) to advise, assist and befriend the supervised child;
 - (b) to take such steps as are reasonably necessary to give effect to the order; and
 - (c) where —
 - (i) the order is not wholly complied with; or
 - (ii) the supervisor considers that the order may no longer be necessary,
 to consider whether or not to apply to the court for its variation or discharge.
- (2) Parts 1 and 2 of Schedule 3 make further provision with respect to supervision orders.

54. Education supervision orders (CA, s36)

(1) On the application of the Crown, the court may make an order putting the child with respect to whom the application is made under the supervision of the Crown.

(2) In this Ordinance, “an education supervision order” means an order under subsection (1).

(3) A court may only make an education supervision order if it is satisfied that the child concerned is of compulsory school age and is not being properly educated.

(4) For the purposes of this section, a child is being properly educated only if the child is receiving efficient education suitable to —

(a) the child’s age, ability and aptitude; and

(b) any special educational needs the child may have.

(5) A court must have regard to any published education policy of the Falkland Islands Government in determining whether a child is being properly educated.

(6) Where a child is —

(a) the subject of a school attendance order which is in force under section 25 of the Education Ordinance (Title 29.1) and which has not been complied with;

(b) not attending regularly within the meaning of section 26 of the Education Ordinance, a school at which the child is a registered pupil, or

(c) not diligently pursuing within the meaning of section 28 of the Education Ordinance a course of education provided in respect of that child by the Camp Education Service;

then, unless it is proved that the child is being properly educated, it is to be assumed that the child is not.

(7) An education supervision order may not be made with respect to a child who is in the care of the Crown.

(8) Part 3 of Schedule 3 makes further provision with respect to education supervision orders.

Powers of court

55. Powers of court in certain family proceedings (CA, s37)

(1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to the child, the court may direct the Crown to undertake an investigation of the child’s circumstances.

(2) Where the court gives a direction under this section the Crown must, when undertaking the investigation, consider whether it should —

- (a) apply for a care order or for a supervision order with respect to the child;
 - (b) provide services or assistance for the child or the child's family; or
 - (c) take any other action with respect to the child.
- (3) Where the Crown undertakes an investigation under this section, and decides not to apply for a care order or supervision order with respect to the child concerned, it must inform the court of —
- (a) its reasons for so deciding;
 - (b) any service or assistance which the Crown has provided, or intends to provide, for the child and the child's family; and
 - (c) any other action which the Crown has taken, or proposes to take, with respect to the child.
- (4) The information must be given to the court before the end of the period of 8 weeks beginning with the date of the direction, unless the court otherwise directs.
- (5) If, on the conclusion of any investigation or review under this section, the Crown decide not to apply for a care order or supervision order with respect to the child —
- (a) it must consider whether it would be appropriate to review the case at a later date; and
 - (b) if it decides that it would be, it must determine the date on which that review is to begin.

56. Interim orders (CA, s38)

(1) Where —

- (a) in any proceedings on an application for a care order or supervision order, the proceedings are adjourned; or
- (b) the court gives a direction under section 55(1),

the court may make an interim care order or an interim supervision order with respect to the child concerned.

(2) A court must not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that the circumstances with respect to the child are as mentioned in section 48(2).

(3) Where, in any proceedings on an application for a care order or supervision order, a court makes a residence order with respect to the child concerned, it must also make an interim supervision order with respect to the child unless satisfied that the child's welfare will be satisfactorily safeguarded without an interim order being made.

(4) An interim order made under or by virtue of this section will have effect for such period as may be specified in the order, but will in any event cease to have effect on whichever of the following events first occurs —

- (a) the expiry of the period of 8 weeks beginning with the date on which the order is made;
- (b) if the order is the second or subsequent such order made with respect to the same child in the same proceedings, the expiry of the relevant period;
- (c) in a case which falls within subsection (1)(a), the disposal of the application;
- (d) in a case which falls within subsection (1)(b), the disposal of an application for a care order or supervision order made by the Crown with respect to the child;
- (e) in a case which falls within subsection (1)(b) and in which —
 - (i) the court has given a direction under section 55(4), but
 - (ii) no application for a care order or supervision order has been made with respect to the child,

the expiry of the period fixed by that direction.

(5) In subsection (4)(b), “the relevant period” means —

- (a) the period of 4 weeks beginning with the date on which the order in question is made; or
- (b) the period of 8 weeks beginning with the date on which the first order was made if that period ends later than the period mentioned in paragraph (a).

(6) Where the court makes an interim care order, or interim supervision order, it may give such directions (if any) as it considers appropriate with regard to the medical or psychiatric examination or other assessment of the child; but if the child is of sufficient understanding to make an informed decision, the child may refuse to submit to the examination or other assessment.

(7) A direction under subsection (6) may be to the effect that there is to be —

- (a) no such examination or assessment; or
- (b) no such examination or assessment unless the court directs otherwise.

(8) A direction under subsection (6) may be —

- (a) given when the interim order is made or at any time while it is in force; and
- (b) varied at any time on the application of any person falling within any class of person prescribed by rules of court for the purposes of this subsection.

(9) Where the court makes a direction for an examination or an assessment under this section, paragraph 4 of Schedule 3 will apply as if the supervision order referred to in that paragraph is an interim supervision order.

(10) Where a court makes an order under or by virtue of this section it must, in determining the period for which the order is to be in force, consider whether any party who was, or might have been, opposed to the making of the order was in a position to argue that party's case against the order in full.

57. Power to include exclusion requirement in interim care order (CA, s38A)

(1) Where —

(a) on being satisfied that there are reasonable grounds for believing that the circumstances with respect to a child are as mentioned in section 48(2)(a) and (b)(i), the court makes an interim care order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the interim care order.

(2) The conditions are —

(a) that there is reasonable cause to believe that, if a person ("the relevant person") is excluded from a dwelling-house in which the child lives, the child will cease to suffer, or cease to be likely to suffer, significant harm, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person) —

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following —

(a) a provision requiring the relevant person to leave a dwelling-house in which the relevant person is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the interim care order.

- (5) Where the court makes an interim care order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.
- (6) Where the court attaches a power of arrest to an exclusion requirement of an interim care order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.
- (7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the interim care order.
- (8) Where a power of arrest is attached to an exclusion requirement of an interim care order by virtue of subsection (5), a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.
- (9) Schedule 4 has effect in relation to a person arrested under subsection (8) of this section.
- (10) If, while an interim care order containing an exclusion requirement is in force, the Crown has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the interim care order will cease to have effect in so far as it imposes the exclusion requirement.

58. Undertakings relating to interim care orders (CA, s38B)

- (1) In any case where the court has power to include an exclusion requirement in an interim care order, the court may accept an undertaking from the relevant person.
- (2) No power of arrest may be attached to any undertaking given under subsection (1).
- (3) An undertaking given to a court under subsection (1) —
- (a) will be enforceable as if it were an order of the court, and
 - (b) will cease to have effect if, while it is in force, the Crown has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.
- (4) This section has effect without prejudice to the powers that a court has apart from this section.
- (5) In this section, “exclusion requirement” and “relevant person” have the same meaning as in section 57.

59. Discharge and variation etc. of care orders and supervision orders (CA, s39)

- (1) A care order may be discharged by the court on the application of —
- (a) any person who has parental responsibility for the child;
 - (b) the child; or
 - (c) the Crown.

(2) A supervision order may be varied or discharged by the court on the application of —

- (a) any person who has parental responsibility for the child;
- (b) the child; or
- (c) the supervisor.

(3) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person with whom the child is living, a supervision order may be varied by the court in so far as it imposes a requirement which affects that person.

(4) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an interim care order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(5) Where a power of arrest has been attached to an exclusion requirement of an interim care order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(6) Where a care order is in force with respect to a child the court may, on the application of any person entitled to apply for the order to be discharged, substitute a supervision order for the care order.

(7) When a court is considering whether to substitute one order for another under subsection (6) any provision of this Ordinance which would otherwise require section 48(2) to be satisfied at the time when the proposed order is substituted or made must be disregarded.

60. Orders pending appeals in cases about care or supervision orders (CA, s40)

(1) Where —

- (a) a court dismisses an application for a care order; and
- (b) at the time when the court dismisses the application, the child concerned is the subject of an interim care order,

the court may make a care order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(2) Where —

- (a) a court dismisses an application for a care order, or an application for a supervision order; and
- (b) at the time when the court dismisses the application, the child concerned is the subject of an interim supervision order,

the court may make a supervision order with respect to the child to have effect subject to such directions (if any) as the court may see fit to include in the order.

(3) Where a court grants an application to discharge a care order or supervision order, it may order that —

(a) its decision is not to have effect; or

(b) the care order, or supervision order, is to continue to have effect but subject to such directions as the court sees fit to include in the order.

(4) An order made under this section will only have effect for such period, not exceeding the appeal period, as may be specified in the order.

(5) Where —

(a) an appeal is made against any decision of a court under this section; or

(b) any application is made to the appellate court in connection with a proposed appeal against that decision,

the appellate court may extend the period for which the order in question is to have effect, but not so as to extend it beyond the end of the appeal period.

(6) In this section “the appeal period” means —

(a) where an appeal is made against the decision in question, the period between the making of that decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

Children’s guardians (formerly known as guardians ad litem)

61. Representation of child (CA, s41)

(1) For the purpose of any specified proceedings, the court must appoint a suitable person to be children’s guardian for the child concerned unless satisfied that it is not necessary to do so in order to safeguard the child’s interests.

(2) The children’s guardian —

(a) must be appointed in accordance with any rules of court that have been made; and

(b) will be under a duty to safeguard the interests of the child in the manner prescribed by such rules.

(3) Where —

(a) the child concerned is not represented by a legal practitioner; and

(b) any of the conditions mentioned in subsection (4) is satisfied,
the court may appoint a legal practitioner to represent the child.

(4) The conditions are that —

- (a) no children's guardian has been appointed for the child;
- (b) the child has sufficient understanding to instruct a legal practitioner and wishes to do so;
- (c) it appears to the court that it would be in the child's best interests for the child to be represented by a legal practitioner.

(5) Any legal practitioner appointed under or by virtue of this section must be appointed, and must represent the child, in accordance with any rules of court that have been made.

(6) In this section "specified proceedings" means any proceedings —

- (a) on an application for a care order or supervision order;
- (b) in which the court has given a direction under section 55(1) and has made, or is considering whether to make, an interim care order;
- (c) on an application for the discharge of a care order or the variation or discharge of a supervision order;
- (d) on an application under section 59(6);
- (e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;
- (f) with respect to contact between a child who is the subject of a care order and any other person;
- (g) under Part 5;
- (h) on an appeal against —
 - (i) the making of, or refusal to make, a care order, supervision order or any order under section 52;
 - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order;
 - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii);
 - (iv) the refusal of an application under section 59(6); or

- (v) the making of, or refusal to make, an order under Part 5;
 - (i) on an application for the making or an order declaring the child free for adoption (within the meaning of section 18 of the Adoption Act 1976 (as it applies in the Falkland Islands)); or
 - (j) which are specified for the time being, for the purposes of this section, by rules of court.
- (7) The proceedings which may be specified under subsection (6)(j) include (for example) proceedings for the making, varying or discharging of a section 12 order.
- (8) Rules of court may make provision as to —
- (a) the assistance which any children's guardian may be required by the court to give to it;
 - (b) the consideration to be given by any children's guardian, where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order;
 - (c) the participation of children's guardians in reviews, of a kind specified in the rules, which are conducted by the court.
- (9) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of —
- (a) any statement contained in a report made by a children's guardian who is appointed under this section for the purpose of the proceedings in question; and
 - (b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.

62. Right of children's guardian to have access to Crown records (CA, s42)

- (1) Where a children's guardian has been appointed under section 61, the children's guardian has the right at all reasonable times to examine and take copies of —
- (a) any records of, or held by, the Crown which were compiled in connection with the making, or proposed making, by any person of any application under this Ordinance with respect to the child concerned; and
 - (b) any records of, or held by, the Crown which were compiled in connection with any functions which are social services functions, so far as those records relate to that child.
- (2) Where a children's guardian takes a copy of any record which the children's guardian is entitled to examine under this section, that copy or any part of it is admissible as evidence of any matter referred to in any —
- (a) report which the children's guardian makes to the court in the proceedings in question; or

(b) evidence which the children's guardian gives in those proceedings.

(3) Subsection (2) has effect regardless of any enactment or rule of law which would otherwise prevent the record in question being admissible in evidence.

PART 5

PROTECTION OF CHILDREN (CA, Pt 5)

63. Child assessment orders (CA, s43)

(1) An application under this section may only be made by or with the consent of the Attorney General.

(2) On an application for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that —

(a) the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm;

(b) an assessment of the state of the child's health or development, or of the way in which the child has been treated, is required to enable the applicant to determine whether or not the child is suffering, or is likely to suffer, significant harm; and

(c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an order under this section.

(3) In this Ordinance "a child assessment order" means an order under this section.

(4) A court may treat an application under this section as an application for an emergency protection order.

(5) A court must not make a child assessment order if it is satisfied —

(a) that there are grounds for making an emergency protection order with respect to the child; and

(b) that it ought to make such an order rather than a child assessment order.

(6) A child assessment order must —

(a) specify the date by which the assessment is to begin; and

(b) have effect for such period, not exceeding 7 days beginning with that date, as may be specified in the order.

(7) Where a child assessment order is in force with respect to a child it is the duty of any person who is in a position to produce the child —

(a) to produce the child to such person as may be named in the order; and

(b) to comply with such directions relating to the assessment of the child as the court thinks fit to specify in the order.

(8) A child assessment order authorises any person carrying out the assessment, or any part of the assessment, to do so in accordance with the terms of the order.

(9) Regardless of subsection (8), if the child is of sufficient understanding to make an informed decision, the child may refuse to submit to a medical or psychiatric examination or other assessment.

(10) The child may only be kept away from home —

(a) in accordance with directions specified in the order;

(b) if it is necessary for the purposes of the assessment; and

(c) for such period or periods as may be specified in the order.

(11) Where the child is to be kept away from home, the order must contain such directions as the court thinks fit with regard to the contact that the child must be allowed to have with other persons while away from home.

(12) Any person making an application for a child assessment order must take such steps as are reasonably practicable to ensure that notice of the application is given to —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any other person caring for the child;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under section 52; and

(f) the child,

before the hearing of the application.

(13) Rules of court may make provision as to the circumstances in which —

(a) any of the persons mentioned in subsection (12); or

(b) such other person as may be specified in the rules,

may apply to the court for a child assessment order to be varied or discharged.

64. Orders for emergency protection of children (CA, s44)

(1) An application under this section may only be made by a public officer authorised in that behalf by the Attorney General to make it.

(2) Where a person authorised to make an application under this section applies to the court for an order to be made under this section with respect to a child, the court may make the order if, but only if, it is satisfied that —

(a) there is reasonable cause to believe that the child is likely to suffer significant harm if —

(i) the child is not removed to accommodation provided by or on behalf of the Crown; or

(ii) the child does not remain in the place in which the child is then being accommodated;
or

(b) both of the following conditions are met —

(i) enquiries are being made with respect to the child under section 69(1)(b); and

(ii) those enquiries are being frustrated by access to the child being unreasonably refused to a person authorised to seek access and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.

(3) In this section, “a person authorised to seek access” means a person authorised by the Crown to act on its behalf in connection with the enquiries.

(4) Any person —

(a) seeking access to a child in connection with enquiries of a kind mentioned in subsection (2)(b); and

(b) purporting to be a person authorised to do so,

must, on being asked to do so, produce some duly authenticated document as evidence that the person is a person authorised to seek access.

(5) While an order under this section (“an emergency protection order”) is in force it —

(a) operates as a direction to any person who is in a position to do so to comply with any request to produce the child to the applicant;

(b) authorises —

(i) the removal of the child at any time to accommodation provided by or on behalf of the applicant and the child being kept there; or

(ii) the prevention of the child’s removal from any hospital, or other place, in which the child was being accommodated immediately before the making of the order; and

- (c) gives the applicant parental responsibility for the child.
- (6) Where an emergency protection order is in force with respect to a child, the applicant —
- (a) may only exercise the power given by virtue of subsection (5)(b) in order to safeguard the welfare of the child;
 - (b) must take, and must only take, such action in meeting the applicant's parental responsibility for the child as is reasonably required to safeguard or promote the welfare of the child (having regard in particular to the duration of the order); and
 - (c) must comply with the requirements of any regulations made by the Governor for the purposes of this subsection as well as, and in so far as they are not inconsistent with, any directions given by the court under subsection (7) of this section.
- (7) Where the court makes an emergency protection order, it may give such directions (if any) as it considers appropriate with respect to —
- (a) the contact which is, or is not, to be allowed between the child and any named person;
 - (b) the medical or psychiatric examination or other assessment of the child.
- (8) Where any direction is given under subsection (7)(b), the child may, if the child is of sufficient understanding to make an informed decision, refuse to submit to the examination or other assessment.
- (9) A direction under subsection (7)(a) may impose conditions and one under subsection (7)(b) may be to the effect that there is to be —
- (a) no such examination or assessment; or
 - (b) no such examination or assessment unless the court directs otherwise.
- (10) A direction under subsection (7) may be —
- (a) given when the emergency protection order is made or at any time while it is in force; and
 - (b) varied at any time on the application of the applicant, the Attorney General or any public officer authorised by the Attorney General or on the application of any person mentioned in subsection (13) of this section.
- (11) Where an emergency protection order is in force with respect to a child and —
- (a) the applicant has exercised the power given by subsection (5)(b)(i) but it appears to the applicant that it is safe for the child to be returned; or
 - (b) the applicant has exercised the power given by subsection (5)(b)(ii) but it appears to the applicant that it is safe for the child to be allowed to be removed from the place in question,

the applicant must return the child or (as the case may be) allow the child to be removed.

(12) Where the applicant is required by subsection (11) to return the child the applicant must —

(a) return the child to the care of the person from whose care the child was removed; or

(b) if that is not reasonably practicable, return the child to the care of —

(i) a parent of the child;

(ii) any person who is not a parent of the child but who has parental responsibility for the child; or

(iii) such other person as the applicant (with the agreement of the court) considers appropriate.

(13) Where the applicant has been required by subsection (11) to return the child, or to allow the child to be removed, the applicant may again exercise the applicant's powers with respect to the child (at any time while the emergency protection order remains in force) if it appears to the applicant that a change in the circumstances of the case makes it necessary for the applicant to do so.

(14) Where an emergency protection order has been made with respect to a child, the applicant must, subject to any direction given under subsection (7), allow the child reasonable contact with —

(a) the child's parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child;

(c) any person with whom the child was living immediately before the making of the order;

(d) any person in whose favour a contact order is in force with respect to the child;

(e) any person who is allowed to have contact with the child by virtue of an order under section 52; and

(f) any person acting on behalf of any of those persons.

(15) Wherever it is reasonably practicable to do so, an emergency protection order must name the child; and where it does not name the child it must describe the child as clearly as possible.

(16) A person is guilty of an offence if that person intentionally obstructs any person exercising the power under subsection (5)(b) to remove, or prevent the removal of, a child.

(17) A person guilty of an offence under subsection (16) is liable on conviction to a fine not exceeding level 3 on the standard scale.

65. Power to include exclusion requirement in emergency protection order (CA, s44A)

(1) Where —

(a) on being satisfied as mentioned in section 64(2)(a) or (b), the court makes an emergency protection order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the emergency protection order.

(2) The conditions are —

(a) that there is reasonable cause to believe that, if a person (“the relevant person”) is excluded from a dwelling-house in which the child lives, then —

(i) in the case of an order made on the ground mentioned in section 64(2)(a), the child will not be likely to suffer significant harm, even though the child is not removed as mentioned in section 64(2)(a)(i) or does not remain as mentioned in section 64(2)(a)(ii), or

(ii) in the case of an order made on the ground mentioned in paragraph (b) of section 64(2), the enquiries referred to in that paragraph will cease to be frustrated, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person) —

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give the child, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following —

(a) a provision requiring the relevant person to leave a dwelling-house in which the relevant person is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.

(5) Where the court makes an emergency protection order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an emergency protection order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the emergency protection order.

(8) Where a power of arrest is attached to an exclusion requirement of an emergency protection order by virtue of subsection (5), a police officer may arrest without warrant any person whom the officer has reasonable cause to believe to be in breach of the requirement.

(9) Schedule 4 has effect in relation to a person arrested under subsection (8) of this section.

(10) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the order will cease to have effect in so far as it imposes the exclusion requirement.

66. Undertakings relating to emergency protection orders (CA, s44B)

(1) In any case where the court has power to include an exclusion requirement in an emergency protection order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1) —

(a) is enforceable as if it were an order of the court, and

(b) will cease to have effect if, while it is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers that a court has apart from this section.

(5) In this section “exclusion requirement” and “relevant person” have the same meaning as in section 65.

67. Duration of emergency protection orders and other supplemental provisions (CA, s45)

(1) An emergency protection order will have effect for such period, not exceeding 8 days, as may be specified in the order.

(2) Where —

(a) the court making an emergency protection order would, but for this subsection, specify a period of 8 days as the period for which the order is to have effect; but

(b) the last of those 8 days is a Sunday or a public holiday,

the court may specify a period which ends at noon on the first later day which is not a Sunday or public holiday.

(3) Where an emergency protection order is made on an application under section 68(7), the period of 8 days mentioned in subsection (1) will begin with the first day on which the child was taken into police protection under section 68.

(4) Any person who —

(a) has parental responsibility for a child as the result of an emergency protection order; and

(b) is entitled to apply for a care order with respect to the child,

may apply to the court for the period during which the emergency protection order is to have effect to be extended.

(5) On an application under subsection (4) the court may extend the period during which the order is to have effect by such period, not exceeding 7 days, as it thinks fit, but may do so only if it has reasonable cause to believe that the child concerned is likely to suffer significant harm if the order is not extended.

(6) An emergency protection order may only be extended once.

(7) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, a court hearing an application for, or with respect to, an emergency protection order may take account of —

(a) any statement contained in any report made to the court in the course of, or in connection with, the hearing; or

(b) any evidence given during the hearing,

which is, in the opinion of the court, relevant to the application.

(8) Any of the following may apply to the court for an emergency protection order to be discharged —

(a) the child;

(b) a parent of the child;

(c) any person who is not a parent of the child but who has parental responsibility for the child; or

(d) any person with whom the child was living immediately before the making of the order.

(9) On the application of a person who is not entitled to apply for the order to be discharged, but who is a person to whom an exclusion requirement contained in the order applies, an emergency

protection order may be varied or discharged by the court in so far as it imposes the exclusion requirement.

(10) Where a power of arrest has been attached to an exclusion requirement of an emergency protection order, the court may, on the application of any person entitled to apply for the discharge of the order so far as it imposes the exclusion requirement, vary or discharge the order in so far as it confers a power of arrest (whether or not any application has been made to vary or discharge any other provision of the order).

(11) No appeal may be made against —

- (a) the making of, or refusal to make, an emergency protection order;
- (b) the extension of, or refusal to extend, the period during which such an order is to have effect;
- (c) the discharge of, or refusal to discharge, such an order; or
- (d) the giving of, or refusal to give, any direction in connection with such an order.

(12) Subsection (8) does not apply —

- (a) where the person who would otherwise be entitled to apply for the emergency protection order to be discharged —
 - (i) was given notice (in accordance with rules of court) of the hearing at which the order was made; and
 - (ii) was present at that hearing; or
- (b) to any emergency protection order the effective period of which has been extended under subsection (5).

(13) A court making an emergency protection order may direct that the applicant may, in exercising any powers which the applicant has by virtue of the order, be accompanied by a medical practitioner, nurse or health visitor, if the applicant so chooses.

68. Removal and accommodation of children by police in cases of emergency (CA, s46)

(1) Where a police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, the officer may —

- (a) remove the child to suitable accommodation and keep the child there; or
- (b) take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which the child is then being accommodated is prevented.

(2) For the purposes of this Ordinance, a child with respect to whom a police officer has exercised the officer's powers under this section is referred to as having been taken into police protection.

(3) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned must —

- (a) inform the Attorney General of the steps that have been, and are proposed to be, taken with respect to the child under this section and the reasons for taking them;
- (b) give details to Attorney General of the place at which the child is being accommodated;
- (c) inform the child (if the child appears capable of understanding) —
 - (i) of the steps that have been taken with respect to the child under this section and of the reasons for taking them; and
 - (ii) of the further steps that may be taken with respect to the child under this section;
- (d) take such steps as are reasonably practicable to discover the wishes and feelings of the child; and
- (e) secure that the case is inquired into by the Chief Police Officer or another police officer not below the rank of inspector.

(4) As soon as is reasonably practicable after taking a child into police protection, the police officer concerned must take such steps as are reasonably practicable to inform —

- (a) the child's parents;
- (b) every person who is not a parent of the child but who has parental responsibility for the child; and
- (c) any other person with whom the child was living immediately before being taken into police protection,

of the steps that the officer has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to the child under this section.

(5) On completing any inquiry under subsection (3)(e), the officer conducting it must release the child from police protection unless that officer considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.

(6) No child may be kept in police protection for more than 72 hours.

(7) While a child is being kept in police protection, the Attorney General or any other public officer with the consent of the Attorney General may apply on behalf of the Crown for an emergency protection order to be made under section 64 with respect to the child.

(8) While a child is being kept in police protection —

- (a) no police officer has parental responsibility for the child; but

(b) the officer conducting the enquiry under subsection (3)(e) must do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be so protected).

(9) Where a child has been taken into police protection, the officer conducting the enquiry under subsection (3)(e) must allow —

- (a) the child's parents;
- (b) any person who is not a parent of the child but who has parental responsibility for the child;
- (c) any person with whom the child was living immediately before the child was taken into police protection;
- (d) any person in whose favour a contact order is in force with respect to the child;
- (e) any person who is allowed to have contact with the child by virtue of an order under section 52; and
- (f) any person acting on behalf of any of those persons,

to have such contact (if any) with the child as, in the opinion of the officer, is both reasonable and in the child's best interests.

69. Crown's duty to investigate (CA, s47)

(1) Where the Crown —

- (a) is informed that a child —
 - (i) is the subject of an emergency protection order; or
 - (ii) is in police protection;
- (b) has reasonable cause to suspect that a child who lives, or is found, in the Falkland Islands is suffering, or is likely to suffer, significant harm,

the Crown must make, or cause to be made, such enquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the child's welfare.

(2) Where the Crown has obtained an emergency protection order with respect to a child, it must make, or cause to be made, such enquiries as it considers necessary to enable it to decide what action it should take to safeguard or promote the child's welfare.

(3) The enquiries must, in particular, be directed towards establishing —

- (a) whether the Crown should make any application to the court, or exercise any of its other powers under this Ordinance;

(b) whether, in the case of a child —

(i) with respect to whom an emergency protection order has been made; and

(ii) who is not in accommodation provided by or on behalf of the Crown,

it would be in the child's best interests (while an emergency protection order remains in force) for the child to be in such accommodation; and

(c) whether, in the case of a child who has been taken into police protection, it would be in the child's best interests for an application to be made under section 64.

(4) Where enquiries are being made under subsection (1) with respect to a child, the Crown must (with a view to enabling it to determine what action, if any, to take with respect to the child) take such steps as are reasonably practicable —

(a) to obtain access to the child; or

(b) to ensure that access to the child is obtained, on its behalf, by a person authorised by it for the purpose,

unless it is satisfied that it already has sufficient information with respect to the child.

(5) For the purposes of making a determination under this section as to the action to be taken with respect to a child, the Crown must, so far as is reasonably practicable and consistent with the child's welfare —

(a) ascertain the child's wishes and feelings regarding the action to be taken with respect to the child; and

(b) give due consideration (having regard to the child's age and understanding) to such wishes and feelings of the child as it has been able to ascertain.

(6) Where, in the course of enquiries made under this section —

(a) any public officer; or

(b) any person authorised by the Crown to act on its behalf in connection with those enquiries —

(i) is refused access to the child concerned; or

(ii) is denied information as to the child's whereabouts,

the Crown must apply for an emergency protection order, a child assessment order, a care order or a supervision order with respect to the child unless it is satisfied that the child's welfare can be satisfactorily safeguarded without the Crown doing so.

(7) If, on the conclusion of any enquiries or review made under this section, the Crown decides not to apply for an emergency protection order, a child assessment order, a care order or a supervision order it must —

- (a) consider whether it would be appropriate to review the case at a later date; and
- (b) if it decides that it would be, determine the date on which that review is to begin.

(8) Where, as a result of complying with this section, the Crown concludes that it should take action to safeguard or promote the child's welfare it must take that action (so far as it is both within its power and reasonably practicable for it to do so).

70. Powers to assist in discovery of children who may be in need of emergency protection (CA, s48)

(1) Where it appears to a court making an emergency protection order that adequate information as to the child's whereabouts —

- (a) is not available to the applicant for the order; but
- (b) is available to another person,

it may include in the order a provision requiring that other person to disclose, if asked to do so by the applicant, any information that the other person may have as to the child's whereabouts.

(2) A person is not excused from complying with such a requirement on the ground that complying might incriminate that person or that person's spouse of an offence; but a statement or admission made in complying will not be admissible in evidence against either of them in proceedings for any offence other than perjury.

(3) An emergency protection order may authorise the applicant to enter premises specified by the order and search for the child with respect to whom the order is made.

(4) Where the court is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, it may make an order authorising the applicant to search for that other child on those premises.

(5) Where —

- (a) an order has been made under subsection (4);
- (b) the child concerned has been found on the premises; and
- (c) the applicant is satisfied that the grounds for making an emergency protection order exist with respect to that child,

the order will have effect as if it were an emergency protection order.

(6) Where an order has been made under subsection (4), the applicant must notify the court of its effect.

(7) A person is guilty of an offence if that person intentionally obstructs any person exercising the power of entry and search under subsection (3) or (4).

(8) A person guilty of an offence under subsection (7) is liable on conviction to a fine not exceeding level 3 on the standard scale.

(9) Where, on an application made by any person for a warrant under this section, it appears to the court —

(a) that a person attempting to exercise powers under an emergency protection order has been prevented from doing so by being refused entry to the premises concerned or access to the child concerned; or

(b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any police officer to assist the person mentioned in paragraph (a) or (b) in the exercise of those powers using reasonable force if necessary.

(10) Every warrant issued under this section must be addressed to, and executed by, a police officer who may be accompanied by the person applying for the warrant if —

(a) that person so desires; and

(b) the court by whom the warrant is issued does not direct otherwise.

(11) A court granting an application for a warrant under this section may direct that the police officer concerned may, in executing the warrant, be accompanied by a medical practitioner, nurse or health visitor, if the officer so chooses.

(12) An application for a warrant under this section must be made in the manner and form prescribed by rules of court.

(13) Wherever it is reasonably practicable to do so, an order under subsection (4), an application for a warrant under this section and any such warrant must name the child; and where it does not name the child it must describe the child as clearly as possible.

71. Abduction of children in care etc (CA, s49)

(1) A person is guilty of an offence if, knowingly and without lawful authority or reasonable excuse, that person —

(a) takes a child to whom this section applies away from the responsible person;

(b) keeps such a child away from the responsible person; or

(c) induces, assists or incites such a child to run away or stay away from the responsible person.

(2) This section applies in relation to a child who is —

- (a) in care;
- (b) the subject of an emergency protection order; or
- (c) in police protection,

and in this section “the responsible person” means any person who for the time being has care of the child by virtue of the care order, the emergency protection order, or section 68 as the case may be.

(3) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

72. Recovery of abducted children etc (CA, s50)

(1) Where it appears to the court that there is reason to believe that a child to whom this section applies —

- (a) has been unlawfully taken away or is being unlawfully kept away from the responsible person;
- (b) has run away or is staying away from the responsible person; or
- (c) is missing,

the court may make an order under this section (“a recovery order”).

(2) This section applies to the same children to whom section 71 applies and in this section “the responsible person” has the same meaning as in section 71.

(3) A recovery order —

- (a) operates as a direction to any person who is in a position to do so to produce the child on request to any authorised person;
- (b) authorises the removal of the child by any authorised person;
- (c) requires any person who has information as to the child’s whereabouts to disclose that information, if asked to do so, to a police officer or an officer of the court;
- (d) authorises a police officer to enter any premises specified in the order and search for the child using reasonable force if necessary.

(4) The court may make a recovery order only on the application of —

- (a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the officer conducting enquiries under section 68(3)(e).

(5) A recovery order must name the child and —

(a) any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or

(b) where the child is in police protection, the officer conducting enquiries under section 68(3)(e).

(6) Premises may only be specified under subsection (3)(d) if it appears to the court that there are reasonable grounds for believing the child to be on them.

(7) In this section, “an authorised person” means —

(a) any person specified by the court;

(b) any police officer;

(c) any person who is authorised —

(i) after the recovery order is made; and

(ii) by a person who has parental responsibility for the child by virtue of a care order or an emergency protection order,

to exercise any power under a recovery order; and

(8) Where a person is authorised as mentioned in subsection (7)(c) —

(a) the authorisation must identify the recovery order; and

(b) any person claiming to be so authorised must, if asked to do so, produce some duly authenticated document showing that the person is so authorised.

(9) A person is guilty of an offence if that person intentionally obstructs an authorised person exercising the power under subsection (3)(b) to remove a child.

(10) A person guilty of an offence under this section is liable on conviction to a fine not exceeding level 3 on the standard scale.

(11) A person is not excused from complying with any request made under subsection (3)(c) on the ground that complying with it might incriminate that person or that person’s spouse of an offence; but a statement or admission made in complying will not be admissible in evidence against either of them in proceedings for an offence other than perjury.

(12) Where a child is made the subject of a recovery order whilst being looked after by the Crown, any reasonable expenses incurred by an authorised person in giving effect to the order are recoverable from the Crown.

73. Rules of court (CA, s52)

(1) Without prejudice to section 88 or any other power to make such rules, rules of court may be made with respect to the procedure to be followed in connection with proceedings under this Part.

(2) The rules may, in particular make provision —

(a) as to the form in which any application is to be made or direction is to be given;

(b) prescribing the persons who are to be notified of —

(i) the making, or extension, of an emergency protection order; or

(ii) the making of an application under section 67(4) or (8) or 68(7); and

(c) as to the content of any such notification and the manner in which, and person by whom, it is to be given.

(3) Until such time as rules of court to which subsection (1) of this section relates are first made, the rules of court for the time being in force in England to which section 52(1) of the Children Act 1989 relates (“the corresponding rules of court”) have effect as if they had been made under subsection (1) of this section, but subject to such modifications as may be necessary to substitute references to courts and authorities in the Falkland Islands for references to courts and authorities in England.

(4) The power to make rules of court for the purposes mentioned in subsection (1) of this section includes power by such rules to adopt, subject to such modifications and adaptations as may be specified in those rules, the corresponding rules of court.

PART 6

HOSTING AND PRIVATE BOARDING (CA, Pt 9)

74. Hosted children (CA, s66)

(1) In this Part —

(a) “a hosted child” means a child who is under the age of 16 and who is cared for, and provided with accommodation by a person in the person’s own home, and the person is not —

(i) a parent of the child;

(ii) a person who has parental responsibility for the child; or

(iii) a relative of the child;

(b) “to host a child” means to look after the child in circumstances in which the child is a hosted child as defined by this section, but does not include private boarding; and

(c) “private boarding” means the provision of a child (who is under the age of 16) with care and accommodation outside of any home or institution provided, equipped or maintained by (or on behalf of) the Crown, in order to facilitate the school attendance of the child by a person who is not —

(i) a parent of the child; or

(ii) a person who has parental responsibility for the child.

(2) A child is only a hosted child if paragraph (a) or (b) applies —

(a) this paragraph applies if the person caring for and accommodating the child —

(i) has done so for a period of more than 28 days; and

(ii) intends to do so for more than 56 days;

(b) this paragraph applies if the person caring for and accommodating the child has done so for a period of more than 56 days.

(3) Subsection (1) is subject to the exceptions made by paragraphs 6 to 10 of Schedule 5.

(4) In the case of a child who has a disability, subsection (1)(a) has effect as if for “16” there were substituted “18”.

(5) The Governor may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing the child with accommodation in the person’s own home.

(6) Schedule 5 has effect for the purposes of supplementing the provision made by this Part.

75. Welfare of hosted children (CA, s67)

(1) It is the duty of the Crown to satisfy itself that the welfare of hosted children or children who are proposed to be hosted is being or will be satisfactorily safeguarded and promoted and to secure that such advice is given to those concerned with them as appears to the Crown to be needed.

(2) The Governor may make regulations —

(a) requiring every hosted child to be visited by a public officer —

(i) in prescribed circumstances; and

(ii) on specified occasions or within specified periods; and

(b) imposing requirements which are to be met by the Crown, or public officer, in carrying out functions under this section.

(3) Regulations under subsection (2)(b) may impose requirements as to the action to be taken by the Crown for the purposes of discharging its duty under subsection (1) where it has received notification of a proposal that a child be hosted.

(4) Where any person who is authorised by the Crown to visit for the purpose has reasonable cause to believe that —

(a) any hosted child is being accommodated in premises; or

(b) it is proposed to accommodate any such child in any premises,

that person may at any reasonable time inspect those premises and any children there.

(5) Any person exercising the power under subsection (4) must, if so required, produce some duly authenticated document showing the person's authority to do so.

(6) Where the Crown is not satisfied that the welfare of any hosted child or of a child who is proposed to be hosted is being or will be satisfactorily safeguarded or promoted it must —

(a) unless it considers that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by —

(i) a parent of the child;

(ii) any person who is not a parent of the child but who has parental responsibility for the child ; or

(iii) a relative of the child; and

(b) consider the extent to which (if at all) it should exercise any of its functions under this Ordinance with respect to the child.

(7) The Governor may make regulations requiring the Crown to monitor the way in which it discharges its functions under this Part (and the regulations may in particular require the Crown to appoint an officer for that purpose).

76. Persons disqualified from being host parents (CA, s68)

(1) If a person is disqualified from doing so by regulations made by the Governor for the purposes of this section, that person must not host a child unless the person has disclosed the fact to the Crown and obtained its written consent.

(2) The regulations may, in particular, provide for a person to be so disqualified where —

(a) an order of a kind specified in the regulations has been made at any time with respect to the person;

- (b) an order of a kind so specified has been made at any time with respect to any child who has been in the person's care;
 - (c) a requirement of a kind so specified has been imposed at any time with respect to any such child, under or by virtue of any enactment;
 - (d) the person has been convicted of any offence of a kind so specified, or discharged absolutely or conditionally for any such offence;
 - (e) a prohibition has been imposed on the person at any time under section 77 or under any other specified enactment;
 - (f) the person's rights and powers with respect to a child have at any time been vested in the Crown under a specified enactment.
- (3) A conviction in respect of which a probation order was made but which would not otherwise be treated as a conviction is to be treated as a conviction for the purposes of subsection (2)(d).
- (4) Unless the person has disclosed the fact to the Crown and obtained its written consent, a person must not host a child if —
- (a) the person lives in the same household as a person who is prevented from hosting a child by subsection (1); or
 - (b) the person lives in a household at which any such person is employed.
- (5) Where the Crown refuses to give its consent under this section, it must inform the applicant by a written notice which states —
- (a) the reason for the refusal;
 - (b) the applicant's right under paragraph 14 of Schedule 5 to appeal against the refusal; and
 - (c) the time within which the applicant may do so.
- (6) In this section, "enactment" also includes legislation having effect, at any time, in any part of the United Kingdom.

77. Power to prohibit hosting (CA, s69)

- (1) This section applies where a person —
- (a) proposes to host a child; or
 - (b) is hosting a child.
- (2) Where the Crown is of the opinion that —
- (a) the person is not a suitable person to host a child;

(b) the premises in which the child will be, or is being, accommodated are not suitable; or

(c) it would be prejudicial to the welfare of the child for the child to be, or continue to be accommodated by that person in those premises,

the Crown may impose a prohibition on the person under subsection (3).

(3) A prohibition imposed on any person under this subsection may prohibit that person from hosting a child or being a host parent —

(a) any child in any premises;

(b) any child in premises specified in the prohibition; or

(c) a child identified in the prohibition, in premises specified in the prohibition.

(4) If the Crown has imposed a prohibition on any person under subsection (3), it may, if it thinks fit, cancel the prohibition —

(a) of its own motion; or

(b) on an application made by that person,

if it is satisfied that the prohibition is no longer justified.

(5) Where the Crown imposes a requirement on any person under paragraph 11 of Schedule 5, it may also impose a prohibition on the person under subsection (3).

(6) Any prohibition imposed by virtue of subsection (5) will not have effect unless —

(a) the time specified for compliance with the requirement has expired; and

(b) the requirement has not been complied with.

(7) A prohibition imposed under this section must be imposed by notice in writing addressed to the person on whom it is imposed and informing the person of —

(a) the reason for imposing the prohibition;

(b) the person's right under paragraph 14 of Schedule 5 to appeal against the prohibition; and

(c) the time within which the person may do so.

78. Private Boarding – duty on parents, etc.

(1) This section applies where arrangements are in place for private boarding.

(2) A parent or person with parental responsibility of a child must notify the school at least 7 days before the beginning of the academic year of an arrangement for private boarding.

(3) The notification under subsection (2) must provide the following details —

- (a) name, address and contact details of the parent or person with parental responsibility;
- (b) name, date of birth and culture or language of the child;
- (c) name, age and address of any sibling of the child;
- (d) arrangements for contact with family members;
- (e) name, address and contact details of person with whom an arrangement for private boarding is made including the names of all persons in the household in which the child is to be accommodated aged over 18 years old;
- (f) contact details of person to be contacted to give consent for medical treatment;
- (g) proposed duration of arrangement for private boarding;
- (h) relationship, if any, between the person providing care and accommodation and the child;
and
- (i) any other details as may be required.

(4) A parent or person with parental responsibility must notify the school of any change to the information supplied under subsection (3) or any other information provided in relation to a private boarding arrangement.

(5) The Governor may by regulations make further provisions about the making and form of notifications.

79. Private boarding – duty on schools

(1) A school which is furnished with information under section 78 must maintain and keep accurate and up to date a list of all the details relating to children who are subject to private boarding arrangements (referred to in this Part as the “private boarding list”).

(2) The school must —

- (a) allow access to the private boarding list or supply any information required from the list on reasonable request by any public officer involved in promoting the welfare of children;
- (b) monitor the welfare of any child on the private boarding list and refer any concerns if the child appears to be in need or at risk of any harm to the Social Welfare Department.

80. Welfare of private boarding children

(1) Where, after a report is made under section 79(2) and an investigation is carried out, the Crown is not satisfied that the welfare of any child who is on the private boarding list is or will be satisfactorily safeguarded or promoted, it must consider the extent to which (if at all) it should exercise any of its functions under this Ordinance with respect to the child.

(2) Section 75(6) applies to private boarding arrangements with the necessary modification.

(3) The Governor may make regulations relating to the monitoring of the welfare of children on the private boarding list.

81. Offences (CA, s70)

(1) A person is guilty of an offence if —

(a) being required, under any provision made by or under this Part, to give any notice or information —

(i) the person fails without reasonable excuse to give the notice within the time specified in that provision;

(ii) the person fails without reasonable excuse to give the information within a reasonable time; or

(iii) the person makes, or causes or procures another person to make, any statement in the notice or information which the person knows to be false or misleading in a material particular;

(b) the person refuses to allow a hosted child to be visited by a duly authorised public officer;

(c) the person intentionally obstructs another in the exercise of the power conferred by section 75(4);

(d) the person contravenes section 76;

(e) the person fails without reasonable excuse to comply with any requirement imposed by the Crown under this Part;

(f) the person accommodates a hosted child in any premises in contravention of a prohibition imposed by the Crown under this Part;

(g) the person knowingly causes to be published, or publishes, an advertisement which the person knows contravenes paragraph 15 of Schedule 5.

(2) Where a person contravenes section 76(4), the person is not be guilty of an offence under this section if the person proves that the person did not know, and had no reasonable ground for believing, that any person to whom section 76(1) applied was living or employed in the premises in question.

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

(4) A person guilty of an offence under subsection (1)(b), (c) or (g) is liable on conviction to a fine not exceeding level 3 on the standard scale.

(5) A person guilty of an offence under subsection (1)(d) or (f) is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

(6) A person guilty of an offence under subsection (1)(e) is liable on conviction to a fine not exceeding level 4 on the standard scale.

(7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the Crown.

(8) Subsection (7) is not affected by anything in section 51 (Time for commencement of criminal proceedings) of the Administration of Justice Ordinance (Title 22.1).

PART 7

SAFEGUARDING CHILDREN BOARD (CA 2004, ss13 to 14B)

82. Safeguarding Children Board (CA 2004, s13)

(1) The Crown is under a duty to ensure that there continues to be a Safeguarding Children Board.

(2) The Board must include the following or their representatives —

(a) the elected members of the Legislative Assembly with portfolio responsibility for health, social services and education matters;

(b) the senior officers in the Falkland Islands Government with responsibility for health, social services and education;

(c) the Chief Medical Officer; and

(d) the Chief Police Officer.

(3) The Board must also include representatives from the departments within the Falkland Islands Government that deal with —

(a) nursing;

(b) social services; and

(c) probation services.

(4) The Board must include (as an adviser) the Attorney General or a representative of the Attorney General.

(5) The Board may also include —

(a) representatives (as members or observers) from the Ministry of Defence;

- (b) representatives (as members or observers) from one or more organisations with a role relating to the welfare of families of those serving in the armed forces;
- (c) representatives (as members or observers) from one or more other organisations with a role relating to the welfare of children or families; and
- (d) as an observer, the Governor (acting with discretion) or a representative of the Governor (acting with discretion).

83. Functions and procedure of Safeguarding Children Board (CA 2004, s14)

- (1) The objective of the Safeguarding Children Board is —
 - (a) to co-ordinate what is done by (and on behalf of) the Crown under its various functions (both statutory and non-statutory) for the purposes of safeguarding and promoting the welfare of children; and
 - (b) to ensure the effectiveness of what is done by (or on behalf of) the Crown for those purposes.
- (2) The Board is to have such functions in relation to its objective as the Governor may by regulations prescribe (which may in particular include functions of review or investigation).
- (3) The Governor may by regulations make provision as to the procedures to be followed by the Board.

84. Safeguarding Children Board: annual reports (CA 2004, s14A)

- (1) At least once in every 12 month period, the Safeguarding Children Board must prepare and publish a report about safeguarding and promoting the welfare of children.
- (2) The Board must submit copies of the report to the Governor and the Legislative Assembly.

85. Supply of information requested by Safeguarding Children Board (CA 2004, s14B)

- (1) The Safeguarding Children Board may request a person or body to supply information specified in the request to the Board.
- (2) The request must be complied with if the person is a public officer or if the body is a statutory body
- (3) The request must meet the three conditions specified in subsections (4) to (6).
- (4) The first condition is that the request is made for the purpose of enabling or assisting the Board to perform its functions.
- (5) The second condition is that the request is made to a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function by the Board.
- (6) The third condition is that the information relates to —

(a) the person or body to whom the request is made,

(b) a function or activity of that person or body, or

(c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that person or body.

(7) The information may be used by the Board, only for the purpose of enabling or assisting the Board to perform its functions.

PART 8 **MISCELLANEOUS AND GENERAL (including CA, Pt 12)**

Effect and duration of orders etc

86. Effect and duration of orders etc (CA, s91)

(1) The making of a residence order with respect to a child who is the subject of a care order discharges the care order.

(2) The making of a care order with respect to a child who is the subject of any section 12 order discharges that order.

(3) The making of a care order with respect to a child who is the subject of a supervision order discharges that other order.

(4) The making of a care order with respect to a child who is a ward of court brings that wardship to an end.

(5) The making of a care order with respect to a child who is the subject of a school attendance order made under section 25 of the Education Ordinance discharges the school attendance order.

(6) Where an emergency protection order is made with respect to a child who is in care, the care order has effect subject to the emergency protection order.

(7) Any order made under section 7(1)(c), 8(1)(b) or 9(1) continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(8) Any —

(a) agreement under section 7(1)(b) or 8(1)(a); or

(b) appointment under section 9(3) or (4),

continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(9) An order under Schedule 1 has effect as specified in that Schedule.

(10) A section 12 order other than a residence order, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 16, unless it is to have effect beyond that age by virtue of section 13(5).

(11) Where a section 12 order has effect with respect to a child who has reached the age of 16, if it would otherwise still be in force, it ceases to have effect when the child reaches the age of 18.

(12) Any care order, other than an interim care order, continues in force until the child reaches the age of 18, unless it is brought to an end earlier.

(13) Any order made under any other provision of this Ordinance in relation to a child, if it would otherwise still be in force, ceases to have effect when the child reaches the age of 18.

(14) On disposing of any application for an order under this Ordinance, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Ordinance of any specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

(15) Where an application ("the previous application") has been made for —

- (a) the discharge of a care order;
- (b) the discharge of a supervision order;
- (c) the discharge of an education supervision order;
- (d) the substitution of a supervision order for a care order; or
- (e) a child assessment order.

no further application of a kind mentioned in paragraphs (a) to (e) may be made with respect to the child concerned, without leave of the court, unless the period between the disposal of the previous application and the making of the further application exceeds 6 months.

(16) Subsection (15) does not apply to applications made in relation to interim orders.

(17) Where —

- (a) a person has made an application for an order under section 52;
- (b) the application has been refused; and
- (c) a period of less than 6 months has elapsed since the refusal,

that person may not make a further application for such an order with respect to the same child, unless that person has obtained the leave of the court.

Jurisdiction and procedure etc

87. Jurisdiction of courts (CA, s92)

- (1) The name “family proceedings court” will continue to be used to describe a court of summary jurisdiction when it is hearing (or otherwise dealing with) family proceedings.
- (2) Proceedings under this Ordinance are to be treated as family proceedings in relation to the Summary Court.
- (3) Subsection (2) is subject to the provisions of section 65(1) and (2) (proceedings which may be treated as not being family proceedings) of the Magistrates’ Courts Act 1980 (as it applies in the Falkland Islands), as modified by this Ordinance.
- (4) The Summary Court is not competent to entertain any application, or make any order, involving the administration or application of —
 - (a) any property belonging to or held in trust for a child; or
 - (b) the income of any such property.
- (5) The powers of the Summary Court under section 63(2) of the Magistrates’ Court Act 1980 (as it applies in the Falkland Islands) to suspend or rescind orders do not apply in relation to any order made under this Ordinance.
- (6) The Chief Justice has and may exercise powers in relation to the Falkland Islands that are equivalent to those that the Lord Chancellor has in relation to England under Part 1 of Schedule 11 to the Children Act 1989.

88. Rules of court (CA, s93)

- (1) The Chief Justice may make rules of court to make such provision for giving effect to —
 - (a) this Ordinance;
 - (b) subsidiary legislation made under this Ordinance; or
 - (c) any amendment or modification made by this Ordinance to any other enactment,as appears to the Chief Justice to be necessary or expedient.
- (2) The rules may, in particular, make provision —
 - (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);
 - (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
 - (c) for children to be separately represented in relevant proceedings;

(d) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;

(e) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a court of summary jurisdiction to relevant proceedings in such a court brought otherwise than on a complaint;

(f) with respect to preliminary hearings;

(g) for the service outside the Falkland Islands, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a court of summary jurisdiction;

(h) for the exercise by courts of summary jurisdiction, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is or resides outside the Falkland Islands);

(i) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings;

(j) authorising a single justice to discharge the functions of the Summary Court with respect to such relevant proceedings as may be prescribed;

(k) authorising the Summary Court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.

(3) In subsection (2) —

“notice of proceedings” means a summons or such other notice of proceedings as is required; and “given”, in relation to a summons, means “served”;

“prescribed” means prescribed by the rules; and

“relevant proceedings” means any application made, or proceedings brought, under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) and any part of such proceedings.

(4) This section and any other power in this Ordinance to make rules of court are not to be taken as in any way limiting any other power of the Chief Justice to make rules of court.

(5) Until such time as the Chief Justice first makes rules of court under the powers conferred by the foregoing provisions of this section, and to the extent that the Chief Justice does not make inconsistent provision by any such rules of court, the rules of court made under section 93 of the Children Act 1989 and for the time being in force in England have effect as if they had been made by the Chief Justice under the foregoing provisions of this section and so that the provisions of those rules which apply to or have effect in relation to proceedings —

(a) at first instance in the High Court or the Family Division of that Court, apply to and in relation to corresponding proceedings in the Supreme Court under this Ordinance;

(b) in a county court, apply to or in relation to corresponding proceedings in the Magistrate's Court;

(c) in a magistrates' court, apply to or in relation to corresponding proceedings in the Summary Court;

and in each case, with such amendments and modifications only as are necessary in the circumstances.

89. Appeals (CA, s94)

(1) An appeal lies to the Supreme Court against —

(a) the making by the Magistrate's Court or by the Summary Court of any order under this Ordinance; or

(b) any refusal by the Magistrate's Court or by the Summary Court to make such an order.

(2) Where, in relation to any proceedings under this Ordinance, the Summary Court declines jurisdiction because it considers that the case can more conveniently be dealt with by the Magistrate's Court or by the Supreme Court, no appeal lies against that decision of the Summary Court.

(3) Subsection (1) does not apply in relation to an interim order for periodical payments made under Schedule 1.

(4) On an appeal under this section, the Supreme Court may make such order as may be necessary to give effect to its determination of the appeal.

(5) Where an order is made under subsection (4), the Supreme Court may also make such incidental or consequential order as appears to it to be just.

(6) Where an appeal under this section relates to an order for the making of periodical payments, the Supreme Court may order that its determination of the appeal is to have effect from such date as it thinks fit to specify in the order.

(7) The date so specified must not be earlier than the earliest date on which the court from which the appeal is brought could have ordered the periodical payments to commence.

(8) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the Supreme Court reduces the amount of those payments or discharges the order —

(a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the Supreme Court thinks fit; and

(b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.

(9) Any order of the Supreme Court made on an appeal under this section (other than one directing that an application be re-heard by the court from which appeal was brought) is to, for the purposes —

(a) of the enforcement of the order; and

(b) of any power to vary, revive or discharge orders,

be treated as if it were an order of the court from which the appeal was brought and not an order of the Supreme Court.

90. Attendance of child at hearing under Part 4 or 5 (CA, s95)

(1) In any proceedings in which a court is hearing an application for an order under Part 4 or 5, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order.

(2) The power conferred by subsection (1) is to be exercised in accordance with rules of court.

(3) Subsections (4) to (6) apply where —

(a) an order under subsection (1) has not been complied with; or

(b) the court has reasonable cause to believe that it will not be complied with.

(4) The court may make an order authorising a police officer, or such person as may be specified in the order —

(a) to take charge of the child and to bring the child to the court; and

(b) to enter and search any premises specified in the order if the police officer or the person specified in the order has reasonable cause to believe that the child may be found on the premises.

(5) The court may order any person who is in a position to do so to bring the child to the court.

(6) Where the court has reason to believe that a person has information about the whereabouts of the child it may order that person to disclose the information to the court.

91. Evidence given by, or with respect to, children (CA, s96)

(1) Subsection (2) applies where a child who is called as a witness in any civil proceedings does not, in the opinion of the court, understand the nature of an oath.

(2) The child's evidence may be heard by the court if, in its opinion —

(a) the child understands that it is the child's duty to speak the truth; and

(b) the child has sufficient understanding to justify the child's evidence being heard.

(3) The Governor may, with the concurrence of the Chief Justice, by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.

(4) An order under subsection (3) may only be made with respect to —

(a) civil proceedings in general or such civil proceedings, or class of civil proceedings, as may be prescribed; and

(b) evidence in connection with the upbringing, maintenance or welfare of a child.

(5) An order under subsection (3) —

(a) may, in particular, provide for the admissibility of statements which are made orally or in a prescribed form or which are recorded by any prescribed method of recording;

(b) may make different provision for different purposes and in relation to different descriptions of court; and

(c) may make such modifications, amendments and repeals in any enactment relating to evidence (other than in this Ordinance) as the Governor considers necessary or expedient in consequence of the provision made by the order.

(6) In this section —

“civil proceedings” means civil proceedings, before any tribunal, in relation to which the strict rules of evidence apply, whether as a matter of law or by agreement of the parties, and references to “the court” are to be construed accordingly;

“prescribed” means prescribed by an order under subsection (3).

92. Privacy for children involved in certain proceedings (CA, s97)

(1) Subsection (2) applies if rules of court that apply in England provide for a magistrate’s court in England to sit in private in proceedings in which any powers under the Children Act 1989 or the Adoption and Children Act 2002 may be exercised by the court with respect to any child.

(2) If this subsection applies, the rules of court also apply in the Falkland Islands as if they provide for the Magistrate’s Court or the Summary Court to sit in private in corresponding or equivalent proceedings in which any powers under this Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands) may be exercised by the court with respect to any child.

(3) No person may publish to the public at large or any section of the public any material which is intended, or likely, to identify —

(a) any child as being involved in any proceedings before a court which any power under this Ordinance or the Adoption Act 1976 (as it applies in the Falkland Islands) may be exercised by the court with respect to that or any other child; or

(b) an address as being that of a child involved in any such proceedings.

(4) In any proceedings for an offence under this section it is a defence for the accused to prove that the accused did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child.

(5) The court or the Governor may, if satisfied that the welfare of the child requires it, by order dispense with the requirements of subsection (2) to such extent as may be specified in the order.

(6) For the purposes of this section —

“publish” includes —

- (a) broadcast by radio, television or cable television;
- (b) distribute or circulate; and
- (c) cause to be published; and

“material” includes —

- (a) any picture or representation;
- (b) an audio, video or audio-visual recording.

(7) Any person who contravenes this section is guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the standard scale.

(8) Subsection (2) is without prejudice to any other power of a court of summary jurisdiction to sit in private.

93. Self-incrimination (CA, s98)

(1) In any proceedings in which a court is hearing an application for an order under Part 4 or 5, a person is not excused from —

- (a) giving evidence on any matter; or
- (b) answering any question put to that person in the course of that person giving evidence,

on the ground that doing so might incriminate that person or that person's spouse of an offence.

(2) A statement or admission made in such proceedings is not admissible in evidence against the person making it or that person's spouse in proceedings for an offence other than perjury.

94. Restrictions on use of wardship jurisdiction (CA, s100)

(1) A court does not have and must not exercise the Supreme Court's inherent jurisdiction with respect to children or any other power (other than any power conferred on it by this Ordinance) —

- (a) so as to place a ward of court in the care of the Crown (as distinct from the court) or under the supervision of the Crown (as distinct from the court) or of a public officer in that capacity;
 - (b) so as to require a child to be accommodated by or on behalf of the Crown;
 - (c) so as to make a child who is the subject of a care order a ward of court;
 - (d) for the purpose of conferring upon the Crown power to determine any question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.
- (2) An application for any exercise of the Supreme Court's inherent jurisdiction with respect to children must not be made by the Crown unless the Crown has obtained the leave of the court.
- (3) The court may only grant leave if it is satisfied that —
- (a) the result which the Crown wishes to achieve could not be achieved through the making of any order of a kind to which subsection (4) applies; and
 - (b) there is reasonable cause to believe that if the court's inherent jurisdiction is not exercised with respect to the child the child is likely to suffer significant harm.
- (4) This subsection applies to any order —
- (a) made otherwise than in the exercise of the court's inherent jurisdiction; and
 - (b) which the Crown is entitled to apply for (assuming, in the case of any application which may only be made with leave, that leave is granted).

Search warrants

95. Power of police officer to assist in exercise of certain powers to search for children or inspect premises (CA, s102)

(1) Where, on an application made by any person for a warrant under this section, it appears to the court —

- (a) that a person attempting to exercise powers under any enactment mentioned in subsection (6) has been prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned; or
- (b) that any such person is likely to be so prevented from exercising any such powers,

it may issue a warrant authorising any police officer to assist that person in the exercise of those powers, using reasonable force if necessary.

(2) Every warrant issued under this section must be addressed to, and executed by, a police officer who may be accompanied by the person applying for the warrant if —

- (a) that person so desires; and
 - (b) the court by whom the warrant is issued does not direct otherwise.
- (3) A court granting an application for a warrant under this section may direct that the police officer concerned may, in executing the warrant, be accompanied by a medical practitioner, nurse or health visitor, if the officer so chooses.
- (4) An application for a warrant under this section must be made in the manner and form prescribed by rules of court.
- (5) Where —
- (a) an application for a warrant under this section relates to a particular child; and
 - (b) it is reasonably practicable to do so,
- the application and any warrant granted on the application must name the child; and where it does not name the child it must describe the child as clearly as possible.
- (6) The enactments are —
- (a) section 75; and
 - (b) paragraph 7(1)(b) and (2)(b) of Schedule 3.

General

96. Offences by bodies corporate (CA, s103)

- (1) This section applies where any offence against this Ordinance is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person (as well as the body corporate) has committed the offence and is liable to be proceeded against and punished accordingly.

97. Consent by persons over 16 to surgical, medical and dental treatment

- (1) The consent of a child who has attained the age of 16 years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to the child's person, is as effective as it would be if the child were of full age.
- (2) Where a child has by virtue of this section given an effective consent to any treatment it is not necessary to obtain any consent for it from the child's parent or guardian or any other person who has parental responsibility for the child.
- (3) In this section "surgical, medical or dental treatment" includes any procedure undertaken for the purpose of diagnosis, and this section applies to any procedure (including in particular, the

administration of an anaesthetic) which is ancillary to any treatment as it applies to that treatment.

(4) Nothing in this section is to be construed as making ineffective any consent which would have been effective if this section or section 45 of the 1994 Ordinance had not been enacted.

(5) Without prejudice to the foregoing, this section states the law of the Falkland Islands as it is to be treated as having been at all times since 1st January 1970.

98. Time at which a person attains a particular age

(1) The time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of that person's birth.

(2) This section applies only when the relevant anniversary falls on a date after 1 January 1995 and, in relation to any enactment, deed, will or other instrument, has effect subject to any provision in it.

99. Persons under full age may be described as children instead of as infants or minors

(1) A person who is not of full age may be described in any instrument or enactment as a child instead of being described as an infant or as a minor.

(2) In every instrument made in every enactment passed after 1 January 1995, the expression "child", refers to a person who is not of full age (that is to say a person who has not attained the age of 18 years).

(3) Subsection (2) does not apply if, in the context in which the expression "child" appears —

- (a) it describes a relationship between two persons; or
- (b) the contrary intention appears in some other way.

**PART 9
SUBSIDIARY LEGISLATION**

100. Prescribed matters and subsidiary legislation

(1) Subsection (2) applies where something is to be done under a provision of this Ordinance in a prescribed way but the way in which it is to be done has not been prescribed.

(2) Where this subsection applies, that thing will be treated as having been done in the prescribed way if it is done in a way that is reasonable in all of the circumstances.

(3) Subsection (4) applies to the extent that —

- (a) a provision of this Ordinance gives a power for subsidiary legislation to be made;
- (b) subsidiary legislation has not yet been made under that power; and
- (c) there is no inconsistent provision (in this Ordinance or elsewhere).

(4) To the extent this subsection applies —

(a) statutory instruments made under corresponding provisions in the Children Act 1989 and for the time being in force in England may, subject to such amendments and modifications as are necessary in the circumstances, be used as guidance; and

(b) due regard must be had to them for that purpose.

101. Power for Governor to make consequential amendments by order

(1) The Governor may by order make provision consequential on this Ordinance (or one or more of its provisions).

(2) An order made under subsection (1) may do one or more of the following things —

(a) amend or repeal written laws of the Falkland Islands;

(b) provide for United Kingdom legislation to apply in the Falkland Islands (with or without modifications);

(c) modify the application in the Falkland Islands of United Kingdom legislation that already applies in the Falkland Islands;

(d) provide that specific provisions of United Kingdom legislation no longer apply in the Falkland Islands.

102. Power for Governor to make transitional and saving provision by order

The Governor may by order make transitional or saving provision (or both) in connection with this Ordinance (or one or more of its provisions).

PART 10

MODIFICATIONS OF UK LEGISLATION (AS IT APPLIES IN FALKLAND ISLANDS)

103. Modifications of UK legislation

Schedule 6 contains modifications to UK legislation that applies in the Falkland Islands.

PART 11

REPEAL

104. Repeal

The Children Ordinance 1994 (No 28 of 1994) is repealed.

SCHEDULE 1

FINANCIAL PROVISION FOR CHILDREN (CA. Sch 1)

1. Orders for financial relief against parents (CA, Sch 1, para 1)

(1) On an application made by a parent or guardian of a child, or by any person in whose favour a residence order is in force with respect to a child, the court may —

(a) in the case of an application to the Supreme Court or to the Magistrate's Court, make one or more of the orders mentioned in sub-paragraph (2);

(b) in the case of an application to the Summary Court, make one or both of the orders mentioned in paragraphs (a) and (c) of that sub-paragraph.

(2) The orders referred to in sub-paragraph (1) are —

(a) an order requiring either or both parents of a child —

(i) to make to the applicant for the benefit of the child; or

(ii) to make to the child,

such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both parents of a child —

(i) to secure to the applicant for the benefit of the child; or

(ii) to secure to the child,

such periodical payments, for such term, as may be so specified;

(c) an order requiring either or both parents of a child —

(i) to pay to the applicant for the benefit of the child; or

(ii) to pay to the child,

such lump sum as may be so specified;

(d) an order requiring a settlement to be made for the benefit of the child, and to the satisfaction of the court, of property —

(i) to which either parent is entitled (either in possession or reversion); and

(ii) which is specified in the order;

(e) an order requiring either or both parents of a child —

(i) to transfer to the applicant for the benefit of the child; or

(ii) to transfer to the child,

such property to which the parent is, or the parents are, entitled (either in possession or in reversion) as may be specified in the order.

(3) The powers conferred by this paragraph may be exercised at any time.

(4) An order under sub-paragraph (2)(a) or (b) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(5) Where a court makes an order under this paragraph —

(i) it may at any time make a further such order under sub-paragraph (2)(a), (b) or (c) with respect to the child if the child has not attained the age of 18;

(ii) it may not make more than one order under sub-paragraph (2)(d) or (e) against the same person in respect of the same child.

(6) On making, varying or discharging a residence order the court may exercise any of its powers under this Schedule even though no application has been made to it under this Schedule.

(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it.

2. Orders for financial relief for persons over 18 (CA, Sch 1, para 2)

(1) If, on an application by a person who has reached the age of 18, it appears to the court —

(a) that the applicant is, will be or (if an order were made under this paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order under this paragraph,

the court may make one or more of the orders mentioned in sub-paragraph (2).

(2) The orders are —

(a) an order requiring either or both of the applicant's parents to pay to the applicant such periodical payments, for such term, as may be specified in the order;

(b) an order requiring either or both of the applicant's parents to pay to the applicant such lump sum as may be so specified.

(3) An application may not be made under this paragraph by any person if, immediately before the person reached the age of 16, a periodical payments order was in force with respect to that person.

(4) An order must not be made under this paragraph at a time when the parents of the applicant are living with each other in the same household.

(5) An order under sub-paragraph (2)(a) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

(6) In sub-paragraph (3) “periodical payments order” means an order under —

- (a) this Schedule;
- (b) section 26 or 30 of the Matrimonial Causes Ordinance (Title 38(2).5);
- (c) section 4(l)(g) of the Matrimonial Proceedings (Summary Jurisdiction) Ordinance (Title 38(2).6),

for the making or securing of periodical payments.

(7) The powers conferred by this paragraph may be exercised at any time.

(8) Where the court makes an order under this paragraph it may from time to time while that order remains in force make a further such order.

3. Duration of orders for financial relief (CA, Sch 1, para 3)

(1) The term to be specified in an order for periodical payments made under paragraph 1(2)(a) or (b) in favour of a child may begin with the date of the making of an application in question or any later date but —

- (a) must not in the first instance extend beyond the child's 17th birthday unless the court thinks it right in the circumstances of the case to specify a later date; and
- (b) must not in any event extend beyond the child's 18th birthday.

(2) Paragraph (b) of sub-paragraph (1) does not apply in the case of a child if it appears to the court that —

- (a) the child is, or will be or (if an order were made without complying with that paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
- (b) there are special circumstances which justify the making of an order without complying with that paragraph.

(3) An order for periodical payments made under paragraph 1(2)(a) or (b) requiring periodical payments will, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

(4) Where an order is made under paragraph 1(2)(a) or (b) requiring periodical payments to be made or secured to the parent of a child, the order will cease to have effect if —

- (a) any parent making or securing the payment; and
- (b) any parent to whom the payments are made or secured,

live together for a period of more than six months.

4. Matters to which the court is to have regard in making orders for financial relief (CA, Sch 1, para 4)

(1) In deciding whether to exercise its powers under paragraph 1 or 2, and if so in what manner, the court must have regard to all the circumstances, including —

- (a) the income, earning capacity, property and other financial resources which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each person mentioned in sub-paragraph (4) has or is likely to have in the foreseeable future;
- (c) the financial needs of the child;
- (d) the income, earning capacity (if any), property and other financial resources of the child;
- (e) any physical or mental disability of the child;
- (f) the manner in which the child was being, or was expected to be, educated or trained.

(2) In deciding whether to exercise its powers under paragraph 1 against a person who is not the mother or father of the child, and if so in what manner, the court must in addition have regard to —

- (a) whether that person had assumed responsibility for the maintenance of the child and, if so, the extent to which and basis on which that person assumed that responsibility and the period during which that person met that responsibility;
- (b) whether that person did so knowing that the child was not that person's child;
- (c) the liability of any other person to maintain the child.

(3) Where the court makes an order under paragraph 1 against a person who is not the father of the child, it must record in the order that the order is made on the basis that the person against whom the order is made is not the child's father.

(4) The persons mentioned in sub-paragraph (1) are —

- (a) in relation to a decision whether to exercise its powers under paragraph 1, any parent of the child;
- (b) in relation to a decision whether to exercise its powers under paragraph 2, the mother and father of the child;
- (c) the applicant for the order;
- (d) any other person in whose favour the court proposes to make the order.

5. Provisions relating to lump sums (CA, Sch 1, para 5)

(1) Without prejudice to the generality of paragraph 1, an order under that paragraph for the payment of a lump sum may be made for the purpose of enabling any liability or expenses —

(a) incurred in connection with the birth of the child or in maintaining the child; and

(b) reasonably incurred before the making of the order,

to be met.

(2) The amount of any sum required to be paid by an order made by the Summary Court under paragraph 1 or 2 must not exceed £1,000 or such larger amount as the Governor may from time to time fix for the purposes of this sub-paragraph.

(3) The power of the court under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments by a parent also includes power to make an order under that provision for the payment of a lump sum by that parent.

(4) The amount of a lump sum which a parent may be required to pay by virtue of sub-paragraph (3) must not, in the case of an order made by the Summary Court, exceed the maximum amount that may at the time of the order be required to be paid under sub-paragraph (2), but the Summary Court may make an order for the payment of a lump sum not exceeding that amount even though the parent was required to pay a lump sum by a previous order under this Ordinance.

(5) An order made under paragraph 1 or 2 for the payment of a lump sum may provide for the payment of that sum by instalments.

(6) Where the order provides for the payment of a lump sum by instalments the court, on an application made either by the person liable to pay or the person entitled to receive that sum, has power to vary that order by varying —

(a) the number of instalments payable;

(b) the amount of any instalment;

(c) the date on which any instalment becomes payable.

6. Variation etc of orders for periodical payments (CA, Sch 1, para 6)

(1) In exercising its powers under paragraph 1 or 2 to vary or discharge an order for the making or securing of periodical payments the court must have regard to all the circumstances of the case, including any change in any of the matters to which the court was required to have regard when making the order.

(2) The power of the court under paragraph 1 or 2 for the making or securing of periodical payments includes power to suspend any provision of the order temporarily and to revive any provision so suspended.

(3) Where on an application under paragraph 1 or 2 for the variation or discharge of an order for the making or securing of periodical payments the court varies the payments required to be made under the order, the court may provide that the payments so varied are to be made from such date as the court may specify, not being earlier than the date of the making of the application.

(4) An application for the variation of an order made under paragraph 1 for the making or securing of periodical payments to or for the benefit of a child may, if the child has reached the age of sixteen, be made by the child.

(5) Where an order for the making or securing of periodical payments made under paragraph 1 ceases to have effect on the date on which the child attains the age of 16, or at any time after that date but before the date on which the child reaches the age of 18, the child may apply to the court which made the order for an order for its revival.

(6) If on such an application it appears to the court that —

(a) the child is, will be or (if an order were made under this sub-paragraph) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or

(b) there are special circumstances which justify the making of an order under this sub-paragraph,

the court has power by order to revive the order from such date as the court may specify, not being earlier than the date of the making of the application.

(7) An order which is revived by an order under sub-paragraph (5) may be varied or discharged under that provision, on the application of any person by whom or to whom payments are required to be made under the revived order.

(8) An order for the making or securing of periodical payments made under paragraph 1 may be varied or discharged, after the death of either parent, on the application of a guardian of the child concerned.

7. Variations of orders for periodical payments etc made by the Summary Court (CA, Sch 1, para 6A)

(1) Subject to sub-paragraphs (7) and (8), the power of the Summary Court —

(a) under paragraph 1 or 2 to vary an order for the making of periodical payments, or

(b) under paragraph 5(6) to vary an order for the payment of a lump sum by instalments,

includes power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

(2) In any case where —

(a) the Summary Court has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments;

(b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (as it applies in the Falkland Islands)

any person entitled to make application under this Schedule for the variation of the order (in this paragraph referred to as "the applicant") may apply to the clerk to the Summary Court for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after giving written notice (by post or otherwise) of the application to any interested party and allowing that party, within the period of 21 days beginning with the date of the giving of the notice, an opportunity to make written representations, may vary the order to provide that payments under the order are to be made to the clerk.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if the clerk considers it inappropriate to exercise the power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

(6) Subsection (4) of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands) applies for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that section.

(7) Before varying the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands), the court must have regard to any representations made by the parties to the application.

(8) If the court does not propose to exercise its power under paragraph (c) of (d) of subsection (3) of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands), the court must, unless on representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

(9) None of the powers of the court, or of the clerk to the Summary Court, conferred by this paragraph may be exercised in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of section 59 of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands)).

(10) In sub-paragraphs (3) and (4) "interested party", in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an

application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made.

8. Variation of orders for secured periodical payments after death of parent (CA, Sch 1, para 7)

(1) Where the parent liable to make payments under a secured periodical payments order has died, the persons who may apply for the variation of a discharge of the order include the personal representatives of the deceased parent.

(2) An application for the variation of an order must not, except with the permission of the court, be made after the end of the period of six months from the date on which representation in regard to the estate of that parent is first taken out.

(3) The personal representatives of a deceased person against whom a secured periodical payments order was made will not be liable for having distributed any part of the estate of the deceased after the end of the period of six months referred to in sub-paragraph (2) on the ground that they ought to have taken into account the possibility that the court might permit an application for variation to be made after that period by the person entitled to payments under the order.

(4) Sub-paragraph (3) does not prejudice any power to recover any part of the estate so distributed arising by virtue of the variation of an order in accordance with this paragraph.

(5) Where an application to vary a secured periodical payments order is made after the death of the parent liable to make payments under the order, the circumstances to which the court is required to have regard under paragraph 6(1) include the changed circumstances resulting from death of the parent.

(6) In considering for the purposes of sub-paragraph (2) the question when representation was first taken out, a grant limited to settled land or to trust property is to be left out of account and a grant limited to real estate or to personal estate is to be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(7) In this paragraph "secured periodical payments order" means an order for secured periodical payments under paragraph 1(2)(b).

9. Financial relief under other enactments (CA, Sch 1, para 8)

This paragraph applies where a residence order is made with respect to a child at a time when there is in force an order ("the financial relief order") made under any enactment other than this Ordinance and requiring a person to contribute to the child's maintenance.

(2) Where this paragraph applies, the court may, on the application of—

(a) any person required by the financial relief order to contribute to the child's maintenance;
or

(b) any person in whose favour a residence order with respect to the child is in force,

make an order revoking the financial relief order, or varying it by altering the amount of any sum payable under that order or by substituting the applicant for the person to whom any such sum is payable under that order.

10. Interim Orders (CA, Sch 1, para 9)

(1) Where an application is made under paragraph 1 or 2 the court may, at any time before it disposes of the application, make an interim order —

(a) requiring either or both parents to make such periodical payments, at such times and for such term as the court thinks fit;

(b) giving any direction that the court thinks fit.

(2) An interim order made under this paragraph may provide for payments to be made from such date as the court may specify, not being earlier than the date of the making of the application under paragraph 1 or 2.

(3) An interim order made under this paragraph shall cease to have effect when the application is disposed of or, if earlier, on the date specified or the purposes of this paragraph in the interim order.

(4) An interim order in which a date has been specified for the purposes of sub-paragraph (3) may be varied by substituting a later date.

11. Alteration of maintenance agreements (CA, Sch 1, para 10)

(1) In this paragraph and in paragraph 12 "maintenance agreement" means any agreement in writing made with respect to a child, whether before or after the commencement of this Ordinance, which —

(a) is or was made between the father and mother of the child;

(b) contains provision with respect to the making or securing of payments, or the disposition of use of any property, for the maintenance or education of the child,

and any such provisions are in this paragraph, and paragraph 12, referred to as "financial arrangements".

(2) Where a maintenance agreement is for the time being subsisting and each of the parties to the agreement is for the time being either domiciled or resident in the Falkland Islands, then, either party may apply to the court for an order under this paragraph.

(3) If the court to which the application is made is satisfied either —

(a) that by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made (including a change foreseen by the parties when making the agreement), the agreement should be altered so as to make different financial arrangements; or

- (b) that the agreement does not contain proper financial arrangements with respect to the child,

then the court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained in it as may appear to it to be just having regard to all the circumstances.

- (4) If the maintenance agreement is altered by an order under this paragraph, the agreement will have effect thereafter as if the alteration had been made by agreement between the parties and for valuable consideration.

- (5) Where a court decides to make an order under this paragraph altering the maintenance agreement —

- (a) by inserting provision for the making or securing by one of the parties to the agreement of periodical payments for the maintenance of the child; or

- (b) by increasing the rate of periodical payments required to be made or secured by one of the parties for the maintenance of the child,

then, in deciding the term for which under the agreement as altered by the order the payments or (as the case may be) the additional payments attributable to the increase are to be made or secured for the benefit of the child, the court must apply the provisions of the sub-paragraphs (1) and (2) of paragraph 3 as if the order were an order under paragraph 1(2)(a) or (b).

- (6) The Summary Court must not entertain an application under sub-paragraph (2) unless both parties are resident in the Falkland Islands, and does not have power to make any order on such an application except —

- (a) in a case where the agreement contains no provision for periodical payments by either of the parties, an order inserting provision for the making by one of the parties of periodical payments for the maintenance of the child;

- (b) in a case where the agreement contains provision for the making by one of the parties of periodical payments, an order increasing or reducing the rate of, or terminating, any of those payments.

- (7) Nothing in this paragraph affects any power of a court before which any proceedings between the parties to a maintenance agreement are brought under any other enactment to make an order containing financial arrangements or any right of either party to apply for such an order in such proceedings.

12. Alteration of maintenance agreements following death of party (CA, Sch 1, para 11)

- (1) Where a maintenance agreement provides for the continuation, after the death of one of the parties, of payments for the maintenance of a child and that party dies domiciled in the Falkland Islands, the surviving party or the personal representatives of the deceased party may apply to the Supreme Court or to the Magistrate's Court for an order under paragraph 11.

(2) If a maintenance agreement is altered by a court on an application under this paragraph the agreement will have effect thereafter as if the alteration had been made, immediately before the death, by agreement between the parties and for valuable consideration.

(3) An application under this paragraph must not, except with the leave of the Supreme Court or the Magistrate's Court be made after the end of the period of six months beginning with the day on which representation in regard to the estate of the deceased is first taken out.

(4) In considering for the purposes of sub-paragraph (3) the question when representation was first taken out, a grant limited to settled land or to trust property is to be left out of account and a grant limited to real estate or to personal estate is to be left out of account unless a grant limited to the remainder of the estate has previously been made or is made at the same time.

(5) The Magistrate's Court has the same jurisdiction as the Supreme Court to entertain an application under this paragraph or an application for leave to make an application under this paragraph.

(6) The provisions of this paragraph will not render the personal representatives of the deceased liable for having distributed any part of the estate of the deceased after the expiry of the period of six months referred to in sub-paragraph (3) on the ground that they ought to have taken into account the possibility that a court might grant leave for an application by virtue of this paragraph to be made by a surviving party after that period.

(7) Sub-paragraph (6) does not prejudice any power to recover any part of the estate so distributed by virtue of the making of an order in pursuance of this paragraph.

13. Enforcement of orders for maintenance (CA, Sch 1, para 12)

An order for the payment of money made by the Magistrate's Court or the Summary Court under this Ordinance shall be enforceable as (or as if it were) a magistrates' court maintenance order within the meaning of section 150(1) of the Magistrates' Court Act 1980 (as it applies in the Falkland Islands).

14. Financial provision for child resident in country outside the Falkland Islands (CA, Sch 1, para 14)

(1) Where one parent of a child lives in the Falkland Islands and the child lives outside the Falkland Islands with —

(a) another parent of the child;

(b) a guardian of the child; or

(c) a person in whose favour a residence order is in force with respect to the child,

the court has power, on an application by any of the persons mentioned in paragraphs (a) to (c) to make one or both of the orders mentioned in paragraph 1(2)(a) and (b) against the parent living in the Falkland Islands.

(2) Any reference in this Ordinance to the powers of the court under paragraph 1(2) or to an order made under paragraph 1(2) includes a reference to the powers which the court has by virtue of sub-paragraph (1) or as the case may be to an order made by virtue of sub-paragraph (1).

15. Contribution by Crown to child's maintenance (CA, Sch 1, para 15)

(1) Where a child lives, or is to live, with a person as the result of a residence order, the Crown may make contributions to that person towards the cost of the accommodation and maintenance of the child.

(2) Sub-paragraph (1) does not apply where the person with whom the child lives, or is to live, is a parent of the child or the husband or wife of a parent of the child.

16. Interpretation (CA, Sch 1, para 16)

(1) In this Schedule "child" includes, in any case where an application is made under paragraph 2 or 6 in relation to a person who has attained the age of 18, that person.

(2) In this Schedule, except in paragraph 2, "parent" includes any party to a marriage (whether or not subsisting) in relation to whom the child concerned is a child of the family; and for this purpose any reference to either parent or to both parents is to be construed as references to any parent of the child and to all of the child's parents.

SCHEDULE 2
CROWN SUPPORT FOR CHILDREN AND FAMILIES (CA, Sch 2)

Part 1
Provision of services for families (CA, Sch 2, Pt 1)

1. Identification of children in need and provision of information (CA, Sch 2, para 1)

(1) The Crown must take reasonable steps to identify the extent to which there are children in need .

(2) The Crown must —

(a) publish information —

(i) about services provided by it under sections 22, 23, 35 to 38, 41 and 42; and

(ii) where it considers it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which it has power to provide under those sections; and

(b) take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

2. Maintenance of a register of children with disabilities (CA, Sch 2, para 2)

(1) The Crown must open and maintain a register of children with disabilities.

(2) The register may be kept by means of a computer.

(3) For the avoidance of doubt, “children with disabilities” has the meaning given in section 22(12).

3. Assessment of children’s needs (CA, Sch 2, para 3)

Where it appears to the Crown that a child is in need, it may assess the child’s needs for the purposes of this Ordinance at the same time as any assessment of the child’s needs is made under any other enactment.

4. Prevention of neglect and abuse (CA, Sch 2, para 4)

The Crown must take reasonable steps, through the provision of services under Part 3 of this Ordinance, to prevent children suffering ill-treatment or neglect.

5. Provision of accommodation in order to protect child (CA, Sch 2, para 5)

(1) Where —

(a) it appears to the Crown that a child who is living on particular premises is suffering, or is likely to suffer, ill treatment at the hands of another person who is living on those premises; and

(b) that other person proposes to move from the premises,

the Crown may assist that other person to obtain alternative accommodation.

(2) Assistance given under this paragraph may be in cash.

(3) Subsections (8) to (10) of section 22 apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that section.

6. Provision for children with disabilities (CA, Sch 2, para 6)

(1) The Crown must take reasonable steps designed to provide services designed —

(a) to minimise the effect on children with disabilities of their disabilities;

(b) to give such children the opportunity to lead lives which are as normal as possible; and

(c) to assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring.

(2) The duty imposed by sub-paragraph (1)(c) is to be performed in accordance with regulations made by the Governor.

7. Provision to reduce need for care proceedings etc (CA, Sch 2, para 7)

The Crown must take reasonable steps designed —

(a) to reduce the need to bring —

(i) proceedings for care or supervision orders with respect to children;

(ii) criminal proceedings against such children;

(iii) any family or other proceedings with respect to such children which might lead to them being placed in the care of the Crown; or

(iv) proceedings under the inherent jurisdiction of the Supreme Court with respect to children; and

(b) to encourage children not to commit criminal offences.

8. Provision for children living with their families (CA, Sch 2, para 8)

The Crown must make such provision as it considers appropriate for services to be available with respect to children in need while they are living with their families, which may include the following —

(a) advice, guidance and counselling;

(b) occupational, social, cultural or recreational activities;

(c) home help (which may include laundry facilities);

(d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Ordinance or of any similar service; or

(e) assistance to enable the child concerned and his family to have a holiday.

9. Maintenance of the family home (CA, Sch 2, para 10)

The Crown must take such steps as are reasonably practicable, where any child who is in need and whom it is not looking after is living apart from the child's family —

(a) to enable the child to live with the child's family; or

(b) to promote contact between the child and the child's family,

if, in its opinion, it is necessary to do so in order to safeguard or promote the child's welfare.

Part 2

Children looked after by the Crown (CA, Sch 2, Pt 2)

10. Regulations as to conditions under which child in care is allowed to live with parent, etc (CA, Sch 2, para 12A)

Regulations under section 28 may, in particular, impose requirements on the Crown as to —

(a) the making of any decision by the Crown to allow a child in its care to live with any person falling within section 28(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);

(b) the supervision or medical examination of the child concerned;

(c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;

(d) the records to be kept by the Crown.

11. Regulations as to placements of a kind specified in section 28(6)(c) (CA, Sch 2, para 12B)

Regulations under section 28 as to placements of the kind specified in section 28(6)(c) may, in particular, make provision as to —

(a) the persons to be notified of any proposed arrangements;

(b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;

(c) the persons to be notified of any proposed changes in arrangements;

(d) the records to be kept by the Crown;

(e) the supervision by the Crown of any arrangements made.

12. Avoidance of disruption in education (CA, Sch 2, para 12D)

(1) Regulations under section 28 may, in particular, impose requirements which the Crown must comply with before making any decision concerning a child's placement if the child is in the fourth key stage.

(2) A child is "in the fourth key stage" during the period beginning at the same time as the academic year in which the majority of pupils in the child's class attain the age of 15 and ending at the same time as the academic year in which the majority of pupils in the child's class cease to be of compulsory education age.

(3) "Academic year" and "compulsory education age" have the same meaning in subsection (2) as they do in the Education Ordinance (see sections 17 and 57 of that Ordinance).

13. Regulations as to placing of children with foster parents (CA, Sch 2, para 12E)

Regulations under section 28 may, in particular, make provision —

(a) with regard to the welfare of children placed with foster parents looking after children on behalf of the Crown;

(b) as to the arrangements to be made by the Crown in connection with the health and education of such children;

(c) as to the records to be kept by the Crown;

(d) for securing that where possible the foster parent with whom a child is to be placed is —

(i) of the same religious persuasion as the child; or

(ii) gives an undertaking that the child will be brought up in that religious persuasion;

(e) for securing the children placed with foster parents, and the premises in which they are accommodated, will be supervised and inspected by the Crown and that the children will be removed from those premises if their welfare appears to require it.

14. Regulations as to placing of children with foster parents: review procedure (CA, Sch 2, para 12F)

(1) Regulations under section 28 may, in particular, also make provision —

(a) for securing that a child is not placed with a foster parent unless that person is for the time being approved as a foster parent by the Crown;

(b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply for a review of that determination by a panel.

(2) A determination is a qualifying determination if —

(a) it relates to the issue of whether a person should be approved, or should continue to be approved, by the Crown as a foster parent; and

(b) it is of a prescribed description.

(3) Regulations made by virtue of sub-paragraph (1)(b) may include provision as to —

(a) the duties and powers of a panel;

(b) the administration and procedures of a panel;

(c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);

(d) the payment of fees to members of a panel;

(e) the duties of any person in connection with a review conducted under the regulations;

(f) the monitoring of any such reviews.

(4) The Crown may make an arrangement with an organisation under which independent review functions are performed by the organisation on the Crown's behalf.

(5) If the Crown makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by the Crown.

(6) The arrangement may include provision for payments to be made to the organisation by the Crown.

(7) “Independent review function” means a function conferred or imposed on a national authority by regulations made by virtue of sub-paragraph (1)(b);

(8) “Organisation” includes a public body and a private or voluntary organisation.

15. Regulations as to placing of children with foster parents: discharge of functions on behalf of Crown (CA, Sch 2, para 12G)

Regulations under section 28 may, in particular, also make provision as to the circumstances in which the Crown may make arrangements for duties imposed on it by the regulations to be discharged on its behalf.

16. Promotion and maintenance of contact between child and family (CA, Sch 2, para 15)

(1) Where a child is being looked after by the Crown, the Crown must, unless it is not reasonably practicable or consistent with the child’s welfare, endeavour to promote contact between the child and —

(a) the child’s parents;

(b) any person who is not a parent of the child but who has parental responsibility for the child; and

(c) any relative, friend or other person connected with the child.

(2) Where a child is being looked after by the Crown —

(a) the Crown must take such steps as are reasonably practicable to secure that —

(i) the child’s parents; and

(ii) any person who is not a parent of the child but who has parental responsibility for the child,

are kept informed of where the child is being accommodated; and

(b) every such person must secure that the Crown kept informed of the person’s address.

(3) Nothing in this paragraph requires the Crown to inform any person of the whereabouts of a child if —

(a) the child is in the care of the Crown; and

(b) the Crown has reasonable cause to believe that informing the person would prejudice the child’s welfare.

(4) Any person who fails (without reasonable excuse) to comply with sub-paragraph (2)(b) is guilty of an offence and liable on conviction to a fine not exceeding level 2 on the standard scale.

(5) It is a defence in any proceedings under sub-paragraph (4) to prove that the defendant was residing at the same address as another person who was the child’s parent or had parental

responsibility for the child and had reasonable cause to believe that the other person had informed the Crown that both of them were residing at that address.

17. Visits to or by children: expenses (CA, Sch 2, para 16)

(1) This paragraph applies where —

- (a) a child is being looked after by the Crown; and
- (b) the conditions mentioned in sub-paragraph (3) are satisfied.

(2) The Crown may —

(a) make payments to —

- (i) a parent of the child;
- (ii) any person who is not a parent of the child's but who has parental responsibility for the child; or
- (iii) any relative, friend or other person connected with the child,

in respect of travelling, subsistence or other expenses incurred by that person in visiting the child; or

(b) make payments to the child, or to any person on the child's behalf, in respect of travelling, subsistence or other expenses incurred by or on behalf of the child in the child visiting —

- (i) a parent of the child;
- (ii) any person who is not a parent of the child but who has parental responsibility for the child; or
- (iii) any relative, friend or other person connected with the child.

(3) The conditions are that —

- (a) it appears to the Crown that the visit in question could not otherwise be made without undue financial hardship; and
- (b) the circumstances warrant the making of the payments.

18. Appointment of visitor for child who is not being visited (CA, Sch 2, para 17)

(1) Where it appears to the Crown in relation to any child that it is looking after that —

(a) communication between the child and —

- (i) a parent of the child, or

(ii) any person who is not a parent of the child but who has parental responsibility for the child,

has been infrequent; or

(b) the child has not visited or been visited by (or lived with) any such person during the preceding twelve months,

and that it would be in the child's best interests for an independent person to be appointed to be the child's visitor for the purposes of this paragraph, the Crown must appoint such a visitor.

(2) A person so appointed —

(a) has the duty of visiting, advising and befriending the child; and

(b) is entitled to recover from the Crown any reasonable expenses incurred by the person for the purposes of the person's functions under this paragraph.

(3) A person's appointment as a visitor in pursuance of this paragraph will be determined if —

(a) the person gives notice in writing to the Crown that the person resigns the appointment; or

(b) the Crown gives the person notice in writing that it has terminated the appointment.

(4) The determination of such an appointment does not prejudice any duty under this paragraph to make a further appointment.

(5) Where the Crown proposes to appoint a visitor for a child under this paragraph, the appointment must not be made if —

(a) the child objects to it; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(6) Where a visitor has been appointed for a child under this paragraph, the Crown must determine the appointment if —

(a) the child objects to its continuing; and

(b) the Crown is satisfied that the child has sufficient understanding to make an informed decision.

(7) The Governor may make regulations as to the circumstances in which a person appointed as a visitor under this paragraph is to be regarded as independent of the Crown.

19. Power to guarantee apprenticeship deeds etc (CA, Sch 2, para 18)

(1) While a child is being looked after by the Crown, or is a person qualifying for advice and assistance, the Crown may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship which the child or person enters into.

(2) Where the Crown has undertaken any such obligation under any deed or articles it may at any time (whether or not it are still looking after the person concerned) undertake the like obligation under any supplemental deed or articles.

20. Arrangements to assist children to live abroad (CA, Sch 2, para 19)

(1) The Crown may only arrange for, or assist in arranging for, any child in its care to live outside the Falkland Islands with the approval of the court.

(2) The Crown may, with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any other child looked after by it to live outside the Falkland Islands.

(3) The court must not give its approval under sub-paragraph (1) unless it is satisfied that —

(a) living outside the Falkland Islands would be in the child's best interests;

(b) suitable arrangements have been, or will be, made for the child's reception and welfare in the country in which the child will live;

(c) the child has consented to living in that country; and

(d) every person who has parental responsibility for the child has consented to the child living in that country.

(4) Where the court is satisfied that the child does not have sufficient understanding to give or withhold consent, it may disregard sub-paragraph (3)(c) and give its approval if the child is to live in the country concerned with a parent, guardian or other suitable person.

(5) Where a person whose consent is required by sub-paragraph (3)(d) fails to give consent, the court may disregard that provision and give its approval if it is satisfied that that person —

(a) cannot be found;

(b) is incapable of consenting; or

(c) is withholding consent unreasonably.

(6) Section 56 of the Adoption Act 1976 (as it applies in the Falkland Islands) does not apply in the case of any child who is to live outside the Falkland Islands with the approval of the court given under this paragraph.

(7) Where a court decides to give its approval under this paragraph it may order that its decision is not to have effect during the appeal period.

(8) In sub-paragraph (7) “the appeal period” means —

(a) where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and

(b) otherwise, the period during which an appeal may be made against the decision.

(9) This paragraph does not apply to the Crown placing a child for adoption with prospective adopters.

21. Preparation for ceasing to be looked after (CA, Sch 2, para 19A)

It is the duty of the Crown when looking after a child to advise, assist and befriend the child with a view to promoting child’s welfare when it has ceased to look after the child.

22. Preparation for ceasing to be looked after: additional functions in relation to eligible children (CA, Sch 2, para 19B)

(1) The Crown has the following additional functions in relation to an eligible child whom it is looking after.

(2) In sub-paragraph (1) “eligible child” means, subject to sub-paragraph (3), a child who —

(a) is aged 16 or 17; and

(b) has been looked after by the Crown for a period of at least 13 weeks, or periods amounting in all to a period of at least 13 weeks, which began after the child reached the age of 14 and ended after the child reached the age of 16.

(3) The Governor may prescribe —

(a) additional categories of eligible children; and

(b) categories of children who are not to be eligible children despite falling within sub-paragraph (2).

(4) For each eligible child, the Crown must carry out an assessment of the eligible child’s needs with a view to determining what advice, assistance and support it would be appropriate for the Crown to provide the eligible child under this Ordinance —

(a) while it is still looking after the eligible child; and

(b) after it ceases to look after the eligible child,

and must then prepare a pathway plan for the eligible child.

(5) The Crown must keep the pathway plan under regular review.

(6) Any such review may be carried out at the same time as a review of the child’s case carried out by virtue of section 44.

(7) The Governor may by regulations make provision as to assessments for the purposes of sub-paragraph (4).

(8) The regulations may in particular provide for the matters set out in section 35(6).

23. Preparation for ceasing to be looked after: appointment of personal advisers for eligible children (CA, Sch 2, para 19C)

The Crown must arrange for each child whom it is looking after who is an eligible child for the purposes of paragraph 22 to have a personal adviser.

24. Death of children being looked after by Crown (CA, Sch 2, para 20)

(1) If a child who is being looked after by the Crown dies, the Crown —

(a) must, so far as is reasonably practicable, notify the child's parents and every person who is not a parent of the child but who has parental responsibility for the child;

(b) may, with the consent (so far as it is reasonably practicable to obtain it) of every person who has parental responsibility for the child, arrange for the child's body to be buried or cremated; and

(c) may, if the conditions mentioned in sub-paragraph (2) are satisfied, make payments to any person who has parental responsibility for the child, or any relative, friend or other person connected with the child, in respect of travelling, subsistence or other expenses incurred by that person in attending the child's funeral.

(2) The conditions are that —

(a) it appears to the Crown that the person concerned could not otherwise attend the child's funeral without undue financial hardship; and

(b) that the circumstances warrant the making of the payments.

(3) Sub-paragraph (1) does not authorise cremation where it does not accord with the practice of the child's religious persuasion.

(4) Where the Crown has exercised its power under sub-paragraph (1)(b) with respect to a child who was under 16 when the child died, it may recover from any parent of the child any expenses incurred by it.

(5) Any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable summarily as a civil debt.

(6) Nothing in this paragraph affects any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

Part 3

Contributions towards maintenance of children looked after by Crown (CA, Sch 2, Pt 3)

25. Liability to contribute (CA, Sch 2, para 21)

(1) Where the Crown is looking after a child (other than in the cases mentioned in sub-paragraph (7)) it must consider whether it should recover contributions towards the child's maintenance from any person liable to contribute ("a contributor").

(2) The Crown may only recover contributions from a contributor if it considers it reasonable to do so.

(3) The persons liable to contribute are —

(a) where the child is under 16, each of the child's parents;

(b) where the child has reached the age of 16, the child.

(4) A parent is not liable to contribute during any period when that person is receiving welfare assistance, rent rebate, working credit, childcare credit or similar payments from the Falkland Islands Government.

(5) A person is not liable to contribute towards the maintenance of a child in the care of the Crown in respect of any period during which the child is allowed by the Crown to live with a parent of the child.

(6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.

(7) The cases are where the child is looked after by the Crown under —

(a) section 24;

(b) an interim care order;

(c) section 39 of the Criminal Justice Ordinance (Title 24.1).

26. Agreed contributions (CA, Sch 2, para 22)

(1) Contributions towards a child's maintenance may only be recovered if the Crown has served a notice ("a contribution notice") on the contributor specifying —

(a) the weekly sum which it considers that the contributor should contribute; and

(b) arrangements for payment.

(2) The contribution notice must be in writing and dated.

(3) Arrangements for payment must, in particular, include —

- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);
 - (b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the Crown); and
 - (c) the date on which the first payment is to be made.
- (4) The Crown may specify in a contribution notice a weekly sum which is a standard contribution determined by it for all children looked after by the Crown.
- (5) The Crown may not specify in a contribution notice a weekly sum greater than that which it considers —
- (a) it would normally be prepared to pay if it had placed a similar child with foster parents approved by the Crown; and
 - (b) it is reasonably practicable for the contributor to pay (having regard to the contributor's means).
- (6) The Crown may at any time withdraw a contribution notice (without prejudice to its power to serve another).
- (7) Where the Crown and the contributor agree —
- (a) the sum which the contributor is to contribute; and
 - (b) arrangements for payment,
- (whether as specified in the contribution notice or otherwise) and the contributor notifies the Crown in writing that the contributor so agrees, the Crown may recover summarily as a civil debt any contribution which is overdue and unpaid.
- (8) A contributor may, by serving a notice in writing on the Crown, withdraw agreement in relation to any period of liability falling after the date of service of the notice.
- (9) Sub-paragraph (7) is without prejudice to any other method of recovery.

27. Contribution orders (CA, Sch 2, para 23)

- (1) Where a contributor has been served with a contribution notice and has —
- (a) failed to reach any agreement with the Crown as mentioned in paragraph 26(7) within the period of one month beginning with the day on which the contribution notice was served; or
 - (b) served a notice under paragraph 26(8) withdrawing his agreement,
- the Crown may apply to the court for an order under this paragraph.

(2) On such an application the court may make an order (“a contribution order”) requiring the contributor to contribute a weekly sum towards the child’s maintenance in accordance with arrangements for payment specified by the court.

(3) A contribution order —

- (a) must not specify a weekly sum greater than that specified in the contribution notice; and
- (b) must be made with due regard to the contributor’s means.

(4) A contribution order will not —

- (a) take effect before the date specified in the contribution notice; or
- (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 25); or
- (c) remain in force after the child has ceased to be looked after by the Crown.

(5) The Crown may not apply to the court under sub-paragraph (1) in relation to a contribution notice which it has withdrawn.

(6) Where —

- (a) a contribution order is in force;
- (b) the Crown serves another contribution notice; and
- (c) the contributor and the Crown reach an agreement under paragraph 26(7) in respect of that other contribution notice,

the effect of the agreement will be to discharge the order from the date on which it is agreed that the agreement is to take effect.

(7) Where an agreement is reached under sub-paragraph (6) the Crown must notify the court —

- (a) of the agreement; and
- (b) of the date on which it took effect.

(8) A contribution order may be varied or revoked on the application of the contributor or the Crown.

(9) In proceedings for the variation of a contribution order, the Crown must specify —

- (a) the weekly sum which, having regard to paragraph 27, it proposes that the contributor should contribute under the order as varied; and
- (b) the proposed arrangements for payment.

(10) Where a contribution order is varied, the order —

(a) must not specify a weekly sum greater than that specified by the Crown in the proceedings for variation; and

(b) must be made with due regard to the contributor's means.

(11) An appeal lies in accordance with rules of court from any order made under this paragraph.

28. Enforcement of contribution orders etc (CA, Sch 2, para 24)

(1) A contribution order made by a court is enforceable in the same way as a maintenance order under the Maintenance Orders Ordinance (Title 38(2).1).

(2) In any proceedings under this paragraph, a document which purports to be —

(a) a copy of an order made by a court under or by virtue of paragraph 27; and

(b) certified as a true copy by an officer of the court,

is evidence of the order.

(3) In any proceedings under this paragraph, a certificate which —

(a) purports to be signed by a public officer; and

(b) states that any sum due to the Crown under the order is overdue and unpaid,

is evidence that the sum is overdue and unpaid.

29. Regulations (CA, Sch 2, para 25)

The Governor may make regulations —

(a) as to the considerations which the Crown must take into account in deciding —

(i) whether it is reasonable to recover contributions; and

(ii) what the arrangements for payment should be;

(b) as to the procedures the Crown must follow in reaching agreements with contributors (under paragraphs 26 and 27).

SCHEDULE 3
SUPERVISION ORDERS (CA. Sch 3)

Part 1
General (CA, Sch 3, Pt 1)

1. Meaning of “responsible person” (CA, Sch 3, para 1)

In this Schedule, “the responsible person”, in relation to a supervised child, means —

- (a) any person who has parental responsibility for the child; and
- (b) any other person with whom the child is living.

2. Power of supervisor to give directions to supervised child (CA, Sch 3, para 2)

(1) A supervision order may require the supervised child to comply with any directions given from time to time by the supervisor which require the child to do all or any of the following things —

- (a) to live at a place or places specified in the directions for a period or periods so specified;
- (b) to present to a person or persons specified in the directions at a place or places and on a day or days so specified;
- (c) to participate in activities specified in the directions on a day or days so specified.

(2) It is for the supervisor to decide whether, and to what extent, the supervisor exercises the power to give directions and to decide the form of any directions which the supervisor gives.

(3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

3. Imposition of obligations on responsible persons (CA, Sch 3, para 3)

(1) With the consent of any responsible person, a supervision order may include a requirement —

- (a) that the responsible person must take all reasonable steps to ensure that the supervised child complies with any directions given by the supervisor under paragraph 2;
- (b) that the responsible person takes all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;
- (c) that the responsible person complies with any directions given by the supervisor requiring the responsible person to attend at a place specified in the directions for the purpose of taking part in activities so specified.

(2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is to attend with the responsible person.

(3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of that person's address, if it differs from the child's.

4. Psychiatric and medical examinations (CA, Sch 3, para 4)

(1) A supervision order may require the supervised child —

- (a) to submit to a medical or psychiatric examination; or

- (b) to submit to any such examination from time to time as directed by the supervisor.
- (2) Any such examination is required to be conducted —
- (a) by, or under the direction of such medical practitioner as may be specified in the order;
 - (b) as a non-resident patient, at a place specified in the order (which, subject to sub-paragraph (4), may be outside the Falkland Islands); or
 - (c) as a resident patient, at —
 - (i) a hospital or other medical centre —
 - (aa) in the Falkland Islands; or
 - (bb) subject to sub-paragraph (4), outside the Falkland Islands; or
 - (ii) in the case of a psychiatric examination —
 - (aa) a hospital in the Falkland Islands;
 - (bb) any place in the Falkland Islands designated as an approved medical centre for the purposes of the Mental Health Ordinance (No 7 of 2010); or
 - (cc) subject to sub-paragraph (4), a hospital or mental health facility outside the Falkland Islands,
- (3) A requirement of the kind mentioned in sub-paragraph (2)(c) must not be included unless the court is satisfied, on the evidence of a medical practitioner, that —
- (a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and
 - (b) a period as a resident patient is necessary if the examination is to be carried out properly.
- (4) A requirement for an examination outside the Falkland Islands must not be included in a supervision order unless —
- (a) the court is satisfied that the requisite examination is not ordinarily and sufficiently available in the Falkland Islands;
 - (b) either —
 - (i) in the case of a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands, the circumstances set out in sub-paragraph (5) apply; or

(ii) in the case of a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands, the circumstances set out in sub-paragraph (6) apply.

(5) The circumstances that must apply in relation to a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands are that the court is satisfied that both of the following conditions are met —

- (a) the child consents to going outside the Falkland Islands for examination; and
- (b) the child has sufficient understanding to give that consent;

(6) The circumstances that must apply in relation to a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands are either or both of the following —

- (a) the court is satisfied both of the following conditions are met —
 - (i) the child consents to going outside the Falkland Islands for examination; and
 - (ii) the child has sufficient understanding to give that consent; or
- (b) the court is satisfied that the requirement will not affect the child's rights under section 8 of the Constitution.

5. Psychiatric and medical treatment (CA, Sch 3, para 5)

(1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a Government medical officer or some other medical practitioner approved by the Governor for the purpose (provided that a person who is approved for the purposes of section 12 of the Mental Health Act 1983 in the United Kingdom is to be deemed to have been approved by the Governor for the purpose), that the mental condition of the supervised child —

- (a) is such as requires, and may be susceptible to, treatment, but
- (b) is not such as to warrant the child's detention in pursuance of a hospital treatment order under Part 3 of the Mental Health Ordinance,

the court may include in the order a requirement that the supervised child must, for the period specified in the order, submit to such treatment as is specified in the order.

(2) The treatment specified in accordance with sub-paragraph (1) must be —

- (a) by, or under the direction of, such medical practitioner as may be specified in the order;
- (b) as a non-resident patient, at such place as may be so specified order (which, subject to sub-paragraph (6), may be outside the Falkland Islands); or
- (c) as a resident patient —

- (i) a hospital in the Falkland Islands;
 - (ii) any place in the Falkland Islands designated as an approved medical centre for the purposes of the Mental Health Ordinance; or
 - (iii) subject to sub-paragraph (6), a hospital or mental health facility outside the Falkland Islands.
- (3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child must, for the period specified in the order, submit to such treatment as is specified in the order.
- (4) The treatment specified in accordance with sub-paragraph (3) must be —
- (a) by, or under the direction of, such medical practitioner as may be specified in the order;
 - (b) as a non-resident patient, at such place as may be specified in the order (which, subject to sub-paragraph (6), may be outside the Falkland Islands), or
 - (c) as a resident patient, at a hospital or other medical centre —
 - (i) in the Falkland Islands; or
 - (ii) subject to sub-paragraph (6), outside the Falkland Islands.
- (5) A court must not include a requirement under this paragraph in a supervision order unless it is satisfied —
- (a) where the child has sufficient understanding to make an informed decision, that the child consents to its inclusion;
 - (b) that satisfactory arrangements have been, or can be, made for the treatment.
- (6) A requirement for treatment to be given outside the Falkland Islands must not be included in a supervision order unless the court is satisfied —
- (a) that the requisite examination is not ordinarily and sufficiently available in the Falkland Islands;
 - (b) either —
 - (i) in the case of a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands, the circumstances set out in sub-paragraph (7) apply; or

(ii) in the case of a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands, the circumstances set out in sub-paragraph (8) apply.

(7) The circumstances that must apply in relation to a child who belongs to the Falkland Islands or who has a permanent right to remain in the Falkland Islands are either or both of the following —

(a) the court is satisfied that both of the following conditions are met —

(i) the child consents to going outside the Falkland Islands for treatment; and

(ii) the child has sufficient understanding to give that consent; or

(b) in the case of psychiatric treatment, the court is satisfied that it is necessary either —

(i) in the interests of the child; or

(ii) to protect the public.

(8) The circumstances that must apply in relation to a child who does not belong to the Falkland Islands or have a permanent right to remain in the Falkland Islands but who is lawfully present in the Falkland Islands are one or more of the following —

(a) the court is satisfied both of the following conditions are met —

(i) the child consents to going outside the Falkland Islands for examination; and

(ii) the child has sufficient understanding to give that consent;

(b) in the case of psychiatric treatment, the court is satisfied that it is necessary either —

(i) in the interests of the child; or

(ii) to protect the public; or

(c) the court is satisfied that the requirement will not affect the child's rights under section 8 of the Constitution.

(9) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement contained in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that —

(a) the treatment should be continued beyond the period specified in the order;

(b) the supervised child needs different treatment;

(c) that the child is not susceptible to treatment; or

(d) that the child does not require further treatment,

the practitioner must make a report in writing to the supervisor.

(10) On receiving a report under this paragraph the supervisor must refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

Part 2

Miscellaneous (CA, Sch 3, Pt 2)

6. Life of supervision order (CA, Sch 3, para 6)

(1) Subject to sub-paragraph (2) and section 86, a supervision order will cease to have effect at the end of the period of one year beginning with the date on which it was made.

(2) Where a supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as the court may specify.

(3) A supervision order must not be extended so as to run beyond the end of the period of three years beginning with the date on which the order was made.

7. Information to be given to supervisor etc (CA, Sch 3, para 8)

(1) A supervision order may require the supervised child —

(a) to keep the supervisor informed of any change in the child's address; and

(b) to allow the supervisor to visit the child at the place where the child is living.

(2) The responsible person in relation to any child with respect to whom a supervision order is made must —

(a) if asked by the supervisor, inform the supervisor of the child's address (if it is known to the responsible person); and

(b) if the responsible person is living with the child, allow the supervisor reasonable contact with the child.

8. Effect of supervision order on earlier orders (CA, Sch 3, para 10)

The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which —

(a) was made with respect to the child; and

(b) would otherwise continue in force.

Part 3
Education supervision orders (CA, Sch 3, Pt 3)

9. Effect of orders (CA, Sch 3, para 12)

(1) Where an education supervision order is in force with respect to a child, it is the duty of the supervisor —

(a) to advise, assist and befriend, and give directions to —

(i) the supervised child; an

(ii) the child's parents,

in such a way as will, in the opinion of the supervisor, secure that the child is properly educated;

(b) where any such directions given to —

(i) the supervised child; or

(ii) a parent of the child,

have not been complied with, to consider what further steps to take in the exercise of the supervisor's powers under this Ordinance.

(2) Before giving any directions under sub-paragraph (1) the supervisor must, so far as is reasonably practicable, ascertain the wishes and feelings of —

(a) the child; and

(b) the child's parents,

including, in particular, their wishes as to the place at which the child should be educated.

(3) When settling the terms of any such directions, the supervisor must give due consideration —

(a) having regard to the child's age and understanding, to such wishes and feelings of the child's as the supervisor has been able to ascertain; and

(b) to such wishes and feelings of the child's parents as the supervisor has been able to ascertain.

(4) Directions may be given under this paragraph at any time while the education supervision order is in force.

10. Effect of orders: further provisions (CA, Sch 3, para 13)

(1) Where an education supervision order is in force with respect to a child, the duties of the child's parents under section 19 and section 26 or 28 of the Education Ordinance (Title 29.1)

(duties to secure sufficient education of children and to secure regular attendance of registered pupils or to ensure diligent pursuit of a course of education provided by the Camp Education Service) shall be superseded by their duty to comply with any directions in force under the education supervision order.

(2) Where an education supervision order is made with respect to a child —

(a) any school attendance order —

(i) made under section 25 of the Education Ordinance with respect to the child; and

(ii) in force immediately before the making of the education supervision order,

ceases to have effect; and

(b) while the education supervision order remains in force, section 25 of that Ordinance (school attendance orders) does not apply with respect to the child.

11. Effect where child also subject to supervision order (CA, Sch 3, para 14)

(1) This paragraph applies where an education supervision order and a supervision order are in force at the same time with respect to the same child.

(2) Any failure to comply with a direction given by the supervisor under the education supervision order is to be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction or instruction given under the other order.

12. Duration of orders (CA, Sch 3, para 15)

(1) An education supervision order will have effect for a period of one year, beginning with the date on which it is made.

(2) An education supervision order will not expire if, before it would otherwise have expired, the court has (on the application of the authority in whose favour the order was made) extended the period during which it is in force.

(3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.

(4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.

(5) No one extension may be for a period of more than three years.

(6) An education supervision order will cease to have effect on —

(a) the child's ceasing to be of compulsory school age; or

(b) the making of a care order with respect to the child;

and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

13. Information to be given to supervisor etc (CA, Sch 3, para 16)

(1) An education supervision order may require the child —

- (a) to keep the supervisor informed of any change in the child's address; and
- (b) to allow the supervisor to visit the child at the place where the child is living.

(2) A person who is the parent of a child with respect to whom an education supervision order has been made must —

- (a) if asked by the supervisor, inform the supervisor of the child's address (if it is known to the parent); and
- (b) if the parent is living with the child, allow the supervisor reasonable contact with the child.

14. Discharge of orders (CA, Sch 3, para 17)

(1) The court may discharge any education supervision order on the application of —

- (a) the child concerned;
- (b) a parent of the child; or
- (c) the Crown.

(2) On discharging an education supervision order, the court may direct the Crown to investigate the circumstances of the child.

15. Offences (CA, Sch 3, para 18)

(1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order, the parent is guilty of an offence.

(2) It is a defence for any person charged with such an offence to prove that —

- (a) the person took all reasonable steps to ensure that the direction was complied with;
- (b) the direction was unreasonable; or
- (c) the person had complied with —
 - (i) a requirement included in a supervision order made with respect to the child; or
 - (ii) directions given under such a requirement,

and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.

(3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

16. Interpretation (CA, Sch 3, para 21)

In this Part of this Schedule "parent" has the same meaning as in the Education Ordinance.

SCHEDULE 4
ADDITIONAL PROVISIONS ABOUT POWERS OF ARREST ATTACHED TO
EXCLUSION REQUIREMENTS
(Family Law Act 1996, ss47(7) and (12) and 48 and Sch 5)

1. Requirement to bring person before court (Family Law Act 1996, s47(7))

(1) If a power of arrest is attached to an exclusion requirement imposed under section 57 or 65 and the person on whom the requirement was imposed is arrested under that power —

(a) that person must be brought before a court within the period of 24 hours beginning at the time of the person's arrest; and

(b) if the matter is not then disposed of forthwith, the court before whom the person is brought may remand the person.

(2) In reckoning for the purposes of sub-paragraph (1) any period of 24 hours, no account is to be taken of Christmas Day, Good Friday or any Sunday.

2. Remand in custody or on bail (Family Law Act 1996, Sch 5, para 2)

(1) Where a court has power to remand a person under paragraph 1(1)(b), the court may —

(a) remand the person in custody, that is to say, commit the person to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or

(b) remand the person on bail —

(i) by taking from the person a recognisance (with or without sureties) conditioned as provided in sub-paragraph (3), or

(ii) by fixing the amount of the recognisances with a view to their being taken subsequently in accordance with paragraph 4 and in the meantime committing the person to custody in accordance with paragraph (a).

(2) Where a person is brought before the court after remand, the court may further remand that person.

(3) Where a person is remanded on bail under sub-paragraph (1), the court may direct that the person's recognisance be conditioned for the person's appearance —

(a) before that court at the end of the period of remand, or

(b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.

(4) Where a recognisance is conditioned for a person's appearance in accordance with sub-paragraph (1)(b), the fixing of any time for the person next to appear is deemed to be a remand; but nothing in this sub-paragraph or sub-paragraph (3) deprives the court of power at any subsequent hearing to remand the person afresh.

(5) Subject to paragraph 3, the court must not remand a person under this paragraph for a period exceeding 8 clear days, except that —

(a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent, and

(b) if the court adjourns a case under paragraph 6, the court may remand him for the period of the adjournment.

(6) Where the court has power under this paragraph to remand a person in custody it may, if the remand is for a period not exceeding 3 clear days, commit the person to the custody of a police officer.

3. Further remand (Family Law Act 1996, Sch 5, para 3)

(1) If the court is satisfied that any person who has been remanded under paragraph 2 is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which the person was remanded, the court may, in the person's absence, remand the person for a further time; and paragraph 2(5) will not apply.

(2) Notwithstanding anything in paragraph 2(1), the power of the court under sub-paragraph (1) to remand a person on bail for a further time may be exercised by enlarging the person's recognisance and those of any sureties for the person to a later time.

(3) Where a person remanded on bail under paragraph 2 is bound to appear before the court at any time and the court has no power to remand that person under sub-paragraph (1), the court may in the person's absence enlarge the person's recognisance and those of any sureties for the person to a later time; and the enlargement of the person's recognizance will be deemed to be a further remand.

4. Postponement of taking of recognisance (Family Law Act 1996, Sch 5, para 4)

Where under paragraph 2(1)(b)(ii) the court fixes the amount in which the principal and the principal's sureties, if any, are to be bound, the recognisance may thereafter be taken by such person as may be prescribed by rules of court, and the same consequences shall follow as if it had been entered into before the court.

5. Bail subject to conditions (Family Law Act 1996, s47(12))

If a person remanded under this section is granted bail, the person may be required by the court to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

6. Remand for medical examination and report (Family Law Act 1996, s48)

(1) If the court has reason to consider that a medical report will be required, any power to remand a person under paragraph 1(1)(b) may be exercised for the purpose of enabling a medical examination and report to be made.

(2) If such a power is so exercised, the adjournment must not be for more than 4 weeks at a time unless the court remands the accused in custody.

(3) If the court so remands the accused, the adjournment must not be for more than 3 weeks at a time.

(4) If there is reason to suspect that a person who has been arrested under a power of arrest attached to an exclusion requirement imposed under section 57 or 65 is suffering from mental disorder within the meaning of the Mental Health Ordinance (No 7 of 2010), the court has the same power to make an order under section 48 of that Ordinance (remand to hospital for report on accused's mental condition) as it does under that section in the case of an accused person within the meaning of that section.

**SCHEDULE 5
FOSTERING AND HOSTING (CA, Schs 7 & 8)**

Part 1

Foster Parents and Host Parents: Limits on Number of Hosted Children or Foster Children (CA, Sch 7)

1. Fostering and hosting (CA, Sch 7, para 1)

For the purposes of this Schedule —

(a) a person fosters a child if the person does so on behalf of the Crown;

(b) a person hosts a child if the person does so as a result of an arrangement under Part 6.

2. The usual fostering or hosting limit (CA, Sch 7, para 2)

Subject to what follows, a person may not, at any one time, foster or host more than three children ("the usual fostering or hosting limit").

3. Siblings (CA, Sch 7, para 3)

A person may exceed the usual fostering or hosting limit if the children concerned are all siblings with respect to each other.

4. Exemption by Crown (CA, Sch 7, para 4)

(1) A person may exceed the usual fostering or hosting limit if the person is exempted from it by the Crown.

(2) In considering whether to exempt a person, the Crown must have regard, in particular, to —

(a) the number of children whom the person proposes to foster or host;

- (b) the arrangements which the person proposes for the care and accommodation of the fostered or hosted children;
 - (c) the intended and likely relationship between the person and the fostered or hosted children;
 - (d) the period of time for which he proposes to foster or host the children; and
 - (e) whether the welfare of the fostered or hosted children (and of any other children who are or will be living in the accommodation) will be safeguarded and promoted.
- (3) Where the Crown exempts a person, it must inform the person by notice in writing —
- (a) that the person is so exempted;
 - (b) of the children, described by name, whom the person may foster or host; and
 - (c) of any condition to which the exemption is subject.
- (4) The Crown may at any time by notice in writing —
- (a) vary or cancel an exemption; or
 - (b) impose, vary or cancel a condition to which the exemption is subject,

and, in considering whether to do so, it must have regard in particular to the considerations mentioned in sub-paragraph (2).

(5) The Governor may make regulations amplifying or modifying the provisions of this paragraph in order to provide for cases where children need to be placed with foster parents as a matter of urgency.

5. Complaints etc (CA, Sch 7, para 6)

(1) The Crown must establish a procedure for considering any representations (including any complaint) made to it about the discharge of its functions under paragraph 4 by a person exempted or seeking to be exempted under that paragraph.

(2) In carrying out any consideration of representations under sub-paragraph (1), the Crown must comply with any regulations made by the Governor for the purposes of this paragraph.

Part 2 Hosted Children (CA, Sch 8)

6. Exceptions: children looked after by Crown (CA, Sch 8, para 1)

A child is not a hosted child under Part 6 while the child is being looked after by the Crown.

7. Exceptions: children looked after in same premises as other family members (CA, Sch 8, para 2(1)(a))

A child is not a hosted child while the child is in the care of any person in premises in which any —

- (a) parent of the child;
- (b) person who is not a parent of the child but who has parental responsibility for the child;
- (c) person who is a relative of the child and who has assumed responsibility for the child's care,

is for the time being living.

8. Exceptions: children looked after in school, hospital or other institution (CA, Sch 8, para 2(1)(d) to (g))

(1) A child is not a hosted child while he is in the care of any person —

- (a) in any school in which the child is receiving full-time education;
- (b) in a hospital;
- (c) in any home or institution not specified in this paragraph but provided, equipped or maintained by (or on behalf of) the Crown.

(2) Sub-paragraphs (1) does not apply where the person caring for the child is doing so in a personal capacity and not in the course of carrying out the person's duties in relation to the establishment mentioned in the paragraph in question.

9. Exceptions: children subject to Mental Health Ordinance (CA, Sch 8, para 4)

A child is not a hosted child while the child is liable to be detained, or subject to guardianship, under the Mental Health Ordinance (No 7 of 2010).

10. Exceptions: children in care of prospective adopter (CA, Sch 8, para 5)

A child is not a hosted child while the child is placed in the care of a person who proposes to adopt the child under the Adoption Act 1976 (as it applies in the Falkland Islands).

11. Power of Crown to impose requirements (CA, Sch 8, para 6)

(1) Where a person is hosting any child or proposes to host any child, the Crown may impose on that person requirements as to —

- (a) the number, age and sex of the children who may be hosted by that person;
- (b) the standard of the accommodation and equipment to be provided for them;
- (c) the arrangements to be made with respect to their health and safety; and
- (d) particular arrangements which must be made with respect to the provision of care for them,

and it is the person's duty to comply with any such requirement before the end of such period as the Crown may specify unless, in the case of a proposal, the proposal is not carried out.

(2) A requirement may be limited to a particular child, or class of child.

(3) A requirement (other than one imposed under sub-paragraph (1)(a)) may be limited by the Crown so as to apply only when the number of children hosted by the person exceeds a specified number.

(4) A requirement is to be imposed by notice in writing addressed to the person on whom it is imposed and informing that person of —

(a) the reason for imposing the requirement;

(b) the person's right under paragraph 14 to appeal against it; and

(c) the time within which the person may do so.

(5) The Crown may at any time vary any requirement, impose any additional requirement or remove any requirement.

(6) In this Schedule, "requirement", in relation to any person, means a requirement imposed on that person under this paragraph.

12. Regulations requiring notification of hosting etc (CA, Sch 8, para 7)

(1) The Governor may by regulations make provision as to —

(a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be hosted; and

(b) the manner and form in which such notification is to be given.

(2) The regulations may, in particular —

(a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be hosted to notify the Crown;

(b) require any person who is —

(i) a parent of a child; or

(ii) a person who is not a parent of a child but who has parental responsibility for the child,

and who knows that it is proposed that the child should be hosted to notify the appropriate authority;

(c) require any parent of a child to be hosted, or person who is not a parent of such a child but who has parental responsibility for the child, to notify the appropriate authority of any change in that person's address;

(d) require any person who proposes to host a child, to notify the appropriate authority of the person's proposal;

(e) require any person who is hosting a child or proposes to do so, to notify the appropriate authority of —

(i) any offence of which the person has been convicted;

(ii) any disqualification imposed on the person under section 76; or

(iii) any prohibition imposed on the person under section 77;

(f) require any person who is hosting a child, to notify the appropriate authority of any change in the person's address;

(g) require any person who is hosting a child to notify the appropriate authority in writing of any person who begins, or ceases, to be part of the person's household;

(h) require any person who has been hosting a child, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

13. Notification of hosting arrangements etc: requirement for publicity (CA, Sch 8, para 7A)

The Crown must promote public awareness of requirements as to notification for which provision is made under paragraph 12.

14. Appeals (CA, Sch 8, para 8)

(1) A person aggrieved by —

(a) a requirement imposed under paragraph 11;

(b) a refusal of consent under section 76;

(c) a prohibition imposed under section 77;

(d) a refusal to cancel such a prohibition;

(e) a refusal to make an exemption under paragraph 4;

(f) a condition imposed in such an exemption; or

(g) a variation or cancellation of such an exemption,

may appeal to the court.

(2) The appeal must be made within 14 days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.

(3) Where the appeal is against —

- (a) a requirement imposed under paragraph 11;
- (b) a condition of an exemption imposed under paragraph 4; or
- (c) a variation or cancellation of such an exemption,

the requirement, condition, variation or cancellation does not have effect while the appeal is pending.

(4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition —

- (a) vary the requirement, or allow more time for compliance with it; or
- (b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the Crown had power to impose under paragraph 11 are complied with.

(5) Any requirement or prohibition specified or substituted by a court under this paragraph is to be deemed for the purposes of Part 6 and this Schedule (other than this paragraph) to have been imposed by the Crown under paragraph 11 or (as the case may be) section 77.

(6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption, the court may —

- (a) make an exemption;
- (b) impose a condition; or
- (c) vary the exemption.

(7) Any exemption made or varied under sub-paragraph (6), or any condition imposed under that sub-paragraph, is to be deemed for the purposes of Part 1 of this Schedule (but not for the purposes of this paragraph) to have been made, varied or imposed under paragraph 4.

15. Prohibition of advertisements relating to hosting arrangements (CA. Sch 8, para 10)

No advertisement indicating that a person will undertake, or will arrange to, host a child may be published, unless it states that person's name and address.

16. Avoidance of insurances on lives of hosted children (CA, Sch 8, para 11)

A person who hosts a child for reward is to be deemed for the purposes of the Life Assurance Act 1774 (as it applies to the Falkland Islands) to have no interest in the life of the child.

SCHEDULE 6
MODIFICATIONS TO UK LEGISLATION (AS IT APPLIES IN FALKLAND ISLANDS)

1. The modifications set out in the right hand column of this Schedule continue to apply to the UK legislation (as it applies in the Falkland Islands) listed in the left hand column —

The Wills Act 1837	In the definition of “will” in section 1 (interpretation), “and also to a disposition by will and testament or devise of the custody and tuition of any child” is replaced with “and also to an appointment by will of a guardian of a child”.
The Children and Young Persons Act 1933	In section 1(2)(a) (cruelty to persons under sixteen), “, or the legal guardian of a child or young person,” is inserted after “young person”.

2. The modifications set out in the right hand column of this Schedule apply to the UK legislation (as it applies in the Falkland Islands) listed in the left hand column (instead of the modifications to that legislation made by the Children Ordinance 1994 (No 28 of 1994) —

The Children and Young Persons Act 1969	In section 5(2) (restrictions on criminal proceedings for offences by young persons) “section 1 of this Act” is replaced with “Part 5 of the Children Ordinance (No 7 of 2014)”.
The Magistrates’ Courts Act 1980	In subsection (2) of section 59 (in its application to the Falkland Islands, periodical payment through the Clerk to the Summary Court), “the Guardianship of Minors Acts 1971 and 1973” is replaced “(or having effect as if made under) Schedule 1 to the Children Ordinance (No 7 of 2014)”.

Passed by the Legislature of the Falkland Islands on 26 June 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

Published by the Attorney General's Chambers, Stanley, Falkland Islands
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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

13 October 2014

No. 13

The following is published in this Supplement –

**Children (Transitional Provisions) Order 2014 (SR&O No 12 of 2014); and
Supplementary Appropriation (2014-2015) Ordinance 2014 (No 8 of 2014).**

SUBSIDIARY LEGISLATION

FAMILY LAW

Children (Transitional Provisions) Order 2014

S. R. & O. No: 12 of 2014

Made: 3 October 2014

Published: 13 October 2014

Coming into force: see paragraph 2

I make this order under section 102 of the Children Ordinance 2014 (No 7 of 2014) on the advice of Executive Council.

PART 1 INTRODUCTION

1. Title

This order is the Children (Transitional Provisions) Order 2014.

2. Commencement

This order comes into force on a date appointed by the Governor by a notice published in the *Gazette*.

3. Interpretation

In this order —

“1994 Ordinance” means the Children Ordinance 1994 (No 28 of 1994); and

“2014 Ordinance” means the Children Ordinance 2014.

4. Pending proceedings

The 2014 Ordinance will apply to proceedings that are pending when it comes into force and steps taken in those proceedings while the 1994 Ordinance was in force will be treated as having been made for the purposes of the equivalent provisions in the 2014 Ordinance.

5. Court orders made under old Ordinance

(1) Sub-paragraph (2) applies to a court order if —

(a) it was made under the 1994 Ordinance; and

(b) it still has effect when the 2014 Ordinance comes into force.

(2) A court order to which this sub-paragraph applies —

(a) continues to have effect as if it had been made under the corresponding provision in the 2014 Ordinance; but

(b) still expires when it originally would have done (unless it is varied, revoked or replaced before then).

6. Parental responsibility agreements entered into under 1994 Ordinance

(1) A parental responsibility agreement that was valid under the 1994 Ordinance remains valid when the 2014 Ordinance comes into force as if it had been entered into (and approved by the court) under the 2014 Ordinance.

(2) A parental responsibility agreement may be approved by the court under the 2014 Ordinance even if it had been made while the 1994 Ordinance was still in force.

7. Appointments of guardians under 1994 Ordinance (or deemed to have been)

(1) An appointment of a guardian of a child will be treated as if it had been made under the new Ordinance if —

(a) it was made under the 1994 Ordinance (or deemed to have been by paragraph 10 of Schedule 4 of the 1994 Ordinance); and

(b) it has taken effect before the 2014 Ordinance comes into force.

(2) An appointment of a person to be the guardian of a child will take effect in accordance with the new Ordinance if —

(a) it was made under the old Ordinance (or deemed to have been by paragraph 10 of Schedule 4 of the old Ordinance); but

(b) it has not taken effect when the new Ordinance comes into force.

(3) If a disposition by will and testament or devise of the custody and tuition of a child was made before the old Ordinance came into force on 1 January 1995, it will be treated for the purposes of the Wills Act 1837 (as it applies in the Falkland Islands) and the 2014 Ordinance as if it were an appointment by will of a guardian of a child.

Made 3rd October 2014

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not part of the regulations)

Section 102 of the Children Ordinance 2014 (No. 7 of 2014) allows the Governor to make provisions dealing with the transition from the Children Ordinance 1994 (No 28 of 1994) to the Children Ordinance 2014.

This order provides for things that were done under the 1994 Ordinance (or treated as if they had been) to continue to have effect under the 2014 Ordinance.

However, when it comes into force, the 2014 Ordinance will start to apply to proceedings that were already underway.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Supplementary Appropriation (2014-2015) Ordinance 2014

(No: 8 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

SUPPLEMENTARY APPROPRIATION (2014-2015) ORDINANCE 2014

(No: 8 of 2014)

(assented to: 3 October 2014)

(commencement: on publication)

(published: 13 October 2014)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £3,781,430.00 for the financial year ending 30 June 2015.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2014-2015) Ordinance 2014.

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 £3,781,430.00 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2015 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 Nos 1 & 2 of 2014/2015, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

Number	Head of Service	Amount £
	Operating Budget	
0110	Directorate of Central Services	413,000.00
0200	Health and Social Services	76,710.00
0250	Education and Training	172,660.00
0350	Public Works Department	135,870.00
0451	Attorney Generals Chambers	113,820.00
0550	Emergency Services	32,810.00
0600	Executive Management	573,290.00
0700	The Treasury	740,600.00
0620	Mineral Resources	7,460.00
0990	Fund Transfers & Island Plan Investments	1,010,210.00
0997	Oil Development	505,000.00
	Total Operating Budget	3,781,430.00
	Total Schedule	3,781,430.00

Passed by the Legislature of the Falkland Islands on 25 September 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

Published by the Attorney General's Chambers, Stanley, Falkland Islands
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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

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No. 14

The following are published in this Supplement –

Planning (Amendment) Bill 2014;
Falkland Islands Tourist Board Bill 2014; and
Immigration (Amendment) Bill 2014.

Planning (Amendment) Bill 2014

(No of 2014)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – PRELIMINARY

1. Title and construction
2. Commencement

PART 2 – AMENDMENTS TO PLANNING ORDINANCE

3. Section 3 amended – Interpretation
4. Insertion of new section 3A
5. Section 4 amended – Planning and Building Committee
6. Section 5 amended – Composition of Planning and Building Committee, etc.
7. Section 9 amended – Attendance of public officers and other persons at meetings of the Committee
8. Repeal and replacement of section 10 – Appointment of the Planning Officer
9. Section 11 amended – Secretary of the Committee
10. Section 30 amended – Publicity for planning applications
11. Section 31 repealed – Representations and duty to take representations into account
12. Section 33 replaced – Assessment of environmental effects
13. Section 36 amended – Determination of applications
14. Section 39 amended – Applications for planning permission in respect of minerals
15. Section 40 amended – Conditional grant of planning permission
16. Section 47 replaced – Appeals against planning decisions
17. Insertion of new section 47A
18. Section 48 amended – Appeal in default of planning decision
19. Section 72 amended – Application for variation or discharge of conditions and appeals
20. Section 77 amended – Appeals against waste land notices
21. Section 88 amended – Grant or modification of planning permission on appeals against enforcement notices
22. Section 94 amended – Appeal against relevant buildings enforcement notice
23. Section 104 amended – Validity of development plans and certain orders, decisions and directions
24. Section 109 repealed – Appeals to Supreme Court against decisions under s. 61
25. Section 111 repealed – Oral representations
26. Section 122 repealed – Signification of notices, permissions and consents, etc.
27. Schedule A1 repealed

PART 3 – AMENDMENTS TO GENERAL DEVELOPMENT ORDER

28. Purpose of this Part
29. Paragraph 6 amended – Outline planning applications
30. Paragraph 8 amended – Application made under planning condition

- 31. Paragraph 9 replaced – Written notice of decision or determination relating to a planning permission
- 32. Paragraph 14 amended – Established use certificates
- 33. Schedule 2 amended
- 34. Schedule 3 repealed

PART 4 – AMENDMENTS TO THE PLANNING (GENERAL) REGULATIONS

- 35. Purpose of this Part
- 36. Regulation 2 amended
- 37. Regulation 4 amended

PLANNING (AMENDMENT) BILL 2014

(No: of 2014)

(assented to: 2014)

(commencement: on publication)

(published: 2014)

A BILL

for

AN ORDINANCE

To amend the Planning Ordinance (Title 55.3) to provide for regulations that confer power on the Planning Officer to determine specified applications for planning permission, to provide for developers to take mitigating steps as conditions of planning permission, to make consequential amendments to the General Development Order (Title 55.3.1) and the Planning (General) Regulations (Title 55.3.3), and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands—

PART 1 PRELIMINARY

1. Title and construction

(1) This Ordinance is the Planning (Amendment) Ordinance 2014.

(2) Part 2 of this Ordinance amends the Planning Ordinance.

(3) Part 3 amends the General Development Order.

(4) Part 4 amends the Planning (General) Regulations.

2. Commencement

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

PART 2 AMENDMENTS TO PLANNING ORDINANCE

3. Section 3 amended –Interpretation

Section 3 is amended by —

- (a) omitting the definition of “established use certificate”;
- (b) omitting the definition of “minerals” and replacing it with the following —

““mineral” means any substance, other than water, and whether that substance is in a solid, liquid or gaseous form, which has been formed by or is subject to geological

process and any naturally occurring inorganic substance beneath or at the surface of the earth, and whether or not any such substance is under water; and includes every mineral and substance in or under land of a kind ordinarily worked for removal by underground or surface working”; and

(c) inserting the following definition immediately after the definition of “planning decision”—

““Planning Officer” means the incumbent of the post created by section 10, and includes the person formally acting in that capacity during the temporary absence from duty of the incumbent;”.

4. Insertion of new section 3A

The following section is inserted immediately after section 3 —

“3A. Meaning of “determine”

(1) In this Ordinance and any subsidiary legislation made under it, “determine” must be construed in accordance with the following rules —

(a) when used in relation to applications for planning permission submitted by an applicant other than the Crown and that are to be considered by the Committee, “determine” means the right to —

(i) grant planning permission; and

(ii) refuse planning permission,

at the Committee’s discretion, after taking into account the views of the Planning Officer as required by section 4(2);

(b) when used in relation to applications for planning permission that are submitted by the Crown and are to be considered by the Committee, “determine” means, in either case after taking into account the views of the Planning Officer as required by section 4(2) —

(i) the right to grant planning permission; and

(ii) the duty, where the Committee is of the view that planning permission should be refused, to refer the application to the Governor with written reasons for its recommendation that planning permission be refused,

but does not confer on the Committee power to refuse planning permission;

(c) when used in relation to an application for planning permission for exploration for or winning and working minerals, regardless of the identity of the applicant, “determine” means —

(i) with respect to the Committee, the right (after taking into account the views of the Planning Officer as required by section 4(2)) to make recommendations (including reasons) to the Governor as to whether the application should be granted or refused,

following which it must refer the application to the Governor who has the power to grant or refuse;

(ii) with respect to the Governor, the right, on receipt of an application referred to the Governor by the Committee under sub-subparagraph (i), to either grant or refuse planning permission;

(d) when used in relation to the Planning Officer in respect of any application, “determine” means —

(i) the right to grant planning permission; and

(ii) the duty, where the Planning Officer is of the view that planning permission should be refused, to refer the application to the Committee with written reasons for the Planning Officer’s view that planning permission be refused,

but does not confer on the Planning Officer power to refuse planning permission;

(e) when used in relation to applications for planning permission submitted by the Crown and that are to be considered by the Committee on referral from the Planning Officer as referred to in paragraph (d), “determine” means —

(i) the right to grant planning permission contrary to the recommendation of the Planning Officer; and

(ii) the duty, where the Committee is of the view that planning permission should be refused (for the reasons given by the Planning Officer, or for other reasons as well or in the alternative), to refer the application to the Governor with written reasons for its recommendation that planning permission be refused,

but does not confer on the Committee power to refuse planning permission;

(f) when used in relation to any application to be considered by the Governor, “determine” means full power to either grant or refuse planning permission,

and in all cases it is required that only material considerations, as set out in section 34, that are applicable be taken into account.

(2) In this Ordinance, in each case where any of the words “approve”, “consider” or “decide” is used with respect to action to be taken by the Governor, the Committee, or the Planning Officer, in relation to an application for planning permission, that word must be construed as a synonym for “determine” and must be construed in accordance with the relevant provision of subsection (1).”.

5. Section 4 amended – Planning and Building Committee

Section 4 is amended by omitting subsection (1) and replacing it with the following —

“(1) This section creates for the purposes of this Ordinance a Planning and Building Committee which, subject to any regulations made under section 36(1) conferring power on

the Planning Officer to deal with applications for planning permission, is the authority responsible for the administration of this Ordinance.”.

6. Section 5 amended – Composition of Planning and Building Committee, etc.

Section 5 is amended by —

(a) repealing subsection (5) and replacing it with the following —

“(5) If a member of the Committee has a direct or indirect financial or other personal interest in a matter being considered by the Committee, that member —

(a) must, subject to subsection (6), declare that interest;

(b) must not take part in the Committee’s consideration of that matter; and

(c) if so required by the Chairperson or other person presiding at the meeting, must not attend the meeting or that portion of it during which the Committee considers the matter in which the member has, in accordance with paragraph (a), declared an interest,

but the provisions of this subsection do not affect the member’s rights under subsection (6A).”; and

(b) inserting the following after subsection (6) —

“(6A) Despite subsection (5), a member to whom that subsection refers may —

(a) exercise rights under other provisions of this Ordinance to make oral representations to the Committee as an applicant or member of the public; and

(b) assert the right to be present at a Committee meeting for the purpose referred to in paragraph (a), and this right must prevail over a requirement of the Chairperson or other person presiding at the meeting under paragraph (c) of subsection (5); but only for so long as is necessary for the purpose .”.

7. Section 9 amended – Attendance of public officers and other persons at meetings of the Committee

Section 9 is amended by inserting immediately after subsection (1) the following —

“(1A) A member of the public is entitled, upon notifying the Chairperson or other person presiding at the meeting to this effect, to —

(a) attend meetings of the Committee for the sole purpose of exercising the right, provided for in section 31A, to make oral representations; and

(b) prevail over any objection to such attendance, but only insofar as is required for the making of those representations,

and so is not entitled to be present at the meeting before the time at which oral representations will be accommodated, and must leave immediately after making those representations if required to do so.

(1B) The Chairperson or other person presiding at a meeting of the Committee must allow a member of the public to attend the meeting in accordance with subsection (1A).”.

8. Repeal and replacement of section 10 – Appointment of the Planning Officer

Section 10 is repealed and replaced by the following —

“10. Appointment of the Planning Officer

(1) This section creates the post of Planning Officer, which is a public office the incumbent of which must appointed by the Chief Executive.

(2) The functions of the Planning Officer include —

- (a) advising the Committee as required by this Ordinance;
- (b) making decisions on planning applications or referring applications to the Committee or the Governor, as required by this Ordinance or any subsidiary legislation made under it;
- (c) attending meetings as required by this Ordinance;
- (d) instituting surveys, and —
 - (i) preparing or modifying plans or memoranda;
 - (ii) preparing, modifying or submitting proposals; or
 - (iii) approving the design or external appearance of buildings,as required by this Ordinance;
- (e) publishing documents as required by this Ordinance;
- (f) giving notification as required by this Ordinance;
- (g) giving views as required by this Ordinance;
- (h) keeping and updating registers as required by this Ordinance;
- (i) liaising with applicants as required by this Ordinance;
- (j) issuing certificates, giving consent, or receiving claims for compensation, as required by this Ordinance;
- (k) making representations as required by this Ordinance;

- (l) demanding and receiving notices as required by this Ordinance;
- (m) entering land or being present at such place, as authorised in accordance with this Ordinance; and
- (n) performing such other function reasonably consistent with the foregoing functions as may be instructed in writing by the Governor.”.

9. Section 11 amended – Secretary of the Committee

Section 11(2) is amended by —

- (a) omitting the full stop at the end of paragraph (c) and replacing it with a semi-colon; and
- (b) inserting immediately after paragraph (c) the following —

“(d) to perform such other functions as may be conferred on the secretary by any subsidiary legislation made under this Ordinance.”.

10. Section 30 amended – Publicity for planning applications

Section 30 of the principal Ordinance is repealed and replaced by the following section —

“30. Publicity for planning applications

(1) At least 10 days before an application is considered for the first time, the Planning Officer must ensure that —

- (a) every person who occupies land that falls within the parameters set out in subsection (4) is notified about the application; and
- (b) such notice is in writing in such form as may be prescribed.

(2) Subsection (1) applies equally to applications that are to be determined by the Committee as it applies to applications that are to be determined by the Planning Officer in exercise of power conferred on the Planning Officer by regulations made under section 36(2).

(3) Until notification of it has been given in accordance with this section, an application for planning permission must not be determined by either the Committee or the Planning Officer.

(4) The parameters referred to in subsection (1) are that, in relation to the land which is the subject of the application, any part of the land in question is within —

- (a) 100 metres, in the case of an application relating to land in Stanley; or
- (b) 1 kilometre, in the case of an application relating to land in Camp.

(5) The Planning Officer is not obliged to provide, or to ensure the provision of, notification of an application for planning permission to an occupier of land if that land does not fall within the parameters set out in subsection (4).

(6) The Planning Officer must ensure that one of the prescribed methods of service is adhered to when notice is being served in accordance with this section.

(7) The Planning Officer must, in advance of each meeting of the Committee or the making of a determination by the Planning Officer in accordance with regulations made under section 36(2), ensure adequate publicity regarding the applications for planning permission that will, as the case may be, be considered by—

(a) the Committee for the first time at that meeting; or

(b) the Planning Officer in accordance with regulations made under section 36(2),

and such publicity must be in accordance with such stipulations as may be prescribed subject to subsection (8).

(8) Despite subsection (7), the adequate publicity must commence no later than 10 days in advance of each meeting of the Committee, or of the date on which the Planning Officer will make a decision on the application, as the case may be.

11. Section 31 repealed – Representations and duty to take representations into account

Section 31 of the principal Ordinance is repealed and replaced by the following sections —

“31. Written representations

(1) Any person may make representations in writing to the Planning Officer in relation to any application for planning permission.

(2) Where a person intends to make written representations in relation to an application for planning permission that is to be determined by the Planning Officer in accordance with regulations made under section 36(2), the person must make those written representations in accordance with the procedure, prescribed in those regulations, for doing so.

(3) Subsection (4) or (5) applies whenever —

(a) one or more written representations are made in relation to an application before it has been determined; and

(b) the application will not be determined by the Planning Officer.

(4) If the application is to be determined by the Committee, the Planning Officer must ensure that the representations are brought to the attention of the Committee.

(5) If the application is to be determined by the Governor, the Planning Officer must ensure that the representations are brought to the attention of both the Committee and the Governor.

31A. Oral representations

(1) This section does not apply to any application for planning permission that is to be determined by the Planning Officer in accordance with regulations made under section 36(2).

(2) Despite subsection (1), this section will apply to any such application as from the point at which it is referred to the Committee in accordance with section 3A(1)(d) (and any other relevant provision of regulations made under section 36(2)) with a recommendation that it be refused.

(3) Before the Committee considers an application, the following will have the right to make oral representations to the Committee or to have oral representations made to the Committee on their behalf—

(a) the applicant; and

(b) members of the public who have made written representations to the Planning Officer.

(4) If the Governor is to consider an application, the same persons will also have the right to make oral representations to Executive Council before it advises the Governor in relation to the application.

(5) The Committee and Executive Council must each adopt and publish arrangements for oral representations to be made to them under this section.

31B. Duty to take representations into account

(1) Each of the persons listed in subsection (2) must, when determining or otherwise dealing with an application for planning permission, take into account the representations made in accordance with the relevant provisions.

(2) The persons referred to in subsection (2) are —

(a) the Planning Officer, who must take into account representations made in accordance with subsections (1) and (2) of section 31;

(b) the Committee, which must take into account representations made in accordance with sections 31 and 31A;

(c) Executive Council (when advising the Governor in relation to an application), which must take into account representations made in accordance with sections 31 and 31A; and

(d) the Governor, who must take into account representations made in accordance with sections 31 and 31A.

(3) For the purposes of determining any application for planning permission, subsection (2) does not allow the taking into account of any consideration that is not a material consideration under section 34.”.

12. Section 33 replaced – Assessment of environmental effects

Section 33 is repealed and replaced with the following —

“33. Environmental Impact Assessments

(1) The Governor may make regulations imposing a requirement for the conduct of environmental impact assessments —

(a) at any stage of the consideration of an application for planning permission relating to any type of development referred to in this Ordinance; or

(b) in relation to any development which, by virtue of an order made under section 28 of this Ordinance, is the subject of general planning permission and is thereby excluded from the requirement to be the subject of an application for planning permission.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may —

(a) impose the requirement for the conduct of an environmental impact assessment in relation to any type of development specified in section 26 of this Ordinance while, expressly or by implication, excluding other types of development from the requirement;

(b) prescribe more or less extensive environmental impact assessments for different classes of development, or in relation to specific applications or specific proposed developments, as the case may be;

(c) impose on an applicant or a proposed developer, as the case may be, fees for the conduct of any environmental impact assessment or any part of it;

(d) make such other reasonable provision in respect of environmental impact assessments that the Governor considers appropriate; or

(e) categorise developments based on their proposed scale or extent, and stipulate, depending on the specified category into which a particular development is classified, that the commencement of certain developments —

(i) must be preceded by planning permission that resulted from an application process that at some stage included an environmental impact assessment carried out on such scale or to such extent as may be specified in the regulations;

(ii) must be contingent on the factors set out in subsection (3); or

(iii) is free to take place without there having to be any screening or any environmental impact assessment carried out.

(3) The factors mentioned in subsection (2)(e)(ii) are —

(a) the written result of a screening process, administered by such person or authority as may be specified in the regulations, for the possible imposition of a requirement that an environmental impact assessment be carried out; and

(b) if such a requirement is imposed —

(i) the determination of an application for planning permission which includes consideration of an environmental impact statement submitted either along with or after the application for planning permission; and

(ii) compliance with any determination made and directive given to the prospective developer by the appropriate authority consequent on the results of such assessment conducted in accordance with subsection (2)(e)(i).

(4) The provisions of Parts 6A and 7 of this Ordinance apply to the enforcement of the provisions of regulations made under this section.”.

13. Section 36 amended – Determination of applications

Section 36 is amended —

(a) in subsection (1), by omitting “37 to 39” and replacing it with “37 and 38”;

(b) by repealing subsection (4) and replacing it with the following subsection —

“(4) The Planning Officer must ensure that notice of the decision on an application for planning permission is given to every person who made representations in relation to it under either section 31(1) or 31A.”; and

(c) by inserting immediately after subsection (4) the following —

“(5) Subsection (4) applies whether the decision was made by the Governor, the Committee or the Planning Officer.”.

14. Section 39 amended – Applications for planning permission in respect of minerals

Section 39 is amended by repealing subsection (1) and replacing it with the following —

“(1) Subject to subsection (3), neither the Committee nor the Planning Officer has power to either grant or refuse an application for planning permission for exploration for or winning and working of minerals, and must —

(a) in the case of the Committee, refer to the Governor for determination the application along with its written recommendation and reasons for either grant or refusal; or

(b) in the case of the Planning Officer, refer the application and the Planning Officer’s written recommendation for either grant or refusal (with reasons) to the Committee, which must in turn act in accordance with paragraph (a),

but section 43 applies if the Governor grants an application by the Crown for planning permission subject to conditions.”.

15. Section 40 amended – Conditional grant of planning permission

Section 40 of the principal Ordinance is amended —

(a) in subsection (1), by —

(i) omitting the full stop at the end of paragraph (d) and replacing it with a semi-colon;

(ii) inserting immediately after subparagraph (d) the following —

“(e) requiring the successful applicant to take or (where appropriate) facilitate the taking of steps, and specifying the steps so required, to —

(i) provide or deliver infrastructure required for or as a result of the development for which permission is granted; or

(ii) avoid or mitigate the potential negative social or economic impacts of the development,

but conditions may only be imposed under paragraph (d) or (e) in accordance with regulations made under this section setting out details regarding those conditions.”; and

(b) by inserting immediately after subsection (1) the following —

“(1A) For the purposes of this section, “infrastructure” includes transport, utilities, social housing, education and public open space.

(1B) The Government may commit to making a financial contribution to any steps to be taken by a successful applicant in accordance with paragraph (d) or (e) of subsection (1).”.

16. Section 47 replaced – Appeals against planning decisions

Section 47 is repealed and replaced by the following —

“47. Appeals against planning decisions

(1) An applicant may appeal to the Governor under section 47A where —

(a) the conditions of either of subsections (2) and (3) are met; and

(b) the Crown is not the applicant..

(2) Subsection (1) applies whenever —

(a) the Committee determines an application —

(i) for planning permission;

(ii) for a consent, agreement or approval required by a condition imposed on a grant of planning permission; or

(iii) for an approval required under a development order;

(b) that permission, consent, agreement or approval is either —

(i) refused by the Committee; or

- (ii) granted by it subject to conditions; and
 - (c) the applicant is aggrieved by that decision.
- (3) Subsection (1) also applies whenever —
- (a) the Planning Officer determines an application for —
 - (i) planning permission;
 - (ii) a consent, agreement or approval required by a condition imposed on a grant of planning permission; or
 - (iii) an approval required under a development order;
 - (b) that permission, consent, agreement or approval is granted subject to conditions; and
 - (c) the applicant is aggrieved by that decision.
- (4) If an application is referred to and determined by the Governor instead of being determined by the Committee, no appeal lies against the decision of the Governor in relation to the application.”.

17. Insertion of new section 47A

The principal Ordinance is amended by inserting immediately after section 47 the following —

“47A. Appeals against planning decisions: procedure

- (1) An appeal to the Governor under this section can be commenced only by the appellant submitting notice of appeal to such person and in such manner as may be prescribed by regulations.
- (2) Where Executive Council is required to advise the Governor in relation to the appeal, the following will, before Executive Council advises the Governor, have the right to make written and oral representations to Executive Council or to have oral representations made to it on their behalf —
- (a) the Planning Officer;
 - (b) the applicant; and
 - (c) members of the public who had made written representations to Executive Council.
- (3) Executive Council must adopt and publish arrangements for written and oral representations to be made to it under this section.
- (4) When advising the Governor in relation to an appeal, Executive Council must take into account all of the representations made to it under this section, insofar as those representations are material in accordance with section 34.

(5) If an appeal is made under this section, the Governor —

(a) must take into account all of the representations that have been made in relation to the application and the appeal, insofar as those representations are material in accordance with section 34;

(b) may deal with the application as if it had been made to the Governor in the first instance; and

(c) may —

(i) allow the appeal in full;

(ii) dismiss it entirely; or

(iii) reverse or vary one or more parts of the decision made by the Committee, regardless of the extent to which the appeal relates to that part of the decision (or those parts of it).

(6) The Planning Officer must ensure that notice of the decision on an application for planning permission is given to every person who made representations under either or both of the following —

(a) section (2); or

(b) subsection 31(1).

(7) The decision of the Governor in relation to an appeal is final.

(8) In all other respects, planning permission granted by the Governor on appeal is to be treated for the purposes of this Ordinance as if it had been granted by the Committee.”.

18. Section 48 amended – Appeal in default of planning decision

Section 48 is repealed and replaced by the following—

“48. Appeal in default of planning decision

(1) Subject to subsections (3) and (4), the provisions of section 47 will apply in relation to an application referred to in subsection (2) as if —

(a) the permission or approval to which the application relates had been refused by the Committee or the Planning Officer (depending on which of them considered the application); and

(b) notification of the decision had been received by the applicant at the end of the period of two months, or at the end of the extended period, as the case may be.

(2) Subsection (1) applies to an application as is mentioned in section 47, where such an application is considered by —

(a) the Committee; or

(b) the Planning Officer in accordance with regulations made under section 36(2).

(3) Subsection (1) does not apply where, within two months of the submission of the application or within such extended period as the applicant and the Planning Officer may at any time agree upon in writing, the Committee or the Planning Officer (as the case may be) gives notice to the applicant either —

(a) of the decision on the application; or

(b) that the application has been referred to the Governor in accordance with the preceding provisions of this Ordinance.

(4) Where an applicant has, within the period of two months or such extended period referred to in subsection (3), been notified that the application has been referred to the Governor, the notice has the effect of extending the period for a further period of two months from the date of the notification; but the Planning Officer and the applicant may in writing agree to a longer extended period.

(5) If the Governor does not, within the extended period provided for in subsection (4), notify his decision on the application —

(a) the application shall be deemed to have been refused by the Committee or the Planning Officer (depending on which of them considered the application), notwithstanding any lack of power on the part of either to refuse the application; and

(b) subsection (1) shall then apply with all necessary modifications.”.

19. Section 72 amended – Application for variation or discharge of conditions and appeals

Section 72(3) is repealed and replaced by the following —

“(3) Sections 47 and 47A apply in relation to decisions of the Committee that relate to relevant buildings.”.

20. Section 77 amended – Appeals against waste land notices

Section 77(3) is repealed and replaced by the following subsection —

“(3) The following provisions apply to appeals under this section in the same way (apart from necessary modifications) as they do to appeals under section 85 —

(a) section 85(3) to (5);

(b) section 86; and

(c) section 87.”.

21. Section 88 amended – Grant or modification of planning permission on appeals against enforcement notices

Section 88(10) is amended by replacing “Fishing right” with “For”.

22. Section 94 amended – Appeal against relevant buildings enforcement notice

Section 94 is amended by omitting —

(a) in subsection (4), by omitting —

(i) “81” and replacing it with “85”; and

(ii) “subsection (5) of that section” and replacing it with “section 86(1)”; and

(b) in subsection (5)(b), by omitting “81” and replacing it with “85”.

23. Section 104 amended – Validity of development plans and certain orders, decisions and directions

Section 104 is amended —

(a) by omitting subsection (4)(e) and replacing it with the following —

“(e) a decision whether or not a certificate of lawfulness should be issued under section 91M or 91N”; and

(b) in subsection (5), by —

(i) omitting from paragraph (b) the punctuation mark and word “; and” and replacing them with a full stop; and

(ii) omitting paragraph (c).

24. Section 109 repealed – Appeals to Supreme Court against decision under s. 61

Section 109 is repealed.

25. Section 111 repealed – Oral representations

Section 111 is repealed.

26. Section 122 replaced – Signification of notices, permissions and consents, etc.

Section 122 is repealed and replaced by the following —

“122. Presumption of validity for documents issued under Ordinance

(1) A document issued, made or given by the Planning Officer will be presumed to be valid if either —

(a) it is signed by the Planning Officer; or

(b) both of the following requirements are satisfied —

(i) it is signed by someone acting on behalf of the Planning Officer;

- (ii) it states that it has been signed by authority of the Planning Officer.
- (2) A document issued, made or given by the Committee will be presumed to be valid if both of the following requirements are satisfied —
 - (a) it is signed by —
 - (i) the Planning Officer; or
 - (ii) the Secretary to the Committee; and
 - (b) it states that it has been signed by authority of the Committee.
- (3) A document issued, made or given by the Governor will be presumed to be validly issued, made or given if either —
 - (a) it is signed by the Governor; or
 - (b) both of the following requirements are satisfied —
 - (i) it is signed by the Chief Executive, the Attorney General or the Clerk of Assembly; and
 - (ii) it states that it has been signed at the direction of the Governor.
- (4) This section applies to every document issued, made or given under this Ordinance or any subsidiary legislation made under it.
- (5) For the purposes of this section, “document” includes a permission, consent, notice, authorisation, order, determination or certificate.”.

27. Schedule A1 repealed

Schedule A1 is repealed.

PART 3 AMENDMENTS TO GENERAL DEVELOPMENT ORDER

28. Purpose of this Part

This Part amends the General Development Order.

29. Paragraph 6 amended – Outline planning applications

Paragraph 6(2) is repealed and replaced by the following —

“(2) Where an application for planning permission has been properly made, the Planning Officer, the Committee or the Governor (whichever of them has, in the circumstances, power to do so) may grant outline planning permission, which is planning permission that is subject to one or more conditions specifying matters reserved for subsequent approval (“reserved matters”).”.

30. Paragraph 8 amended – Application made under planning condition

Paragraph 8 is amended by—

- (a) renumbering the existing text as subparagraph (1); and
- (b) inserting immediately after subparagraph (1) as renumbered, the following —

“(2) Subparagraph (1) does not apply if the Planning Officer has already —

(a) given consent, agreement or approval in accordance with regulations made under section 36; and

(b) notified the applicant accordingly.”.

31. Paragraph 9 replaced – Written notice of decision or determination relating to a planning permission

Paragraph 9 is repealed and replaced by the following —

“9. Written notice of decision or determination relating to a planning permission

When the Committee gives notice of a decision or determination on an application for planning permission or for approval of reserved matters, and permission or approval is granted subject to conditions or the application is refused, the notice must —

- (a) state clearly, precisely and in full the Committee’s reasons for the refusal or for any condition imposed;
- (b) where the Governor has given a direction restricting the grant of permission for the development for which the application is made, give details of the direction;
- (c) include a statement to the effect that, if the applicant is aggrieved by the decision, the applicant may appeal to the Governor under section 47 of the Ordinance within 28 days of receipt of the notice or such longer period as the Governor may allow.”.

32. Paragraph 14 amended – Established use certificates

Paragraph 14 is amended by omitting the words “established use certificate” from each place where they appear (including the heading) and replacing them in each case with the words “certificate of lawfulness”; and making, where appropriate, the necessary grammatical amendment to the preceding indefinite article.

33. Schedule 2 amended

Schedule 2 is amended in respect of Class G(4) by replacing “Cable & Wireless Plc or their authorized contractor” with “a telecommunication utility licensed under section 3(2) of the Telecommunications Ordinance (Title 70.1) (or a contractor authorised by a telecommunications utility)”.

34. Schedule 3 repealed

Schedule 3 is repealed.

PART 4
AMENDMENTS TO THE PLANNING (GENERAL) REGULATIONS

35. Purpose of this Part

This Part amends the Planning (General) Regulations.

36. Regulation 2 amended

Regulation 2 is amended —

- (a) by omitting the definition of “Building By-laws”; and
- (b) in the definition of “combined application”, by omitting the words “Building-By-laws” and replacing them with “Building Regulations (S.R. & O. No. 26 of 1999);”.

37. Regulation 4 amended

Regulation 4 is amended by omitting “Building By-laws” from each place where it appears and replacing it in each case with “Building Regulations”.

EXPLANATORY NOTE

(not part of the Bill)

This Bill would make a number of amendments to planning legislation.

The purposes of the proposed amendments are as follows:

- to make improved provision for delegation of certain decisions from the Planning and Building Committee to the Planning Officer;
- to provide for applicants and members of the public to have speaking rights in relation to applications and appeals;
- to update the powers of the Governor (who would normally have to act on the advice of Executive Council) to make regulations about the assessment of environmental effects;
- to include an enabling power allowing for the possibility of regulations to be made requiring developer contributions to be made;
- to provide for applications for planning permission in respect of minerals to be dealt with in the first instance by the Planning and Building Committee;
- to update (and “future proof”) a reference to Cable & Wireless Plc in the General Development Order so that it refers to a telecommunications utility generally rather than by name;
- to make consequential amendments that were overlooked when planning legislation was amended in the past (but which have now been identified); and

- to correct other minor errors that have now been identified.

The Bill is divided into 4 parts:

- Part 1 contains introductory provisions.
- Part 2 would amend the Planning Ordinance (Title 55.3).
- Part 3 would amend the General Development Order (Title 55.3.1).
- Part 4 would amend the Planning (General) Regulations (Title 55.3.3).

Part 2 would amend the Planning Ordinance.

Clause 3 would make two amendments to section 2, which defines key terms used elsewhere in the Planning Ordinance:

- The new definition of “Planning Officer” is needed in connection with proposal to empower the Planning Officer to determine planning applications either instead of or prior to the Planning and Building Committee, and to allow anyone acting for the Planning Officer to exercise this power.
- The definition of “minerals” has been omitted and replaced by a definition of “mineral” found in the Constitution, supplemented by the substance of the aforementioned omitted definition. The existing definition of “minerals” in the Planning Ordinance is being replaced out of an abundance of caution so as to make it absolutely certain that the mechanisms provided for in the Planning Ordinance may be used to regulate hydrocarbon planning issues while simultaneously ensuring that none of the meaning captured in the omitted definition is lost.
- The definition of “established use certificate” should be removed as a consequential amendment to changes that were made to the Planning Ordinance in 2005 – the provisions for issuing established use certificates was replaced by new provisions (in sections 91M and 91N) for issuing certificates of lawfulness.

Clause 4 would insert a new section, i.e. section 3A, into the Ordinance. This section aims to clarify the various meanings of “determine” in the Ordinance, depending on who and the circumstances it is used in relation to.

Clause 5 would amend section 4. On account of the proposal to authorise the Planning Officer to determine planning applications in some cases independent of the Planning and Building Committee, this amendment is needed to qualify the designation of the Planning and Building Committee as the sole authority responsible for the administration of the Ordinance.

Clause 6 would amend section 5. Members of the Committee who have interests in applications (either as the applicant or in some other way) would still be prevented from taking part in the decision-making process. However, the amendment would allow them to exercise public speaking rights in the same way as other applicants or members of the public.

Clause 7 would amend section 9 to allow members of the public to attend meetings of the Planning and Building Committee for the purpose of exercising public speaking rights.

Clause 8 would replace the existing version of section 10 with a new version:

- The new section 10, like the existing version, creates the post of Planning Officer.
- However, the new version expressly provides that appointments to the post of Planning Officer are, consistent with section 84(1) of the Constitution, to be made by the Chief Executive in exercise of power conferred by that same section of the Constitution on the Governor, rather than being made by the Governor directly.
- The new section 10 also proposes to set out, for ease of reference, a list of the functions that attach to the post of Planning Officer under the Ordinance.

Clause 9 would amend section 11 to make provision for the Secretary of the Committee to, by way of subsidiary legislation, be mandated to perform additional functions.

Clause 10 would replace the existing version of section 30 with a new version:

- Section 30 needed to be amended to allow the Planning Officer to determine applications for planning permission in certain circumstances.
- Also, the current requirement for applications to be posted on the public notice board would be replaced with a requirement for “adequate publicity” and it is recognised that some things are done on behalf of the Planning Officer rather than by the Planning Officer personally.
- Finally, the new version of section 30 is also intended to be more up to date and easier to read.

Clause 11 would repeal the existing version of section 31 and replace it with a new version as well as with a two new sections, i.e. sections 31A and 31B.

- Currently, under section 31, representations can be made in writing and have to be taken into account when decisions are made. The new section 31 would make similar provision, but would also provide for such written representations to be transmitted, as appropriate to the manner in which the application is to be determined, to the Committee or to both the Committee and the Governor; in either case, when the planning application will not be determined by the Planning Officer.
- The new section 31A provides for oral representations to be made in addition to written representations. These provisions are expressly said to be inapplicable to any application that will be determined by the Planning Officer. It also provides for the oral representations to be made either personally by, or by a representative of, the person who made the written representations.

- The new section 31B mandates the person determining the application to take into account all representations made, provided that these representations raise material considerations within the meaning of section 34.

Clause 12 would replace the existing version of section 33 with a new version:

- Section 33 gives the Governor (who would normally have to act on the advice of Executive Council) power to make regulations about environmental impact assessment (EIA) for planning applications.
- The current version of section 33 refers to an out of date version of the EU Directive on EIA and provides that the power can be used to implement that Directive.
- The new version would remove any reference to the EU legislation on EIA and would give complete freedom in how EIA is taken forward in the Falkland Islands. (*Clause 26* would repeal Schedule A1, which currently sets out the out of date version of the EU Directive referred to in the current version of section 33.)

Clause 13 would amend section 36 so as to mandate that notices of decisions made on applications for planning permission be given to everyone who made representations in respect of that application. It proposes to specifically provide that this obligation exists regardless of who determines the application.

Clause 14 would amend section 39 to expressly provide that applications for planning permission for exploration for or winning and working of minerals cannot be granted or refused by either the Planning Officer or the Committee, but must instead be referred to the Governor for determination.

Clause 15 would amend section 40 to make it possible, subject to regulations that may be made in this regard, for a condition to be imposed on the grant of planning permission requiring the developer to commit to taking steps (financial or otherwise) to mitigate the likely negative impacts of the proposed development. Provision is also made for the Government, in its discretion, to make a financial contribution to the developer's effort to take the necessary steps. This provision approaches the issue of 'developer contributions' from another angle; one that removes the possibility of the impression being created that the developer is being required, under the guise of making a 'developer contribution', to essentially purchase planning permission.

Clauses 16 and 17 would replace the existing version of section 47 (which deals with appeals to the Governor against decisions of the Planning and Building Committee) with a new version of section 47 and a new section, i.e. section 47A (to be inserted after section 47):

- The new version of section 47 would deal with the right of applicants to appeal to the Governor and new section 47A would deal with the procedure.
- Under the new section 47A, applicants and members of the public will have the right to make written and oral representations to Executive Council before it advises the Governor on how to deal with the appeal. However, members of the public will only have the right to make

oral representations if they have made written representations first. Executive Council will have to make and publish arrangements about how oral representations are to be made.

- The new section 47A would also impose duties on Executive Council and the Governor to take the written and oral representations into account. However, it would make it clear that decisions can still only be based on material considerations.

Clause 18 would amend section 48 to make it clearer and easier to follow.

Clause 19 would amend section 72 to update the cross-reference in that section to the appeal process in the new version of section 47 and new section 47A – that process also applies to planning applications involving relevant buildings (ones that have been designated as having historical and/or architectural significance).

Clause 20 would correct cross-referencing errors in section 77. The appeals process in section 47 does not apply to appeals against waste land notices – instead, a separate appeals process for enforcement action applies. It is not proposed to change this but the opportunity is being taken to correct section 77.

Clause 21 would correct a minor error in section 88.

Clause 22 would correct cross-referencing errors in section 94. The appeals process in section 47 does not apply to appeals against a relevant building enforcement notice – instead, a separate appeals process for enforcement action applies. It is not proposed to change this but the opportunity is being taken to correct section 94.

Clause 23 would amend section 104 to make a consequential amendment that was overlooked in 2005 but has now been identified: a provision about established use certificates should have been replaced with a provision about certificates of lawfulness.

Clause 24 would repeal section 109. This was a consequential repeal that was overlooked in 2005 but has now been identified: section 61, to which section 109 relates, was repealed in 2005. This made section 109 obsolete and therefore that section too ought to have been expressly repealed at that time. Despite the obviously implied repeal of section 109, the opportunity is now being taken to remove section 109 from the Ordinance once and for all.

Clause 25 would repeal section 111, which currently prohibits oral representations from being made to the Planning and Building Committee and Executive Council.

Clause 26 would replace the existing version of section 122 with a new version. The new version of section 122 not only reflects the proposal to empower the Planning Officer to determine planning applications in certain circumstances, but it is also intended to clarify the provision and make it easier to follow.

Clause 27 would repeal Schedule A1, which sets out an out of date version of the EU Directive on environmental impact assessment and is no longer needed. (See *clause 12*.)

Part 3 would amend the General Development Order (which is divided into paragraphs and sub-paragraphs, rather than articles and paragraphs).

Clauses 29 to 30 would amend paragraphs 6 to 8 to reflect the proposal to empower the Planning Officer to determine planning applications in certain circumstances.

Clause 31 would replace the existing version of paragraph 9:

- The new version would reflect the proposal to empower the Planning Officer to determine applications for planning permission in certain circumstances
- It would also replace the existing requirement for a notice about the right of appeal to be given to applicants in a specific form with a more general requirement for them to be provided with information about the right of appeal. The existing form is set out in Schedule 3 and it would be superseded by the introduction of a right to make oral representations to Executive Council – Schedule 3 would be revoked by *clause 34*.

Clause 32 would amend paragraph 14 to replace the references to “established use certificate” with references to “certificate of lawfulness”:

- This would facilitate the retention of procedural provisions applicable to the existing regime for “established use certificates” and make them available to support the issuing of “certificates of lawfulness” until a modified procedure (if considered appropriate) is designed and prescribed.
- In this regard it should be noted that section 91O(1) of the Ordinance provides that “[a]n application for a certificate under section 91M or 91N [essentially, a certificate of lawfulness] shall be made in such manner as may be prescribed by a development order ...”; (emphasis added)
- Despite this provision, it does not appear that such provisions have yet been made, whether by means of the General Development Order or any other development order. Accordingly, were paragraph 14 to be repealed without more, the issuing of “certificates of lawfulness” would be devoid of necessary procedural provisions.

Clause 33 would amend Schedule 2, which deals with permitted development rights. In Part 1, Class G(4) deals with permitted development rights for various telecommunications works. However, these rights are currently given to Cable & Wireless Plc and its contractors and telecommunications services in the Falkland Islands are now provided by Sure South Atlantic Ltd. To deal with this (and in order to “future proof” against further possible changes), the rights would no longer be restricted to a named company.

Clause 34 would revoke Schedule 3 (see note on *clause 31*).

Part 4 would amend the Planning (General) Regulations.

Clauses 36 and 37 would make consequential amendments to regulations 2 and 4 that were overlooked in 1999 but have now been identified: references to the former Building By-laws are replaced with references to the Building Regulations (SR&O No 26 of 1999).

Falkland Islands Tourist Board Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

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SCHEDULES

FALKLAND ISLANDS TOURIST BOARD BILL 2014

(No: of 2014)

(assented to: 2014)
(commencement: in accordance with section 2)
(published: 2014)

A BILL

for

AN ORDINANCE

To dissolve and establish the Falkland Islands Tourist Board (a company limited by guarantee) as a new body corporate; to provide for its objects and functions, management, operations and to transfer to it the assets and liabilities of the existing company and to provide for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands

PART 1 INTRODUCTION

1. Title

This Ordinance is the Falkland Islands Tourist Board Ordinance 2014.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this Ordinance —

“Company” means the Falkland Islands Tourist Board, a company incorporated in the Falkland Islands under the provisions of the Companies and Private Partnerships Ordinance and registered in the Companies Registry under registered number 12617;

“FITB” means the Falkland Islands Tourist Board, a body corporate established under section 4(1);

“Falkland Island Tourism Strategy” means the document approved by Executive Council for the time being

“Financial Controller” means the person appointed as Financial Controller under section 14;

“Governing Board” means the FITB governing board created under section 7;

“Chief Executive” means the person appointed as Chief Executive Officer of FITB under section 11;

“operative date” means the date fixed by the Governor under section 4(4); and

“Secretary” means the person appointed as Secretary under section 13.

PART 2

ESTABLISHMENT AND FUNCTIONS OF FITB

4. Transition of existing company to new body corporate

(1) The Company will, on the operative date be dissolved and established under this Ordinance as a new body corporate.

(2) FITB will, subject to the provisions of this Ordinance, do or perform all such acts or things as corporate bodies may, by law, do or perform and will have a common seal and be capable of suing and being sued in its own name.

(3) All rights, obligations, assets and liabilities which have accrued to the Company will, upon the operative date, pass and accrue to FITB and will be dealt with in terms of this Ordinance.

(4) The Governor may by Order published in the *Gazette*, fix a date to be the operative date for purposes of this section.

5. Functions and objects of Falkland Islands Tourist Board

(1) The objective of FITB is to facilitate and create a profitable and sustainable tourism industry.

(2) To achieve the objective referred to under subsection (1), FITB will carry out the following functions —

(a) coordinate, in consultation with all interested parties, the Falkland Islands Tourism Strategy;

(b) develop and implement appropriate programmes for achieving the Falkland Islands Tourism Strategy, and improve tourism within the Falkland Islands generally;

(c) carry out, at appropriate intervals and in consultation with all relevant parties, a review of the Falkland Islands Tourism Strategy;

(d) advise on all matters relating to tourism, including planning and formulating strategies for the promotion and marketing of the tourism industry;

(e) provide tourist information;

(f) commission and undertake activities that will improve tourism operations and public amenities for tourists; and

(g) promote all interests related to tourism and promote new investments in the tourism sector.

(3) FITB may also carry out the following functions —

- (a) make provision for the sale of merchandise promoting Falkland Islands tourism;
- (b) design, manage and implement appropriate marketing campaigns to promote Falkland Islands tourism; and
- (c) create partnerships and manage relationships with both national and international stakeholders relevant to the tourist industry.

6. Further provisions about FITB

(1) Further provisions relating to FITB are set out in Schedule 1.

(2) The Governor may amend Schedule 1 to include further provisions relating to the Chief Executive and FITB staff.

PART 3 FITB GOVERNING BOARD

7. Governing Board

FITB will have its overall management and affairs carried out by a Governing Board.

8. Membership of Governing Board

The Governing Board will comprise of the following —

- (a) a Chairperson who has experience and knowledge of the tourism industry, appointed by the Governor;
- (b) a Vice Chairperson who has experience and knowledge of the tourism industry, appointed by the Governor;
- (c) the Falkland Islands Government's Head of Policy;
- (d) one Member of the Legislative Assembly under whose portfolio tourism falls;
- (e) the Chief Executive of FITB (as a non-voting member); and
- (f) up to four members co-opted by the Governing Board representing a wide range of sectors within the tourism industry.

9. Powers and functions of Governing Board

The Governing Board in its overall management of FITB will determine policies for giving effect to the objectives of FITB and in particular —

- (a) advise on any changes or reviews to the Falkland Islands Tourism Strategy;
- (b) set performance targets and design programmes for FITB aimed at facilitating the continued growth and development of the tourism industry in the Falkland Islands;

- (c) review and agree on an annual basis, the budget and business plans for FITB;
- (d) adopt and keep under review documents on human resources and financial controls for FITB;
- (e) be responsible for financial oversight and monitoring of FITB activities generally; and
- (f) ensure that FITB exercises its powers in ways that are economical, efficient and effective.

10. Further provisions about Governing Board

Further provisions relating to the Governing Board, its members, and its procedures and meetings are set out in Schedule 2.

PART 4 CHIEF EXECUTIVE AND OTHER STAFF OF FITB

11. FITB Chief Executive

- (1) The Governing Board must appoint a person to be the Chief Executive of FITB, for such a period as may be specified in the instrument of appointment.
- (2) The person appointed as a Chief Executive under this section must have such experience and training as the Governing Board may determine.
- (3) The Governing Board must ensure that there is a fair, objective and transparent process for the appointment of the Chief Executive.
- (4) The Chief Executive is, subject to such directions on matters of policy as may be given by the Governing Board, responsible for the day to day management of the affairs of FITB.
- (5) The Chief Executive is accountable to the Governing Board.

12. Other staff of FITB

- (1) The Governing Board must appoint the senior staff of FITB and the Chief Executive must appoint such other staff as may be necessary for the proper discharge of the functions of FITB.
- (2) The senior staff of FITB means any employee of FITB who holds a position which is designated as such by the Governing Board.
- (3) The Governing Board must record and keep up to date, the terms and conditions of employment of staff of FITB.

13. Secretary

- (1) The Governing Board must appoint a person to be the Secretary of FITB, for such a period as may be specified in the person's instrument of appointment.
- (2) In addition to other duties and functions set out in this Ordinance the Secretary is responsible for the accurate and complete recording of the Governing Board's proceedings and decisions.
- (3) The Secretary is accountable to the Governing Board and to the Chief Executive.

14. Financial Controller

(1) The Governing Board must appoint a person to be the Financial Controller of FITB, for such period and on such terms as may be specified in the instrument of appointment.

(2) In addition to other duties and functions set out in this Ordinance the Financial Controller is responsible for —

- (a) ensuring good management of FITB finances; and
- (b) keeping proper financial records.

PART 5 FINANCIAL PROVISIONS

15. Annual budget and business plan

FITB must develop an annual budget and business plan with clear objectives and set performance targets aimed at ensuring delivery of the programmes referred to in section 5.

16. FITB finances

FITB will derive its income from —

- (a) subventions as may be appropriated by the Legislative Assembly for the purposes of FITB;
- (b) any income that FITB may receive from investments; and
- (c) any other income.

17. Subvention requests

(1) The Financial Secretary may invite FITB in advance of a financial year to submit a request for funds that FITB requires the Falkland Islands Government to provide so that FITB can carry out its activities for that financial year.

(2) The Financial Secretary may issue guidelines about subvention requests and the procedure for submissions of subvention requests.

(3) FITB must submit its request for funds to the Financial Secretary in accordance with guidelines issued by the Financial Secretary.

18. Accounts

(1) The Financial Controller must keep and maintain proper accounts and records of accounts in respect of every financial year relating to its assets, liabilities, income and expenditure, and must prepare, in each financial year, a statement of the accounts.

(2) The Governing Board must ensure that the Financial Controller keeps proper financial records and may prepare guidelines to assist in the keeping of financial records.

19. Audit

(1) The Governing Board must ensure that arrangements are in place for FITB's financial records and statements to be audited in respect of each financial year.

(2) To give effect to the audit requirements of section 80 of the Constitution the accounts of FITB in respect of each financial year must, within six months of the end of the financial year, be audited by a suitably qualified and experienced auditor.

(3) The auditor appointed under subsection (2) must report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment on.

20. Annual report and financial statements

(1) The Governing Board must cause to be prepared an annual report and financial statements with the following information —

- (a) the financial statements of FITB audited in terms of section 19 of this Ordinance;
- (b) FITB's activities during the financial year;
- (c) the management and overall performance of FITB during the financial year;
- (d) the corporate governance and assurance mechanisms of FITB during the year; and
- (e) any other information that may be relevant.

(2) The Secretary must —

- (a) send copies of the annual report and financial statements to the Governor and to the Clerk of the Legislative Assembly; and
- (b) arrange for copies to be made available to the public.

(3) The Chief Executive must submit copies of the annual report and financial statement to be tabled in the Legislative Assembly in accordance with section 57 of the Finance and Audit Ordinance (Title 19.3).

PART 6 GENERAL PROVISIONS

21. Exclusion of personal liability

A member of the Governing Board, an employee of FITB and any authorised person acting on behalf of FITB is exempt from personal liability for anything the member or employee does under the provisions of this Ordinance provided it is done in good faith and without negligence.

22. Confidentiality

A member of the Governing Board and any employee of FITB must observe and preserve the confidentiality of all confidential matters relating to FITB.

23. Regulations

The Governor may make regulations that are necessary or convenient for the purposes of this Ordinance.

24. Amendment of Schedules

The Governor may by order published in the *Gazette* amend the Schedules to this Ordinance.

25. Transitional and savings provisions

(1) As from the operative date every agreement, whether in writing or not, and every deed, bond or other instrument to which the Company was a party to or which affected the Company, and whether or not of such a nature that the rights, liabilities and obligations under it could be assigned, will have effect as if FITB was a party to or affected by it instead of the Company.

(2) As from the operative date all employees of the Company will become the corresponding employees of FITB and will continue in office for the period for which, and be subject to the terms and conditions under which, they were appointed, as employees of the Company.

(3) For purposes of the Employment Protection Ordinance (Title 32.3) the employees of the Company who become corresponding employees of FITB are to be treated as being in continuous employment.

(4) All contracts made by the Company in so far as they remain unperformed or any money which is or may become due and payable or may become receivable have effect in favour of and against FITB on and after the operative date as if FITB had been a party to those contracts instead of the Company.

SCHEDULE 1 FITB, Staff, ETC.

1. FITB Seal

(1) FITB must have a seal the nature of which is to be determined by the Governing Board.

(2) The Secretary must keep the seal.

(3) The Chief Executive and the Chairperson (or Vice Chairperson or any other person authorised in that behalf by a resolution of the Governing Board) must authenticate the affixing of the seal.

2. FITB Staff

(1) The Governing Board must ensure good corporate governance of FITB.

(2) The Governing Board must prepare guidelines or manuals for staff including human resources, financial provisions, job descriptions and other matters relevant to the efficient operations of FITB.

SCHEDULE 2

FITB Governing Board

1. Tenure of office of members

- (1) A member of the Governing Board will hold office for such period as may be specified in the member's instrument of appointment.
- (2) The Governor must ensure that the periods for which members are appointed to the Governing Board are staggered in such a way that a quorum can be achieved at all times.

2. Suspension and removal of members

- (1) The Governor may, in writing, remove a member from the Governing Board.
- (2) A member may only be removed after a fair process appropriate to the circumstances.
- (3) The Governor may suspend a member while the process referred to under sub-paragraph (2) is underway.
- (4) A person co-opted to the Governing Board may only be removed from the Board by a decision of the other members of the Governing Board.

3. Resignations

A member (including co-opted members) may resign from office by giving 30 days notice in writing to the Governor.

4. Alternate co-opted members

- (1) The Governing Board must appoint a person as an alternate to a co-opted member.
- (2) A person appointed as an alternate to a co-opted member under sub-paragraph (1) must represent a sector of the tourism industry.

5. Meeting of Board

- (1) Subject to the provisions of this Ordinance, the Board will regulate its own proceedings.
- (2) The Board must meet at least four times annually.
- (3) The quorum at any meeting of the Governing Board is a simple majority.
- (4) The Chairperson must preside at any meeting of the Governing Board and in the absence of the Chairperson, the Vice-Chairperson.
- (5) The Chief Executive has no right to vote on any matter that is put to the vote at a meeting of the Governing Board.
- (6) A decision of the Governing Board on any question must be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding has a casting vote in addition to that person's deliberative vote.

(7) The validity of anything done by the Governing Board will not be affected even if there are one or more vacancies on it.

6. Attendance of Board meetings

(1) The Financial Controller has the right to attend and speak at the meetings of the Governing Board but not to vote.

(2) The Governing Board may invite other persons to attend any of its meetings but these persons are not entitled to vote.

7. Remuneration of members

Members of the Governing Board may be —

- (a) remunerated for their services to FITB; and
- (b) reimbursed for expenses they incur in the course of their duties.

8. Code of Conduct

(1) The Governing Board is under a duty to adopt (and keep under review) a Code of Conduct for its members.

(2) The Code of Conduct must include provisions dealing with —

- (a) declarations of interests by members of the Governing Board; and
- (b) conflicts of interest and how they are to be dealt with.

OBJECTS AND REASONS

This Bill provides for the transition of the Falkland Islands Tourist Board (a company limited by guarantee) to a statutory corporation.

Part 1 deals with introductory matters.

Clause 2 provides for the Ordinance to come into force on a date to be appointed by the Governor by notice in the *Gazette*.

Clause 3 provides for definitions;

Part 3 deals with the dissolution of the Falkland Islands Tourist Board as a company incorporated under the Companies Act and the establishment of FITB as a body corporate and provides for its objectives and functions as well as other matters related to FITB and its staff contained in Schedule 1

Clause 4 provides that on the operative date (as will be set by the Governor by Order in the *Gazette*) the FITB (as a company) will be dissolved and be established as a body corporate maintaining the same name for practical purposes;

Clause 5 provides for the objectives and functions which FITB will discharge, mostly not different from what the current company is doing (as detailed in the Articles of Association) but expanded to take into account its new legal status;

Clause 6 provides for a Schedule which contains further provisions about FITB and its staff. It further allows for the Governor to be able to amend the Schedule to add to it any provisions as may be required relating to FITB and its staff. The current Schedule 1 provides in paragraph 1 for the FITB seal, specifies who may affix it and in paragraph 2 provides for the making of administrative controls (guidelines, manuals, etc.) for the governance of FITB staff;

Part 3 deals with the FITB Governing Board, its membership, functions as well as other matters related to the Governing Board set out in Schedule 2.

Clause 7 provides for the overall management and affairs of FITB to be exercised by a Governing Board;

Clause 8 provides for the membership of the Governing Board while *clause 9* provides for its powers and functions;

Clause 10 provides for a Schedule which contains further provisions about the Governing Board including tenure of members, their remuneration, suspension and removal, resignations, appointment of alternate co-opted members, meetings and attendance of meetings and provides for a Code of Conduct which the Governing Board must adopt and keep under review;

Part 4 deals with the Chief Executive and other FITB staff members.

Clause 11 provides for the appointment of the Chief Executive Officer who is responsible for the day to day management of FITB, the Chief Executive is appointed by the Governing Board and is accountable to the Governing Board;

Clause 12 provides for the appointment of senior staff of FITB by the Governing Board while other staff will be appointed by the Chief Executive. The Governing Board is required to set out (and keep updated) terms and conditions of employment of FITB staff;

Clause 13 provides for the appointment, duties and functions of a Secretary while *clause 14* provides for the appointment, duties and functions of a Financial Controller;

Part 5 deals with FITB finances and other provisions relating to financial matters.

Clause 15 provides for the requirement for FITB to have an annual budget and business plan in place;

Clause 16 provides for FITB finances and *clause 17* provides for the process by which funding from FIG is to be sought and further provides for the Financial Secretary to issue guidelines on how requests for funds are to be made;

Clause 18 provides for the keeping of accounts and the requirement for the Financial Controller to prepare financial statements. It further provides for the Governing Board to prepare guidelines to assist the Financial Controller in keeping financial records;

Clause 19 provides for the Governing Board to ensure that arrangements are in place for the auditing of FITB. The arrangements must comply with the requirements of section 80 of the Constitution;

Clause 20 provides for the preparation of an annual report and financial statements to be tabled before the Legislative Assembly in compliance with the Finance and Audit Ordinance;

Part 6 covers general provisions and *clause 21* provides for exclusion from personal liability, *clause 22* provides for confidentiality while *clause 23* provides for the Governor to make regulations as may be required; and

Clause 24 provides for the Governor to be able to amend the Schedules by order and *clause 25* provides for transitional and savings provisions dealing with agreements and contracts entered into by the Company to continue to be valid as if they were entered into by FITB (body corporate) and also provides for the employees of the Company to continue in office under FITB and to be deemed to be in continuous employment for purposes of the Employment Protection Ordinance.

Immigration (Amendment) Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Immigration Ordinance
4. New section 18BB inserted - Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution
5. Amendment of section 18 – Permanent residence permits
6. Amendment of section 23 – Revocation of permanent residence permits granted under section 18 and section 18BB

IMMIGRATION (AMENDMENT) BILL 2014

(No: of 2014)

(assented to: 2014)
(commencement in accordance with section 2)
(published: 2014)

A BILL

for

AN ORDINANCE

To amend the Immigration Ordinance to allow certain persons to be granted permanent residence permits when they lose their Falkland Island status due to a change in their marital status.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Immigration (Amendment) Ordinance 2014.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

3. Amendment of Immigration Ordinance

This Ordinance amends the Immigration Ordinance.

4. New section 18BB inserted — Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution

The Immigration Ordinance is amended by inserting the following new section after section 18AA —

“18BB. Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution

(1) The Principal Immigration Officer will grant, on application, a permanent residence permit to a person who has previously held a permanent residence permit and who falls under section 22(5)(a)(ii) of the Constitution who —

(a) in the case of a spouse, ceases to live with the wife or the husband under a decree of a competent court or a deed of separation; or

(b) in the case of a widow or widower, remarries; and

(c) is, on the date of the application, ordinarily resident in the Falkland Islands.

(2) A permanent residence permit will be granted for the purposes of subsection (1) by the Principal Immigration Officer on determining that the person had previously held a permanent residence permit and falls under section 22(5)(a)(ii) of the Constitution.

(3) A permanent residence permit issued under this section is deemed to have effect from the date the person —

(a) ceases to live with the wife or the husband under a decree of a competent court or a deed of separation; or

(b) as a widow or widower, remarries.

(4) A permanent residence permit issued under this section has effect until it is revoked in accordance with section 23."

5. Amendment of section 18 — Permanent residence permits

Section 18(4) is amended by inserting "or section 18BB" after section 18AA.

6. Amendment of section 23 — Revocation of permanent residence permits granted under section 18 and section 18BB

The heading to section 23 is amended by inserting "and section 18BB" after "section 18".

OBJECTS AND REASONS

This Bill amends the Immigration Ordinance to allow persons who fall under section 22(5)(a)(ii) of the Constitution who lost their permanent residence permits when they acquired Falkland Island status by marriage to (re)apply for permanent residence permits (*in their own right*) when they lose that Falkland Islands status as a consequence of a change in their marital status.

Clause 2 provides that the Bill will come into force on publication;

Clause 4 inserts a new section 18BB into the Immigration Ordinance to provide that a person who has previously held a permanent residence permit which was revoked when they acquired Falkland Island status through marriage to apply to the Principal Immigration Officer for a 'new' permanent residence permit when they lose their Falkland Island status as a consequence of a change in their marital status. The applicant must be ordinarily resident in the Falkland Islands at the time that they make the application.

Clause 4 goes on to provide that the 'new' permanent residence permit will be deemed to have effect from the date when the change in their marital status occurs. This is to allow continuity in their eligibility to remain in the Falkland Islands so that there is no point when they are subject to Immigration control.

Clause 5 provides that the points system used to determine applications for permanent residence permits under section 18 does not apply to application under this new section;

Clause 6 amends section 23 to include the new section 18BB in the heading so that permanent residence permits issued under section 18BB are also included within that section.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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No. 15

The following are published in this Supplement –

Children (Hosting and Private Boarding) Regulations 2014 (SR&O No 13 of 2014);

Planning (Amendment) Ordinance 2014 (No 9 of 2014);

Falkland Islands Tourist Board Ordinance 2014 (No 10 of 2014);

Immigration (Amendment) Ordinance 2014 (No 11 of 2014);

Planning (Delegated Approval of Applications and Related Matters) Regulations 2014 (SR&O No 14 of 2014); and

Road Traffic (Demining Operations) Order 2014 (SR&O No 15 of 2014).

SUBSIDIARY LEGISLATION

FAMILY LAW

Children (Hosting and Private Boarding) Regulations 2014

S. R. & O. No. 13 of 2014

Made: 6 November 2014

Published: 13 November 2014

Coming into force: on publication

I make the following regulations under section 74, 75 and 80, and paragraph 12 of Schedule 5 of the Children Ordinance (No. 7 of 2014) on the advice of Executive Council.

PART 1 INTRODUCTION

1. Title

These regulations are the Children (Hosting and Private Boarding) Regulations 2014.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Interpretation

In these regulations —

“Director” means the Director of Health and Social Services;

“host parent” means a person who hosts a child as a result of an arrangement under Part 6 of the Ordinance;

“hosting arrangement” means an arrangement to host a child as defined under section 74 of the Ordinance;

“private boarding” has the same meaning as under section 74 of the Ordinance;

“Social Welfare Department Team Leader” means the person for the time being responsible for or in charge of leading the Social Welfare team;

“the Ordinance” means the Children Ordinance.

PART 2 HOSTING

4. Notification of proposal to host a child (Schedule 5 Part 2 paragraph 12)

(1) A person who proposes to host a child must notify the Crown of the proposal —

- (a) at least six weeks before the hosting arrangement is to begin; or
- (b) where the hosting arrangement is to begin within six weeks, immediately.

(2) Any person who is involved (whether or not directly) in arranging for a child to be hosted must notify the Crown of the arrangement as soon as possible after the arrangement has been made.

(3) A parent of a child, and a person who is not a parent of the child but who has parental responsibility for the child, who is not involved (whether or not directly) in arranging for the child to be hosted but who knows that it is proposed that the child should be hosted must notify the Crown of the proposal as soon as possible after that person becomes aware of the arrangement.

(4) The notification required under sub-regulations (1) to (3) must —

- (a) contain the information specified in Schedule 1; and
- (b) be given to the Social Welfare Department.

5. Action to be taken on receipt of notification of proposal to host a child

(1) After receiving a notification under regulation 4, the Crown must, for purposes of discharging its duties under section 75 of the Ordinance (welfare of hosted children) and under paragraph 11 of Schedule 5 to the Ordinance, arrange within ten working days for a public officer to do the following —

- (a) visit the premises where it is proposed that the child will be cared for and accommodated;
- (b) visit and speak to the proposed host parent and members of the proposed host parent's household;
- (c) visit and speak to the child alone and in private, unless —
 - (i) the child, being of sufficient age and understanding, refuses,
 - (ii) the public officer considers it inappropriate to do so or the public officer is unable to do so;
- (d) speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child and if it is not practicable to do so, make contact by other means; and

(e) establish the matters listed in Schedule 2 as appear to the public officer to be relevant.

(2) The public officer must, after completing the tasks specified under sub-regulation (1), make a written report to the Social Welfare Department Team Leader.

6. Notification by person already hosting a child

(1) A person who is hosting a child and has not given notification to the Crown in accordance with regulation 4 must notify the Crown immediately.

(2) A notification given under sub-regulation (1) must contain the information specified in Schedule 1.

7. Notification of a child going to live with host parent

(1) A person who has given notification under regulation 4(1) must, within 48 hours of the start of the arrangement, notify the Crown of the arrangement.

(2) A parent of a child, and any other person who has parental responsibility for the child, who has given notification under regulation 4(2) or 4(3) must within 48 hours of the child's going to live with a host parent, notify the Crown of the arrangement.

8. Action to be taken by Crown on receipt of notification about a child being hosted

(1) Where the Crown has received a notification under regulation 6 or 7 it must, for the purposes of discharging its functions under section 75 of the Ordinance and under paragraph 11 of Schedule 5 to the Ordinance, arrange for a public officer, within ten working days, to —

(a) visit the premises where the child is being cared for and accommodated;

(b) visit and speak to the host parent and the members of the host parent's household;

(c) visit and speak to the child alone and in private, unless —

(i) the child, being of sufficient age and understanding, refuses,

(ii) the public officer considers it inappropriate to do so or the public officer is unable to do so;

(d) speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child and if it is not practicable to do so, make contact by other means; and

(e) establish the matters listed in Schedule 3 as appear to the public officer to be relevant.

(2) The public officer must, after completing the tasks specified under sub-regulation (1), make a written report to the Social Welfare Department Team Leader.

9. Subsequent visits to children who are being hosted

(1) The Crown must arrange for a public officer to visit every child who is being hosted in the area where the child resides —

- (a) in the first year of the hosting arrangement, at intervals of not more than eight weeks; and
 - (b) in any second or subsequent year, at intervals of not more than 12 weeks.
- (2) In addition to visits carried out in accordance with sub-regulation (1), the Crown must arrange for every child who is hosted to be visited by a public officer when reasonably requested to do so by the child, the host parent, a parent of the child or any other person with parental responsibility for the child.
- (3) When carrying out a visit under this regulation the public officer must —
- (a) speak to the child alone and in private, unless —
 - (i) the child, being of sufficient age and understanding, refuses,
 - (ii) the public officer considers it inappropriate to do so or the public officer is unable to do so; and
 - (b) establish matters listed in Schedule 3 as appear to the public officer to be relevant.
- (4) The public officer must make a written report to the Social Welfare Team Leader after each visit carried out in accordance with this regulation.
- (5) For the purposes of this regulation, a hosting arrangement is deemed to begin when the Crown becomes aware of it.

10. Notification of change of circumstances

- (1) A host parent must notify the Crown of the following —
- (a) any change of address;
 - (b) any further offence of which the host parent or a person who is part of or employed at the host parent's household has been convicted;
 - (c) any further disqualification imposed on the host parent or a person who is part of or employed at the host parent's household as may be specified for purposes of section 76 of the Ordinance;
 - (d) any person who becomes a part of or takes up employment at the host parent's household, and any offence of which that person has been convicted, and any disqualification or prohibition imposed on the person under section 76 or 77 of the Ordinance including the information specified under paragraph 2(d) of Schedule 1; and
 - (e) any person who ceases to be part of or to be employed at the host parent's household.
- (2) A notification under sub-regulation (1) must be given —
- (a) in advance if practicable; or

(b) in any other case, not more than 48 hours after the change of circumstances.

(3) The parent of a hosted child, or any other person who has parental responsibility for the child, who knows that the child is being hosted, must notify the Crown of any change of address of the parent or that person.

11. Notification of end of hosting arrangement

(1) Subject to sub-regulations (2) and (3), any person who has been hosting a child but has ceased to do so must notify the Crown within 48 hours and must include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

(2) Where a person has been hosting a child but has ceased to do so because of the death of the child the person must, in the notification to the Crown, indicate the death as the reason for the end of the arrangement.

(3) Sub-regulation (1) does not apply where the host parent intends to resume the hosting arrangement after an interval of not more than 27 days but if —

(a) the host parent subsequently abandons the intention to resume the arrangement; or

(b) the interval expires without the host parent having given effect to the intention,

the host parent must notify the Crown within 48 hours of abandoning the intention or, as the case may be, the expiry of the interval.

(4) Any parent of a hosted child, and any other person who has parental responsibility for the hosted child, who has given notification to the Crown under regulation 4(2) or (3) must notify the Crown of the end of the hosting arrangement and must include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

12. Form of notification

Any notification required under this Part must be given in writing and may be sent by post or electronically.

PART 3 PRIVATE BOARDING

13. Notifications under section 78

(1) A notification given under section 78 of the Ordinance to the school must —

(a) contain all the information specified under section 78(3) of the Ordinance;

(b) be in writing, signed and dated; and

(c) be sent by post or electronically.

(2) The details required under section 78(3) must include telephone numbers and electronic mail addresses as well as details of any non-resident partner of the person providing private boarding.

14. Action to be taken by school on receipt of notification for private boarding

(1) Where the school has received a notification under section 78 of the Ordinance it must, for the purposes of discharging its functions under section 79 of the Ordinance —

(a) provide the person who notified it with a form to use to communicate any future changes to the arrangement including any relevant information;

(b) keep records of all the changes made to the arrangements or any relevant information relating to a child on the private boarding list.

(2) Any notification about a change in the private boarding arrangement must be made to the school within 10 working days.

15. Monitoring by schools under section 79(2) of Ordinance

The school must —

(a) ensure that the private boarding list is brought to the attention of teachers with responsibility for the pastoral care of the children on the list;

(b) take steps to inform the child on the private boarding list of the identity of the person to contact with respect to any concerns the child may have; and

(c) take any other steps as are reasonably practicable to monitor the welfare of the children concerned.

SCHEDULE 1
(regulations 4 and 6)

Information to be provided in the notification of a hosting arrangement

1. The information referred to in regulations 4(4) and 6(2) is —

(a) the name, sex, date and place of birth, religious persuasion, racial origin and cultural and linguistic background of the child;

(b) the name and current address of the person giving the notice and the person's addresses within the previous five years;

(c) the name and current address of the proposed or current host parent and the host parent's addresses within the previous five years;

(d) the name and current address of the parents of the child and of any other person who has parental responsibility for the child and (if different) of any person from whom the child is to be, or was, received;

(e) the name and current address of the other siblings of the child who are under 16 years old, and details of the arrangements for their care;

(f) the name and current address of any person, other than a person specified in paragraph (d), who is or was involved (whether or not directly) in arranging for the child to be hosted;

(g) the date on which it is intended that the hosting arrangement will start, or on which it did start; and

(h) the intended duration of the hosting arrangement.

2. In the case of a person giving notice under regulation 4(1) or 6(1) the information referred to in regulations 4(4) and 6(2) also includes —

(a) any offence of which the person has been convicted;

(b) any disqualification imposed on the person as may be specified under section 76 of the Ordinance or any prohibition imposed on the person under section 77 of the Ordinance;

(c) any conviction, disqualification or prohibition imposed on any other person living in or employed at the same household whether permanently or temporarily, including any non-resident partner of the host parent;

(d) the following information with respect to a person living in or employed at the same household with the host parent —

(i) the person's involvement in any court proceedings involving a child in that person's care whether in the Falkland Islands or elsewhere;

(ii) any order which placed restrictions on the person's activities whether in the Falkland Islands or elsewhere;

(iii) any involvement that the person has had with social services concerning any child in the person's care whether in the Falkland Islands or elsewhere;

(iv) any disciplinary action at work which has resulted in the person having resigned from or being moved from a role with children whether in the Falkland Islands or elsewhere;

(e) any order made at any time with respect to a child who has been in the person's care including a care order, supervision order, education supervision order, emergency protection order or a child assessment order or any other order as may be specified for purposes of section 76(2)(b) of the Ordinance; and

(f) any rights or powers with respect to a child that have been, at any time, vested in an authority as may be specified for purposes of section 76(2)(f) of the Ordinance.

SCHEDULE 2
Welfare of Children Who Are To Be Hosted
(regulation 5(1)(e))

The matters referred to in regulation 5(1)(e) in relation to information to be gathered when a visit is first made to premises where hosting will take place are as follows —

- (a) that the intended duration of the arrangement is understood by and agreed between —
 - (i) the parents of the child or any other person with parental responsibility for the child; and
 - (ii) the proposed host parent;
- (b) the wishes and feelings of the child about the proposed arrangement (considered in the light of the child's age and understanding);
- (c) the suitability of the proposed accommodation;
- (d) the capacity of the proposed host parent to look after the child;
- (e) the suitability of other members of the proposed host parent's household whether permanent or temporary or any non-resident partner of the host parent;
- (f) that arrangements for contact between the child and the child's parents, any other person with parental responsibility for the child, and other persons who are significant to the child, have been agreed and understood and that those arrangements will be satisfactory for the child;
- (g) that the parents of the child or any other person with parental responsibility for the child and the proposed host parent have agreed financial arrangements for the care and maintenance of the child;
- (h) that consideration has been given to, and necessary steps taken to make arrangements for, care of the child's health;
- (i) that consideration has been given to, and necessary steps taken to make arrangements for, the child's education;
- (j) how decisions about the care of the child will be taken; and
- (k) whether the proposed host parent, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as seems necessary to the public officer.

SCHEDULE 3
Welfare of children who are hosted
(regulations 8 and 9)

The matters referred to in regulations 8(1)(e) and 9(3) in relation to action to be taken on receipt of the notification and matters to be established on subsequent visits are as follows —

- (a) that the intended duration of the hosting arrangement is understood and agreed between—
 - (i) the parents of the child or any other person with parental responsibility for the child;
and
 - (ii) the host parent;
- (b) the wishes and feelings of the child about the arrangement (considered in the light of the child's age and understanding);
- (c) that the child's physical, intellectual, emotional, social and behavioral development is appropriate and satisfactory;
- (d) that the child's needs arising from the child's religious persuasion, racial origin, and cultural and linguistic background are being met;
- (e) that the financial arrangements for the care and maintenance of the child are working;
- (f) the capacity of the host parent to look after the child;
- (g) the suitability of the accommodation;
- (h) that the arrangements for care of the child's health are in place and, in particular, that the child is registered at King Edward Memorial Hospital for medical and dental purposes;
- (i) the arrangements for the child's education;
- (j) the standard of care which the child is being given;
- (k) the suitability of members of the host parent's household;
- (l) whether the contact between the child and the child's parents, or any other person with whom contact has been arranged, is satisfactory for the child;
- (m) how decisions about the child's care are being taken; and
- (n) whether the host parent, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as appears necessary to the public officer.

Made 6th November 2014

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(*This note is not part of the Regulations*)

These Regulations are made under sections 74, 75 and 80, and paragraph 12 of Schedule 5 of the Children Ordinance (No. 7 of 2014). The regulations provide for two distinct types of private arrangements. The first is 'hosting' (referred to as "private fostering" in the UK), and the second is "private boarding" which involves children who live with persons who are not their parents (who may be related to them but have no parental responsibility) for the purpose of attending school.

Both types of arrangements impose notification obligations on parents and carers, and obligations on social services and schools to take certain actions when notified. Notification requirements for hosting arrangements are dealt with under Part 2 while those for private boarding are dealt with under Part 3.

The regulations provide as follows —

Part 1 deals with introductory matters – commencement and definitions;

Part 2 deals with hosting as provided for under section 74 of the Ordinance and provides as follows —

Regulation 4 requires —

- (a) any person proposing to host a child,
- (b) any person involved (whether directly or not) in arranging for the child to be hosted, and
- (c) a parent of the child or other person with parental responsibility for the child who knows that it is proposed for a child to be hosted,

to notify the Crown (through the Social Welfare Department) in advance of the arrangement commencing.

Notification by the proposed host parent has to be given at least six weeks before the hosting arrangement is to commence, or where the arrangement is to commence within six weeks, immediately. The notification must contain the information set out in Schedule 1.

Having received a notification the Social Welfare Department must then arrange for a public officer (social worker) to visit the place where the child will live and speak to the proposed host parent, members of the proposed host parent's household, the child and others (regulation 5). The officer is required to make enquiries and establish the matters listed in Schedule 2 and make a written report to the Social Welfare Department Team Leader.

Regulation 6 sets out the requirement to immediately notify the Crown of a hosting arrangement where this has already started and no notification under regulation 4 has been given;

Regulation 7 requires that the host parent notify the Crown when the arrangement of which they have been notified under regulation 4 actually commences;

Regulation 8 specifies the action to be taken once the Crown has received a notification under either regulation 6 or 7. There is a requirement for the Crown to arrange for an officer to carry out visits and establish the matters listed in Schedule 3;

Regulation 9 provides for the need for visits to the child once the hosting arrangement has commenced. It provides for when the visits should take place and what the officer should do when carrying out the visits. After each visit the officer is required to make a written report to the Social Welfare Department Team Leader;

Regulation 10 provides for host parents to notify the Crown of certain changes in circumstances; this requirement is also placed on a parent of a hosted child, or another person with parental responsibility for the child who knows of the hosting arrangement;

Regulation 11 provides for the requirement to make a notification of the end of a hosting arrangement. The requirement is that the Crown must be notified within 48 hours of a person who has been hosting a child ceasing to do so. The person must provide information to the Crown as to the person into whose care the child is released. Where the hosting arrangement ceases because the child has died then the person must disclose that as the reason; and

Regulation 12 provides that all notifications given under Part 2 must be in writing;

The requirement to make notifications only applies to arrangements which are in place for more than 56 days, or if they were already in place for 28 days, where there is an intention for the arrangement to be extended to last over 56 days.

Part 3 deals with private boarding as provided under Part 6 of the Ordinance.

Regulation 13 provides for other information that the notification under section 78 of the Ordinance must contain;

Regulation 14 provides for the action to be taken by the school when it is informed of a private boarding arrangement; and

Regulation 15 provides for the school to monitor the welfare of children on the private boarding list.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Planning (Amendment) Ordinance 2014

(No: 9 of 2014)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – PRELIMINARY

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2. Commencement

PART 2 – AMENDMENTS TO PLANNING ORDINANCE

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4. Insertion of new section 3A
5. Section 4 amended – Planning and Building Committee
6. Section 5 amended – Composition of Planning and Building Committee, etc.
7. Section 9 amended – Attendance of public officers and other persons at meetings of the Committee
8. Repeal and replacement of section 10 – Appointment of the Planning Officer
9. Section 11 amended – Secretary of the Committee
10. Insertion of new section 24A
11. Section 30 amended – Publicity for planning applications
12. Section 31 repealed – Representations and duty to take representations into account
13. Section 33 replaced – Assessment of environmental effects
14. Section 36 amended – Determination of applications
15. Section 39 amended – Applications for planning permission in respect of minerals
16. Section 40 amended – Conditional grant of planning permission
17. Section 47 replaced – Appeals against planning decisions
18. Insertion of new section 47A
19. Section 48 amended – Appeal in default of planning decision

20. Section 72 amended – Application for variation or discharge of conditions and appeals
21. Section 77 amended – Appeals against waste land notices
22. Section 88 amended – Grant or modification of planning permission on appeals against enforcement notices
23. Section 94 amended – Appeal against relevant buildings enforcement notice
24. Section 104 amended – Validity of development plans and certain orders, decisions and directions
25. Section 109 repealed – Appeals to Supreme Court against decisions under s. 61
26. Section 111 repealed – Oral representations
27. Section 122 repealed – Signification of notices, permissions and consents, etc.
28. Schedule A1 repealed

PART 3 – AMENDMENTS TO GENERAL DEVELOPMENT ORDER

29. Purpose of this Part
30. Paragraph 6 amended – Outline planning applications
31. Paragraph 8 amended – Application made under planning condition
32. Paragraph 9 replaced – Written notice of decision or determination relating to a planning permission
33. Paragraph 14 amended – Established use certificates
34. Schedule 2 amended
35. Schedule 3 repealed

PART 4 – AMENDMENTS TO THE PLANNING (GENERAL) REGULATIONS

36. Purpose of this Part
37. Regulation 2 amended
38. Regulation 4 amended

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

PLANNING (AMENDMENT) ORDINANCE 2014

(No: 9 of 2014)

(assented to: 7 November 2014)

(commencement: on publication)

(published: 13 November 2014)

AN ORDINANCE

To amend the Planning Ordinance (Title 55.3) to provide for regulations that confer power on the Planning Officer to determine specified applications for planning permission, to provide for developers to take mitigating steps as conditions of planning permission, to make consequential amendments to the General Development Order (Title 55.3.1) and the Planning (General) Regulations (Title 55.3.3), and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

**PART 1
PRELIMINARY**

1. Title and construction

- (1) This Ordinance is the Planning (Amendment) Ordinance 2014.
- (2) Part 2 of this Ordinance amends the Planning Ordinance.
- (3) Part 3 amends the General Development Order.
- (4) Part 4 amends the Planning (General) Regulations.

2. Commencement

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

PART 2
AMENDMENTS TO PLANNING ORDINANCE

3. Section 3 amended –Interpretation

Section 3 is amended by —

- (a) omitting the definition of “established use certificate”;
- (b) omitting the definition of “minerals” and replacing it with the following —

““mineral” means any substance, other than water, and whether that substance is in a solid, liquid or gaseous form, which has been formed by or is subject to geological process and any naturally occurring inorganic substance beneath or at the surface of the earth, and whether or not any such substance is under water; and includes every mineral and substance in or under land of a kind ordinarily worked for removal by underground or surface working”; and

- (c) inserting the following definition immediately after the definition of “planning decision”—

““Planning Officer” means the incumbent of the post created by section 10, and includes the person formally acting in that capacity during the temporary absence from duty of the incumbent;”.

4. Insertion of new section 3A

The following section is inserted immediately after section 3 —

“3A. Meaning of “determine”

(1) In this Ordinance and any subsidiary legislation made under it, “determine” must be construed in accordance with the following rules —

(a) when used in relation to applications for planning permission submitted by an applicant other than the Crown and that are to be considered by the Committee, “determine” means the right to —

- (i) grant planning permission; and
- (ii) refuse planning permission,

at the Committee’s discretion, after taking into account the views of the Planning Officer as required by section 4(2);

(b) when used in relation to applications for planning permission that are submitted by the Crown and are to be considered by the Committee, “determine” means, in either case after taking into account the views of the Planning Officer as required by section 4(2) —

- (i) the right to grant planning permission; and

(ii) the duty, where the Committee is of the view that planning permission should be refused, to refer the application to the Governor with written reasons for its recommendation that planning permission be refused,

but does not confer on the Committee power to refuse planning permission;

(c) when used in relation to an application for planning permission for exploration for or winning and working minerals, regardless of the identity of the applicant, “determine” means —

(i) with respect to the Committee, the right (after taking into account the views of the Planning Officer as required by section 4(2)) to make recommendations (including reasons) to the Governor as to whether the application should be granted or refused, following which it must refer the application to the Governor who has the power to grant or refuse;

(ii) with respect to the Governor, the right, on receipt of an application referred to the Governor by the Committee under sub-subparagraph (i), to either grant or refuse planning permission;

(d) when used in relation to the Planning Officer in respect of any application, “determine” means —

(i) the right to grant planning permission; and

(ii) the duty, where the Planning Officer is of the view that planning permission should be refused, to refer the application to the Committee with written reasons for the Planning Officer’s view that planning permission be refused,

but does not confer on the Planning Officer power to refuse planning permission;

(e) when used in relation to applications for planning permission submitted by the Crown and that are to be considered by the Committee on referral from the Planning Officer as referred to in paragraph (d), “determine” means —

(i) the right to grant planning permission contrary to the recommendation of the Planning Officer; and

(ii) the duty, where the Committee is of the view that planning permission should be refused (for the reasons given by the Planning Officer, or for other reasons as well or in the alternative), to refer the application to the Governor with written reasons for its recommendation that planning permission be refused,

but does not confer on the Committee power to refuse planning permission;

(f) when used in relation to any application to be considered by the Governor, “determine” means full power to either grant or refuse planning permission,

and in all cases it is required that only material considerations, as set out in section 34, that are applicable be taken into account.

(2) In this Ordinance, in each case where any of the words “approve”, “consider” or “decide” is used with respect to action to be taken by the Governor, the Committee, or the Planning Officer, in relation to an application for planning permission, that word must be construed as a synonym for “determine” and must be construed in accordance with the relevant provision of subsection (1).”.

5. Section 4 amended – Planning and Building Committee

Section 4 is amended by omitting subsection (1) and replacing it with the following —

“(1) This section creates for the purposes of this Ordinance a Planning and Building Committee which, subject to any regulations made under section 36(1) conferring power on the Planning Officer to deal with applications for planning permission, is the authority responsible for the administration of this Ordinance.”.

6. Section 5 amended – Composition of Planning and Building Committee, etc.

Section 5 is amended by —

(a) repealing subsection (5) and replacing it with the following —

“(5) If a member of the Committee has a direct or indirect financial or other personal interest in a matter being considered by the Committee, that member —

(a) must, subject to subsection (6), declare that interest;

(b) must not take part in the Committee’s consideration of that matter; and

(c) if so required by the Chairperson or other person presiding at the meeting, must not attend the meeting or that portion of it during which the Committee considers the matter in which the member has, in accordance with paragraph (a), declared an interest,

but the provisions of this subsection do not affect the member’s rights under subsection (6A).”; and

(b) inserting the following after subsection (6) —

“(6A) Despite subsection (5), a member to whom that subsection refers may —

(a) exercise rights under other provisions of this Ordinance to make oral representations to the Committee as an applicant or member of the public; and

(b) assert the right to be present at a Committee meeting for the purpose referred to in paragraph (a), and this right must prevail over a requirement of the Chairperson or other person presiding at the meeting under paragraph (c) of subsection (5); but only for so long as is necessary for the purpose .”.

7. Section 9 amended – Attendance of public officers and other persons at meetings of the Committee

Section 9 is amended by inserting immediately after subsection (1) the following —

“(1A) A member of the public is entitled, upon notifying the Chairperson or other person presiding at the meeting to this effect, to—

(a) attend meetings of the Committee for the sole purpose of exercising the right, provided for in section 31A, to make oral representations; and

(b) prevail over any objection to such attendance, but only insofar as is required for the making of those representations,

and so is not entitled to be present at the meeting before the time at which oral representations will be accommodated, and must leave immediately after making those representations if required to do so.

(1B) The Chairperson or other person presiding at a meeting of the Committee must allow a member of the public to attend the meeting in accordance with subsection (1A).”.

8. Repeal and replacement of section 10 – Appointment of the Planning Officer

Section 10 is repealed and replaced by the following —

“10. Appointment of the Planning Officer

(1) This section creates the post of Planning Officer, which is a public office the incumbent of which must be appointed by the Chief Executive.

(2) The functions of the Planning Officer include —

(a) advising the Committee as required by this Ordinance;

(b) making decisions on planning applications or referring applications to the Committee or the Governor, as required by this Ordinance or any subsidiary legislation made under it;

(c) attending meetings as required by this Ordinance;

(d) instituting surveys, and —

(i) preparing or modifying plans or memoranda;

(ii) preparing, modifying or submitting proposals; or

(iii) approving the design or external appearance of buildings,

as required by this Ordinance;

(e) publishing documents as required by this Ordinance;

- (f) giving notification as required by this Ordinance;
- (g) giving views as required by this Ordinance;
- (h) keeping and updating registers as required by this Ordinance;
- (i) liaising with applicants as required by this Ordinance;
- (j) issuing certificates, giving consent, or receiving claims for compensation, as required by this Ordinance;
- (k) making representations as required by this Ordinance;
- (l) demanding and receiving notices as required by this Ordinance;
- (m) entering land or being present at such place, as authorised in accordance with this Ordinance; and
- (n) performing such other function reasonably consistent with the foregoing functions as may be instructed in writing by the Governor.”.

9. Section 11 amended – Secretary of the Committee

Section 11(2) is amended by —

(a) omitting the full stop at the end of paragraph (c) and replacing it with a semi-colon;
and

(b) inserting immediately after paragraph (c) the following —

“(d) to perform such other functions as may be conferred on the secretary by any subsidiary legislation made under this Ordinance.”.

10. Insertion of new section 24A

The following section is inserted immediately after section 24 —

“24A. Oral representations

(1) Any person who makes —

(a) a written representation under section 16; or

(b) a representation or an objection under section 21,

is entitled to verbalise that written representation, representation or objection, as the case may be (in this section collectively referred to as making an “oral representation”), at the meeting of the Committee and the Planning Officer at which the Planning Officer will consult with the Committee on, as the case may be, the written representations, representations or objections received.

(2) Subject to subsection (3), a person referred to in subsection (1) is entitled to attend the said meeting of the Committee and the Planning Officer only for the purpose of making an oral representation and is therefore not entitled to resist any request made by the person chairing the meeting that the person leave the meeting after having made the oral representation.

(3) Subsection (1) does not affect any right that a person may have to attend the said meeting in accordance with the Committees (Public Access) Ordinance (Title 19.17).”.

11. Section 30 amended – Publicity for planning applications

Section 30 of the principal Ordinance is repealed and replaced by the following section —

“30. Publicity for planning applications

(1) At least 10 days before an application is considered for the first time, the Planning Officer must ensure that —

(a) every person who occupies land that falls within the parameters set out in subsection (4) is notified about the application; and

(b) such notice is in writing in such form as may be prescribed.

(2) Subsection (1) applies equally to applications that are to be determined by the Committee as it applies to applications that are to be determined by the Planning Officer in exercise of power conferred on the Planning Officer by regulations made under section 36(2).

(3) Until notification of it has been given in accordance with this section, an application for planning permission must not be determined by either the Committee or the Planning Officer.

(4) The parameters referred to in subsection (1) are that, in relation to the land which is the subject of the application, any part of the land in question is within —

(a) 100 metres, in the case of an application relating to land in Stanley; or

(b) 1 kilometre, in the case of an application relating to land in Camp.

(5) The Planning Officer is not obliged to provide, or to ensure the provision of, notification of an application for planning permission to an occupier of land if that land does not fall within the parameters set out in subsection (4).

(6) The Planning Officer must ensure that one of the prescribed methods of service is adhered to when notice is being served in accordance with this section.

(7) The Planning Officer must, in advance of each meeting of the Committee or the making of a determination by the Planning Officer in accordance with regulations made under section 36(2), ensure adequate publicity regarding the applications for planning permission that will, as the case may be, be considered by —

(a) the Committee for the first time at that meeting; or

(b) the Planning Officer in accordance with regulations made under section 36(2),
and such publicity must be in accordance with such stipulations as may be prescribed subject to subsection (8).

(8) Despite subsection (7), the adequate publicity must commence no later than 10 days in advance of each meeting of the Committee, or of the date on which the Planning Officer will make a decision on the application, as the case may be.”

12. Section 31 repealed – Representations and duty to take representations into account
Section 31 of the principal Ordinance is repealed and replaced by the following sections —

“31. Written representations

(1) Any person may make representations in writing to the Planning Officer in relation to any application for planning permission.

(2) Where a person intends to make written representations in relation to an application for planning permission that is to be determined by the Planning Officer in accordance with regulations made under section 36(2), the person must make those written representations in accordance with the procedure, prescribed in those regulations, for doing so.

(3) Subsection (4) or (5) applies whenever —

(a) one or more written representations are made in relation to an application before it has been determined; and

(b) the application will not be determined by the Planning Officer.

(4) If the application is to be determined by the Committee, the Planning Officer must ensure that the representations are brought to the attention of the Committee.

(5) If the application is to be determined by the Governor, the Planning Officer must ensure that the representations are brought to the attention of both the Committee and the Governor.

31A. Oral representations regarding applications for planning permission

(1) This section does not apply to any application for planning permission that is to be determined by the Planning Officer in accordance with regulations made under section 36(2).

(2) Despite subsection (1), this section will apply to any such application as from the point at which it is referred to the Committee in accordance with section 3A(1)(d) (and any other relevant provision of regulations made under section 36(2)) with a recommendation that it be refused.

(3) Before the Committee considers an application, the following will have the right to make oral representations to the Committee or to have oral representations made to the Committee on their behalf —

(a) the applicant; and

(b) members of the public who have made written representations to the Planning Officer.

(4) If the Governor is to consider an application, the same persons will also have the right to make oral representations to Executive Council before it advises the Governor in relation to the application.

(5) The Committee and Executive Council must each adopt and publish arrangements for oral representations to be made to them under this section.

31B. Duty to take representations into account

(1) Each of the persons listed in subsection (2) must, when determining or otherwise dealing with an application for planning permission, take into account the representations made in accordance with the relevant provisions.

(2) The persons referred to in subsection (2) are —

(a) the Planning Officer, who must take into account representations made in accordance with subsections (1) and (2) of section 31;

(b) the Committee, which must take into account representations made in accordance with sections 31 and 31A;

(c) Executive Council (when advising the Governor in relation to an application), which must take into account representations made in accordance with sections 31 and 31A; and

(d) the Governor, who must take into account representations made in accordance with sections 31 and 31A.

(3) For the purposes of determining any application for planning permission, subsection (2) does not allow the taking into account of any consideration that is not a material consideration under section 34.”.

13. Section 33 replaced – Assessment of environmental effects

Section 33 is repealed and replaced with the following —

“33. Environmental Impact Assessments

(1) The Governor may make regulations imposing a requirement for the conduct of environmental impact assessments —

(a) at any stage of the consideration of an application for planning permission relating to any type of development referred to in this Ordinance; or

(b) in relation to any development which, by virtue of an order made under section 28 of this Ordinance, is the subject of general planning permission and is thereby excluded from the requirement to be the subject of an application for planning permission.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may —

(a) impose the requirement for the conduct of an environmental impact assessment in relation to any type of development specified in section 26 of this Ordinance while, expressly or by implication, excluding other types of development from the requirement;

(b) prescribe more or less extensive environmental impact assessments for different classes of development, or in relation to specific applications or specific proposed developments, as the case may be;

(c) impose on an applicant or a proposed developer, as the case may be, fees for the conduct of any environmental impact assessment or any part of it;

(d) make such other reasonable provision in respect of environmental impact assessments that the Governor considers appropriate; or

(e) categorise developments based on their proposed scale or extent, and stipulate, depending on the specified category into which a particular development is classified, that the commencement of certain developments —

(i) must be preceded by planning permission that resulted from an application process that at some stage included an environmental impact assessment carried out on such scale or to such extent as may be specified in the regulations;

(ii) must be contingent on the factors set out in subsection (3); or

(iii) is free to take place without there having to be any screening or any environmental impact assessment carried out.

(3) The factors mentioned in subsection (2)(e)(ii) are —

(a) the written result of a screening process, administered by such person or authority as may be specified in the regulations, for the possible imposition of a requirement that an environmental impact assessment be carried out; and

(b) if such a requirement is imposed —

(i) the determination of an application for planning permission which includes consideration of an environmental impact statement submitted either along with or after the application for planning permission; and

(ii) compliance with any determination made and directive given to the prospective developer by the appropriate authority consequent on the results of such assessment conducted in accordance with subsection (2)(e)(i).

(4) The provisions of Parts 6A and 7 of this Ordinance apply to the enforcement of the provisions of regulations made under this section.”.

14. Section 36 amended – Determination of applications

Section 36 is amended —

(a) in subsection (1), by omitting “37 to 39” and replacing it with “37 and 38”;

(b) by repealing subsection (4) and replacing it with the following subsection —

“(4) The Planning Officer must ensure that notice of the decision on an application for planning permission is given to every person who made representations in relation to it under either section 31(1) or 31A.”; and

(c) by inserting immediately after subsection (4) the following —

“(5) Subsection (4) applies whether the decision was made by the Governor, the Committee or the Planning Officer.”.

15. Section 39 amended – Applications for planning permission in respect of minerals

Section 39 is amended by repealing subsection (1) and replacing it with the following —

“(1) Subject to subsection (3), neither the Committee nor the Planning Officer has power to either grant or refuse an application for planning permission for exploration for or winning and working of minerals, and must —

(a) in the case of the Committee, refer to the Governor for determination the application along with its written recommendation and reasons for either grant or refusal; or

(b) in the case of the Planning Officer, refer the application and the Planning Officer’s written recommendation for either grant or refusal (with reasons) to the Committee, which must in turn act in accordance with paragraph (a),

but section 43 applies if the Governor grants an application by the Crown for planning permission subject to conditions.”.

16. Section 40 amended – Conditional grant of planning permission

Section 40 of the principal Ordinance is amended —

(a) in subsection (1), by—

(i) omitting the full stop at the end of paragraph (d) and replacing it with a semi-colon;

(ii) inserting immediately after subparagraph (d) the following —

“(e) requiring the successful applicant to take or (where appropriate) facilitate the taking of steps, and specifying the steps so required, to —

(i) provide or deliver infrastructure required for or as a result of the development for which permission is granted; or

(ii) avoid or mitigate the potential negative social or economic impacts of the development,

but conditions may only be imposed under paragraph (d) or (e) in accordance with regulations made under this section setting out details regarding those conditions.”; and

(b) by inserting immediately after subsection (1) the following —

“(1A) For the purposes of this section, “infrastructure” includes transport, utilities, social housing, education and public open space.

(1B) The Government may commit to making a financial contribution to any steps to be taken by a successful applicant in accordance with paragraph (d) or (e) of subsection (1).”.

17. Section 47 replaced – Appeals against planning decisions

Section 47 is repealed and replaced by the following —

“47. Appeals against planning decisions

(1) An applicant may appeal to the Governor under section 47A where —

- (a) the conditions of either of subsections (2) and (3) are met; and
- (b) the Crown is not the applicant.

(2) Subsection (1) applies whenever —

- (a) the Committee determines an application —
 - (i) for planning permission;
 - (ii) for a consent, agreement or approval required by a condition imposed on a grant of planning permission; or
 - (iii) for an approval required under a development order;
- (b) that permission, consent, agreement or approval is either —
 - (i) refused by the Committee; or
 - (ii) granted by it subject to conditions; and
- (c) the applicant is aggrieved by that decision.

(3) Subsection (1) also applies whenever —

- (a) the Planning Officer determines an application for —
 - (i) planning permission;

(ii) a consent, agreement or approval required by a condition imposed on a grant of planning permission; or

(iii) an approval required under a development order;

(b) that permission, consent, agreement or approval is granted subject to conditions; and

(c) the applicant is aggrieved by that decision.

(4) If an application is referred to and determined by the Governor instead of being determined by the Committee, no appeal lies against the decision of the Governor in relation to the application.”.

18. Insertion of new section 47A

The principal Ordinance is amended by inserting immediately after section 47 the following —

“47A. Appeals against planning decisions: procedure

(1) An appeal to the Governor under this section can be commenced only by the appellant submitting notice of appeal to such person and in such manner as may be prescribed by regulations.

(2) Where Executive Council is required to advise the Governor in relation to the appeal, the following will, before Executive Council advises the Governor, have the right to make written and oral representations to Executive Council or to have oral representations made to it on their behalf —

(a) the Planning Officer;

(b) the applicant; and

(c) members of the public who had made written representations to Executive Council.

(3) Executive Council must adopt and publish arrangements for written and oral representations to be made to it under this section.

(4) When advising the Governor in relation to an appeal, Executive Council must take into account all of the representations made to it under this section, insofar as those representations are material in accordance with section 34.

(5) If an appeal is made under this section, the Governor —

(a) must take into account all of the representations that have been made in relation to the application and the appeal, insofar as those representations are material in accordance with section 34;

(b) may deal with the application as if it had been made to the Governor in the first instance; and

(c) may —

(i) allow the appeal in full;

(ii) dismiss it entirely; or

(iii) reverse or vary one or more parts of the decision made by the Committee, regardless of the extent to which the appeal relates to that part of the decision (or those parts of it).

(6) The Planning Officer must ensure that notice of the decision on an application for planning permission is given to every person who made representations under either or both of the following —

(a) section (2); or

(b) subsection 31(1).

(7) The decision of the Governor in relation to an appeal is final.

(8) In all other respects, planning permission granted by the Governor on appeal is to be treated for the purposes of this Ordinance as if it had been granted by the Committee.”.

19. Section 48 amended – Appeal in default of planning decision

Section 48 is repealed and replaced by the following —

“48. Appeal in default of planning decision

(1) Subject to subsections (3) and (4), the provisions of section 47 will apply in relation to an application referred to in subsection (2) as if —

(a) the permission or approval to which the application relates had been refused by the Committee or the Planning Officer (depending on which of them considered the application); and

(b) notification of the decision had been received by the applicant at the end of the period of two months, or at the end of the extended period, as the case may be.

(2) Subsection (1) applies to an application as is mentioned in section 47, where such an application is considered by —

(a) the Committee; or

(b) the Planning Officer in accordance with regulations made under section 36(2).

(3) Subsection (1) does not apply where, within two months of the submission of the application or within such extended period as the applicant and the Planning Officer may at any time agree upon in writing, the Committee or the Planning Officer (as the case may be) gives notice to the applicant either —

(a) of the decision on the application; or

(b) that the application has been referred to the Governor in accordance with the preceding provisions of this Ordinance.

(4) Where an applicant has, within the period of two months or such extended period referred to in subsection (3), been notified that the application has been referred to the Governor, the notice has the effect of extending the period for a further period of two months from the date of the notification; but the Planning Officer and the applicant may in writing agree to a longer extended period.

(5) If the Governor does not, within the extended period provided for in subsection (4), notify his decision on the application —

(a) the application shall be deemed to have been refused by the Committee or the Planning Officer (depending on which of them considered the application), notwithstanding any lack of power on the part of either to refuse the application; and

(b) subsection (1) shall then apply with all necessary modifications.”.

20. Section 72 amended – Application for variation or discharge of conditions and appeals
Section 72(3) is repealed and replaced by the following —

“(3) Sections 47 and 47A apply in relation to decisions of the Committee that relate to relevant buildings.”.

21. Section 77 amended – Appeals against waste land notices
Section 77(3) is repealed and replaced by the following subsection —

“(3) The following provisions apply to appeals under this section in the same way (apart from necessary modifications) as they do to appeals under section 85 —

(a) section 85(3) to (5);

(b) section 86; and

(c) section 87.”.

22. Section 88 amended – Grant or modification of planning permission on appeals against enforcement notices
Section 88(10) is amended by replacing “Fishing right” with “For”.

23. Section 94 amended – Appeal against relevant buildings enforcement notice
Section 94 is amended by omitting —

(a) in subsection (4), by omitting —

(i) “81” and replacing it with “85”; and

(ii) “subsection (5) of that section” and replacing it with “section 86(1)”; and

(b) in subsection (5)(b), by omitting “81” and replacing it with “85”.

24. Section 104 amended – Validity of development plans and certain orders, decisions and directions

Section 104 is amended —

(a) by omitting subsection (4)(e) and replacing it with the following —

“(e) a decision whether or not a certificate of lawfulness should be issued under section 91M or 91N”; and

(b) in subsection (5), by —

(i) omitting from paragraph (b) the punctuation mark and word “; and” and replacing them with a full stop; and

(ii) omitting paragraph (c).

25. Section 109 repealed – Appeals to Supreme Court against decision under s. 61

Section 109 is repealed.

26. Section 111 repealed – Oral representations

Section 111 is repealed.

27. Section 122 replaced – Signification of notices, permissions and consents, etc.

Section 122 is repealed and replaced by the following —

“122. Presumption of validity for documents issued under Ordinance

(1) A document issued, made or given by the Planning Officer will be presumed to be valid if either —

(a) it is signed by the Planning Officer; or

(b) both of the following requirements are satisfied —

(i) it is signed by someone acting on behalf of the Planning Officer;

(ii) it states that it has been signed by authority of the Planning Officer.

(2) A document issued, made or given by the Committee will be presumed to be valid if both of the following requirements are satisfied —

(a) it is signed by —

(i) the Planning Officer; or

(ii) the Secretary to the Committee; and

(b) it states that it has been signed by authority of the Committee.

(3) A document issued, made or given by the Governor will be presumed to be validly issued, made or given if either —

(a) it is signed by the Governor; or

(b) both of the following requirements are satisfied —

(i) it is signed by the Chief Executive, the Attorney General or the Clerk of Assembly; and

(ii) it states that it has been signed at the direction of the Governor.

(4) This section applies to every document issued, made or given under this Ordinance or any subsidiary legislation made under it.

(5) For the purposes of this section, “document” includes a permission, consent, notice, authorisation, order, determination or certificate.”.

28. Schedule A1 repealed

Schedule A1 is repealed.

PART 3

AMENDMENTS TO GENERAL DEVELOPMENT ORDER

29. Purpose of this Part

This Part amends the General Development Order.

30. Paragraph 6 amended – Outline planning applications

Paragraph 6(2) is repealed and replaced by the following —

“(2) Where an application for planning permission has been properly made, the Planning Officer, the Committee or the Governor (whichever of them has, in the circumstances, power to do so) may grant outline planning permission, which is planning permission that is subject to one or more conditions specifying matters reserved for subsequent approval (“reserved matters”).”.

31. Paragraph 8 amended – Application made under planning condition

Paragraph 8 is amended by—

(a) renumbering the existing text as subparagraph (1); and

(b) inserting immediately after subparagraph (1) as renumbered, the following —

“(2) Subparagraph (1) does not apply if the Planning Officer has already —

(a) given consent, agreement or approval in accordance with regulations made under section 36; and

(b) notified the applicant accordingly.”.

32. Paragraph 9 replaced – Written notice of decision or determination relating to a planning permission

Paragraph 9 is repealed and replaced by the following —

“9. Written notice of decision or determination relating to a planning permission

When the Committee gives notice of a decision or determination on an application for planning permission or for approval of reserved matters, and permission or approval is granted subject to conditions or the application is refused, the notice must —

- (a) state clearly, precisely and in full the Committee’s reasons for the refusal or for any condition imposed;
- (b) where the Governor has given a direction restricting the grant of permission for the development for which the application is made, give details of the direction;
- (c) include a statement to the effect that, if the applicant is aggrieved by the decision, the applicant may appeal to the Governor under section 47 of the Ordinance within 28 days of receipt of the notice or such longer period as the Governor may allow.”.

33. Paragraph 14 amended – Established use certificates

Paragraph 14 is amended by omitting the words “established use certificate” from each place where they appear (including the heading) and replacing them in each case with the words “certificate of lawfulness”; and making, where appropriate, the necessary grammatical amendment to the preceding indefinite article.

34. Schedule 2 amended

Schedule 2 is amended in respect of Class G(4) by replacing “Cable & Wireless Plc or their authorized contractor” with “a telecommunication utility licensed under section 3(2) of the Telecommunications Ordinance (Title 70.1) (or a contractor authorised by a telecommunications utility)”.

35. Schedule 3 repealed

Schedule 3 is repealed.

PART 4

AMENDMENTS TO THE PLANNING (GENERAL) REGULATIONS

36. Purpose of this Part

This Part amends the Planning (General) Regulations.

37. Regulation 2 amended

Regulation 2 is amended —

- (a) by omitting the definition of “Building By-laws”; and
- (b) in the definition of “combined application”, by omitting the words “Building-By-laws” and replacing them with “Building Regulations (S.R. & O. No. 26 of 1999);”.

38. Regulation 4 amended

Regulation 4 is amended by omitting “Building By-laws” from each place where it appears and replacing it in each case with “Building Regulations”.

Passed by the Legislature of the Falkland Islands on 30 October 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Falkland Islands Tourist Board Ordinance 2014

(No: 10 of 2014)

ARRANGEMENT OF PROVISIONS

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ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

FALKLAND ISLANDS TOURIST BOARD ORDINANCE 2014

(No: 10 of 2014)

(assented to: 7 November 2014)
(commencement: in accordance with section 2)
(published: 13 November 2014)

AN ORDINANCE

To dissolve and establish the Falkland Islands Tourist Board (a company limited by guarantee) as a new body corporate; to provide for its objects and functions, management, operations and to transfer to it the assets and liabilities of the existing company and to provide for connected purposes.

ENACTED by the Legislature of the Falkland Islands

**PART 1
INTRODUCTION**

1. Title

This Ordinance is the Falkland Islands Tourist Board Ordinance 2014.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

3. Interpretation

In this Ordinance —

“Company” means the Falkland Islands Tourist Board, a company incorporated in the Falkland Islands under the provisions of the Companies and Private Partnerships Ordinance and registered in the Companies Registry under registered number 12617;

“FITB” means the Falkland Islands Tourist Board, a body corporate established under section 4(1);

“Falkland Island Tourism Strategy” means the document approved by Executive Council for the time being

“Financial Controller” means the person appointed as Financial Controller under section 14;

“Governing Board” means the FITB governing board created under section 7;

“Chief Executive” means the person appointed as Chief Executive Officer of FITB under section 11;

“operative date” means the date fixed by the Governor under section 4(4); and

“Secretary” means the person appointed as Secretary under section 13.

PART 2

ESTABLISHMENT AND FUNCTIONS OF FITB

4. Transition of existing company to new body corporate

(1) The Company will, on the operative date be dissolved and established under this Ordinance as a new body corporate.

(2) FITB will, subject to the provisions of this Ordinance, do or perform all such acts or things as corporate bodies may, by law, do or perform and will have a common seal and be capable of suing and being sued in its own name.

(3) All rights, obligations, assets and liabilities which have accrued to the Company will, upon the operative date, pass and accrue to FITB and will be dealt with in terms of this Ordinance.

(4) The Governor may by Order published in the *Gazette*, fix a date to be the operative date for purposes of this section.

5. Functions and objects of Falkland Islands Tourist Board

(1) The objective of FITB is to facilitate and create a profitable and sustainable tourism industry.

(2) To achieve the objective referred to under subsection (1), FITB will carry out the following functions —

(a) coordinate, in consultation with all interested parties, the Falkland Islands Tourism Strategy;

(b) develop and implement appropriate programmes for achieving the Falkland Islands Tourism Strategy, and improve tourism within the Falkland Islands generally;

(c) carry out, at appropriate intervals and in consultation with all relevant parties, a review of the Falkland Islands Tourism Strategy;

- (d) advise on all matters relating to tourism, including planning and formulating strategies for the promotion and marketing of the tourism industry;
- (e) provide tourist information;
- (f) commission and undertake activities that will improve tourism operations and public amenities for tourists; and
- (g) promote all interests related to tourism and promote new investments in the tourism sector.

(3) FITB may also carry out the following functions —

- (a) make provision for the sale of merchandise promoting Falkland Islands tourism;
- (b) design, manage and implement appropriate marketing campaigns to promote Falkland Islands tourism; and
- (c) create partnerships and manage relationships with both national and international stakeholders relevant to the tourist industry.

6. Further provisions about FITB

- (1) Further provisions relating to FITB are set out in Schedule 1.
- (2) The Governor may amend Schedule 1 to include further provisions relating to the Chief Executive and FITB staff.

PART 3 FITB GOVERNING BOARD

7. Governing Board

FITB will have its overall management and affairs carried out by a Governing Board.

8. Membership of Governing Board

The Governing Board will comprise of the following —

- (a) a Chairperson who has experience and knowledge of the tourism industry, appointed by the Governor;
- (b) a Vice Chairperson who has experience and knowledge of the tourism industry, appointed by the Governor;
- (c) the Falkland Islands Government's Head of Policy;
- (d) one Member of the Legislative Assembly under whose portfolio tourism falls;
- (e) the Chief Executive of FITB (as a non-voting member); and

- (f) up to four members co-opted by the Governing Board representing a wide range of sectors within the tourism industry.

9. Powers and functions of Governing Board

The Governing Board in its overall management of FITB will determine policies for giving effect to the objectives of FITB and in particular —

- (a) advise on any changes or reviews to the Falkland Islands Tourism Strategy;
- (b) set performance targets and design programmes for FITB aimed at facilitating the continued growth and development of the tourism industry in the Falkland Islands;
- (c) review and agree on an annual basis, the budget and business plans for FITB;
- (d) adopt and keep under review documents on human resources and financial controls for FITB;
- (e) be responsible for financial oversight and monitoring of FITB activities generally; and
- (f) ensure that FITB exercises its powers in ways that are economical, efficient and effective.

10. Further provisions about Governing Board

Further provisions relating to the Governing Board, its members, and its procedures and meetings are set out in Schedule 2.

PART 4 CHIEF EXECUTIVE AND OTHER STAFF OF FITB

11. FITB Chief Executive

- (1) The Governing Board must appoint a person to be the Chief Executive of FITB, for such a period as may be specified in the instrument of appointment.
- (2) The person appointed as a Chief Executive under this section must have such experience and training as the Governing Board may determine.
- (3) The Governing Board must ensure that there is a fair, objective and transparent process for the appointment of the Chief Executive.
- (4) The Chief Executive is, subject to such directions on matters of policy as may be given by the Governing Board, responsible for the day to day management of the affairs of FITB.
- (5) The Chief Executive is accountable to the Governing Board.

12. Other staff of FITB

- (1) The Governing Board must appoint the senior staff of FITB and the Chief Executive must appoint such other staff as may be necessary for the proper discharge of the functions of FITB.
- (2) The senior staff of FITB means any employee of FITB who holds a position which is designated as such by the Governing Board.

(3) The Governing Board must record and keep up to date, the terms and conditions of employment of staff of FITB.

13. Secretary

(1) The Governing Board must appoint a person to be the Secretary of FITB, for such a period as may be specified in the person's instrument of appointment.

(2) In addition to other duties and functions set out in this Ordinance the Secretary is responsible for the accurate and complete recording of the Governing Board's proceedings and decisions.

(3) The Secretary is accountable to the Governing Board and to the Chief Executive.

14. Financial Controller

(1) The Governing Board must appoint a person to be the Financial Controller of FITB, for such period and on such terms as may be specified in the instrument of appointment.

(2) In addition to other duties and functions set out in this Ordinance the Financial Controller is responsible for —

(a) ensuring good management of FITB finances; and

(b) keeping proper financial records.

PART 5 FINANCIAL PROVISIONS

15. Annual budget and business plan

FITB must develop an annual budget and business plan with clear objectives and set performance targets aimed at ensuring delivery of the programmes referred to in section 5.

16. FITB finances

FITB will derive its income from —

(a) subventions as may be appropriated by the Legislative Assembly for the purposes of FITB;

(b) any income that FITB may receive from investments; and

(c) any other income.

17. Subvention requests

(1) The Financial Secretary may invite FITB in advance of a financial year to submit a request for funds that FITB requires the Falkland Islands Government to provide so that FITB can carry out its activities for that financial year.

(2) The Financial Secretary may issue guidelines about subvention requests and the procedure for submissions of subvention requests.

(3) FITB must submit its request for funds to the Financial Secretary in accordance with guidelines issued by the Financial Secretary.

18. Accounts

(1) The Financial Controller must keep and maintain proper accounts and records of accounts in respect of every financial year relating to its assets, liabilities, income and expenditure, and must prepare, in each financial year, a statement of the accounts.

(2) The Governing Board must ensure that the Financial Controller keeps proper financial records and may prepare guidelines to assist in the keeping of financial records.

19. Audit

(1) The Governing Board must ensure that arrangements are in place for FITB's financial records and statements to be audited in respect of each financial year.

(2) To give effect to the audit requirements of section 80 of the Constitution the accounts of FITB in respect of each financial year must, within six months of the end of the financial year, be audited by a suitably qualified and experienced auditor.

(3) The auditor appointed under subsection (2) must report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment on.

20. Annual report and financial statements

(1) The Governing Board must cause to be prepared an annual report and financial statements with the following information —

- (a) the financial statements of FITB audited in terms of section 19 of this Ordinance;
- (b) FITB's activities during the financial year;
- (c) the management and overall performance of FITB during the financial year;
- (d) the corporate governance and assurance mechanisms of FITB during the year; and
- (e) any other information that may be relevant.

(2) The Secretary must —

- (a) send copies of the annual report and financial statements to the Governor and to the Clerk of the Legislative Assembly; and
- (b) arrange for copies to be made available to the public.

(3) The Chief Executive must submit copies of the annual report and financial statement to be tabled in the Legislative Assembly in accordance with section 57 of the Finance and Audit Ordinance (Title 19.3).

PART 6 GENERAL PROVISIONS

21. Exclusion of personal liability

A member of the Governing Board, an employee of FITB and any authorised person acting on behalf of FITB is exempt from personal liability for anything the member or employee does under the provisions of this Ordinance provided it is done in good faith and without negligence.

22. Confidentiality

A member of the Governing Board and any employee of FITB must observe and preserve the confidentiality of all confidential matters relating to FITB.

23. Regulations

The Governor may make regulations that are necessary or convenient for the purposes of this Ordinance.

24. Amendment of Schedules

The Governor may by order published in the *Gazette* amend the Schedules to this Ordinance.

25. Transitional and savings provisions

(1) As from the operative date every agreement, whether in writing or not, and every deed, bond or other instrument to which the Company was a party to or which affected the Company, and whether or not of such a nature that the rights, liabilities and obligations under it could be assigned, will have effect as if FITB was a party to or affected by it instead of the Company.

(2) As from the operative date all employees of the Company will become the corresponding employees of FITB and will continue in office for the period for which, and be subject to the terms and conditions under which, they were appointed, as employees of the Company.

(3) For purposes of the Employment Protection Ordinance (Title 32.3) the employees of the Company who become corresponding employees of FITB are to be treated as being in continuous employment.

(4) All contracts made by the Company in so far as they remain unperformed or any money which is or may become due and payable or may become receivable have effect in favour of and against FITB on and after the operative date as if FITB had been a party to those contracts instead of the Company.

SCHEDULE 1 FITB, Staff, ETC.

1. FITB Seal

(1) FITB must have a seal the nature of which is to be determined by the Governing Board.

(2) The Secretary must keep the seal.

(3) The Chief Executive and the Chairperson (or Vice Chairperson or any other person authorised in that behalf by a resolution of the Governing Board) must authenticate the affixing of the seal.

2. FITB Staff

- (1) The Governing Board must ensure good corporate governance of FITB.
- (2) The Governing Board must prepare guidelines or manuals for staff including human resources, financial provisions, job descriptions and other matters relevant to the efficient operations of FITB.

SCHEDULE 2 FITB Governing Board

1. Tenure of office of members

- (1) A member of the Governing Board will hold office for such period as may be specified in the member's instrument of appointment.
- (2) The Governor must ensure that the periods for which members are appointed to the Governing Board are staggered in such a way that a quorum can be achieved at all times.

2. Suspension and removal of members

- (1) The Governor may, in writing, remove a member from the Governing Board.
- (2) A member may only be removed after a fair process appropriate to the circumstances.
- (3) The Governor may suspend a member while the process referred to under sub-paragraph (2) is underway.
- (4) A person co-opted to the Governing Board may only be removed from the Board by a decision of the other members of the Governing Board.

3. Resignations

A member (including co-opted members) may resign from office by giving 30 days notice in writing to the Governor.

4. Alternate co-opted members

- (1) The Governing Board may appoint a person as an alternate to a co-opted member.
- (2) A person appointed as an alternate to a co-opted member under sub-paragraph (1) must represent a sector of the tourism industry.

5. Meeting of Board

- (1) Subject to the provisions of this Ordinance, the Board will regulate its own proceedings.
- (2) The Board must meet at least four times annually.
- (3) The quorum at any meeting of the Governing Board is a simple majority.
- (4) The Chairperson must preside at any meeting of the Governing Board and in the absence of the Chairperson, the Vice-Chairperson.

(5) The Chief Executive has no right to vote on any matter that is put to the vote at a meeting of the Governing Board.

(6) A decision of the Governing Board on any question must be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding has a casting vote in addition to that person's deliberative vote.

(7) The validity of anything done by the Governing Board will not be affected even if there are one or more vacancies on it.

6. Attendance of Board meetings

(1) The Financial Controller has the right to attend and speak at the meetings of the Governing Board but not to vote.

(2) The Governing Board may invite other persons to attend any of its meetings but these persons are not entitled to vote.

7. Remuneration of members

Members of the Governing Board may be —

(a) remunerated for their services to FITB; and

(b) reimbursed for expenses they incur in the course of their duties.

8. Code of Conduct

(1) The Governing Board is under a duty to adopt (and keep under review) a Code of Conduct for its members.

(2) The Code of Conduct must include provisions dealing with —

(a) declarations of interests by members of the Governing Board; and

(b) conflicts of interest and how they are to be dealt with.

Passed by the Legislature of the Falkland Islands on 30 October 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

Immigration (Amendment) Ordinance 2014

(No: 11 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Immigration Ordinance
4. New section 18BB inserted - Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution
5. Amendment of section 18 – Permanent residence permits
6. Amendment of section 23 – Revocation of permanent residence permits granted under section 18 and section 18BB

ELIZABETH II



FALKLAND ISLANDS

COLIN ROBERTS C.V.O.,
Governor.

IMMIGRATION (AMENDMENT) ORDINANCE 2014

(No: 11 of 2014)

(assented to: 7 November 2014)
(commencement: in accordance with section 2)
(published: 13 November 2014)

AN ORDINANCE

To amend the Immigration Ordinance to allow certain persons to be granted permanent residence permits when they lose their Falkland Island status due to a change in their marital status.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Immigration (Amendment) Ordinance 2014.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

3. Amendment of Immigration Ordinance

This Ordinance amends the Immigration Ordinance.

4. New section 18BB inserted — Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution

The Immigration Ordinance is amended by inserting the following new section after section 18AA —

“18BB. Grant of a permanent residence permit to persons falling under section 22(5)(a)(ii) of the Constitution

(1) The Principal Immigration Officer will grant, on application, a permanent residence permit to a person who has previously held a permanent residence permit and who falls under section 22(5)(a)(ii) of the Constitution who —

(a) in the case of a spouse, ceases to live with the wife or the husband under a decree of a competent court or a deed of separation; or

(b) in the case of a widow or widower, remarries; and

(c) is, on the date of the application, ordinarily resident in the Falkland Islands.

(2) A permanent residence permit will be granted for the purposes of subsection (1) by the Principal Immigration Officer on determining that the person had previously held a permanent residence permit and falls under section 22(5)(a)(ii) of the Constitution.

(3) A permanent residence permit issued under this section is deemed to have effect from the date the person —

(a) ceases to live with the wife or the husband under a decree of a competent court or a deed of separation; or

(b) as a widow or widower, remarries.

(4) A permanent residence permit issued under this section has effect until it is revoked in accordance with section 23.”

5. Amendment of section 18 — Permanent residence permits

Section 18(4) is amended by inserting “or section 18BB” after section 18AA.

6. Amendment of section 23 — Revocation of permanent residence permits granted under section 18 and section 18BB

The heading to section 23 is amended by inserting “and section 18BB” after “section 18”.

Passed by the Legislature of the Falkland Islands on 30 October 2014.

CHERIE YVONNE CLIFFORD,
Deputy 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.

CHERIE YVONNE CLIFFORD,
Deputy Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Planning (Delegated Approval of Applications and Related Matters) Regulations 2014

S. R. & O. No. 14 of 2014

Made: 7 November 2014

Published: 13 November 2014

Coming into force: upon publication

I make these regulations, on the advice and with the consent of Executive Council, in exercise of my power under sections 30(7), 31(2) and 36(2) of the Planning Ordinance (Title 55.3) and of every other enabling power.

1. Title

These Regulations are the Planning (Delegated Approval of Applications and Related Matters) Regulations 2014.

2. Commencement

These Regulations come into force on publication in the *Gazette*.

3. Determination of applications by Planning Officer

(1) The Planning Officer may approve applications for planning permission except where —

(a) within the 10 day period, stipulated by section 30 of the Ordinance, during which an application must be publicised before it is determined, at least one objection has been expressed to the proposed development to which the application relates; or

(b) at least one member of the Committee who is a lay person or a Member of the Legislative Assembly requests that the application be considered by the Committee.

(2) Where the Planning Officer is of the opinion that an application —

(a) is too significant to be determined by the Planning Officer under paragraph (1);

(b) relates to proposed development that would conflict with the development plan; or

(c) relates to a designated building,

the Planning Officer must not grant the application but must instead refer it to the Committee for determination.

(3) Where the Planning Officer's opinion on an application accords with paragraph (2)(b), the Planning Officer must act in accordance with regulation 4.

(4) The Planning Officer, in every case and without undue delay, must —

- (a) furnish the applicant with written reasons for the Planning Officer's determination on the application; and
- (b) keep a written record of all the reasons for each determination made in accordance with these Regulations.

(5) The written record referred to in paragraph (4) must be made available at the office of the Planning Officer for inspection by members of the public at convenient times during the normal opening hours of the office.

4. Potential conflict with the development plan

(1) Where the Planning Officer is of the opinion that the development proposed in an application would conflict with the development plan, the Planning Officer must when referring the application to the Committee also send to the Committee written comments in which the Planning Officer must set out —

- (a) details of the manner in which, in the Planning Officer's opinion, the proposed development would conflict with the development plan; and
- (b) the Planning Officer's recommendation as to whether or not planning permission should be granted for the proposed development, and the reasons for this recommendation.

(2) On receipt of a referral, the Committee must act in accordance with subsections (1) and (2) of section 37 of the Ordinance, and in so doing must have particular regard to section 4(2) of the Ordinance.

5. Notice and publicity

(1) Notice or publicity under section 30 of the Ordinance must state that the applicant and members of the public are invited to make written representations to the Planning Officer, and that any such representation will not be accepted any later than 3 days before the date on which the Planning Officer's decision on the application will be made.

(2) On receipt of any written representation in accordance with this regulation, the Planning Officer must act in accordance with section 31B(2)(a) of the Ordinance.

6. Service of notices on applicants

Any notice required by the Ordinance or these Regulations to be served on an applicant for planning permission is sufficiently served if it is —

- (a) delivered personally to the applicant;
- (b) sent to the applicant by post; or
- (c) where the applicant has indicated on the application form that the applicant will accept service by means of electronic mail at an address provided on the application form, by electronic mail sent to that address.

7. Service of notices on occupiers of neighbouring land

Where any notice is to be or will be served on any occupier of any land falling within the parameters set out in section 30(4) of the Ordinance or on the occupier of any other land, such notice is sufficiently served if it is —

- (a) fixed to the main gate to the premises in such place and manner as to make it likely to be seen;
- (b) fixed to the door of what appears to be the main entrance to any building on the land or, if there is more than one building, the building that appears to be used more or most frequently; or
- (c) where neither method of service set out in the preceding subparagraphs is possible or practicable, published in two successive editions of a newspaper in wide circulation within the Falkland Islands.

8. Adequate publicity

In any case where it is required by the Ordinance or these Regulations that any matter be adequately publicised, that requirement is satisfied if at least any two of the following methods of publicity are used —

- (a) publication in an edition of a newspaper in wide circulation within the Falkland Islands;
- (b) at least five announcements on the radio within a period of 14 days, each of the five being on a different day and anytime between the hours of 7:00 and 19:00; or
- (c) fixing to the notice boards at the Secretariat and the post office a document setting out the information required to be publicised, provided that it is ensured that that document remains there for not less than 10 days.

9. Application to these Regulations of paragraph 7 of the General Development Order

(1) Subparagraphs (1) and (2) of paragraph 7 of the General Development Order (Title 55.3.1) apply to these Regulations only insofar as an application is determined by the Committee on referral by the Planning Officer, but do not apply insofar as they suggest that —

- (a) valid applications received by the Secretary are determined by the Committee as a matter of course and without having to be referred to the Committee by the Planning Officer; and
- (b) there is no possibility for any person or authority other than the Committee to determine applications.

(2) Subparagraph (3) of paragraph 7 of the General Development Order applies to these Regulations.

Made 7th November 2014

C. Roberts, C.V.O.,
Governor.

EXPLANATORY NOTE
(not part of the regulations)

These Regulations are made under sections 30(7), 31(2) and 36(2) of the Planning Ordinance.

Their purpose is to —

- confer on the Planning Officer power to grant planning permission;
- prescribe the necessary detailed guidance regarding the exercise of this power;
- provide guidance with respect to adequate publicity required by section 30 of the Ordinance; and
- prescribe, as authorised by section 31(2), a procedure for the making of written representations regarding applications for planning permission that are to be determined by the Planning Officer under delegated powers.

Paragraph 3 confers power on the Planning Officer to approve applications for planning permission. It also prescribes the limits on this power. It also mandates the Planning Officer to keep a written record of all decisions the officer makes under delegated powers and to make this record available for inspection by members of the public.

Paragraph 4 makes more specific provision for the limitation on the Planning Officer's power relating to applications for planning permission that have the potential to conflict with the development plan. The paragraph makes specific reference to section 37 of the Ordinance, which makes provision for such applications.

Paragraph 5 prescribes a procedure regarding notice and publicity in accordance with section 30 of the Ordinance.

Paragraph 6 prescribes a procedure regarding service of notice on applicants.

Paragraph 7 prescribes a procedure regarding service of notices on occupiers of neighbouring land.

Paragraph 8 prescribes detailed guidance with respect to adequate publicity of applications for planning permission.

Paragraph 9 suitably restricts the application of paragraph 7 of the General Development Order so as to ensure that its provisions do not conflict with the exercise of delegated powers by the Planning Officer. This is necessitated by the fact that paragraph 7 of the General Development Order appears to only contemplate decisions on applications for planning permission being made by the Planning and Building Committee.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Road Traffic (Demining Operations) Order 2014

S. R. & O. No. 15 of 2014

Made: 13 November 2014

Published: 13 November 2014

Coming into force: on publication

I make the following regulations under section 59 of the Road Traffic Ordinance 2014 (Title 63.1) on the advice of Executive Council.

1. Title

This order is the Road Traffic (Demining Operations) Order 2014.

2. Commencement

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

3. Interpretation

In this order —

“authorised person” means —

- (a) the Director of Public Works;
- (b) a person in charge of demining operations;
- (c) a police officer; or
- (d) a person acting on behalf of either —
 - (i) the Director of Public Works; or
 - (ii) a person in charge of demining operations;

“closed road” means either —

- (a) while the whole of the controlled road is closed to traffic under paragraph 4(1), the controlled road; or
- (b) while part of the controlled road is closed to traffic under paragraph 4(1), that part;

“consent” means consent given —

- (a) orally, whether in person or by telephone or radio; or
- (b) in writing;

“controlled road” means —

- (a) the Stanley-Darwin Road from its junction with Davis Street to its junction with the North Camp Road; and
- (b) the Eliza Cove Road from its junction with Stanley Bypass Road to its end at the Eliza Cove Spoil Tip;

“prohibited activity” means one or more of the following —

- (a) pedestrian activity;
- (b) driving, propelling, pushing, pulling or towing a vehicle;
- (c) being in charge of a stationery vehicle;
- (d) being in or on a vehicle as a passenger; or
- (e) riding, driving or leading one or more animals;

“relevant period” means any period between 1 November 2014 to 31 March 2016;

“the North Camp Road” means the road from its junction with the Stanley–Darwin Road, in the vicinity of Wall Mountain, leading to the North camp;

“the Stanley-Darwin Road” means the road (including Stanley Bypass) from its junction with the VPC Road, Stanley to Darwin; and

“vehicle” includes —

- (a) a pedal cycle, skateboard, scooter, moped or motorcycle; or
- (b) a trailer, cart or carriage.

4. Temporary road closures

(1) During the relevant period, a person in charge of demining operations may, with the consent of a police officer who holds the rank of sergeant or above, close the controlled road or part of it.

(2) The controlled road or a part of it must only be closed for as long as necessary to protect the health and safety of —

- (a) those engaged in demining operations; and

- (b) those who would otherwise be using the road.

5. Prohibitions during road closures

(1) While the controlled road or a part of it is closed under paragraph 4(1), no person may —

- (a) proceed onto or remain on the closed road —

- (i) with or without a vehicle; and

- (ii) with or without one or more animals; or

- (b) do anything which is a prohibited activity on, along or next to the carriageway of the closed road.

(2) Sub-paragraph (1) does not apply to —

- (a) an authorised person; or

- (b) any person engaged in demining operations.

6. Duty to display signs

(1) While the controlled road is closed under paragraph 4(1), it is the duty of the person in charge of demining operations to ensure that —

- (a) one or more signs are displayed at each end of the closed road indicating that the road is closed; and

- (b) the signs can be readily seen and read or understood by persons intending to use the closed road.

(2) Signs put in place in accordance with sub-paragraph (1) need not comply with the requirements of the Traffic Signs Regulations (SR&O No. 30 of 1999).

7. Power to erect physical barriers

While the controlled road is closed under paragraph 4(1), authorised persons may erect physical barriers to prevent or restrict access to the road.

8. Signs and physical barriers: prohibitions

No person (other than an authorised person) may move, remove, damage, deface or otherwise interfere with —

- (a) a sign displayed under paragraph 6; or

- (b) a physical barrier erected under paragraph 7.

9. Offences

(1) It is an offence for a person to contravene a prohibition in paragraph 5(1) or 8.

(2) It is a further offence for a person to continue to contravene a prohibition in 5(1) or 8 when instructed not to do so by an authorised person.

(3) A person does not commit an offence under this paragraph in relation to an act or omission for which the person has lawful authority or reasonable excuse.

10. Penalties

A person found guilty of an offence against paragraph 9 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Made 13th November 2014

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE *(This note is not part of the Order)*

This Order is made under section 59 of the Road Traffic Ordinance (Title 63.1).

Paragraphs 1 to 3 provide for introductory matters, the title, commencement and definitions for the terms used in the Order;

Paragraph 4 provides that the demining operator may close the affected roads when necessary to do so subject to police consent.

The demining operator can only temporarily close any affected road (Stanley-Darwin Road from its junction with Davis Street to its junction with the North Camp Road as well as the Eliza Cove Road from its junction with Stanley Bypass Road to its end at the Eliza Cove Spoil Tip) during the ‘relevant period’ which is the 18 months period from 1 November 2014 to 31st March 2016.

Paragraph 5 provides for activities which are prohibited during road closures;

Paragraph 6 deals with road signs and requires the demining operator to ensure that signs (which can be readily seen and read or understood) are displayed indicating which road is closed and marking out exactly which part of the road is closed. The signs do not have to conform to the requirements of the Traffic Signs Regulations;

Paragraph 7 provides for an authorised person (who can either be the Director of Public Works, the person in charge of demining operations or the police or any person acting on their behalf) to erect barriers to prevent or restrict access to a closed road;

Paragraphs 8, 9 and 10 provide for the offences and penalties.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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27 November 2014

No. 16

The following is published in this Supplement –

Stanley Common (Erection of Memorials) Regulations 2014 (SR&O No 16 of 2014).

SUBSIDIARY LEGISLATION

ENVIRONMENTAL PROTECTION

Stanley Common (Erection of Memorials) Regulations 2014

S. R. & O. No. 16 of 2014

Made: 27 November 2014

Published: 27 November 2014

Coming into force: on publication

IN EXERCISE of my powers under section 10(c)(i) of the Stanley Common Ordinance (Title 34.5) and under any other enabling provision, I make the following Regulations on the advice of Executive Council —

1. Title

These Regulations are the Stanley Common (Erection of Memorials) Regulations 2014.

2. Commencement

These Regulations come into force on publication in the *Gazette*, following their approval by resolution of the Legislative Assembly.

3. Applications for permission to erect memorials in the Common

(1) A person who wishes to erect a memorial on the Common may apply in writing to the Governor for permission to do so.

(2) An application may be made for the retrospective approval of any memorial existing on the Common as of the date of publication of these Regulations in the *Gazette*, and the Governor may grant such retrospective approval.

(3) An application under paragraph (1) must be in writing and must clearly set out —

(a) the identity of the applicant;

(b) the reason for the intended memorial;

(c) the precise intended location of the memorial;

(d) the proposed design of the memorial, complete with dimensions and an artistic representation of it; and

(e) the source of funding for the erection of the memorial,

and where any form of application is prescribed for use in any such application by any other subsidiary legislation under the Ordinance, the applicant must use that form.

(4) An application under paragraph (2) must, in addition to complying with paragraph (3), specify the reason for it having been erected in contravention of the Ordinance.

(5) For the purposes of these Regulations “memorial” includes a monument and any associated physical structure or feature adding to the amenity of the monument.

4. Power to authorise erection of specific memorials without submission of written application

(1) Despite regulation 3, the Governor may authorise the erection of a specific memorial without a written application having been made.

(2) The power under paragraph (1) can only be exercised where there are extreme time constraints owing to exigent circumstances.

5. Consideration of applications

(1) In considering an application under either of regulations 3 and 4, the Governor must consider whether the erection of the memorial —

(a) will be inconsistent with the section 3 of the Ordinance;

(b) will materially interfere with the use of the Common in accordance with section 3 of the Ordinance;

(c) will result in the overcrowding of the Common with memorials owing to the number of memorials already erected there or for which approval has been given to erect,

and may only grant the application if satisfied that the erection of the monument will cause no inconsistency, will not result in material interference, and will not result in overcrowding.

(2) When considering an application under regulation 3(2), the Governor must, in addition to the factors set out in paragraph (1), also consider whether the memorial remaining in the Common is desirable in all the circumstances.

6. Grant or refusal applications

(1) Where the Governor is satisfied in the manner required by regulation 5, the Governor must grant the application within a reasonable time and give to the applicant written confirmation of the approval.

(2) Where the Governor is not satisfied in the manner required by regulation 5, the Governor must refuse the application and provide the applicant, within a reasonable time, with written confirmation of the refusal which must include reasons.

(3) Specifically with respect to an application under regulation 3(2), if the Governor concludes in the negative in respect of the consideration set out at regulation 5(2), the Governor may order that the memorial be removed at the expense of person or persons responsible for erecting it and may resort to legal process to ensure that this is done within a reasonable time.

7. Appeals

Where an applicant is aggrieved by the refusal of his or her application, whether or not that refusal is accompanied by an order under regulation 6(3), the applicant may appeal in writing to the Governor who must, in his or her discretion, consider and make a final determination on the application within a reasonable time.

Made 27 November 2014

June Sandra Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE

(not forming part of the Regulations)

These Regulations set out a framework for the receipt and consideration of applications for permission to erect memorials on the Stanley Common and provide for the grant or refusal of such applications. They provide for grant of permission retrospectively.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 25

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No. 17

The following is published in this Supplement –

Stone Corral on Stanley Common Designation Order 2014 (SR&O No 17 of 2014);

Falkland Islands Tourist Board (Operative Date) Order 2014 (SR&O No 18 of 2014);

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2014 (SR&O No 19 of 2014);

Misuse of Drugs (Controlled Drugs) Order 2014 (SR&O No 20 of 2014);

Children Ordinance 2014 (Correction) Order 2014 (SR&O No 21 of 2014); and

Falkland Islands Pensions Scheme (Amendment) Bill 2014.

SUBSIDIARY LEGISLATION

PLANNING AND BUILDING

Stone Corral on Stanley Common Designation Order 2014

S. R. & O. No: 17 of 2014

Made: 19 December 2014

Published: 23 December 2014

Coming into force: upon publication

I make the following order under section 65(1) of the Planning Ordinance (Title 55.3) —

- (a) on the advice of Executive Council;
- (b) having determined that there is no-one else to whom an opportunity to make written representations needs to be given under section 65(2)(a); and
- (c) on the recommendation of the Historic Buildings Committee (composed as required by section 63(2)), as required by section 65(2)(b) —

1. Title

This Order is the Stone Corral on Stanley Common Designation Order 2014.

2. Commencement

This Order comes into force upon publication in the Gazette.

1.3. Designation of Stone Corral

The structure on Stanley Common, south of Sapper Hill, known as the Stone Corral is designated as a building of special architectural and historic interest.

Made 19 December 2014

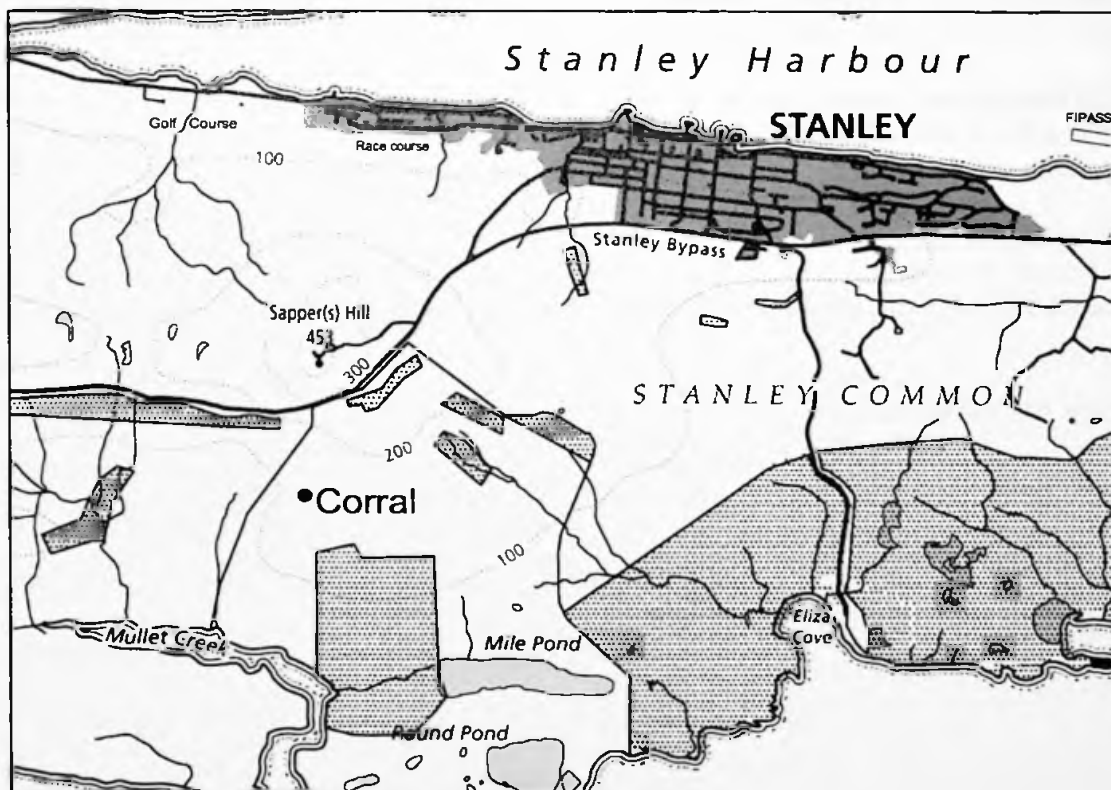
C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not part of the order)

This Order designates the Stone Corral on Stanley Common as a building of special architectural and historic interest.

Planning permission or consent is required for its demolition, alteration or extension.

This map shows the location of the Stone Corral:



SUBSIDIARY LEGISLATION

ECONOMIC DEVELOPMENT

Falkland Islands Tourist Board (Operative Date) Order 2014

S. R. & O. No. 18 of 2014

Made: 19 December 2014

Published: 23 December 2014

Coming into force: 1 January 2015

IN EXERCISE of my powers under section 4(4) of the Falkland Islands Tourist Board Ordinance (No. 10 of 2014) and on the advice of Executive Council, I make the following order —

1. Title and commencement

This order is the Falkland Islands Tourist Board (Operative Date) Order 2014 and comes into operation on 1 January 2015.

2. Operative date

1 January 2015 is appointed as the operative date for purposes of section 4 of the Falkland Islands Tourist Board Ordinance 2014 (transition of existing company to new body corporate).

Made 19 December 2014

C. Roberts C.V.O.,
Governor

EXPLANATORY NOTE

(This note is not part of the Order)

This order is made under section 4 of the Falkland Islands Tourist Board Ordinance 2014 (No. 10 of 2014). 1 January 2015 is fixed as the operative date on which the existing company will transition into a body corporate. 1 January 2015 is also fixed as the date on which all rights, obligations, assets and liabilities will pass from the company to the new statutory corporation.

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2014

S. R. & O. No. 19 of 2014

Made: 19 December 2014
Published: 23 December 2014
Coming into force: on publication

I make this order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) —

- (a) on the advice of the Standing Finance Committee, as required by section 9A(1) of the Ordinance; and
- (b) on the advice of Executive Council.

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2014.

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 2015; or

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

6. Revocation

The Taxes and Duties (Defence Contractors' Employees Exemption) Order 2013 (No. 13 of 2013) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

Agrimarine Limited

Babcock Aerospace Limited

Babcock Communications Limited

BAE Systems (Military Air) Overseas Limited

British International Helicopter Services Limited

COLAS Limited

David Lomas Limited

Fujitsu Services 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 19 December 2014

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not 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.

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 2015, 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 section 21(1)(e) of the Medical Services Tax Ordinance (No 13 of 2010) provides that the earnings and benefits in kind that are exempt from income tax under this order are also exempt from Medical Services Tax.

This order (which replaces a previous order) extends the life of the exemption (which was due to expire on 31 December 2014) for another year.

Under section 9A, orders have to be made on the advice of the Standing Finance Committee. However, Executive Council specifically approved the extension of the life of the exemption and, so, to that extent, the order is made on the advice of Executive Council in addition to that of the Standing Finance Committee.

SUBSIDIARY LEGISLATION

MEDICINE AND PHARMACY

Misuse of Drugs (Controlled Drugs) Order 2014

S. R. & O. No. 20 of 2014

Made: 19 December 2014

Published: 23 December 2014

Coming into force: on publication

I make this order under section 2(4) of the Misuse of Drugs Ordinance (Title 49.3) on the advice of Executive Council —

1. Title

This order is the Misuse of Drugs (Controlled Drugs) Order 2014.

2. Commencement

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

3. Amendment of Schedule to the Misuse of Drugs Ordinance

(1) This order amends the Schedule to the Misuse of Drugs Ordinance.

(2) The Schedule to the Misuse of Drugs Ordinance is repealed and replaced with the following new Schedule —

“CONTROLLED DRUGS

PART I

CLASS A DRUGS

1. The following substances and products:

- (a) Acetorphine
- Alfentanil
- Allylprodine
- Alphacetylmethadol
- Alphameprodine
- Alphamethadol
- Alphaprodine
- Anileridine
- Benzethidine
- Benzylmorphine (3-benzylmorphine)
- Betacetylmethadol
- Betameprodine

Betamethadol
 Betaprodine
 Bezitramide
 Bufotenine
 Cannabinol, except where contained in cannabis or cannabis resin
 Cannabinol derivatives
 Carfentanil
 Clonitazene
 Coca leaf
 Cocaine
 Desomorphine
 Dextromoramide
 Diamorphine
 Diampromide
 Diethylthiambutene
 Difenoxy (1-(3-cyano-3, 3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid)
 Dihydrocodeineone O-carboxy-methyloxime
 Dihydromorphine
 Dimenoxadole
 Dimepheptanol
 Dimethylthiambutene
 Dioxaphetyl butyrate
 Diphenoxylate
 Dipipanone
 Droterbanol (3,4-dimethoxy-17-methylmorphinan-6 β , 14-diol)
 Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine
 Ethylmethylthiambutene
 Eticyclidine
 Etonitazene
 Etorphine
 Etozeridine
 Etryptamine
 Fentanyl
 Furethidine
 Hydrocodone
 Hydromorphinol
 Hydromorphone
 Hydroxypethidine
 Isomethadone
 Ketobemidone
 Levomethorphan
 Levomoramide
 Levophenacymorphan
 Levorphanol
 Lofentanil
 Lysergamide
 Lysergide and other N-alkyl derivatives of lysergamide
 Mescaline
 Metazocine

Methadone
 Methadyl acetate
 Methyl-desorphine
 Methyldihydromorphine (6-methyldihydromorphine)
 Metopon
 Morpheridine
 Morphine
 Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives
 Myrophine
 Nicomorphine (3,6-dinicotinoylmorphine)
 Noracymethadol
 Norlevorphanol
 Normethadone
 Normorphine
 Norpipanone
 Opium, whether raw, prepared or medicinal
 Oxycodone
 Oxymorphone
 Pethidine
 Phenadoxone
 Phenampromide
 Phenazocine
 Phencyclidine
 Phenomorphan
 Phenoperidine
 Piminodine
 Piritramide
 Poppy-straw and concentrate of poppy-straw
 Proheptazine
 Properidine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester)
 Psilocin
 Racemethorphan
 Racemoramide
 Racemorphan
 Rolicyclidine
 Sufentanil
 Tenocyclidine
 Thebacon
 Thebaine
 Tilidate
 Trimeperidine
 4-Bromo-2,5-dimethoxy- α -methyl-phenethylamine
 4-Cyano-2-dimethylamino-4,4-diphenylbutane
 4-Cyano-1-methyl-4-phenyl-piperidine
 N,N-Diethyltryptamine
 N,N-Dimethyltryptamine
 2,5-Dimethoxy- α ,4-dimethylphenethylamine
 N-Hydroxy-tenamphetamine

1-Methyl-4-phenylpiperidine-4-carboxylic acid
2-Methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid
4-Methyl-aminorex
4-Phenylpiperidine-4-carboxylic acid ethyl ester

(b) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side chain with one or more alkyl substituents but no other substituent;

(c) any compound (not being methoxyphenamine or a compound for the time being specified in subparagraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, alpha-methylphenethylamine, an N-alkyl-alpha-methylphenethylamine, alpha-ethylphenethylamine, or an N-alkyl-alpha-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylene-dioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;

(d) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from fentanyl by modification in any of the following ways:

(i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;

(ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;

(iii) by substitution in the piperidine ring with alkyl or alkenyl groups;

(iv) by substitution in the aniline ring with alkyl, alkoxy, alkylendioxy, halogeno or haloalkyl groups;

(v) by substitution at the 4-position of the piperidine ring with any alkoxycarbonyl or alkoxyalkyl or acyloxy group;

(vi) by replacement of the N-propionyl group by another acyl group; and

(e) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from pethidine by modification in any of the following ways —

(i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;

(ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;

(iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;

(iv) by replacement of the 4-ethoxycarbonyl by any other alkoxycarbonyl or any alkoxyalkyl or acyloxy group;

- (v) by formation of an N-oxide or of a quaternary base.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 not being dextromethorphan or dextrorphan.
 3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 not being a substance for the time being specified in Part 2 of this Schedule.
 4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3.
 5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4.
 6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part 2 of this Schedule.

PART 2 CLASS B DRUGS

1. The following substances and products:

- (a) Acetyldihydrocodeine
Amphetamine
Cannabis and cannabis resin
Codeine
Dihydrocodeine
Ethylmorphine (3-ethylmorphine)
Glutethimide
Lefetamine
Mecloqualone
Methaqualone
Methcathinone
Methylamphetamine
Methylphenidate
Methylphenobarbitone
Nicocodine
Nicodicodine (6-nicotinoyldihydrocodeine)
Norcodeine
Pentazocine
Phenmetrazine
Pholcodine
Propiram
Zipeprol

- (b) any 5,5 disubstituted barbituric acid;

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

PART 3
CLASS C DRUGS

1. The following substances:

- (a) Alprazolam
- Aminorex
- Benzphetamine
- Bromazepam
- Brotizolam
- Buprenorphine
- Camazepam
- Cathine
- Cathinone
- Chlordiazepoxide
- Chlorphentermine
- Clobazam
- Clonazepam
- Clorazepic acid
- Clotiazepam
- Cloxazolam
- Delorazepam
- Dextropropoxyphene
- Diazepam
- Diethylpropion
- Estazolam
- Ethchlorvynol
- Ethinamate
- Ethyl loflazepate
- Fencamfamin
- Fenethylamine
- Fenproporex
- Fludiazepam
- Flunitrazepam
- Flurazepam
- Halazepam
- Haloxazolam
- Ketazolam
- Loprazolam
- Lorazepam
- Lormetazepam

Mazindol
Medazepam
Mefenorex
Mephentermine
Meprobamate
Mescocarb
Methypylone
Midazolam
Nimetazepam
Nitrazepam
Nordazepam
Oxazepam
Oxazolam
Pemoline
Phendimetrazine
Phentermine
Pinazepam
Pipradrol
Prazepam
Pyrovalerone
Temazepam
Tetrazepam
Triazolam
N-Ethylamphetamine

(b) Atamestane
Bolandiol
Bolasterone
Bolazine
Boldenone
Bolenol
Bolmantelate
Calusterone
4-Chloromethandienone
Clostebol
Drostanolone
Enestebol
Epitiostanol
Ethyloestrenol
Fluoxymesterone
Formebolone
Furazabol
Mebolazine
Mepitiostane
Mesabolone
Mestanolone
Mesterolone
Methandienone
Methandriol

Methenolene
 Methyltestosterone
 Metribolone
 Mibolerone
 Nandrolone
 Norboletone
 Norclostebol
 Norethandrolone
 Ovandrotone
 Oxabolone
 Oxandrolone
 Oxymesterone
 Oxymetholone
 Prasterone
 Propetandrol
 Quinbolone
 Roxibolone
 Silandrone
 Stanolone
 Stanozolol
 Stenbolone
 Testosterone
 Thiomesterone
 Trenbolone

(c) any compound (not being Trilostane or a compound for the time being specified in sub-paragraph (b) of this paragraph) structurally derived from 17-hydroxyandrostan-3-one or from 17-hydroxyestrane-3-one by modification in any of the following ways –

(i) by further substitution at position 17 by a methyl or ethyl group;

(ii) by substitution to any extent at one or more of positions 1, 2, 4, 6, 7, 9, 11 or 16 but at no other position;

(iii) by unsaturation in the carbocyclic ring system to any extent, provided that there are no more than two ethylenic bonds in any one carbocyclic ring;

(iv) by fusion of ring A with a heterocyclic system;

(d) any substance which is an ester or ether (or, where more than one hydroxyl function is available, both an ester or an ether) of a substance specified in sub-paragraph (b) of this paragraph or described in sub-paragraph (c) of this paragraph;

(e) Chorionic Gonadotrophin (HCG)

Clenbuterol

Non-human chorionic gonadotrophin

Somatotropin

Somatrem

Somatropin

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule not being phenylpropanolamine.
3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.
4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

PART 4 MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have the meanings assigned to them respectively —

“cannabinol derivatives” means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

“coca leaf” means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy-straw” means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

“medicinal opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

“opium poppy” means the plant of the species *Papaver somniferum* L;

“poppy-straw” means all parts, except the seeds, of the opium poppy after mowing; and

“raw opium” includes powdered or granulated opium but does not include medicinal opium.”

Made 19 December 2014

C. Roberts C.V.O.,
Governor

EXPLANATORY NOTE (not part of the order)

Section 2(4) of the Misuse of Drugs Ordinance allows the Governor to make an Order to make amendments to the Schedule for purposes of adding any substance(s) or product(s) from any of Parts 1 to 3 of the Schedule.

This order repeals the Schedule and replaces it with a new Schedule to take care of the following—

- (a) to add new drugs so that the Schedule contains an-up-to-date list of controlled drugs (*up-to-date with the UK Controlled Drugs list*);
- (b) corrects the spelling of some substances listed under the Schedule; and
- (c) corrects some entries which appeared in the Revised Laws but not in the original copy of the Schedule to the Ordinance (as gazetted) and which have been confirmed to be errors (as the specific substances do not exist in the combinations listed).

SUBSIDIARY LEGISLATION

FAMILY LAW

Children Ordinance 2014 (Correction) Order 2014

S. R. & O. No: 21 of 2014

Made: 19 December 2014

Published: 23 December 2014

Coming into force: see article 2

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 Children Ordinance 2014 (Correction) Order 2014.

2. Commencement

This order is deemed to have come into force on 31 October 2014.

3. Correction of Children Ordinance 2014

This article amends the Children Ordinance 2014 (No 7 of 2014) in —

(a) subsection 72(7) “; and” is removed and replaced with “.” where it appears at the end of the subsection;

(b) Schedule 1, paragraph 7(3) “or the application” is replaced with “of the application”;

(c) Schedule 1, paragraph 7(8) “paragraph (c) of (d)” is replaced with “paragraph (c) or (d);

(d) Schedule 1, paragraph 8(1) “discharge of the other” is replaced with “discharge of the order”;

(e) Schedule 1, paragraph 9 —

(i) “(1)” is inserted before the words “This paragraph applies” in the first sub-paragraph; and

(ii) “other then” is replaced with “other than”;

(f) Schedule 1, paragraph 10(3) “specified or the purposes” is replaced with “specified for the purposes”;

(g) Schedule 2, paragraph 12(3) “subsection (2)” is replaced with “sub-paragraph (2)”;

- (h) Schedule 2, paragraph 16(2)(b) “is” is inserted after “Crown”;
- (i) Schedule 2, paragraph 19(2) “are” is replaced with “is”;
- (j) Schedule 2, paragraph 21 “the” is inserted after “promoting”;
- (k) Schedule 3, paragraph 9(1)(a)(i) “an” is replaced with “and”; and
- (l) Schedule 3, paragraph 9(3)(a) “child’s” where it appears for the second time is replaced with “child”.

Made 19 December 2014

C. P. Judge MBE,
Attorney General.

EXPLANATORY NOTE
(not forming part of the above order)

This order corrects typographical errors.

Falkland Islands Pensions Scheme (Amendment) Bill 2014

(No: of 2014)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTION

1. Title
2. Commencement

PART 2 – AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME ORDINANCE

3. Amendment of Falkland Islands Pensions Scheme Ordinance
4. Section 2 amended — Interpretation
5. Section 3 replaced and new section 3A inserted — Meaning of “normal retirement age”
6. Section 5 amended — The Pensions Board
7. Section 10 amended — Appointment of professional advisers
8. Section 15 amended — Whistle-blowing
9. Section 17 amended — Membership of the Scheme
10. Section 20 amended — Contributions under section 17(2)(c) or (e)
11. Section 26 amended — Refund of contributions in certain cases
12. Section 28 amended — Benefits which must be provided under the Scheme
13. Section 30 amended — The discretionary trusts
14. Section 31 amended — Qualifying annuities
15. Section 33 amended — Benefits payable on death
16. Section 33A amended — Early retirement on grounds of ill-health or disablement: benefits for FIG employees
17. New Part 4A inserted — Pension Sharing
18. Section 39 amended — Information and records required for purposes of Ordinance
19. Schedule 2 amended — Power to act on advice and determination
20. Schedule 3 amended — Persons employed in government service on 1 January 1997

PART 3 – AMENDMENT OF MATRIMONIAL CAUSES ORDINANCE

21. Amendment of Matrimonial Causes Ordinance

FALKLAND ISLANDS PENSIONS SCHEME (AMENDMENT) BILL 2014

(No: of 2014)

(assented to: 2014)
(commencement: in accordance with section 2)
(published: 2014)

A BILL

for

AN ORDINANCE

To amend the Falkland Islands Pensions Scheme Ordinance (No. 18 of 1997).

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTION

1. Title

This Ordinance is the Falkland Islands Pensions Scheme (Amendment) Ordinance 2014.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

PART 2 AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME ORDINANCE

3. Amendment of Falkland Islands Pensions Scheme Ordinance

(1) This Part amends the Falkland Islands Pensions Scheme Ordinance (No. 18 of 1997).

(2) The Ordinance is amended by replacing “Director of Corporate Resources” in each place where it appears with “Financial Secretary”.

4. Section 2 amended — Interpretation

Section 2 is amended as follows —

(a) by inserting the following new definition after the definition of “the Board” —

““elected retirement age” means the age at which a member elects to retire within the eligible retirement age;”;

(b) by substituting for the definition of “eligible MLA” the following new definition —

““eligible MLA” means an MLA who has not yet attained the age of 75 years and has not elected to opt out of the Scheme;”;

(c) by inserting the following new definitions after the definition of “eligible MLA” —

““eligible retirement age” has the meaning given by section 3A”; and

(d) by inserting the following new definition after the definition of “regulations” —

““spouse” has the meaning assigned to it under section 31(11);”.

5. Section 3 replaced — Meaning of “normal retirement age”

Section 3 is amended —

(a) by repealing and replacing it with the following —

“3. Meaning of “normal retirement age”

Subject to the provisions of this Ordinance “normal retirement age” means, in relation to any person, the age when the person reaches 64 years.”; and

(b) by inserting immediately after section 3, the following new section —

“3A Meaning of “eligible retirement age”

(1) Subject to the provisions of this section, “eligible retirement age” means any age, between the ages of 50 and 75.

(2) For purposes of this Ordinance, eligible retirement age must be used to determine the retirement age for any person whose terms of employment —

(a) provide for the person to retire earlier than the person’s 50th birthday;

(b) provide for the person to retire after the person’s 75th birthday; or

(c) whether because the person is unemployed or for any other reason, makes no provision for the person’s retirement age.

(3) For the purposes of this section any provision which makes special provision as to early retirement on grounds of ill-health is to be disregarded.”

6. Section 5 amended — The Pensions Board

Section 5(4)(b) is amended by omitting “or actuary”.

7. Section 10 amended — Appointment of professional advisers

Section 10 is repealed and replaced with the following —

“10. Appointment of professional advisers

(1) The Board must appoint an auditor to the Scheme on such terms and conditions as it may determine.

(2) The Board must not appoint a person as an auditor to the Scheme unless the person —

(a) qualifies as an auditor in the United Kingdom; or

(b) meets such other requirements as to qualifications and experience as the Governor may by regulations prescribe.”

(3) The Board may appoint any other professional adviser to the Scheme as and when necessary.

8. Section 15 amended — Whistle-blowing

Section 15 is amended by omitting —

(a) “or actuary” in each place where it appears; and

(b) “the actuary”.

9. Section 17 amended — Membership of the Scheme

Section 17 is amended as follows —

(a) by omitting subsection (3) (c) and replacing it with the following —

“(c) beginning on or after the person’s 75th birthday.”;

(b) in subsection (3A) (c) by replacing “Member’s 70th” with “MLA’s 75th”;

(c) by inserting the following new subsection after subsection (3A) —

“(3B) Subject to subsection (3) (c), a contribution may be made by or in respect of a person (*including an MLA*) who takes on new employment on or after the person’s 64th birthday unless the person elects to opt out of the Scheme.”;

(d) by repealing subsection (5); and;

(e) by inserting the following new subsection after subsection (8) —

“(9) Subject to subsection (7), a person who ceases to be a member of the Scheme may rejoin the Scheme where —

(a) the relevant requirements of subsections (1) to (6) are met; and

(b) the person meets other requirements for rejoining as may be prescribed.”

10. Section 20 amended — Contributions under section 17(2)(c) or (e)

Section 20 is amended as follows —

(a) by repealing subsection (2) and replacing it with the following —

“(2) An employee contribution must be made —

(a) from the date upon which the employer notifies the Board that the employee is to be a member of the Scheme; and

(b) on a regular basis,

and the amount of a regular contribution (payable by the employer or by the employee) for any period by or in respect of the employee must be determined by the employer as a percentage of that employee's earnings from the employee's employment with that employer for that period."; and

(b) by repealing subsection (6) and replacing it with the following —

"(6) An employer who notifies the Board that an employee is to become a member of the Scheme by virtue of a notice given under section 17(2)(c) or (e) must ensure that —

(a) the amount of any contribution payable by the employee expressed as a percentage of the employee's gross earnings cannot be reduced to a lower percentage during the course of that employment unless there is a corresponding and compensating increase in the employer's contributions; and

(b) employee contributions payable by the employee or by the employer (or by both if that is provided for in the contract in the first instance) will continue to be made during the course of the contract."

11. Section 26 amended — Refund of contributions in certain cases

Section 26 is amended as follows —

(a) by repealing subsection (1) and replacing it with the following —

"(1) Subject to the following provisions of this section, the Board must pay —

(a) to a member of the Scheme within section 17(2)(a), (ba), (c) or (e) whose employment terminates before the member has completed 2 years, an amount equal to the accrued value of the employee's account (*whether the amount is more or less than any contributions which have been made in respect of that member*); and

(b) to a member within any of paragraphs (b), (d), (f), (g) and (h) of section 17(2) who has been a member for less than 2 years and ceases to make contributions to the Scheme with effect from the termination date, an amount equal to the accrued value of the employee's account (*whether the amount is more or less than any contributions which have been made in respect of that member*)."

12. Section 28 amended — Benefits which must be provided under the Scheme

Section 28 is amended as follows —

(a) by repealing subsection (3) and replacing it with the following —

"(3) For purposes of this section a person retires and is entitled to any of the benefits mentioned under subsection (1) —

(a) when the person reaches normal retirement age; or

(b) on the person's elected retirement age (that is at any age within the eligible retirement age when the person elects to retire)."

(b) under subsection (3A) by replacing "£500" with "£750".

13. Section 30 amended — The discretionary trusts

Section 30(5) is amended as follows —

(a) by omitting paragraph (a) and replacing it with the following —

"(a) any person who, at the time of the death is ordinarily living with that member as that member's partner, whether or not they are legally married, or"; and

(b) by adding immediately after subsection (5) the following new subsection —

"(6) For the purposes of subsection (5) "partner" means one of a married couple, an unmarried couple or a civil partnership, who at the time of the death is ordinarily living with that member."

14. Section 31 amended — Qualifying annuities

Section 31 is amended as follows —

(a) by repealing subsection (11) and replacing it with the following —

"(11) For the purposes of this section, "spouse", in relation to any member, means a person who, at the time of the retirement of that member or at the time the annuity is purchased if later, is the partner of, and ordinarily living with, that member (whether or not they are legally married), or if there is no such person —

(a) the person who has, before the annuity is purchased, been nominated by the member to the Board as the person to be treated as the spouse for the purposes of the payment of benefits under the Scheme and that nomination has been accepted by the Board; or

(b) if the Board has reasonable grounds for believing that any other person ought to be treated as the member's spouse, that other person.

If more than one person qualifies for a spouse's pension under paragraphs (a) and (b), the Board has absolute discretion to determine which of them is entitled to the pension."; and

(b) by adding immediately after subsection (12) the following new subsection —

"(13) For the purposes of subsection (11) "partner" means one of a married couple, an unmarried couple or a civil partnership, who at the time of the death is ordinarily living with that member."

15. Section 33 amended — Benefits payable on death

Section 33 is amended as follows —

(a) in subsection (3) by replacing “(c)” with “(b)”;

(b) by repealing subsection (4) and replacing it with the following —

“(4) An amount equal to the aggregate of the additional voluntary contributions which the deceased member made to the Scheme must be dealt with in accordance with section 30.”; and

(c) by inserting the following new subsection after subsection (5) —

“(6) Where subsection (2A) applies, any amount which is not a contribution paid in respect of the deceased person’s employment in government service nor attributable to any such contribution must be applied in accordance with section 30.”

16. Section 33A amended — Early retirement on grounds of ill-health or disablement: benefits for FIG employees

Section 33A(3)(a) is amended by replacing “1st January 1997” with “1 April 2011”.

17. New Part 4A inserted – Pension Sharing

The following new Part is inserted after section 36 —

**“Part 4A
Pension Sharing**

36A. Pension sharing on divorce, etc.

(1) Pension sharing is available where the court has made a pension sharing order under section 26A of the Matrimonial Causes Ordinance (Title 38(2).3) in relation to a person’s shareable rights under this Ordinance.

(2) Pension sharing is not available in respect of benefits related to protected rights where the sharing of any such rights will result or is likely to result in the distortion of a member’s protected rights.

(3) A member’s protected rights under this section means rights in relation to the protection and calculation of pre-1997 service as provided for under Schedule 3 of this Ordinance.

(4) For purposes of this Part a member’s shareable rights means any rights under that member’s pension arrangement to which pension sharing is available.

(5) In this Part —

“pension arrangement” means —

(a) any pension on retirement provided for under this Ordinance;

(b) a retirement annuity contract provided for under this Ordinance; or

(c) an annuity purchased or transferred, for the purpose of giving effect to rights under this Scheme; and

“pension sharing order” means an order issued by the court under section 26A of the Matrimonial Causes Ordinance.

36B. Pension sharing orders - compliance

(1) The Board must give effect and comply with a pension sharing order made in relation to a member’s shareable rights under this Ordinance.

(2) A pension sharing order is not to take effect unless the decree on or after which it is made has been made absolute.

(3) Where the pension sharing order specifies a percentage or amount to be transferred the Board must transfer from the Scheme Fund the specified amount or the equivalent amount of the specified percentage in relation to the relevant member’s accumulated benefits (less any protected rights benefits) within the time specified by the courts in the pension sharing order.

(4) The Governor may prescribe regulations —

(a) on the procedure for payments and other processes to be used by the Board in giving effect to the pension sharing order including transfers to pension funds outside the Falkland Islands; and

(b) any other relevant information as may be necessary to give effect to pension sharing orders.”

18. Section 39 amended — Information and records required for purposes of Ordinance

Section 39(1) is amended by adding the following new paragraph after paragraph (d) —

“(e) require the Board to supply information relevant to the exercise of any power with respect to —

(i) the making of pension sharing orders by the courts under Part III of the Matrimonial Causes Ordinance;

(ii) calculation and verification in relation to —

(aa) the valuation of benefits under a pension arrangement;

(bb) the determination of a member’s shareable rights under the Scheme; and

(cc) the valuation of shareable rights under a pension arrangement in so far as it relates to the making of pension sharing orders under section 26A of the Matrimonial Causes Ordinance.”

19. Schedule 2 amended — Power to act on advice and determination

Schedule 2 is amended as follows —

(a) by omitting “actuary or” in paragraph 2(1)(a); and

(b) by repealing paragraph 2(3) and replacing it with the following —

“(3) In order to be eligible for approval of the Scheme by Her Majesty’s Revenue and Customs and eligible to be treated as an exempt approved scheme under the Commissioners for Revenue and Customs Act 2005 and to comply with the preservation requirements of the Pensions Act 1995, the Board is empowered to give such undertakings to the HM Revenue and Customs and Revenue and the Pensions Regulator in respect of the provisions of pensions and benefits under the Scheme as may be required from time to time.”

20. Schedule 3 amended — Persons employed in government service on 1st January 1997
Schedule 3 is amended as follows —

- (a) in paragraph 5 by omitting sub-paragraph (1) and replacing it with the following —

“(1) This paragraph applies in relation to any member who had reached the age of 40 years before 1 January 1997 and applies at the time the person reaches retirement age (the “retirement date” defined in paragraph 5A(2)) but does not apply in relation to any member within paragraph 5A(1).”;

- (b) in paragraph 5A —

- (i) by adding the following new sub-paragraph under paragraph (6) —

“(d) the quarter refers to the quarter immediately before that person left Falkland Islands Government service.”; and

- (ii) by inserting the following new paragraph after paragraph (7) —

“(8) A pension benefit that is payable to or in respect of a member under sub-paragraph (3C) is not payable to a member who is under the age of 55.”; and

- (c) by inserting the following new paragraph immediately after paragraph 5A —

“Pre-1997 Protected Rights

5AA.(1) This paragraph applies to any member who was in government service on 31 December 1996 and had not ceased to be in government service before 1 January 2001 and for whom a transfer value was paid into the Scheme.

(2) This paragraph (pre-1997 protected rights) is not applicable if a member elects to receive any form of pension benefits before the age of 55.

(3) For the purposes of this paragraph a person’s retirement date has the same meaning provided in paragraph 5A (2).

(4) When on any date, “the member’s pension date”, benefits under the Scheme become payable to or in respect of the member (if an election under section 28 to defer any benefit other than payment of a lump sum has been made, at the end of the period of deferment), the Board must ascertain and compare —

- (a) the terms of the qualifying annuity contract which might be purchased with the accumulated value of the member's share in the Scheme at the member's pension date; and
 - (b) the terms of the pension or pensions and other benefits which would have been payable to or in respect of the member under the existing legislation, subject to sub-paragraph (10) and on the following assumptions —
 - (i) that the member had remained in government service until the member's 60th birthday, if that is not the case;
 - (ii) that the existing legislation was applicable to the member on the member's retirement date;
 - (iii) that benefits which would have been payable under the existing legislation as mentioned above are increased to the extent necessary to ensure that they comply with section 31; and
 - (iv) that any pension payable under the existing legislation would have been increased annually by 3 per cent.
- (5) Sub-paragraphs (3A) to (3F) of paragraph 5A apply to a member whose benefits are payable under this paragraph.
- (6) For the purposes of this paragraph, the accumulated value of a member's share (pre-1997 service) must be calculated in accordance with section 24(2) but disregarding —
- (a) any additional voluntary contribution made in respect of the member in respect of any period, and
 - (b) any amount allocated to the benefit of the member by reference to any such contribution.
- (7) For the purposes of this paragraph —
- (a) the pension amount must be calculated by separate reference to contributions pre-1997, listed as 'B', and those contributions post-1997 listed as 'A' in the investment section of the contribution database in respect of each individual member record;
 - (b) the total of the pre-1997 element and post-1997 element combined will constitute the pension payment;
 - (c) employees who are eligible for pre-1997 protected rights and those to whom paragraph 5A (1) applies will be eligible to receive the greater of the two top ups; and
 - (d) "contribution database" means the database containing members' information in relation to contributions, accrued values and other relevant information.
- (8) In sub-paragraph (7)(b) —

(a) the “pre-1997 element” of the pension is calculated —

(i) as the length of service to 31 December 1996 in months divided by 720, up to a maximum of 20 years and this total is then multiplied by the employee’s salary at retirement, or at the date the employee had ceased in government service;

(ii) for pre-1997 service in excess of 20 years, the excess, in months, is divided by 600 and added to (i) and this total is then multiplied by the employee’s salary at retirement, or at the date the employee had ceased in government service.

(b) the “post-1997 element” of the pension —

(i) does not attract pre-1997 protected rights;

(ii) is the annual pension calculated as the accumulated value of post-1997 contributions at the date of retirement divided by the applicable annuity factor; and

(9) In paragraph (8)(b)(ii) the “applicable annuity factor” means, as at the date of retirement, an estimate of the number of years that the accrued value of the pension will be required to provide a pension.

(10) Where a pension is payable to or in respect of any member under paragraph 5A(3C) before the member is 60 years of age, the amount of any annuity and lump sum found in accordance with paragraph 5A(3) which relates to pre-1997 service must be reduced in accordance with the table at paragraph 5A (7).”.

PART 3

AMENDMENT OF MATRIMONIAL CAUSES ORDINANCE

21. Amendment of Matrimonial Causes Ordinance

(1) This Part amends the Matrimonial Causes Ordinance (Title 38(2).3).

(2) Part III of the Matrimonial Causes Ordinance is amended as follows —

(a) by inserting the following new sections after section 26 —

“26A. Pension sharing orders in connection with divorce proceedings, etc.

(1) On granting a decree of divorce or judicial separation or a decree of nullity of marriage the court may, on an application made under this section, make a pension sharing order in relation to the marriage.

(2) A pension sharing order under this section is not to take effect unless the decree on or after which it is made has been made absolute.

(3) A “pension sharing order” is an order which makes the shareable rights under a pension arrangement of one of the parties to a marriage to be subject to pension sharing for the benefit of the other party to the marriage.

(4) The pension sharing order must specify —

- (a) the shareable rights under a specified pension arrangement to which a party to a marriage is entitled;
- (b) the percentage or the amount of the value of the pension arrangement which is available to be shared by the parties to the marriage; and
- (c) the information specified under section 26B.

(5) In this section the reference to “shareable rights” under a specified pension arrangement relates to rights in relation to which pension sharing is available under Part IVA of the Falkland Islands Pensions Scheme Ordinance.

26B. Pension sharing orders

(1) The court must specify in the pension sharing order —

- (a) the shareable rights of the party to the marriage under the pension arrangement;
- (b) the percentage of the value, or the amount payable to the other party in the pension sharing order; and
- (c) how that value or amount is to be paid to the other party; and
- (d) the time scale within which the payment must be made.

(2) The court may not make a pension sharing order —

- (a) in relation to any excluded rights or benefits as are specified under the relevant pension arrangement (Part IVA of the Falkland Islands Pensions Scheme Ordinance);
- (b) after a decree of divorce or nullity in relation to the marriage has been made absolute; or
- (c) in relation to any relevant pension arrangement which is already the subject of a pension sharing order.”; and

(b) under section 40(1) by inserting “26A,” immediately after “26”.

OBJECTS AND REASONS

This Bill amends the Falkland Islands Pensions Scheme Ordinance and the Matrimonial Causes Ordinance.

Part 1 provides for introductory matters as follows —

Clauses 1 and 2 provide for the title and the commencement of the Ordinance by publication in the *Gazette*;

Part 2 provides for the amendment of the Falkland Islands Pensions Scheme Ordinance as follows —

Clause 3 provides for the replacement of all references to ‘Director of Corporate Resources’ with Financial Secretary;

Clauses 4 and 5 provide for an amendment of some of the terms used in the Ordinance which have now changed meaning because of the new policy effected within this Ordinance and further to clarify and provide the different ages within which one can retire;

Clause 7 amends section 10 to remove the reference to appointment of auditors who qualify under the Companies Act 1989 to avoid cross-referencing to UK legislation which has changed and therefore make it more general by referring to a person who qualified as an auditor in the UK instead;

Clauses 6 and 8 remove references to actuary;

Clause 9 amends section 17 to provide for pension contributions to be paid for a member up to the member’s 75th birthday and provides that individuals who take on new employment when they are over 64 years may opt out of joining the Scheme;

Clause 10 amends section 20 to provide for the time when payment must be made as well as the calculation of payment of pension contributions into the Scheme;

Clause 11 amends section 26 to provide for members who leave the Scheme before completing 2 years as members to be refunded by being paid amounts equal to the accrued value of their account instead of using the aggregate of theirs and their employers’ contributions or only their contributions;

Clause 12 amends section 28 to provide for when a person is entitled to draw down on their benefits - that is upon reaching normal retirement age or, an earlier age when the person elects to do so. It goes on to provide for a member to be given a sum equal to the accrued value of the member’s pension where at the time of retirement, that member’s pension fund is so small that it can only purchase an annuity of £750 or less per annum – this is an increase from the current sum of £500;

Clause 13 amends section 30 to include as beneficiaries, persons who were living with a deceased member as partner, whether or not they were married, so that those persons can have a share of any benefits accruing to the deceased member and similarly *clause 14* amends section 31 to expand the definition of ‘spouse’ to include unmarried partners;

Clause 15 amends section 33 to align the calculation of death benefits for members who are government employees to be calculated and dealt with in the same way as for other non-government members;

Clause 16 amends section 33A to reflect the date when the revised permanent ill-health disability benefits changed with respect to all pensionable FIG employees (1 January 1997 changed to 1 April 2011);

Clause 17 inserts a new part (Part IVA) with sections 36A and 36B which provide for how the Board must give effect to pension sharing orders made by the courts under the Matrimonial Causes Ordinance;

Clause 18 amends section 39 to include a power to make regulations on information which the Board must supply to the courts in relation to pension sharing orders;

Clause 19 amends Schedule 2 to make consequential amendments in relation to the removal of references to 'actuary'; and

Clause 20 amends Schedule 3 to provide for the calculation of pre-1997 protected rights for employees who were not yet 40 years as at 31 December 1996 who continue to be in government service. The amendment also provides for the investment units attributable to government employees who had transfer values for pre-1997 service to be kept separately from post-1997 contributions so the protected rights can be easily calculated and safeguarded.

Part 3 amends the Matrimonial Causes Ordinance to give the courts the power to make pension sharing orders on divorce, judicial separation or nullity of marriage;

This Part contains new section 26A and 26B which provide for the power to make pension sharing orders and the details which pension sharing orders must contain.

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